

CODIFIED ORDINANCES OF PARMA HEIGHTS
PART ELEVEN - PLANNING AND ZONING CODE

TITLE ONE - Planning

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- Chap. 1101. Planning Commission.
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CHAPTER 1101
Planning Commission

- 1101.01 Powers.
- 1101.02 Meetings; records.
- 1101.03 Rules and regulations.

CROSS REFERENCES

- Planning Commission established - see CHTR. Art. W, § 9
 - Rules of Commission to be approved by Council - see Ohio R.C. 711.132
 - Planning Commission powers and duties - see Ohio R.C. 713.01 et seq.
 - Planning Commission to be Platting Commission - see Ohio R.C. 713.03
 - Planning Commission to control buildings - see Ohio R.C. 713.04
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1101.01 POWERS.

The Planning Commission shall have all the powers enumerated and conferred by the City Charter by Ohio R.C. 735.15 and 713.01 through 713.15 and by ordinance of Council.

1101.02 MEETINGS; RECORDS.

All meetings of the Planning Commission shall be open to the public and all proceedings and votes taken shall be recorded and constitute a public record. In the event of a disapproval of any proposal or matter before the Commission, the reasons therefor shall be accurately and concisely set forth in writing and made a part of such record. (Ord. 1953-29. Passed 6-1-53.)

1101.03 RULES AND REGULATIONS.

The Planning Commission shall adopt such rules and regulations as it may deem necessary to carry into effect the provisions of this Planning and Zoning Code. (Ord. 1953-29. Passed 6-1-53.)

CHAPTER 1103
Subdivision Regulations

EDITOR'S NOTE: There are no sections in Chapter 1103. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Planning Commission powers - see CHTR. Art. N, § 9

Plat and subdivision defined - see Ohio R.C. 711.001

Planning Commission to be Platting Commission - see Ohio R.C. 713.03

Planning Commission to control buildings - see Ohio R.C. 713.04

Planning Commission - see P. & Z. Ch. 1101

CHAPTER 1105
Storm Water Management, Sediment
and Erosion Control and Wetlands Protection

EDITOR'S NOTE: Ordinance 2005-6, passed March 28, 2005, adopted a Storm Water Management Program for the City. Copies may be obtained from the City Clerk.

1105.01	Scope.	1105.16	Establishment of designated watercourses and riparian setbacks.
1105.02	Definitions.	1105.17	Establishment of wetland setbacks.
1105.03	Comprehensive Storm Water Management Plan.	1105.18	Procedure for wetland setbacks.
1105.04	Purpose.	1105.19	Uses permitted in riparian and wetland setbacks.
1105.05	Consultations.	1105.20	Uses prohibited in riparian and wetland setbacks.
1105.06	Issuance of building permits for residential projects.	1105.21	Nonconforming structures or uses in riparian and wetland setbacks.
1105.07	Construction site conservation plan.	1105.22	Variiances within riparian and wetland setbacks.
1105.08	Easements.	1105.23	Boundary interpretation and appeals procedure.
1105.09	Maintenance.	1105.24	Inspection of riparian and wetland setback.
1105.10	Minimum standards.	1105.25	Disclaimer of liability.
1105.11	Stream channel and floodplain erosion design criteria.	1105.26	Conflicts, severability, nuisances and responsibility.
1105.12	Compliance with other rules and regulations.	1105.27	Violations.
1105.13	Construction and maintenance guarantee.	1105.99	Penalty.
1105.14	Application procedures for erosion and sediment control plans.		
1105.15	Riparian and wetland setback requirements.		

CROSS REFERENCES

Shore erosion - see Ohio R.C. 1507.01 et seq.
 Water pollution - see GEN. OFF. 660.04
 Notice to fill lots; remove putrid substances - see GEN. OFF. 660.13
 Excavation in public ways - see S. & P.S. Ch. 901
 Storm water drainage - see S. & P.S. 931.11, 1301.04 (RDH 1593.65)
 Grading of yards - see BLDG. Ch. 1381
 Flood damage prevention - see BLDG. Ch. 1385

1105.01 SCOPE.

This chapter applies to development areas having new or relocated projects involving highways, underground cables, pipelines, subdivisions, industrial projects, commercial projects, building activities on farms, redevelopment of urban areas and all other land uses not specifically exempted. This chapter does not apply to:

- (a) Land-disturbing activities related to producing agricultural crops or silviculture operations regulated by the Ohio Agricultural Sediment Pollution Abatement Rules (O.A.C. 1501: 15-3-01 to 1501: 15-3-09) and existing at the time of passage of this regulation.
- (b) Coal surface mining operations regulated by Ohio R.C. Chapter 1513 and existing at the time of passage of this regulation.
- (c) Other surface mining operations regulated by Ohio R.C. Chapter 1514 and existing at the time of passage of this regulation.
(Ord. 2005-10. Passed 5-9-05.)

1105.02 DEFINITIONS.

As used in this chapter:

- (1) "Approving Authority." The official responsible for administering the applicable program(s).
- (2) "Best Management Practice (BMP)." Any practice or combination of practices that is determined to be the most effective, practicable (including technological, economic, and institutional considerations) means of preventing or reducing the amount of pollution generated by non-point sources of pollution to a level compatible with water quality goals. "BMPs" may include structural practices, conservation practices and operation and maintenance procedures.
- (3) "Certified professional in erosion and sediment control (CPESC)." A person that has subscribed to the Code of Ethics and has met the requirements established by the CPESC Council of Certified Professional in Erosion and Sediment Control, Inc. to be a certified professional in erosion and sediment control.
- (4) "Channel." A natural stream that conveys water, or a ditch or channel excavated for the natural flow of water.
- (5) "Concentrated storm water runoff." Surface water runoff which converges and flows primarily through water conveyance features such as swales, gullies, waterways, channels or storm sewers, and which exceeds the maximum specified flow rates of filters or perimeter controls intended to control sheet flow.
- (6) "Conservation." The wise use and management of natural resources.
- (7) "Cut and fill slopes." A portion of land surface or area from which soil material is excavated and/or filled.
- (8) "Damaged or diseased trees." Trees that have split trunks; broken tops; heart rot; insect or fungus problems that will lead to imminent death; undercut root systems that put the tree in imminent danger of falling; leaning as a result of root failure that puts the tree in imminent danger of falling, or any other condition that puts the tree in imminent danger of being uprooted or falling.

- (9) "Denuded area." A portion of land surface on which the vegetation or other soil stabilization features have been removed, destroyed or covered, and which may result in or contribute to erosion and sedimentation.
- (10) "Designated watercourse." A watercourse that is contained within, flows through, or borders the City and meets the criteria set forth in these regulations.
- (11) "Detention basin." A storm water management pond that remains dry between storm events. Storm water management ponds include a properly engineered/designed volume which is dedicated to the temporary storage and slow release of runoff waters.
- (12) "Deteriorated structure." A structure which has sustained substantial damage from any origin whereby the cost of restoring the structure to its before-damaged condition would be equal to or greater than 50% of the market value of the structure before the damage occurred.
- (13) "Development area." Any tract, lot, or parcel of land, or combination of tracts, lots or parcels of land, which are in one ownership or are contiguous and in diverse ownership, where earth-disturbing activity is to be performed.
- (14) "Ditch." An excavation, either dug or natural, for the purpose of drainage or irrigation, and having intermittent flow.
- (15) "Dumping." The grading, pushing, piling, throwing, unloading or placing of soil or other material.
- (16) "Earth-disturbing activity." Any grading, excavating, filling or other alteration of the earth's surface where natural or man-made ground cover is destroyed.
- (17) "Earth material." Soil, sediment, rock, sand, gravel and organic material or residue associated with or attached to the soil.
- (18) "Erosion." The process by which the land surface is worn away by the action of water, wind, ice or gravity.
- (19) "Erosion and sediment control." A written and/or drawn soil erosion and sediment pollution control plan to minimize erosion and prevent off-site sedimentation throughout all earth-disturbing activities on a development area.
- (20) "Erosion and sediment control practices." Conservation measures used to control sediment pollution and including structural practices, vegetative practices and management techniques.
- (21) "Existing." In existence at the time of the passage of these regulations.
- (22) "Federal Emergency Management Agency (FEMA)." The agency with overall responsibility for administering the National Flood Insurance Program.
- (23) "Frequency storm." A rainfall event of a magnitude having a specified average recurrence interval and is calculated with Natural Resources Conservation Service, USDA Type H 24-hour curves or depth-duration frequency curves.
- (24) "Grading." Earth-disturbing activity such as excavation, stripping, cutting, filling, stockpiling or any combination thereof.
- (25) "Grubbing." Removing, clearing or scalping material such as roots, stumps or sod.

- (26) "Impervious cover." Any surface that cannot effectively absorb or infiltrate water. This includes roads, streets, parking lots, rooftops and sidewalks.
- (27) "Intermittent stream." A natural channel that may have some water in pools but where surface flows are nonexistent or interstitial (flowing through sand and gravel in stream beds) for periods of one week or more during typical summer months.
- (28) "Larger common plan of development or sale." A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.
- (29) "Landslide." The rapid mass movement of soil and rock material downhill under the influence of gravity in which the movement of the soil mass occurs along an interior surface of sliding.
- (30) "Local County SWCD." The local County Soil and Water Conservation District.
- (31) "National Wetlands Inventory Map." Wetland maps that were created by the Fish and Wildlife Service, United States Department of Interior.
- (32) "Natural Resources Conservation Service (NRCS)." An agency of the United States Department of Agriculture, formerly known as the Soil Conservation Service (SCS).
- (33) "Noxious weed." Any plant species defined by the Ohio Department of Agriculture as a "noxious weed" and listed as such by the Department. For the purposes of this regulation, the most recent version of this list at the time of application of these regulations shall prevail.
- (34) "NPDES permit." A National Pollutant Discharge Elimination System permit issued by Ohio EPA under the authority of the USEPA, and derived from the Federal Clean Water Act.
- (35) "Ohio EPA." The Ohio Environmental Protection Agency.
- (36) "Ohio Wetlands Inventory Map." Wetland maps that were created by the Natural Resources Conservation Service, USDA and the Ohio Department of Natural Resources.
- (37) "Ordinary high water mark." The point of the bank or shore to which the presence and action of surface water is so continuous as to leave a district marked by erosion, destruction or prevention of woody terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- (38) "Outfall." An area where water flows from a structure such as a conduit, storm sewer, improved channel or drain, and the area immediately beyond the structure which is impacted by the velocity of flow in the structure.
- (39) "Perennial stream." A natural channel that contains water throughout the year, except possibly during periods of extreme drought.
- (40) "Person." Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, township, county, state agency, the Federal government, or any combination thereof.

- (41) "Professional engineer." A person registered in the State of Ohio as a professional engineer, with specific education and experience in water resources engineering, acting in strict conformance with the Code of Ethics of the Ohio Board of Registration for Engineers and Surveyors.
- (42) "Qualified forester." Any forester employed by the Ohio Department of Natural Resources, Division of Forestry, or any person attaining the credential of certified forester as conferred by the Society of American Foresters.
- (43) "Qualified Wetland Professional." An individual competent in the areas of botany, hydric soils, and wetland hydrology, and is acceptable to the City Engineer.
- (44) "Redevelopment." The demolition or removal of existing structures or land uses and construction of new ones.
- (45) "Retention basin." A storm water management pond that maintains a permanent pool of water. These storm water management ponds include a properly engineered/designed volume dedicated to the temporary storage and slow release of runoff waters.
- (46) "Riparian area." Naturally vegetated land adjacent to watercourses which, if appropriately sized, helps to stabilize streambanks, limit erosion, reduce flood flows and/or filter and settle out runoff pollutants, or which performs other functions consistent with the purposes of these regulations.
- (47) "Riparian setback." Those lands within the City which are alongside streams where earth-disturbing activities will not take place and natural vegetation will not be removed.
- (48) "Sediment." Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, gravity or ice, and has come to rest on the earth's surface either on dry land or in a body of water.
- (49) "Sediment barrier." A sediment-control device such as a geotextile silt fence or a grass filter strip, usually capable of controlling only small flow rates. Straw bale barriers are not acceptable.
- (50) "Sediment control." The limiting of sediment being transported by controlling erosion or detaining sediment-laden water and allowing the sediment to settle out.
- (51) "Sediment pollution." A failure to use management or conservation practices to control wind or water erosion of the soil and to minimize the degradation of water resources by soil sediment in conjunction with land grading, excavating, filling, or other soil-disturbing activities on land used or being developed for commercial, industrial, residential or other purposes.
- (52) "Sediment settling pond/basin." A temporary sediment pond that releases runoff at a controlled rate. It is designed to slowly release runoff, detaining it long enough to allow most of the sediment to settle out of the water. The outlet

structure is usually a designed pipe riser and barrel. The entire structure is removed after construction. Permanent storm water detention structures can be modified to function as temporary sediment basins.

- (53) "Sediment trap." A temporary sediment-settling pond having a simple spillway outlet structure stabilized with geotextile and riprap.
- (54) "Sensitive area." An area or water resource that requires special management because of its susceptibility to sediment pollution, or because of its importance to the well-being of the surrounding communities, region, or the State, and includes, but is not limited to, the following:
 - A. Ponds, wetlands or small lakes with less than five acres of surface area;
 - B. Small streams with gradients less than ten feet per mile with average annual flows of less than 3.5 feet per second, containing sand or gravel bottoms.
 - C. Drainage areas of a locally or Ohio-designated scenic river.
 - D. Riparian and wetland areas.
- (55) "Settling pond." A runoff detention structure, such as a sediment basin or sediment trap, which detains sediment-laden runoff, allowing sediment to settle out.
- (56) "Sheet flow." Water runoff in a thin uniform layer or rills and which is of small enough quantity to be treated by sediment barriers.
- (57) "Silviculture." The theory and practice of controlling forest establishment, composition and growth.
- (58) "Slip." A landslide as defined in this section under "Landslides."
- (59) "Sloughing." A slip or downward movement of an extended layer of soil resulting from the undermining action of water or the earth-disturbing activity of man.
- (60) "Soil." Unconsolidated erodible earth material consisting of minerals and/or organics.
- (61) "Soil Conservation Service, USDA." The federal agency now titled the "Natural Resources Conservation Service," which is an agency of the United States Department of Agriculture.
- (62) "Soil-disturbing activity." Clearing, grading, excavating, filling or other alteration of the earth's surface where natural or human-made ground cover is destroyed and which may result in, or contribute to, soil erosion and sediment pollution.
- (63) "Soil Erosion and Sediment Control Plan." A written and/or drawn soil erosion and sediment pollution control plan to minimize erosion and prevent off-site sedimentation throughout all earth-disturbing activities on a development area.
- (64) "Soil erosion and sediment control practices." Conservation measures used to control sediment pollution, and including structural practices, vegetative practices and management techniques.
- (65) "Soil stabilization." Vegetative or structural soil cover that controls erosion, and includes permanent and temporary seeding, mulch, sod, pavement, etc.

- (66) "Soil survey." The official soil survey produced by the Natural Resources Conservation Service, USDA in cooperation with the Division of Soil and Water Conservation, ODNR and the local Board of County Commissioners.
- (67) "Storm water control structure." Practice used to control accelerated storm water runoff from development areas.
- (68) "Storm water conveyance system." All storm sewers, channels, streams, ponds, lakes, etc., used for conveying concentrated storm water runoff, or for storing storm water runoff.
- (69) "Storm Water Pollution Prevention Plan (SWP3)." The plan required by Ohio EPA to meet the requirements of its National Pollutant Discharge Elimination System (NPDES) permit program for construction activities.
- (70) "Storm water runoff." Surface water runoff which converges and flows primarily through water conveyance features such as swales, gullies, waterways, channels or storm sewers, and which exceeds the maximum specified flow rates of filters or perimeter controls intended to control sheet flow.
- (71) "Stream." A body of water running or flowing on the earth's surface, or a channel with a defined bed and banks in which such flow occurs. Flow may be seasonally intermittent.
- (72) "Substantial damage." Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would be equal to or greater than 50% of the market value of the structure before the damage occurred.
- (73) "Unstable soil." A portion of land surface or area which is prone to slipping, sloughing or landslides, or is identified by Natural Resources Conservation Service methodology as having a low soil strength.
- (74) "USEPA." The United States Environmental Protection Agency.
- (75) "Wastewater." Any water that is contaminated with gasoline, fuel oil, hydrocarbon based chemicals, paint, paint-washing liquids or other paint wastes, sanitary wastes or any other Ohio EPA-regulated contaminants.
- (76) "Water resources." All streams, lakes, ponds, wetlands, watercourses, waterways, drainage systems and all other bodies or accumulations of surface water, either natural or artificial, which are situated wholly or partly within, or border upon this State, or are within its jurisdiction, except those private waters which do not combine or affect a junction with natural surface waters.
- (77) "Watercourse." Any natural, perennial or intermittent channel with a defined bed and banks, stream, river or brook.
- (78) "Wetland." Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. (40 C.F.R. 232, as amended). Wetlands shall be delineated by a site survey approved by the City using delineation protocols accepted by the U.S. Army

Corps of Engineers and the Ohio EPA at the time of application of this regulation. If a conflict exists between the delineation protocols of these two agencies, the delineation protocol that results in the most inclusive area of wetlands shall apply.

- (79) "Wetland; Ohio EPA Category 2 Wetlands." Those wetlands classified by the Ohio EPA as Category 2 Wetlands under O.A.C 3745-1-54(C)(2), or current equivalent Ohio EPA classification, in accordance with generally accepted wetland functional assessment methods acceptable to the U.S. Army Corps of Engineers and Ohio EPA at the time of application of this regulation.
- (80) "Wetland; Ohio EPA Category 3 Wetlands." Those wetlands classified by the Ohio EPA as Category 3 Wetlands under O.A.C. 3745-1-54(C)(3), or current equivalent Ohio EPA classification, in accordance with generally accepted wetland functional assessment methods acceptable to the U.S. Army Corps of Engineers and Ohio EPA at the time of application of this regulation.
- (81) "Wetland setback." Those lands adjacent to wetlands where earth-disturbing activities will not take place and natural vegetation will not be removed.
- (82) "Winter." October 1 to April 1 of each year.
- (83) "100-year floodplain." Any land susceptible to being inundated by water from a base flood. The base flood is the flood that has a 1% or greater chance of being equaled or exceeded in any given year. For the purposes of this regulation, the 100-year floodplain shall be defined by FEMA or a site-specific floodplain delineation in conformance with standard engineering practices and approved by the City.
(Ord. 2005-10. Passed 5-9-05.)

1105.03 COMPREHENSIVE STORM WATER MANAGEMENT PLAN.

A Construction Site Conservation Plan, Riparian and Wetland Setback Plan and a Post-Construction Water Quality Plan shall be developed to meet this regulation. These plans will be titled and numbered in one consecutive sequence to make a Comprehensive Storm Water Management Plan for the site. The Comprehensive Storm Water Management Plan so developed will serve as the Storm Water Pollution Prevention Plan (SWP3) required by Ohio EPA as part of the NPDES Storm Water Permit for General Construction.

(Ord. 2005-10. Passed 5-9-05.)

1105.04 PURPOSE.

The intent of this regulation is to establish consistent technically feasible and operationally practical standards to achieve a level of storm water management, and erosion and sediment control that will minimize damage to public and private property and the degradation of water resources, and will promote and maintain the health, safety and welfare of the residents of the City. This regulation further intends, but is not limited to:

- (a) Allow development while minimizing increases in downstream flooding, erosion and sedimentation.

- (b) Reduce damage to receiving water resources and drainage systems that are caused by new development or redevelopment activities.
- (c) Control storm water runoff resulting from soil-disturbing activities.
- (d) Assure that development site owners control the volume and rate of storm water runoff originating from their property so that surface water and ground water are protected, soil erosion is controlled, and flooding potential is not increased.
- (e) Preserve to the maximum extent practicable the natural drainage characteristics of the building site and minimize the need to construct, repair and replace enclosed storm drain systems.
- (f) Preserve to the maximum extent practicable natural infiltration and ground water recharge, and maintain subsurface flow that replenishes water resources, wetlands and wells.
- (g) Assure that storm water controls are incorporated into site planning and design at the earliest possible stage.
- (h) Prevent unnecessary stripping of vegetation and loss of soil, especially adjacent to water resources and wetlands.
- (i) Reduce the need for costly maintenance and repairs to roads, embankments, sewage systems, ditches, water resources, wetlands and storm water management practices that are the result of inadequate soil erosion, sediment and storm water control.
- (j) Reduce the long-term expense of remedial projects needed to address problems caused by inadequate storm water, erosion and sediment control.
- (k) Require the construction of storm water management practices that serve multiple purposes, including flood control, soil erosion and sediment control, and require water quality protection, and encourage such practices that promote recreation and habitat preservation.
- (l) Ensure that all storm water management, soil erosion and sediment control practices are properly designed, constructed and maintained.
(Ord. 2005-10. Passed 5-9-05.)

1105.05 CONSULTATIONS.

In implementing these regulations the City Engineer or other City officials may consult with the local County SWCD, State and Federal agencies and other technical experts as necessary. Any costs associated with such consultations may be assessed to the applicant or their designated representative.

(Ord. 2005-10. Passed 5-9-05.)

1105.06 ISSUANCE OF BUILDING PERMITS FOR RESIDENTIAL PROJECTS.

(a) Two building permits will be issued for all single-family residential construction and similar types of construction as determined by the City Engineer. The first building permit shall allow the construction of the footers and basement walls or slab. No additional construction shall be performed and no additional building materials shall be allowed on

the site until the City has issued the second building permit. The City Engineer may approve the stockpiling of additional construction materials on the site prior to the issuance of the second permit if a suitable location can be identified. Proper soil erosion and sediment control must be maintained on the stockpile area prior to, during and after the area is used for stockpiling.

(b) The second building permit, allowing delivery of the remaining building materials and the remaining construction activities, shall not be issued until the City Engineer certifies that the required BMPs and any other BMPs identified in the Soil Erosion and Sediment Control Plan submitted with the application for the first building permit have been properly installed, pursuant to the most recent edition of the Ohio *Rainwater and Land Development* manual.

(Ord. 2005-10. Passed 5-9-05.)

1105.07 CONSTRUCTION SITE CONSERVATION PLAN.

In order to control storm water damage and sediment pollution of water resources, wetlands, riparian areas, other natural areas, and public and private lands, the owner of each development area shall be responsible for developing a comprehensive Construction Site Conservation Plan. This plan will address storm water management (volume and peak rate of runoff), soil erosion, sediment and other waste control. This plan must contain a description of controls appropriate for each construction operation covered by these regulations, and the operator must implement the planned controls in a timely manner. The plans and BMPs used to satisfy the conditions of these regulations shall meet the standards and specifications in the current edition of the Ohio *Rainwater and Land Development* manual. The plans must make use of the practices that preserve the existing natural condition to the maximum extent practicable.

(a) Development Sites Under One Acre in Size. Individual development sites that are larger than 20,000 square feet and smaller than one acre (43,560 square feet) in total size of disturbed area, can submit abbreviated soil erosion and sediment control plans with the topography plan for the requested permit(s). The abbreviated plan must cover the following items, in addition to any other items from this chapter that are required by the City Engineer.

- (1) Storm water issues. A statement as to how the increased storm water runoff that will be caused by the planned development project will be handled. This statement must identify the Best Management Practices (BMPs) the new construction project will include in order to address storm water runoff.
- (2) Redevelopment exemption. Owners of development sites that were created by demolishing an older existing structure can request, in writing, that the City Engineer exempt them from the storm water issues if the total soil surface area being made impermeable is the same or less than the total soil surface area that was impermeable due to the structure(s) being torn down and removed.

- (3) Riparian and wetland setbacks. All riparian and wetland setback areas will be identified in the plan and in the field before construction starts.
- (4) Soil erosion and sediment issues. A sketch of the entire development site must be submitted that identifies the location of:
- A. All existing and planned impervious areas, storm water inlets, drainage swales, wetlands, streams, conservation easements and other natural features to be saved and protected on the property.
 - B. All existing and planned temporary and permanent conservation practices for the site. Residential lots shall include at a minimum the following:
 - 1. Soil erosion and sediment control BMPs; and
 - 2. Construction entrance; and
 - 3. Temporary grass seeding with two tons per acre of straw mulch; and
 - 4. Storm drain inlet protection around every storm yard inlet on the site or accepting drainage from the site; and
 - 5. Silt fence protection for any stream located on or close to the site and lacking an adequate vegetative buffer; and
 - 6. Silt fence to prevent sediment discharge into street storm sewer inlets where no centralized sediment control exists for the drainage area that includes the lot; and
 - 7. Construction fence to protect any conservation easements, riparian setbacks and wetland setbacks from encroachment by construction activities.
- (5) The schedule for the use of temporary seeding developed according to the Temporary Seeding Table contained in this chapter must be included. The location of construction material stockpile areas, if such have been approved by the City Engineer, with a description of the soil erosion and sediment controls to be maintained on the stockpile area prior to, during and after the area is used for stockpiling.
- (b) Development Sites One Acre in Size or Larger. All developments that have a larger common plan of development or sale equal to or larger than one acre in size of disturbed area are subject to this chapter and shall follow all of the requirements set forth in this chapter.
- (1) Description of the plan of construction. The following information shall be included in the Construction Site Conservation Plan:
- A. Site description:
 - 1. A description of the prior land uses of the site.
 - 2. A description of the nature and type of construction activity (e.g., low-density residential, shopping mall, highway, etc.).

3. A description of the total area of the site and the area of the site that is expected to be disturbed (i.e., grubbing, clearing, excavating, filling or grading, including off-site borrow, fill or spoil areas and off-site utility installation areas).
 4. An estimate of the impervious area and percent imperviousness created by the construction activity.
 5. The types of soils within, or affected by the development area, and the location of all highly erodible or unstable soils as determined by the most current edition of the soil survey of the County, by the Natural Resources Conservation Service (NRCS).
 6. An on-site, detailed Soils Engineering Report, if required by the City Engineer.
 7. The name and/or location of the immediate receiving stream or surface water(s) and the first subsequent named receiving water and the major river watersheds in which it is located.
- B. A vicinity sketch locating:
1. The larger common plan of development or sale.
 2. The development area.
 3. All pertinent surrounding natural features within 200 feet of the development site including, but not limited to:
 - a. Water resources such as wetlands, springs, lakes, ponds, rivers and streams, including intermittent streams with a defined bed and bank.
 - b. Conservation easements.
 - c. Other sensitive natural resources.
 - d. The sensitive areas receiving runoff from the development.
 4. All off-site borrow or spoil areas.
 5. All off-site utility installation areas that are related to the planned project.
- C. The existing and proposed topography shown in the appropriate contour intervals as approved by the City Engineer.
- D. The location and description of existing and proposed drainage patterns and facilities, including any allied drainage facilities beyond the development area and the larger common plan of development or sale.
- E. Existing and proposed watershed boundary lines, direction of flow and watershed acreage.
- F. The person or entity responsible for continued maintenance of all vegetative and/or mechanical BMPs for both the construction and post-construction phases of the development.
- G. Long-term maintenance requirements and schedules of all BMPs for both the construction and post-construction phases of the development.
- H. Long-term maintenance inspection schedules.

- I. The person or entity financially responsible for conducting the inspections of and the maintenance of permanent storm water conveyance and storage structures and all other conservation practices.
 - J. The method of ensuring that funding will be available to conduct the long-term maintenance and inspections of all permanent storm water, soil erosion and sediment control and water quality practices.
 - K. The location of any existing or planned riparian and/or wetland setback areas on the property.
 - L. The plan must clearly describe, for each major construction activity, the appropriate BMPs and the general timing, or sequence, during the construction process of when the measures will be implemented, and who (which contractor) will be responsible for implementation (e.g., Contractor A will clear, grub and install perimeter controls and Contractor B will maintain perimeter controls until final stabilization; Contractor C will conduct and document the scheduled inspections).
 - M. Location and description of any storm water discharges associated with dedicated asphalt and concrete plants covered by this regulation and the best management practices to address pollutants in these storm water discharges.
- (2) Construction Site Conservation Plan elements. The Construction Site Conservation Plan shall include, at a minimum, the following information:
- A. The Construction Site Conservation Plan shall include a map showing the location of:
 - 1. The limits of earth-disturbing activity including excavations, filling, grading or clearing.
 - 2. Drainage patterns during major phases of construction.
 - 3. The location of each proposed soil erosion and sediment control BMP, including:
 - a. Permanent soil erosion control practices to be left in place after construction operations have been completed (e.g. level spreaders, permanent erosion control matting, gabions, rock-lined channels, etc.).
 - b. Areas likely to require temporary stabilization during the course of site development.
 - c. Designated construction entrances where vehicles will access the construction site.
 - d. In-stream activities, including stream crossings.
 - e. Areas designated for the storage or disposal of solid, sanitary and toxic wastes.
 - f. Dumpsters.
 - g. Cement truck washout.

- h. Fuel tanks.
 - i. BMPs that divert runoff away from disturbed areas and steep slopes where practicable, including rock check dams, pipe slope drains, diversions to direct flow away from exposed soils, and protective grading practices.
 - j. Sediment settling ponds drawn to scale.
 - 4. Existing and proposed locations of buildings, roads, parking facilities and utilities.
 - 5. Boundaries of wetlands and stream channels the owner intends to fill or relocate for which the owner is seeking approval from the U.S. Army Corps of Engineers and/or Ohio EPA.
- B. The Construction Site Conservation Plan shall include a list of soil erosion and sediment control BMPs being used and the standards and specifications, including detailed drawings, for each BMP. This list shall include:
- 1. Methods of controlling the flow of runoff from disturbed areas so as to prevent or minimize erosion.
 - 2. Identification of the structural practices to be used to control erosion and trap sediment from a site remaining disturbed for more than 14 days. A description shall be included of how each selected control will store runoff so as to let sediments settle out and/or divert flows away from exposed soils or act to limit runoff from exposed areas.
 - 3. Identification for each structural practice of its size, detail drawings, maintenance requirements and design calculations.
 - 4. The type and amount of plant seed, live plants, fertilizer, agricultural ground limestone and mulch to be used. Specification of soil testing requirements for fertility and lime requirements will be included. Specification for the use of perennial grass seed will also be included.
 - 5. Settling ponds will be identified with basic dimensions and the calculations for size and volume.
 - 6. Detailed drawings and installation requirements of all other structural control BMPs.
 - 7. Any other soil erosion and sediment control related BMPs and items that are required by the City Engineer.
 - 8. For developments where the overall plan does not call for centralized sediment control capable of controlling multiple individual lots, a detail drawing of a project-specific typical individual lot showing standard individual lot soil erosion and sediment control practices and the sequence and timing of BMP installation for the individual lots. This does not remove or

eliminate the responsibility to designate and install specific soil erosion and sediment control practices for the storm water discharges.

- C. The Construction Site Conservation Plan shall include the scheduling, phasing and coordination of construction operations and erosion and sediment control BMPs, including vegetative plantings and mulch.
- (3) The Construction Site Conservation Plan shall include a description of the storm water management (SWM) practices to be used on the site. The SWM element of the Plan shall include, at a minimum, the following:
- A. A map showing the location, drawn to scale, of permanent SWM conveyance, detention and retention structures, other SWM control structures and the SWM easements.
 - B. A general description of the SWM strategy proposed to meet this chapter.
 - C. Design calculations for all permanent SWM conveyance, detention and retention structures, and other SWM control structures.
 - D. Any other SWM related items required by the City Engineer.
(Ord. 2005-10. Passed 5-9-05.)

1105.08 EASEMENTS.

Future access to floodplains, flood control facilities, runoff drainage ditches and channels, runoff storage facilities, storm sewers and other drainage ways and structures, as required by the City Engineer, shall be secured by means of easements.

- (a) The easements shall be recorded in the name of the City and, in single-family residential developments, the homeowners' association.
- (b) Such easements shall be not less than 25 feet in width, in addition to the width of the ditch, channel, or other facility it is to serve. Access easements of this type shall be provided on one side of the flood control or storm drainage ditch, channel, or similar type facility.
- (c) Access along the initial drainage system shall be by means of easements. Such easements shall be not less than 25 feet in width, with a minimum ten-foot width on either side of the centerline.
- (d) Access adjacent to storage facilities shall consist of a 25-foot easement in the case of detention (dry) basins, and a 25-foot easement with a 25-foot level bench in the case of retention (wet) basins, measured from the top of the bank, and shall include the storage facility itself.
- (e) Easements for the emergency flow ways shall be a minimum of 25 feet in width, or larger if required by the City Engineer.
- (f) Flood control or storm drainage easements containing underground facilities shall have a minimum width of 25 feet.

- (g) The easements shall be restricted against the planting within said easement of trees, shrubbery or plantings with woody growth characteristics, and against the construction therein of buildings, accessory buildings, fences, walls or any other obstructions to the free flow of storm water and the movement of inspectors and maintenance equipment, and also restricted against the changing of final grade from that described by the grading plan.
(Ord. 2005-10. Passed 5-9-05.)

1105.09 MAINTENANCE.

Any portion of the permanent drainage and soil erosion systems, including on-site and off-site storage facilities that are constructed by the owner, will be continuously maintained in perpetuity.

- (a) Maintenance Plans. Maintenance plans shall be provided by the permittee to both the City Engineer and the post-construction operator of the BMP (including homeowners' associations) upon completion of construction activities and prior to the City Engineer giving final approval for the completed construction.
- (b) Single-Family and Multi-Family Residential Developments. A homeowners' association shall be created and placed in title of the affected lands and shall be continuously responsible for post-construction maintenance and inspections in perpetuity unless such maintenance and inspections become officially accepted by the City.
- (c) Apartments, Commercial and Industrial Developments. The plans will clearly state that the owner of the property shall be continuously responsible for post-construction maintenance and inspections in perpetuity, unless the City officially accepts such maintenance and inspections.
- (d) Maintenance Design. All temporary and permanent soil erosion and sediment control practices shall be designed and constructed to minimize maintenance requirements. Multi-use facilities incorporating assets such as aesthetics and recreation may be incorporated into the design of the drainage facilities. All permanent drainage, soil erosion, sediment control, water quality management systems and BMPs, including on-site and off-site structures and vegetation that are constructed or planted, must be inspected and maintained in perpetuity by the responsible party designated in the plans. Inspections and maintenance will be incorporated periodically throughout the year to ensure that the facilities are properly operational.
- (e) Perpetual Maintenance Inspections. One inspection with a written report will be performed each year. The written report will be given to the City Engineer by May 1 of each and every year after the Best Management Practice (BMP) has been completed.
- (1) Structures that require a permit from the Ohio Division of Water. A written and stamped report from a professional engineer on the status of all structural BMPs that require a permit from the Ohio Department of Natural Resources (ODNR), Division of Water. This applies to all BMPs

that require a permit either at the time of construction or fall under the jurisdiction of the ODNR Division of Water at any time after construction is completed.

- (2) Easements. A written report from an inspector on the status of all storm water management easements for each project shall be submitted to the City Engineer by May 1 of each year in perpetuity. These reports will document if restricted plantings, fences and structures are on the easement and will identify the location of the noted easement restriction violations.
- (3) Best Management Practices (BMPs) that do not have a high risk for loss of life, bodily injury, or damage to structures or infrastructure related to imminent failure as determined by the City Engineer. A written and stamped report from a professional engineer, landscape architect or Certified Professional in Erosion and Sediment Control (CPESC) on the status of permanent soil erosion, sediment control, water quality management systems and the status of the related easements shall be submitted to the City Engineer by May 1 of each year in perpetuity.
- (4) BMPs that have a potential loss of life. A written and stamped report covering the status of all BMPs that have a potential for loss of life, bodily injury, or damage to structures or infrastructure will be prepared by a professional engineer or other individual possessing a valid State license that authorizes them to design the same type of BMP for construction.
(Ord. 2005-10. Passed 5-9-05.)

1105.10 MINIMUM STANDARDS.

In order to control sediment pollution of water resources, the owner or person responsible for the development area shall use conservation planning and practices to maintain the level of conservation established in the following standards.

- (a) The plan shall include measures that control the flow of runoff from disturbed areas so as to prevent soil erosion from occurring.
- (b) Structural practices shall be used to control erosion and trap sediment from areas remaining disturbed for more than 14 days.
- (c) Sediment Barriers.
 - (1) Sheet flow runoff from denuded areas shall be intercepted by silt fence or diversions to protect adjacent properties and water resources from sediment. Where intended to provide sediment control, silt fence shall be placed on a level contour. The relationship between the maximum drainage areas to silt fence for a particular slope is shown in the table below.

[See table on following page]

Table 1: Silt Fence Applicability

<u>Maximum Drainage Area (in acres) to 100 Linear Feet of Silt Fence</u>	<u>Range of Slope for a Particular Drainage Area</u>
0.5	<2%
0.25	≥ 2% but <20%
0.125	≥ 20% but <50%

- (2) This does not preclude the use of other sediment barriers designed to control sheet flow runoff. The total runoff flow treated by a sediment barrier shall not exceed the design capacity for that sediment barrier. Straw bale barriers are not acceptable.
- (d) Storm Water Diversion Practices. Storm water diversion practices shall be used to keep runoff away from disturbed areas and steep slopes where practicable. Such practices, which include swales, dikes or berms, pipe slope drains and diversions, may receive storm water runoff from areas up to ten acres. Storm water diversion practices alone are not considered a sediment control practice unless those are used in conjunction with a sediment settling pond.
- (e) All sediment control practices must be capable of ponding runoff in order to be considered functional.
- (f) Clearing and grubbing will be done in two or more phases. The first phase will include only those locations necessary to install the perimeter soil erosion, sediment and storm water control BMPs. After the perimeter controls are in place and functioning, the remaining phase(s) of clearing and grubbing may continue.
- (g) Timing of Sediment Trapping Practices. Sediment control practices shall be functional throughout all phases of up slope earth-disturbing activity. Settling facilities, perimeter controls and other practices intended to trap sediment shall be implemented prior to grading and within seven days from the start of grubbing. They shall continue to function until the up slope development area is permanently restabilized. As construction progresses and the topography is altered, appropriate controls must be constructed or existing controls altered to address the changing drainage patterns.
- (h) Stabilization of Denuded Areas.
- (1) Disturbed areas must be stabilized as specified in the tables below, or according to the Ohio EPA NPDES Storm Water Permit Rules, whichever is most restrictive:

Table 2: Permanent Stabilization

<u>Area Requiring Permanent Stabilization</u>	<u>Time Frame to Apply Erosion Controls</u>
Any areas that will lie dormant for one year or more	Within seven days of the most recent disturbance
Any areas within 50 feet of a stream and at final grade	Within two days of reaching final grade
Any other areas at final grade	Within seven days of reaching final grade within that area

Table 3: Temporary Stabilization

<u>Area Requiring Temporary Stabilization</u>	<u>Time Frame to Apply Erosion Controls</u>
Any disturbed areas within fifty (50) feet of a stream and not at final grade	Within two days of the most recent disturbance if the area will remain idle for 21 days or more
Disturbed areas that will be dormant for more than 21 days but less than one year and not within 50 feet of a stream	Within seven days of the most recent disturbance within the area
Residential subdivisions for disturbance which has occurred on building lots	<p>Within seven days of the most recent disturbance if housing unit construction on the lot is not scheduled to begin within 21 days of the disturbance</p> <p>In any case, temporary or permanent stabilization will be properly installed, pursuant to the most recent edition of the <i>Ohio Rainwater and Land Development</i> manual, before the second building permit is issued</p>

<u>Area Requiring Temporary Stabilization</u>	<u>Time Frame to Apply Erosion Controls</u>
Nonresidential subdivisions and commercial developments	<p>Within seven days of the most recent disturbance if further construction activity will not occur within 21 days of the disturbance.</p> <p>Where vegetative stabilization techniques may cause structural instability or are otherwise prohibited, alternative stabilization techniques must be employed.</p>
Disturbed areas that will be idle over winter	Prior to the onset of winter weather

- (2) Where vegetative stabilization techniques may cause structural instability or are otherwise unobtainable, alternative stabilization techniques must be employed.
- (i) Sediment Settling Ponds. Storm water runoff that exceeds the design capacity of sediment barriers and concentrated storm water flows shall pass through a sediment settling facility.
 - (1) Where storm sewer drainage areas include ten or more acres disturbed at one time, a temporary, or permanent sediment settling pond must be provided until final stabilization of the site. In single-family residential construction, final stabilization is after the houses are built and permanent landscaping is done.
 - A. Alternative equivalent controls may be used if the owner can show, in writing, that the Ohio EPA approved the use of the alternatives in the Ohio EPA NPDES Permit for Construction Activity, Storm Water Pollution Prevention Plan (SWP3) for the site.
 - B. It is recommended that for drainage locations of less than ten acres, smaller sediment settling basins and/or sediment traps be used.
 - (2) Each facility's storage capacity shall be no less than 67 cubic yards per acre of total contributing drainage area. The storage volume will be measured from the bottom of the basin to the top of the primary (principal) spillway.
 - (3) Permanent storm water management ponds that are designed to trap sediment during construction shall be designed to provide for a slow release of sediment-laden water. The draw down time must be at least 72 hours, or meet the criteria in the Ohio *Rainwater and Land Development* manual, whichever is most stringent.

- (4) The design configuration between inlet(s) and the outlet of settling ponds must provide at least two units of length for each one unit of width (> 2:1 length to width ratio).
 - (5) The depth of the sediment settling pond must be less than or equal to five feet.
 - (6) Sediment must be removed from the sediment settling ponds when the design capacity has been reduced by 40%.
 - (7) Public safety, especially as it relates to children, must be considered in the design. Alternative sediment controls must be used where site limitations would preclude a safe design.
 - (8) Temporary sediment settling ponds will not be constructed in any stream channel.
- (j) Storm Sewer Inlet Protection.
- (1) All storm sewer inlets that accept water runoff from the development area shall be protected so that sediment-laden water will not enter the storm sewer, unless the storm drain system drains to a sediment settling pond and is exempted in writing by the City Engineer. In areas where construction will be ongoing, such as subdivisions, the storm sewer protection shall be maintained until all up slope areas reach final stabilization, as determined by the City Engineer.
 - (2) At the end of this period the site owner shall hydraulically clean the storm sewers to the satisfaction of the City Engineer. All sediments shall be removed from the system and shall not be flushed downstream.
- (k) Storm Sewer and Other Drainage Outlets. All storm sewers, footer drains, roof gutter drains and all other drains will be outletted at the bottom of the slope. The slope below the outlet will be able to control the water being drained through the storm sewer or other drains without causing erosion of the stream or channel banks or channel bottom or other areas that the water is outletted on.
- (l) Working Near or Crossing Streams and Wetlands.
- (1) Construction vehicles shall avoid water resources, wetlands, riparian areas and their setbacks. If construction vehicles must cross these areas during construction, an approved temporary crossing shall be constructed. Streams, including intermittent streams with a defined bed and banks, shall be restabilized immediately after in-channel work is completed, interrupted, or stopped. Erodible materials will not be used in making stream crossings.
 - (2) No soil, rock, debris or any other material shall be dumped or placed into a water resource or into such proximity that it may slough, slip, or erode into a water resource, unless such dumping or placing is authorized by the approving authority and, when applicable, the U.S. Army Corps of Engineers and Ohio EPA, for such purposes as, but not limited to, constructing bridges, culverts and erosion or sediment control structures.

- (3) If construction activities disturb areas adjacent to streams, structural practices shall be designed and implemented on site to protect the adjacent streams from the impacts of sediment runoff.
 - (4) No temporary or permanent sediment controls will be constructed in a stream channel.
 - (5) Streams and wetland setbacks required by the City will be implemented. As a minimum a setback of 25 feet, as measured from the ordinary high water mark of the surface water, will be maintained in its natural state as a permanent buffer.
- (m) Construction Entrance.
- (1) Measures shall be taken to prevent soil transport onto public roads or surfaces where runoff is not checked by sediment controls.
 - (2) Stone with geotextile construction entrance(s) shall be implemented as required by the City Engineer and the Ohio EPA. These will be planned and installed according to the requirements in the most recent edition of the *Ohio Rainwater and Land Development* manual.
 - (3) Where soil is transported onto a public road surface, the roads shall be cleaned thoroughly at the end of each day, or more frequently, in order to ensure public safety. Soil shall be removed from paved surfaces by shoveling or sweeping. Street washing shall be allowed only after shoveling or sweeping has removed most of the sediment and street sewer inlet protection is properly installed unless end of sewer sediment ponds exist and are properly functioning.
 - (4) Erodible material ramps in streets will not be used to enable equipment to cross curbs. Non-erosive materials (e.g. wood and stone) can be used.
- (n) Unstable Soils.
- (1) Unstable soils will be as determined by the local county soil survey or by a detailed soils report.
 - (2) The City Engineer may require detailed soil reports when deemed necessary.
 - (3) Unstable soils prone to slipping or land sliding shall not be graded, excavated, filled or have loads imposed upon them unless the work is performed in accordance with a qualified professional engineer's recommendations to correct, eliminate, or adequately address the problems.
- (o) Cut and Fill Slopes. Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion and slippage. Consideration shall be given to the length and steepness of the slope, soil type, up slope drainage area, ground water conditions and slope stabilization. The minimum final unreinforced soil slopes will have a horizontal to vertical ratio of 2:1 (the horizontal will be two times the vertical).
- (p) Stabilization of Outfalls and Channels. Outfalls and constructed or modified channels shall be designed and constructed to withstand the expected velocity

- (2) The washing of excess concrete material into a street, catch basin or other public facility or natural resource shall not occur. A designated area for concrete washouts shall be made available and used for all concrete washouts.
- (3) All fuel tanks and drums shall be stored in a marked storage area. A dike shall be constructed around this storage area with a minimum capacity equal to 110% of the volume of the largest container in the storage area. All additional requirements of the local fire authority must be followed. If the fuel tanks have a self-contained dike, the plug will be kept in the dike tank at all times.
- (4) Any toxic or hazardous wastes and/or contaminated soils must be disposed of according to all applicable environmental laws and statutes. Local health districts and Ohio EPA can provide guidance on these issues.
- (5) On a site with a prior industrial land use or a site that is contaminated with gasoline, fuel oil, hydrocarbon-based chemicals or other Ohio EPA-regulated contaminants, the storm water is considered wastewater. A permit from Ohio EPA is required to address these sites.
- (6) Proper permits shall be obtained for development projects on solid waste landfill sites.
- (7) Paint, paint-washing liquids, excess paints and other paint wastes are considered solid wastes and shall be disposed of in accordance with applicable State regulations. Appropriate handling of these wastes shall occur at the site so as to prevent the discharge of these wastes into surface or ground waters.
 - A. Water-based paint-washing liquids and small quantities of excess water-based paints may be disposed of by flushing down a connected sanitary sewer, but may not be disposed of in an on-lot disposal system.
 - B. All other paints, paint thinners and paint-cleaning materials will be disposed of in the site's hazardous waste disposal dumpster.
- (8) Restroom facilities will be provided for site workers at all times that workers are present on the site and during all phases of the construction.
- (9) All required permits from appropriate Federal, State, or local agencies are required to develop land with a previous industrial or commercial use or another use that may have led to soil contamination by a regulated pollutant.
- (v) Pre-winter Stabilization. If the development area will, or is planned to remain, active through the winter months, the owner of the development area shall hold a Pre-winter Stabilization Meeting. The meeting will be held before October 1. The owner shall invite the operator, developer, engineer, contractor, City Engineer and anyone else requested by the City Engineer to the meeting.

(w) Water Quality Requirements.

- (1) Storm water detention. The post-construction BMP(s) chosen must be able to detain storm water runoff for protection of the stream channels, stream erosion control, and improved water quality.
- (2) Structural BMPs. Structural (designed) post-construction storm water treatment practices shall be incorporated into the permanent drainage system for the site.
- (3) Properly sized BMPs. The BMP(s) chosen must be sized to treat the water quality volume (WQ_v) and ensure compliance with Ohio's Water Quality Standards in O.A.C. Chapter 3745-1. The WQ_v shall be equivalent to the volume of runoff from a 0.75-inch rainfall and shall be determined according to one of the two following methods:
 - A. Through a site hydrologic study approved by the local municipal permitting authority that uses continuous hydrologic simulation and local long-term hourly precipitation records; or
 - B. Using the following equation:

$$WQ_v = C * P * A/12$$

where: WQ_v = water quality volume in acre-feet

C = runoff coefficient appropriate for storms less than one inch (see Table 4)

P = 0.75 inch precipitation depth

A = area draining into the BMP in acres

Table 4 Runoff Coefficients Based on the Type of Land Use

<u>Land Use</u>	<u>Runoff Coefficient</u>
Industrial and commercial	0.8
High-density residential (>8 dwellings/acre)	0.5
Medium-density residential (4 to 8 dwellings/acre)	0.4
Low-density residential (<4 dwellings/acre)	0.3
Open space and recreational areas	0.2

- (4) Where the land use will be mixed, the runoff coefficient should be calculated using a weighted average. For example, if 60% of the contributing drainage area to the storm water treatment structure is low-density residential, 30% is high-density residential, and 10% is open space, the runoff coefficient is calculated as follows $(0.6)(0.3) + (0.3)(0.5) + (0.1)(0.2) = 0.35$.
- (5) An additional volume equal to 20% of the WQ_v shall be incorporated into the BMP for sediment storage and/or reduced infiltration capacity. The BMPs

will be designed according to the methodology included in the Ohio *Rainwater and Land Development* manual, ODOT *Post-Construction Storm Water Standards*, or other manual that is acceptable to Ohio EPA.

- (6) BMPs shall be designed such that the drain time is long enough to provide treatment, but short enough to provide storage available for successive rainfall events as described in Table 5 below.

Table 5: Target Draw Down (Drain) Times for
Structural Post-Construction Treatment Control Practices

Best Management Practice	Drain Time of WQ_v
Infiltration	24 - 48 hours
Vegetated swale and filter strip	24 hours
Extended detention basin (dry basins)	48 hours
Retention basins (wet basins)*	24 hours
Constructed wetlands (above permanent pool)	24 hours
Media filtration, bioretention	40 hours
* Provide both a permanent pool and an extended detention volume above the permanent pool, each sized at $0.75 * WQ_v$	

- (7) The owner may request approval from the City Engineer to use alternative structural post-construction BMPs if the owner can demonstrate, in a way that is acceptable to Ohio EPA rules and regulations, that the alternative BMPs are equivalent in effectiveness to those listed in Table 5 above. The use of alternative or vendor-supplied post-construction BMPs should be limited to redevelopment projects where justification is provided that the traditional BMPs in Table 5 are technically and economically infeasible.
- (8) Construction activities shall be exempt from this condition if it can be demonstrated that the WQ_v is provided within an existing structural post-construction BMP that is part of a larger common plan of development or sale, or if structural Post-construction BMPs are addressed in a regional or local storm water management plan.
- (9) For redevelopment projects (i.e., developments on previously developed property), post-construction practices shall either ensure a 20% net

reduction of the site's impervious area, provide for treatment of at least 20% of the WQ_v , or a combination of the two.

(x) Storm Water Basins.

- (1) Pool geometry. The minimum length-to-width ratio for the pond is 3:1 (the length will be three times the width).
- (2) Riser in embankment. The riser shall be located within the embankment for purposes of maintenance access. Access to the riser will be by manholes.
- (3) Water drains. Each retention basin shall have a drainpipe that can completely drain the pond. The drain shall have an elbow within the pond to prevent sediment deposition from plugging the drain.
- (4) Adjustable gate valves. Both the storm water management and water quality basin drains shall have adjustable gate valves. Valves shall be located inside the riser at a point where they will remain dry and can be operated in a safe and convenient manner. During the annual inspections the valves shall be fully opened and closed at least once, and the certifying official shall attest to this on the inspection form. To prevent vandalism, the handwheel shall be chained to a ringbolt or manhole step.
- (5) Principal spillway. Each principal spillway shall be designed in accordance with the NRCS standards and specifications for the office serving the County. Each principal spillway shall have the capacity to pass the 100-year design storm flow. The inlet or riser size for the pipe drops shall be designed so that the flow through the structure goes from weir flow control to pipe flow control without going into orifice control in the riser. The crest elevation of the primary spillway shall be no less than one foot below the emergency spillway crest. Premium joint pipe is required and a removable trash rack shall be installed at each location. Anti-seep collars shall be provided for all pipe conduits through an embankment.
- (6) Emergency spillway. An emergency spillway shall be provided on each storm water management basin. Emergency spillways shall convey flood flows safely past the embankment, and shall be designed in accordance with NRCS standards and specifications for the office serving the local county. Emergency spillways shall have a 100-year design storm capacity unless exempted in writing by the City Engineer.
- (7) Embankments. Each dam embankment shall be designed in accordance with the NRCS standards and specifications for the office serving the county that the project is located in. Anti-seep collars shall be provided for all pipe conduits through an embankment.
- (8) Safety features.
 - A. The primary spillway opening shall not permit access to the public and other non-maintenance personnel.
 - B. The perimeter of all water pool areas that are deeper than three feet shall be surrounded by benches that meet the following:

1. A safety bench, with a maximum slope of 3%, which extends outward, on dry land, from the shoreline. This bench will be a minimum of 25 feet wide to provide for the safety of individuals and maintenance vehicles that are adjacent to the water pool. The safety bench may be landscaped, without the use of structures, to prevent access to the water pool.
 2. Side slopes between the safety bench and the aquatic bench shall not be steeper than 3:1 (three feet horizontal for every one foot vertical).
 3. An aquatic bench that extends inward from the shoreline far enough to ensure public safety and has a maximum depth of 15 inches below the normal water surface elevations. The aquatic bench may be landscaped to prevent access to the deeper water pool.
 4. Side slopes beyond the aquatic bench and below the permanent water level shall not be steeper than 2:1 (two feet horizontal for every one foot vertical).
 5. The contours of the pond will be designed and managed to eliminate drop-offs and other hazards.
 6. Side slopes getting to the pond shall not exceed 3:1 and shall terminate on a safety bench.
 7. Soil erosion and sediment control practices used to satisfy these standards shall meet the standards and specifications in the current edition of the *Ohio Rainwater and Land Development* manual, NRCS Field Office Technical Guide for the local county or the Ohio EPA, whichever is most stringent.
- (9) Water quality basin. If a water quality basin is needed and cannot be incorporated into an existing or planned detention or retention basin, then a separate water quality basin will need to be planned, designed, constructed and maintained in perpetuity.
- (10) Water quality basins will not be constructed in any stream channel.
- (11) Flexibility. These standards are general guidelines and shall not limit the right of the City Engineer to impose at any time additional and/or more stringent requirements, nor shall the standards limit the right of the City Engineer to waive, in writing, individual requirements. If the City Engineer waives, in writing, individual requirements, the owner will provide the City Engineer with the information and documentation required to assure Ohio EPA that the waived requirement will not degrade water quality.
- (y) These standards are general guidelines and shall not limit the right of the City Engineer to impose at any time additional, more stringent requirements, nor

shall the standards limit the right of the City Engineer to waive, in writing, individual requirements.

- (z) Soil limitations shall be determined by using the current edition of the county soil survey written by the NRCS, USDA.
- (aa) Methods for controlling increases in storm water runoff peaks and volumes may include, but are not limited to:
 - (1) Retarding flow velocities by increasing friction; for example, grassed road ditches rather than paved street gutters where practical, discharging roof water to vegetated areas, or grass and rock-lined drainage channels.
 - (2) Grading and use of grade control structures to provide a level of control in flow paths and stream gradients.
 - (3) Induced infiltration of increased storm water runoff into soil, where practical; for example, constructing special infiltration areas where soils are suitable, retaining topsoil for all areas to be vegetated, or providing good infiltration areas with proper emergency overflow facilities.
 - (4) Provisions for detention and retention, for example, permanent retention ponds and lakes, dry detention basins and subsurface detention tanks.
(Ord. 2005-10. Passed 5-9-05.)

1105.11 STREAM CHANNEL AND FLOODPLAIN EROSION DESIGN CRITERIA.

(a) Runoff Rate. The peak runoff rate from the development area shall not be greater after development than it was before development. The applicant shall provide calculations proving no increase in the runoff rates from the 1-, 2-, 5-, 10-, 25-, 50- and 100-year storms.

(b) Runoff Volume. Increases in the runoff volume shall be offset by further restricting runoff rates. Based on the increase in runoff volume, the applicant shall determine the critical storm for the development area. The runoff rate from the critical storm shall be restricted to the one-year pre-development storm runoff rate. The critical storm shall be calculated as follows:

- (1) Determine the total volume of runoff from a one-year frequency, 24-hour storm, occurring on the development area before and after development.
- (2) From the volumes in division (b)(1) of this section, determine the percent of increase in volume of runoff due to development according to the equation $(Q \text{ after divided by the } Q \text{ before}) \times 100$ and, using this percentage, select the critical storm from this table:

Table 6: Critical Storm Selection

<u>The Percentage Increase in Volume of Runoff is:</u>		
<u>Equal to or Greater Than</u>	<u>And Less Than</u>	<u>The 24-Hour "Critical Storm" For Discharge Will Be:</u>
0	10	1 year
10	20	2 years
20	50	5 years
50	100	10 years
100	250	25 years
250	500	50 years
500	—	100 years

(c) Detention or Retention Basin Exemption for Redevelopment or for Expansion of Existing Facilities.

- (1) For any development regulated by this chapter, the construction of a detention or retention basin may not be required for the development if the post-development peak discharge for a 100-year frequency 24-hour storm increases the existing peak discharge by one cubic foot per second or less using the TR-55 method of calculation or other method approved by the City Engineer. The City Engineer can waive this requirement if existing storm sewers and drainage structures can safely handle the expected increase in flow.
- (2) Only one exemption will be allowed per parcel. Any subsequent expansion must provide for detention or retention and must include the previously exempted area.

(d) Where the City Engineer determines that site constraints exist in a manner that compromises the intent of this chapter to improve the management of storm water runoff as established in this section, practical alternatives may be used to result in an improvement of water quality and/or a reduction of storm water runoff. Such alternatives must be in keeping with the intent and likely cost of those measures that would otherwise be required to meet the objectives of this section. When possible, all practical alternatives shall be implemented within the drainage area of the proposed development project. Practical alternatives can include, but are not limited to:

- (1) Fees shall be paid in an amount specified by the City Engineer. These fees shall be applied by the City to storm water management practices that reduce existing storm water runoff.
- (2) Implementation of off-site storm water management practices.
- (3) Watershed or stream restoration.
- (4) Retrofitting of an existing storm water management practice.
- (5) Other practices approved by the City Engineer in keeping with the intent of this section.

(Ord. 2005-10. Passed 5-9-05.)

1105.12 COMPLIANCE WITH OTHER RULES AND REGULATIONS.

(a) Ohio Dam Safety Laws. The provisions of the Ohio Dam Safety Laws shall be followed. Proof of compliance with the Ohio Dam Safety Laws administered by the ODNR Division of Water shall be, but is not limited to, a copy of the ODNR Division of Water permit number or a copy of the project approval letter from the ODNR Division of Water or a letter from the site owner explaining why the Ohio Dam Safety Law is not applicable. The written proof will be provided to the City Engineer before a construction permit will be issued.

(b) NPDES Permits. The provisions of the National Pollutant Discharge Elimination System (NPDES) permits issued by the Ohio EPA shall be followed. Proof of compliance shall be, but is not limited to, a copy of the Ohio EPA NPDES permit number or a letter from the site owner explaining why the NPDES permit is not applicable. The written proof will be provided to the City Engineer before a construction permit will be issued.

(c) Federal and State Wetland Permits. The provisions of the U.S. Army Corps of Engineers dredge and fill permits for federally-protected wetlands shall be followed. The provisions of Ohio EPA's Isolated Wetlands permits shall also be followed. Wetlands and other waters of the United States shall be delineated by protocols accepted by the U.S. Army Corps of Engineers and the Ohio EPA at the time of the application of these regulations. Written proof of compliance with both permit programs will be provided to the City Engineer before a construction permit will be issued. Proof of compliance shall be, but is not limited to, the following:

- (1) A copy of the U.S. Army Corps of Engineers Individual permit, if required for the project, showing project approval and any restrictions that apply to site activities; or
- (2) A site plan showing that any proposed fill of waters of the United States conforms to the general and specific conditions specified in the applicable Nationwide permit; or
- (3) A letter from the site owner verifying that a qualified professional has surveyed the site and found no wetlands or other waters of the United States. Such a letter shall be noted on site plans submitted to the City.

(Ord. 2005-10. Passed 5-9-05.)

1105.13 CONSTRUCTION AND MAINTENANCE GUARANTEE.

All permanent storm water, soil erosion, other wastes control, and water quality practices not specifically waived by the City shall be constructed prior to the granting of the final plat approval. Upon the request of the owner, the City may defer the construction or installation of a permanent storm water, soil erosion, sediment, or other waste control or water quality practice prior to the approval of the final plat where, in the City Engineer's judgment, such proper construction or installation is not immediately necessary for the protection of the public health and safety; and where the prior installation or construction of such improvement would constitute an undue hardship on the owner because, in the case of new vegetation or weather conditions, or because in the case of concrete, building construction could cause cracking and excessive wear and tear on new structures. In such event, the City shall require a security bond, escrow account, certified check or cash to guarantee that such deferred improvements will be properly constructed or installed within an agreed specified time, but not to exceed six months after the filing of such final plat. The owner will provide a maintenance guarantee for all permanent improvements, and soil erosion, waste controls and water quality practices. The City shall require a security bond, escrow account, certified check or cash to guarantee that the planned temporary and permanent soil erosion, sediment, and other waste controls and water quality practices will be constructed and removed in a timely manner, as determined by the City Engineer.

- (a) The Guarantee. The guarantee of both performance and maintenance will be in the form of a security bond, escrow account, verified check or cash. The security bond, escrow account, verified check or cash will be used by the City to complete any guaranteed construction or removal of improvements or temporary and permanent soil erosion, sediment and other waste control practices that are not adequately completed, maintained or removed by the owner in a timely manner, as determined by the City Engineer. The security bond, escrow account, verified check or cash will be in the total amount of both the performance guarantee and the maintenance guarantee. Ohio municipalities and counties may require performance bonds or other guarantees for water management improvement as stated in Ohio R.C. 711.101.
- (1) Security bond, escrow account, verified check or cash shall be deposited with the City prior to review by the City Engineer and/or its consultants to cover professional services of the City Engineer, Building Commissioner, Zoning Inspector and/or other experts required by the City Engineer, City Council, Mayor or Review Boards.
 - (2) No soil-disturbing activities shall be permitted until a security bond, escrow account, verified check or cash has been posted to the satisfaction of the City Engineer sufficient for the City to perform the obligations otherwise to be performed by the owner or person responsible for the development area as stated in this regulation, and to allow all work to be performed as needed in the event that the owner or person responsible for the development area

fails to comply with the provisions of this regulation. The security bond, escrow account, verified check or cash shall be released only after all work required by this regulation has been completed to the satisfaction of the City Engineer and all permit and inspection fees required by these regulations have been paid in full.

- (3) No project subject to this regulation shall commence without the Construction Site Conservation Plan having been approved by the City Engineer.
- (b) Performance Guarantee. The furnishing of a performance guarantee will be maintained in an amount of not less than 120% of the estimate approved by the City Engineer, of installation of the deferred improvements.
 - (c) Maintenance Guarantee. The maintenance guarantee shall be maintained for a period of not less than two years after final acceptance of the storm water, soil erosion, sediment and other waste control practices in an amount equal to 20% of the estimate approved by the City Engineer, of the construction and, where necessary, removal of such practices.
 - (d) Time Extension. The City Engineer may extend for cause the time allowed for the installation of the improvements for which the performance guarantee has been provided with the receipt of a written request from the owner.
 - (e) Completion. Upon completion of the construction of improvements or temporary and/or permanent soil erosion, sediment and other waste control practices and the removal of the temporary soil erosion, sediment and other waste control practices for which the performance guarantee has been provided, the owner shall notify the City Engineer of this fact.
 - (f) Inspection. The City will not release the security bond, escrow account, verified check or cash guarantee until the City Engineer has inspected the site to ensure that the guaranteed item(s) have been completed and/or removed.
 - (g) Slow Release Devices. Performance and maintenance guarantees will be maintained on the temporary sediment removal slow release devices installed in detention and retention basins until the entire site has reached final soil stabilization. Final stabilization in single-family residential developments is when 90% of the homes are constructed with their lawns completely installed and any remaining unbuilt lots having been permanently stabilized with a uniform ground cover at a growth density of 80% or better.
 - (h) Release. The construction maintenance guarantee shall not be released by the City until all temporary soil erosion and sediment control practices that are no longer needed have been removed, properly disposed of and any trapped sediment has been stabilized.

(Ord. 2005-10. Passed 5-9-05.)

1105.14 APPLICATION PROCEDURES FOR EROSION AND SEDIMENT
CONTROL PLANS.

(a) Plans developed by the site owners and approved by the City in accordance with this regulation do not relieve the site owner of responsibility for obtaining all other necessary permits and/or approvals from Federal, State, County and local agencies and departments. If requirements vary, the most stringent requirement shall be followed. Plans submitted to the City Engineer for review and approval shall be accompanied by all other required permits and documentation relevant to the project, including but not limited to the permits required and issued by the U.S. Army Corps of Engineers, Ohio EPA and ODNR Division of Water.

(b) Five sets of the plans and necessary data required by this regulation shall be submitted to the City Engineer as follows:

- (1) Format.
 - A. Text material will be on 8.5 by 11-inch paper.
 - B. Drawings will be on paper sized no larger than 24 inches by 36 inches.
- (2) Construction projects.
 - A. At the preliminary plan approval request the preliminary plans shall show all of the following existing and planned features: streams, water bodies, wetlands, riparian and wetland setback areas, permanent BMPs, storm water management detention and retention basins.
 - B. At the improvement plan approval request, the entire Comprehensive Storm Water Management Plan must be submitted.
- (3) For general clearing projects. Thirty working days prior to any soil-disturbing activities.
- (4) Permits list. A list of all the permits that will be needed from Federal, State and local agencies.
- (5) Long-term maintenance.
 - A. The requirements and schedules of all permanent vegetative and/or mechanical post-construction water quality conservation BMPs.
 - B. Long-term maintenance inspection schedules for all permanent vegetative and/or mechanical post-construction water quality conservation BMPs.
 - C. The person or entity financially responsible for inspecting and maintaining all permanent vegetative and/or mechanical post-construction water quality conservation BMPs.
 - D. The method of ensuring that funding will be available to conduct the long-term maintenance and inspections of all permanent vegetative and/or mechanical post-construction water quality conservation BMPs.

(c) The City Engineer shall review the plans, including the review report from the local County SWCD, and shall approve or return these with comments and

recommendations for revisions within 30 working days after receipt of the plan as described above. A plan rejected because of deficiencies shall receive a report stating specific problems. At the time of receipt of a revised plan, another 30-day review period shall begin.

(d) Approved plans shall remain valid for two years from the date of approval. After two years the plan(s) approval automatically expires.

(e) No soil disturbing activity shall begin before all necessary local, County, State and Federal permits have been granted to the owner or operator.

(f) The City will do construction inspections until the site reaches final stabilization as determined by the City Engineer.

(Ord. 2005-10. Passed 5-9-05.)

1105.15 RIPARIAN AND WETLAND SETBACK REQUIREMENTS.

(a) It is hereby determined that the system of wetlands, riparian areas, rivers, streams, and other natural watercourses within the City contributes to the health, safety, and general welfare of the residents. The specific purpose and intent of this part of these regulations is to regulate uses and developments within riparian and wetland setbacks that would impair the ability of riparian and wetland areas to:

- (1) Reduce flood impacts by absorbing peak flows, slowing the velocity of floodwaters and regulating base flow.
- (2) Assist in stabilizing the banks of watercourses to reduce bank erosion and the downstream transport of sediments eroded from watercourse banks.
- (3) Reduce pollutants in watercourses during periods of high flows by filtering, settling and transforming pollutants already present in watercourses.
- (4) Reduce pollutants in watercourses by filtering, settling, transforming and absorbing pollutants in runoff before they enter watercourses.
- (5) Provide watercourse habitats with shade and food.
- (6) Provide habitat to a wide array of aquatic organisms, wildlife, many of which are on Ohio's Endangered and/or Threatened Species listings, by maintaining diverse and connected riparian and wetland vegetation.
- (7) Benefit the City economically by minimizing encroachment on wetlands and watercourse channels and the need for costly engineering solutions such as dams, retention basins, and riprap to protect structures and reduce property damage and threats to the safety of residents; and by contributing to the scenic beauty and environment of the City, and thereby preserving the character of the City, the quality of life of the residents of the City, and corresponding property values.

(b) The regulations in this section have been enacted to protect these services of riparian and wetland areas by providing reasonable controls governing structures and uses within a wetland and/or riparian setback along designated watercourses in the City.

(c) Applicability and Compliance.

(1) These regulations shall apply to:

- A. All lands that are within the jurisdiction of the City and that border designated watercourses and wetlands as defined in these regulations.
- B. These regulations shall apply to property/parcel split plan approvals, site plan approvals and land development plan approvals requested of the City.
- C. These regulations shall apply to all building permits, which involve soil-disturbing activities.

(2) The City shall issue no approvals or permits without full compliance with the terms of these regulations.

(Ord. 2005-10. Passed 5-9-05.)

1105.16 ESTABLISHMENT OF DESIGNATED WATERCOURSES AND
RIPARIAN SETBACKS:

(a) Designated watercourses shall include those watercourses meeting any one of the following criteria:

- (1) All watercourses draining an area greater than one-half square mile; or
- (2) All watercourses draining an area less than one-half square mile and having a defined bed and bank.
- (3) In determining if watercourses have a defined bed and bank, the City may consult with a representative of the local County SWCD or other technical experts as necessary.

(b) Riparian setbacks on designated watercourses are established as follows:

- (1) A minimum of 300 feet on both sides of all watercourses draining an area greater than 300 square miles.
- (2) A minimum of 120 feet on both sides of all watercourses draining an area greater than 20 square miles and up to and including 300 square miles.
- (3) A minimum of 75 feet on both sides of all watercourses draining an area greater than one-half square mile and up to and including 20 square miles.
- (4) A minimum of 25 feet on both sides of all watercourses draining an area less than one-half square mile and having a defined bed and bank as determined above.

(c) Riparian Setback Map.

(1) The City shall use the latest edition of the official soil survey that shows drainage features on the paper maps in the back of the book as the map

identifying designated watercourses and their riparian setbacks. The drainage features identified on the paper maps in the official soil survey and the information contained therein shall be believed to be accurate.

- (2) At the time of application of this regulation, if any discrepancy is found between the Riparian Setback Map and the criteria for designated watercourses or riparian setbacks as set forth in these regulations, the criteria shall prevail.
 - (3) In reviewing and interpreting the maps the City may consult with a representative of the local County SWCD and other technical experts as necessary.
- (d) The following conditions shall apply in riparian and wetland setbacks:
- (1) Riparian and wetland setbacks shall be measured in a perpendicular and horizontal direction outward from the ordinary high water mark of each designated watercourse and defined wetland boundary.
 - (2) Except as otherwise provided in this regulation, riparian and wetland setbacks shall be preserved in their natural state and shall be established and marked in the field prior to any soil-disturbing or land-clearing activities.
 - (3) Where the 100-year floodplain is wider than a riparian setback on either or both sides of a designated watercourse, the riparian setback shall be extended to the outer edge of the 100-year floodplain. The 100-year floodplain shall be determined by the project engineer conducting a hydrologic analysis of the project area in conformance with standard engineering practices and approved by the City Engineer.
 - (4) Where wetlands are identified within a riparian setback, the minimum riparian setback width shall be extended to the outer boundary of the wetland. In addition, wetlands shall be protected to the extent detailed in these regulations.
 - (5) Wetlands shall be delineated by a site survey approved by the City using delineation protocols accepted by the U.S. Army Corps of Engineers and the Ohio EPA at the time of application of this regulation. If a conflict exists between the delineation protocols of these two agencies, the delineation protocol that results in the most inclusive area of wetland shall apply.

(e) The applicant or their designated representative shall be responsible for delineating riparian and wetland setbacks, including any expansions or modifications as required by these regulations, and identifying these setbacks on all property/parcel splits, commercial development or other land development plans, and/or building permit applications submitted to the City. This delineation may be done by a metes and bounds, or higher level, survey and shall be subject to review and approval by the City. As a result of this review, the City may consult with a representative of the local County SWCD or other technical experts as necessary.

(f) Prior to any soil-disturbing activity, riparian and wetland setbacks shall be clearly delineated on-site by the applicant or their designated representative, and such delineation shall be maintained throughout soil-disturbing activities.

(g) No approvals or permits shall be issued by the City prior to on-site delineation of riparian and wetland setbacks in conformance with these regulations.

(h) Upon completion of an approved property/parcel split, land development, or other improvement, riparian and wetland setbacks shall be permanently recorded on the plat records of the City.

(Ord. 2005-10. Passed 5-9-05.)

1105.17 ESTABLISHMENT OF WETLAND SETBACKS.

Wetland setbacks are established as follows:

- (a) A minimum of 120 feet surrounding and including all Ohio EPA Category 3 Wetlands, or current equivalent Ohio EPA classification.
- (b) A minimum of 75 feet surrounding and including all Ohio EPA Category 2 Wetlands, or current equivalent Ohio EPA classification.

(Ord. 2005-10. Passed 5-9-05.)

1105.18 PROCEDURE FOR WETLAND SETBACKS.

(a) No change to parcel boundaries or land use:

- (1) Upon filing a request for a building permit that does not involve changing of any parcel boundaries or changes in land use, the applicant will check for indicators of wetlands on the National Wetlands Inventory maps and Ohio Wetlands Inventory map and the Cuyahoga County Wetlands Inventory in the Cuyahoga River Watershed map (if applicable). A photocopy of the applicable section of each map will be attached to the permit application.
- (2) If a potential wetland is shown on any of the maps or if there is reason for the City to believe that an unmapped wetland exists on or within 120 feet of the project site the applicant will retain a qualified wetland professional to evaluate the proposed project site for wetlands or wetland buffer areas. If no wetland or wetland buffer areas are found, the applicant shall submit a letter from the qualified wetland professional with the preliminary plat or permit application verifying their negative findings.

(b) New Residential or Commercial or Other Type Development and Projects Involving a Change to Parcel Boundaries or a Land Use Change. Upon filing a request for approval of a preliminary plat or building permit for new residential, commercial or other type of development that involves changes in any parcel boundaries or changes in land use, the applicant or their designated representative shall retain a qualified wetland

professional to survey the proposed development site for wetlands. If no wetlands are found, the applicant or their designated representative shall submit a letter with the preliminary plat or permit application verifying that a qualified wetland professional has surveyed the site and found no wetlands. If wetlands are found, the following procedures shall be followed:

- (1) A qualified wetland professional, acceptable to the City Engineer, shall determine the presence of Ohio EPA Category 2 or 3 wetlands (or current equivalent Ohio EPA classification) on the proposed development site using the latest version of the Ohio Rapid Assessment Method for wetland evaluation approved at the time of application of this regulation. Acceptance of this determination shall be subject to approval by the City Engineer.
- (2) If Ohio EPA Category 2 or 3 wetlands (or current equivalent Ohio EPA classification) are located on the proposed development site, the applicant or their designated representative shall delineate these wetlands and the wetland setback in conformance with these regulations. The applicant or their designated representative shall identify all delineated wetlands and their associated setbacks on all property/parcel split plans, land development plans, and/or permit applications submitted to the City.
 - A. Wetlands shall be delineated by a site survey, approved by the City, using delineation protocols accepted by the U.S. Army Corps of Engineers and the Ohio EPA at the time of application of this regulation. If conflict exists between the delineation protocols of these two agencies, the delineation protocol that results in the most inclusive area of wetland shall apply.
 - B. Wetland setbacks shall be delineated through a metes and bounds, or higher level, survey subject to approval by the City.
- (3) Prior to any soil or vegetation-disturbing activity, the applicant or their designated representative shall delineate wetland setbacks on the development site in such a way that they can be clearly viewed, and such delineation shall be maintained throughout construction.
- (4) No approvals or permits shall be issued by the City prior to delineation of wetland setbacks in conformance with this regulation.

(c) Upon completion of an approved property/parcel split, commercial development or other land development or improvement, riparian and wetland setbacks shall be permanently recorded on the plat records for the City and shall be maintained as open space thereafter through a permanent conservation easement. A third party, not the landowner or permittee or the City, that is allowed by State law, shall be given the conservation easement. If no third party will accept the conservation easement, the City shall accept it and protect it in perpetuity.

(Ord. 2005-10. Passed 5-9-05.)

1105.19 USES PERMITTED IN RIPARIAN AND WETLAND SETBACKS.

(a) By-right Uses Without a Permit. Open space uses that are passive in character shall be permitted in riparian and wetland setbacks, including, but not limited to, those listed in these regulations. No use permitted under these regulations shall be construed as allowing public trespass on privately-held lands.

- (1) Recreational activity. Passive recreational uses, as permitted by Federal, State, and local laws, such as hiking, fishing, hunting, picnicking and similar uses.
- (2) Removal of damaged or diseased trees. Damaged or diseased trees may be removed.
- (3) Revegetation and/or reforestation. Riparian and wetland setbacks may be revegetated with non-invasive plant species.
- (4) Maintenance of lawns, gardens and landscaping. Lawns, gardens and landscaping, that existed at the time this chapter was passed may be maintained as long as they are not increased in size.

(b) By-right Uses with a Permit.

- (1) Selective harvesting of timber. Selective harvesting of timber may be allowed upon presentation of a Forest Management and Harvest Plan prepared by a qualified forester and accepted by the City Engineer.
 - A. Any landowner harvesting timber for sale shall post a one thousand dollar (\$1,000.00) performance guarantee with the City. This performance guarantee shall be in the form of a security bond, escrow account, certified check or cash, and it shall be held until completion of the timber-harvesting operation.
 - B. Due to the potential for felled logs and branches to damage downstream properties and/or to block ditches or otherwise exacerbate flooding, logs or branches resulting from permitted selective harvesting that are greater than six inches in diameter at the cut end shall be cut into sections no longer than six feet or removed from the 100-year floodplain. Harvested trees or felled logs and branches that are part of a designed and approved Streambank Stabilization and Erosion Control Measure shall be allowed to remain in a designated watercourse.
 - C. The Forest Management and Harvest Plan must:
 1. Show that the site will be adequately stocked after the approved selective harvest. "Adequately stocked" shall be defined as the residual stocking level greater than the B-Level on the *Allegheny Hardwood Stocking Guide* produced by the United States Forest Service, or other United States Forest Service stocking guides as dictated by the forest City to be harvested.

2. Show that trees located less than 25 feet from the ordinary high water mark will not be impacted by the proposed harvesting.
 3. Include a map of the site. This map shall specify the location of any skid and haul roads required for transporting harvested trees and firewood from riparian and wetland setbacks.
 4. Include the method to be used to transport harvested trees from riparian and wetland setbacks.
 5. Specify the erosion control best management practices that will be employed during and after the proposed harvest. These erosion control practices shall be in conformance with the Ohio Department of Natural Resources, Division of Forestry's *BMPs for Erosion Control on Logging Jobs in Ohio*.
 6. Provide the U.S. Army Corps of Engineers and the Ohio EPA Wetland and Stream protection permit numbers and the associated permit requirements.
- (2) Streambank stabilization and erosion control measures. Streambank stabilization and erosion control measures may be allowed provided that such measures are ecologically compatible and substantially utilize natural materials and native plant species where practical. The streambank stabilization and erosion control measures shall only be undertaken upon approval of an Soil Erosion and Sediment Control Plan by the City
- (3) Crossings. Crossings of designated watercourses and through riparian setbacks by publicly and privately-owned sewer and/or water lines and public and private utility transmission lines shall only be allowed upon approval of a Crossing Plan by the City Engineer. Such crossings shall minimize disturbance in riparian setbacks and shall mitigate any necessary disturbances. Erosive materials will not be used in making stream crossings.
- (Ord. 2005-10. Passed 5-9-05.)

1105.20 USES PROHIBITED IN RIPARIAN AND WETLAND SETBACKS.

Any use not authorized under these regulations shall be prohibited in riparian and wetland setbacks. By way of example, the following uses are specifically prohibited. However, prohibited uses are not limited to those examples listed here.

- (a) Construction. There shall be no structures of any kind.
- (b) Dredging or Dumping. There shall be no drilling, filling, dredging, or dumping of soil, spoils, liquid, or solid materials, except for noncommercial composting of uncontaminated natural materials, and except as permitted under this section.
- (c) Roads or Driveways. There shall be no roads or driveways permitted in riparian and/or wetland setback area, except as permitted under this section. There shall be no roads or driveways or roads permitted in wetlands or watercourses without a permit issued by the U.S. Army Corps of Engineers and/or the Ohio EPA.

- (d) Motorized Vehicles. There shall be no use of motorized vehicles, except as permitted under this section.
- (e) Disturbance of Natural Vegetation. There shall be no disturbance, including mowing, of the natural vegetation, except for such conservation maintenance that the landowner deems necessary to control noxious weeds; for such plantings as are consistent with this regulation; for such disturbances as are approved under this section; and for the passive enjoyment, access and maintenance of landscaping or lawns existing at the time of passage of this regulation. Nothing in this regulation shall be construed as requiring a landowner to plant or undertake any other activities in riparian and wetland setbacks.
- (f) Parking Lots. There shall be no parking lots or other human-made impervious cover, except as permitted under this section.
- (g) New Surface and/or Subsurface Sewage Disposal or Treatment Areas. Riparian and wetland setbacks shall not be used for the disposal or treatment of sewage except in accordance with local County Board of Health regulations in effect at the time of application of this regulation.
- (h) Crossings. Crossings of designated riparian and wetland setbacks by publicly and privately-owned sewer and/or water lines and small public and small private utility transmission lines without a permit issued by the U.S. Army Corps of Engineers and/or the Ohio EPA.
(Ord. 2005-10. Passed 5-9-05.)

1105.21 NONCONFORMING STRUCTURES OR USES IN RIPARIAN AND WETLAND SETBACKS.

(a) A nonconforming use within a riparian and wetland setback which is in existence at the time of passage of this regulation, and which is not otherwise permitted under these regulations, may be continued. However, the use shall not be changed or enlarged unless it is changed to a use permitted under these regulations.

(b) A nonconforming structure within a riparian and wetland setback which is in existence at the time of passage of this regulation, and which is not otherwise permitted under these regulations, may be continued. However, the existing building footprint or roofline may not be expanded or enlarged in such a way that would move the structure closer to the stream or wetland.

(c) A nonconforming structure or use or deteriorated structure within a riparian and wetland setback which is in existence at the time of passage of this regulation, and which is discontinued, terminated or abandoned for a period of six months or more, may not be revived, restored or re-established.

(d) A nonconforming structure or use that is discontinued may be resumed any time within six months from such discontinuance but not thereafter. No change or resumption shall be permitted that is more detrimental to riparian and wetland setbacks, as measured against the intent and objectives of these regulations as determined by the City, than the existing or former nonconforming structure or use.

(Ord. 2005-10. Passed 5-9-05.)

1105.22 VARIANCES WITHIN RIPARIAN AND WETLAND SETBACKS.

(a) The City may grant a variance from this regulation as provided herein. In determining whether there is unnecessary hardship or practical difficulty such as to justify the granting of a variance, the City shall consider the potential harm or reduction in riparian and/or wetland area functions that may be caused by a proposed structure or use.

- (b) In making a variance determination, the City shall consider the following:
- (1) Varying the front, rear and side yard setback before the riparian and wetland setbacks are varied.
 - (2) Variances should not be granted for asphalt or concrete paving in the riparian and wetland setbacks in any situation where gravel or porous pavement (i.e., porous pavers and similar products) will do the job.
- (c) In making a variance determination, the City may consider the following:
- (1) A parcel existing at the time of passage of this chapter is made unbuildable.
 - (2) The soil type natural vegetation of the parcel, as well as the percentage of the parcel that is in the 100-year floodplain. The criteria of the City's flood damage prevention regulations may be used as guidance when granting variances in the 100-year floodplain.
 - (3) The extent to which the requested variance impairs the flood control, soil erosion control, sediment control, water quality protection or other functions of the riparian and/or wetland area. This determination shall be based on sufficient technical and scientific data.
 - (4) The degree of hardship this regulation places on the landowner, and the availability of alternatives to the proposed activity.
 - (5) Soil-disturbing activities permitted in a riparian and/or wetland setback through variances should be implemented in order to minimize clearing to the extent possible, and to include best management practices necessary to minimize soil erosion and maximize sediment control.
 - (6) The presence of significant impervious cover or smooth vegetation, such as maintained lawns, in riparian setback areas compromises their benefits to the City.
 - (7) A reduction in storm water infiltration into the soil in wetland areas will occur.
 - (8) A requested above-ground fence does not increase the existing area of mowed grass or lawn.

(Ord. 2005-10. Passed 5-9-05.)

1105.23 BOUNDARY INTERPRETATION AND APPEALS PROCEDURE.

(a) When an applicant or their designated representative disputes the boundary of a riparian or wetland setback or the ordinary high water mark of a watercourse, the applicant or their designated representative shall submit documentation to the City which describes the boundary, the applicant's proposed boundary, and justification for the proposed boundary change.

(b) The City shall evaluate this documentation and shall make a written determination within a reasonable period of time, not to exceed 60 days, a copy of which shall be submitted to the applicant. If, during this evaluation, the City requires further information, it may be required of the applicant. In the event that the City requests such additional information, the 60-day limit on the City's review shall be postponed until the applicant provides such information.

(c) Any party aggrieved by any wetland or riparian setback determination under this regulation may appeal to the Board of Zoning Appeals.
(Ord. 2005-10. Passed 5-9-05.)

1105.24 INSPECTION OF RIPARIAN AND WETLAND SETBACK.

The delineation of riparian and/or wetland setbacks shall be inspected by the City, as follows:

- (a) The inspection shall be done prior to any soil-disturbing activities authorized by the City under a property/parcel split, land development plan, and/or building permit. The applicant or their designated representative shall provide the City with at least five working days notice prior to starting a soil-disturbing or land-clearing activities.
- (b) Prior to starting any of the activities authorized by the City under Section 1105.19, the applicant or their designated representative shall provide the City with at least five working days notice prior to starting such activities.
- (c) Any time evidence is brought to the attention of the City that uses or structures are occurring that may reasonably be expected to violate the provisions of these regulations.

(Ord. 2005-10. Passed 5-9-05.)

1105.25 DISCLAIMER OF LIABILITY.

Neither submission of a plan under the provisions herein, nor compliance with the provisions of these regulations shall relieve any person or entity from responsibility for damage to any person or property that is otherwise imposed by law.

(Ord. 2005-10. Passed 5-9-05.)

1105.26 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.

(a) Where this chapter imposes a greater restriction upon land than is imposed or required by other City provisions of law, ordinance, contract or deed, the provisions of this chapter shall prevail.

(b) If a court of competent jurisdiction declares any clause, section, or provision of these regulations invalid or unconstitutional, the validity of the remainder shall not be affected thereby.

(c) These regulations shall not be construed as authorizing any person to maintain a private or public nuisance on their property. Compliance with the provisions of this regulation shall not be a defense in any action to abate such nuisance.

(d) Failure of the City to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City, its officers, employees or agents being responsible for any condition or damage resulting therefrom. (Ord. 2005-10. Passed 5-9-05.)

1105.27 VIOLATIONS.

No person shall violate or cause, or knowingly permit to be violated, any of the provisions of these regulations, or fail to comply with any such provisions or with any lawful requirements of any public authority made pursuant to these regulations, or knowingly use or cause or permit the use of any lands in violation of these regulations or in violation of any permit granted under these regulations. (Ord. 2005-10. Passed 5-9-05.)

1105.99 PENALTIES.

(a) Whoever violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the first degree and shall be fined no more than one thousand dollars (\$1,000.00) or imprisoned for no more than 18) days, or both, for each offense.

(b) A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(c) Upon notice from the City Engineer, or designated representative, that work is being performed contrary to this regulation, such work shall immediately stop. Such notice shall be in writing and shall be given to the owner or person responsible for the development area, or person performing the work, and shall state the conditions under which such work may be resumed; provided, however, in instances where immediate action is deemed necessary for public safety or the public interest, the City Engineer may require that work be stopped upon verbal order pending issuance of the written order.

(d) The imposition of any other penalties provided herein shall not preclude the City, by or through its Law Director and/or any of their assistants, from instituting an appropriate action or proceeding in a court of proper jurisdiction to prevent an unlawful development or to restrain, correct or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules or regulations or the orders of the City Engineer.

(Ord. 2005-10. Passed 5-9-05.)

TITLE FIVE - Zoning Administration

- Chap. 1131. Definitions.
 Chap. 1133. Application Requirements.
 Chap. 1135. Special Permits.
 Chap. 1137. Enforcement; Penalty.
 Chap. 1139. Board of Zoning Appeals.
 Chap. 1141. Nonconforming and Existing Uses.
-

CHAPTER 1131
 Definitions

- | | |
|---------------------------------|-------------------------|
| 1131.01 Generally. | 1131.07 Setback line. |
| 1131.02 Single family dwelling. | 1131.08 Rear yard. |
| 1131.03 Dwelling. | 1131.09 Front yard. |
| 1131.04 Multiple family units. | 1131.10 Side yard. |
| 1131.05 Accessory use. | 1131.11 Main structure. |
| 1131.06 Nonconforming use. | 1131.12 Zoning Code. |

CROSS REFERENCE

Nonconforming uses - see P. & Z. 1141.01

1131.01 GENERALLY.

Certain words and terms in this Zoning Code are herein defined for the purposes of this Zoning Code and shall have the meanings respectively ascribed to them in this chapter. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. (Ord. 1953-29. Passed 6-1-53.)

1131.02 SINGLE-FAMILY DWELLING.

"Single-family dwelling" means a dwelling entirely detached and independent from any other structure, arranged, intended or designed to be occupied by a single family. (Ord. 1953-29. Passed 6-1-53.)

1131.03 DWELLING.

"Dwelling" means any house or building or portion thereof which is occupied in whole or in part as the home, residence or sleeping place of one or more persons either permanently or transiently. (Ord. 1953-29. Passed 6-1-53.)

1131.04 MULTIPLE-FAMILY UNITS.

"Multiple-family units" mean those structures designed and used by more than one family either temporarily or permanently, irrespective of the name assigned to them. (Ord. 1953-29. Passed 6-1-53.)

1131.05 ACCESSORY USE.

"Accessory use" means a subordinate use or building customarily incident to and located on the same lot with the main use or building. (Ord. 1953-29. Passed 6-1-53.)

1131.06 NONCONFORMING USE.

"Nonconforming use" means one that does not comply with the regulations of the use district in which it is situated. (Ord. 1953-29. Passed 6-1-53.)

1131.07 SETBACK LINE.

"Setback line" means a line back of the street line, drawn radially to the side line of a curved street and parallel to the side line of a street that is not curved. Between the setback line and the street line no building or portion thereof may be erected. (Ord. 1959-82. Passed 11-9-59.)

1131.08 REAR YARD.

"Rear yard" means an open unoccupied space on the same lot with a building between the rear line of the building and the rear line of the lot. (Ord. 1953-29. Passed 6-1-53.)

1131.09 FRONT YARD.

"Front yard" means an open unoccupied space on the same lot with a building between the front line of the building and the front line of the lot. (Ord. 1953-29. Passed 6-1-53.)

1131.10 SIDE YARD.

"Side yard" means an open unoccupied space on the same lot with a building situated between the building and the side line of the lot and extending from the street line to the rear line of the lot. Any lot line not a rear line or a front line shall be deemed a side line. (Ord. 1953-29. Passed 6-1-53.)

1131.11 MAIN STRUCTURE.

"Main structure" means and includes a dwelling and any wing or attached garage. (Ord. 1953-29. Passed 6-1-53.)

1131.12 ZONING CODE.

"Zoning Code" means Ordinance 1953-29, passed June 5, 1953, as amended, codified herein as Titles Five through Nine of Part Eleven - Planning and Zoning Code.

CHAPTER 1133
Application Requirements

- | | |
|---|-----------------------------------|
| 1133.01 Application to Planning Commission. | 1133.02 Application requirements. |
| | 1133.03 Fees required. |

CROSS REFERENCES

- Planning Commission powers - see CHTR. Art. IV § 9
Rules and regulations of Planning Commission - see P. & Z. 1101.03
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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. (Ord. 1954-90. Passed 12-6-54.)

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.

(Ord. 1954-90. Passed 12-6-54.)

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.

(b) For application for Planned Urban 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.

(Ord. 1978-52. Passed 11-13-78; Ord. 2003-13. Passed 5-12-03.)

CHAPTER 1135
Special Permits

1135.01 Authorization.
1135.02 Uses.

1135.03 Use of land in vicinity of special
permit districts; parking.

CROSS REFERENCES

Council to hold public hearing - see Ohio R. C. 713.12
Nonconforming uses - see P. & Z. 1141.01
Building permits - see BLDG. 1325.01 et seq.

1135.01 AUTHORIZATION.

Council may, after a public hearing and with a three-fourths vote of its duly elected members, authorize the issuance of a special permit for any of the herein described uses or similar uses in any district whenever, in its opinion, such use and location will substantially serve the public convenience, health, safety and welfare and will not substantially injure the adjacent premises or surrounding territory.
(Ord. 1953-29. Passed 6-1-53.)

1135.02 USES.

Uses which may be authorized pursuant to Section 1135.01 are churches, schools, clubs, lodges, social and community center buildings, Municipal buildings, playgrounds and parks, public utilities and such other uses of a public or civic nature.

The fact that Council may authorize the use of any land in the Municipality for any of the foregoing or related uses is not intended in any way to impinge on the duties of the Building Commission or Building Inspector to see to it that the structure or building complies in all respects to existing codes and regulations then in force in the Municipality.
(Ord. 1953-29. Passed 6-1-53.)

1135.03 USES OF LAND IN VICINITY OF SPECIAL PERMIT DISTRICTS; PARKING.

A special permit may be issued as provided in Section 1135.01 for land which is located adjacent to, abutting or across the street from a district for which a special permit has been issued and may be used for the purpose of parking private passenger automobiles of members, employees or guests of the person, firm or corporation owning, leasing or controlling the land. There shall be no charge for parking on the lot or land so classified. The lot shall not be used for sales, repair work or servicing of any kind. (Ord. 1957-20. Passed 4-22-57.)

CHAPTER 1137
Enforcement; Penalty

1137.01 Enforcement.

1137.99 Penalty.

CROSS REFERENCES

Violating of zoning ordinances - see Ohio R. C. 713.13
Planning Commission - see P. & Z. 1101.01 et seq.
Board of Zoning Appeals - see P. & Z. 1139.01 et seq.
Building Commission - see BLDG. 1321.01 et seq.
Building Inspector - see BLDG. 1323.01 et seq.

1137.01 ENFORCEMENT.

The administration of this Zoning Code and related matters is the responsibility of the Planning Commission, the Board of Zoning Appeals, the Building Commission and the Building Inspector.

Enforcement of the Zoning Code shall also be authorized by filing a criminal complaint in a court of competent jurisdiction, alleging a violation of any of the provisions of the Zoning Code. (Ord. 1990-1. Passed 1-22-90.)

1137.99 PENALTY.

Whoever violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this Zoning Code is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both. (Ord. 1990-1. Passed 1-22-90.)

CHAPTER 1139
Board of Zoning Appeals

1139.01	Membership requirements.	1139.08	Rules and regulations.
1139.02	Officers.	1139.09	Public hearings.
1139.03	Appeals.	1139.10	Appeal procedure.
1139.04	Hearing required.	1139.11	Order of hearings; notice.
1139.05	Notice for hearing.	1139.12	Final disposition of appeal; withdrawal of appeal.
1139.06	Powers and procedure.		
1139.07	Exceptions and variations.		

CROSS REFERENCES

Board of Zoning Appeals - see CHTR. Art. IV, § 10
 Appeal from zoning regulations - see Ohio R.C. 713.11
 Violation of zoning ordinances - see Ohio R.C. 713.13
 Nonconforming uses - see P. & Z. 1141.01

1139.01 MEMBERSHIP REQUIREMENTS.

All members of the Board of Zoning Appeals shall be bona fide residents of the City and no person holding any other public office or position in the municipal government of the City shall be eligible for membership on the Board. The members shall take office as of the date of their appointment and qualification.
 (Ord. 1953-29. Passed 6-1-53.)

1139.02 OFFICERS.

The Board of Zoning Appeals shall organize by electing from its membership a Chairman, Vice-Chairman and Secretary.

The Secretary of the Board shall keep all records, conduct official correspondence and generally supervise the clerical work of the Board.
 (Ord. 1953-29. Passed 6-1-53.)

1139.03 APPEALS.

Any determination made by the Building Commission or the Building Inspector in the enforcement of this Zoning Code may be appealed to the Board of Zoning Appeals by any person deeming himself adversely affected by the decision.
 (Ord. 1953-29. Passed 6-1-53.)

1139.04 HEARING REQUIRED.

No action shall be taken by the Board of Zoning Appeals on any case until after a public hearing and notice as provided in Section 1139.09.
 (Ord. 1953-29. Passed 6-1-53.)

1139.05 NOTICE FOR HEARING.

Proper notice of a hearing before the Board of Zoning Appeals shall consist of a written notice mailed to the owner or his agent at the address given on the appeal and to directly affected property owners or their agents at least five days prior to the date set for the proposed hearing. In the discretion of the Board it may substitute a legal notice published in a newspaper of general circulation in the Municipality at least ten days before the date set for a public hearing, and this may be in lieu of the written notice prescribed above to be mailed to directly affected property owners or their agents.
(Ord. 1953-29. Passed 6-1-53.)

1139.06 POWERS AND PROCEDURE.

The Board of Zoning Appeals shall hear and decide all questions brought before it by appeal from the refusal, granting or revocation of permits by the Building Commission or Building Inspector under the provisions of this Zoning Code. It shall also hear and decide all matters referred to it or upon which it is required to pass under this Zoning Code. Within its powers the Board may reverse or affirm, wholly or in part, or modify the order, requirements, decision or determination as in its opinion ought to be done under the circumstances and to that end shall have all the powers of the officer or Commission from whom the appeal is taken and it may issue or direct the issuance of a permit.
(Ord. 1953-29. Passed 6-1-53.)

1139.07 EXCEPTIONS AND VARIATIONS.

The Board of Zoning Appeals shall have the power to permit exceptions to and variations from this Zoning Code where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the provisions of this Zoning Code. In addition, the Board shall have the power in a specific case to vary the application of any provisions in harmony with the general purpose and intent of this Zoning Code so that the public health, safety, morals and general welfare may be secured and substantial justice done.
(Ord. 1953-29. Passed 6-1-53.)

1139.08 RULES AND REGULATIONS.

The Board of Zoning Appeals shall have such duties and powers as set forth in the various sections of this Zoning Code. The Board shall adopt such rules and regulations as it may deem necessary to carry into effect the provisions of this Zoning Code.
(Ord. 1953-29. Passed 6-1-53.)

1139.09 PUBLIC HEARINGS.

(a) Public hearings of the Board of Zoning Appeals shall be held on call on an as-needed basis to handle appeals within its jurisdiction as provided by the City Charter.

(b) Special sessions may be called by the Chairman or at the request of three members, provided that notice of the same has been mailed to each member at least twenty-four hours before the time set, except that the announcement of a special session of any meeting at which a quorum is present shall be sufficient notice of the meeting.

(c) All hearing sessions and records shall be open to the public.

(d) A quorum of the Board shall consist of three members.

(e) The Board shall keep minutes of its proceedings showing the vote of each member on every question, or if absent or failing to vote, indicating such fact, and it shall also keep records of its examinations and other official actions.

(f) The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector or the Building Commission or to decide in favor of the appellant any matter upon which it is required to pass under this Zoning Code, or to effect any variation therein.

(g) The Board shall have the power to require the attendance of witnesses and the production of books, records and papers and, upon the request of an applicant, to issue a subpoena or subpoena duces tecum in accordance with similar provisions set forth in Ohio R.C. Chapter 119 (Administrative Procedure Act).

(h) The Board shall adopt rules and regulations for conducting hearings before the Board.

(Ord. 1994-42. Passed 9-12-94; Ord. 2001-1. Passed 1-22-01.)

1139.10 APPEAL PROCEDURE.

(a) Every appeal shall be made to the Board of Zoning Appeals on a form which may be secured at the office of the Clerk of the Board of Zoning Appeals. The procedure of appeals shall be as follows:

- (1) A written appeal shall be filed with the Clerk of the Board of Zoning Appeals by the party aggrieved by any order or decision of the Building Inspector upon forms prepared and supplied by the Board. The appeal shall be accompanied by a clear and concise statement of appellant's position or contention;
- (2) Every appeal shall be taken within 30 days from the date of any refusal in writing by the Building Inspector to issue the permit.
- (3) Any communication purporting to be an appeal shall be regarded as mere notice to seek relief and shall not be considered by the Board until it is made on the form required.
- (4) The applicant shall be supplied with the proper forms before placing his appeal, and if he fails to file with the Board the form properly filled out and executed and to supply the required data within the time allotted, his case shall be dismissed for lack of prosecution.

- (5) The appeal shall be accompanied with the sum of seventy-five dollars (\$75.00), either in cash or certified check, payable to the Municipality, which amount shall be used to defray the cost of the required notices. Any extra costs or additional work performed by the Department of Law 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 expense.
(Adopting Ordinance)

(b) At the public hearing of the case before the Board the appellant shall appear in his own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure each side shall proceed without interruption by the other.

(c) Every person before the Board shall abide by the order and direction of the Chairman. Discourteous or disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Board and shall be dealt with as the Chairman deems proper.

(Ord. 1953-29. Passed 6-1-53.)

1139.11 ORDER OF HEARINGS; NOTICE.

(a) Each appeal filed with the Clerk of the Board of Zoning Appeals shall be transferred forthwith to the Chairman of the Board of Zoning Appeals who shall number the appeal serially and place it upon the calendar of the Board. The calendar numbers shall begin anew on January 1 each year, and shall be hyphenated with the number of the year in which the appeal is filed.

(b) Appeals will be assigned for hearing in the order in which they appear on the calendar thereof, except that an appeal may be advanced for hearing by order of the Board upon good cause being shown.

(c) A notice of the hearing of an appeal before the Board shall consist of a written notice mailed to the appellant or his agent at the address given on the appeal and to directly affected property owners or their agents at least five days prior to the date set for the proposed hearing. At its own discretion the Board may substitute a legal notice published in a newspaper of general circulation in the Municipality at least ten days before the date set for a public hearing and this may be in lieu of the written notice prescribed above to be mailed to directly affected property owners or their agents. The cost of postage for mailing the required notices to the appellant and the directly affected property owners and/or the cost of publishing any legal notices shall be deducted from the ten dollar (\$10.00) deposit made with the Board at the time of filing the appeal.

(Ord. 1953-29. Passed 6-1-53.)

1139.12 FINAL DISPOSITION OF APPEAL; WITHDRAWAL OF APPEAL.

(a) The final disposition of any appeal to the Board of Zoning Appeals shall be in the form of a resolution which shall affirm, modify or reverse the order of decision of the Building Inspector.

(b) Any appellant may withdraw his appeal at any time prior to the decision of the Board.

(c) Decisions of the Board of Zoning Appeals shall be final within the Municipality, except that an appeal therefrom may be taken to any court of record in accordance with the laws of the State of Ohio, by any proper and interested party, including the Municipality. (Ord. 1953-29. Passed 6-1-53; Ord. 2001-18. Passed 6-11-00.)

CHAPTER 1141
Nonconforming and Existing Uses

1141.01 Regulations generally.

CROSS REFERENCES

- Nonconforming uses, retroactive measures - see Ohio R.C. 713.15
 Nonconforming use defined - see P. & Z. 1131.06
 Exception and variations to zoning provisions - see P. & Z. 1139.07
 Occupancy permits - see BLDG. 1327.01 et seq.
 Nonconforming signs - see BLDG. 1388.13
-

1141.01 REGULATIONS GENERALLY.

(a) Any lawful building, structure or use existing prior to the effective date of this Zoning Code (Ordinance 1953-29, passed June 1, 1953) or any building, structure or use within a district changed by amendment to this Zoning Code may be allowed or continued although the building, structure or use does not conform to the new regulations of the district in which it is located.

(b) No building or structure or the nonconforming use of a building, structure or land shall hereafter be extended or altered unless the extension or alteration conforms to the provisions of this Zoning Code for the district in which it is located, provided however that a nonconforming use may be extended throughout those parts of the building which were manifestly arranged or designed for such use prior to the effective date of this Zoning Code (Ordinance 1953-29, passed June 1, 1953) or to the enactment of subsequent amendments to this Zoning Code if no structural alterations except those required by law or ordinance are made therein.

(c) Where no structural alterations are made in any building containing a nonconforming use, the use may be changed to one of similar or higher classification but no building in which a nonconforming use has been changed to a more restricted use shall again be devoted to a less restricted one.

(d) Structural alterations of a building or structure which does not conform to the provisions of this Zoning Code may only be made if the building is being made to conform to the requirements of the district in which it is located.

(e) No nonconforming use may be reestablished where the nonconforming use has been discontinued for a period of at least two years.
 (Ord. 1953-29. Passed 6-1-53.)

CHAPTER 1143
General Regulations

1143.01 Home offices.

1143.99 Penalty.

1143.01 HOME OFFICES.

Homes offices are allowed as an accessory use to a dwelling in any zoning district without a permit. Home offices are subject to the following:

- (a) Such use shall be limited to office functions only. All products and services shall be transmitted to and from the residence electronically, by regular mail service or by small delivery vehicles normally used for small parcel deliveries to single family dwellings.
- (b) Other than office supplies, there shall be no display of any kind within the dwelling, in accessory buildings, or outdoors on the same lot.
- (c) No more than 125 square feet of the floor area of the dwelling unit may be used for storage purposes.
- (d) Customers shall not come to the dwelling.
- (e) Such uses shall be conducted by the dwelling occupant with no non-resident employees.
- (f) Such use shall be carried on entirely within the dwelling and not in an accessory building.
- (g) No activity, materials or equipment indicative of the use shall be visible from any public street or from adjacent dwellings.
- (h) The home office shall not utilize mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, causes fluctuation in line voltage or other nuisances outside the dwelling unit in which it is located.
- (i) No advertising sign shall be permitted.
(Ord. 2003-4. Passed 1-27-03.)

1143.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the fourth degree and shall be fined not more than two hundred fifty dollars (\$250.00) and imprisonment of not more than 30 days. A separate offense shall be deemed committed during or on which a violation or non-compliance occurs or continues. The application of the penalty shall be in addition to the equitable remedies. The application of this penalty shall not be held to prevent the removal of prohibited conditions.

(Ord. 2003-4. Passed 1-27-03.)

TITLE SEVEN- Zoning Districts and Uses; Map
 Chap. 1161. Districts and Building Zone Map.
 Chap. 1163. Amendments.

CHAPTER 1161
 Districts and Building Zone Map

1161.01 Establishment; compliance
 generally.

CROSS REFERENCES

Zoning Map changes - see PRELIM. TABLE I
 Amendments to Map - see P. & Z. 1163.01 et seq.

1161.01 ESTABLISHMENT; COMPLIANCE GENERALLY.

(a) In order to designate districts for the purpose of this Planning and Zoning Code, the City is hereby divided into the following districts:

Class A Districts
 Class B Districts
 Class C Districts
 Class A-1 Districts
 Class A-2 Districts
 Class B-1 Districts
 Class C-1 Districts
 Development Districts
 Planned Unit Developments (PUDs)
 Class HB Districts

(b) The boundaries of such districts are hereby established upon the map which is designated and is on file in the office of the Clerk of Council. The Building Zone Map covers the entire territory of the City. The key and chart containing the explanation of symbols and indications which appear on the Building Zone Map are all hereby made a part of this Planning and Zoning Code.

(c) No building or structure shall be erected or altered, nor shall any building or premises be used for any purpose other than a use permitted in the district in which such building or premises is located. No building shall be used so as to produce smaller yards or less unoccupied area and no building shall be occupied by more families than hereinafter prescribed for such building in the district in which it is located. No lot which is now or may be hereafter built upon as herein required may be so reduced in area so that the yards and open spaces will be smaller than prescribed by this Planning and Zoning Code.

(Ord. 2000-3. Passed 1-25-00; Ord. 2003-15. Passed 6-9-03.)

CHAPTER 1163
Amendments

- | | |
|--|----------------------------------|
| 1163.01 Power of Council. | 1163.03 Public hearing required. |
| 1163.02 Approval of Planning Commission. | 1163.04 Passage over protests. |

CROSS REFERENCES

Zoning Map changes - see PRELIM. TABLE I
 Planning Commission - see P. & Z. 1101.01 et seq.
 Public hearings; procedure - see P. & Z. 1139.09 et seq.
 Districts and Building Zone Map- see P. & Z. 1161.01

1163.01 POWER OF COUNCIL.

Council may from time to time, on its own motion or on petition by any owner of property, and after public notice and hearing, amend, supplement or change the provisions, regulations and districts herein established.
 (Ord. 1953-29. Passed 6-1-53.)

1163.02 APPROVAL OF PLANNING COMMISSION.

Every proposed amendment, supplement or change shall first be referred to the Planning Commission for approval, disapproval or suggestions and the Commission shall have a reasonable time not less than thirty days nor more than sixty days for consideration and report. Any amendment, change or supplement that has failed to receive the approval of the Commission shall not be passed by Council except by a three-fourths vote of the full membership of Council.
 (Ord. 1953-29. Passed 6-1-53.)

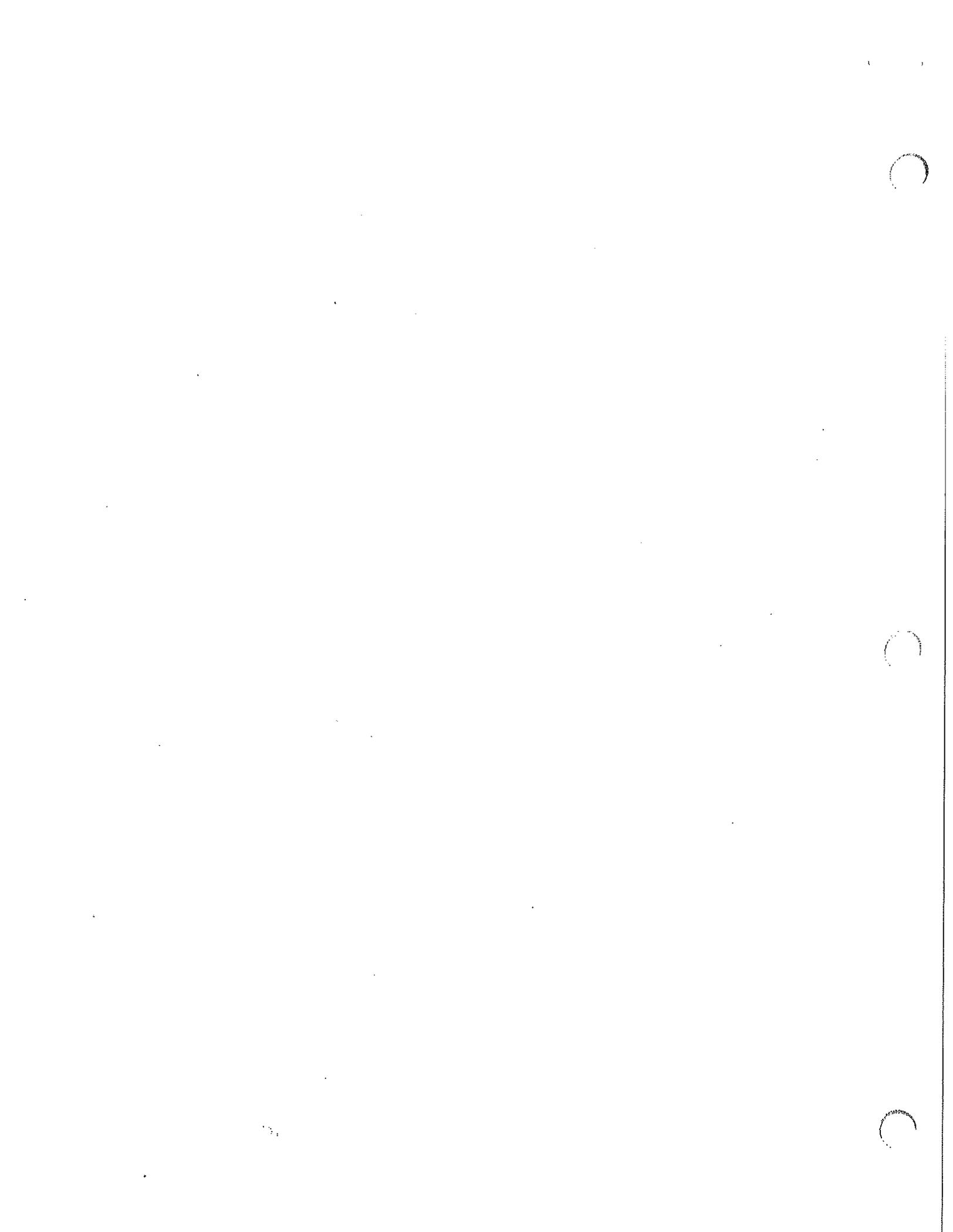
1163.03 PUBLIC HEARING REQUIRED.

(a) Following the receipt of the Planning Commission's report and before any amendment, supplement or change is made to the Zoning Code or ordinances, Council shall hold a public hearing thereon and shall give thirty days notice of the time and the place thereof in a newspaper of general circulation in the Municipality. During the aforementioned thirty days, the text or copy of the ordinance amending the Zoning Code together with the maps or plans or copies thereof forming part of or referred to in the ordinance plus any maps, plans or reports submitted by the Planning Commission shall be on file for public examination in the office of the Clerk of Council.

(b) At the time and place signified in the notice required, Council shall meet and all persons whose property will be affected by the amendment, supplement or change may appear in person or by agent or attorney or by petition and protest against the making of the amendment, supplement or change.
 (Ord. 1953-29. Passed 6-1-53.)

1163.04 PASSAGE OVER PROTESTS.

If at or prior to the hearing, a petition of protest duly signed and acknowledged by the owners of fifty percent or more of all the frontage proposed to be altered, by the owners of fifty percent or more of the frontage immediately in the rear thereof, by the owners of fifty percent or more of the frontage directly opposite the frontage proposed to be altered, the amendment, supplement or change shall not be passed except by the favorable vote of three-fourths of all the duly elected members of Council.
(Ord. 1953-29. Passed 6-1-53.)



TITLE NINE - Zoning Use Districts

- Chap. 1171. Class A Districts.
- Chap. 1173. Class A-1 Districts.
- Chap. 1174. Class A-2 Districts.
- Chap. 1175. Class HB Districts.
- Chap. 1177. Class B Districts.
- Chap. 1179. Class B-1 Districts.
- Chap. 1181. Class C Districts.
- Chap. 1183. Class C-1 Districts.
- Chap. 1185. Development Districts.
- Chap. 1186. Planned Unit Developments.
- Chap. 1187. Off-Street Parking.
- Chap. 1189. Community Residential Facilities.
- Chap. 1191. Type B Family Day-Care Homes.
- Chap. 1193. Yard Structures and Landscape Features.

CHAPTER 1171
Class A Districts

- | | |
|-----------------------------------|---------------------------------|
| 1171.01 Permitted uses. | 1171.05 Lot area. |
| 1171.02 Rear yards; lot coverage. | 1171.06 Lot width |
| 1171.03 Side yards. | 1171.07 Nonconforming setbacks. |
| 1171.04 Setback line. | |

CROSS REFERENCES

- Districts and Zone Map - see P. & Z. 1161.01
- Class A-1 Districts - see P. & Z. Ch. 1173
- Class A-2 Districts - see P. & Z. Ch. 1174
- Yard grading - see BLDG. 1381.01 et seq.

1171.01 PERMITTED USES.

Within any Class A District no building, structure or premises shall be used or arranged or designed to be used, except for one or more of the following uses:

- (a) A single-family dwelling;
- (b) Accessory uses customarily incident to the foregoing permitted use.
(Ord. 1953-29. Passed 6-1-53.)

1171.02 REAR YARDS; LOT COVERAGE.

(a) Every property shall be provided with an open, unobstructed (except for landscaping, detached garages, and accessory buildings) minimum rear yard of 25 percent of the total area of the lot or 30 feet as measured perpendicular to the street, whichever is greater. (As per Exhibits 1, 2, and 3.)

(b) The sum of the plan projection areas of all structures on a property shall not exceed 40 percent of the lot area. (As per Exhibits 1, 2, and 3.)

(c) Garages and Accessory Buildings.

- (1) A detached garage not over 15 feet high and not over 30 feet deep may be located in the rear yard area.
- (2) A detached garage shall be placed no closer than three feet to a side property line or a rear property line and shall be no closer than eight feet to any other structure on an adjoining property irrespective of lot lines and no closer than ten feet to the main structure.
- (3) In the case of a corner lot, the rear line of which is identical with the side line of an interior lot, no detached garage shall be erected within 20 feet of any street line.
- (4) Accessory buildings are permitted in the rear yard area as regulated by Chapter 1388 of the Parma Heights Building Code. The plan projection area of accessory buildings shall not be considered when determining lot coverage.

(Ord. 1969-3. Passed 1-27-69; Ord. 2002-60. Passed 12-23-02.)

1171.03 SIDE YARDS.

There shall be a side yard on each side of every building. The minimum width of the side yard shall be three feet. At least twelve feet of each lot shall be devoted to side yards.

Whenever the garage is detached from the main structure there shall be a minimum width of nine feet between the structure and the side line of the driveway side of the lot.

Whenever the garage is attached to the main structure there shall be a minimum width of five feet between the structure and the side line on the garage side of the lot.

In addition, no two main structures or parts thereof on their respective lots shall be any closer together than ten feet irrespective of lot lines.

(Ord. 1953-29. Passed 6-1-53.)

1171.04 SETBACK LINE.

On any existing street frontage in Class A Districts where there is no building or setback line designated on the Building Zone Map, the location of the setback line shall be as follows:

- (a) No nearer than thirty feet to the street line or twenty-five percent of the average or normal depth of the lots having their front lines along the street frontage, whichever is the greater. (As per Exhibits 1, 2, and 3.)
- (b) On the sideline of a corner lot the distance of the setback line from the street line shall be not less than ten feet. (As per Exhibits 1, 2, and 3.)

(Ord. 1953-29. Passed 6-1-53; Ord. 2003-6. Passed 2-10-03.)

1171.05 LOT AREA.

The minimum requirements shall be 9,000 square feet of lot area for each dwelling. (Ord. 1965-58. Passed 9-13-65.)

1171.06 LOT WIDTH.

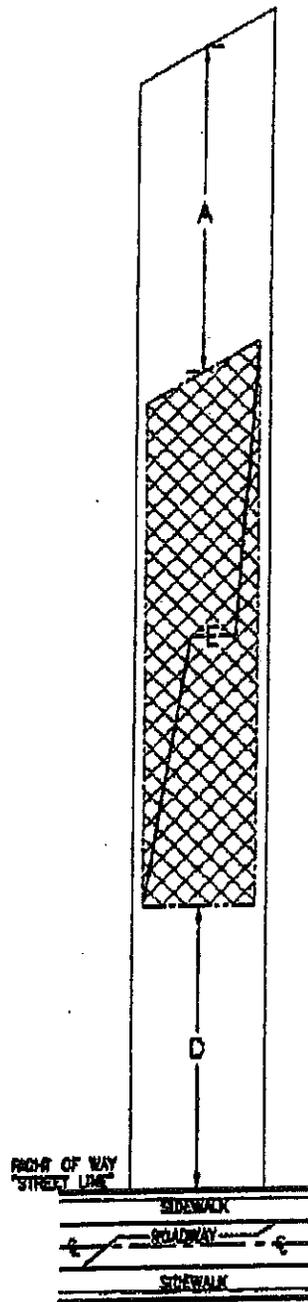
No dwelling shall be erected on a lot having an average width of less than seventy-five feet, unless the lot was separately owned at the time of the passage of this section (Ordinance 1964-73, passed October 26, 1964), or unless such lot is a numbered lot in a subdivision that was on record in the office of the County Recorder at the time of the passage of this section (Ordinance 1964-73, passed October 26, 1964), for which a dedication of streets in such allotment was made for public use and accepted by Council. (Ord. 1964-73. Passed 10-26-64.)

1171.07 NONCONFORMING SETBACKS.

(a) When strict adherence to the minimum setback requirements of this Code cannot be met, the applicant/property owner may appeal to the Board of Zoning Appeals for relief. The Board of Zoning Appeals shall require of the property owner such amendments to the plan as may be necessary to achieve the spirit and intent of this Code and to protect the health and welfare of the general public.

(b) The Board of Zoning Appeals shall determine the setbacks that achieve the spirit and intent of this Code.
(Ord. 2002-60. Passed 12-23-02.)

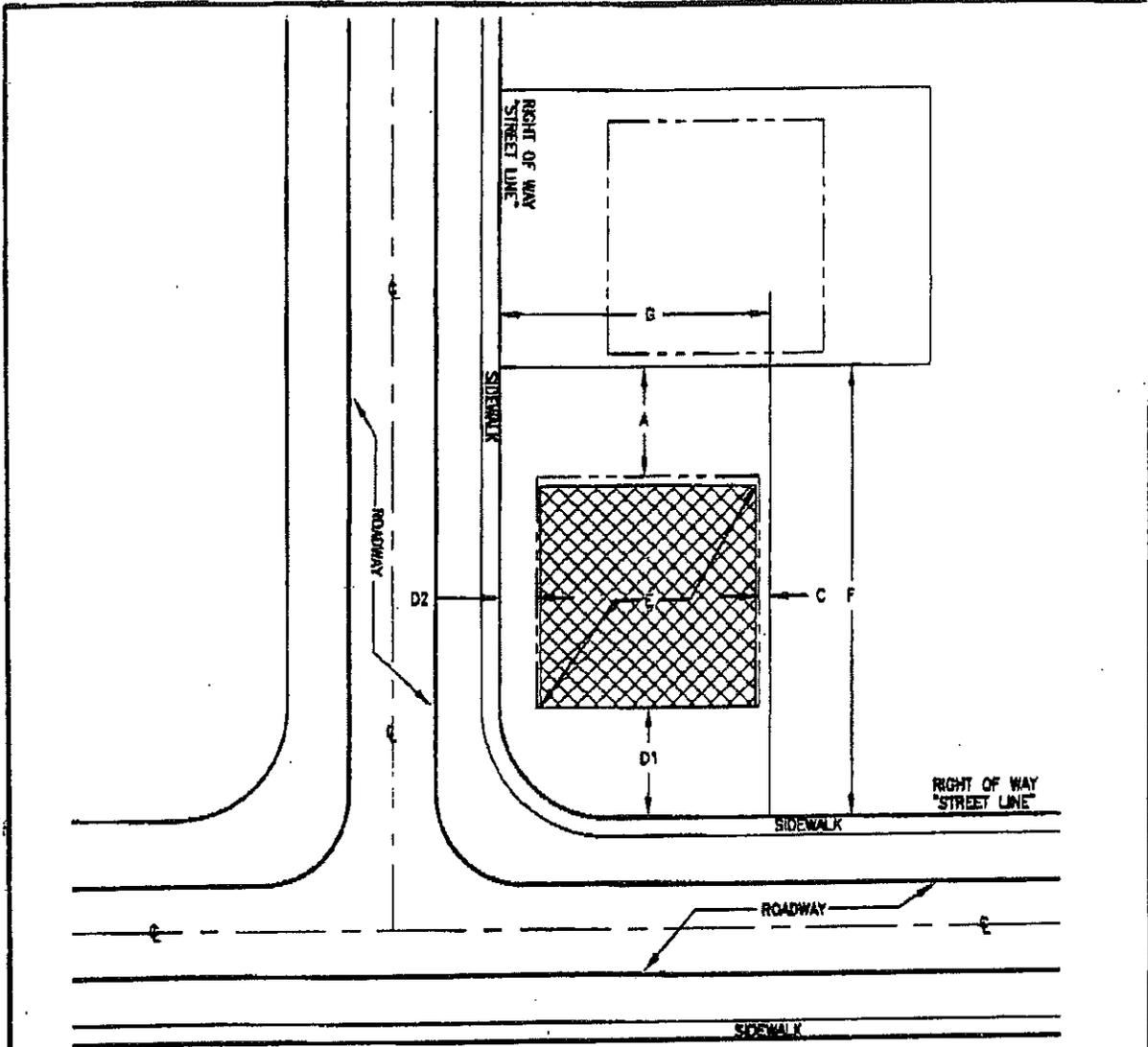
ZONING SECTION	PLAN DESIGNATION	CODE REQUIREMENT
1171.02 REAR YARDS	A	30' MIN. OR 25% OF TOTAL AREA OF LOT, WHICHEVER IS GREATER.
1171.03 SIDE YARDS	B & C	B+C=12' MIN., 3' MIN. FOR ONE SIDE
1171.04 SETBACK LINE	D	30' MIN. TO STREET LINE OR 25% OF AVERAGE NORMAL DEPTH OF LOT, WHICHEVER IS GREATER, OR ALREADY ESTABLISHED BUILDING LINE.
1171.02 LOT COVERAGE	E	SUM OF PLAN PROJECTION AREAS OF ALL STRUCTURES ON A PROPERTY SHALL NOT EXCEED 40% OF THE LOT AREA.
1171.05 LOT AREA	F	8,000 S.F. MIN.
1171.06 LOT WIDTH	G	75' MIN. AT BUILDING LINE



"BOWLING ALLEY" LOT

11-26-02

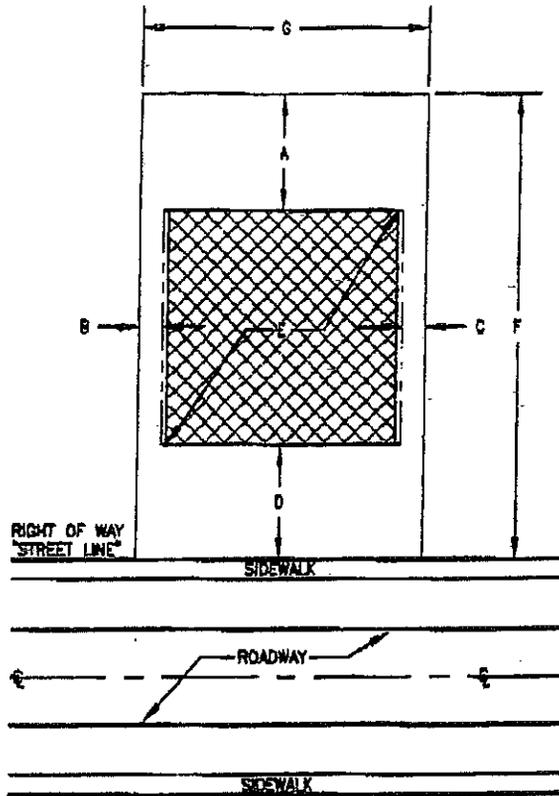
Exhibit 1



ZONING SECTION	PLAN DESIGNATION	CODE REQUIREMENT
1171.02 REAR YARDS	A	30' MIN. OR 25% OF TOTAL AREA OF LOT, WHICHEVER IS GREATER.
1171.03 SIDE YARDS	C	3' MIN. FOR ONE SIDE
1171.04 SETBACK LINE	D1	30' MIN. TO STREET LINE OR 25% OF AVERAGE NORMAL DEPTH OF LOT, WHICHEVER IS GREATER, OR ALREADY ESTABLISHED BUILDING LINE.
1171.04 SETBACK LINE (CORNER LOTS)	D2	10' MIN. TO STREET LINE
1171.02 LOT COVERAGE	E	SUM OF PLAN PROJECTION AREAS OF ALL STRUCTURES ON A PROPERTY SHALL NOT EXCEED 40% OF THE LOT AREA.
1171.05 LOT AREA	F	9,000 SF MIN.
1171.06 LOT WIDTH	G	75' MIN. AT BUILDING LINE

CORNER LOT

11-26-02



ZONING SECTION	PLAN DESIGNATION	CODE REQUIREMENT
1171.02 REAR YARDS	A	30' MIN. OR 25% OF TOTAL AREA OF LOT, WHICHEVER IS GREATER.
1171.03 SIDE YARDS	B & C	B+C=12' MIN., 3' MIN. FOR ONE SIDE
1171.04 SETBACK LINE	D	30' MIN. TO STREET LINE OR 25% OF AVERAGE NORMAL DEPTH OF LOT, WHICHEVER IS GREATER, OR ALREADY ESTABLISHED BUILDING LINE.
1171.02 LOT COVERAGE	E	SUM OF PLAN PROJECTION AREAS OF ALL STRUCTURES ON A PROPERTY SHALL NOT EXCEED 40% OF THE LOT AREA.
1171.05 LOT AREA	F	8,000 S.F. MIN.
1171.06 LOT WIDTH	G	75' MIN. AT BUILDING LINE

STANDARD LOT

11-26-02

Exhibit 3

CHAPTER 1173
Class A-1 Districts

1173.01 Permitted uses.

CROSS REFERENCES

Districts and Zone Map - see P. & Z. 1161.01
Class A Districts - see P. & Z. Ch. 1171
Class A-2 Districts - see P. & Z. Ch. 1174

1173.01 PERMITTED USES.

Within any Class A-1 District, no building, structure or premises shall be used or arranged or designed to be used, except for one or more of the following uses:

- (a) Any principal use or accessory use permitted in Class A Districts with the same regulations and restrictions that are applicable to it in Class A Districts;
- (b) Two-family dwellings, under the same regulations that are applicable to uses in Class A Districts.
(Ord. 1970-53. Passed 8-10-70.)

CHAPTER 1174
Class A-2 Districts

- | | |
|---|------------------------------------|
| 1174.01 Permitted uses. | 1174.04 Maintenance agreements. |
| 1174.02 Purpose; location of individual units; conditions. | 1174.05 Limitations on townhouses. |
| 1174.03 Approval of one-family cluster unit developments; site plan required. | |

CROSS REFERENCES

- Districts and Zone Map - see P. & Z. 1161.01
 Class A Districts - see P. & Z. Ch. 1171
 Class A-1 Districts - see P. & Z. Ch. 1173
-

1174.01 PERMITTED USES.

Within any Class A-2 District, no building, structure or premises shall be used or arranged, or designed to be used, except for one or more of the following uses:

- (a) Any principal or accessory use permitted in Class A Districts, with the same regulations and restrictions that are applicable to such use in Class A Districts; and
- (b) One-family cluster units.
(Ord. 2000-3. Passed 1-25-00.)

1174.02 PURPOSE; LOCATION OF INDIVIDUAL UNITS; CONDITIONS.

(a) The purpose of this zoning classification is to allow residential development, consisting of five or more units, the additional flexibility necessary to make advantageous use of natural irregular land features which might otherwise have a negative impact on such a development. The physical location and arrangement of individual units within the development may be in any configuration acceptable to the Planning Commission and Council, except that no unit shall be vertical to any other unit.

(b) In addition to the provisions of division (a) of this section, the following conditions shall be met:

- (1) Maximum density shall be five units per gross acre;
- (2) Minimum land area shall not be less than two contiguous acres;
- (3) Minimum floor area per unit:
 - A. 1-story:

With basement:	1,350 square feet
Without basement;	1,500 square feet

- B. 2-story:
- | | |
|------------------|-------------------|
| With basement | 1,800 square feet |
| Without basement | 1,900 square feet |
- (4) There shall be two attached automobile garage spaces per dwelling unit, unless otherwise determined by the Planning Commission and Council in accordance with Section 1174.03(b)(4);
 - (5) Guest parking spaces shall be equal to 20% of the number of dwelling units.
 - (6) The main service drive may be dedicated to the City;
 - (7) There shall be a minimum of ten feet between detached units;
 - (8) Any other conditions required by Council or the Planning Commission shall be met;
 - (9) The submission of a copy of any plan, covenant or restriction for the maintenance of common property shall include a provision requiring maintenance of any private street;
 - (10) Submission of a copy of all governing documents;
 - (11) Front yard setbacks shall be as follows:
 - A. 40 feet from the right-of-way on a major arterial street or collector street;
 - B. 20 feet from the right-of-way on a local street; and
 - C. 25 feet from the nearest edge of a sidewalk or roadway pavement on a private drive.
 - (12) The setback from an abutting single-family lot line shall be a minimum of 35 feet.
 - (13) A dedicated local street shall have a minimum right-of-way of 40 feet, with a preferred width of 50 feet.
(Ord. 2000-3. Passed 1-25-00; Ord. 2000-42. Passed 9-25-00.)

1174.03 APPROVAL OF ONE-FAMILY CLUSTER UNIT DEVELOPMENTS;
SITE PLAN REQUIRED.

(a) The developer of any parcel of land requesting approval of a one-family cluster unit development shall prepare a detailed site plan of the cluster area proposed for the development. The plan of each one-family cluster residential area shall include the following:

- (1) The number, location and arrangement of dwelling units;
- (2) The proposed use of all private and common land;
- (3) The location and arrangement of all dedicated streets, private driveways and pedestrian access ways;
- (4) The number and arrangement of all parking and service areas;
- (5) The location, preliminary sizing, preliminary profiles and other information that may be required by the City Engineer to determine the feasibility of the proposed utilities;
- (6) The location and design of all site features; and
- (7) The landscape design.

- (b) The site plan shall be reviewed by:
- (1) The City Engineer, to determine compliance with provisions of this chapter and all applicable standards;
 - (2) The City Planner, to evaluate the merits of the site plan and its impact on the subject area and City in general;
 - (3) The Director of Public Service, to determine compliance with the Building Code; and
 - (4) The Planning Commission, which shall report its recommendation to Council, which may either approve or disapprove the positive recommendation of the Planning Commission by a simple majority of the members of Council or override the negative recommendation by a two-thirds vote of the members of Council.
- (Ord. 2000-3. Passed 1-25-00.)

1174.04 MAINTENANCE AGREEMENTS.

A copy of any plan, covenant or restriction for the maintenance of common property shall include a provision requiring maintenance of any private street and shall be submitted to the Director of Law for review and approval.

(Ord. 2000-3. Passed 1-25-00.)

1174.05 LIMITATIONS ON TOWNHOUSES.

Townhouse cluster attached single-family units shall be limited to thirty-five percent of the total number of building units.

(Ord. 2000-3. Passed 1-25-00.)

CHAPTER 1175
Class HB Districts

1175.01	Permitted uses.	1175.04	Proximity of apartment buildings to lot lines.
1175.02	Lot area.		
1175.03	Setback line.		

CROSS REFERENCES

Apartment buildings - see BUS. REG. Ch. 711
Districts and Zone Map - see P. & Z. 1161.01 et seq.
Class A Districts - see P. & Z. 1171.01 et seq.
Multi-family buildings - see BLDG. Ch. 1373

1175.01 PERMITTED USES.

Within any Class HB District, no building, structure or premises shall be used or arranged or designed to be used except for one or more of the following uses:

- (a) Any principal use or accessory use permitted in Class A and A-1 Districts under the same regulations and restrictions that are applicable to it in Class A and A-1 Districts;
- (b) Multiple-family units or apartments;
- (c) Accessory uses customarily incident to the foregoing permitted uses.
(Ord. 1962-2. Passed 1-8-62.)

1175.02 LOT AREA.

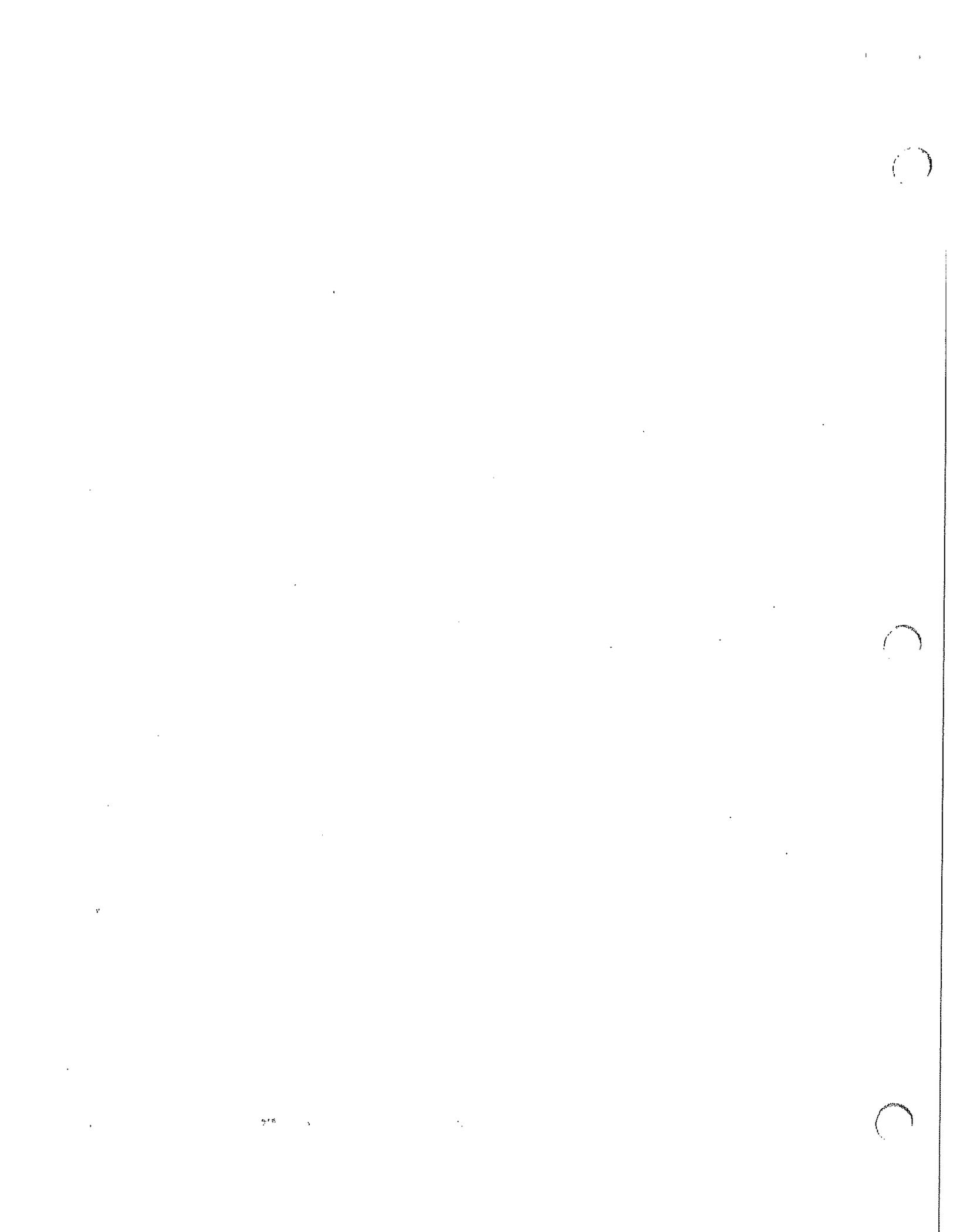
Within any Class HB District no apartment or multi-family unit shall be erected, altered or used to accommodate more than one family for each 1200 square feet of lot area. However, where an apartment building provides a minimum of one automobile parking space for each family unit within the confines of the apartment building itself or by underground parking, such requirement shall be reduced to 1000 square feet of lot area per family unit.
(Ord. 1962-2. Passed 1-8-62.)

1175.03 SETBACK LINE.

The setback line in any Class HB District shall be not less than thirty-five feet. However, Council may, upon two-thirds majority vote, authorize a setback line less than thirty-five feet if the public safety is not adversely affected thereby.
(Ord. 1962-2. Passed 1-8-62.)

1175.04 PROXIMITY OF APARTMENT BUILDINGS TO LOT LINES.

Within any Class HB District, no apartment building shall be located closer to any side lot line or rear lot line than a distance equal to twenty-five percent of the height of the building or fifty feet, whichever is greater.
(Ord. 1962-2. Passed 1-8-62.)



CHAPTER 1177
Class B Districts

1177.01 Permitted uses.
1177.02 Lot area.

1177.03 Side yards, setback line and lot width.
1177.04 Brick facing.

CROSS REFERENCES

Apartment buildings - see BUS. REG. Ch. 711
Districts and Zone Map - see P. & Z. 1161.01 et seq.
Class A Districts - see P. & Z. 1171.01 et seq.
Masonry requirements - see BLDG. 1369.02
Multi-family buildings - see BLDG. Ch. 1373

1177.01 PERMITTED USES.

Within any Class B District no building, structure or premises shall be used or arranged or designed to be used, except for one or more of the following uses:

- (a) Any principal use or accessory use permitted in Class A and A-1 Districts under the same regulations and restrictions that are applicable to it in Class A and A-1 Districts;
- (b) Multiple-family units or apartments;
- (c) Accessory uses customarily incident to the foregoing permitted use.
(Ord. 1953-29. Passed 6-1-53.)

1177.02 LOT AREA.

No apartment or multiple-family unit shall be erected, altered or used to accommodate more than two families for each 6000 square feet of lot area, nor more than three families for each 7500 square feet of lot area, nor more than four families for each 10,000 square feet of lot area, nor more than five families for each 12,000 square feet of lot area, but in no case shall units be erected to exceed the minimum ratio of six families for each 14,000 square feet of lot area, except where acreage is to be used for construction of apartments exclusively, the aggregate land of such subdivision exclusive of dedicated roadways or roadways proposed for dedication may be used in computing the average square feet of lot area requirements under this section; and except further, where a developer reserves the deeds to the Municipality an area of such subdivision for public park or playground purposes then fifty percent of such deeded area may be used in computing the average square feet of lot area required under this section.
(Ord. 1958-55. Passed 7-28-58.)

1177.03 SIDE YARDS, SETBACK LINE AND LOT WIDTH.

The provisions of Chapter 1171, Class A Districts, shall apply, provided, however, that Council may upon two-thirds majority vote allow a setback less than that required in Chapter 1171 if the public safety is not adversely affected thereby.
(Ord. 1961-26. Passed 5-8-61.)

1177.04 BRICK FACING.

No building occupied for residence purposes by more than one family shall be constructed in a Class B District unless all exterior walls are completely faced with stone, glass brick, marble, wood paneling, glass, metal or metal paneling, masonry brick, glazed brick or a combination of the foregoing. No metal or metal paneling, wood or wood paneling shall be approved unless it is conclusively shown to the Building Commission that such material does not rust, tarnish, discolor, warp or otherwise deteriorate more rapidly than stone, masonry brick or the other materials permitted by this section.

(Ord. 1966-79. Passed 9-26-66.)

CHAPTER 1179
Class B-1 Districts

1179.01 Permitted uses.

CROSS REFERENCES

Districts and Zone Map - see P. & Z. 1161.01 et seq.
C-1 Districts parking - see P. & Z. 1183.01
Off-street parking - see P. & Z. 1187.01 et seq.

1179.01 PERMITTED USES.

Within any Class B-1 District no building, structure or premises shall be used or arranged or designed to be used except for the purpose of parking of private passenger automobiles of tenants, employees or guests of the person, firm or corporation owning, leasing or controlling the land. There shall be no charge made for parking on the lot or land so classified. The lot shall not be used for sales, repair work or servicing of any kind. (Ord. 1957-20. Passed 4-22-57.)

CHAPTER 1181
Class C Districts

1181.01 Permitted uses.

1181.03 Setback line.

1181.02 Rear yards.

1181.04 Brick facing.

CROSS REFERENCES

Districts and Zone Map - see P. & Z. 1161.01 et seq.

Class A Districts - see P. & Z. 1171.01 et seq.

Class B Districts - see P. & Z. 1177.01 et seq.

Masonry requirements - see BLDG. 1369.02

1181.01 PERMITTED USES.

Within any Class C District, no building, structure or premises shall be used or arranged or designed to be used except for one or more of the following uses:

- (a) Any principal use or accessory use permitted in Class A and A-1 Districts under the same regulations and restrictions that are applicable to it in Class A and A-1 Districts;
- (b) Any principal use or accessory use permitted in Class B Districts under the same regulations and restrictions that are applicable to it in Class B Districts;
- (c) Any principal use or accessory use permitted in Class B-1 Districts under the same regulations and restrictions that are applicable to it in Class B-1 Districts;
- (d) Any commercial business not injurious to adjacent premises or its occupants thereof by reason of the emission of dust, fumes, smoke, odor, noise, vibration or danger to life, property, safety or health;
- (e) Accessory uses customarily incident to the foregoing permitted use, provided, however, that no building, structure or premises shall be used, arranged or designed to be used for any of the following or similar purposes:
 - (1) Manufacturing;
 - (2) Used car lots or junk yards;
 - (3) Plants for the reduction of garbage, dead animals or similar materials;
 - (4) Lumber, coal or building supply yards;
 - (5) Trailer parks;
 - (6) No signboards or billboards except those indicating the operator or business being conducted upon the premises or instructions for parking on the premises, except for temporary signs otherwise provided for in the Codified Ordinances of the City, shall be permitted. Signboards and billboards permitted under this subparagraph must receive the approval of the Planning Commission before they are erected or installed.
 - (7) Any other use not granted either actual or implied in this Zoning Code.

- (f) Uses permitted in any Class C District will be subject to the following limitations:
- (1) No goods shall be displayed in front of the setback line.
 - (2) No business shall be conducted in other than permanent buildings; open-air outside markets and other similar businesses are specifically prohibited.

Whenever Class C land is used for a Class A, Class A-1 or Class B use, the structures erected thereon shall meet all requirements of the Building Code insofar as the same are applicable and are higher standards than those applicable to Class A, Class A-1 and Class B structures. (Ord. 1975-27. Passed 3-24-75.)

1181.02 REAR YARDS.

There shall be a rear yard on every lot which rear yard shall have a minimum depth of sixteen feet for a one-story building, twenty feet for a two-story building and twenty-four feet for a three-story building.

Accessory buildings not more than fifteen feet high may be located in a rear yard provided the accessory buildings occupy not more than twenty-five percent of the rear yard area. (Ord. 1953-29. Passed 6-1-53.)

1181.03 SETBACK LINE.

The setback line shall be no less than fifty feet, provided, however, that Council may upon two-thirds majority vote allow a setback less than fifty feet if the public safety is not adversely affected thereby. (Ord. 1961-26. Passed 5-8-61.)

1181.04 BRICK FACING.

(a) No commercial building or buildings occupied for residence purposes by more than one family shall be constructed in a Class C District, unless all exterior walls are completely faced with stone, glass block, wood paneling, glass, metal or metal paneling, masonry brick, glazed brick or a combination of the foregoing. No metal or metal paneling, wood or wood paneling shall be approved unless it is conclusively shown to the Building Commission that such material does not rust, tarnish, discolor, warp or otherwise deteriorate more rapidly than stone, masonry brick or the other materials permitted by this section.

(b) As used in this section, "masonry brick" means a solid masonry unit made of clay or shale, formed into a rectangular prism while in the plastic state and burned or fired in a kiln and having a dimensional limit of four inches by four inches by twelve inches. (See also Section 1369.02.) (Ord. 1994-43. Passed 9-12-94.)

CHAPTER 1183
Class C-1 Districts

1183.01 Permitted uses.

CROSS REFERENCES

Districts and Zone Map - see P. & Z. 1161.01 et seq.

B-1 Districts parking - see P. & Z. 1179.01

Off-street parking - see P. & Z. 1187.01 et seq.

1183.01 PERMITTED USES.

Within any Class C-1 District no building, structure or premises shall be used or arranged or designed to be used except for the purpose of parking private passenger automobiles of tenants, employees, customers or guests of the person, firm or corporation owning, leasing or controlling the land. There shall be no charge made for parking on the lot or land so classified. The lot shall not be used for sales, repair work or servicing of any kind. (Ord. 1957-20. Passed 4-22-57.)

CHAPTER 1185
Development Districts

- | | |
|--|--|
| 1185.01 Establishment; permitted uses. | 1185.03 Site plan standards. |
| 1185.02 Site plan required. | 1185.04 Approval of site plan; issuance of building permits. |

CROSS REFERENCES

- Planning Commission - see P. & Z. 1101.01 et seq.
 Districts and Zone Map - see P. & Z. 1161.01 et seq.
 Class C Districts - see P. & Z. 1181.01 et seq.
 Off-street parking - see P. & Z. 1187.01 et seq.
 Building permits - see BLDG. 1325.01 et seq.

1185.01 ESTABLISHMENT; PERMITTED USES.

In addition to all other types of districts established by Section 1161.01, Council may from time to time establish one or more undeveloped or partially developed areas of the City as a "Development District" where a plan and control development of such area for business and commercial use will be permitted. The provisions of this section shall apply to only those areas designated as Development Districts. The area so designated shall be under one ownership or if in several ownerships all the record owners shall file with the Clerk of Council their written approval of having the area so designated and subjected to the limitations of such a District.

Within such a Development District, those uses in Class C Districts shall be permitted. In addition to these, laundries, dry cleaning shops, lodge halls, assembly rooms, arenas, stadia and other auditoriums, swimming pools, bowling alleys, medical and dental offices, retail stores, bars, taverns, laboratories in which no manufacturing processes are carried on, automobile salesrooms, including repair and servicing of automobiles if conducted wholly within a completely enclosed building, day nurseries, kindergartens, ballrooms and buildings devoted to the housing of offices and in which no manufacturing will be carried on, libraries, museums and public buildings, municipal and educational, shall also be permitted. (Ord. 1960-22. Passed 2-22-60.)

1185.02 SITE PLAN REQUIRED.

Before any building or use not existing at the time of the establishment of a Development District shall be permitted in any such District, all of the owners of the area contained in such District shall have filed with the Planning Commission and obtained approval by the Commission and Council of a site plan showing the proposed general development thereof, which shall include or be accompanied by the following information:

- (a) District and property lines and topography;
- (b) Location of the following development features, both existing and proposed:

- (1) Buildings;
- (2) Streets and parking areas;
- (3) Utility and sewer facilities; and
- (4) Parks, playgrounds or other open spaces;
- (c) The existing and proposed uses of all such buildings;
- (d) The existing or proposed development of property immediately adjacent to the District so as to show the relation of existing or proposed streets thereto and the character of the use being made or permitted to be made thereof; and
- (e) Preliminary plans and elevations for any building for which a building or use permit is to be applied for. (Ord. 1960-22. Passed 2-22-60.)

1185.03 SITE PLAN STANDARDS.

In considering and acting upon any such site plan, the Planning Commission and Council shall require that the proposed plan complies with the following standards:

- (a) The plan shall assure safe and convenient traffic movement within the Development District and in relation to adjoining streets;
- (b) The relation of buildings and uses in the District to each other and with relation to buildings and uses in adjoining districts shall be such that no proposed building or use shall hinder or discourage the appropriate development or use of any adjoining property or be inconsistent with permitted uses of such property. To that end, the Commission shall disapprove any building or use which would otherwise be permitted in the District or in a more restricted district if such building or use in the neighborhood of less restricted but permitted uses (whether or not then existing) would hinder or discourage such permitted use of adjoining property, or would be inconsistent with the public interest in the health, safety, convenience or comfort of the occupant or user of the proposed building. Further, in applying the standard fixed by this paragraph, the Commission may consider height, design, population density, traffic pattern, setback, distances between buildings, landscaping features, walls or fences, or any other element which is related to possible impairment or discouragement of the appropriate use of adjoining property and to the public health, safety, convenience or comfort;
- (c) No more than thirty percent of the ground level area of the District shall be occupied by buildings;
- (d) All buildings shall be set back at least thirty feet from the side line of adjoining streets, shall be at least twenty feet from any other building and at least thirty feet from any district boundary line. All buildings or other structures shall be set back at least 250 feet from the center line of any street on which such buildings shall front. However, in the case of undue hardship or special merits as determined by the Commission and Council, the owner may apply to the Commission and Council for a reduction of such setback requirement. If such application is approved by the Commission and Council, the owner shall construct such buildings or structures in accordance with the setback requirements as determined by such bodies in their approval.
- (e) Off-street parking shall be reserved for all buildings and uses in the proposed development plan in accordance with the schedule set forth in Chapter 1187 of this Code and shall be provided for each building and use as erected or created;

- (f) No feature of the plan shall adversely affect the public health, safety, convenience or comfort. The plan shall in all respects conform to the applicable restrictions of this chapter.
(Ord. 1960-22. Passed 2-22-60.)

1185.04 APPROVAL OF SITE PLAN; ISSUANCE OF BUILDING PERMITS.

The Planning Commission shall approve or disapprove any site plan duly filed with the Commission within thirty days after the date of such filing. If the plan is disapproved by the Commission an appeal may be made to Council whose decision shall govern. If the plan is approved by the Commission it shall then be submitted to Council for approval or disapproval. At any time after such approval is given and before the plan is modified by the Commission or Council on petition or on its own initiative, application may be made for a building permit for any building, the preliminary plans and elevations for which have been filed with and approved by the Commission and Council as required by Section 1185.02(e).

Such permit shall be granted if the application conforms to such approved plans and to all other requirements of this chapter and other applicable ordinances. The general development plan may be modified from time to time by the Commission acting either on petition or on its own initiative, but cannot be so modified without notice mailed by first class mail to the tax mailing address of the record owner of all of the lands included in such plan.

If at any time after the building permits for such development are issued the owner, contractor or other person varies from the plans and specifications as approved by the Commission and Council, then the Building Inspector is authorized and directed to post on such premises written notification of the variance or change. If such variance or change has not been corrected in accordance with the plans and specifications approved by the Commission and Council within five days after such posting, then the Building Inspector is authorized and directed to revoke all outstanding building permits for construction within the entire development area.

(Ord. 1960-22. Passed 2-22-60.)

CHAPTER 1186
Planned Unit Developments

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1186.01 INTENT AND OBJECTIVES.

(a) It is the intent of this chapter to accommodate creative and imaginative planned unit developments (hereinafter referred to as PUD) and to permit those innovations in the technology of land development that are in the best interest of the City, in situations where conventional zoning is inappropriate to or unduly restrictive. In order to accomplish the intent, it is the purpose of a PUD District to permit, in a carefully-designed development, a variety of uses and/or dwelling types, and to permit the flexible spacing of lots and buildings, the conservation of natural features of the landscape, the provision of accessible and enjoyable open spaces, and the provision of a necessary complement of community and neighborhood facilities.

(b) In the event of a conflict between the provisions contained in this chapter and other provisions contained in the Codified Ordinances of the City, the provisions and regulations contained in this Chapter 1186 shall supersede such inconsistent provisions. (Ord. 2003-15. Passed 6-9-03.)

1186.02 DEFINITIONS.

As used in this chapter:

- (a) "Business zoning district(s)" or "business districts" means Class C identified in Chapter 1181 of the zoning ordinances of the City.
- (b) "Common open space" means a parcel or parcels of land or an area of water or a combination of land and water within a site, designed and intended for the use or enjoyment of all the occupants of the PUD. "Common open space" may contain such structures and improvements as are necessary for the benefit and enjoyment of all the occupants of the PUD District. "Common open space" may include, but is not limited to, educational and recreational facilities, natural areas, landscaped areas, flood protection, bikeways, public parking, street rights-of-way in excess of 60 feet in width, or other improvements or amenities beneficial to the health, safety and welfare of the public, PUD occupants or PUD visitors, as determined by the Planning Commission and expressly approved as common open space by the Planning Commission.
- (c) "Concept plan" or "conceptual plan" means a plan, drawn to a representative scale and using real property information obtained from a professionally-prepared survey or other source, indicating the distribution of land uses, streets, and roadways with a proposed PUD for the purposes of preliminary discussion prior to the formal consideration of a PUD.
- (d) "Conventional zoning" means zoning districts, other than PUDs, such as Business Districts and Residential Districts.
- (e) "Council" or "City Council" means the City Council of the City of Parma Heights, Ohio.
- (f) "Developer" means the legal or equitable owners of all the land proposed to be included in the PUD, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land. One individual must be designated as spokesperson for the developers throughout the project. Such designation may be changed during the project, but only the designated spokesperson will be recognized by the City in proceedings regarding the project.
- (g) "Dwelling".
 - (1) "Dwelling unit" means that space, within a building, comprising living, dining and sleeping rooms and storage closets, as well as space and equipment for cooking, bathing and toilet facilities, all used by only one family and its household employees.

- (2) "Single-family dwelling" means a detached building including one-family cluster units connected or occupied, designated for, or converted or occupied exclusively by, one family, living independently of each other, with cooking and toilet facilities in each building unit.
- (3) "Two-family dwelling" means a detached building designated for, or converted or occupied exclusively by, two families, living independently of each other, with cooking and toilet facilities in each dwelling unit.
- (4) "Multi-family dwelling" means a detached building designed for, or converted or occupied by, three or more families, living independently of each other, with cooking and toilet facilities in each dwelling unit.
- (h) "Final Development Plan" means any PUD application that fulfills the requirements of Step 2 in the PUD approval process as outlined in Section 1186.19 of the Zoning Code.
- (i) "General Plan" means any PUD application that fulfills the requirements of Step 1 in the PUD approval process as outlined in Section 1186.16(a) of the Zoning Code.
- (j) "Major change" means any proposed modification of subdivision that:
 - (1) Materially alters the character or effect of the subdivision in terms of land use, street layout, traffic generation, curb cuts, parking requirements, nature of parcel occupancy (e.g., changing single occupancy to multiple occupancy) or nuisances such as air pollution or noise, compared to the approved Final Development Plan. As to PUD developments for which a final development plan was not required prior to the commencement of construction due to the parcel-by-parcel review of Final Development Plans or for any other reason a major change is any proposed modification of a subdivision which materially alters the character or impact of the project in terms of land use, street layout, traffic generation, curb cuts, parking requirements, nature of parcel occupancy (e.g., changing single occupancy to multiple occupancy) or nuisances such as air pollution or noise, compared to the most detailed plan for the subdivision approved by the City.
- (k) "Manufacturing Zoning Districts" are not a permitted use.
- (l) "Minor change" means any proposed modification of a subdivision that does not do any of the following:
 - (1) Change the use or character of the development;
 - (2) Increase overall building footprint of any structure more than ten percent.
 - (3) Increase overall development density more than ten percent.
 - (4) Reduce open space more than five percent.
 - (5) Reduce off-street parking or loading space more than ten percent.
 - (6) Alter the location of structures more than ten feet.
- (m) "Office Zoning District(s)" or "Office Districts" mean the districts identified in Chapter 1181 of the Zoning Code of the City.

- (n) "Open space" means, for the purposes of this chapter, land on individual lots where structures, roadways and other paved areas, and other impervious surfaces are prohibited.
- (o) "Planning Commission" or "Commission" means the Planning Commission of the City.
- (p) "Record Plan" means a PUD application that fulfills the requirements of step 3 in the PUD approval process as outlined in Section 1186.22 of the Zoning Code.
- (q) "Residential Zoning District(s)" or "Residential Districts" means Residential zoning districts identified in Chapter 1171 through 1179 of the Zoning Code of the City.
- (r) "Zoning Code" means Chapter 1181 through Chapter 1193 inclusive of the Codified Ordinances of the City.
(Ord. 2003-15. Passed 6-9-03.)

1186.03 PERMITTED USES; CATEGORIES OF PUDS.

An application for PUD zoning shall specify the land use category being requested. An application may specify areas proposed to be developed under different PUD categories or under combinations of PUD categories and conventional zoning. Once PUD zoning is approved, land uses are limited by two factors: (1) the PUD category for which application was made, and (2) the authority and discretion of the Planning Commission, in its approval of the General Plan and/or Final Development Plan, to determine which of the allowable uses in the category may be permitted, in what intensity and location, and under what conditions. PUDs may be applied for under any of the following land use categories:

- (a) Planned Unit Development-Business (PUD-B) may allow any permitted use in any Business zoning district;
- (b) Planned Unit Development-Manufacturing is not a permitted use in any zoning district;
- (c) Planned Unit Development-Residential (PUD-R) may allow any permitted use in any Residential zoning district; and
- (d) Planned Unit Development-Mixed Use (PUD-MU) may allow any combination of any permitted use in any Business or Residential zoning district as defined in Section 1186.02.
(Ord. 2003-15. Passed 6-9-03.)

1186.04 AREA, DENSITY AND LOT REGULATIONS.

(a) Minimum Area for Development. A PUD shall contain a minimum of one acre. All land within the development shall be contiguous in that it shall not be divided into segments by a limited access highway or by a tract of land (other than streets or rights-of-way for public or private utility transmission lines) not owned by the landowner of the PUD.

(b) Maximum Density Development. A PUD shall not exceed the gross density permitted in the conventional zoning district most similar in nature and function to the pertinent portion of the PUD, as determined by the Planning Commission, with the following exceptions:

- (1) All densities are to be determined on the basis of gross dwelling units per acre, excluding such acreage as is used for non-residential purposes, as determined by the Commission.
- (2) Densities may be increased by the Commission in the net project area where the factors listed herein make a substantial improvement in the PUD:
 - A. Landscaping; streetscape; open spaces and plazas; use of existing landscape; pedestrian way treatment; and residential areas;
 - B. Setting, visual focus points; use of existing physical features such as topography; view of sun and wind orientation; circulation pattern; physical environment; variation in building setbacks; and building groups (such as clustering);
 - C. Design features; street sections; architectural styles; harmonious use of materials; parking areas broken by landscape features; and varied use of building types; or
 - D. Common open space above the district requirements.
 - E. Availability of contiguous publicly-owned open space, off-street parking; storm water retention basins and other facilities which reduce the need for such facilities with the PUD.

(c) Minimum Requirements.

- (1) Dwelling unit size, yard setback, type of dwelling unit, frontage and use restrictions, as established by conventional zoning may be waived for PUDs, provided that the intent and objective of Section 1186.01 are complied within the total development plan, as determined by the Commission. Building separation shall be maintained in accordance with the requirements of the Fire Prevention Code and other safety codes of the City and in accordance with good design principles.
- (2) Every dwelling unit shall have contiguous paved pedestrian access to adequate vehicle parking facilities conveniently located nearby.

(d) Perimeter Requirements. If topographical or other barriers within the development do not provide reasonable privacy for existing uses adjacent to the development, the Commission shall impose either of the following requirements:

- (1) Structures located on the perimeter of the development must be set back in accordance with the provisions of the conventional zoning district most similar in structure and function to the portion of the PUD in which the structure within the development is situated.
- (2) Structures located on the perimeter of the development must be well screened in a manner approved by the Commission.

(Ord. 2003-15. Passed 6-9-03.)

1186.05 INTERIOR STREETS.

(a) Interior streets shall be constructed according to Municipal specifications and properly lighted and maintained to conform with City ordinances. The minimum paved roadway width shall ordinarily be as delineated in the Codified Ordinances. However, approval of interior access streets with different nonstructural dimensions will be considered by the Planning Commission and Council where the developer can demonstrate compliance with Section 1186.01 and receive approval from the Municipal Engineer. Approval of the PUD with such difference will constitute lawful approval of a variance. Where streets are not fully constructed in accord with the Codified Ordinances, such streets shall be privately owned and maintained, and shall be constructed entirely within a public access easement. All public access easements shall be designated on the General Plan, the Final Development Plan, and the Record Plan for each section of the development.

(b) On the Record Plan, the following covenant shall appear which establishes the rights and responsibilities of the property owner and the City with regard to public access easements:

- (1) To ensure the public health, safety and welfare of the citizens of the City, private drives constructed within designated public access easements shall be open and accessible to fire, police and other emergency and maintenance vehicles at all times. Street improvements within these easements shall be continuously maintained by the owner in good repair and kept free from all obstructions that would impede the free movement of public traffic, including but not limited to ice, snow and parked vehicles. Where necessary, in accordance with a traffic-control plan approved by the City, traffic control devices shall be provided and installed by the owner as directed by the City Engineer. To ensure compliance with traffic control devices in public access easements, the City shall have full power and authority to enforce such controls and to prosecute violations in accordance with laws of the City and the State.
- (2) No public access easement shall be blocked for any purpose without prior approval of the City.
- (3) In the event that the owner of a public access easement fails to fulfill the obligations set forth in these covenants, conditions and restrictions, the City is hereby authorized, after providing reasonable notice and opportunity for hearing to the property owner, to take such corrective action as it deems necessary, to charge the owner for the entire cost thereof, and in the event of failure of prompt payment, to collect said costs as a special assessment against the property.
- (4) Proper drainage within the public access easements shall be provided for and maintained in the development and redevelopment of contiguous properties in a manner approved by the City.

(Ord. 2003-15. Passed 6-9-03.)

1186.06 COLLECTOR STREETS AND MAJOR THOROUGHFARES.

Collector streets and major thoroughfares shall be designated as such by the developer upon the submission of General Plans as provided in Section 1186.14. Such designations shall be subject to modification by the Planning Commission so that an efficient circulation system is established in relation to other existing or planned streets in the area.

(Ord. 2003-15. Passed 6-9-03.)

1186.07 OFF-STREET PARKING.

There shall be provided outside the public or private right-of-way the minimum number of parking spaces required in the Zoning Code. Where appropriate, common driveways, parking areas, walks and steps shall be provided, maintained and lighted for night use. Screening of parking or service areas may be required through ample use of trees, shrubs, hedges and screening devices. All parking spaces and service drives shall be improved with asphalt pavement, concrete pavement or equivalent surfacing and so graded and drained properly to collect all surface water accumulation within the area. All paved areas in PUD Districts shall be curbed to City street specifications.

(Ord. 2003-15. Passed 6-9-03.)

1186.08 COMMON OPEN SPACE.

(a) Amount and Character.

- (1) For a PUD-R a minimum of twenty-five percent of the total acreage in a proposed development permitted by this chapter, shall be dedicated to public and/or private open space or recreation facilities available to all occupants of the PUD. This open space shall not include dwellings, streets, parking areas, or residential lots. Such open space shall be clearly shown on the General Plan and shall be physically situated so as to be readily accessible, available to and usable by all residents of the PUD. Water detention areas may be included in common open space if attractively developed.
- (2) For PUD-B and the non-residential portions of PUD-MU, no common open space is required. The Planning Commission shall establish the percentage of the lot dedicated as open space for all lots. This open space shall not include structures, roadways and other paved areas, and other impervious surfaces.

(b) Conveyance and Maintenance. All common open space, shown on the Final Development Plan and recorded in the office of the Recorder of Cuyahoga County, must be conveyed in accordance with the following methods, at the option of the Planning Commission.

- (1) By leasing or conveying title (including beneficiary ownership) to a corporation, homeowners' association or other legal entity. The terms of such lease or other instrument of conveyance must include provisions satisfactory to the Commission for guaranteeing:

- A. The continued use of such land for its specified purposes;
 - B. Continuity of proper maintenance;
 - C. Availability of funds required for such maintenance;
 - D. Adequate insurance protection; and
 - E. Recovery for loss sustained by casualty, condemnation or otherwise.
 - F. The developer shall provide to the City at the time the Record Plan is filed for City review and approval, executed legal documents which create the aforesaid guarantees and, in particular, which will restrict the use of common open space to the specified purposes.
- (2) By dedication to the City as publicly owned and maintenance open space. All common open space proposed for dedication to the City must be acceptable with regard to size, shape, location and improvement. The City Council shall not accept such dedications unless the open space will be of substantial use and benefit not only to occupants of the PUD, but also to the greater Parma Heights community. Acceptance of such dedications by the City shall be in the City Council's sole discretion, and the City shall have no obligation to accept any such dedication, regardless of its merit.
- (3) The City may require a homeowners' association or other entity established by the developer to maintain common areas and open space located within a public right-of-way.
(Ord. 2003-15. Passed 6-9-03.)

1186.09 PEDESTRIAN, BICYCLE CIRCULATION.

A well-designed pedestrian and bicycle circulation system is essential and should be separated as completely and as reasonably as possible from the vehicular street system in order to provide pedestrian and bicycle safety and freedom of vehicular movement. This system shall be designed to serve the pedestrian and bicycle needs of surrounding neighborhoods as well as the PUD.
(Ord. 2003-15. Passed 6-9-03.)

1186.10 UNDERGROUND UTILITIES REQUIRED.

Each PUD which is primarily non-manufacturing in character shall provide for uniform underground installation of utilities (including, for example, electricity, telephone, and cable television). Utility installation and maintenance of facilities shall be in accordance with the requirements and regulations of the City and of the utility authority having the right of installation and maintenance. A PUD shall not be approved unless adequate assurance is given that adequate public or central water and sanitary sewers will be available at the first occupancy.
(Ord. 2003-15. Passed 6-9-03.)

1186.11 PRIVACY.

(a) Each PUD shall provide reasonable visual and acoustical privacy for dwelling units within the PUD and on parcels contiguous to the PUD. Fences, insulation, walls, barriers and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, the screening of objectionable views or uses and the reduction of noise.

(b) High-rise buildings shall be located within a PUD in such a way as to dissipate any adverse impact on adjoining low-rise buildings and shall not invade the privacy of the occupants of such low-rise buildings. In PUDs which are not primarily residential in character, these requirements may be relaxed as the Planning Commission finds appropriate.

(Ord. 2003-15. Passed 6-9-03.)

1186.12 EROSION AND SEDIMENTATION CONTROL.

Effective erosion and sediment controls shall be planned and applied according to the following principles:

- (a) The smallest practical area of land should be exposed at any one time during development.
- (b) When land is exposed during development, the exposure should be kept to the shortest practical period of time.
- (c) Temporary vegetation and/or mulching shall be used to protect critical areas exposed during development.
- (d) Sediment basins (debris basins or silt traps) shall be installed and maintained to remove sediment from run-off waters for land undergoing development.
- (e) Provisions shall be made to accommodate the increased run-off caused by changed soil and surface conditions during and after development.
- (f) Permanent final vegetation and structures shall be installed as soon as practical in the development.
- (g) The development shall be fitted to the topography and soils so as to create the least erosion potential.
- (h) Wherever feasible, natural vegetation should be retained and protected. Development of the PUD must conform to the municipal tree ordinance.

(Ord. 2003-15. Passed 6-9-03.)

1186.13 SUBDIVISION REVIEW; CONTRACTS.

The process of application, review and approval of a PUD shall include the plans, documentation, subdivider's contract and performance guarantees required for the final approval and recording of subdivisions. The Planning Commission and Council may deviate from the substantive requirements of the Zoning Code only to the extent necessary to achieve the functional and aesthetic objectives of the PUD.

(Ord. 2003-15. Passed 6-9-03.)

1186.14 ESTABLISHMENT OF PUD.

Application for a PUD shall be processed in three mandatory steps:

- (a) Step 1: Amendment of the Official Zoning Map and General Plan. Application for amendments to the PUD shall include a General Plan conforming to the requirements of Section 1186.16. Approval procedures for Step 1 of the PUD process are set forth in Section 1186.17. Approval requires action by the Planning Commission and City Council.
- (b) Step 2: Final Development Plan. A Final Development Plan shall be prepared in conformance with the approved General Plan and in accordance with the requirements of Section 1186.19. Approval procedures for Step 2 of the PUD process are set forth in Section 1186.20 through 1186.21 inclusive. Approval requires action by the Planning Commission.
- (c) Step 3: Record Plan. A Record Plan shall be developed in accordance with the approved Final Development Plan and in accordance with the requirements set forth in Section 1186.22. Approval requires action by the Planning Commission and City Council.

(Ord. 2003-15. Passed 6-9-03.)

1186.15 PRE-APPLICATION CONFERENCE RECOMMENDED.

To obtain information regarding the PUD approval process, requirements, and other information relative to the PUD application, each applicant is highly encouraged to engage in informal consultations with the Planning Commission or its designated officer prior to filing an application. The applicant should be prepared to discuss the general concept of the PUD, with conceptual plan, thereafter, the Planning Commission, Mayor, City Engineer, or its designated officer shall furnish the applicant with written comments regarding such conference, including appropriate recommendations to inform and assist the applicant prior to his or her preparation the components of the PUD zoning application. It is not required that a person requesting a pre-application conference be a legal owner or holder of an equitable interest in the subject property.

(Ord. 2003-15. Passed 6-9-03.)

1186.16 PUD APPLICATION STEP 1; APPLICATION FOR AMENDMENT OF OFFICIAL ZONING MAP AND GENERAL PLAN APPROVAL.

(a) Application for PUD zoning shall be made by the property owner or his authorized agent in the same manner as a petition for any other zoning district designation. The rezoning petition shall indicate the category of PUD (PUD-R, PUD-B, etc.) requested. PUD zoning cannot be initiated by the City without the written permission of the property owner.

(b) The General Plan (which shall be set forth in one or more maps or instruments) shall be signed by all owners of property within the project, shall be drawn to scale and shall be signed by an architect, landscape architect, civil engineer, or planner-in-charge authorized to practice in the State. Approval of a General Plan is a necessary precondition to consideration and approval of the Final Development Plan.

(c) All General Plans shall be presented to the Planning Commission by means of an application in the form prescribed by the Planning Commission or its designated officer. The City shall charge for processing of the application based on its actual costs incurred, including in-house processing and review and/or processing and review by public and private consultants. All such costs incurred until and including filing of the Record Plan shall be invoiced. An initial fee as set forth in the Zoning Code shall be payable upon application and shall be credited toward the actual costs of processing. All work done prior to formal application shall be charged to the project upon submission of the application. The developer will be billed monthly, or less frequently if deemed appropriate by the City. Failure to pay such bills within 30 days shall be deemed just cause for delaying further approvals relative to the PUD application and/or construction.

(d) The General Plan shall include:

(1) A declaration by the developer in which there is furnished:

- A. Evidence that the applicant has legal control of the property including a statement of all the ownership and beneficial interests in the property and the proposed development;
- B. A general statement regarding the nature, acreage and location of open space and common areas, and descriptive data as to the methods to be employed for guaranteeing its continuity and maintenance;
- C. The general location and purpose of all non-residential structures;
- D. The PUD-R, the areas of the project to be used for single-family dwellings, two-family dwellings, townhouses, garden apartment buildings and medium and high-rise apartment buildings, indicating for each such area the number of housing units by type and sizes and the number of bedrooms per unit of each class of housing proposed in any given area;
- E. For PUD-R, the total population density for the project in number of housing units;
- F. Descriptive data concerning the sewer, water and storm drainage facilities within the project, identifying the entity, whether public or private, to whom such facilities are to be dedicated or transferred; and
- G. A general description of the availability of other community facilities, such as schools, fire and police protection services, and cultural facilities, if any, and how these facilities are affected by this proposal.

(2) Plans drawn at a scale of one inch equals 100 feet, or less, incorporating the following elements:

- A. A general location map, at appropriate scale, of the property and adjacent environs within one-quarter mile indicating municipal, township, or jurisdictional boundaries, public facilities such as schools, parks, and other public buildings and uses; arterial streets and highways; and major utility easements;

- B. An area map showing adjacent property owners, existing zoning at the time of application, existing land uses, and existing streets and highways within 200 feet of the parcel;
- C. A professionally-prepared survey of the property, including boundaries of the property, including a legal description of the metes and bounds of the parcel and the acreage therein, and indicating existing features including public and private streets, alleys, easements, utility lines, general topography, vegetation and physical features;
- D. Existing contours at two foot intervals or less, accompanied by an outline of the grading plans;
- E. A site plan indicating approximate areas and arrangement of proposed uses, existing zoning district, proposed lots and setback, and the amount of buildable area within each lot.
 - 1. In the case of Business (PUD-B), or Mixed Use (PUD-MU) PUDs, a statement identifying the principal types of office, business, and/or mixed-uses that are to be included in the proposed development including the approximate location and intensity of development.
 - 2. In the case of Residential (PUD-R) PUDs, a statement identifying the density of the various residential uses within the development, housing type(s).
- F. The proposed street system for the project, including designation of arterial and collector thoroughfares agreeable to the Planning Commission, where such thoroughfares are indicated in the Master Plan of the City of Parma Heights or where they are otherwise necessary for efficient vehicular circulation. Such street plan shall identify which streets shall be public streets and which shall be private streets or drives within public access easements, points of ingress and egress, and shall be supported by appropriate traffic studies;
- G. Drainage control, including a plan showing provisions for the control of erosion and sedimentation during and after construction, such plan to be accompanied by documentation indicating the review and recommendation of the plan by the Cuyahoga County Soil and Water Conservation District or other competent agency or soil scientists;
- H. The location of all main and accessory structures, accompanied by a outline explaining intended heights, coverage and treatment of yards within the project;
- I. The location, size and landscaping of the proposed parking lots within the project;
- J. Pedestrian circulation features, including all sidewalks, bikeways and paved areas within the project;

- K. Natural features such as woodlots, significant isolated trees (of diameter at breast height of five inches or more), streams, and lake or ponds;
 - L. Principal ties to the community at large, with respect to transportation, water supply and sewerage collection and treatment and City plans (i.e., Water and Sewer Master Plans);
 - M. The general nature and location of public and private utilities and community facilities and services, including maintenance facilities within the project;
 - N. Recreational and other non-building area amenities designated within the project;
 - O. Any additional information requested by the Planning Commission or City Council;
- (3) Common open space information, including:
- A. The percentage of acreage of common open space in each part of the project;
 - B. The arrangement and location of proposed common areas, including proposed parks, playgrounds, school sites, and recreational facilities;
 - C. Topographical factors affecting common open space; and
 - D. A statement describing the provision that is to be made for the care and maintenance of open space and recreation facilities within the PUD (if applicable).
- (4) A document describing the proposed phasing program for the project for all public improvements, structures and common facilities. Such document shall identify the separate Final Development Plans to be submitted and describe the sequence and timing.

(e) Where business uses are included, the Commission may require marketing studies, feasibility studies or other appropriate information deemed necessary to evaluate the economic impact and viability of the business use proposed.
(Ord. 2003-15. Passed 6-9-03.)

1186.17 AMENDMENT OF OFFICIAL ZONING MAP, GENERAL PLAN APPROVAL.

(a) The Planning Commission shall review the application for amendment of the Official Zoning Map with the proposed General Plan and may recommend the zoning map amendment and General Plan to the City Council if it determines that the plan satisfies, at a minimum, all of the following criteria:

- (1) PUD zoning and the General Plan are in conformance with the Comprehensive Land Use Master Plan for the City supporting plans and related legislation as adopted by City Council;

- (2) An exemption to conventional zoning is justified because the Comprehensive Land Use Master Plan for the City can be more faithfully and reliably implemented by the use of PUD zoning;
- (3) The General Plan is compatible with the location, topographic and other characteristics of the site and will bear a beneficial relationship with surrounding land uses in terms of noise, smoke, dust, debris, or other nuisances;
- (4) The General Plan is carefully designed to support surrounding streets, utilities and other public improvements;
- (5) The General Plan represents an efficient and economic use of the land in view of the community's need for a balance of land uses;
- (6) All public streets, utilities and services necessary to carry out the General Plan are available to the site, or will be extended or improved by the developer and/or City in time to permit the development to be properly served;
- (7) Exception from conventional zoning is warranted by design goals or other criteria and/or the need to provide a variety of development opportunities within the community;
- (8) The design of the development protects natural assets such as streams, woodlots, steep terrain, and other critical environments in the City;
- (9) Taken as a whole the development of the proposed PUD will have a positive effect on the health, safety and general welfare of the City;
- (10) The General Plan appears capable of being implemented by a Final Development Plan which meets all requirements of this chapter; and
- (11) Implementation of the General Plan will be initiated within one year of approval.

(b) The Planning Commission shall make a formal recommendation to the City Council regarding the application for amendment of the Official Zoning Map in accordance with Chapter 1163 (Amendments) of the Zoning Code, and the proposed General Plan. After receipt of the recommendation, City Council shall act on the recommendation in accordance with Chapter 1161 and 1163 of the Zoning Code.

(c) The General Plan need not be recorded in the records of Cuyahoga County.
(Ord. 2003-15. Passed 6-9-03.)

1186.18 REVISION OF APPROVED GENERAL PLAN.

The Final Development Plan shall substantially conform to the approved General Plan. In the preparation of the Final Development Plan, the applicant shall not materially deviate from the approved General Plan or to the related documents. Major changes to the

General Plan (as defined in Section 1186.02) may not be made unless and until a revised General Plan is processed and approved in accordance with this chapter. Minor changes may be approved by the Planning Commission without submission of the revised General Plan to City Council.
(Ord. 2003-15. Passed 6-9-03.)

1186.19 PUD APPLICATION STEP 2: FINAL DEVELOPMENT PLAN.

Before any part of a PUD subdivision may be reflected in a Record Plan and recorded, the improvements and uses previously described in an approved General Plan must be merged and detailed in a Final Development Plan. No Final Development Plan shall be considered or approved without formal approval by City Council of both the amendment to the Official Zoning Map and the General Plan. Once these approvals have been received, the owner may seek approval for a Final Development Plan for the overall PUD, for sections of the PUD, or for individual parcels. The last alternative may be particularly appropriate where lot sizes may depend on the particular needs of prospective purchasers, and those purchasers are unknown at the time the General Plan is approved. The Final Development Plan shall show the following, in addition to those items required in the General Plan:

- (a) The area to be developed and the area to be devoted to open space for the use of all residents of the PUD, with accurate acreage, course and distances, as determined by an engineer or surveyor licensed in the State of Ohio who shall sign such plan and certify to the accuracy thereof. The boundaries of any area for which Final Development Plan approval is requested shall not be gerrymandered to comply with the density and open space acreage criterial but shall be proportioned and allotted so that required open space is convenient to the residential properties included in the area submitted for final approval;
- (b) The location and floor plans of all buildings, descriptive data as to elevation drawings detailing the type of buildings, the number of dwelling units in each separate type and the number of bedrooms per unit of apartment (multifamily dwelling) buildings, and the number of bedrooms in each apartment unit;
- (c) Clear designations of nonresidential, mixed use and residential buildings, of nonresidential and residential spaces within buildings, and of the kinds of nonresidential land uses permissible within the nonresidential spaces, as approved by the Planning Commission;
- (d) A title guarantee or rider to an existing policy, prepared by a reputable title company, showing the legal description of the land which has been set aside for open space and showing appropriate restrictions, limiting the use of such land to recreation and open space in perpetuity and granting owners and residents of the area to be developed a right to an easement of use in such open space;
- (e) A detailed plan setting forth the manner, means and proposed time of transfer of the land reserved for open space to a nonprofit entity and the obligations and rights of use of such open space by all residents of the area; and

- (f) Ninety days prior to the application for a Final Development Plan for a development permitted under this section, unless a lesser period is permitted by the Planning Commission for good cause shown, the applicant shall prepare and submit for approval by the Planning Commission and City Council, a Design Manual to establish the architectural design specifications and general design guidelines for the entire Planned Unit Development proposed. The Design Manual shall include, but not be limited to, and shall provide examples of, architectural style of buildings, design features, exterior finish materials of buildings, basic design of streets, street furniture and fixtures, lighting specifications, signage standards for all street and building signage, general landscaping design, sidewalk and pedestrian plaza design criteria and other design elements of the development.
(Ord. 2003-15. Passed 6-9-03.)

1186.20 CONDITIONS FOR APPROVAL OF FINAL DEVELOPMENT PLAN.

The Planning Commission shall review each Final Development Plan and approve, modify and approve, or disapprove the plan and transmit notice thereof to the applicant within a reasonable time. The Commission shall give the final approval of uses only upon finding that the following requirements are met:

- (a) No requirement of this chapter, as existing at the time of General Plan approval, is violated by the Final Development Plan;
- (b) The Final Development Plan accurately sets forth the area to be developed and the area to be set aside as open space with appropriate boundaries established by course and distances, and the acreage within the area to be approved is set forth as well as the acreage of the area to be set aside as open space for the use of all residents of the area;
- (c) The Final Development Plan is substantially in accordance with the General Plan that had been previously filed with and approved by the Commission and City Council;
- (d) The density of dwelling units in any area of the PUD does not exceed that shown on the General Plan by more than ten percent, and any change is supported by appropriate reasons, and the overall density of the PUD District as set forth in the General Plan has not been exceeded;
- (e) The area reserved for open space and recreation satisfies the requirements of Section 1186.08;
- (f) Satisfactory progress has been made under previously approved set Final Development Plans with respect to the provisions and improvement of indicated open space and recreational facilities;
- (g) The Final Development Plan accurately sets forth a schedule demonstrating proportionate development of the open space and recreational facilities in conjunction with the total project. A performance bond may be allowed to substitute for actual construction. Any construction covered by a performance bond shall be completed within one year. The amenities included in each phase shall be substantially completed prior to the issuance of occupancy permits; and

- (h) All areas designated for public acceptance are conceptually satisfactory to the City, including public access easements.
(Ord. 2003-15. Passed 6-9-03.)

1186.21 FINAL DEVELOPMENT PLAN APPROVAL.

The Planning Commission shall approve, modify and approve, or deny an application for approval of a Final Development Plan within a reasonable time after the date of such application. Upon approval of the Final Development Plan by the Commission, the Commission shall:

- (a) Furnish the developer with written notice of approval;
- (b) See to it that the Final Development Plan is recorded. Record the Final Development Plan with specific reference to the approved General Plan. Approval of a Final Development Plan does not obligate the City Council to approve the Record Plan. Planning Commission approval of a Final Development Plan is a necessary precondition to consideration and approval of a Record Plan.
- (c) A Final Development Plan must be approved prior to the application of building permits.
(Ord. 2003-15. Passed 6-9-03.)

1186.22 PUD APPLICATION STEP 3: RECORD PLAN.

(a) Within six months of approval of the Final Development Plan for any specific area within the project or for the overall project, a Record Plan for the area shown on the Final Development Plan shall be submitted to the Planning Commission.

(b) Documents. At the time Record Plans are filed with the Planning Commission, the developer shall also file:

- (1) Cost estimates for all public improvements in the subdivision plan; and
- (2) Other documents and assurances required by the Planning Commission.

(c) Final Approval by Planning Commission. Within 60 days after the Record Plan is filed, with all necessary documents and exhibits, the Commission shall approve, approve and modify or disapprove the Record Plan and forward its recommendation to City Council.

(d) Final Approval by Council. Within 60 days after approval by the Commission of the Record Plan, Council shall approve, modify and approve, or disapprove it.

(e) Recording. Upon Council approval of the Record Plan, the Commission shall notify the applicant, and thereafter, upon payment of the required fee by the applicant and compliance with all regulations. The City shall see to it that the Record Plan maps and other related documents are recorded with the Recorder's Office of Cuyahoga County. At the same time, the Final Development Plan corresponding to the Record Plan shall also be recorded by the City.

(Ord. 2003-15. Passed 6-9-03.)

1186.23 FAILURE TO BEGIN OR CONTINUE PLANNED UNIT DEVELOPMENT.

(a) The construction of a subdivision under PUD zoning is authorized by agreement between the City and the land owner. This agreement, regardless of its form, is a contract intended to assure the orderly construction of a complete, well-planned development. Should the land owner breach this contract by abandoning construction or failing to proceed with the development at the pace agreed upon, the City shall be entitled to implement certain remedies, as set forth in the following paragraphs.

- (1) If a complete Record Plan approval application is not submitted within three months of the approval of a Final Development Plan, the Final Development Plan shall be null and void. The Commission, for good cause, may extend for consecutive periods of six months the time for submitting the Record Plan application.
- (2) If no construction has begun in the PUD within one year after the recording of a Record Plan for the overall project or any part thereof, the Record Plan may be vacated by resolution of the City Council and be of no further effect. The Commission, for good cause, may extend for periods of up to six months the time for beginning construction.
- (3) Should a land owner who has been authorized to develop a PUD under this Chapter 1186, or under any previous PUD regulations of the City, sell or otherwise convey ownership of any part of the PUD to another before all planned public improvements such as streets, curb cuts, and utilities are constructed therein in accord with plans and specifications approved by the City, and/or before all lands required for the public use therein have been dedicated to the City, that land owner shall be deemed to have abandoned that portion of the PUD and to have breached all agreements with the City to the extent that they relate to development of the portion sold. In case of such abandonment and breach, the City may, pursuant to a recommendation by the Planning Commission and approval by the City Council, pursue any of the following remedies or any others available to it under the law:
 - A. Enforce the subdivider's contract executed by the breaching owner, if such contract exists.
 - B. Withdraw its approval of all plans for that portion of the PUD and require any subsequent owner desiring to develop the site to begin with submission of a proposed new General Plan. This remedy may be particularly appropriate when the new land owner intends to be a subdivider of the conveyed property.
 - C. In a situation where the new owner wishes to continue the development of a subdivision, require the new owner to execute a subdivider's contract, performance bond and all other documents and assurances required by the City to guarantee those dedications and public improvements which were not completed by the former owner.

(b) In the event that the new owner and the City agree to implement the third alternative, the new owner may proceed in accord with the approved Final Development Plan, under the provisions of this chapter. If for any reason the subdivision has not received approval of a General Plan, Final Development Plan and Record Plan, the new owner shall enter the review process set forth in this chapter to obtain any approval not obtained by the previous owner. Thereafter, the new owner shall not deviate from the approved plans except through the revision procedures of Section 1186.24, or by requesting and receiving a change of zoning classification.

(c) If an approved Record Plan is vacated as provided herein, notice of such vacation shall be recorded in the records of Cuyahoga County by the Commission and no development can proceed on any part of the included lands until such time as a new Final Development Plan and Record Plan have been submitted and approved.
(Ord. 2003-15. Passed 6-9-03.)

1186.24 REVISION OF APPROVED FINAL DEVELOPMENT PLAN.

The Record Plan shall conform to the approved Final Development Plan. The applicant and his or her successors and assigns shall make no alterations, additions or deletions to the approved Final Development Plan or to the related documents. Major changes may not be made unless and until a revised Final Development Plan is processed and approved in accordance with this chapter. Minor changes may be approved by the Planning Commission without submission of a revised Final Development Plan.
(Ord. 2003-15. Passed 6-9-03.)

1186.25 PHASING.

(a) The establishment of common open spaces and the construction of public or common residential facilities shown on the record Final Development Plan, together with the construction of other nonresidential structures, shall proceed substantially in accordance with the phasing program submitted pursuant to Section 1186.16(d)(4).

(b) After general construction commences, the developer shall submit progress reports every six months to the Planning Commission which shall review all building permits issued and compare them to the overall development phasing program. If it is determined that the rate or sequence of construction of the PUD substantially differs from the phasing program, the Commission shall so notify the developer in writing. Thereafter, the Commission may issue such orders to the developer as it sees fit, and, upon continued violation of this section, may suspend the developer from further construction of dwelling units or nonresidential structures until compliance is achieved.
(Ord. 2003-15. Passed 6-9-03.)

1186.26 VIOLATIONS.

(a) Whenever the Planning Commission finds, in the case of any approved Final Development Plan, that any term, condition or restriction incorporated into the Plan is not being complied with or performed, the Planning Commission may rescind and revoke such approval. Notice of intent to revoke shall be served upon the owner(s) by certified mail. Following opportunity for a hearing before the Planning Commission, revocation may be certified by the Chairman of the Planning Commission upon authentication by a majority of the Commission's membership. Notice of certification of such revocation shall be promptly recorded in the land records of Cuyahoga County.

(b) Violation of an approved Final Development Plan for the PUD, as approved, shall constitute a violation of this Zoning Code, punishable as provided in Section 1193.04. (Ord. 2003-15. Passed 6-9-03.)

CHAPTER 1187
Off-Street Parking

1187.01 Purposes.	1187.08 Maximum spaces for residences.
1187.02 Accessory parking facilities required.	1187.09 Location of parking facilities.
1187.03 Continuation of existing facilities.	1187.10 Accessways to parking areas.
1187.04 Consideration in the issuance adjacent areas.	1187.11 Parking area improvements.
1187.05 Measurement standards.	1187.12 Yard regulations; protection of adjacent areas.
1187.06 Schedule of required off-street parking.	1187.13 Signs in parking areas.
1187.07 Separate or combined use of facilities.	1187.14 Illumination of parking areas.
	1187.15 Off-street loading facilities.
	1187.16 Existing uses.

CROSS REFERENCES

Districts and Zone Map - see P. & Z. 1161.01 et seq.
 B-1 District parking - see P. & Z. 1179.01
 C-1 District parking - see P. & Z. 1183.01
 Building permits - see BLDG. 1325.01 et seq.
 Maintenance of parking lots - see GEN. OFF. 660.05

1187.01 PURPOSES.

Off-street parking and loading requirements are established within the classes of zoning districts established by Section 1161.01 to promote the general convenience, welfare and prosperity of the community. More specific purposes are:

- (a) To relieve congestion on streets, so that they can be utilized more fully for movement of traffic;
- (b) To promote the safety and convenience of pedestrians and shoppers by distributing car movements in the vicinity of intense car concentration;
- (c) To protect residences from vehicular traffic congestion in adjacent business and other places of intense car concentration;
- (d) To promote the prosperity of present and future business developments, which depend upon provisions for such conveniences; and
- (e) To protect residents and pedestrians from the hazards created by use of the streets for parking in areas where an excessive number of vehicles are to be parked.

(Ord. 1958-56. Passed 7-28-58.)

1187.02 ACCESSORY PARKING FACILITIES REQUIRED.

Accessory off-street parking facilities (including accessways) shall be provided as a condition precedent to occupancy of a residential, institutional, business, commercial and manufacturing development, in all of such classes of zoning, in conformance with the following provisions of this chapter:

- (a) Whenever a building is constructed or a new use established;
 - (b) Whenever an existing building is altered and there is an increase of the number of dwelling units, seating capacity and/or floor areas of the building; or
 - (c) Whenever the use of an existing building is changed to a use requiring more off-street parking spaces.
- (Ord. 1958-56. Passed 7-28-58.)

1187.03 CONTINUATION OF EXISTING FACILITIES.

All existing off-street parking facilities or those required as accessory to a proposed or altered building or use shall continue unobstructed in operation and shall not be reduced below required size as long as the main building use remains, unless an equivalent number of spaces is provided for such facilities in another location.

(Ord. 1958-56. Passed 7-28-58.)

1187.04 CONSIDERATION IN THE ISSUANCE OF BUILDING PERMITS.

Detailed drawings of off-street parking and/or loading facilities shall be submitted for approval by the Planning Commission before a building permit is granted. Such drawings shall show the number of spaces and the locations, dimensions and descriptions of all features enumerated in Sections 1187.09 through 1187.15.

(Ord. 1966-79. Passed 9-26-66.)

1187.05 MEASUREMENT STANDARDS.

(a) "Accessory parking space" means an open or enclosed area, accessible from a street, with not less than 180 square feet (nine feet x twenty feet) of standing space, exclusive of drives and other accessways, for parking of motor vehicles of owners, occupants, employees, customers or tenants of the main building use, provided, however, if any automobiles are parked in line, bumper to bumper, the parking space shall be not less than 216 square feet and not less than nine feet in width and twenty-four feet in length.

(b) "Floor area" means the total usable floor area of all the floors excluding areas devoted to mechanical equipment, stairways, elevators, restrooms, employees' lounges, public hallways and areas used for the storage and/or packaging of merchandise and supplies, provided, however, that such excluded area does not exceed twenty percent.

(c) "Seat" means the number of seating spaces installed or indicated, or each twenty-four lineal inches of benches, pews or space for loose chairs or similar seating facilities; spacing of rows shall be thirty inches on center.

(d) "Fractional unit" means where the computation for determining the number of parking spaces results in a fractional space unit, one additional space shall be provided.

(e) "Side yards" and "front yards" mean the unoccupied space on the same lot between the curb indicating the limits of the parking area and the lot line.

(Ord. 1966-79. Passed 9-26-66.)

1187.06 SCHEDULE OF REQUIRED OFF-STREET PARKING.

BUILDING OR USEREQUIRED MINIMUM PARKING SPACEResidential

- (a) One-family dwelling 2 spaces per dwelling unit.
- (b) Two-family dwelling 2 spaces per dwelling unit.
- (c) Rooming house 1 space per dwelling unit.
(Ord. 1965-56. Passed 8-23-56.)
- (d) Group dwelling, condominium or apartment 2-1/2 spaces per dwelling unit.
100 percent of the parking requirements for single-family dwelling units and eighty percent of all parking requirements for two-family dwelling units, rooming houses, group dwellings, condominiums or apartments shall be in the form of garage parking spaces. For this purpose, "garage" means a building or portion thereof designed for the storage of automobiles and which is fully protected from the elements by walls, roof, windows and doors.
(Ord. 1976-26. Passed 4-12-76.)
- (e) Hotels, motels and tourist homes 1 space per guest room.

Institutions

- (f) Hospitals 1 space per two beds.
- (g) Clinics, health centers 1 space per 150 sq. ft. gross floor area.
- (h) Libraries, museums 1 space per 400 sq. ft.
- (i) Places of worship 1 space per each 4 seats in auditorium and assembly room. Assembly room includes without any limitation of its ordinary meaning the portion of the church in which the congregation worships.
- (j) Mortuaries 1 space per 30 sq. ft. of assembly room, or 1 space for each 6 seats, whichever requires the greater number of spaces.
- (k) Public buildings, municipal and educational 1 space per each full-time employee, or 1 space for each classroom and/or office, whichever requires the greater number of spaces.

Amusements and Assembly

- (l) Theatres, lodge halls, assembly rooms, arenas, stadiums and other auditoriums (including those in schools, etc.) 1 space per 4 seats in building.
- (m) Dance halls, skating rinks, swimming pools 1 space per 50 sq. ft. of area used for dancing, skating or swimming.
- (n) Bowling alleys 5 spaces per alley.

Business

- (o) Medical and dental offices 6 spaces per 1,000 sq. ft.
- (p) Office 5 spaces per 1,000 sq. ft.
- (q) Retail stores, banks
 Retail space 10,000 sq. ft. or less 6 spaces per 1,000 sq. ft.
 Retail space 10,001 to 40,000 sq. ft. 5.5 spaces per 1,000 sq. ft.
 Retail space over 40,001 sq. ft. 5 spaces per 1,000 sq. ft.
- (r) Eating places, bars, taverns 1 space per 50 sq. ft. floor area or
 1 space for each 2 seats, whichever requires the greater number of spaces.
- (s) Auto wash establishments 1 space per 50 sq. ft. of floor area.
 At least ten percent of the required parking spaces shall be permanent off-street parking spaces with proper ingress and egress and the balance may be in waiting line driveways and the wash line itself.
- (t) Barber shops and beauty parlors 1 space per 75 sq. ft. floor area.

Commercial - Manufacturing

- (u) Machine, shops, manufacturing and printing plants, laboratories and similar establishments 1 space per 400 sq. ft. of floor area, or
 1 space for each 1-1/2 employees, whichever requires the greater number of spaces.

Other Buildings or Uses

- (v) For a specific building or use not scheduled above, application shall be made to the Planning Commission for a determination of the off-street parking space to be required, to be most similar to the proposed building or use.

Combined Uses

- (w) If any building is used for more than one of the above scheduled uses, the off-street parking requirements shall be computed for each separate use and all such individual requirements totaled to determine the total requirement of the building.

Undue Hardship

- (x) The Planning Commission, upon application of the owner of a building or business, may modify the off-street parking requirements where in unusual circumstances undue hardship would be suffered or no good purpose would be served by compliance with such requirements.

(Ord. 1965-56. Passed 8-23-65; Ord. 2003-11. Passed 5-12-03 .)

1187.07 SEPARATE OR COMBINED USE OF FACILITIES.

A building containing one use shall provide the off-street parking spaces as required for the specific use. A building or group of buildings containing two or more uses, operating normally during the same hours, and which have different off-street parking requirements shall provide spaces for not less than the sum of the spaces required for each use; provided, however, where the two or more uses do not operate normally during the same hours and there is a combined use of facilities, building or area, there shall be a contract between the parties so operating the two or more uses, covering a period of time as may be required by the Board of Zoning Appeals, and providing for the use of the parking area, and provided further that should either of the combined uses be changed or discontinued, then the required spaces for the use remaining shall be provided elsewhere as a condition precedent to the continued use of such remaining building.
(Ord. 1958-56. Passed 7-28-58.)

1187.08 MAXIMUM SPACES FOR RESIDENCES.

In one-family residential districts, the sum of the open and enclosed (permanent) accessory parking facilities shall not exceed three spaces per dwelling unit on lots of 12,000 square feet or less, and not more than four spaces per dwelling unit on lots of more than 12,000 square feet.

In residential districts, one truck not exceeding three-fourths ton in rated capacity may be stored in a garage only, provided such truck is used solely by the occupant.
(Ord. 1958-56. Passed 7-28-58.)

1187.09 LOCATION OF PARKING FACILITIES.

(a) Residential Buildings. Accessory parking facilities shall be located on the same lot as the building served; permanent, open facilities for overnight parking shall not be located within the required front or side yards, or where a building is not permitted. Group parking facilities in Class B Districts shall be kept available to each dwelling unit.

(b) Institutional, Amusement and Assembly Buildings. Accessory parking facilities shall be provided on the same lot as the building served, however, where no such adjacent land is available, then the nearest point of the lot shall be located within a walking distance of 150 feet of such building.

(c) Business Buildings. Accessory parking facilities shall be located on the same lot or adjacent to the building served, however, where no such adjacent land is available, the nearest point of the lot shall be located within a walking distance of 200 feet of such building, but not across a major thoroughfare.

(d) Commercial-Manufacturing Building. Accessory parking facilities shall be located on the same lot as the main use, however, where no such adjacent land is available, the nearest point of the lot shall be located within a walking distance of 200 feet of such use.
(Ord. 1958-56. Passed 7-28-58.)

1187.10 ACCESSWAYS TO PARKING AREAS.

A one-way driveway shall be not less than nine feet in width, unless the driveway is designated as a fire lane or parking lot aisle than at no point shall the one-way drive be less than eighteen feet in width. Two-way driveways shall not be less than eighteen feet in width, unless the driveway is designated as a two-way parking lot drive aisle than at no point shall the two-way drive aisle be less than twenty-two feet. Two-way driveways entering onto a public roadway shall not exceed thirty feet in width excluding the required turnout apron turnouts.

(Ord. 1975-4. Passed 1-13-75; Ord. 2003-11. Passed 5-12-03.)

1187.11 PARKING AREA IMPROVEMENTS.

All parking facilities and accessways shall be constructed of reinforced concrete or asphalt pavement with sufficient depth to support the intended traffic loads. All aprons within the public right-of-way in residential districts shall be constructed of reinforced concrete with a depth of not less than six inches and not less than eight inches in all commercial districts. Asphalt aprons within the public right-of-way in commercial and multi-family districts will not be permitted.

(Ord. 1958-56. Passed 7-28-58; Ord. 2003-11. Passed 5-12-03.)

1187.12 YARD REGULATIONS; PROTECTION OF ADJACENT AREAS.

(a) Front yard depth for accessory off-street parking areas shall be not less than five feet.

(b) Accessory off-street parking areas when adjacent to a Class C or C-1 District, shall not be required to maintain a side yard but there shall be constructed bumper guards, guard rails, concrete curbs or other permanent devices to prohibit the flow of traffic from property to property except in those areas where openings for the flow of traffic have been approved by the Planning Commission.

(c) Accessory off-street parking areas when in Class B, B-1, C, C-1 or HB Districts and adjacent to or surrounded by Class A, B, B-1 or HB Districts shall have a ten foot side yard which shall be maintained as a landscaped area. A buffer designed to diffuse noise and light and to prohibit the passage of paper and other debris onto adjoining property shall be constructed within such ten foot side yard. The location and type of buffer, structural and landscape features such as bumper guards, curbs, walls, fences, shrubs, ground cover or hedges shall be approved by the Planning Commission. Such landscaping and structural features shall be kept clean and maintained adequately at all times.

(Ord. 1966-79. Passed 9-26-66.)

1187.13 SIGNS IN PARKING AREAS.

No signs except those indicating the operator, purpose or business served, or instructions for parking shall be permitted. Such a permitted sign shall be limited to not more than one such sign on each street which abuts the area, shall not exceed twenty square feet in area, shall not extend more than ten feet in height above the ground, and shall not be located outside the part of lot used for parking, or located less than fifty feet from a lot line of a Class A District.

(Ord. 1958-56. Passed 7-28-58.)

1187.14 ILLUMINATION OF PARKING AREAS.

A parking area shall be thoroughly illuminated whenever the public street lights are lit and when the buildings served are in operation. Such illumination shall be so designed and located that light sources shall be shielded from adjoining Class A and B Districts and streets and shall not be of excessive brightness. Flickering, moving or intermittent illumination shall not be permitted.
(Ord. 1958-56. Passed 7-28-58.)

1187.15 OFF-STREET LOADING FACILITIES.

Loading or unloading facilities shall be provided, in addition to off-street parking, for all business, commercial or manufacturing buildings hereafter erected or altered to such uses. Such facilities shall be not less than twelve feet wide and located not less than fifty feet from the front property line when facing the main street, and when alongside a building or alley, such facilities shall be located so that a standing truck (loading or unloading) of a size generally serving such purpose will not interfere with vehicular or pedestrian traffic.

At least one off-street loading space shall be provided for each 20,000 square feet of gross floor area, or fraction thereof, of manufacturing, storage, wholesale or retail buildings and shall be maintained as long as such building is occupied or unless an equivalent number of spaces is provided in conformance with these requirements.
(Ord. 1958-56. Passed 7-28-58.)

1187.16 EXISTING USES.

Reference in the foregoing sections to uses which may now or hereafter be prohibited within the Municipality is not to be construed as authorizing such uses, but rather is intended to establish off-street parking requirements for such uses which now may exist.
(Ord. 1958-56. Passed 7-28-58.)

CHAPTER 1189
Community Residential Facilities

1189.01	Purposes.	1189.04	Registration required.
1189.02	Definitions.	1189.05	Change of use.
1189.03	Conditions for establishment.	1189.06	Revocation or termination of approval.

CROSS REFERENCES

Adult foster care facilities - see Ohio R.C. 5103.30 et seq.
Type B family day-care homes - see P. & Z. Ch. 1191
Regional Dwelling House Code - see BLDG. Ch. 1301

1189.01 PURPOSES.

The guidelines of this chapter were adopted for the purpose of evaluating applicants for special use permits relative to community residential facilities. (Ord. 1986-56. Passed 10-27-86.)

1189.02 DEFINITIONS.

As used in this chapter:

- (a) "Community residential facility" means a dwelling unit that has been licensed or certified under the laws of the State or Federal government, in which dwelling unit live three or more people who need and receive personal assistance and/or supervision in order to live successfully in the community. "Community residential facility" includes, but is not limited to, homes licensed by the State Departments of Mental Health, Mental Retardation and Developmental Disabilities, and Health and Human Services and the Federal Veterans Administration.
- (b) "Family home" means a community residential facility in which at least three but not more than eight people who need personal assistance and/or supervision live, and which otherwise qualifies as a single-family dwelling under these Codified Ordinances.
- (c) "Group home" means a community residential facility in which at least nine but not more than nineteen people who need personal assistance and/or supervision live, and which otherwise qualifies as a multifamily dwelling under these Codified Ordinances.
(Ord 1986-56. Passed 10-27-86.)

1189.03 CONDITIONS FOR ESTABLISHMENT.

The Planning Commission may permit a community residential facility in the appropriate zoning district, provided that:

- (a) No community residential facility may be located within a one-quarter mile radius of any existing community residential facility.
- (b) The facility has registered with the Director of Public Service prior to the beginning of operation and annually thereafter, provides a copy of its current license or certificate and states the maximum number of residents of the facility.

- (c) The facility has provided assurances that persons in the following categories shall not be admitted as residents:
- (1) Persons discharged within the last ten years from a penal or correctional facility, or from the custody of the Ohio Department of Youth Services;
 - (2) Persons under probation, parole or conditional release during the time of residence;
 - (3) Persons discharged from any facility after being found incompetent to stand trial or not guilty by reason of insanity;
 - (4) Persons being treated for drug abuse or primarily for alcohol abuse; or
 - (5) Persons who cannot function adequately in a community setting and/or who constitute a reasonably foreseeable danger to the community. (Ord 1986-56. Passed 10-27-86.)

1189.04 REGISTRATION REQUIRED.

(a) All community residential facilities shall register with the Director of Public Service prior to beginning operation and annually thereafter.

(b) In order to register as a community residential facility, the operator or the operator's designee shall:

- (1) Provide a copy of its current license or certificate;
- (2) State the location of the facility;
- (3) State the maximum number of residents of the facility; and
- (4) Pay a registration fee of one hundred dollars (\$100.00). Such registration fee may be waived for not-for-profit operators.

(c) All community residential facilities which are in operation on the effective date of this chapter (Ordinance 1986-56, passed October 27, 1986) shall be permitted following registration, regardless of the distance between facilities. (Ord. 1986-56. Passed 10-27-86.)

1189.05 CHANGE OF USE.

Occupancy as a family home shall not be considered as a change of use in a building which has been used for residential purposes immediately prior to use as a family home. (Ord. 1986-56. Passed 10-27-86.)

1189.06 REVOCATION OR TERMINATION OF APPROVAL.

The Director of Public Service may revoke or terminate any previously granted approval of a community residential facility where, upon the basis of evidence presented, after notice and hearing, he or she determines that there has been non-compliance with the conditions of approval and regulations set forth in this chapter or that there has been noncompliance with City, State and/or Federal codes.

Any approval of the community residential facility, as provided in this chapter, shall be automatically revoked or terminated upon the revocation or termination of any license, approval or certificate by any County, State or Federal agency. (Ord. 1986-56. Passed 10-27-86.)

CHAPTER 1191
Type B Family Day-Care Homes

1191.01	Purposes.	1191.04	Registration required.
1191.02	Type B family day-care home defined.	1191.05	Change of use.
1191.03	Conditions for establishment.	1191.06	Revocation or termination of approval.
		1191.07	Hours of operation.
		1191.99	Penalty.

CROSS REFERENCES

Child day care - see Ohio R.C. Ch. 5104
 Minors generally - see GEN. OFF. Ch. 630
 Child stealing - see GEN. OFF. 636.07
 Criminal child enticement - see GEN. OFF.
 636.075
 Nonsupport of minors - see GEN. OFF. 636.10,
 636.11
 Corruption of minors - see GEN. OFF. 666.02

1191.01 PURPOSES.

The guidelines of this chapter were adopted for the purpose of evaluating applicants for special use permits relative to Type B family day-care homes. (Ord. 1987-41. Passed 9-14-87.)

1191.02 TYPE B FAMILY DAY-CARE HOME DEFINED.

As used in this chapter, "Type B family day-care home" means a permanent residence of the provider in which child day-care or child day-care services are provided for one to six children at one time, and in which not more than three children may be under two years of age at one time. In counting children, for the purpose of this section, children under six years of age who are related to the provider, and who are on the premises of the Type B home, shall be counted. A Type B family day-care home does not include a residence in which the needs of children are being 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. (Ord 1987-41. Passed 9-14-87.)

1191.03 CONDITIONS FOR ESTABLISHMENT.

The Director of Public Service may permit a Type B family day-care home in the appropriate zoning district, provided that:

- (a) No Type B family day-care home is located within a 500-foot radius of any existing Type B family day-care home.
- (b) The Type B family day-care home has registered with the Director of Public Service prior to the beginning of operation and annually thereafter, provides a copy of its current license or certificate and states the number of children and ages of such children in the Type B family day-care home. (Ord. 1987-56. Passed 12-28-87.)

1191.04 REGISTRATION REQUIRED.

(a) All Type B family day-care homes shall register with the Director of Public Service prior to beginning operation and annually thereafter.

(b) In order to register as a Type B family day-care home, the provider shall:

- (1) Provide a copy of his or her current license or certificate;
- (2) State the location of the home;
- (3) State the number of children being provided for in the home;
- (4) Pay a registration fee of twenty dollars (\$20.00); and
- (5) Make the home available for inspection upon twenty-four hours notice by the Director of Public Service.

(c) All Type B family day-care homes which are in operation on the effective date of this chapter (Ordinance 1987-41, passed September 14, 1987) shall be permitted, following registration, regardless of the distance between such homes. (Ord. 1987-41. Passed 9-14-87.)

1191.05 CHANGE OF USE.

Occupancy as a Type B family day-care home shall not be considered as a change of use in a building which has been used for residential purposes immediately prior to use as a Type B family day-care home.

(Ord. 1987-41. Passed 9-14-87.)

1191.06 REVOCATION OR TERMINATION OF APPROVAL.

The Director of Public Service may revoke or terminate any previously granted approval of a Type B family day-care home where, upon the basis of evidence presented, after notice and hearing, he or she determines that there has been noncompliance with the conditions of approval and regulations set forth in this chapter, or that there has been noncompliance with City, State and/or Federal codes.

Any approval of the Type B family day-care home, as provided in this chapter, shall be automatically revoked or terminated upon the revocation or termination of any license, approval or certificate by any County, State or Federal agency. (Ord. 1987-41. Passed 9-14-87.)

1191.07 HOURS OF OPERATION.

A Type B family day-care home shall be permitted to remain open for child day care and child day-care services between the hours of 6:30 a.m. and 7:30 p.m. (Ord. 1995-3. Passed 2-13-95.)

1191.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both. (Ord. 1987-41. Passed 9-14-87.)

CHAPTER 1193
Yard Structures and Landscape Features

1193.01	Yard structures and landscape features.	1193.03	Obstructions to view.
1193.02	Dangerous and hazardous property line markers.	1193.04	Violation; legal and equitable remedies.

1193.01 YARD STRUCTURES AND LANDSCAPE FEATURES.

(a) Yard structures such as fences, trellises and walls, and landscape features such as hedges, trees and shrubs, may be permitted along the side or rear yards. Such structures and landscape features are permitted along the side and rear lot line to a maximum height of six feet. Wood fences shall be treated with wood preservative or painted and well maintained. The finished side of the fence shall be toward the neighbor. Lot pins must show and a permit is needed.

(b) No person shall construct or install any wall, fence or other structure on any property without first making an application and obtaining a permit therefor from the Building Department. The applicant must submit a sketch showing the location, height, type of fence and distance from structures of abutting property owners. The application must be accompanied by the base application fee of fifty dollars (\$50.00) plus twenty-five cents (\$0.25) per running lineal foot.

(c) No fence, hedge, trellis or other device used to mark boundary lines around a property, or within the property line, exceeding six feet in height, shall be erected, altered, reconstructed or relocated on any lawn adjacent to any boundary line of any lot or parcel of land, or any part thereof in the City. Permitted fences in residential districts shall include the following types: picket, ranch, board on board, chain link (top rail bar required), PVC material, split rail and stockade. Masonry walls of brick, random stone or ashlar, coursed stone or ashlar, or decorative block are permitted, subject to the approval of the Director of Public Service. Prohibited fence types include panel fences where panels are made of plastic, metal or fiberglass, wire mesh fences which have openings between the wires of larger than four inches, individual strand-type wire fences, basket weave and barbed wire.

(d) Post spacing shall not exceed eight feet. All post holes should be a minimum of 30 inches deep for four-foot-high fences and 36 inches deep for fences higher than four feet, up to six feet. All terminal, corner and gate posts should be set 36 inches deep.

(e) Post holes should be at least four inches larger in diameter than the largest dimension of the post. All terminal, corner and gateposts should be set in concrete.

(f) Fences shall be permitted only in rear yards. If a residential structure has a side entrance, the fence shall be no further towards the street than three feet past the side entrance on the driveway side of house. The fence shall be no further towards the street than the rear of the residential structure on the non-driveway side of the residential structure.

(g) No permit for any such device, other than those which replace existing permitted devices, shall be issued until the occurrence of the following:

- (1) Submission to the Director of Public Service of verification by a registered professional surveyor, establishing the applicant's property line, in the event lot pins are not visible. The City does not assume the responsibility of any encroachments or defining of any property lines. The property owner is responsible for ensuring the accuracy and proper placement of the fence;
- (2) Legally pre-existing fences that are being replaced do not require a survey. Visible lot pins are preferred, but not required. There shall be no exemption from any other provisions of this chapter; and
- (3) The Director of Public Service shall give due regard to safety factors and affect on neighborhood property values, along with other applicable requirements of the Building Code.

(h) The height of any fence shall be the distance vertically from the surface of the ground to the top of the fence.

(i) Erection of fences on a corner lot shall not start any closer to the street than the setback of the house and not less than two feet off the sidewalk on the side of the existing property. The fence on the non-street side of the property shall be no further toward the street than the rear of the residential structure, and in no case shall it extend any further toward the street than five feet past the side door, if any, on the non-street side of the property.

(j) No fence shall be erected from the sidewalk line of any property to the front projection of the building thereof, otherwise defined as the building setback line. Nothing contained in this section shall apply to shrubbery for decorative purposes, which in no event shall be permitted to grow above three feet in height when more than 15 feet from the intersection of a driveway with the public sidewalk, or 18 inches in height when less than 15 feet from the intersection of a driveway with a public sidewalk. Any trees within a side yard shall have the branches trimmed so as to provide the minimum distance of eight feet from the ground to the lowest branches when such branches are located within 15 feet of the intersection of a driveway with a public sidewalk.

(k) The supporting posts of fences, hedges, trellises or other devices used to mark or establish boundary lines around property, or within the property line, where posts are

necessary, shall be erected on the side of the property being fenced. In other words, posts shall be erected on the inside of the fence, hedge, trellis, etc., and not on the outside of the fence.

(l) This section shall apply to public facilities, retail, office, commercial and industrial lots, except for such lots, fences in excess of six feet in height may be approved by the Planning Commission in order to more adequately screen such lots from the view of adjacent residential property.

(m) Decorative open fencing may be constructed in a front yard and shall not exceed 30 inches in height and shall be set back a minimum of five feet from the front of the property. No chain-link, board on board or stockade fence is permitted in a front yard. Decorative fencing shall not be continuous in construction or in any way enclose the front yard.

(n) Treated wood fences must comply with current EPA regulations, or the corresponding provisions of subsequent legislation or regulation(s).
(Ord. 2002-12. Passed 4-8-02; Ord. 2006-18. Passed 6-12-06.)

1193.02 DANGEROUS AND HAZARDOUS PROPERTY LINE MARKERS.

No person shall install, erect, place, maintain or permit or cause the installation, erection, placement or maintenance of any stake, stick, pole, stone, rock or other dangerous or hazardous object to mark, designate or establish any property line. Any object or device which, once installed, erected, place or maintained to mark, designate or establish a property line, will be a danger to life or limb of those persons reasonably using the area in the vicinity where such object or device is located, is prohibited, and shall constitute a public nuisance and shall be subject to abatement as provided in Section 634.05.

(Ord. 2002-12. Passed 4-8-02.)

1193.03 OBSTRUCTIONS TO VIEW

No yard structure shall be constructed, planted or maintained in such a manner as to obstruct the view of traffic.

(Ord. 2002-12. Passed 4-8-02.)

1193.04 VIOLATION; LEGAL AND EQUITABLE REMEDIES.

(a) Enforcement of this chapter shall be authorized by filing a criminal complaint in a court of competent jurisdiction, alleging a violation of any of the provisions of this chapter.

(b) No person shall fail or refuse to comply with any order issued by any City authority pursuant to the provisions of this chapter within the period specified for such compliance.

(c) No person shall knowingly violate any provision of this chapter.

(d) The provisions of this chapter shall apply equally to any occupant, owner, agent, superintendent, officer, member or partner, trustee or receiver who shall alone or with others have a legal or equitable ownership in the premises, or shall have possession, charge, care or control of the premises.

(e) Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree. A separate offense shall be committed each day during or on which a violation occurs or continues. The application of this penalty shall be in addition to the equitable remedies.

(Ord. 2002-12. Passed 4-8-02.)