

**PART ELEVEN—PLANNING AND ZONING CODE**

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**TITLE ONE**  
**GENERAL PROVISIONS**

**CHAPTER 1101**  
**Title, Purpose and Application**

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**1101.01 TITLE.**

These rules, regulations, procedures and accompanying maps shall be known, cited and referred to as the City of Willoughby Hills Planning and Zoning Code. This Planning and Zoning Code includes standards for planning, subdividing and developing land within the City.

**1101.02 AUTHORITY AND SCOPE.**

This Planning and Zoning Code is adopted by the City pursuant to its authority under the Ohio Revised Code and the City of Willoughby Hills Charter. Nothing in this Planning and Zoning Code shall be construed to limit City Council in the exercise of all of the powers to zone or redistrict now or hereafter as authorized by the Ohio Revised Code or the City Charter.

**1101.03 PURPOSE.**

This Planning and Zoning Code establishes certain districts in the City and regulates and restricts the ways in which land can be used and subdivided in order to promote the public health, safety, convenience, prosperity, and general welfare. More specific purposes are to:

- (a) Promote the orderly and beneficial development of the City of Willoughby Hills in accordance with the City's land use policies.
- (b) Provide regulations, standards and procedures for the administration, amendment and enforcement of this Planning and Zoning Code.
- (c) To preserve and strengthen the reasonable balance of commercial and industrial activities within the City, so long as they are consistent with the City's residential character, in order to serve the convenience of the inhabitants of the City and provide a strong economic and tax base to assure the City's ability to provide essential services to its inhabitants.

- (d) Encourage the most appropriate use of land to stabilize and preserve property values, to protect against congested and unsafe traffic conditions, to provide safety from hazards such as fire, flood, water and air contamination, and to provide adequate light and air and open space to all residents of the City.
- (e) Establish districts of such classification and number to implement any applicable plans, including the City's Master Plan; to encourage the most appropriate uses of the land; to guide the future development of the City; and to carry out the purposes of this Planning and Zoning Code.
- (f) Regulate the location, bulk, height, design and land coverage of buildings to protect the character and value of the City's residential, business, industrial, institutional, and recreational areas and to assure their orderly and beneficial development;
- (g) To accomplish the specific intents and purposes set forth in the introduction of the respective Chapters.
- (h) Ensure efficient traffic circulation, manage congestion on the streets and improve public safety by locating buildings and uses adjacent to streets in such a manner that they will cause the least interference with, and be damaged least by, traffic movements.
- (i) Regulate and limit the density of population to prevent overcrowding of the land and excessive concentration of the population.
- (j) Preserve unique natural features of land within the City.
- (k) Encourage compatibility between different land uses and protect the scale and character of existing development from the encroachment of incompatible uses.
- (l) To guide the future development of the City so as to bring about the gradual conformity of land and building uses in accordance with the objectives of the Master Plan of the City.

**1101.04            APPLICABILITY.**

- (a) No structure shall be located, erected, constructed, reconstructed, moved, converted, or enlarged; nor shall any structure or land be used or be designed to be used, except in full compliance with all the provisions of this Planning and Zoning Code and, when required, after the lawful issuance of the certificate(s) required by this Planning and Zoning Code.

- (b) Existing lots, buildings, structures and uses of land that do not comply with the regulations of this Planning and Zoning Code are subject to the regulations set forth in **Section 1121 Nonconforming Uses, Lots, and Structures**.
- (c) No person shall sell any land or authorize the sale of land under his control except in accordance with all of the applicable provisions of this Planning and Zoning Code.
- (d) No lot or land shall be sold until such plat has been approved as herein required.
- (e) The design and layout of all subdivisions shall conform to the requirements of this Planning and Zoning Code. The subdivider shall submit plans and plats, in accordance with Title Five.

**1101.05 RELATIONSHIP TO PLANS.**

It is the intention of Council that this Planning and Zoning Code implement the planning policies reflected in the City of Willoughby Hills Master Plan and other planning documents. While the Council reaffirms its commitment that this Planning and Zoning Code, as amended, be in conformity with adopted planning policies, Council hereby expresses its intent that neither this Planning and Zoning Code nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

**1101.06 SEPARABILITY.**

Sections and sub-sections of this Planning and Zoning Code and the several parts or provisions thereof are hereby declared to be independent sections, sub-sections, parts and provisions. If any provision of this Planning and Zoning Code, or amendment thereto, or any application of any provision to particular circumstances is held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Planning and Zoning Code or amendments thereto, or the application of such provision to other circumstances.

**1101.07 INTERPRETATION AND APPLICATION.**

Unless specifically noted otherwise, in interpreting and applying the provisions of this Planning and Zoning Code, these provisions shall be considered the minimum requirements necessary for the promotion of the public health, safety and general welfare. They shall be liberally construed to further the purposes and objectives set forth herein and the purposes and intent of each district as set forth in each District Chapter.

- (a) Except as specifically provided herein, the provisions of this Planning and Zoning Code shall not repeal, abrogate, annul or in any way impair or interfere with any existing deed or plat restrictions, ordinances, laws, rules, permits or certificates

previously adopted or issued, and shall not be construed as removing or rendering inoperative any deed or land restriction formerly established by restrictive covenants running with the land, easements or other agreements between parties.

- (b) In cases where this Planning and Zoning Code imposes a greater restriction upon the use of land, buildings, or structures, or upon the height and/or bulk of buildings, or requires larger lot area, yards, setbacks, or other open spaces than are imposed or required by such other laws or ordinances, or by such rules and regulations, the provisions of this Planning and Zoning Code shall govern. Conversely, other regulations shall govern where they are more restrictive in nature than this Planning and Zoning Code.

**1101.08 EFFECTIVE DATE.**

This Planning and Zoning Code, and amendments thereto, shall take effect and be in full force and effect from and after the earliest period allowed by law.

**Chapter 1103**  
**Definitions**

1103.01 Interpretation

1103.02 Definitions

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**1103.01 Interpretation.**

For the purpose of this Planning and Zoning Code, terms or words used herein shall be interpreted according to this Section. In the case of a discrepancy in meaning or implication between the text of this Code and any illustration or caption, the text shall control.

- (a) The word "shall" signifies a mandatory requirement, one that is not discretionary; the word "may" signifies a permissive or discretionary requirement; and the word "should" is a preferred requirement.
- (b) The word "building" includes the word "structure."
- (c) The "City" shall mean the City of Willoughby Hills, OH.
- (d) The word "person" includes a firm, association, organization, partnership, trust, company, corporation, or similar entity, as well as an individual.
- (e) The words "used" and "occupied" include the words "arranged, designed, constructed, altered, or intended to be used."
- (f) The word "lot" includes the words "plot" and "parcel."
- (g) ABR shall mean the City of Willoughby Hills' Architectural Board of Review.
- (h) BZA shall mean the City of Willoughby Hills' Board of Building and Zoning Appeals.
- (i) The words "the Board" shall mean the City of Willoughby Hills Board of Building and Zoning Appeals
- (j) The words "the Commission" or "Planning and Zoning Commission" shall mean the City of Willoughby Hills Planning and Zoning Commission
- (k) The words "Architectural Board of Review" shall mean the City of Willoughby Hills Architectural Board of Review.
- (l) The words "Willoughby Hills " shall mean the City of Willoughby Hills, Ohio.
- (m) The words "Planning and Zoning Code" shall mean the Planning and Zoning Code of the City of Willoughby Hills, Ohio.

- (n) ORC shall mean the Ohio Revised Code. This Planning and Zoning Code cites specific code sections from the ORC, and while these code sections may change after the adoption of this Planning and Zoning Code, the intent of these referenced sections shall remain.
- (o) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- (p) Whenever a number of days are specified, days shall mean calendar days unless specifically noted otherwise.

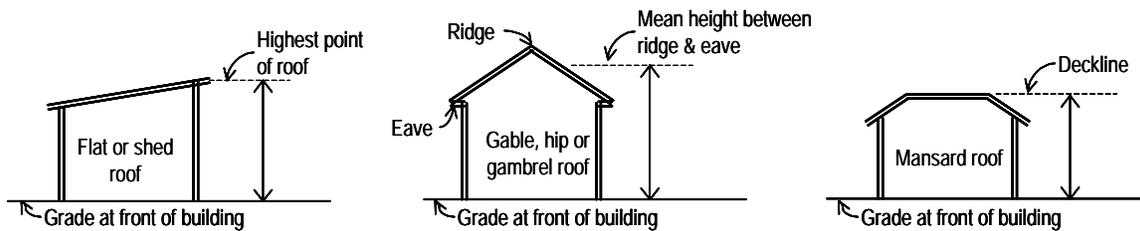
**1103.02 Definitions.**

- (a) Words used in this Code are used in their ordinary English usage.
- (b) For the purpose of this Planning and Zoning Code, the following terms shall have the meaning herein indicated:
  - (1) **Abut.** To physically touch or border upon; or to share a common property line but not overlap.
  - (2) **Accessory structure.** A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.
  - (3) **Adjacent.** See abut.
  - (4) **Adult care facility.** A facility providing personal care services to adults (typically elderly). Such services may include assistance in daily living activities and self-administration of medicine, and preparation of special diets. There are two categories of adult care facilities licensed by the Ohio Department of Health:
    - A. An adult family home (providing accommodations for 3 to 5 unrelated adults); and,
    - B. An adult group home (providing accommodations for 6 to 16 unrelated adults).
  - (5) **Alley.** A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.
  - (6) **Animal hospital.** See Veterinary office.
  - (7) **Aquifer.** A glacial formation, group of glacial formations, or part of a glacial formation that contains enough saturated permeable material to yield significant quantities of water.
  - (8) **Apartment.** See dwelling, multi-family.

- (9) **Architectural compatibility.** A design or material/color selection is compatible when it does not strongly deviate from its parent building or the overall character of the neighborhood. To be compatible does not require look alike designs, but rather designs that reflect some aspects of its parent building or buildings in the general vicinity, such as scale of windows, overhangs, building materials, patterns of siding, roof slope. Conversely, incompatibly occurs when an architectural design, landscape design or accessory building proposal is aesthetically harsh or overwhelming in comparison to its neighbors.
- (10) **Architectural feature.** In the context of **Title Nine**, Sign Regulations, an architectural feature means any construction attending to, but not an integral part of, the sign, which may consist of landscape, building, or structural forms that enhance the site in general; also, graphic stripes and other architectural painting techniques applied to a structure that serves a functional purpose, or when the stripes or other painting techniques are applied to a building provided such treatment does not include lettering, logos or pictures related to the intended message of the sign.
- (11) **Assembly hall.** An establishment providing meeting space for social gatherings, including but not limited to wedding receptions, graduations parties and business or retirement functions. This term includes, but is not limited to, a banquet hall or rental hall.
- (12) **Association.** A legal entity operating under recorded land agreements or contracts through which each unit owner in a development is a member and each dwelling unit is subject to charges for a proportionate share of the expenses of the organization's activities such as maintaining the common facilities, open space, private streets and other common areas, and providing services needed for the development. An association can take the form of a homeowners' association, community association, condominium association or other similar entity.
- (13) **Automotive service station.** (See also Gasoline station): A building, part of a building, structure or space which is used for the retail sale of lubricants and motor vehicle accessories, the routine maintenance and service of vehicles and the making of repairs to motor vehicles. Repairs described, as major repairs under VEHICLE REPAIR GARAGE, shall not be permitted.
- (14) **Average.** The result of dividing the sum of two or more quantities by the number of quantities.
- (15) **Bank.** An establishment providing retail banking, credit and mortgage services.

- (16) **Basement or cellar.** That portion of a building located partly underground but having more than one-half (½) of its clear floor-to-ceiling height below the average grade of the adjoining ground.
- (17) **Bed and breakfast establishment.** A residential building containing no more than ten (10) guest sleeping rooms, other than a hotel or motel, where overnight lodging, together with breakfast, is offered to the general public in exchange for a daily fee.
- (18) **Block face.** A single side of a dedicated street running from street to street including parcels and public right-of-way.
- (19) **Buffer or buffer yard.** A combination of physical space and vertical elements, such as plants, berms, fences, or walls, the purpose of which is to separate and screen incompatible land uses from each other.
- (20) **Building.** Any structure having one or more floors and a roof supported by columns or walls, which is completely enclosed and is designed or intended for the shelter or protection of persons, animals or property.
  - A. **Building, accessory:** A subordinate building detached from, but located on the same lot as, the principal or main building, the use of which is incidental and accessory to the principal building or use and which is constructed subsequent to the principal building or main use of the land.
  - B. **Building, principal:** A building occupied by the main use of the lot on which said building is located.
- (21) **Building height.** The vertical distance, measured from the average elevation of the finished grade at the front of the building to the highest point of the roof for flat roofs; to the decklines of mansard roofs; and to the mean height between eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain, the height shall be measured from the average ground level of the grade at the building wall.  
**See Figure 1.**

**Figure 1.  
Building Height**



- (22) **Building length.** In the context of [Section 1135.05](#), Building Spacing, “length” shall be defined as the portion or portions of any wall of one building from which lines drawn perpendicular to the face of such wall intersects any wall of the other building.
- (23) **Building line.** An imaginary linear extension of the building parallel or substantially parallel to the street right-of-way line defining the limits of the front yard, or in the case of a corner lot, the corner side yard.
- (24) **Building marker.** A sign or insignia cut into the exterior building surface, or otherwise permanently mounted on the building or site, indicating the name of the building, address, date of construction, or incidental information about its construction or historical significance.
- (25) **Building wall.** In the context of [Title Nine](#), Signs, any vertical surface of a building or structure (other than a pitched roof) that is integral to, and could reasonably be constructed as a part of, the architecture of the building when signage is not being contemplated. Examples of building walls include, but are not limited to: awnings, canopies, marquees, vertical portions of gable roofs, parapets, mechanical penthouses, etc.
- (26) **Carport.** A roofed structure, with a foundation, that provides space for the parking of vehicles and enclosed on not more than three (3) sides.
- (27) **Car wash.** A building or enclosed area that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices and/or which may employ hand labor.
- (28) **Cellar.** See Basement.
- (29) **Cemetery.** Cemetery means land used or intended to be used for the burial of the human or animal dead, and which is dedicated for cemetery purposes. Cemetery includes mausoleums and mortuaries if operated in connection with, and within the boundaries of a cemetery. This term shall not include crematoriums.

- (30) **Church.** A building or structure used for public worship. The word "church" includes the words "place of worship," "house of worship," "chapel," "synagogue" and "temple" and their uses and activities that are customarily related.
- (31) **City Engineer.** The City Engineer of Willoughby Hills, Ohio.
- (32) **Commercial motor vehicle.** Any motor vehicle designed or used to transport persons, property, merchandise or freight primarily for-profit with a maximum weight of 10,000 pounds.
- (33) **Common area.** Any land area and/or facilities that is held in common ownership by the residents through a homeowners' association, community association or other legal entity, or which is held by the individual members of a condominium association as tenants-in-common.
- (34) **Commercial recreation, indoor.** A facility primarily used for the indoor conduct of, or participation in, recreational activities, and secondarily for the viewing of such activities. This term includes, but is not limited to, an indoor driving range, volleyball court, bowling alley, ice or roller skating rink, billiard hall, video game center, archery or shooting range, soccer field or basketball court. This term does not include a health club.
- (35) **Commercial recreation, outdoor.** A facility primarily used for the outdoor conduct of, or participation in, recreational activities, and secondarily for the viewing of such activities. Such a facility may include one or more structures. This term includes, but is not limited to, a golf or mini-golf course/facility, tennis, basketball or volleyball court, soccer, baseball or football field, or amusement or water park. This term does not include a health club.
- (36) **Community center.** A building or group of buildings operated by a public or nonprofit group or agency and used for recreational, social, educational or cultural activities.
- (37) **Community recreation facility.** A recreation facility operated by a homeowners association or other non-profit organization and open only to bona fide members and guests of such non-profit organization.
- (38) **Compliance, Certificate of Zoning.** An official statement asserting that a given building, other structure or parcel of land is in compliance with the provisions of all existing codes, or is a lawfully existing nonconforming building or use and, hence, may be occupied and used lawfully for the purposes designated thereon.
- (39) **Conference center.** A commercial facility used for trade shows, assemblies or meetings, including exhibition space. This term does not

include banquet halls, clubs, lodges or other meeting facilities of private or nonprofit groups that are primarily used by group members.

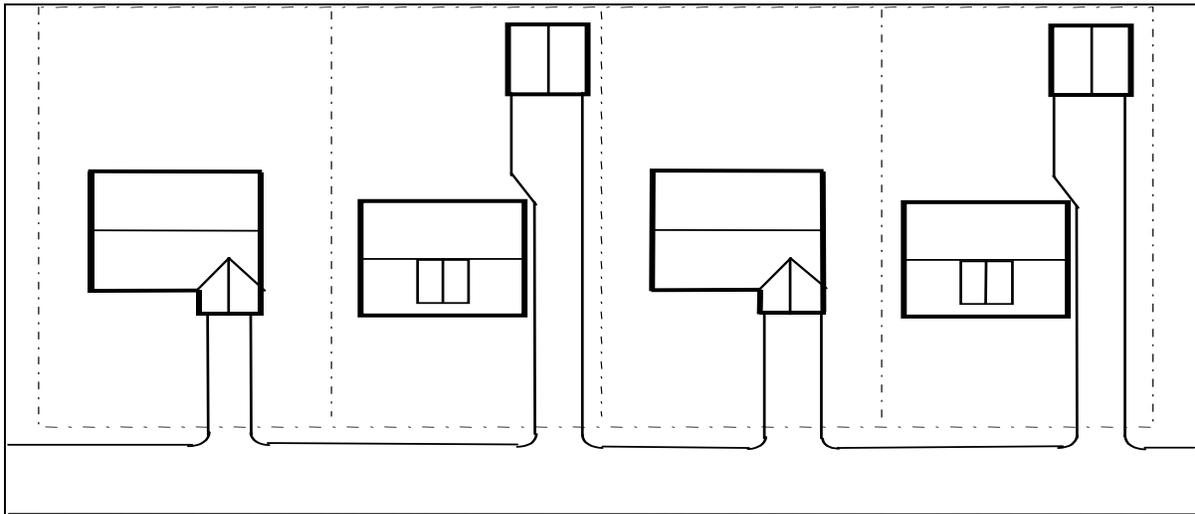
- (40) **Congregate care facility.** A residential facility that provides for the needs of individuals who are elderly or handicapped. The facility shall consist of residential dwelling units or rooms designed specifically for the elderly or handicapped, and may have common social, recreational, dining and/or food preparation facilities. The facility may be for independent living and/or may provide the residents with a range of personal and medical assistance including skilled nursing care. This term includes an assisted living facility.
- (41) **Contour.** An imaginary line connecting all points with the same elevation above or below a fixed base point whose elevation is known.
- (42) **County.** Lake County, Ohio.
- (43) **Crematorium.** A location containing properly installed, certified apparatus intended for use in the act of cremation.
- (44) **Cul-de-sac.** A street with a single common ingress and egress and with a turnaround at the end.
- (45) **Cultural institution.** An institution that displays or preserves objects of interest to the arts or sciences. This term includes, but is not limited to, a museum, art gallery, aquarium or planetarium.
- (46) **Day care center.** An establishment in which the operator is provided with compensation in return for providing individuals with care for less than twenty-four (24) hours at a time. This term includes, but is not limited to, a day nursery, nursery school, pre-school, adult day care center, or other supplemental care facility. This term does not include a family day care home. (See the definition of family day care home below.)
  - A. **Adult day care center.** An adult day care center shall not include a convalescent home, hospital or any other full-time care facility.
  - B. **Child day care center.** Any place that provides day care or publicly funded day care to thirteen (13) or more children at one time; or any place that is not the residence of the licensee or administrator where child day care is provided to seven (7) to twelve (12) children at one time.
- (47) **Decorative display.** A temporary display designated for the entertainment or cultural enrichment of the public and having no direct sales or advertising content.
- (48) **Density.** The number of dwelling units permitted per acre of land.

- A. **Density, Gross.** Gross density means the number of dwelling units permitted per acre of total land area.
  - B. **Density, Net.** Net density means the number of dwelling units permitted per acre of land when the acreage involved includes only the land devoted to residential uses and excluding land dedicated to public thoroughfares or other unbuildable land areas.
- (49) **Developer.** Any individual, subdivider, firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under this Planning and Zoning Code to effect a development of land hereunder for himself or for another.
- (50) **Development.** The construction of a new building or other structures on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use. Also means any man-made change to improved or unimproved real estate, including but not limited to parking, fences, pools, temporary uses, clearing of land, mining, dredging, filling, grading, paving, excavation, or drilling operations.
- (51) **Drive-thru facility.** Any portion of a building from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions. The term "drive-thru" shall also include "drive-up" and "drive-in" but shall not include Car Wash, Gasoline Station, and Automobile Service Station.
- (52) **Driveway.** A paved or unpaved access strip of land providing a vehicular connection between the public street and the parking space or garage of a private or public property, in conformance with all requirements of this Planning and Zoning Code.
- (53) **Dwelling.** Any building or portion thereof, containing one or more dwelling units designed for or occupied exclusively for residential purposes, including single-family, two-family and multi-family dwellings as defined herein.
- (54) **Dwelling, attached single-family.** Dwelling units that are structurally attached to one another, side by side, not one above another, and erected as one building, each dwelling unit being separated from the adjoining unit or units by a party wall without openings extending from the basement floor to the roof and each such building being separated from any other building by space on all sides, and including such elements as separate ground floor entrances, services and attached garages. Also, known as townhouses.
- (55) **Dwelling, cluster single-family detached.** A dwelling unit which is designed and used exclusively by one family and separated from all other dwelling units by open space from ground to sky, which is grouped with

other dwelling units on a site in an arrangement. The cluster dwelling does not need to be located on its own subdivided lot, but shall comply with the requirements for conservation developments.

- (56) **Dwelling, detached single-family.** A dwelling unit designed and used for one (1) family, including modular homes, situated on a lot having a front, side and rear yard and separated from all other dwelling units by open space from ground to sky. See also Figure 2.

**Figure 2.  
Detached Single-Family Dwellings**



- (57) **Dwelling, multi-family.** A dwelling designed for three (3) or more dwelling units, occupied by three (3) or more families living independently of each other where the units are separated by party walls with varying arrangements of entrances, and which does not meet the definition of attached single-family dwelling units. This term includes the conversion of non-residential buildings to residential use.
- (58) **Dwelling, two-family.** A dwelling, having the exterior appearance of a single-family house, designed for or converted to contain two (2) dwelling units, occupied by two (2) families living independently of each other.
- (59) **Dwelling unit.** One or more rooms comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing and toilet facilities, all used by only one (1) family.
- (60) **Dwelling unit, independent.** A dwelling unit designed for and intended to be occupied by person(s) who are not dependent on the services of other facilities such as a dining facility.

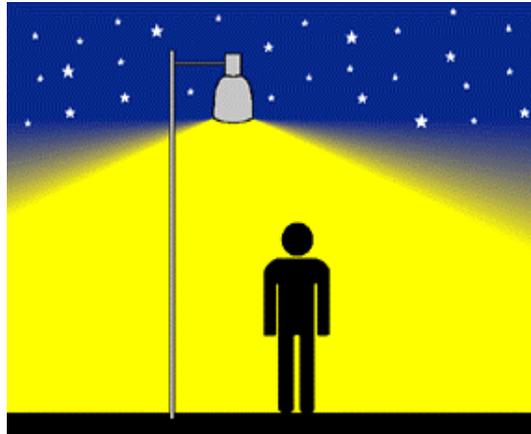
- (61) **Easement.** A right granted by the owner of land to other parties to use such land for a specific purpose, such as public utility lines or for access to other properties.
- (62) **Excavating.** Removing of soil or other materials, by any means whatsoever, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.
- (63) **Facade.** That portion of any exterior elevation on the building extending from grade to the top of the parapet, wall, or eaves and the entire width of the building elevation.
- (64) **Family.** One individual, or two (2) or more persons, each related to the other by blood, adoption (or foster children), or marriage and not more than two (2) additional unrelated individuals; or not more than three (3) unrelated individuals occupying a dwelling unit and living as a single housekeeping unit and using common kitchen facilities.
- (65) **Family day care home.** A residence certified and licensed by the State of Ohio to provide childcare.
- A. **Type A.** A permanent residence of the day care provider in which child day care or publicly funded day care is provided for seven (7) to twelve (12) children at one time; or, a permanent residence of the day care provider in which child day care is provided for four (4) to twelve (12) children at one time if four (4) or more of these children are under two (2) years of age.
- B. **Type B.** A permanent residence of the day care provider in which child day care is provided for one (1) to six (6) children at one time. No more than three (3) of these children shall be under two (2) years of age at one time.
- (66) **Fence.** Any structure composed of wood, steel or other material erected in such a manner and positioned to enclose or partially enclose any premises or part of any premises. Hedges, trellises or other structures supporting or for the purpose of supporting vines, flowers and other vegetation when erected in such position to enclose any premises or part of any premises shall be included within the definition of the word “fence.” Structures erected other than on lot lines or in close proximity to lot lines, which have solely an ornamental purpose and which do not serve the purpose of enclosing or partially enclosing premises or of separating premises from adjoining premises, shall not be included within the definition of the word “fence.” Specific types of fences include:
- A. **Barbed wire.** “Barbed wire fence” means a fence made with metal wire having sharp points, razors, or barbs along its length.

- B. **Chain link.** “Chain link fence” means a fence made of metal loops interconnected in a series of joined links.
  - C. **Electrified.** “Electrified fence” means all fences or structures, included or attached to any device or object which emits or produces an electrical charge, impulse or shock when the same comes into contact with any other object, person or animal or which causes or may cause burns to any person or animal.
  - D. **Ornamental.** “Ornamental fence” means a fence constructed for its beauty or decorative effect and when viewed at a right angle, has not less than seventy-five percent (75%) of the area of its vertical plane, the area within a rectangular outline enclosing all parts of the fence in its plane, open to light and air. Ornamental fences include:
    - i. “Rail fence” or “split-rail fence” means a fence constructed of narrow, whole or split, wooden timbers placed horizontally between upright supporting posts; and
    - ii. Wrought iron fences, decorative steel fences, and aluminum fences.
  - E. **Privacy.** “Privacy fence” means a fence made to inhibit public view and provide seclusion and when viewed at right angles, has less than twenty-five percent (25%) of the area of its vertical plane open to light and air. Privacy fences include:
    - i. “Basket weave fence” or “woven fence” which means a fence made of interwoven strips or slats of flexible or semi-flexible material in which the pattern has the appearance of a plaited basket.
    - ii. “Louver fence” or “ventilating fence” which means a fence made of a series of slats placed at an angle or positioned so as to provide air but to deflect light perpendicular to its vertical plane.
    - iii. "Board on board fence" or "picket fence."
    - iv. “Stockade fence” or “palisade fence” means a fence constructed with a row of stakes, pales or pickets placed upright against each other and having at least fifty percent (50%) of the area of its vertical plane closed to light and air.
- (67) **Fill.** The depositing of soil, rock or other materials by other than natural means.

- (68) **Financial institution.** See bank.
- (69) **Flag.** Any fabric, banner or bunting used as a symbol of government, political subdivision, corporate or commercial entity, or institution, or used to convey any message, or otherwise used in a manner consistent with the definition of a sign.
- (70) **Fleet vehicles.** Trucks, vans, and other vehicles, including motorized equipment, which are used as part of the operation of a principal use, but not including privately owned customer or employee vehicles.
- (71) **Floor area, gross.** The sum of the gross horizontal areas of all floors of a building, measured from the exterior faces of the exterior walls of a building or from the center line of a common wall separating two (2) or more units of a building, including accessory storage areas located within selling or working space, but not including space in cellars or basements, space in machinery penthouses or floor space used for accessory off-street parking. However, if the cellar or basement is used for business or commercial purposes, it shall be counted as floor area in computing off-street parking requirements.
- (72) **Floor area, net.** The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.
- (73) **Footcandle.** A unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one (1) candle.
- A. **Footcandle – Horizontal.** The measurement of footcandles utilizing a direct reading, portable light meter mounted in the horizontal position.
- B. **Footcandle – Vertical.** The measurement of footcandles utilizing a direct reading, portable light meter mounted in the vertical position
- (74) **Foster child.** “Foster child” means a person under eighteen (18) years of age who is placed in a dwelling unit by an institution or agency, licensed or approved by an appropriate State-regulating agency to place foster children.
- (75) **Freestanding drive-thru facility.** A facility whose only use is transacting business with customers located in a motor vehicle during such business transaction.
- (76) **Full-shielded or full cut-off type fixture.** An outdoor lighting fixture that is shielded or constructed so that all light emitted is projected below a

horizontal plane running through the lowest light-emitting part of the fixture. See Figure 3.

**Figure 3**  
**Full cut-off lighting**



*Full cut-off lighting  
directs light down and to  
the sides as needed.*

University of Texas, Austin

- (77) **Funeral home.** A building or part thereof used for human funeral services. Such building may contain space and facilities for: (a) embalming and the performance of other services used in preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; and (d) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.
- (78) **Garage.** A building, or part thereof, used or intended to be used for the parking and storage of vehicles.
- (79) **Gasoline station.** (See also Automotive service station): An establishment where liquids used as motor fuels are stored and dispersed into the fuel tanks of motor vehicles by an attendant or by persons other than the station attendant and may include accessory facilities available for the sale of other retail products.
- (80) **Glare.** Direct light that causes annoyance, discomfort or loss in visual performance and visibility.
- (81) **Golf course.** A tract of land laid out with at least nine (9) holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse and shelters as accessory uses.

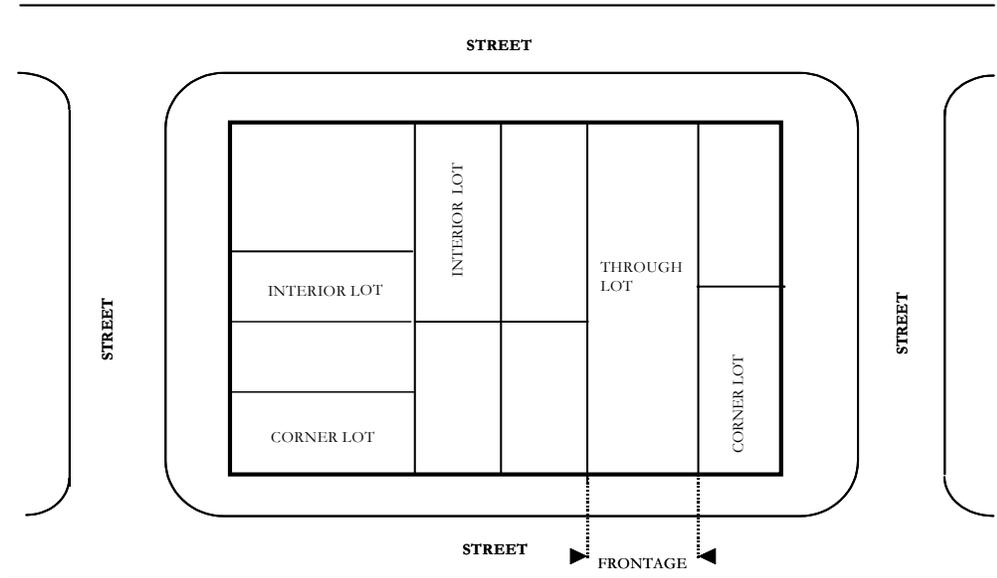
- (82) **Grade.** The degree of rise or descent or a sloping surface.
- (83) **Grade, finished.** The final grade or elevation of the ground surface after grading is completed.
- (84) **Grading.** Any excavating, cutting or filling, stockpiling of land or earth or combination thereof, including the conditions resulting from any of the above.
- (85) **Greenhouse, commercial.** See plant nursery/greenhouse.
- (86) **Health club.** An establishment for the conduct of indoor sports and exercise activities, along with related locker and shower rooms, offices and classrooms, where use of such establishment is offered on a membership basis.
- (87) **Health services.** See Office, medical/dental.
- (88) **Height.** See Building Height.
- (89) **Home occupation.** Any use or profession conducted entirely within a dwelling and carried on primarily by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change its character.
- (90) **Hospital.** A facility which provides accommodations and continuous services for the sick and injured which may include pediatrics, obstetrical, medical, surgical, psychiatric or extended care.
- (91) **Hotel/motel.** A building or portion thereof, or a group of buildings, which provides sleeping accommodations for transients on a daily or weekly basis, whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court or otherwise.
- (92) **Household.** A family living together in a single dwelling unit, with common access to and common use of all living and eating areas and all areas and facilities for the preparation and serving of food within the dwelling unit.
- (93) **Illuminance.** The quantity of light arriving at a surface divided by the area of that surface. Measured in footcandles.
- (94) **Impervious surface.** Roads, buildings and structures, tennis courts, roofs, driveways, sidewalks, pools, patios, pool decks, decks, parking lots and other similar surfaces.

- (95) **Improvements.** The term means street pavement or resurfacing, curbs, gutters, sidewalks, water lines, sewer lines, storm drains, street lights, flood control and drainage facilities, utility lines, landscaping, and other related matters normally associated with the development of raw land into building sites.
- (96) **Kenel.** The boarding, breeding, raising, grooming, or training of three or more dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.
- (97) **Landscaped area.** An area that is permanently devoted to and maintained for the growing of trees, shrubs, grass or other plant material.
- (98) **Library.** A facility in which literary, musical, artistic or reference materials, such as, but not limited to, books, manuscripts, computers, recordings or films are kept for use or loaning to patrons of the facility, but are not normally offered for sale.
- (99) **Light pollution.** Any measurable exterior artificial illumination that strays beyond a property line both horizontally at grade and vertically to the building height limitation.
- (100) **Light trespass.** Light in sufficient quantity that crosses over property boundaries, impacts surfaces, and produces a negative response in persons owning or using the violated space.
- (101) **Light uniformity ratios.** The uniformity ratio is expressed as either the maximum or average illuminance divided by the minimum illuminance. For example, if the average to minimum ratio is 3:1 and an average illuminance of six (6) footcandles is desired, the minimum illuminance at any one point must be two (2) footcandles.
- (102) **Loading space, off-street.** An area located completely outside of any public right-of-way and on the same lot with a building or contiguous to a group of buildings, for the temporary parking of vehicles entering the premises for loading or unloading merchandise or materials.
- (103) **Lot coverage.** That portion of a lot, which when viewed **from** directly above, which would be covered by a building or structure, parking and loading areas and other surfaces that are impermeable or substantially impervious to water.
- (104) **Lot frontage.** That portion of the lot extending along the street right-of-way.
- (105) **Lot line.** The boundary line defining the limits of the lot. Lot line is synonymous with "property line."

- A. **Lot line, front:** The line separating an interior lot from the street right-of-way on which the lot fronts. On a corner lot, the street right-of-way with the least amount of street frontage shall be the front lot line.
  - B. **Lot line, rear:** The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.
  - C. **Lot line, side:** Any lot line other than a front or rear lot line.
- (106) **Lot of record.** A lot which is part of a subdivision, the part of which has been recorded in the office of the Recorder of Deeds of Lake County, or a parcel of land the deed to which was recorded, prior to adoption of this Planning and Zoning Code.
- (107) **Lot size.** The total horizontal area contained within the lot lines exclusive of any portion of the right-of-way of any public street.
- (108) **Lot types.** Terminology used in this Planning and Zoning Code with reference to corner lots, interior lots and through lots is as follows. See also [Figure 4](#) for an illustration of lot types.
- A. **Lot, corner.** A lot which adjoins the point of intersection or meeting of two (2) or more streets and in which the interior angle formed by the street lines is 135 degrees or less.
  - B. **Lot, interior.** A lot abutting or with frontage on only one street.
  - C. **Lot, through.** A lot having frontage on two (2) parallel or approximately parallel streets.

**Figure 4**

### Illustration of Lot Types



- (109) **Lot width.** The horizontal distance between the side lot lines, measured at right angles to the lot depth at the front setback line.
- (110) **Lot, zoning.** A parcel of land not separated by street or alley that is designated by its owner or developer at the time of applying for a zoning certificate, as a tract all of which is to be used, developed, or built upon as a unit under single ownership. As long as it satisfies the above requirements, such lot may consist of:
  - A. A single lot of record; or
  - B. A portion of lot of record; or
  - C. A combination of complete lots and portions of lots of record, or portions of lots of record.
- (111) **Luminaire.** A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.
- (112) **Master Plan.** The current, adopted long-range plan intended to guide the growth and development of the City, based on study and analysis of the City's existing conditions, including population and housing, historic and natural features, general land use patterns and zoning regulations, and other development considerations.
- (113) **Membership clubs.** An incorporated or unincorporated association of persons organized for a common purpose to pursue common goals,

interests, or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and by-laws.

- (114) **Modular home.** A residential dwelling built in an off-site manufacturing facility in accordance with the Ohio Board of Building Standards. Also commonly referred to as a systems-built home, prefabricated home or panelized home.
- (115) **Motor vehicle body shop.** An establishment providing the repair or rebuilding of motor vehicle bodies by the replacement, smoothing, sanding or painting of the exterior surfaces of such vehicles within an enclosed building.
- (116) **Motor vehicle, operable.** An operable motor vehicle is a motor vehicle whose engine can be started and the vehicle can be driven under its own power at least 100 yards immediately upon request, or within 24 hours of the initial request, and which does not have disabling damage.
- (117) **Motor vehicle rental.** An establishment where contracts are prepared or reservations accepted for the rental or leasing of motor vehicles. This term includes outdoor storage of vehicles, but does not include on-premise maintenance of vehicles or a tool/equipment rental facility.
- (118) **Motor vehicle sales.** An establishment providing wholesale and retail sale of motor vehicles, including incidental storage and maintenance.
- (119) **Non-conformity.** A lot, use of land, building, site conditions, use of buildings, or use of buildings and land in combination lawfully existing at the time of enactment of this Planning and Zoning Code or its amendments, which do not conform to the current regulations of the district or zone in which it is situated or other regulations in this Planning and Zoning Code.
  - A. **Non-conforming building.** A building existing lawfully when this Planning and Zoning Code, or any amendment thereto, became effective, but which does not conform to the current regulations governing buildings and structures of the district in which it is located.
  - B. **Non-conforming lot.** A lot lawfully existing on the effective date of this Planning and Zoning Code or any amendment thereto, which on such effective date, does not conform to the current lot area, width or frontage requirements of the district in which it is located.
  - C. **Non-conforming site condition.** A site improvement that was legally established, but no longer conforms with the regulations in the Planning and Zoning Code.

- D. **Non-conforming use.** Any building or land lawfully occupied by a use on the effective date of this Planning and Zoning Code or any amendment thereto, which does not conform to the current use regulations of the district in which it is situated.
- (120) **Nursery, commercial.** See plant, nursery/greenhouse.
- (121) **Nursing home.** An establishment providing full-time nursing and medical care to three (3) or more people, not related by blood or marriage, who, by reason of chronic illness, are unable to care for themselves. Hospitals and sanitariums shall not be included in this definition.
- (122) **Occupant.** A person who, on a regular basis, spends nights at a residence. A person is considered an occupant regardless of whether they spend the majority of their nights at a residence, if the times they do stay overnight are regular and recurrent. In addition, a person shall be considered an occupant if their clothes or other daily living supplies are maintained at the residence.
- (123) **Office, administrative/business/professional.** An establishment within which specific services are conducted with other businesses, individuals, organizations or corporate customers, generally on a contractual basis, and not involving the retail sales of merchandise on the premises for walk-in traffic from the street.
- (124) **Office, medical/dental.** Facilities which provide diagnoses, minor surgical care and outpatient care on a routine basis, but which do not provide overnight care or serve as a base for an ambulance service. Medical/dental facilities are operated by doctors, dentists, or similar practitioners licensed by the State of Ohio. Emergency treatment is not the dominant type of care provided at this facility. Health services includes establishments providing support to medical professionals and patients, such as medical and dental laboratories, blood banks, oxygen, and miscellaneous types of medical supplies and services.
- (125) **Open space.** The portion of the open space within a Conservation Development, Senior Citizen Residential District, or a B-2 development that is of sufficient size and shape to meet the minimum zoning requirements, and on which further development is restricted.
- (126) **Outdoor display/sales.** Merchandise placed in an outdoor area that is open to the general public, when the merchandise on display is removed from its shipping packaging and is representative of merchandise that is available for purchase inside the building and/or is available for purchase by the general public directly from the display area.
- (127) **Outdoor storage.** The storage of goods, materials, merchandise or vehicles in an area outside of a building or structure in the same place for

more than twenty-four (24) hours, except for merchandise placed in an area for outdoor display.

- (128) **Park.** A tract of land, designated and used by the public, for active and/or passive recreation.
- (129) **Parking lot.** An outdoor paved area made up of marked parking spaces and associated access drives where motor vehicles may be stored for the purpose of temporary off-street parking. Also known as a parking area.
- (130) **Parking space, off-street.** An open or enclosed area, defined by painted lines, raised curbs or a combination thereof, outside the public street right-of-way that is used for the parking or temporary storage of registered and licensed motor vehicles
- (131) **Parking structure.** A building or structure consisting of more than one (1) level and used to store motor vehicles.
- (132) **Performance guarantee.** A financial deposit to ensure that all improvements, facilities, or work required will be completed in conformance with the approved plan.
- (133) **Performance standard.** A criterion established to control enclosure, dust, smoke, fire and explosive hazards, lighting, glare and heat, noise, odor, toxic and noxious matter, vibrations and other conditions created by or inherent in uses of land or buildings.
- (134) **Place of Worship.** See Church.
- (135) **Plan, development.** A plan prepared to scale accurately showing, with complete dimensions, the boundaries of the site, the location of buildings; landscaping; parking areas; access drives; signs; outdoor storage areas; and any other features that comprise a proposed development.
  - A. Preliminary Development Plan: Drawings and maps including all the elements set forth in **Chapter 1111.**
  - B. Final Development Plan: Drawings and maps including all the elements set forth in **Chapter 1111.**
- (136) **Plan, plot.** A plan of a lot, drawn to scale, showing the actual measurements, the size and location of any existing structures or structures to be erected, the location of the lot in relation to abutting streets, and other such information.
- (137) **Plant nursery/greenhouse.** An establishment engaged in growing crops of any kind within or under a greenhouse, cold frame, cloth house or lath house, or growing nursery stock, annual or perennial flowers, vegetables

or other garden or landscaping plants. This term does not include a garden supply or landscaping center.

- (138) **Plat.** A map of a lot, tract or subdivision on which the lines of each element are shown by accurate distances and bearings. In the case of minor subdivisions, the plat which, if approved, will be submitted to the Recorder of Lake County.
- (139) **Playground.** An active recreational area with a variety of facilities including equipment for younger children as well as court games.
- (140) **Play structure.** A structure exclusively for the use of children.
- (141) **Porch.** A roofed open structure that projects from the front, side or rear wall of a building. For the purposes of this Planning and Zoning Code, an enclosed porch shall be considered part of the principal building.
- (142) **Project boundary.** The boundary defining the tract(s) of land that is included in a proposed development to meet the minimum required project area for the applicable zoning district. The term “project boundary” shall also mean “development boundary”.
- (143) **Public hearing.** An official meeting called by the City Council, the Planning and Zoning Commission, or the Board of Building and Zoning Appeals, duly noticed, which is intended to inform and obtain public comment or testimony, prior to the governing body rendering a decision.
- (144) **Public safety facility.** A municipal government facility for public safety and emergency services, including a facility that provides police or fire protection and related administrative facilities.
- (145) **Recessed ceiling fixture.** An outdoor lighting fixture recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling.
- (146) **Recreation vehicle/equipment.** A vehicular-type portable structure without a permanent foundation that can be towed, hauled, or driven and primarily designed, by the manufacturer, as temporary living accommodation for recreational, camping, and travel use. For the purposes of this Code, recreational vehicle/equipment shall include a recreational vehicle, boat, boat trailer, horse trailers, equipment trailers, pick-up truck camper, snow mobile, folding tent trailer, or other camping and recreational equipment as determined by the Zoning Administrator, and any trailer that may be used to convey such a vehicle or equipment.
- (147) **Religious assembly.** See church.
- (148) **Residential facility.** A facility licensed by the Ohio Department of Mental Health that provides room, board, personal care, supervision,

habilitation services and mental health services, in a family setting, to one or more persons with mental illness or severe mental disabilities. There are three size categories of residential facilities:

- A. **Family home.** A residential facility that provides the services listed above for six (6) to eight (8) mentally retarded or developmentally disabled persons.
  - B. **Foster family home.** A residential facility that provides the services listed above for five (5) or fewer mentally retarded or developmentally disabled persons.
  - C. **Group home.** A residential facility that provides the services listed above for nine (9) to sixteen (16) mentally retarded or developmentally disabled persons.
- (149) **Restaurant, indoor dining.** An establishment where food and drink are prepared, served, and consumed within the principal building.
- (150) **Restaurant, outdoor dining.** An establishment where food and drink are prepared inside the establishment and consumed outside the principal building in an area adjacent to the principal building.
- (151) **Retail establishment.** An establishment engaged in the selling of goods or merchandise to the general public for personal or household consumption, and rendering services incidental to the sale of such products. Such an establishment is open to the general public during regular business hours and has display areas that are designed and laid out to attract the general public. In determining a use to be a retail use, the proportion of display area vs. storage area and the proportion of the building facade devoted to display windows may be considered. This term does not include any adult entertainment uses.
- (152) **Right-of-way.** A strip of land or the air space above it taken, dedicated, or otherwise recorded as an irrevocable right-of-passage for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, water and sewer lines, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges and the air space above the surface.
- (153) **Right-of-way line.** The line between a lot, tract, or parcel of land and a contiguous public street, and demarcating the public right-of-way. "Right-of-way line" also means "street line."
- (154) **School (public/private) college/university.** An educational institution authorized by the State of Ohio to award associates or higher degrees.

- (155) **School (public/private) elementary/secondary.** Publicly or privately owned facilities providing full-time day instruction and training at the elementary, junior high and high school levels in accordance with the requirements of Chapter 3313 of the Ohio Revised Code, or facilities providing kindergarten or nursery school training and care whose annual sessions do not exceed the school sessions for full-time day schools and which are operated by a board of education or an established religious organization.
- (156) **Scientific research, development, training and testing facility.** A building or group of buildings used for scientific research, investigation, testing or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.
- (157) **Seasonal market.** A temporary facility used to conduct retail trade for a period not exceeding ninety (90) days in a calendar year.
- (158) **Self-storage facility, indoor.** Self-service storage facility or mini-warehouse means a facility consisting of a building or group of buildings in a controlled access compound that contains varying sizes of individual, compartmentalized and controlled-access stalls or lockers for the dead storage of customers' residential goods or wares.
- (159) **Senior citizen residential development.** A residential community in which a minimum of eighty percent (80%) of the dwelling units are occupied by at least one person who is at least 55 years of age and which is established with the intention to operate in compliance with the Housing for Older Persons Act of 1995 as specified in the Fair Housing Act.
- (160) **Service establishment, business.** An establishment providing services to business establishments on a fee or contract basis, including, but not limited to, advertising and mailing services, employment services, business equipment and furniture sales or rental, photocopy services, protective services, or similar services.
- (161) **Service establishment, personal.** An establishment providing services that are of a recurring and personal nature to individuals. This term includes, but is not limited to, a barber shop, beauty salon, shoe repair shop, seamstress, tailor, tanning salon, and massage establishment. This term does not include a portrait studio, dry cleaning establishment, laundromat, photocopy center, health club or repair shop for household items.
- (162) **Setback.** Setback means the required minimum horizontal distance between a lot line or the proposed thoroughfare line shown on the Streets and Thoroughfares Plan, whichever is more restrictive, and a building,

parking area, structure or outdoor storage area as established by this Planning and Zoning Code.

- (163) **Setback line.** A line established by this Planning and Zoning Code generally parallel with and measured from the lot line or the proposed thoroughfare line shown on the Streets and Thoroughfares Plan whichever is more restrictive, defining the minimum distance a building, structure, parking area or outdoor storage area shall be located from the said lot or thoroughfare line, except as may be provided in this Planning and Zoning Code.
- (164) **Sign.** Any visual communication display, object, device, graphic, structure or part, situated indoors or outdoors, or attached to, painted on, or displayed from a building or structure in order to direct or attract attention to, or announce or promote, an object, product, place, activity, person, ideology, institution, organization, business or the like, by means of letters, words, models, banners, flags, pennants, insignia, devices, designs, colors, symbols, fixtures, images, illuminations or representations used as, or which is in the nature of, an announcement, direction, advertisement or other message.
- A. **Sign, abandoned.** Any sign that no longer identifies or advertises a bona fide business, institution, organization, lessor, service, owner, product, or activity and/or for which no legal owner can be found.
- B. **Sign, animated.** Any sign that uses flashing lights or movement of the entire sign or portion thereof to depict action or create a special effect or scene.
- C. **Sign, awning or canopy.** Any building sign that is painted on, or otherwise attached to, an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance or window, or other architectural feature.
- D. **Sign, banner.** Any sign made of fabric, plastic or similar material with no enclosing framework that is mounted to a building or other structure at one or more edges.
- E. **Sign, billboard.** Any sign structure displaying an establishment, merchandise, event, service, or entertainment that is not sold, produced, manufactured or furnished at the property on which the sign is located.
- F. **Sign, building.** Any sign attached to any part of a building including wall, awning, canopy, marquee, and projecting signs.

- G. **Sign, changeable copy.** Any portion of a sign with letters, characters or graphics that are not permanently affixed to the structure, framing or background, allowing the letters, characters or graphics to be periodically modified, manually, mechanically or electronically, such as a bulletin board or electronic message center. Changeable copy signs shall not be used to display commercial messages relating to products or services that are not offered on the premises.
- H. **Sign, construction.** Any temporary sign, displayed during the time of its construction, relating to a project or facility, or relating to its construction, which advises the public of pertinent facts regarding the construction management, and leasing of the building, and which advertises only the name of an architect, engineer, contractor, subcontractors, building material and/or equipment used.
- I. **Sign, entrance or exit.** Any sign situated so as to promote safe traffic circulation by indicating appropriate places of ingress and egress.
- J. **Sign face.** The space or surface of a sign intended to contain the message.
- K. **Sign, flashing.** Any sign that contains an intermittent or sequential flashing light source used primarily to attract attention.
- L. **Sign, freestanding.** Any sign attached to a permanent foundation or decorative base and not attached or dependent for support from any building, pole, posts or similar uprights.
- M. **Sign, ghost.** Any remaining image of a previous commercial sign that is visible through or underneath a newer sign.
- N. **Sign height.** Measured from the finished grade at the base of the sign to the highest point of the sign, its frame, or decorative features.
- O. **Sign, illuminated.** Any sign incorporating an internal or external artificial light source for the purpose of illuminating the message of the sign.
- P. **Sign, inflatable.** Any inflatable shape or figure designed or used to attract attention to a business location or event. Inflatable promotional devices shall be considered to be temporary signs under the terms of this Section and subject to the regulations thereof.

- Q. **Sign, instructional.** Any sign that has a purpose secondary to the use on the lot and that is intended to instruct employees, customers or users as to matters of public safety or necessity such as specific parking requirements, the location or regulations pertaining to specific activities on the site or in the building, and including signage erected by a public authority, utility, public service organization, or private industry that is intended to control traffic circulation, direct or inform the public, or provide needed public service as determined by the rules and regulations of governmental agencies or through public policy.
- R. **Sign, marquee.** Any sign, other than a projecting sign or an awning/canopy sign, attached to a structure and projecting from a building wall above an entrance and extending over a street, sidewalk, or part thereof.
- S. **Sign, nameplate.** A sign indicating only the name and/or address of the person, business, home occupation, profession or activity occupying the lot or the building (s).
- T. **Sign, nonconforming.** A sign that was erected legally but which does not comply with subsequently enacted sign restrictions and regulations.
- U. **Sign, off-premise.** See sign, billboard.
- V. **Sign, permanent.** Any sign that is not a temporary sign.
- W. **Sign, pole.** Any permanent sign that is mounted on a freestanding pole(s) or other support(s), other than a decorative base, that is placed on, or anchored in, the ground and that is independent from any building or structure.
- X. **Sign, portable.** Any sign, which by its construction is intended to be moved from one location to another. A portable sign also includes mobile signs such as parked vehicles or trailers, when such vehicles are visible from the public right-of-way unless such vehicle is regularly used in the normal daily operations of the attendant business, organization or institution.
- Y. **Sign, projecting.** Any sign that is attached to a building wall and extends more than 12 inches from the building wall when parallel, or any sign that projects away from the building that is not parallel to the wall, or any sign suspended beneath a canopy, ceiling, roof, or marquee, intended to be viewed by pedestrians from the sidewalk beneath the canopy, ceiling, roof, or marquee.

- Z. **Sign, real estate.** A temporary sign which directs attention to the promotion, development, rental, sale or lease of the parcel on which the sign is located.
  - AA. **Sign, roof.** Any sign, or portion thereof, erected, constructed or projecting upon or over the roof or parapet wall of any building whether the principal support for the sign is on the roof, wall or any other structural element of the building.
  - BB. **Sign, streamer.** A ribbon-shaped or cord-like rope that may have multiple pennants or ribbons attached and which is stretched or hung between two supports.
  - CC. **Sign, temporary.** Any sign that is intended to be used for a limited period of display, and is not designed to be permanently attached to a building, structure, or permanently installed in the ground. Temporary signs may be displayed as window signs.
  - DD. **Sign, wall.** Any sign that is painted on, or attached to, a building wall, with the exposed sign face in a plane parallel to the plane of the wall, that does not extend more than twelve (12) inches there from, and that does not project above the roofline or beyond the corner of the building.
  - EE. **Sign, window.** Any sign that is applied to or attached to the interior or exterior of a window or door, or a sign located near a window or door within a building, for the purpose of being visible and read from the outside of the building. This term does not include signs that are not legible from a distance of more than three (3) feet beyond the building on which such sign is located.
- (165) **Single housekeeping unit.** Single housekeeping unit means common use and access to all living and eating areas, bathrooms, and food preparation and serving areas.
  - (166) **Slope.** An inclined ground surface. The inclination is expressed as a ratio of the horizontal distance to the vertical distance.
  - (167) **Streets and Thoroughfares Plan.** The streets and thoroughfares plan for the City of Willoughby Hills, Ohio establishing the official right-of-way width of major streets, on file in the office of the Division of Planning and Zoning, together with all amendments thereto subsequently adopted.
  - (168) **Street, public.** An avenue, highway, road, thoroughfare, boulevard, parkway or other way proposed for vehicular traffic, and any existing State, County, or City street or way shown upon a plat heretofore duly approved, filed and recorded in the office of the County Recorder that has been dedicated or deeded to the public for public use and which affords

principal access to abutting property. Included is the land between the street right-of-way lines, whether improved or unimproved, and may comprise pavement, shoulder, gutters, sidewalks, division strips or other areas within the street lines.

- (169) **Structure.** Anything constructed or erected that requires a fixed location on the ground or attachment to something having a fixed location on the ground including, but not limited to, buildings, walls, sheds, gazebos, signs, patios, decks, platforms, paving or fences.
- (170) **Structural alteration.** Any change or rearrangement in the supporting members of a building, such as beams, girders, bearing walls, columns or partitions or any increase in the area or cubical contents of the building.
- (171) **Studios for Instruction.** A facility providing instruction on social and religious customs and activities, performing arts and/or sports. Such facilities may include beauty schools, dance instruction centers, cooking schools and martial arts studios. This term does not include health club.
- (172) **Subdivider.** Any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under this Planning and Zoning Code to effect a subdivision of land hereunder for himself or for another.
- (173) **Subdivision.** Subdivision includes the following:
- A. The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into two or more parcels, sites or lots, any one of which is five acres or less for the purpose, whether immediate or future, of transfer of ownership provided that the division or partition of land into parcels of more than five acres not involving any new streets or easements of access, and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall be exempted.
  - B. The improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension of any street or streets, except private streets serving industrial structures; the division or allocation of land as open spaces for common use by owners, occupants or lease holders or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities.
- (174) **Subdivision, minor.** A division of a parcel of land along an existing public street or road, not involving the opening, widening or extension of

any street or road, and involving not more than five (5) lots after the original tract has been completely subdivided. Also known as lot split.

- (175) **Subdivision, major.** Any subdivision that does not meet the requirements of a minor subdivision.
- (176) **Theater.** A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performances.
- (177) **Transport and truck terminal.** A building or area in which freight brought by truck is assembled and/or stored for routing in intrastate and interstate shipment by truck or in which semi-trailers, including tractor and/or trailer units, and other trucks are parked or stored.
- (178) **Tree lawn.** That portion of the public right-of-way lying between sidewalk and curb or, where no sidewalks exist, between the property line and the curb or, where no curb exists, between the property line and the pavement on all streets within the City of Willoughby Hills. The tree lawn defines the area within which street trees may be planted.
- (179) **Use.** The purpose for which land, a building or structure is arranged, designed, intended, maintained or occupied; or any occupation, activity or operation carried on in a building or structure or on land.
- A. **Use, accessory.** A use located on the same lot with the principal use of building or land, but incidental and subordinate to and constructed subsequent to the principal use of the building or land.
- B. **Use, conditional.** A use permitted in a district, other than a principal use permitted by right, which is allowed only under certain conditions as set forth in Chapter 1147, and which requires a conditional use and approval by the Planning and Zoning Commission, in accordance with the standards and procedures set forth in Chapter 1115.
- C. **Use, permitted.** A use that is authorized by this Planning and Zoning Code as either a use permitted by right, a conditional use or an accessory use.
- D. **Use permitted by right.** A permitted use that is approved administratively when it complies with the standards and requirements set forth in the Planning and Zoning Code, the approval of which does not require a public hearing.
- E. **Use, principal.** The primary or main use or activity of a building or lot.

F. **Use, temporary.** A use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time and does not involve the construction or alteration of any permanent structure.

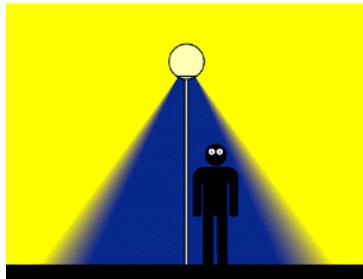
(180) **Uplighting.** Any light source that distributes illumination above a 90-degree horizontal plane. See Figure 5.

Figure 5

**Uplighting**



University of Texas, Austin



- Uplighting wastes energy into the sky.
- Causes glare, light trespass and harsh illumination.

(181) **Utility substation/distribution facility, indoor.** A facility contained entirely within a building, which performs either of the following functions:

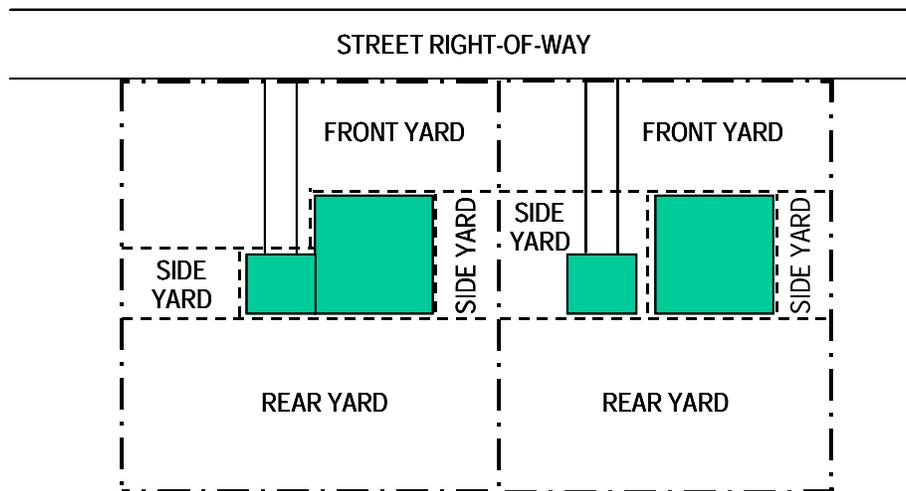
- A. Aids in the transmission or distribution of gas, electricity, steam or water, or landline telephone communications.
- B. Is used as a distribution center, including but not limited to a water pumping station, water reservoir, transformer station, landline telephone exchange, or building for radio, television, but not including a yard or building for storage, maintenance or repair service.

(182) **Utility substation/distribution facility, outdoor.** A facility, other than a transmission tower and not contained entirely within a building, which performs either of the following functions:

- A. Aids in the transmission or distribution of gas, electricity, steam or landline telephone communications.
- B. Is used as a distribution center, including but not limited to a transformer station, landline telephone exchange, or building for radio, television.

- (183) **Variance.** A grant by the Board of Building and Zoning Appeals to a property owner authorizing the property owner to vary from the literal terms of the relevant regulations.
- (184) **Vehicle repair garage.** An establishment providing repair services for motor vehicles, including the sale, installation and servicing of related equipment and parts, where all such work is performed within an enclosed building. This term includes the following types of major repairs, but is not limited to them: the repair or servicing of transmissions, engines or upholstery including the rebuilding or reconditioning of motor vehicles, or parts thereof, including clutch, transmission, differential, axle, spring, and frame repairs; major overhauling or engines requiring the removal of the engine cylinder, head or crankcase pan; repairs to radiators requiring the removal thereof; or similar activities. This term includes, but is not limited to, an auto repair shop, wheel and brake shop, tire sales and installation, or upholstery shop. This term shall not include vehicle dismantling or salvage, tire re-treading or recapping, or motor vehicle body shop.
- (185) **Vehicular use area.** An area for storage of any and all types of vehicles whether such vehicles are self propelled or not, and an area including all land designed to be traversed by vehicles including, but not limited to, drive-in activities such as filling stations, grocery and dairy stores, banks, restaurants and the like.
- (186) **Veterinary office/animal hospital.** A facility where domestic animals are given medical or surgical treatment and the boarding of animals occurs only as an incidental use for not more than thirty (30) days. This facility may include outdoor runs or boarding facilities as an accessory use where permitted.
- (187) **Warehousing.** A building used for the indoor storage of goods and materials.
- (188) **Wholesale sales & distribution, indoor.** Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such companies. All such activities take place inside principal or accessory buildings.
- (189) **Yard.** An open space on the same lot with a principal building or structure extending between the lot line and the extreme front, rear or side wall of the main building or structure.
- A. **Yard, corner side.** On a corner lot, the yard between the principal building and the side lot line adjacent to the street and extending from the front yard to the rear lot line.

- B. **Yard, front.** The area across the full width of the lot between the front of the principal building and the front line of the lot.
- C. **Yard, rear.** The area across the full width of the lot between the rear of the principal building and the rear line of the lot.
- D. **Yard, side.** The area between the main building and the side line of the lot extending from the front wall to the rear wall of the main building.



**Figure 6. – Yards**

- (190) **Zoning Administrator.** The individual designated to administer the Planning and Zoning Code of the City of Willoughby Hills, Ohio. A person designated by the Zoning Administrator may also perform duties of the Zoning Administrator.
- (191) **Zoning Certificate.** A document issued by the Zoning Administrator authorizing the construction or alteration of a building or structure and/or use of a lot or structure in accordance with this Planning and Zoning Code.
- (192) **Zoning Map, Official.** An accurate map depicting the City of Willoughby Hills, Ohio, and indicating the boundaries of the zoning districts established by this Planning and Zoning Code.

**CHAPTER 1105**  
**Establishment of Districts and Map**

1105.01	Establishment of Districts.	1105.03	Interpretation of District
1105.02	Official Zoning Map.		Boundaries.

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**1105.01 ESTABLISHMENT OF DISTRICTS.**

For the purpose of this Planning and Zoning Code, the City of Willoughby Hills is hereby divided into the following zoning districts:

(a) Residential Districts

- R-1 Traditional Single-Family District
- R-2 Attached Single-Family/ Townhouse District
- M Multi-Family District
- M-1 High Rise Apartment District
- SCR Senior Citizen Residential District

(b) Commercial Districts

- B-1 Limited Commercial District
- B-2 Commercial Campus/ Mixed-Use District
- B-3 High Density Mixed-Use Commercial District

(c) Office District

- E Research and Office District

(d) Industrial District

- I-1 Light Industrial District

**1105.02 OFFICIAL ZONING MAP.**

Those districts established in Section 1105.01 are bounded and defined as shown on the map entitled "Official Zoning Map" of the City of Willoughby Hills.

- (a) The Official Zoning Map and all of the notations, references and other information shown thereon, are a part of this Code and have the same force and effect as if the Official Zoning Map and all the notations, references and other information shown thereon were all fully set forth or described herein, the

original of which is property attested to and is on file with the Zoning Administrator.

- (b) No changes of any nature shall be made to the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Code, and the Charter of the City of Willoughby Hills.
- (c) In the event that the Map becomes damaged, destroyed or lost, Council may by ordinance adopt a new official Zoning Map, which shall supersede the prior Map. The new Map may correct drafting or other errors or omissions in the prior Map.

**1105.03 INTERPRETATION OF DISTRICT BOUNDARIES.**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

- (a) Where the designation of a boundary line on the zoning map coincides with the location of a street or alley, the centerline of such street or alley shall be construed to be the boundary of such district.
- (b) Where the district boundaries do not coincide with the location of streets or alleys, but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district.
- (c) Where the district boundaries do not coincide with the location of streets, alleys, or lot lines, the district boundaries shall be determined by the use of the scale shown on the Official Zoning Map described in [Section 1105.02](#).
- (d) All streets, alleys, public ways, waterways, and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such streets, alleys, public ways, waterways and railroad rights-of-way.
- (e) Where the centerline of a street, alley, public way, waterway, or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to the centerline.
- (f) Whenever any street, alley or other public way is vacated by official action as provided by law, the zoning district adjoining the each side of such public way shall be automatically extended to the center of such vacation and all areas included in the vacation shall then and henceforth be subject to all regulations of the extended.

- (g) All uncertainties and disputes concerning the exact location of zoning district boundaries shall be resolved by the Planning and Zoning Commission according to the rules and regulations that it may adopt.

**CHAPTER 1107  
Enforcement and Penalties**

1107.01	Enforcement by Zoning Administrator.	1107.05	Complaints Regarding Violations.
1107.02	Construction and Use Shall Be As Approved.	1107.06	Inspection of Property.
1107.03	Violation Considered a Nuisance.	1107.07	Stop Work Order.
1107.04	Violations.	1107.08	Notice of Violation.
		1107.09	Certificate Revocation.
		1107.99	Penalties.

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**1107.01 ENFORCEMENT BY ZONING ADMINISTRATOR.**

The provisions of this Planning and Zoning Code shall be administered and enforced by the Zoning Administrator or his/her designee.

**1107.02 CONSTRUCTION AND USE SHALL BE AS APPROVED.**

Zoning certificates issued by the Zoning Administrator on the basis of approved plans and applications authorize only the use and arrangement set forth in such approved plans and applications, or amendments thereto. Use, arrangement or construction contrary to that authorized shall be deemed a punishable violation of this Planning and Zoning Code.

**1107.03 VIOLATION CONSIDERED A NUISANCE.**

Any building or structure erected, altered, moved, razed or converted, or any use of land or premises carried on in violation of any provision of this Planning and Zoning Code may be declared to be a nuisance. Any building or land use activity considered to be a possible violation of any provision of this Planning and Zoning Code that is observed by any City official shall be reported to the Zoning Administrator.

**1107.04 VIOLATIONS.**

It shall be unlawful to:

- (a) Use or occupy any land or place; build, erect, alter, remodel, restore, or rebuild thereon any building or structure; permit any building or structure to remain on such land; or use, occupy, or operate such building or structure, in any way or for any use or purpose which is not permitted by the provisions of this Planning and Zoning Code; or
- (b) Use or occupy any parcel of land; use or occupy a new building; or enlarge, substitute, or otherwise change the use, occupancy, or configuration of any land or building, without having received a zoning certificate, conditional use certificate, certificate of nonconforming use, certificate of zoning compliance or subdivision

plat approval indicating compliance with the provisions of this Planning and Zoning Code from the Zoning Administrator; or

- (c) Aid, assist, or participate with any person in placing, building, erecting, altering, remodeling, restoring, or rebuilding any building or structure which is not permitted by the provisions of this Planning and Zoning Code; or
- (d) Violate or fail to perform any condition, stipulation or safeguard set forth in any certificate issued pursuant to this Planning and Zoning Code, or continue to use or occupy the premises or building as previously authorized by such certificate beyond the duration limit therein stated; or
- (e) Continue construction, renovation, or improvements contrary to a Stop Work Order or Notice of Violation; or
- (f) Refuse to permit the Zoning Administrator to enter any premises in the City to investigate a reported violation of the provisions of this Planning and Zoning Code, or refuse or fail to furnish to such Zoning Administrator a statement as to the number of persons occupying such premises; or
- (g) Knowingly make any materially false statement of fact in an application to the Zoning Administrator for development plan approval, a zoning certificate, conditional use certificate, certificate of nonconforming use, certificate of zoning compliance, or subdivision plat approval or in the plans or specifications submitted to the Zoning Administrator in relation to such application.

**1107.05 COMPLAINTS REGARDING VIOLATIONS.**

Whenever a violation of this Planning and Zoning Code occurs, or is alleged to have occurred, any person may file a complaint. Such written complaints shall fully state the causes and basis of the complaint and shall be filed with the Zoning Administrator.

**1107.06 INSPECTION OF PROPERTY.**

The Zoning Administrator shall inspect any building erected, altered, moved, razed or converted, or any use of land or premises carried on in alleged violation of any of the provisions of this Planning and Zoning Code.

**1107.07 STOP WORK ORDER.**

Subsequent to a determination that construction work is being done contrary to this Planning and Zoning Code, or if the work being performed is causing any situation that threatens the health, safety or welfare of the surrounding property owners, their respective properties, or of the general public passing through or near the construction area, the Zoning Administrator, or his or her designee, shall issue a stop work order and post it on the premises involved. Removal of a

stop work order, except by the order of the Zoning Administrator or designated agent, shall constitute a punishable violation of this Planning and Zoning Code.

**1107.08 NOTICE OF VIOLATION.**

Upon finding a violation, the Zoning Administrator shall order, in writing, the owner, agent, occupant or operator of such building or premises to correct, within a stated reasonable time, all conditions that are found to be in violation of this Planning and Zoning Code. After such a notice is served, no work, except to correct the violation or comply with the notice shall proceed on any building or premises included in the violation.

Such notice of violation shall be by either personal delivery to the person or persons responsible, or by certified mail, addressed to the person or persons responsible at the last known address. A copy of the notice shall be posted in a conspicuous place on the premises.

**1107.09 CERTIFICATE REVOCATION.**

The Zoning Administrator may issue a revocation notice to revoke a certificate, permit or administrative approval that was issued contrary to this Planning and Zoning Code or based upon false information or misrepresentation in the application.

**1107.99 PENALTIES.**

- (a) Failure to correct the conditions in violation with the provisions of this Planning and Zoning Code, as ordered by the Zoning Administrator, shall constitute a misdemeanor. Upon conviction of such violations, the responsible person or party shall be fined not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00) or imprisoned for not more than six months or both. Each day such violation continues shall be deemed a separate offense. Any other person, who commits, participates in or assists in the continuation of said violation may each be found guilty of a separate offense and suffer the penalties provided.
- (b) The following additional penalties shall apply to violations against the Subdivision Regulations set forth in **Title Five** of this Planning and Zoning Code:
  - (1) Whoever violates any rule or regulation set forth in this Planning and Zoning Code for the purposes of setting standards and requiring and securing the construction of improvements within a subdivision, or fails to comply with any order pursuant thereto, shall forfeit and pay not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00). Such sum may be recovered with costs in a civil action brought in the Court of Common Pleas by the City Attorney.

- (2) Whoever, being the owner or agent of the owner of any land within the corporation, transfers any lot, parcel or tract of such land from or in accordance with a plat of a subdivision before such plat has been recorded in the Office of the County Recorder, shall forfeit and pay the sum of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each lot, parcel or tract of land so sold. The description of such lot, parcel or tract of land by metes and bounds in the deed and transfer shall not serve to exempt the seller from the forfeiture provided in this Section.
- (3) Any person who disposes of or offers for sale or lease, any lot or any part of a lot in a subdivision before provisions of the **Title Five** are complied with, shall forfeit and pay the sum of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each lot or part of the lot so sold or offered for sale or lease, to be recovered with costs in a civil action, in the name of the Finance Director.

**TITLE THREE**  
**CODE ADMINISTRATION**

**CHAPTER 1109**  
**Powers and Duties**

1109.01	Purpose.	1109.04	Architectural Board of Review.
1109.02	Zoning Administrator.	1109.05	Board of Building and Zoning Appeals.
1109.03	Planning and Zoning Commission.	1109.06	City Council.

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**1109.01 PURPOSE.**

This Chapter sets forth the powers and duties of the Zoning Administrator, Planning and Zoning Commission, Architectural Board of Review, Board of Building and Zoning Appeals, and City Council with respect to the administration of the provisions of this Planning and Zoning Code.

**1109.02 ZONING ADMINISTRATOR.**

For the purposes of this Planning and Zoning Code, the Zoning Administrator shall have the following powers and duties.

- (a) Establishment. There is hereby established the position of Zoning Administrator. The Zoning Administrator, appointed by the Mayor, shall act as the administrative officer for the purpose of effecting the proper administration of the Planning and Zoning Code.
- (b) Powers and Duties. The Zoning Administrator or his/her designee shall have the following powers and duties:
  - (1) To enforce the provisions of this Planning and Zoning Code and interpret the meaning and application of its provisions.
  - (2) To issue zoning certificates, based on his/her approval of the application, as provided by this Planning and Zoning Code and keep a record of the same with a notation of any special conditions involved.
  - (3) To issue certificates of zoning compliance as provided by this Planning and Zoning Code and keep a record of the same.
  - (4) To issue permits for new, relocated, or substantially modified signs.
  - (5) To accept, review for completeness, and respond to questions regarding applications upon which the Zoning Administrator is authorized by the

provisions of this Planning and Zoning Code to review, including, but not limited to, amendments to the Planning and Zoning Code, development plan review, conditional uses, variances and appeals, and subdivision plats.

- (6) To coordinate the City’s administrative review of applications required by this Planning and Zoning Code, including, but not limited to, rezoning applications, development plan review, conditional use applications, variances, and subdivision plats.
- (7) To maintain any records required by this Planning and Zoning Code including inspection documents, and records of all variances, amendments, conditional uses, and similar use determinations.
- (8) To make such records available for the use of Council, the Planning and Zoning Commission, the Board of Building and Zoning Appeals, the Architectural Board of Review, and the public.
- (9) To conduct or cause the inspection of buildings and uses of land to determine compliance with this Planning and Zoning Code.
- (10) To determine the existence of any violations of this Planning and Zoning Code and cause such notifications of violations or stop work orders to be issued, or initiate such other administrative or legal action as needed to address such violations.
- (11) To maintain in current status the “Official Zoning District Map” of the City of Willoughby Hills.

**1109.03 PLANNING AND ZONING COMMISSION.**

- (a) Establishment. The Planning and Zoning Commission shall consist of seven (7) members, as established by the Charter of the City of Willoughby Hills.
- (b) Quorum. A quorum shall consist of a majority of the Commission members. Any action taken by the Commission shall require a majority vote of its members.
- (c) Meetings. The Planning and Zoning Commission shall adopt rules and regulations in accordance with this Planning and Zoning Code as may be necessary to put into effect the powers and jurisdiction conferred herein or as conferred by the Charter of the City Willoughby Hills. The Commission shall hold regular monthly meetings, except when there is no business requiring Commission action. The Commission shall keep a record of its proceedings and decisions. The chair may call additional meetings at such other times as determined necessary. All meetings of the Commission shall be open to the public.

- (d) Powers and Duties. For the purposes of this Planning and Zoning Code, the Planning and Zoning Commission shall have the following powers and duties:
- (1) To make and adopt plans and maps of the City of Willoughby Hills and periodically amend, extend, delete or add to the plans and maps.
  - (2) To review and act on all development plans required by this Planning and Zoning Code.
  - (3) To review and take actions on conditional use certificates according to the procedures, standards and criteria stated in this Planning and Zoning Code.
  - (4) To make a determination that a proposed use not listed or provided for in this Planning and Zoning Code is substantially similar to a principal or conditional use that is listed and provided for in this Planning and Zoning Code.
  - (5) To review all current and proposed amendments to this Planning and Zoning Code and make recommendations to City Council as provided in this Planning and Zoning Code.
  - (6) To investigate and propose on its own initiative such amendments to the Planning and Zoning Code, as it may deem consistent with the purposes of this Planning and Zoning Code and which further the public health, safety, and general welfare of the City of Willoughby Hills.
  - (7) To review and approve proposed subdivision plats according to the procedures, standards and criteria stated in this Planning and Zoning Code.

#### **1109.04 ARCHITECTURAL BOARD OF REVIEW.**

- (a) Establishment. The Planning and Zoning Commission shall serve as the Architectural Board of Review as established by the Charter of the City of Willoughby Hills.
- (b) Quorum. A quorum shall consist of a majority of the Board members. Any action taken by the Board shall require an affirmative four votes of its members.
- (c) Meetings. The Architectural Board of Review shall adopt rules and regulations in accordance with this Planning and Zoning Code as may be necessary to put into effect the powers and jurisdiction conferred herein or as conferred by the Charter of the City of Willoughby Hills. The Board shall hold regular monthly meetings, except when there is no business requiring Board action. The Board shall keep a record of its proceedings and decisions. The chair may call additional meetings at such other times as determined necessary. All meetings of the Board shall be open to the public.

- (d) Powers and Duties. For the purposes of this Planning and Zoning Code, the Architectural Board of Review shall have the following powers and duties:
- (1) To review and act on all plans and specifications for the construction, alteration or relocation of any building or structure according to the procedures, standards and criteria stated in this Planning and Zoning Code or in the Charter of the City of Willoughby Hills.
  - (2) To establish, according to accepted and recognized architectural principles, the criteria to be applied in evaluating: the design, use of materials, finished grade lines, dimensions, orientation and location of all main and accessory buildings to be erected, moved, altered, remodeled or repaired, subject to the provisions of the Zoning and Building Code, the Charter of the City of Willoughby Hills, and other applicable ordinances of the Municipality.

**1109.05 BOARD OF BUILDING AND ZONING APPEALS.**

- (a) Establishment. The Board of Building and Zoning Appeals shall consist of five (5) members, as established by the Charter of the City of Willoughby Hills.
- (b) Quorum. A quorum shall consist a majority of the Board members. Any action taken by the Board shall require a majority vote of its members.
- (c) Meetings. The Board shall adopt rules and regulations in accordance with this Planning and Zoning Code as may be necessary to put into effect the powers and jurisdiction conferred herein or as conferred by the Charter of the City of Willoughby Hills. The Board shall hold regular monthly meetings, except when there is no business requiring Board action. The Board shall keep a record of its proceedings and decisions. The chair may call additional meetings at such other times as determined necessary. All meetings of the Board shall be open to the public.
- (d) Powers and Duties. For the purposes of this Planning and Zoning Code, the Board of Zoning Appeals shall have the following powers and duties:
- (1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, or determination made by an administrative official in the administration or enforcement of this Planning and Zoning Code, unless otherwise provided in this Planning and Zoning Code.
  - (2) To authorize such variances from the terms of this Planning and Zoning Code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this Planning and Zoning Code will result in practical difficulty or unnecessary hardship, and so that the spirit

of this Planning and Zoning Code shall be observed and substantial justice done.

- (3) To permit the substitution of one nonconforming use with another nonconforming use in conformance with the provisions of this Planning and Zoning Code.

**1109.06 CITY COUNCIL.**

- (a) Powers and Duties. For the purposes of this Planning and Zoning Code, the City Council shall have the following powers and duties:
  - (1) To approve the dedication of any public land or easement before it is recorded.
  - (2) To approve the dedication of streets or the vacation of dedicated street right-of-ways.
  - (3) To initiate or act upon petitions for proposed amendments to this Planning and Zoning Code, after review of the Planning and Zoning Commission's recommendation, and refer approved petitions to the public for vote.
  - (4) To establish, by ordinance, a schedule of fees.
  - (5) To review and act upon appeals regarding decisions made by the Architectural Board of Review.

**CHAPTER 1111**  
**Development Plan Review Procedures**

1111.01	Purpose.	1111.10	Request for Additional Information.
1111.02	Development Plan Review Required.	1111.11	Simultaneous Plat Approval.
1111.03	Pre-application Meeting Encouraged.	1111.12	Action by Planning and Zoning Commission.
1111.04	Development Plan Review Procedures.	1111.13	Significance of an Approved Plan; Plan Revisions.
1111.05	Minor Alterations Reviewed by Zoning Administrator.	1111.14	Approval by Architectural Board of Review Required.
1111.06	Preliminary Plan Submission Requirements.	1111.15	Equivalency Provision.
1111.07	Final Development Plan Submission Requirements.	1111.16	Expiration of Development Plan Approval.
1111.08	Planning and Zoning Commission Review of Preliminary Development Plans.	1111.17	Revisions to Association Documents Approved by City Attorney.
1111.09	Criteria for Reviewing Final Development Plans.	1111.18	Appeals of Planning and Zoning Commission Decisions.
		1111.19	Approval of Development Plan Requiring Variances.

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**1111.01 PURPOSE.**

The purpose of this Chapter is to provide adequate review by the Planning and Zoning Commission and the Architectural Board of Review of proposed developments in those zoning districts where the uses permitted are of such a nature, because of their size, scale or effect on surrounding property, that review of specific plans is deemed necessary to protect the public health, safety and general welfare of the community.

**1111.02 DEVELOPMENT PLAN REVIEW.**

Review of a development plans shall be conducted in compliance with the following:

- (a) Development Plan Process. Development plan reviews should proceed and generally move in phases to include:
- (1) Pre-application meeting with the Zoning Administrator
  - (2) Work session with the Planning and Zoning Commission/Architectural Board of Review review and discuss the development concept
  - (3) Preliminary plan preparation
  - (4) Final plan preparation

- (b) **Development Plan Review Required.** A development plan that indicates, among other things, the exact location of buildings, landscaping, parking areas, access drives, signs, and outdoor storage areas shall be required for the following:
  - (1) Conservation developments;
  - (2) New construction of all permitted uses in multi-family, commercial, research and office, as well as industrial districts;
  - (3) New construction of all non-residential permitted uses in Single Family Residential Districts;
  - (4) New construction of all single-family attached dwelling units in the R-2 Attached Single-family/Townhouse District;
  - (5) New construction of all conditional uses;
  - (6) Senior citizen residential developments; and,
  - (7) Any existing or previously approved development meeting the criteria of subsections (1) through (6) above that proposes to alter, reconstruct, or otherwise modify a use or site including expanding the floor area of the permitted use; increasing the number of dwelling units in a multi-family development; or changing the use which requires an increase in the amount of parking or a change in the site's circulation.
- (c) A change of occupancy in an existing structure, or in a previously approved final development plan, when there is no change in the bulk of the structure, and no change in the parking required, shall be exempt from the development plan review procedures.

**1111.03 PRE-APPLICATION MEETING ENCOURAGED.**

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

**1111.04 DEVELOPMENT PLAN REVIEW PROCEDURES.**

Development plans, including preliminary and final, shall be reviewed and distributed according to the following procedures.

- (a) **Review for Completeness.** Within fourteen (14) days after receiving an application, the Zoning Administrator shall review the submitted application for

completeness and compliance with the applicable submission requirements. If the application is deemed insufficient, the Zoning Administrator shall notify the applicant of the necessary changes or additional information needed. When the application is deemed complete and the application fee has been paid, the Zoning Administrator shall officially accept the application for consideration of the action(s) requested on the date such determination is made and place it on the Planning and Zoning Commission's agenda or declare the application a Minor Alteration, as permitted by **Section 1111.05**, if applicable.

- (b) Distribution of Plans. When the Zoning Administrator determines that the application for preliminary or final development plans are complete, the Zoning Administrator shall forward the application to the appropriate City departments and professional consultants for review and comment. Any reports, comments, or expert opinions shall be returned to the Zoning Administrator within 10 days from the date the application is deemed complete.
- (c) Transmission to the Planning and Zoning Commission. For Final and Preliminary Development Reviews, the Zoning Administrator shall distribute the application for development plan review and any reports prepared by the individuals in **subsection (b)** above to the Planning and Zoning Commission, prior to the time of the Commission's review at their next regularly scheduled meeting.

**1111.05 MINOR ALTERATIONS REVIEWED BY ZONING ADMINISTRATOR.**

When a minor alteration is proposed to an existing building, structure or site arrangement on a zoning lot otherwise subject to development plan review pursuant to **Section 1111.02**, the Zoning Administrator may make a preliminary determination that such a proposal is not subject to development plan review.

- (a) For the purposes of this Section, a minor alteration shall include:
  - (1) Small, incidental alterations of existing off-street surface parking lots;
  - (2) Small incidental construction of accessory structures;
  - (3) Incidental additions or alterations to principal buildings on large zoning lots; and
  - (4) Minor design modifications that will have no discernible impact on neighboring properties, the public, or those intended to occupy or use the proposed development.
- (b) The applicant shall submit a scaled drawing indicating the proposed minor alteration.

- (c) The Zoning Administrator shall review the proposal to determine that the proposal is not contrary to this Planning and Zoning Code and will not result in any material adverse impact to the site or surrounding areas.
- (d) The proposal shall be placed on the agenda of the next regularly scheduled Planning and Zoning Commission meeting. At such meeting, the Planning and Zoning Commission shall, by motion and majority vote, either:
  - (1) Confirm the Zoning Administrator's preliminary determination, in which case the Zoning Administrator may issue a zoning certificate; or
  - (2) Overturn the Zoning Administrator's determination and in so doing require that the proposal fully comply with the Development Plan Review procedures of this Chapter.

**1111.06 PRELIMINARY DEVELOPMENT PLAN SUBMISSION REQUIREMENTS.**

- (a) Submission of a Conceptual Plan. An application and conceptual plan should be prepared for every development and submitted to the Zoning Administrator. The purposes of a conceptual plan layout is to furnish sufficient information for determination of proper integration of the development with the area, compliance with City codes, and to permit an opportunity for the Planning and Zoning Commission and/or the Architectural Board of Review to conduct a work session to review and render comments before the plan is advanced. This process will take place before proceeding with the preparation of the preliminary development plan. However, no action shall be taken at such a meeting and no discussions, opinions, suggestions, or recommendations of the Planning and Zoning Commission shall be relied upon by the applicant to indicate subsequent approval or disapproval by the Planning and Zoning Commission and/or the Architectural Board of Review.
- (b) Submission of a Preliminary Development Plan. The applicant shall submit a preliminary development plan to the Zoning Administrator along with payment of the required fee. The development plan shall be prepared by a qualified professional and drawn to an appropriate scale, and shall disclose all uses proposed for the development, their location, extent and characteristics. The application for a preliminary development plan review shall include the following maps, plans, designs and supplementary documents, unless items are determined by the Zoning Administrator to be inapplicable or unnecessary and are waived in writing by the Zoning Administrator:
  - (1) An accurate legal description prepared by or certified by a registered surveyor of the state;

- (2) A property location map showing existing property lines, easements, utilities and street rights-of-way;
- (3) A preliminary development plan indicating:
  - A. Use, location and height of existing and proposed buildings and structures, including accessory buildings, structures and uses, along with notation of the development standards for building spacing, setback from property lines, and maximum building heights;
  - B. Location and configuration of off-street parking and loading areas, the arrangement of internal and in-out traffic movement including access roads and drives; lane and other pavement markings to direct and control parking and circulation; and the location of signs related to parking and traffic control;
  - C. Adjacent streets and property including lot lines, buildings, parking and drives within 200 feet of the site;
  - D. Proposed and existing fences, walls, signs, lighting;
  - E. Location and layout of all outdoor storage areas including storage of waste materials and location of trash receptacles;
  - F. Sanitary sewers, water and other utilities including fire hydrants, as required and proposed drainage and storm water management;
  - G. Dimensions of all buildings, setbacks, parking lots, drives and walkways.
- (4) Topographic maps showing existing and proposed grading contours, and major vegetation features, including existing trees over six inches in diameter, wooded areas; wetlands and other environmental features;
- (5) Proposed landscaping and screening plans pursuant to Chapter 1155 – Landscaping and Land Use Buffers; indicating the preliminary description of the location and nature of existing and proposed vegetation, landscaping and screening elements and the existing trees to be removed;
- (6) Preliminary architectural sketches of buildings and other structures, floor plans, site construction materials and signs;
- (7) Summary table showing total acres of the proposed development; number of acres devoted to each type of residential and/or non-residential use including streets and open space; number of dwelling units by type;

- (8) Other features necessary for the evaluation of the development plan as deemed necessary by the Zoning Administrator or Planning and Zoning Commission.

**1111.07 FINAL DEVELOPMENT PLAN SUBMISSION REQUIREMENTS.**

An application for final development plan review shall be required for each phase of development. The application and the application fee shall be submitted to the Zoning Administrator. The application shall include the maps, plans, designs and supplementary documents itemized below, unless specific items are determined by the Zoning Administrator to be inapplicable or unnecessary and are waived in writing by the Zoning Administrator.

- (a) An accurate, legal description prepared or certified by a registered surveyor of the state;
- (b) A property location map showing existing property lines, easements, utilities and street rights-of-way;
- (c) A final development plan, prepared by a qualified professional and drawn to an appropriate scale, indicating the following:
  - (1) Use, location and height of existing and proposed buildings and structures;
  - (2) Location of all public rights-of-way and private streets;
  - (3) Location and configuration of vehicular circulation including off-street parking and loading areas; the arrangement of internal and in-out traffic movement including access roads and drives; lane and other pavement markings to direct and control parking and circulation; and the location of signs related to parking and traffic control;
  - (4) Location of proposed and existing structures including fences, walls, signs, and lighting;
  - (5) Location and layout of all proposed and existing outdoor storage areas including storage of waste materials and location of trash receptacles;
  - (6) Sanitary sewers, water and other utilities including fire hydrants, as required, and proposed drainage and storm water management;
  - (7) Dimensions of all buildings, setbacks, parking areas, drives and walkways.
  - (8) The following items for Conservation Development and for Senior Citizen Residential Developments, in addition to the items identified in this Section:

- A. Location of restricted open space required as well as the amount and location provided in previous phases;
  - B. Location of building envelopes within which dwelling units are to be constructed, and lot lines for single-family detached dwellings; and
  - C. Number of units approved built or approved for previous phases.
- (d) A tree preservation plan, if required by the City.
  - (e) For proposed developments located in a Protected Hillside Area, the documentation required by Section 1167.05, Permit Procedures.
  - (f) For Senior Citizen Residential Developments, evidence of the applicant's ability to comply with the Housing for Older Persons Act of 1995 shall be submitted.
  - (g) The substance of covenants, grants of easements, or the restrictions proposed to be imposed upon the use or maintenance of land and buildings, including proposed easements or grants for public utilities. If the proposed project is a phased development, such documentation shall be submitted with all phases.
  - (h) Topographic maps showing existing and proposed grading contours and major vegetation features including existing trees over six inches in diameter, wooded areas, wetlands and other environmental features;
  - (i) Architectural plans for the proposed development or use showing all exterior elevations and building floor plans, site construction materials, and signs, prepared and certified by a professional engineer or architect;
  - (j) Proposed landscaping and screening plans pursuant to Chapter 1155, Landscaping and Land Use Buffers, indicating the description of the location and nature of existing and proposed vegetation, landscaping, screening elements and any existing trees to be removed;
  - (k) Summary table showing total acres of the proposed development, the number of acres devoted to each type of use including streets and open space, and the number of proposed dwelling units by type;
  - (l) For a phased development, a proposed schedule for completion of improvements that are designed to relate to, benefit or be used by the entire development. Such schedule shall be submitted with the first phase and shall relate completion of such improvements to completion of one or more phases of the development.
  - (m) Other information necessary for the evaluation of the final development plan as deemed necessary by the Zoning Administrator;

**1111.08 PLANNING AND ZONING COMMISSION REVIEW OF PRELIMINARY DEVELOPMENT PLANS.**

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

- (a) The plan is consistent with the Comprehensive Plan.
- (b) The appropriate use and value of property within and adjacent to the area will be safeguarded.
- (c) The development will result in a harmonious grouping of buildings within the proposed development and in relationship to existing and proposed uses on adjacent property.
- (d) The development will preserve and be sensitive to the natural characteristics of the site in a manner that complies with the applicable regulations set forth in this Planning and Zoning Code.

**1111.09 CRITERIA FOR REVIEWING FINAL DEVELOPMENT PLANS.**

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

- (a) The plan is consistent with any plan for the orderly development of the City and, when applicable, conforms in all respects to the approved or provisionally approved preliminary development plan and the regulations of this Planning and Zoning Code.
- (b) The appropriate use and value of property within and adjacent to the area will be safeguarded.
- (c) The development will result in a harmonious grouping of buildings within the proposed development and in relationship to existing and proposed uses on adjacent property.
- (d) Adequate provision is made for safe and efficient pedestrian and vehicular circulation within the site and to adjacent property.
- (e) The development will have adequate public service, parking and open spaces.

- (f) The development will preserve and be sensitive to the natural characteristics of the site in a manner that complies with the applicable regulations set forth in this Planning and Zoning Code.
- (g) The development will provide adequate lighting for safe and convenient use of the streets, walkways, driveways, and parking areas.
- (h) Points of ingress/egress to the development shall be controlled and designed in such manner as to minimize conflicts with adjacent properties and developments.
- (i) Adequate provision is made for emergency vehicle access and circulation;
- (j) The proposed signs:
  - (1) Are of an appropriate size, scale, and design in relationship with the principal building, site, and surroundings; and,
  - (2) Adequately identify the use; and
  - (3) Are located to maintain safe and orderly pedestrian and vehicular circulation.
- (k) Site lighting is designed to minimize direct light, glare, and excessive glow, which unreasonably interferes with the use and enjoyment of adjacent property. If it is determined that, once the project is completed, the lighting does have unreasonable adverse impact on adjacent property, the Zoning Administrator, with assistance of the City Engineer, may order reasonable alterations to the site lighting (such as reduced illumination, shielding, landscaping, etc.) to mitigate such unreasonable impacts;
- (l) The landscape plan will adequately:
  - (1) Enhance the principal building and site;
  - (2) Maintain existing trees to the extent possible;
  - (3) Buffer adjacent incompatible uses;
  - (4) Break up large expanses of pavement with natural material; and
  - (5) Provide appropriate plant materials considering the ultimate mature size and shape of plants relative to the buildings and site, and the climate of the area, including typical weather conditions.
- (m) Adequate provision is made for storm drainage within and through the site so as to maintain, as far as practicable, usual and normal swales, water courses and drainage areas, and shall comply with the applicable regulations in this Planning

and Zoning Code, and any other design criteria established by the City or any other governmental entity which may have jurisdiction over such matters.

- (n) If the project is to be carried out in progressive stages, each phase shall be so planned that the foregoing criteria are complied with at the completion of each phase.

**1111.10 REQUEST FOR ADDITIONAL INFORMATION.**

In their review of an application, the Planning and Zoning Commission or the Zoning Administrator may request that the applicant supply additional information that the Commission deems necessary to adequately review and evaluate the proposed development.

**1111.11 SIMULTANEOUS PLAT APPROVAL.**

If the proposed development includes the subdivision of land, the development shall be subject to the requirements of the plat approval process in accordance with Title Five of this Planning and Zoning Code. Final development plan approval and subdivision plat approval may proceed simultaneously at the discretion of the Planning and Zoning Commission.

**1111.12 ACTION BY PLANNING AND ZONING COMMISSION.**

- (a) For a preliminary or final development plan, the Planning and Zoning Commission shall either:
  - (1) Approve the development plan as submitted; or
  - (2) Approve the plan subject to specific conditions not included in the plan as submitted, such as, but not limited to, improvements in the setback layout, open space arrangement, on-site control of access to streets, or such features as fences, walls and plantings to further protect and improve the proposed and surrounding developments; or
  - (3) Deny the development plan when the application does not demonstrate that the required standards have been met.
- (b) For a preliminary or final development plan, the Planning and Zoning Commission may also postpone the development plan for the next scheduled Planning and Zoning Commission meeting, demonstrating to the applicant an acceptable alternative plan.
- (c) Failure of the Planning and Zoning Commission to act within sixty (60) days from the date the application was deemed complete, or an extended period as may be agreed upon, the applicant may deem the application denied.

**1111.13 SIGNIFICANCE OF AN APPROVED PLAN; PLAN REVISIONS.**

- (a) An approved final development plan shall become for the proposed development a binding commitment of the specific elements approved for development. The approved final development plan may be transferred to another person, corporation, or group of individuals or corporations prior to the issuance of a building permit. Such a transfer shall occur only upon approval of the Zoning Administrator. A request for such a transfer or change of ownership shall be presented to the Zoning Administrator and granted only if the new ownership entity satisfies the administrative, financial, legal and all other performance guarantees approved with the original development plan.
- (b) All construction and development under any building permit shall be in accordance with the approved final development plan. Any departure from such plan shall be cause for revocation of the Zoning Certificate and/or Building Permit, and the property owner or other responsible parties are subject to penalties as prescribed by this Planning and Zoning Code.
- (c) Any changes in an approved final development plan shall be resubmitted for approval in accordance with this Section.

**1111.14 APPROVAL BY ARCHITECTURAL BOARD OF REVIEW REQUIRED.**

No application for a final development plan shall be approved by the Planning and Zoning Commission unless first approved by the Architectural Board of Review. In reviewing final development plans, the Architectural Board of Reviews shall review the development plan to determine if such application complies with the review criteria set forth below. The applicant is encouraged to meet with the Architectural Board of Review at the preliminary development plan stage of a project to discuss criteria and standards pertaining to this Planning and Zoning Code. However, no action shall be taken at such a meeting and no opinions, suggestions, or recommendations discussed shall be relied on by the applicant to indicate subsequent approval or disapproval of the development plan.

- (a) In their review of an application, the Architectural Board of Review shall consider the following:
  - (1) The overall exterior appearance of any proposed building or structure;
  - (2) The height, build and scale of any proposed building or structure with respect to building or structures in the immediate area;
  - (3) The exterior materials, colors and textures of any proposed building or structure with respect to their compatibility with other buildings and structures within the immediate area;

- (4) The arrangement and location of any proposed buildings, structures or uses on the site, as well as their relationship to other buildings and structures within the immediate area;
  - (5) The character, appearance and scale of any proposed landscaping or plantings for decorative or screening purposes; and
  - (6) All other factors that affect the appearance of the site and the area.
- (b) The Architectural Board of Review shall endeavor to insure that the exterior appearance of all buildings, structures or uses will:
- (1) Enhance the attractiveness and desirability of the area in keeping with its purpose and intent;
  - (2) Encourage the orderly and harmonious development of the area in keeping with its character;
  - (3) Improve residential amenities; and
  - (4) Enhance and protect the public and private investment and the value of all land and improvements within the area.
- (c) The Architectural Board of Review shall not attempt to prescribe the style of architecture as long as the architectural style and design under consideration meet the standards set forth in 1111.14 (a) and (b).
- (d) The Architectural Board of Review shall take one of the following actions:
- (1) The Architectural Board of Review shall approve the final development plan if the proposed plan is determined to be appropriate and in conformance with the review criteria outlined in this Section;
  - (2) The Architectural Board of Review may approve the final development plan subject to reasonable requirements not included on the plan as submitted, to ensure that the development conforms to the intent and purposes of this Section. In such case, the Architectural Board of Review shall postpone the plan for the next scheduled Architectural Board of Review meeting so as to ensure that all reasonable requirements have been met; or
  - (3) The Architectural Board of Review shall deny the application if the plan is not found to comply with the specifications of this Planning and Zoning Code. The Architectural Board of Review shall indicate in its minutes the reasons for its action.

**1111.15 EQUIVALENCY PROVISION.**

In reviewing the application, the Planning and Zoning Commission may find that a final development plan either adheres or is equivalent to the requirements of this Planning and Zoning Code.

- (a) The Planning and Zoning Commission may consider elements of a final development plan to be equivalent to a requirement if:
  - (1) The proposed final development plan substantially complies with all specific requirements and with the purposes, intent and basic objectives of the zoning district;
  - (2) Through imaginative and skillful design in the arrangement of buildings, open space, streets, access drives and other features, as disclosed by the application, the proposal results in a development of equivalent or higher quality than that which could be achieved through strict application of such standards and requirements; and
  - (3) The development, as proposed, shall have no adverse impact upon the surrounding properties or upon the health, safety or general welfare of the community.
- (b) It shall be the responsibility of the applicant to demonstrate to the Planning and Zoning Commission that the provisions of this Section have been satisfied. When evaluating the application with respect to this Section, the Planning and Zoning Commission shall make any finding of equivalency in writing which explains how and why the proposal has satisfied the above criteria. When making such a finding, the Commission may approve the proposed application, including waivers from the numerical standards herein, as if the application were in strict compliance with the standards and requirements in this Planning and Zoning Code.
- (c) Approval under this Section is not a variance. Instead, this sub-section allows applicants to satisfy zoning requirements in ways not anticipated by the City.

**1111.16 EXPIRATION OF DEVELOPMENT PLAN APPROVAL.**

An approved development plan shall remain valid for a period of twelve (12) months following the date of its approval, unless the Planning and Zoning Commission authorizes a longer period at the time of approval.

- (a) Preliminary Development Plan. If, at the end of that time, a final development plan has not been submitted to the Zoning Administrator, then approval of the preliminary development plan shall expire and shall be of no effect unless resubmitted and re-approved in accordance with this Chapter.

- (b) Final Development Plan. If, at the end of that time, construction of the development has not begun, then approval of such final development plan shall expire and shall be of no effect unless resubmitted and re-approved in accordance with the procedures set forth in this Chapter. Construction is deemed to have begun when all necessary excavation and piers or footings of one or more principal buildings included in the plan have been completed.

**1111.17 REVISIONS TO ASSOCIATION DOCUMENTS APPROVED BY CITY ATTORNEY.**

Whenever a homeowner's association, community association, condominium association or similar legal entity amends those portions of their bylaws or code of regulations that pertain to maintenance obligations or access to common areas, such amendment shall be submitted to the City Attorney for review and approval. Failure to obtain approval of such amendment shall be deemed a violation of this Planning and Zoning Code.

**1111.18 APPEALS OF PLANNING AND ZONING COMMISSION DECISIONS.**

Decisions by the Planning and Zoning Commission granting or denying approval of Preliminary or Final development plans shall be final. Appeals shall be subject to judicial review in attendance with law.

**1111.19 APPROVAL OF DEVELOPMENT PLAN REQUIRING VARIANCES.**

If the development application requires approval of both a development plan and a variance, the Zoning Administrator shall decide which procedures, development plan review or variance, the applicant shall proceed through first.

**CHAPTER 1113**  
**Zoning Certificates and**  
**Certificates of Zoning Compliance**

1113.01	Purpose.	1113.04	Expiration of Zoning Certificate
1113.02	Zoning Certificate Required.	1113.05	Certificate of Zoning Compliance
1113.03	Zoning Certificate for a Single-Family Dwelling or Use Accessory Thereto.		Required.

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**1113.01 PURPOSES.**

The administrative provisions of this Chapter establish the procedures for reviewing and acting upon applications for zoning certificates, including certificates of occupancy, in order to accomplish the purposes for which this Planning and Zoning Code is adopted.

**1113.02 ZONING CERTIFICATE REQUIRED.**

No building or structure shall be erected, constructed, enlarged, structurally altered, or moved in whole or in part, and no use shall be established or changed in the City of Willoughby Hills prior to the issuance of a zoning certificate. A zoning certificate shall be issued only when the plans for the proposed use, building or structure fully comply with the regulations set forth in this Planning and Zoning Code.

(a) A zoning certificate shall be issued when:

- (1) Single-Family Dwellings and Uses Accessory Thereto. An application for a single-family dwelling or use accessory thereto has been reviewed and approved by the Zoning Administrator according to the procedures of this Chapter, and when applicable, the dwelling and use accessory thereto have been approved by the Architectural Board of Review.
- (2) All Other Permitted Uses. An application for any other permitted use not described in subsection (a)(1) above, has been reviewed and approved by the Planning and Zoning Commission or the Zoning Administrator according to the development plan review procedures set forth in **Chapter 1111**.
- (3) Conditional Uses. An application for a conditional use has been reviewed and approved by the Planning and Zoning Commission according to the procedures set forth in **Chapter 1115**.
- (4) Variance Requests. An application for which a variance from a requirement of this Planning and Zoning Code is requested has been reviewed and approved by the Board of Zoning Appeals, according to the procedures set forth in **Chapter 1117**.

- (5) Similar Uses. An application for any building or use not specifically listed in this Planning and Zoning Code as a permitted or conditional use has been reviewed and approved by the Planning and Zoning Commission according to the procedures set in **Chapter 1115**.
  - (6) Flood Hazard Precautions. An application for development in areas of special flood hazard has been reviewed and approved as required by Chapter 1169, Flood Hazard Precautions.
- (b) Applications for zoning certificates are available in the Office of the Zoning Administrator. A completed application form accompanied by all other applicable submission requirements shall be submitted to the Zoning Administrator.

**1113.03 ZONING CERTIFICATE FOR A SINGLE-FAMILY DWELLING OR USE ACCESSORY THERETO.**

- (a) Submission of Applications. An application for the construction or alteration of a single-family dwelling or use accessory thereto shall include the items set forth below. Such applications may be submitted simultaneously with an application for a building permit.
- (1) The completed application form, along with the application fee as established by the City.
  - (2) One copy of a general vicinity map.
  - (3) Ten (10) copies of an accurate survey, legibly drawn, unless the Zoning Administrator determines that a plot plan is acceptable, showing the following:
    - A. Property boundary lines and the exact dimensions and area of the lot to be built upon or utilized.
    - B. Right-of-way of adjacent streets.
    - C. Location, dimensions, height, and bulk of all structures to be erected or altered.
    - D. The existing and intended use(s) of all land, buildings and structures.
    - E. Dimensions of yards, setbacks, driveways and parking areas, wetlands, and riparian areas.
    - F. Location and use of buildings on adjoining lots within fifty (50) feet of all property lines.
    - G. Location, dimension, and use of any easements.
    - H. Each property owner or authorized agent shall be required to attest to the correctness of the statements and data furnished with the application.

- I. Architectural plans showing all exterior elevations, building floor plans, and construction materials;
  - J. Property owners name and address and the permanent parcel number on each page
  - K. Any other pertinent data as may be necessary to determine and provide for the enforcement of this Planning and Zoning Code.
- (b) Review for Completeness. The Zoning Administrator shall review each submitted application to determine compliance with the applicable submission requirements. If the application is deemed insufficient, the Zoning Administrator shall notify the applicant, within ten (10) days of receiving such application, of necessary changes or additional information needed. When the application is deemed complete and the application fee has been paid, the Zoning Administrator shall officially accept the application for consideration of the action(s) requested on the date such determination is made.
- (c) Action by Zoning Administrator. The Zoning Administrator shall evaluate the application for compliance with the applicable zoning code provisions within fourteen (14) days from the date it was determined to be complete. In evaluating the application, the Zoning Administrator may consult with any department, agency, public body, official, company, or individual necessary to determine whether the application complies with the regulations of this Planning and Zoning Code. If the Zoning Administrator determines that the application complies with the regulations of this Planning and Zoning Code, and the footprint of the structure is not being altered, the Zoning Administrator shall either:
- (1) Approve. The Zoning Administrator shall issue a zoning certificate upon finding that the building, structure or use, as proposed, complies with the provisions of this Planning and Zoning Code.
  - (2) Deny. If it is determined by the Zoning Administrator that the proposed building, structure or use would violate one or more provisions of this Planning and Zoning Code, then the zoning certificate shall not be issued. The Zoning Administrator shall state on the application the reason for the denial, including the regulation(s) which would be violated by the proposed use, and shall transmit one copy thereof to the applicant along with one copy of the plot plan, signed, dated and noted as disapproved, retaining the original application for the City's permanent record.
- (d) Review by the Architectural Board of Review. If Zoning Administrator finds that the application complies with the applicable regulations in this Planning and Zoning Code and the footprint of the structure is being altered, the Zoning Administrator shall forward the application to the Architectural Board of Review for their evaluation pursuant to **Section 1111.14**, Approval by the Architectural Board of Review Required. If the Architectural Board of Review approves the application as specified in **Section 1111.14 (d)**, the Zoning Administrator shall issue

a zoning certificate. If the Architectural Board of Review denies the application, the zoning certificate shall not be issued. The Zoning Administrator shall state on the application the reason for the denial and shall transmit one copy thereof to the applicant along with one copy of the plot plan, signed, dated and noted as disapproved, retaining the original application for the City's permanent record.

**1113.04 EXPIRATION OF ZONING CERTIFICATE.**

A zoning certificate shall become void at the expiration of twelve (12) months after the date of issuance unless, prior thereto, construction is begun, or an extension has been granted by the Zoning Administrator. If no construction is begun within one (1) year of the date of the certificate and an extension has not been granted, a new application and certificate shall be required. Construction is deemed to have begun when all necessary excavation and piers or footings of the structure included in the application have been completed. The date of expiration shall be noted on the zoning certificate. Unfinished construction projects on which no progress is made for one hundred eighty (180) days shall be considered abandoned and declared a nuisance.

**1113.05 CERTIFICATE OF ZONING COMPLIANCE REQUIRED.**

No land, new building or structure shall be occupied or used, in whole or in part, and no change in the use of an existing building or structure, or any part thereof, shall be permitted, until a Certificate of Zoning Compliance has been applied for and issued by the Zoning Administrator.

(a) Certificate of Zoning Compliance shall be applied for and issued as follows:

- (1) Occupancy of a Building. A Certificate of Zoning Compliance shall be required before a building that has been constructed, or an existing building that has been altered, moved, changed in use, or changed as to off-street parking or loading requirements may be occupied. A Certificate of Zoning Compliance shall only be issued after the completion of the erection or alteration, or change in use of the building and the building is found, upon inspection, to conform with the provisions of this Planning and Zoning Code.
- (2) Occupancy of Land. A Certificate of Zoning Compliance shall be required before occupancy of the land or where use of the land has been changed to a use different from the prior use. A Certificate of Zoning Compliance shall be issued when it is determined, upon inspection, that the use conforms with the provisions of this Planning and Zoning Code.
- (3) Change in Use of Nonconforming Building or Use. A Certificate of Zoning Compliance shall be required whenever a nonconforming building, structure or land is changed to another nonconforming use, and shall not be issued until the Zoning Board of Appeals has approved the change in accordance with the provisions of **Chapter 1121.**

(b) Applications. Applications for a Certificate of Zoning Compliance are available in the office of the Zoning Administrator and shall include accurate information

provided by the owner, or authorized representative, regarding the size and location of the lot, dimensions of all yards, setbacks and open space; the use of land or building operations or processes; and other pertinent information as may be requested by the City.

- (c) Action by Zoning Administrator. The Zoning Administrator shall evaluate the application and approve or deny it within fourteen (14) days from the date the completed application was submitted. In evaluating the application, the Zoning Administrator may consult with any department, agency, public body, official, company, or individual necessary to determine whether the application complies with the regulations of this Planning and Zoning Code.
- (1) Approval. The Zoning Administrator shall issue a Certificate of Compliance upon finding that the building, structure or use, as proposed, complies with the provisions of this Planning and Zoning Code.
- (2) Denial. If it is determined by the Zoning Administrator that the proposed building, structure or use would violate one or more provisions of this Planning and Zoning Code, then the Certificate of Zoning Compliance shall not be issued. Upon disapproval of any application, the Zoning Administrator shall notify the applicant in writing of the reasons for disapproval.
- (d) Certification. The Certificate of Zoning Compliance shall document that the building or proposed use of land or building conforms to the provisions of this Planning and Zoning Code.
- (e) Records. A permanent record of all applications, approvals and certificates issued shall be on file in the office of the Zoning Administrator and available to the public.

**CHAPTER 1115**  
**Conditional Use Certificates and Similar Uses**

1115.01	Purpose.	1115.06	Public Hearing and Notice by
1115.02	Preapplication Meeting		Planning and Zoning Commission.
	Encouraged.	1115.07	Action by Planning and Zoning
1115.03	Submission of Application.		Commission.
1115.04	Conditional Use Application	1115.08	Terms and Duration of Conditional
	Procedures.		Use Certificate.
1115.05	Review of Conditional Use	1115.09	Reapplication.
	Application.	1115.10	Similar Uses.

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**1115.01 PURPOSE.**

When a proposed use is permitted in a zoning district as a conditional use, as set forth in the district regulations, a conditional use certificate is required and the application for such conditional use certificate shall be submitted and reviewed according to the guidelines outlined in this Chapter.

**1115.02 PREAPPLICATION MEETING ENCOURAGED.**

The applicant is encouraged to meet with the Zoning Administrator or his/her designee prior to submitting an application for a conditional use certificate. The purpose of this meeting is to discuss early and informally with the applicant the purpose and effect of these zoning regulations and the criteria and standards contained within. However, no action shall be taken at such a meeting and no discussions, opinion, suggestions, or recommendations shall be relied upon by the applicant to indicate subsequent approval or disapproval of the application.

**1115.03 SUBMISSION OF APPLICATION.**

The owner or agent thereof, of property for which such conditional use is proposed shall file with the Zoning Administrator an application for a conditional use certificate accompanied by payment of the required fee. The application for a conditional use certificate shall disclose all uses proposed for the development, their location, extent, and characteristics and shall include the following information. A development plan and associated documentation as required in **Sections 1111.06 and 1111.07** unless specific items required in **Sections 1111.06 and 1111.07** are determined by the Zoning Administrator to be inapplicable or unnecessary and are waived in writing by the Zoning Administrator.

**1115.04      CONDITIONAL USE APPLICATION PROCEDURES.**

- (a) Review for Completeness. Within fourteen (14) days after receiving an application for conditional use certificate, the Zoning Administrator shall review the submitted application for completeness and compliance with the applicable submission requirements. If the application is deemed insufficient, the Zoning Administrator shall notify the applicant of the necessary changes or additional information needed. When the application is deemed complete and the application fee has been paid, the Zoning Administrator shall officially accept the application for consideration of the action(s) requested on the date such determination is made and place it on the Planning and Zoning Commission's agenda.
- (b) Distribution of Plans. When the Zoning Administrator determines that the application is complete, the Zoning Administrator shall forward the application to appropriate City departments and professional consultants for review and comment. Any reports, comments, or expert opinions shall be returned to the Zoning Administrator within fourteen (14) days from the date the application is deemed complete.
- (c) Transmission to the Planning and Zoning Commission. The Zoning Administrator shall distribute the application for conditional use certificate and any reports prepared by the individuals in **subsection (b) above** to the Planning and Zoning Commission, prior to the time of the Commission's review at their next regularly scheduled meeting.

**1115.05      REVIEW OF CONDITIONAL USE APPLICATION.**

The Planning and Zoning Commission shall review the proposed conditional use, as presented on the submitted plans and specifications, to determine whether or not the proposed use is appropriate and in keeping with the purpose and intent of this Planning and Zoning Code.

- (a) The Planning and Zoning Commission shall review the development plan for the proposed conditional use according to the development plan review criteria set forth in **Section 1111.09, Criteria for Reviewing Final Development Plan**, as applicable;
- (b) The Planning and Zoning Commission shall review the application to determine if the establishment and operation of the proposed use complies with the general criteria established for all conditional uses and the specific requirements established for that particular use, as set forth in **Chapter 1147** of this Planning and Zoning Code; and,

- (c) The Planning and Zoning Commission may require the applicant to submit such additional information as deemed necessary including the carrying out of special studies and the provisions of expert advice. A deposit from the applicant may be required for the above.

**1115.06 PUBLIC HEARING & NOTICE BY PLANNING AND ZONING COMMISSION.**

The Planning and Zoning Commission shall hold a public hearing on the proposed conditional use. Notice of such public hearing shall be given by first class mail to the applicant and to the property owners within five hundred (500) feet of the property on which the use is proposed. Failure of delivery of such notice shall not invalidate action taken on such application. Further notice shall be given in one or more newspapers of general circulation in the city. All notices shall be made at least fourteen (14) days before the date of said public hearing. All notices shall set forth the time and place of the public hearing and the nature of the proposed conditional use. The Commission may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required.

**1115.07 ACTION BY PLANNING AND ZONING COMMISSION.**

- (a) The Planning and Zoning Commission shall take one of the following actions:
  - (1) If the proposed conditional use is determined by the Planning and Zoning Commission to be appropriate and in conformance with the review criteria outlined in **Chapter 1147**, Conditional Use Regulations, the Planning and Zoning Commission shall approve the conditional use certificate. As part of the approval, the Planning and Zoning Commission may prescribe reasonable requirements on the proposed use to ensure that the development conforms to the intent and purposes of the District and this Planning and Zoning Code. The Planning and Zoning Commission may approve the application for a conditional use without approving the submitted development plan.
  - (2) If the proposed use is not found to comply with the specifications of this Planning and Zoning Code, the Planning and Zoning Commission shall deny the application. The Planning and Zoning Commission shall indicate in its minutes the reasons for its action.
- (b) If the Planning and Zoning Commission fails to act within sixty (60) days from the date the application was deemed complete, or an extended period as may be agreed upon, then the applicant may deem the development denied.

**1115.08 TERMS AND DURATION OF CONDITIONAL USE CERTIFICATE.**

Following the Planning and Zoning Commission's approval of an application for conditional use certificate, the Zoning Administrator shall issue a conditional use certificate.

- (a) A conditional use certificate shall authorize a particular conditional use on a specific parcel for which it was approved. A conditional use certificate issued pursuant to this Chapter shall be valid only for the use and the operation of such use as specified on the certificate. The breach of any condition, safeguard or requirement shall constitute a violation of this Planning and Zoning Code. Approval shall automatically be void if, for any reason, the conditional use shall cease for more than one year.
- (b) The conditional use certificate shall expire one year from the date of enactment, unless:
  - (1) The final development plan is approved for uses that require a final development plan;
  - (2) Substantial progress in the establishment of the use is accomplished; or
  - (3) As otherwise specifically approved by the Planning and Zoning Commission.

**1115.09 REAPPLICATION.**

The Zoning Administrator shall accept no re-application for a conditional use certificate unless the re-application is based on a revised application that addresses the justification for the denial of the initial application. A re-application shall comply with all the requirements of this Chapter, including payment of the required fee.

**1115.10 SIMILAR USES.**

Within each zoning district established by the Planning and Zoning Code and amendments thereto, uses of land or structures, which are compatible with each other, are permitted in the district. To the extent that new types of uses are created and are not addressed by this Planning and Zoning Code, this section provides the procedure by which the Planning and Zoning Commission may make a determination that a new use is similar to a use permitted in a district.

- (a) Determination. A proposed use may be permitted as a similar use when the Planning and Zoning Commission determines that such proposed use is in compliance with the following provisions:
  - (1) The proposed use is not prohibited in any other district;
  - (2) The proposed use is not listed as a permitted use in any other district;

- (3) The proposed use conforms to and is consistent with the purpose statement of the proposed district more appropriately than in any other district;
  - (4) The proposed use is of the same general character as the permitted uses in the district to which it is proposed or is similar to a specific use permitted in that district.
- (b) Procedure. The Planning and Zoning Commission shall review the proposed use according to the conditional use procedures set forth in **Chapter 1115**, including the requirement for a public hearing.
- (c) Action by Planning and Zoning Commission. The Planning and Zoning Commission shall approve, approve with modifications or deny the application for a similar use determination and provide the reasons for their decision.

**CHAPTER 1117**  
**Appeals and Variances**

1117.01	Appeals to Board of Building & Zoning Appeals.	1117.06	Review of Appeal.
1117.02	Initiation of Appeal.	1117.07	Decision by the Board.
1117.03	Public Hearing by the Board.	1117.08	Reapplication of Appeal.
1117.04	Notice of Public Hearing.	1117.09	Variances.
1117.05	Stay of Proceedings.	1117.10	Finality of Decisions.

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**1117.01 APPEALS TO BOARD OF BUILDING & ZONING APPEALS.**

Appeals to the Board of Building and Zoning Appeals may be submitted by any person, firm or corporation, or by any officer, board or department of the City, deeming him/herself or itself to be adversely affected by a decision of the Zoning Administrator, or by any administrative officer deciding matters relating to this Planning and Zoning Code. The Board of Building and Zoning Appeals may also hear appeals as provided for in other City codes or ordinances.

**1117.02 INITIATION OF APPEAL.**

Applications for appeal shall be filed with the Zoning Administrator within twenty (20) days after the date of any adverse order, requirement, decision, or determination. Failure to file a notice of appeal within such twenty (20) days shall constitute a waiver of the right of appeal. The application for appeal shall include reference to the decision, the provision of this Planning and Zoning Code from which the appeal is sought, and reasons for the appeal.

**1117.03 PUBLIC HEARING BY THE BOARD.**

When an application for appeal has been filed in proper form with the Board of Building and Zoning Appeals and the application fee has been paid, the Zoning Administrator shall immediately place the request upon the calendar for public hearing before the Board of Building and Zoning Appeals. The Board may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required. Any person in interest may appear at the public hearing in person, by agent, or by attorney.

The Board shall have and is hereby granted the power to subpoena and require the attendance and testimony of witnesses and the production of books, papers, public records and other documentary evidence pertinent to its hearings on appeal, or otherwise, as is authorized in this Planning and Zoning Code and to examine or permit examination, including cross-

examination, of any such witness in relation to any such appeal or to any matter which it has authority to hear and determine. Fees shall be allowed to witnesses and shall be paid by the Finance Director on warrants issued by the clerk for attendance and traveling, as is provided in Ohio R.C. 2335.06 for witnesses in courts of record. Such fees and travel allowance shall be taxed as costs of the appeal. The Board may require a deposit not exceeding five dollars (\$5.00) for any witness at the time of the filing of precipes of such witness but no deposit shall be required in the case of a witness subpoenaed on behalf of the administrative officer or the City. In case any person in disobedience to any subpoena issued by the Board, its Chairman or Clerk, shall fail or refuse to attend and testify to any matter regarding which he may be lawfully interrogated or produce any documentary evidence pertinent to any hearing, such person shall be guilty of a misdemeanor and fined not more than one hundred dollars (\$100.00).

**1117.04 NOTICE OF PUBLIC HEARING.**

Notice of such public hearing shall be given by first class mail to the parties making the request for the appeal and to the property owners within five hundred (500) feet of the property to which such appeal relates. Failure of delivery of such notice shall not invalidate action taken on such application. Further notice shall be given in one or more newspapers of general circulation in the city. All notices shall be mailed at least ten (10) days before the date of said public hearing. All notices shall set forth the time, place and nature of the public hearing.

**1117.05 STAY OF PROCEEDINGS.**

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator shall certify to the Board of Building and Zoning Appeals after the notice of the appeal has been filed, that by reason of facts stated in the permit, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed by other than a restraining order granted by a court having lawful jurisdiction.

**1117.06 REVIEW OF APPEAL.**

The Board of Building and Zoning Appeals shall review the appeal. To aid in their review, the Board may transmit the application to appropriate administrative departments and professional consultants for review and comment. Any reports, comments or experts opinions shall be compiled by the Zoning Administrator and transmitted to the Board prior to the time of the Board's review.

**1117.07 DECISION OF THE BOARD.**

Within its powers, the Board of Building and Zoning Appeals may reverse or affirm, wholly or in part, the decision being appealed, and to that end shall have all the powers of the officers from whom the appeal is taken, and it may direct the issuance of an approval, a permit or certificate.

- (a) The Board shall render a decision on the appeal within forty-five (45) days from the date of the hearing unless an extended period of time is mutually agreed upon by the applicant and the Board. If the Board fails to act within such period of time, the appellant may determine the appeal has been denied.
- (b) The Board shall notify the appellant in writing of the decision of the Board.
- (c) The Zoning Administrator, or his/her designee, shall keep minutes of all proceedings upon appeal, showing the vote of each member thereon, and shall keep record of the Board's official actions.
- (d) Once the appellant has received the Board's decision, he/she may submit, within twelve (12) months following the date of approval, an application for a zoning certificate, a development plan, or conditional use certificate that complies with the Board of Building and Zoning Appeal's decision. A copy of the Board of Building and Zoning Appeal's decision shall be attached to the application. If action is not taken by the appropriate party within the above-specified time frame, the authorization of the appeal shall become null and void, and reapplication to the Board shall be necessary.

**1117.08 REAPPLICATION OF APPEAL.**

If an appeal is denied by the Board of Building and Zoning Appeals, the Board need not rehear the application unless new evidence will be submitted.

**1117.09 VARIANCES**

The Board of Building and Zoning Appeals may authorize in specific cases such variance from the terms of this Planning and Zoning Code as will not be contrary to the public interest according to the following procedures:

- (a) Application Requirements. An application for a variance shall be filed with the Zoning Administrator for review by the Board of Building and Zoning Appeals upon the forms provided, and shall be accompanied by the following requirements necessary to convey the reason(s) for the requested variance:
  - (1) Name, address and phone number of applicant(s);
  - (2) Proof of ownership, legal interest or written authority if the applicant is not the owner of record;
  - (3) Description of property or portion thereof;
  - (4) Description or nature of variance requested;

- (5) Written narrative statements establishing and substantiating the justification for the variance pursuant to **subsection (c)** below;
  - (6) Site plans, floor plans, elevations and other drawings at a reasonable scale to convey the need for the variance;
  - (7) Payment of the application fee as established by Council;
  - (8) A list of all property owners lying within five hundred (500) feet of any part of the property on which the variance is proposed, including their addresses and permanent parcel numbers;
  - (9) Any other documents deemed necessary by the Zoning Administrator or the Board.
- (b) Review for Completeness. Within fourteen (14) days after receiving an application for variance, the Zoning Administrator shall review the submitted application for completeness and compliance with the applicable submission requirements. If the application is deemed insufficient, the Zoning Administrator shall notify the applicant of the necessary changes or additional information needed. When the application is deemed complete and the application fee has been paid, the Zoning Administrator shall officially accept the application for consideration of the action(s) requested on the date such determination is made and place it on the Board of Building and Zoning Appeals' calendar for public hearing.
- (c) Review by the Board. According to the procedures established for appeals in **Sections 1117.03 and 1117.04**, the Board shall hold a public hearing and give notice of the same. The Board shall review each application for a variance to determine if it complies with the purpose and intent of this Planning and Zoning Code and evidence demonstrates that the literal enforcement of this Planning and Zoning Code will result in practical difficulty or unnecessary hardship.
- (1) Area Variance. The following factors shall be considered and weighed by the Board to determine practical difficulty:
    - A. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are exceptional irregularity, narrowness, shallowness or steepness of the lot, or proximity to non-conforming and inharmonious uses, structures or conditions;

- B. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
  - C. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;
  - D. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;
  - E. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, trash pickup;
  - F. Whether the property owner purchased the property with knowledge of the zoning restrictions;
  - G. Whether special conditions or circumstances exist as a result of actions of the owner;
  - H. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
  - I. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and
  - J. Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.
- (2) Use Variance. Due to Section 5.32 of the City of Willoughby Hills Charter, the Board of Building and Zoning Appeals does not have the authority to grant a use variance. If that Charter Section is amended to permit the Board this authority, the following criteria and process shall be in full force and effect.

In order to grant a use variance, the Board of Building and Zoning Appeals shall determine that strict compliance with the terms of this Planning and Zoning Code will result in unnecessary hardship to the applicant. The applicant must demonstrate such hardship by clear and convincing evidence that all of the following criteria are satisfied:

- A. The property cannot be put to any economically viable use under any of the permitted uses in the zoning district in which the property is located;

- B. The variance requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district;
  - C. The hardship condition is not created by actions of the applicant;
  - D. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
  - E. The granting of the variance will not adversely affect the public health, safety or general welfare;
  - F. The variance will be consistent with the general spirit and intent of the Planning and Zoning Code; and
  - G. The variance sought is the minimum that will afford relief to the applicant.
- (d) Requests for Additional Information. The Board of Building and Zoning Appeals may request that the applicant supply additional information that the Board deems necessary to review and evaluate the request for a variance.
- (e) Additional Conditions and Safeguards. The Board may further prescribe any conditions and safeguards that it deems necessary to ensure that the objectives of the regulation(s) or provision(s) to which the variance applies will be met.
- (f) Action by the Board. The Board shall approve, approve with supplementary conditions as specified in subsection (e) above, or disapprove the request for variance according to the procedures established for appeals in **Section 1117.07**.
- (g) Term and Extension of Variance. Variances shall expire one (1) year from the date of their enactment for parcels in a Residential District and two (2) years for parcels in all other zoning districts, unless prior thereto, the applicant commences actual construction in accordance with the granted variance or an extension of time has been granted by the Board of Building and Zoning Appeals. There shall be no modification of variances except by further consideration of the Board. Once the time limit pursuant to this Section has expired, a request for a variance shall be considered to be a new application for a variance and shall meet all requirements for application and review pursuant to this Section.

**1117.10 FINALITY OF DECISIONS.**

Decisions of the Board of Building and 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.

**CHAPTER 1119**  
**Zoning Amendments**

1119.01	Authority for Amendments.	1119.06	Amendments to Text.
1119.02	Initiation of Zoning Amendments.	1119.07	Amendments to Change Zoning Districts or Zoning Classifications of Properties.
1119.03	Amendments Initiated by Property Owners.	1119.08	Recommendation by the Planning and Zoning Commission.
1119.04	Amendment Initiated by the Planning and Zoning Commission or the City Council.	1119.09	Public Hearing & Notice by the City Council.
1119.05	Public Hearing & Notice by Planning and Zoning Commission.	1119.10	Action by City Council.

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**1119.01 AUTHORITY FOR AMENDMENTS.**

The regulations imposed and the districts created under this Planning and Zoning Code may be amended from time to time by ordinance duly enacted by the City Council, after receipt of recommendations thereof from the Planning and Zoning Commission. No such amendment shall be adopted except in accordance with the procedures specified in this Chapter of this Planning and Zoning Code, and subject to the procedures provided by law.

**1119.02 INITIATION OF ZONING AMENDMENTS**

Amendments to this Planning and Zoning Code shall only be initiated in one of the following ways:

- (a) By the filing of an application by all owners or lessees of property or developers with an option or a signed purchase contract on such property within the area proposed to be changed or affected by said amendment. If the applicant is not the property owner, the property owner shall sign the application.
- (b) By the adoption of a motion by the Planning and Zoning Commission.
- (c) By the introduction of an ordinance by the City Council.

**1119.03 AMENDMENTS INITIATED BY PROPERTY OWNERS**

An amendment initiated by at least one owner or lessee of property or a developer with an option or a signed purchase contract on such property within the area proposed to be changed or affected by said amendment shall be submitted and reviewed according to the following:

- (a) Discussion with Planning and Zoning Commission. Prior to submitting an application for an amendment to the Planning and Zoning Code, the applicant may appear before the Planning and Zoning Commission to informally discuss the proposed amendment. However, no action shall be taken at such a meeting and no discussions, opinions, suggestions, or recommendations of the Planning and Zoning

Commission shall be relied upon by the applicant to indicate subsequent approval or disapproval of the proposed amendment.

- (b) Submission Requirements. Applications for proposed amendments to both the Planning and Zoning Code text and Zoning map shall contain at least the following information:
- (1) The name, address and phone number of the applicant and the property owner if other than the applicant;
  - (2) A statement of the reason(s) for the proposed amendment and the wording of the proposed amendment;
  - (3) A statement on the ways in which the proposed amendment relates to the Master Plan;
  - (4) The payment of the application fee as established by Council.
  - (5) Amendments to the Zoning Map adopted as part of this Planning and Zoning Code shall contain the following additional information:
    - A. Legal description of the parcel(s) to be rezoned, drawn by a registered surveyor;
    - B. Present use of the land and zoning district;
    - C. Proposed use of the land and zoning district;
    - D. A vicinity map at a scale approved by the Zoning Administrator showing property lines, thoroughfares, existing and proposed zoning, and such other items as the Zoning Administrator may require;
    - E. A site plan, in duplicate, drawn to such scale as to clearly show the actual dimensions of the subject property according to the recorded plat of such property and lot numbers; and
    - F. The names, addresses, and lot numbers of the owners of property within a radius of five hundred (500) feet from the parcel or parcels of land proposed to be reclassified.
- (c) Review for Completeness. The Zoning Administrator or designee shall review the submitted application for completeness and compliance with the applicable submission requirements within fourteen (14) days of receipt of such application. If the application is deemed insufficient, the Zoning Administrator shall notify the applicant of the deficiencies and place the application on hold until complete. When the application is determined complete and the application fee has been paid, the Zoning Administrator shall officially accept the application for consideration.
- (d) Transmittal to the Planning and Zoning Commission. After the filing of a completed application by an owner, lessee of property or developer with an option

or a signed purchase contract on such property, the Zoning Administrator shall transmit the application to the Planning and Zoning Commission to begin the adoption process set forth in Sections 1119.05 through 1119.10.

**1119.04 AMENDMENTS INITIATED BY THE PLANNING AND ZONING COMMISSION OR THE CITY COUNCIL**

After the passage of a motion by the Planning and Zoning Commission or the introduction of an ordinance by the City Council, the motion or ordinance shall be reviewed and considered by the Planning and Zoning Commission and the City Council according to the process set forth in sub-sections 1119.05 through 1119.10.

**1119.05 PUBLIC HEARING AND NOTICE BY PLANNING AND ZONING COMMISSION**

- (a) Upon the receipt of an application, an ordinance or upon the passage of a motion, the Planning and Zoning Commission shall set a date for a public hearing for reviewing the proposed amendment.
- (b) Whenever a proposed map amendment proposes to rezone ten (10) or fewer parcels, written notification shall be given by the Zoning Administrator, by first class mail, to the applicant and to all owners of property located within five hundred (500) feet of the property proposed to be rezoned or redistricted. Failure of delivery of such notice shall not invalidate any recommendation of the Planning and Zoning Commission or any subsequently enacted ordinance.
- (c) Notice shall be given in one or more newspapers of general circulation in the City.
- (d) All notices shall be mailed at least ten (10) days prior to the date of the public hearing.
- (e) Notices shall include the time and place of the public hearing, a summary of the proposed amendment and a statement that the opportunity to be heard will be afforded to any person interested.
- (f) The Commission may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required.

**1119.06 AMENDMENTS TO TEXT**

When a proposed amendment would result in a change in the text of this Zoning Code but would not result in a change of zoning classification of any property on the zoning map, the Planning and Zoning Commission and the City Council shall consider the following items when formulating its decisions:

- (a) Whether such change is consistent with the intent and purposes of this Planning and Zoning Code;
- (b) Which areas are most likely to be directly affected by such change and in what way they will be affected; and,
- (c) Whether the proposed amendment is made necessary because of changed or changing conditions in the areas of zoning districts affected or in the city generally, and, if so, the nature of such changed or changing conditions.

**1119.07 AMENDMENTS TO CHANGE ZONING DISTRICTS OR ZONING CLASSIFICATIONS OF PROPERTIES**

When a proposed amendment would result in a change of zoning classification of any property, the Planning and Zoning Commission and the City Council should consider whether:

- (a) The change in classification would be consistent with the Master Plan of the City or other adopted plans and policies.
- (b) The change in classification would be consistent with the intent and purposes of this Planning and Zoning Code.
- (c) The proposed amendment is made necessary because of changed or changing conditions in the area affected, and if so, the nature of such changed or changing conditions.
- (d) The uses that would be permitted on the property if it were reclassified would be compatible with the uses permitted on other property in the immediate vicinity. The Planning and Zoning Commission may suggest conditions and restrictions on the uses that would be permitted on the property if it were reclassified in order to attain compatibility with the uses permitted on other property in the immediate vicinity.
- (e) The uses that would be permitted on the property if it were reclassified would have an adverse environmental or health impact on the immediate surrounding area in terms of acceptable air, noise, light, or water quality standards.

- (f) Adequate utility, sewer, and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on a property if it were reclassified.
- (g) The amount of vacant land with the same zoning classification as proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances, if any, make a substantial part of such vacant land unavailable for development.
- (h) The proposed amendment would correct an error in the application of this Planning and Zoning Code as applied to the subject property.

**1119.08 RECOMMENDATION BY THE PLANNING AND ZONING COMMISSION**

- (a) After the conclusion of the public hearing required in **Section 1119.05**, the Planning and Zoning Commission shall recommend one of the following to City Council, in writing, along with the minutes of the hearing:
  - (1) That the amendment be granted as requested;
  - (2) That the amendment be granted as modified by the Planning and Zoning Commission; or,
  - (3) That the amendment be denied.
- (b) If the Planning and Zoning Commission does not make a recommendation on the proposed amendment within forty-five (45) days after the public hearing, it shall be deemed that the recommendation of the Planning and Zoning Commission is that the amendment be denied.
- (c) All recommendations shall also be forwarded to the applicant, as applicable.

**1119.09 PUBLIC HEARING AND NOTICE BY CITY COUNCIL**

Upon receipt of the recommendation from the Planning and Zoning Commission, Council shall set a time for a public hearing on the proposed amendment.

- (a) Notice of the public hearing shall be given by Council according to the following:
  - (1) Notice of the proposed amendment shall be published at least thirty (30) days prior to the date of the required hearing, in one or more newspapers of general circulation in the City.

- (2) If the proposed amendment intends to rezone or redistrict ten or less parcels of land, as listed on the tax duplicates, written notice of the hearing shall be mailed by the Clerk of Council by first class mail at least ten (10) days before the day of the public hearing to all owners of property within, contiguous to and directly across the street from such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list. The failure to deliver the notification, as provided in this section shall not invalidate any such amendment.
- (3) Notices shall include the time and place of the public hearing, a summary of the proposed amendment and a statement that the opportunity to be heard will be afforded to any person interested.
- (b) Council may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required.
- (c) During the thirty (30) days prior to the public hearing, the text of the proposed amendment, maps or plans, if applicable, and the recommendation of the Planning and Zoning Commission shall be on file for public examination in the office of the Clerk of Council or in such other office as is designated by Council.

**1119.10 ACTION BY CITY COUNCIL**

After the conclusion of the public hearing required in **Section 1119.09**, Council shall take action on the proposed amendment.

- (a) Council's action shall either:
  - (1) Adopt the recommendation of the Planning and Zoning Commission;
  - (2) Deny the recommendation of the Planning and Zoning Commission; or
  - (3) Adopt some modification thereof.
- (b) Required Vote for Adoption.
  - (1) When the Planning and Zoning Commission recommends approval of a proposed amendment, then no such amendment shall be adopted unless approved by a majority vote of the membership of Council.
  - (2) When the Planning and Zoning Commission recommends disapproval of a proposed amendment, then no such amendment shall be adopted unless approved by not less than 6/7 vote of the membership of Council.
- (c) Any such proposal may be amended prior to the voting thereon by Council without further notice or postponement if such amendment to the proposal is germane to the subject matter thereof and is in accordance with the recommendation of the Planning and Zoning Commission.

- (d) If a proposed amendment is not adopted by the City Council within sixty (60) days after receiving latest recommendation of the Planning and Zoning Commission is submitted, such proposed amendment shall be deemed to have been defeated and denied and shall not thereafter be passed with out additional proceedings as provided in sub-sections **1119.02 through 1119.10**.
- (e) When a proposed amendment would result in a change to the permitted uses in a zoning district or in any changes to the Official Zoning Map, due to Sections 5.15 and 6.2 of the City of Willoughby Hills' Charter, an action by City Council to approve any of the preceding changes is not effective until ratified by a majority vote of all votes cast by the qualified electors of the City of Willoughby Hills.

**CHAPTER 1121**  
**Nonconforming Uses, Lots, and Structures**

1121.01	Intent.	1121.08	Nonconforming Site Conditions Existing at Time of Development Plan Review.
1121.02	Lawful Nonconformance.	1121.09	Existing Use Deemed Conditional Use; Permit Required for Change.
1121.03	Nonconforming Uses of Buildings Structures or Land.	1121.10	Determination of Nonconforming Status.
1121.04	Nonconforming Buildings and Structures.	1121.11	Completion of Construction with Zoning Certificate.
1121.05	Nonconforming Lots.		
1121.06	Nonconforming Parking Facilities.		
1121.07	Nonconforming Signs.		

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**1121.01 PURPOSE.**

The purpose of this Section is to recognize the existence of uses, buildings, lots, structures, and conditions that lawfully existed at the time of this Planning and Zoning Code's enactment, or amendment thereto, but which now do not conform with one or more of the regulations contained in this Planning and Zoning Code. Nonconforming status is considered to be incompatible with permitted uses, buildings, lots, conditions and structures. Therefore, nonconforming uses, buildings, lots, structures and conditions are subject to regulations limiting their use, restoration, reconstruction, extension, and substitution. The regulations in this Chapter are established in order to achieve the following purposes:

- (a) To permit the continuance but control of nonconforming uses so as to minimize any adverse effects the uses might have on the adjoining properties and development.
- (b) To regulate their maintenance and repair.
- (c) To restrict their rebuilding if substantially destroyed.
- (d) To require their permanent discontinuance if not operated for certain periods of time.
- (e) To bring about eventual conformity of all uses in accordance with the objectives of the Master Plan and Planning and Zoning Code of the City.
- (f) To establish regulations for the development of nonconforming lots.

**1121.02      LAWFUL NONCONFORMANCE.**

- (a) The lawful use of any dwelling, building or structure and of any land or premises as existing and lawful at the time of enacting this Code, or any amendments thereto, may be continued although such use does not conform to the provisions of this Code. The completion, restoration, reconstruction, extension or substitution of nonconforming uses shall be subject to the provisions and conditions set forth in this Chapter.
- (b) The provisions of this Chapter shall also apply to any building, structure, land or other use hereafter becoming nonconforming as a result of amendments made to this Planning and Zoning Code or Zoning Map.
- (c) A nonconforming lot, use, building or structure does not include nonconformity with regulations pursuant to a legally granted variance from a zoning regulation.
- (d) Ordinary repairs, or repair or replacement of non-bearing walls, fixtures, wiring, or plumbing may be performed on a nonconforming structure or on any portion of a structure that contains a nonconforming use provided that the cubic content shall not be increased and no structural parts shall be replaced except when required by law to restore such building or structure to a safe condition or to make the building or structure conform to the regulations of the district in which it is located.

**1121.03      NONCONFORMING USES OF BUILDINGS, STRUCTURES, OR LAND.**

A nonconforming use may be continued so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following regulations:

- (a) Change or Substitution to Another Nonconforming Use. A nonconforming use of a building, structure or land shall not be changed or substituted to another nonconforming use unless:
  - (1) The Board of Building and Zoning Appeals, on appeal, finds that the use proposed is equally appropriate or more appropriate to the district than the existing nonconforming use, and that the use proposed is in less conflict with the character of uses permitted in the applicable zoning district than the existing nonconforming use, and that the proposed substitution is of no greater intensity than the previous use, pursuant to the criteria in **Section 1121.03(c)(1), Expanding Nonconforming Uses and Structures**. In permitting such change, the Board of Building and Zoning Appeals may prescribe appropriate conditions and safeguards in

accordance with other provisions of this Planning and Zoning Code and when made a part of the terms under which the change is granted.

- A. Whenever a nonconforming use is changed to a less intensive use, such use shall not thereafter be changed to a more intensive nonconforming use.
  - B. Whenever a nonconforming use is changed to a use permitted in the district in which the lot is located, it shall cease to be considered a nonconforming use. Upon such compliance, no nonconforming use shall be made, resumed or reinstated.
  - C. Violation of any conditions and/or safeguards prescribed shall be deemed a violation of this Planning and Zoning Code and shall be punishable under **Chapter 1107, Enforcement & Penalty**.
- (2) An application is filed with the Board of Building and Zoning Appeals and such application includes payment of the fee established by the City, and the items required in **Chapter 1117, Appeals and Variances**.
- (b) Land Occupied by Nonconforming Use.
- (1) Expansion of Nonconforming Use of Land. A nonconforming use of land shall not be physically enlarged, increased, nor extended to occupy a greater area of land than was occupied by the use at the time it became nonconforming.
  - (2) Relocation of Nonconforming Use of Land. A nonconforming use of land shall not be moved in whole or in part to any portion of the lot or parcel other than those portions occupied by the use at the time it became nonconforming.
- (c) Structures Occupied by Nonconforming Use.
- (1) Expanding Nonconforming Uses within Structures. Upon approval by the Board of Building and Zoning Appeals, a nonconforming use of an existing structure may be extended throughout any parts of a building that were arranged or designed for such use at the time of adoption or amendment to this Planning and Zoning Code, provided the intensity of the nonconforming use is not increased and no such use shall be extended to occupy any land outside such building not previously occupied by such nonconforming use. In determining whether intensity of use is increased, the Board of Building and Zoning Appeals shall consider the following:
    - A. Hours of operation;

- B. Volume and type of sales;
  - C. Type of processing activity;
  - D. Nature and location of storage;
  - E. Traffic generation by volume, type, and characteristics;
  - F. Parking and loading characteristics; and
  - G. Noise, smoke, odor, glare, vibration, radiation, and fumes.
- (2) Expansion of Building(s). No such building shall be enlarged or expanded to increase the nonconforming use. No additional structures shall be constructed in connection with such nonconforming use.
- (3) Alteration or Reconstruction of a Building Occupied by a Nonconforming Use. No building or structure occupied by a nonconforming use shall be altered, improved, or reconstructed except when the use is changed to a use permitted in the district in which it is located, or upon prior approval of the Board of Building and Zoning Appeals provided the cumulative cost of the alteration, reconstruction, or improvement permitted by the Board of Building and Zoning Appeals does not exceed 50% of the building's replacement value.
- (4) Damage or Destruction. In the event a building or structure that is occupied by a nonconforming use is destroyed by any means to the extent of more than fifty percent (50%) of its replacement value, it shall not be rebuilt, restored or reoccupied for any use unless such use conforms to the use regulations of the district in which the building or structure is located.
- (d) Discontinuance of Use. Whenever a nonconforming use of a building, part of a building, lot or part of a lot is discontinued for more than one (1) year, such discontinuance shall constitute abandonment of such use and any subsequent use of the building, part of a building, lot or part of a lot shall conform to the use regulations specified by this Code for the district in which such land is located.

**1121.04 NONCONFORMING BUILDINGS AND STRUCTURES.**

A nonconforming building or structure may continue to be used or occupied by a use permitted in the district in which it is located so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:

- (a) Additions and Moving. A nonconforming building or structure shall not be added to, enlarged or moved unless the addition(s) or part(s) moved conforms to the regulations of the district in which it is located.

- (b) Restoration of Damaged Building or Structure. If a nonconforming building or structure is damaged or destroyed by any means, those portions so destroyed or damaged may be restored to the original footprint and floor area of the building or structure, provided the reconstruction is begun within 12 months of the damage or destruction and the cumulative replacement costs do not exceed 50% of the replacement cost of the building or structure at the time of such damage. Any restoration that exceeds the original footprint and/or floor area shall comply with **subsection 1121.04(a)**.
- (c) Change in Principal Use of Building. The principal use of a nonconforming building may be changed to any other use permitted in the district in which it is located so long as the new use complies with all regulations of this Planning and Zoning Code specified for such use, except the regulations to which the building did not conform prior to the change in use.
- (d) Variances from district regulations on area, lot coverage, lot width, height, yards, location on the lot may be granted by the Board of Building and Zoning Appeals where necessary and where such appeal for a variance meets the requirements of **Section 1117.09(c)(1), Area Variance.** The Zoning Administrator may allow the extension of an existing nonconforming building line if the extension maintains the same or creates a greater distance from the lot line.

**1121.05 NONCONFORMING LOTS.**

A lot of record that, on the effective date of this Planning and Zoning Code, or any amendment thereto, does not comply with the lot area and/or lot width regulations of the district in which the lot is located may be used as follows:

- (a) Existing Buildings on Lots of Record.
  - (1) Existing Building on a Nonresidential Lot. If the lot is occupied by a building, such building shall be maintained and may be repaired, modernized or altered, provided that the building shall not be enlarged in floor area unless the enlarged section(s) complies with all regulations of this Planning and Zoning Code, except the lot area and lot width regulations of the district in which the lot is located.
  - (2) Existing Building on a Residential Lot. If the lot is occupied by a building, such building shall be maintained and may be repaired, modernized or altered, provided that the building shall not be enlarged in floor area unless the enlarged section(s) complies with all regulations of this Planning and Zoning Code, except for the lot area and lot width regulations of the district in which the lot is located.

- A. Structural alterations or extensions of a residential structure, which is nonconforming only by reason of lot size or lot width, shall be permitted upon approval of the Zoning Administrator.
  - B. The number of dwelling units shall not be increased unless all regulations, including lot area, are complied with.
- (b) Vacant Single Nonconforming Lot of Record.
- (1) Single Nonconforming Lot of Record in a Residential District. A nonconforming lot in a R-1, Traditional Single-family Residential District that is in separate ownership and not of continuous frontage with other lots in the same ownership shall be permitted to be developed as a site for a single-family dwelling and customary accessory buildings.
    - A. Such dwelling and its accessory uses shall comply with all regulations of this Planning and Zoning Code, except for the lot area and lot width regulations of the district in which the lot is located.
    - B. Review and approval of development on such lots of record shall be conducted according to the procedures set forth in **Section 1113.03, Zoning Certificate for a Single-Family Dwelling or Use Accessory Thereto.**
    - C. Variances of requirements from district regulations, other than lot area or lot width, shall be obtained through action of the Board of Building and Zoning Appeals as provided in this Chapter.
  - (2) A vacant nonconforming lot in a R-2, M, M-1, or non-residential district may be used for any use permitted in the district in which it is located when the development of such lot meets all requirements of the district in which it is located, including the maximum lot coverage and minimum setback requirements, except for the minimum lot area and lot width requirements. No use that requires a greater lot size than the established minimum lot size for a particular district shall be permitted on a nonconforming lot. Review and approval of development on such lots of record shall be conducted according to the development plan review requirements set forth in **Chapter 1111, Development Plan Review Procedures.**
- (c) Lots in Combination. If a vacant nonconforming lot in any district adjoins one or more lots in common ownership on the effective date of this Planning and Zoning Code, or applicable amendment thereto, such lots shall be joined to create conforming lots as a prerequisite for development.

**1121.06 NONCONFORMING PARKING FACILITIES.**

A building or use existing lawfully at the time of this Planning and Zoning Code, or an amendment thereto, became or becomes effective, but which does not comply with the off-street parking regulations for the use may continue without such parking facilities. In the event an existing building is altered or a use is changed or substituted, in accordance with these regulations, then additional off-street parking spaces shall be provided in compliance with Section **1121.08**, if this Code requires such additional parking spaces as a result of the proposed changes.

**1121.07 NONCONFORMING SIGNS.**

A sign, lawfully existing at the time this Planning and Zoning Code, or any amendment thereto, became or becomes effective, but which fails to conform to the sign regulations of the district in which it is located is a nonconforming sign. Nonconforming signs shall comply with the regulations set forth in **Section 1151.08, Regulations for Nonconforming Signs**.

**1121.08 NONCONFORMING SITE CONDITIONS EXISTING AT TIME OF DEVELOPMENT PLAN REVIEW.**

If a nonconforming site condition(s) exists when a revised development plan is required pursuant to **Chapter 1111**, then such site condition(s) must be brought into compliance with district regulations, unless the Planning and Zoning Commission determines that such conformance cannot be reasonably achieved because of existing site conditions. In such case, the Planning and Zoning Commission shall approve a development plan that reduces the existing nonconforming site condition(s) to the maximum extent practicable.

**1121.09 EXISTING USE DEEMED CONDITIONAL USE; PERMIT REQUIRED FOR CHANGE.**

Any lawfully existing use that, at the time of its establishment, was not classified as a conditional use, but which now, because of the passage of this Planning and Zoning Code, or amendment thereto, is listed as a conditional use in the district in which it is located, shall be deemed without further action to be a conditional use. Any change, modification, enlargement or alteration of such use, site development conditions or signs, or change in operations shall only be permitted upon review and approval by the Planning and Zoning Commission according to the procedures for conditional uses set forth in **Chapter 1115, Conditional Use Certificates and Similar Uses**.

**1121.10 DETERMINATION OF NONCONFORMING STATUS.**

At the time of application for a zoning certificate or request for variance, or upon the request of the Zoning Administrator regarding a nonconforming lot, building, structure or use, the property owner shall submit sufficient evidence to verify that such lot, building, structure, or use was lawfully created or established in accordance with the zoning regulations in

existence at that time. If the evidence submitted indicates the lot, building, structure or use was legally established and has since become nonconforming because of the establishment of or amendment to this Planning and Zoning Code, the Zoning Administrator shall issue a Certificate of Nonconforming Use. This certificate shall specify the reason why the use, building, structure or lot is nonconforming, and for nonconforming uses shall also include a description of the extent and kind of use made of the property in question, the portion of the structure or land used for the nonconforming use, and the extent that dimensional requirements are nonconforming.

**1121.11 COMPLETION OF CONSTRUCTION WITH ZONING CERTIFICATE.**

Nothing in this Planning and Zoning Code shall prohibit the completion of the construction and use of buildings for which a zoning certificate has been issued prior to the effective date of this Planning and Zoning Code, or amendments thereto, provided that construction is carried on diligently and without interruption and the entire building is completed within two years after the issuance of the zoning certificate. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction.

**TITLE FIVE**  
**SUBDIVISION REGULATIONS**

**General Design and Construction of Improvements**

<b>Chapter 1123</b>	<b>Subdivision Procedures</b>
<b>Chapter 1125</b>	<b>Scheduling and Assurance For Completion And Maintenance Of Improvements</b>
<b>Chapter 1127</b>	<b>Development and Construction Standards Applicable to All Development.</b>
<b>Chapter 1129</b>	<b>Supplemental Regulations for All Subdivisions.</b>

**CHAPTER 1123**  
**Subdivision Procedures**

1123.01 Purpose.	1123.03 Major Subdivisions.
1123.02 Minor Subdivisions.	

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**1123.01 PURPOSE.**

The purpose of this Chapter is to provide adequate review of minor and major subdivisions as well as public improvements.

**1123.02 MINOR SUBDIVISIONS.**

Procedures are herein established and intended to define the steps by which an applicant may design, make an application, record plats and construct improvements in the development of land classified as a minor subdivision.

- (a) Classification. A proposed division of a parcel of land which adjoins an existing public street and does not involve the opening, widening, extension or improvement of any street or the installation of any underground public utility, and does not involve more than five lots and does include all the contiguous land under one ownership, shall be classified as a minor subdivision.
  
- (b) Application. An application and sketch plat, complying with the requirements set forth in subsection (c) hereof shall be prepared for each minor subdivision and submitted to the Zoning Administrator. The purposes of a sketch plat layout are to furnish sufficient information for determination of proper integration of the subdivision with the neighborhood and compliance with City codes.

- (c) Sketch Plat. The developer shall furnish with the application for approval of a sketch plat for a minor subdivision the following:
  - (1) Maps and data.
    - A. Location - A drawing or print of a City map, or a part thereof, showing the location of the proposed subdivision.
    - B. Property - A drawing or print showing by scale and dimensions the parcel which is to be subdivided and all contiguous land of the same ownership, including locations of existing structures within fifty feet of the boundaries.
    - C. Topography - Information on the topography and drainage of the proposed subdivision and within fifty feet thereof; and
    - D. Utilities - Information on the accessibility of required utilities; and
    - E. Names of the owner and of adjoining property owners, including designations of the parcel according to official records.
  - (2) Sketch Plat. The sketch plat shall be clearly drawn on transparent paper or cloth at a scale of not less than fifty feet to the inch showing the proposed layout and dimensions of each lot.
- (d) Distribution of Sketch Plat. The application shall be transmitted by the Zoning Administrator to the Planning and Zoning Commission as well as other agencies as follows:
  - (1) The application may be transmitted to appropriate administrative departments and professional consultants for review and comment.
  - (2) Any department reports, comments, or expert opinions shall be compiled by the Zoning Administrator and transmitted to the Planning and Zoning Commission prior to the time of the Commission's review.
- (e) Approval. If the Planning and Zoning Commission determines the proposed division of land is a minor subdivision, and:
  - (1) That all the contiguous land owned by the proposed developer will therein be completely subdivided, and

- (2) That it is properly integrated with adjoining developments or could be properly coordinated with the subdivision and extension of streets to adjoining land, and
- (3) That it complies with the planning principles and other sections of these regulations, the Zoning and other Codes and plans of the City, and
- (4) If the layout is satisfactory and all maps, plans and data as set forth in subsection (c) hereof, then the plat shall be approved.

A notation to that effect shall be made on the sketch plat by the Chairman of the Planning and Zoning Commission, the Zoning Administrator and the City Engineer; and the developer shall be informed if a metes and bounds deed description or a plat map will be required.

- (f) If Not Approved. If the Planning and Zoning Commission determines it is a major subdivision or the sketch plat is not approved for other reasons, the Planning and Zoning Commission shall state the conditions that shall be complied with before it will be approved.
- (g) Recording the Minor Subdivision. After approval of a sketch plat, the developer shall submit either a metes and bounds, deed description, and/or plat as required, to the City Engineer for review. The metes and bounds, deed description, and/or plat shall conform to all applicable County and State standards. An electronic copy of the plat in AutoCad format shall also be provided to the City Engineer. If the same is found to conform to the approved sketch plat and is otherwise satisfactory to the Engineer, he shall so certify his approval thereon. The approval shall expire within 120 days unless the deed or plat has been filed and recorded in the office of the County Recorder and the Planning and Zoning Commission has been so notified by the developer in writing.

### **1123.03 MAJOR SUBDIVISIONS.**

Procedures are herein established and intended to define the steps by which an applicant may design, make an application, record plats and construct improvements in the development of land, and by which the Planning and Zoning Commission may review, make recommendations for and approve the plans and otherwise administer these regulations.

- (a) Sketch plat. For subdivisions where public utilities are not accessible at the site or where rezoning is also involved in the project, the developer may submit, as an exploratory step, a sketch plat and a program for improvements without all of the maps, data and plans as set forth in subsection (b) hereof to permit an opportunity for the Planning and Zoning Commission to conduct a work session to review and

render comments before the plan is advanced. This process will take place before proceeding with the preparation of the preliminary plan. However, no action shall be taken at such a meeting and no discussions, opinions, suggestions, or recommendations of the Planning and Zoning Commission shall be relied upon by the applicant to indicate subsequent approval or disapproval by the Planning and Zoning Commission.

- (b) Preliminary plat. The purpose of the preliminary plat shall be to explore the best design for the subdivision, the best relationship to adjoining subdivisions or undeveloped land, to outline a program of improvements and to obtain the advice, suggestions and recommendations of the Planning and Zoning Commission, the City Engineer and departments of the City before the subdivision becomes fixed as in a detailed drawing.
- (1) Compliance with zoning standards and planning and design principles. The proposed subdivision shall be planned in accordance with the zoning standards set forth in Titles **One, Three, Seven, and Eleven** as well as the planning and design principles set forth in **Title Five** of these regulations.
- (2) Application and submission requirements. The developer shall furnish a written application, the preliminary plat, and accompanying maps and data complying with the requirements set forth below, indicating the existing conditions of the site, all of which shall be submitted to the Zoning Administrator for each proposed major subdivision.
- A. Plat Preparation. The subdivision shall be designed and drawn by a registered architect, engineer, land surveyor, landscape architect or professional planner. The preliminary plat shall be accurately drawn at a scale of not less than 100 feet to one inch, and shall include a graphic scale, north arrow, date and title. It may be drawn in pencil on transparent paper.
- B. Preliminary Plat. The drawing shall include the following:
1. The layout, right-of-way and pavement widths, approximate grades and names of proposed streets and abutting existing streets, including the location of pavements and sidewalks;
  2. The location, width and purpose of all other public right-of- ways and easements;

3. The approximate dimensions and number of lots; and each lot's proposed use.
  4. Sites to be reserved or dedicated for parks, playgrounds or other public uses;
  5. Existing structures on the parcel and on adjoining property within fifty (50) feet and proposed building setback lines.
  6. The bearings and distances of the parcel to be subdivided; and
  7. Contours at two-foot intervals based on the county datum plane and showing the approximate direction and gradient of the ground slope on immediately adjacent land; the subsurface condition of the tract if not typical; wetlands and the watercourses, marshes, wooded areas, isolated preservable trees and other significant features. This map may be compiled by photogrammetric methods.
- C. Location map of the City or part thereof, showing thereon the location of the proposed subdivision and the relationship to adjacent development and all community facilities which serve or influence it.
- D. Utility map showing utilities on and adjacent to the tract, including the water and gas mains and the location of fire hydrants and electric power and telephone poles.
- E. Titles and certificates indicating present parcel designations according to official records, the name of the developer, the name and address of the owners, certification of a registered surveyor, the scale and the date of the survey.
- F. Protective Covenants. An outline of the protective covenants proposed to regulate and protect the development.
- G. Other Preliminary Drawings. The Planning and Zoning Commission may require additional preliminary drawings showing information such as street profiles and grades, a typical cross section of the proposed roadway, proposed sanitary and storm sewers and water service, or the prospective street system of adjacent land owned by the developer.

- H. Ownership Certificate. The Commission may require a certificate as to ownership and that the proposed subdivision is satisfactory to the owner.
- (3) Notification of Planning and Zoning Commission Meeting. The Planning and Zoning Commission shall notify by letter the owners, as shown upon the current records of the County Recorder, of adjoining land at least ten days before the meeting at which the proposed subdivision is to be considered.
- (4) Review by Others. For all subdivisions which are of such scope or at such locations as to affect the design of an integrated neighborhood street pattern, extensions to adjoining unsubdivided land, public sites, unusual topographic or other conditions, the Zoning Administrator may transmit the preliminary plat to the City Engineer, appropriate administrative departments and professional consultants for review and comment. Any department reports, comments, or expert opinions shall be compiled by the Zoning Administrator and transmitted to the Planning and Zoning Commission prior to the time of the Planning and Zoning Commission's review. The Planning and Zoning Commission shall review any analysis requested or otherwise determine if the preliminary plat embraces all the applicable planning principles and other provisions of these regulations as well as other codes of the City.
- (5) Planning and Zoning Commission Action. The Planning and Zoning Commission shall act upon the preliminary plat, and upon approval, submit a recommendation to Council to accept the preliminary plat.
- (6) Council Action. Upon notification by the Planning and Zoning Commission of the Planning and Zoning Commission's approval of the preliminary plat, the Council shall legislatively accept or reject such preliminary plat by resolution. Council's acceptance shall be indicated by the signature of the Clerk of Council, the resolution number and date of passage.
- (7) Effect of Approval. The approval of the preliminary plat shall assure the developer for a one-year period from the date of approval:
- A. That the general layout of streets, lots and other features are approved and that the preliminary plat shall be the basis for the preparation of the final plat;
  - B. That the general terms and any special conditions under which the approval of the preliminary plat was granted shall not be changed; and

- C. That the developer may submit drawings and specifications for improvements and a final plat for the whole or part of the subdivision for final approval.
- (c) Final plat. Following the approval of the preliminary plat, the owner, subdivider or agent shall prepare for record purposes, and for dedication of public streets and other public places, a final plat of the proposed subdivision.
- (1) Application and Submission Requirements. An application for approval of a final plat shall be submitted in writing to the Zoning Administrator. The application shall include the original mylar of the final plat, the original mylar of the drawings for the required improvements, three black-on-white prints of each mylar, three sets of specifications and other maps, data and certificates as set forth in the following:
- A. Final Plat. The final plat shall be designed and drawn by an engineer or land surveyor in ink on mylar sheets at a size complying with the County standards, at a scale not less than fifty feet to one inch. An electronic copy in AutoCad format shall also be filed with the City Engineer. If necessary, the final plat shall consist of several sheets including an index and references to adjoining sheets. Each sheet shall include the title, scale, north arrow and date. The final plat shall show the following:
    - 1. Primary control points to which all dimensions, angles and bearings are to be referred and the nearest street or section line or other established point. All primary control points shall be referenced to the State plane coordinating system.
    - 2. Tract boundary lines, right-of-way lines of streets, easements (and purpose for easements) and other rights-of-way, corporation lines and property lines with accurate dimensions, and radii, arcs, chords and tangents of all curves, nearest one hundredth of a foot; bearings or deflection angles, nearest second. Natural and artificial watercourses, streams and shorelines.
    - 3. The name and width of each street within the proposed subdivision and those adjoining; required building setback line.
    - 4. The number or letter, in progressive order, for each lot and block conforming with the County Recorder's procedures.
    - 5. The boundaries of and proposed use for any non-single-family parcel; areas to be dedicated or reserved for public use.

6. The location and description of those monuments found, set or to be set.
  7. The names of recorded owners of adjoining unplatted land.
  8. Reference to subdivision plats of adjoining platted land by name, volume and page of the County Recorder's maps.
  9. Certification by the owner of acceptance of the plat and statement offering the dedication of streets, rights-of-way and any sites for public use or reserved by deed covenants for common use of all property owners.
  10. Certification by a registered surveyor or engineer as to preparation and details of the survey and plat. Certification shall be evidenced by an original signature and seal, ink or embossed stamp.
  11. Reference to or inclusion on the plat of protective covenants.
  12. The title of the subdivision, municipality, county, state, original township section, tract or lot.
  13. Approval statement for the Planning and Zoning Commission and City officials and/or County officials as may be required.
- B. Drawings and Specifications. Drawings and specifications showing cross-sections, profiles, elevations, construction details and specifications for all required improvements. The drawings and specifications shall be in accordance with the requirements of Chapter 1125.
- C. Certification by City Engineer. Certification by the City Engineer stating that the developer has posted financial guarantees in sufficient amount to ensure completion and maintenance of all required improvements, if applicable.
- D. Protective Covenants. Protective covenants in final form, to be recorded separately.
- E. Statement of Ownership. A statement that the developer owns the property, and that there are no unpaid taxes or special assessments against the tract.

- F. Other Data. Other data, certificates or affidavits, as may be required by the Planning and Zoning Commission in the enforcement of these regulations.
- (2) Review by City Engineer. The Zoning Administrator shall transmit two prints of each drawing and the specifications to the City Engineer who shall determine whether or not:
    - A. The final plat conforms to the approved preliminary plats and any special conditions or modification stipulated; he shall also determine the correctness of mathematical data and computations; and
    - B. The designs and details of the required improvements as shown on the drawings and specifications are in conformity with any master plans for utilities and streets, and the grading and construction standards in effect in the City. One copy of each shall be returned to the Planning and Zoning Commission indicating his determinations.
  - (3) Review by Law Director. The Law Director shall review the financial guarantees required for the installation and maintenance of the improvements as well as the protective covenants to insure future maintenance of any common facilities.
  - (4) Staged Development. The developer may apply for final plat approval of only that section of an approved preliminary plat of a subdivision which he proposes to develop and/or record as the first stage. However, the preliminary approval of any section shall become null and void if an application for final plat approval is not submitted within one year after approval of the preliminary plat, unless an extension of time is granted by the Planning and Zoning Commission. In the event the developer needs to install improvements required for development phases beyond the phase for which final plat approval is requested, the Planning and Zoning Commission may conditionally approve the final plat for a particular phase and permit the installation of the required improvements before approval of the final plat for subsequent phases is granted.
  - (5) Action by the Planning and Zoning Commission. If the City Engineer determines that the final plat, drawings and specifications are satisfactory in regard to the aforesaid provisions and if the subdivision complies with all other applicable provisions of these regulations, the Planning and Zoning Commission shall approve it. Action shall be taken within forty-five days after the meeting at which the application for approval and all required plats, maps and data were submitted to the Planning and Zoning Commission or within a mutually agreed upon extension; otherwise the

final plat shall be deemed to have been approved. In the event of disapproval of a final plat by the Planning and Zoning Commission, the reason(s) for disapproval shall be stated in the records of the Planning and Zoning Commission.

- (6) Form of Approval. The approval of the final plat shall be indicated by a certification to that effect on the original mylar of the plat with the signature of the Chairman of the Planning and Zoning Commission, the Zoning Administrator and the City Engineer. The Planning and Zoning Commission shall obtain three duplicates thereof at the developer's expense.
- (7) The approval of the drawings and specifications for the required improvements shall be indicated by a certification to that effect on the original drawings and specifications with the signature of the City Engineer. Approval of the financial guarantees, if applicable, shall be indicated by certification to that effect on the original drawings and specifications with the signature of the Law Director.
- (8) Plat Recordation when Financial Guarantee Provided. Once the final plat has been approved by the Planning and Zoning Commission, the drawings and specifications for improvements are approved by the City Engineer and construction guaranteed, the final plat may be recorded, construction of improvements started, building permits issued and lots sold, leased or transferred. The costs incurred in recording the plat shall be the obligation of the developer. If the final plat is revised in any manner after Planning and Zoning Commission approval, such approval shall be null and void.
- (9) Plat Recordation when Financial Guarantee is not Provided. Once the final plat has been approved by the Planning and Zoning Commission, the subdivider may construct the physical improvements, including public streets, shown on the approved drawings and specifications and/or final plat in lieu of providing a financial guarantee. However, the subdivider shall not record the final plat until the City Engineer inspects and approves those physical improvements as well as the "as built" drawings of same. The costs incurred in recording the plat shall be the obligation of the developer. If the final plat is revised in any manner after Planning and Zoning Commission approval, such approval shall be null and void. After the final plat has been recorded, building permits may be issued and lots sold, leased or transferred.
- (10) Occupancy Permits. Occupancy permits for a building shall not be issued until streets and utilities are accepted by the City for public use. However,

a temporary occupancy certificate may be issued upon condition that the developer assumes all responsibility for maintenance of streets and utilities until officially accepted by the City.

- (d) Dedication for Public Use. If the final plat indicates land for public use, the plat shall be submitted to Council for acceptance of the dedication of any public land or public improvement and acceptance of any easement before it is recorded. After construction of the public improvements and the City Engineer's review of the "as built" drawings of same, the City may accept any offer of dedication of any land area, street or utility for public use and maintenance. The acceptance shall be by separate action of Council.
  
- (e) Resubdividing or Vacation. An application for resubdividing, replatting or vacation of a subdivision shall be made by the owner or owners thereof to the Planning and Zoning Commission in the same form as for an original subdivision along with all required maps and other information. The original lots shall be shown by dotted lines and lot numbers and other references made to previously recorded subdivisions. If approved by the Planning and Zoning Commission, those types of replatting and vacation actions as required by the provisions of Ohio R.C. 711.17 to 711.31, inclusive, shall be submitted to the Clerk of the Court of Common Pleas.

**CHAPTER 1125**

**Scheduling and Assurance For Completion And Maintenance Of Improvements**

1125.01	Intent.
1125.02	Scheduling of Improvements.
1125.03	Review by Engineer.
1125.04	Improvements Required.
1125.05	Construction Supervision.
1125.06	Performance Guarantee.
1125.07	Street and Public Utility Maintenance.
1125.08	Insurance.
1125.09	Failure to Complete Improvements.
1125.10	Building Construction and Occupancy.
1125.11	Transfer of Land before Recording.

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**1125.01 INTENT.**

It is intended that the developer of a subdivision, a multi-family development, or a nonresidential development shall dedicate all land required for rights-of-way, and shall furnish and install all improvements serving the subdivision or development. All improvements shall be extended to the boundary of the subdivision or development in order to provide a complete and coordinated system of streets and utilities in accordance with Master Plans and Water and Sewer Plans of the City.

**1125.02 SCHEDULING OF IMPROVEMENTS.**

The improvements which are required in Title Five of this Planning and Zoning Code shall be provided and installed by the developer in accordance with the provisions of these regulations and other codes and ordinances of the City. Agreements to install such improvements shall be approved after Planning and Zoning Commission's approval of a development plan or the final plat.

**1125.03 REVIEW BY ENGINEER.**

The design of the water system, storm and sanitary sewerage systems, and roadways, and the grading of the subdivision or development and each lot shall be in accordance with the standards and requirements of Title Five. Drawings and specifications for the improvements shall be reviewed and approved by the City Engineer and the installation shall be subject to the Engineer's inspections.

At the completion of construction, and before acceptance of the public improvements, the developer shall furnish the City a set of record or “as-built” reproducible drawings showing the locations, sizes, and elevations of all underground utilities.

#### **1125.04 IMPROVEMENTS REQUIRED.**

The improvements required are determined according to requirements of the Lake County General Health District for on-site sewage treatment systems; the accessibility of a public sanitary sewer system and a public water supply; the relationship to existing or planned streets; and the type and size of lots required by the Planning and Zoning Code for the district in which the subdivision or development is located.

##### **(a) Improvements Within a Subdivision, Multi-Family Development, or Nonresidential Development.**

(1) Land for rights-of-way for all local streets within the subdivision or development and for all secondary or major streets within or along the boundary of the subdivision or development shall be dedicated by the developer and all easements shall be provided. The subdivider and/or applicant shall offer evidence satisfactory to Council that title to the land being offered for dedication for street purposes will be free and clear of all encumbrances.

(2) Utilities shall be furnished and installed as hereinafter required and they shall be of such sizes and capacities as are required for the proposed development or subdivision and as may be necessary to serve adjacent undeveloped land that is an integral part of the service area, provided, however, that the developer may not be required to pay for that part of the construction of the pavement of major streets, sewers or water mains which are determined by the Planning and Zoning Commission to be in excess of the size required for the development or the subdivision and integral service area.

(3) The developer shall be required to extend improvements to the boundary of the proposed development or subdivision to serve adjoining unsubdivided land. However, where the Planning and Zoning Commission determines that a connecting street is necessary for the future subdividing of adjoining land, but the present construction of the pavement and/or utilities therein is not warranted, the Planning and Zoning Commission may require the dedication of land for such connecting street, the construction of the pavement intersections, and the extension of utilities five feet beyond the pavement and that connections be made available for future extension by other developers.

**(b) Off-Site Extensions.** The construction of off-site improvements to serve a proposed subdivision or development may be required of the developer as a precedence to approval if adequate utilities are not available at the boundary of the proposed subdivision, or development,

provided the Planning and Zoning Commission finds that the extension of the improvements across undeveloped or unserved areas would not be warranted as a special assessment to the intervening properties or a municipal expense until some future date.

**(c) Determination of Scope of Improvements.** In making determinations for the reasonable participation by the developer for the construction of off-site extensions, or a major street, sewers or water main, the Planning and Zoning Commission shall consider, in addition to the standards set forth in this chapter and other regulations of the City, the following conditions:

- (1) The relative location and size of the proposed development or subdivision;
- (2) A trip generation study and traffic impact study shall be presented to the City for any proposed development that results in the construction of an access to any public roadway in the City. Such a study shall be prepared by an engineer qualified and pre-approved by the City Engineer. The trip generation and traffic impact study shall describe the maximum anticipated traffic volumes by location and direction to be generated and which will impact the public roadway system during a peak design hour in the year of construction plus twenty (20) years. The report shall also provide the means to compensate for any degradation of the level of service for traffic existing on the City's roadway system to the City Engineer's satisfaction prior to the granting of a permit for construction. Improvements to the City roadway system shall be constructed as part of the development and its permit, the developer or applicant shall provide inspection fees, a testing deposit and a surety bond representing 100% of the cost of the improvements.
- (3) The natural drainage area for sewers and the service area for water;
- (4) The development benefits that will accrue to the development or subdivision;
- (5) The sequence of land and utility developments in the vicinity;
- (6) Any other condition it may find pertinent.

**(d) General Schedule of Improvements.** The developer shall provide at the developer's expense, the grading of rights-of-way and lots; and the grading for and installation of storm sewers, sanitary sewers, public water mains, pavements, and curbing; and shall properly identify the streets and furnish traffic control.

**(e) Industrial Subdivisions.** For industrial subdivisions, the Planning and Zoning Commission may permit the improvements to be installed and paid for on an assessment basis.

## **1125.05 CONSTRUCTION SUPERVISION**

Work shall be done under the supervision and/or inspection of the City Engineer. All inspection costs shall be paid for by the subdivider and/or applicant. A minimum fee for supervision and inspection equal to five percent (5%) of the approved construction costs shall be deposited with the City prior to any construction.

## **1125.06 PERFORMANCE GUARANTEE.**

**(a) Types of Guarantees.** The developer may execute financial guarantees and shall file such financial guarantees with the City concurrently with the application for approval of the final plat or development plan. Such guarantees may be in the form of a performance or surety bond, a certified check, or any other type of surety approved by the City.

**(b) Amount of Guarantee.** All improvements required shall be constructed prior to the granting of the final plat approval by the Planning and Zoning Commission. In lieu thereof, the subdivider or applicant may furnish the City with a surety bond, a cashier's or certified check, a

pledge agreement with a passbook or any other method (collectively referred to hereinafter as "instrument(s)" or "instrument(s) of guarantee") approved by the Law Director to secure the ultimate installation and required maintenance of the improvements. The amount of the guarantee shall be equal to the estimated construction costs plus an amount equal to fifteen percent (15%) of the estimated construction costs. The construction costs shall be determined and prepared by a registered Professional Engineer and stamped by the Engineer. Such costs shall be submitted and approved by the City Engineer. If the instrument(s) are furnished by a partnership, corporation or other entity, the instrument(s) shall be personally guaranteed by the partners in the case of a partnership, by the shareholders owning at least fifty (50%) of the shares in the case of a corporation, and by the owners, administrators, or other similar responsible persons in the case of any other entity.

The instrument(s) of guarantee shall guarantee to the City that such improvements shall be constructed and completed in accordance with the plans in a satisfactory manner within one (1) year from the date of final plat approval. Such instrument(s) of guarantee shall be valid for a period of three (3) years from the date of final plat approval, shall be approved by the Law Director as to form, and shall be made payable to and enforceable by the City and shall provide that the subdivider and/or applicant, their heirs, successors, assigns, agents, employees or subcontractors shall comply with all applicable terms, conditions, provisions and requirements of this Code. The instrument(s) of guarantee shall require and authorize the financial institution, surety company or other entity that issues the guarantee to provide to the City, prior to distribution, notice of intent to disburse funds represented by the instrument(s) of guarantee and to provide the City, upon request, with a balance of funds represented by the instrument(s) of guarantee.

**(c) Terms.** The terms of such guarantees shall be determined by the Law Director with confirmation by Council. Bonds shall be executed by the applicant as principal with a surety company authorized to do business in the State of Ohio.

(1) Subject to review and written approval by the City Engineer, the Developer and/or Applicant, and the Engineer representing the Developer and/or Applicant, a portion of the funds deposited for such improvements may be released as such improvements are completed, less a ten percent (10%) retainage. Notice of such release shall be provided, in writing, to the City's Finance Director. In accordance with such notice, the Finance Director shall compile a balance of funds remaining in the instrument(s) of guarantee.

(2) When any portion of the improvements has, upon inspection by the City Engineer, been found satisfactorily completed, a reduction in the bond(s) or partial withdrawal of funds equal to the estimated costs of such completed improvements may be authorized, provided however, all other requirements of this section have been properly executed.

(3) The retainage may be returned after the acceptance date of the project, but only with the prior written approval of the City Engineer, indicating that the City Engineer is satisfied that all construction required of the Developer and/or applicant has been completed in accordance with the requirements of the City's Codified Ordinances and in conformance with the approved plans and specifications, along with satisfactory evidence

of payment in full of all contractors, subcontractors, suppliers of materials, engineers, surveyors, and all inspection fees, engineering fees, legal fees, or other fees incurred by the City as a result of the installation of the improvements by the Developer and/or Applicant. Otherwise, such retainage shall be retained until such construction has been completed to the satisfaction of the City Engineer.

**(d) Staged Development.** The developer may apply for final approval and recording of only a portion of the entire subdivision or development. Under such a staged development, the installation of required improvements and sale or lease of lots may proceed only on that portion of the subdivision which has been approved and recorded.

#### **1125.07 STREET AND PUBLIC UTILITY MAINTENANCE.**

The developer shall guarantee the construction and materials of the street and public utility improvements for a two year period after acceptance by the City. Such acceptance date shall not be before the final surface course of asphalt is installed for a public roadway. In order to secure the guarantee, the developer shall deposit an amount equal to one hundred percent (100%) of the total cost of the construction of the street and public utility improvements as determined by the City Engineer. The deposit shall be in the form of a bond, with the developer as principal and with a surety company authorized to do business in the State of Ohio; a certified check; or a letter of credit. The deposit shall be in a form acceptable to the Law Director. Such

amount shall be retained until the City Engineer determines that the improvements and all appurtenances satisfactorily meet all requirements of the City's Codified Ordinances.

**(a) City Maintenance.** With the approval of the City Engineer, the City may provide police and fire protection, snow plowing and other maintenance provisions for the dedicated, but unaccepted road.

#### **1125.08 INSURANCE.**

The developer shall agree to indemnify and save harmless the City against and from any and all loss, cost, damage, liability, and expense on account of damage to property of, or injury to or death of, the parties or a third person caused by or in any way whatsoever attributable to the construction of the improvements and the use of streets delineated on a subdivision plat during construction. The developer shall further agree, but without limiting its liability to indemnify the City, to carry liability insurance contracts in an amount determined by Council for injury to or death of persons, and for damage to or destruction of property, which insurance contracts shall include the City as a named insured. The developer shall further agree to maintain on file with the City during the period of such construction, certificates or memoranda of insurance evidencing that such insurance contracts are in force.

#### **1125.09 FAILURE TO COMPLETE IMPROVEMENTS.**

In the event the developer fails to diligently pursue the work or complete the installation of all land improvements according to the terms and conditions of the agreement, the City, after giving notice which it deems reasonable under the particular circumstances, may complete the same and appropriate such portion of money or bonds posted for the faithful performance of such work.

#### **1125.10 BUILDING CONSTRUCTION AND OCCUPANCY.**

The utilities and other improvements required and deemed necessary in the public interest to provide essential services and access to a lot shall have been installed or their installation guaranteed, in conformity with the provisions of these regulations, before the issuance of a building permit for construction upon a lot and before the recording, sale or lease of a lot.

A building permit may be issued and construction started after the completion of the underground utilities. If a temporary pavement is constructed, a temporary certificate of occupancy including a statement that the City is not liable for maintenance of such improvements, may be issued, provided the developer furnishes a cash bond in an amount required by the City guaranteeing that all streets shall be maintained in a passable and reasonable

condition until such time as the final pavement is completed and accepted for use and maintenance as set forth in Section 1129.07.

**1125.11 TRANSFER OF LAND BEFORE RECORDING.**

No person, firm or corporation being the owner or agent of the owner of any land located within the City, shall transfer any lot, parcel or tract of such land or any plat of a subdivision before such plat has been recorded.

The description of such lot, parcel or tract by metes and bounds in the deed of transfer shall not serve to exempt the seller from the penalty provided in Section 1107.99. The City may enjoin such sale or agreement by a civil action in any court of competent jurisdiction.

The sale of lots, parcels or tracts from a plat of a subdivision on which any and all areas indicated as streets or as open ground are expressly indicated as for the exclusive use of the abutting or other owners in such subdivision and not as public streets, ways or grounds, shall not serve to exempt the seller from the requirements of these regulations or from the penalty provided in Section 1107.99.

**CHAPTER 1127**  
**Development and Construction Standards Applicable to All Development**

1127.01	Intent.
1127.02	General Guidelines for Grading.
1127.03	Grading Plan Required.
1127.04	Drainage Facilities.
1127.05	Sanitary Facilities.
1127.06	Water Supply.
1127.07	Other Utilities.
1127.08	Ownership and Easement Rights.
1127.09	Storm water Management.
1127.10	Erosion and Sedimentation Control.
1127.11	Topsoil.
1127.12	Preservation of Natural Features.
1127.13	Removal of Debris and Waste.

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**1127.01 INTENT.**

Developments and subdivisions shall be planned, designed and constructed to take advantage of the natural features of the site in order to utilize the natural surface drainage, to economize in the construction of sewers, to reduce the amount of grading and to minimize destruction of trees and topsoil. The natural features and other distinctive characteristics of the site shall be integrated into the plan or plat, as required by this section and to the extent practicable, to create functional variations in the neighborhood and more attractive building sites.

**1127.02 GENERAL GUIDELINES FOR GRADING.**

Grading of a site shall be limited to the smallest area possible in order to minimize disruption of the natural contours.

- (a) Grades of streets shall conform as closely as possible to the original topography.
- (b) Lots shall be designed so that there is adequate buildable area on each lot.
- (c) Disturbance on individual lots should be limited to the smallest area necessary.
- (d) Building envelopes should be limited to the flatter portion of sites.

**1127.03 GRADING PLAN REQUIRED.**

The developer shall prepare a plan and grade each subdivision or development in order to establish street grades, lot grades and floor elevations of buildings in proper relation to each other and to existing topography, as follows:

**(a) Grading Plan.** A grading plan shall be prepared for the street areas along with the street improvement details in accordance with standards set forth in this chapter. Before buildings may be constructed, a detailed land development plan shall be prepared showing the buildings and paved areas on each lot and the grading of each lot.

**(b) Lot Grading.** The floor elevation of each building shall be established in proper relation to the surrounding grade, the driveway and the street.

(1) The lot shall be graded so that water drains away from each building at a minimum grade of two percent (2%).

(2) Surface drainage swales shall have a minimum grade of five-tenths percent (0.5%) and be designed so that surface water will drain into a storm sewer, drain inlet or natural drainage way.

(3) The minimum grades of driveways shall be five-tenths percent (0.5%) and a maximum of ten percent (10%). Grading shall be adjusted so there will be no abrupt grades in the front yards and along side lot lines.

(4) The grades of earth terraces shall not exceed three to one.

(5) If a masonry retaining wall exceeds four (4) feet in height, a hedge, fence or railing shall be provided.

#### **1127.04 DRAINAGE FACILITIES.**

A drainage system shall be designed and constructed by the developer as required for the district in which the proposed subdivision or development is located for the proper drainage of the surface water of the subdivision or development and each lot as follows:

(a) A subdivision shall be designed, particularly on land of very gentle slopes, to take every advantage of natural grades so that all the land can be satisfactorily drained without excessive grading. Unless watercourses or drainage ways are enclosed, the design shall be adjusted so that rear lot lines are approximately parallel to the natural or straightened course, and only where such a design is not possible may side lot lines be arranged parallel to an open drainage course. Easements for drainage ways and low-lying areas which are subject to flooding may be included as part of a lot but shall not be used as a building site or included in calculating the required lot area or width.

(b) An enclosed storm sewer system shall be provided where a tile inlet or an outlet with a capacity to receive the discharge is available within 1,000 feet of the subdivision or development and a connection made thereto, or where it is determined by the Planning and Zoning Commission that storm sewers or retention basins shall be provided and connected to a drainage ditch or other waterway without causing degradation of any sort to the receiving water body. The system shall have a capacity to serve the subdivision and drainage area

of which it is a part. The system shall include pipes, culverts, manholes, catch basins, and drain inlets, if required, and a connection for each lot.

(c) An open drainage system shall only be permitted in a development or subdivision upon approval of the Planning and Zoning Commission. In making a determination to permit an open drainage system, the Planning and Zoning Commission shall evaluate the value of the open space with respect to the existing natural features, the level of maintenance required, and the entity to be responsible for maintenance. An enclosed storm sewer system within the subject development may be connected to an adjacent natural open waterways or adjacent and connecting drainage ditches provided that such drainage ditches are within a public right-of-way or within easements granted for such purpose.

Natural watercourses such as streams or brooks in their natural state, the Chagrin River, and the Euclid Creek Tributary may serve as a storm water outlet within a subdivision or development, if, in the opinion of the City Engineer, such natural watercourse is of sufficient size to accept such storm water outlet without creating detrimental suspended sediment loads, stream bank erosion or additional runoff pollution or downstream flooding. Any existing ditch or watercourse which has been created by artificial means or is otherwise man-made shall not be used as such an outlet within the subdivision or development. If, at any time, a natural watercourse within a subdivision or development is used as an outlet the developer shall be required to grant proper easements to the City to the satisfaction of the Law Director, permitting the City access to such watercourse. Any such watercourse shall be cleaned of all debris prior to acceptance by the City.

(d) The drainage system shall be designed in accordance with the standards set forth in the Construction Specifications of the City.

#### **1127.05 SANITARY FACILITIES.**

Sanitary facilities shall be designed and constructed by the developer as required for the district in which the proposed development or subdivision is located for the proper disposal of wastes for each lot, as follows:

(a) Public System. Where the proposed subdivision or development is located in a district requiring sanitary sewers and such a sewer outlet is accessible within 1,000 feet, a public sanitary sewer system shall be provided and connected thereto and a building connection shall be provided for each lot in a subdivision.

(b) On-site sewage treatment system. Where public sanitary sewers are not available, sewage treatment systems acceptable to the Lake County General Health District are acceptable.

(c) Independent System. Where a subdivision or development of fifty or more units is not within 1,000 feet of a sanitary sewer, the Planning and Zoning Commission may permit an independent system.

(1) An independent system shall include a primary and secondary treatment plant and a building connection for each lot. Such system shall be designed and the plant located so that it can be integrated into the sewer plans of the City and the temporary treatment plant abandoned when public trunk sewers are installed.

(2) Where a number of small subdivisions or developments are proposed for adjacent tracts or in close proximity, and where the combined developments will aggregate at least fifty units or at least fifty acres, the City may construct an independent sanitary system and assess the costs to the benefiting owners.

(3) An independent treatment plant shall be located on a site of sufficient area to serve the entire tributary area and be located at least 300 feet, or as may be further required, from any dwelling.

(d) Design Standards. The sanitary system shall be designed and constructed in accordance with the Construction Specifications of the City or the current design guidelines and regulations of the Lake County General Health District.

#### **1127.06 WATER SUPPLY.**

A water system shall be designed and constructed by the developer as required for the district in which the development or subdivision is located and a supply provided for each lot, as follows:

(a) Public Supply. Where a development or subdivision is located in a district requiring a public water supply and a public main is accessible within 1,000 feet of the development or subdivision, a public water system shall be provided for fire protection and domestic use to serve each lot.

(b) Private Well. Where a development or subdivision is located in a district permitting private wells, and a public main is not available within 1,000 feet, a well shall be provided for each lot.

(c) Design Standards. A water system shall be designed and constructed in accordance with the Construction Specifications of the City.

#### **1127.07 OTHER UTILITIES.**

The developer shall submit plans for electric, cable TV and telephone service lines and gas mains for approval by the Planning and Zoning Commission and arrange to have the underground utilities installed before any public or private roadway is constructed. The gas meters and manifolds shall be located in the side or front yard but not more than five feet in front of the setback line. Utility easements of twelve (12) feet in width for communication, electrical; service, gas and street lighting distribution lines and facilities shall be provided on all front lot lines and along certain side or rear lot lines where necessary. Easements may also be required

along or across lots where necessary to accommodate special conditions as warranted by the design and/or the City Engineer.

**1127.08 OWNERSHIP AND EASEMENT RIGHTS.**

In any case in which a developer installs or causes the installation of water, sewer, electrical power, telephone, or cable television facilities and intends that such facilities shall be owned, operated, or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

(a) Utility Easements. Where utilities are not located in the street, easements of at least fifteen (15) feet total width shall be located on the center of rear lot lines and on side lot lines where necessary.

(b) Drainage Easements. Where a subdivision or development is traversed by a drainage way, channel or stream, a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse shall be provided. The easement shall be twenty (20) feet wide (exclusive of required lot area) or of such further width as is adequate for the purpose. Parallel rear lot lines may be required along such way.

**1127.09 STORM WATER MANAGEMENT.**

To the maximum degree possible, the following objectives shall be met for new construction, building expansion or site modification:

(a) Storm water draining from the site shall not exceed that occurring under natural land cover conditions unless the system is designed to accommodate the flow.

(b) Existing natural drainage courses, wetlands, and water bodies should be preserved whenever feasible.

(c) Storm water detention basins and other open space and natural vegetative areas may be required as part of the stormwater management system.

(d) Water absorptive paving and water detention design may be required in areas where practical.

(e) Compliance with the Storm Water Management Chapter of the City's Codified Ordinances.

**1127.10 EROSION AND SEDIMENTATION CONTROL.**

Effective erosion and sediment controls shall be planned and applied according to all applicable State and Federal regulations, the City's codified ordinance, and according to the following principles for new construction, building expansion or site modification:

- (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, such as rye grass seeding, and/or mulching shall be used to protect high erosion potential or other critical areas exposed during development.
- (d) Sediment basins (debris basins, desilting basins, or silt traps) shall be installed and maintained to remove sediment from run-off waters from land undergoing development.
- (e) Provisions shall be made to effectively accommodate the increased run-off caused by changed soil and surface conditions during and after development.
- (f) The permanent final vegetation cover and storm water management structures shall be installed as soon as practical in the development.
- (g) The subdivision or development plan 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.
- (i) Compliance with the Erosion and Sediment Control Chapter of the City's Codified Ordinances.

**1127.11 TOPSOIL.**

The City Engineer may require that topsoil shall be stripped from the roadway and construction areas, piled separately and not removed from the site or used as spoil.

**1127.12 PRESERVATION OF NATURAL FEATURES.**

Natural features, brooks, lakes, hilltops and other focal points within a subdivision or development, and distant views outside the subdivision or development shall be integrated in the design to obtain natural variations and interest in each neighborhood, Trees, topsoil and other natural resources or existing features that would add value to the development or to the City as a whole shall be preserved and utilized in the development or subdivision to the extent practicable. The Planning and Zoning Commission may require that as many natural features as can be

reasonably utilized in the final development plan be retained and that the grading be adjusted to the existing grade at the trees.

(a) All trees to be retained shall be protected during construction according to the following:

(1) Tree Protection Zone. The development plan or subdivision plat shall show the number and location of existing trees as required by these regulations and shall further indicate all those marked for retention. All trees to be retained shall be included in the tree protection zone and such zone shall be designated on the development plan or subdivision plat.

A. The trees protection zone shall at a minimum encompass the critical root zones of all existing trees.

B. The critical root zone is a circular area surrounding a tree, of which the center is the center of the tree trunk and the radius is the distance from the outside of the trunk to a point twelve times the tree's diameter at breast height (DBH), which points constitute the circumference of the critical root zone.

C. The critical root zone shall extend to a depth of five feet below surface ground level.

(2) Placement of Tree Protective Barriers. On the site, trees within the tree protection zone shall be protected according to the following:

A. Prior to construction, tree protective barriers shall be placed around all trees to be preserved and any other vegetation that is located near construction activity and which is to be saved. These barriers shall be located so as to totally encompass the perimeter of the tree protection zone.

B. Protective barriers shall remain in place until construction is complete, landscaping is installed, and an occupancy permit has been issued.

C. No land disturbance, including grading or filling, shall occur within the tree protection zone except as may be approved by the Building and Zoning Inspector and the Engineer when an aeration system is installed. Commercially available aeration systems are subject to approval by the Building and Zoning Inspector.

D. Areas within the tree protection zone shall be free of all building materials, dirt, chemicals (including gas, oil, and contaminated water), construction debris, vehicles, and development activities.

(b) Land that the Planning and Zoning Commission finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features that will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision or development and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the developer and

approved by the Planning and Zoning Commission, upon recommendation of the City Engineer, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve any danger to public health, safety and welfare.

**1127.13 REMOVAL OF DEBRIS AND WASTE.**

No cut trees, timber, debris, earth, rocks, stones, soil, junk, rubbish, excess excavated material or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of a temporary certificate of occupancy, and removal of those items and materials shall be required prior to issuance of any temporary certificate of occupancy on a subdivision or development. No items and materials as described shall be left or deposited in any area of the subdivision or development at the time of expiration of any development agreement or dedication of public improvements, whichever is sooner.

**CHAPTER 1129**  
**Supplemental Regulations for All Subdivisions**

1129.01	Intent.
1129.02	Street Classification.
1129.03	Coordination with Surrounding Streets.
1129.04	Relationship of Streets to Topography.
1129.05	General Layout of Streets.
1129.06	Street Intersections.
1129.07	Lot Design.
1129.08	Street Requirements.
1129.09	Construction Standards and Specifications.
1129.10	Public Streets and Private Roads in Subdivisions.
1129.11	Access for Handicapped.
1129.12	Street Names.
1129.13	Utilities.
1129.14	Monuments.
1129.15	Street Trees.
1129.16	Modifications Approved by Planning and Zoning Commission.

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**1129.01 INTENT.**

The planning principles and construction standards for subdivisions set forth in this chapter are fundamental principles and standards to be applied with professional skill in the planning for the division of land as to produce functional, attractive, distinctive, convenient and economical subdivisions.

**1129.02 STREET CLASSIFICATION.**

In order to promote public safety and convenience, streets shall be planned to serve particular functions as follows:

- (a) Major Streets. Major streets shall be primarily for the efficient circulation of traffic into, out or around the City and to carry high volumes of traffic between centers of traffic generation;
- (b) Secondary Streets. Secondary streets shall be for collecting traffic from or distributing it to local streets, connecting with major streets and providing access to abutting properties;

(c) Local Streets. Local streets shall be for providing access to abutting properties and circulation of slowly moving traffic and pedestrians within a neighborhood.

(d) Cul-de-sacs. A street that terminates in a vehicular turnaround.

### **1129.03 COORDINATION WITH SURROUNDING STREETS.**

The street system of a subdivision shall be coordinated with existing, proposed and anticipated streets outside the subdivision or outside the portion of a single tract that is being divided into lots (hereinafter, “surrounding streets”) as provided in this section.

(a) Major Streets. Unless shown otherwise on the City’s Thoroughfare Plan, major streets shall be planned for continuation of existing streets in the system at the same width or greater width in accordance with the standards set forth in Section 1129.08.

(b) Secondary Streets. Secondary streets shall intersect with surrounding secondary or major streets at safe and convenient locations.

(c) Local Streets. Local streets shall provide access to each lot and shall be planned for convenient circulation for the principal directions of travel, to bus routes, to schools and playgrounds and between adjoining neighborhoods. Connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic.

### **1129.04 RELATIONSHIP OF STREETS TO TOPOGRAPHY.**

Streets shall be related appropriately to the topography:

(a) A subdivision shall be planned so that as many lots as possible will be above the street grade. On irregular topography, streets shall be designed to avoid extensive cuts and fills and to comply with grading standards hereinafter established for private driveways and yards as well as for the streets. Streets approximately parallel to contour lines shall be adjusted so that the lots on one side of the street will not be excessively below the street grade.

(b) Grades of streets shall not exceed ten percent (10%) for local streets, eight percent (8%) for secondary streets and five percent (5%) for major streets. However, in no case may streets be constructed with grades that, in the professional opinion of the City Engineer, create a substantial danger to the public safety. Street grades shall be not less than five-tenths percent (0.5%) in order to provide adequate surface drainage, provided, however, that the Planning and Zoning Commission may permit a minimum of twenty-five hundredths percent (0.25%) where necessary because of topographic or other conditions.

(c) Street grades shall conform as closely as practicable to the original topography. All changes in grade shall be connected by vertical curves of sufficient length to provide a smooth transition and clear visibility for vehicular operations. A rate of change of grade of three or four percent (3% or 4%) per 100 feet is the maximum recommended to give at least 100 feet of sight distance. Streets shall level off to a grade not exceeding three percent (3%) for a distance of not less than 100 feet from each side of an intersection.

#### **1129.05 GENERAL LAYOUT OF STREETS.**

Street layout shall conform to the following principles and guidelines:

(a) Major Streets. Where a subdivision of one-family dwellings abuts a major street, the Planning and Zoning Commission may require the developer to prepare sketches and estimates of a plan based on marginal access streets of such other treatment as the fronting of lots on perpendicular local streets in order to protect the residential property from the movement of heavy traffic and to eliminate driveways entering onto a major street.

(b) Secondary Streets. The layout shall be related to the topography and natural features. Driveway access shall be minimized to facilitate the free flow of traffic and avoid traffic hazards.

(c) Local Streets. The layout shall be related to the topography and natural features. The street pattern shall be indirect to prevent through traffic and yet continuous; it shall be formed of straight, moderately winding, curved, loop, angular or ell streets. Tee-intersections shall predominate ; cross-intersection, gridiron and other rigid geometrical patterns shall be avoided.

(d) Cul-de-sac Streets. Cul-de-sac streets shall be permitted only where parcels are isolated by surrounding allotments, where continuous streets would require excessive grading because of very irregular topography or where other types of streets would not provide sufficient discouragement of through traffic. Where approved, cul-de-sacs shall comply with the following:

(1) The length of cul-de-sacs shall be permitted up to 2,000 feet provided there is a public water supply with the capacity to deliver 750 gallons per minute at a residual pressure of 20 psi. The Planning and Zoning Commission may approve a cul-de-sac street in excess of 2,000 feet if the land cannot otherwise be subdivided as determined by the Planning and Zoning Commission; and further provided that the public water supply will have the capacity to deliver 750 gallons per minute at a residual pressure of 20 psi.

(2) A permanent turnaround shall be provided having an outside roadway diameter of at least ninety feet and a street property line diameter of at least 120

feet to permit fire, emergency and service vehicles access to the abutting properties.

(3) If the cul-de-sac is not open in the direction of schools or playgrounds, a pedestrian-way shall be provided.

(e) Temporary Dead-End Streets. Where a subdivision adjoins unsubdivided land, a temporary turn-around shall be provided for each street more than 200 feet in length if lots front thereon, and provisions shall be made for future extension of the street and utilities and reversion of the excess right-of-way to the abutting properties and the same shall be so noted on the final plat.

(f) Streets of Nonconforming Width. Dedicated streets of less than the required width shall not be permitted except in a Conservation Development where the Planning and Zoning Commission finds that such a street will be adequate to serve a small development, or finds it reasonable not to require the dedication of the full width until all abutting property is subdivided.

(g) Reserve Strips Adjoining Streets. Reserve strips adjoining street or other provisions to control access or extensions to pavement and/or utilities to another property shall not be permitted except where the control and disposal of land comprising such strips have been assigned to the City under conditions approved by the Planning and Zoning Commission.

(h) Streets for Multi-Family Developments. Dedicated streets for multi-family developments shall be planned to connect with major or secondary streets so as not to generate large volumes of traffic on local residential streets. Vehicular and pedestrian access shall be adequate and convenient to each dwelling unit, planned so that a street, access drive, parking area or delivery area will be located no more than 100 feet from every main or service entrance of a building.

(i) Streets for Business and Industrial Developments. Dedicated streets for business and industrial developments shall be planned to connect with major streets so as not to generate traffic on local residential streets. The Planning and Zoning Commission may require the dedication and improvement of service roads along major streets.

(j) Curvature of Streets. Angles in the alignment of street lines shall be connected by a curve with a radius on the center line of not less than 200 feet for local streets, 300 feet for secondary streets and 500 feet for major streets. Between reverse curves there shall be a tangent at least 100 feet long on major and secondary streets and fifty feet long on local streets.

**1129.06 STREET INTERSECTIONS.**

Streets shall be designed to intersect as nearly as possible at 90 degrees and no two streets shall intersect at less than 60 degrees. Not more than two streets shall intersect at any one point, unless the City Engineer certifies to the Planning and Zoning Commission that such an intersection can be constructed with no extraordinary danger to public safety.

(a) Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of such street. In any event, where a centerline offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than 125 feet.

(b) Property lines and the edge of pavement at street intersections shall be rounded with a radius of not less than thirty feet for all streets.

**1129.07 LOT DESIGN.**

Lots shall be designed following these principles:

(a) Building Sites. Each lot shall be designed to form a good site for the type of building to be developed and the lot lines shall not be considered as merely forming a geometric shape which encloses the minimum area permitted. The lots shall be more or less rectangular in form. Triangular, elongated or other shapes that restrict its use as a building site shall be avoided.

(b) Access. Every lot shall have access to it that is sufficient to afford a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use.

(c) Area and Width. The area and width of each lot in a subdivision shall be not less than required by the Planning and Zoning Code and shall be appropriate for the neighborhood and type of development proposed. The lot size shall be calculated as the total horizontal area contained within the lot lines exclusive of any portion of the right-of-way of any public street. The width of a lot shall be not less than that required at the front yard building line. On curved streets the arc of the front lot line or a rear lot line shall be not less than sixty percent (60%) of the required width at the building line.

(d) Lots on Major Streets. Lots abutting major streets in a one-family subdivision shall exceed the minimum depth set forth in Chapter 1133, in order to increase safety and privacy thereon. However, the depth shall not exceed five times the width, provided that for lots of five acres or less the average depth shall not exceed 500 feet. Lots of such roadside subdivisions shall be planned to achieve uniform rear lot lines.

The City may prepare a local street plan of partially subdivided areas and reserve openings at intervals along the motor roads for future local streets to serve the interior areas.

(e) Corner Lots. Corner lots in a one-family subdivision shall have extra width to obtain the required side yards and building setback from, and appropriate orientation to both streets and as may be required by the Zoning Code. Lots abutting a pedestrian way shall have extra width.

(f) Side Lot Lines. Side lot lines shall be designed to be at right angles to straight street lines or radial to curved street lines. Where a street terminates on another to form a “T” intersection, the side lot lines shall be planned so that a dwelling site will not be directly on the projected line of the street which intersects.

(g) Entrances to Streets. All driveway entrances and other openings onto streets within the City shall be constructed so that:

(1) Vehicles can exit from the lot in question without having to back up on to a major thoroughfare. For the purposes of this section, the following streets are considered major thoroughfares: SOM Center Road (S.R. 91); Bishop Road (S.R. 84); Chardon Road (U.S. 6); and River Road (S.R. 174).

(2) Interference with the free and convenient flow of traffic in abutting or surrounding streets is minimized.

### **1129.08 STREET REQUIREMENTS.**

Street rights-of-way are designed and developed to serve several functions, including carrying motor vehicle traffic, and in some cases, allowing on-street parking; to provide a safe and convenient passageway for pedestrian traffic; and to serve as an important link in the City’s drainage system. In order to fulfill these objectives, all public streets shall be constructed to meet the following standards:

(a) Right-of-Way and Pavement Width.

(1) Single-Family Subdivisions. All streets in a single-family subdivision shall conform to the requirements of this section.

<u>Street Type</u>	<u>Right-of-Way</u>	<u>Pavement</u>
Secondary Street	60	26
Local Street	60	25

(1) All other Subdivisions: Street right-of-way width for multi-family, business and industrial development shall be determined for each development.

A. Each local street shall be of sufficient width to safely accommodate the maximum traffic, parking and loading needs and access for fire protection equipment.

B. Secondary street right-of-way widths shall be in accordance with County or City plans and standards and may vary from sixty to eighty feet.

C. Streets shall maintain the following pavement widths by type of street.

i. Secondary streets shall have a pavement width of thirty-two to thirty-six feet as determined by the Planning and Zoning Commission.

ii. Local streets shall have a pavement width of twenty-six to thirty-six feet, as determined by the Planning and Zoning Commission.

(2) Major Streets. Major street right-of-way widths shall be in accordance with State highway Department, County or City plans and standards and may vary from eighty to 120 feet

(3) The width of the pavement shall be measured between the outside edges of rolled curbs.

(4) The pavement requirements enumerated above may be modified if found necessary by the City Engineer and if approved by the Planning and Zoning Commission, because of extraordinary traffic or unusual soil conditions in specific locations.

(b) Pavement. After the underground utilities and service connections are installed and rough grading completed according to the requirements of the Planning and Zoning Code, pavement of the roadway subgrade shall be constructed

The material and the construction of pavement, curbs and gutters shall be in accordance with the Construction Standards of the City.

(c) Driveways. Driveways shall be located in accordance with the development plan and may be grouped in pairs or spaced separately. Generally they shall be located along the lowest side of the lot. Curb cuts for straight curbs and the flare for rolled curbs of driveways shall be at least three feet wider than the pavement on each side. The grade of the apron shall not exceed five percent (5%) for a distance of ten feet from the right-of-way line and the maximum grade of the driveway shall not exceed twelve percent (12%).

#### **1129.09 CONSTRUCTION STANDARDS AND SPECIFICATIONS.**

Construction and design standard and specifications for streets, and curbs and gutters are contained in the Construction Specifications of the City, and all such facilities shall be completed in accordance with these standards.

**1129.10 PUBLIC STREETS AND PRIVATE ROADS IN SUBDIVISIONS.**

Except as otherwise provided in this section, all lots created after the effective date of this section shall abut a public street at least to the extent necessary to comply with the access requirement set forth in Section 1129.07(b). For purposes of this subsection, the term “public street” includes a pre-existing public street as well as a street created by the subdivider that meets the public street standards of this chapter and is dedicated for public use. Unless the recorded plat of a subdivision clearly shows a street to be private, the recording of such a plat shall constitute an offer of dedication of such street.

(a) Within the Conservation Development , the Planning and Zoning Commission may permit residential subdivisions to be developed with private roads that do not meet the public street and sidewalk standards of this chapter so long as:

- (1) The proposed development will have direct access onto a public street or, if the tract has access to a public street only via a private road, such private road is improved to public standards.
- (2) No road intended to be private is planned to be extended to serve property outside that development; and
- (3) The subdivider demonstrates to the reasonable satisfaction of Council, and approved by the Law Director, that the private roads will be properly maintained.

(b) No final plat that shows lots served by private roads may be recorded unless the final plat contains the following notations:

- (1) “Further subdivision of any lot shown on this plat as served by a private road may be prohibited by the Willoughby Hills Planning and Zoning Code.”
- (2) “The policy of the City of Willoughby Hills is that, if the City improves streets (i) that were never constructed to the standards required in the Planning and Zoning Code for dedicated streets, and (ii) on which seventy-five percent (75%) of the dwelling units were constructed after the effective date of this chapter, then 100 percent of the costs of such improvements shall be assessed to abutting landowners.”

(c) The recorded plat of any subdivision that includes a private road shall clearly state that such road is a private road. Further, the initial purchaser of a newly created lot served by a private road shall be furnished by the seller with a disclosure statement outlining the maintenance responsibilities for the road.

**1129.11 ACCESS FOR THE HANDICAPPED**

Whenever curb and gutter construction is used on public streets, wheelchair ramps for the handicapped shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with the provisions of the Americans with Disabilities Act (ADA) of 1990.

**1129.12 STREET NAMES.**

Street names shall be selected which will not duplicate or be confused with the names of existing streets in Lake County irrespective of modifying terms such as street, avenue, boulevard, etc. Streets that are or will eventually be continuations of existing or platted streets shall be named the same. Street names shall be subject to the approval of the Planning and Zoning Commission and wherever possible shall be in accordance with the following system:

<u>General Direction</u>	<u>Long Continuous</u>	<u>Short Disconnected</u>
North-South	Streets	Courts
East-West	Avenues	Places
Diagonal	Roads	Ways
Curving	Drives	Lanes or Circles

(a) Street name signs shall be furnished and installed by the developer. The design of the signs shall be in accordance with published standards as prescribed by the City. Signs shall be placed on diagonally opposite corners, on the far right-hand of the intersection for traffic on the more important street, and as close to the corner as possible.

(b) Street signs shall be erected at the intersection of all public and private streets. The sign shall set forth the name and; if private, that the road or street is “private.”. Signs shall be legible from the roadway and reasonably sturdy and weather proof.

**1129.13 UTILITIES.**

Utilities installed in public rights-of-way or along private roads shall conform to the requirements set forth in Chapter 1127.

**1129.14 MONUMENTS.**

A monument shall be accurately placed at each corner, at changes in direction of the boundary at each street intersection, at points of curves of streets, at intermediate points and corners of lots and at other locations as may be required by the City Engineer. The monuments shall be either concrete six inches by six inches by thirty inches long with an iron pin in the center, or metal monuments, as approved by the City Engineer. The top of the monument shall be set at the finished grade upon the completion of the grading of the streets and the lots.

**1129.15 STREET TREES.**

The selection and spacing of trees shall be in accordance with a street tree plan for the City, if applicable. Trees which have undesirable characteristics, such as excessively thick foliage, low branches, unpleasant odors, susceptibility to disease or attack by insects or large root

systems, such as poplar, willow, cottonwood, American elm, nut and fruit trees, ailanthus, mountain ash and Oregon maple, shall be prohibited in the tree lawn and within twenty-five feet of a public sewer. Poplar, willow and cottonwood trees, if planted on private property in the City, shall be located not less than 100 feet from any public sewer.

**1129.16 MODIFICATIONS APPROVED BY PLANNING AND ZONING COMMISSION.**

The Planning and Zoning Commission may approve modifications in the standards set forth in this chapter that are related to the design of a subdivision but not including standards and regulations set forth in the district regulations or in the construction specifications of the City. In reviewing any request for a modification, the Planning and Zoning Commission shall consider the factors for variances set forth in Section 1117.09(b).

**TITLE SEVEN**  
**ZONING DISTRICT/USE REGULATIONS**

**CHAPTER 1133**  
**Single-Family Residential District Regulations**

1133.01	Purpose.	1133.09	Design Criteria for Dwellings in the R-1 District.
1133.02	Use Regulations.	1133.10	Accessory Use Regulations for Single-family Detached Dwellings.
1133.03	Development Standards.	1133.11	Accessory Use Regulations for All Single-family Residential Districts.
1133.04	Setback Requirements.	1133.12	Accessory Use Regulations for the R-2 District.
1133.05	Principal Building Projections into Required Setback.	1133.13	Development Plan Review.
1133.06	Floor Area Requirements.		
1133.07	Height Regulations.		
1133.08	Common Facilities Requirements		

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**1133.01 PURPOSE.**

Single Family Residential Districts (R-1 and R-2) and their regulations are established in order to achieve, among others, the following purposes:

- (a) To regulate the bulk and location of dwellings and accessory buildings or structures to obtain proper privacy and useable open spaces on each lot appropriate for the various districts;
- (b) To provide for proper location of institutions and other community facilities so as to increase the general convenience, safety and amenities within the community;
- (c) To protect the desirable characteristics and promote the stability of existing residential development;
- (d) To regulate the density and distribution of population to avoid congestion and provide adequate public services;
- (e) To promote the most desirable and beneficial use of the land in conformity with the Comprehensive Plan; and
- (f) To carry out the following specific purposes:
  - (1) The R-1 District is established to encourage the creation and preservation of low-density single-family detached dwelling residential neighborhoods and to limit the establishment of non-residential uses to those that are compatible with the intended low-density neighborhood character.

- (2) The R-2 District is established to provide, preserve and protect medium density residential areas for detached and attached single-family dwellings arranged to provide good building site design and effective open space in areas adequately served by City utilities and streets.

### **1133.02 USE REGULATIONS.**

- (a) Uses Permitted By Right. A use listed in Schedule 1133.02 shall be permitted by right as a principal use in a district when denoted by the letter "P" provided that all requirements of other City Ordinances and this Planning and Zoning Code have been met.
- (b) Conditional Uses. A use listed in **Schedule 1133.02** shall be permitted as a conditional use in a district when denoted by the letter "C", provided the Planning and Zoning Commission first makes the determination that the requirements of **Chapter 1147** have been met, according to the procedures set forth in **Chapter 1115**.
- (c) Accessory Uses. An accessory use that is clearly incidental and subordinate to a use listed in **Schedule 1133.02** shall be permitted as an accessory use in a district when denoted by the letter "A" provided that the requirements of all other City Ordinances and this Planning and Zoning Code have been met. Accessory uses are further regulated as listed below.
  - (1) Accessory storage buildings or structures in compliance with **Sections 1133.10 – 1133.12**.
  - (2) Fences, walls and landscape features in compliance with **Section 1133.10 – 1133.12**.
  - (3) Home occupations in compliance with **Chapter 1157, General Use Regulations**.
  - (4) Off-street parking areas in compliance with **Section 1133.10 – 1133.12** and **Chapter 1153, Off Street Parking and Loading Regulations**.
  - (5) Private swimming pools in compliance with **Section 1133.10 – 1133.12**.
  - (6) Signs in compliance with **Chapter 1151, Sign Regulations**.
- (d) Use Not Listed in Schedule. Any use not specifically listed as a permitted principal, conditional or accessory use shall be a prohibited use in these zoning districts and shall only be permitted upon amendment of this Code and/or the Official Zoning Map as provided in **Chapter 1119** or upon a finding that a use is substantially similar as provided in **Chapter 1115**.

(e) Schedule 1133.02 Permitted Uses:

	<b>R-1 Traditional Single Family District</b>	<b>R-2 Attached Single- Family/Townhouse District</b>
<b>(a) Residential</b>		
(1) Single family detached dwelling (Traditional)	P	P
(2) Single family attached dwelling (Townhouses)		P
(3) Conservation development in Compliance with <b>Chapter 1143</b>	P	P
(4) Family Day Care Home, for 1 to 6 Children (Type B) See §1157.04	P	P
(5) Family Day Care Home (Type A)	C	C
(6) Adult care facility for 3-5 Persons	P	P
(7) Residential facility for 5 or fewer persons	P	P
(8) Residential facility for 6-8 persons	P	P
<b>(b) Community Facilities</b>		
(1) Churches/ Places of Worship	C	C
(2) Community Recreation Facility	C	C
(3) Day care center, child and/or adult accessory to a conditional use	C	C
(4) Library	C	C
(5) Public Safety Facility	C	C
(6) Schools, elementary & secondary (public or private)	C	C
<b>(c) Open Space, Recreation</b>		
(1) Nurseries and greenhouses <sup>(R-1)</sup>	P	
(2) Cemeteries	C	C
(3) Golf courses	C	C
(4) Parks	P	P

	<b>R-1 Traditional Single Family District</b>	<b>R-2 Attached Single- Family/Townhouse District</b>
<b>(d) Other Uses</b>		
(1) Utility substation/distribution facility, indoor	C	C
(2) Wireless telecommunication facility	See Chapter 1161	
<b>(e) Accessory Uses</b>		
(1) Accessory Buildings	A	A
(2) Fences and walls	A	A
(3) Home Occupations	A	A
(4) Off-street parking/driveways	A	A
(5) Other accessory structures	A	A
(6) Private swimming pools/ tennis courts	A	A
(7) Signs	A	A
<sup>(R-1)</sup> Nurseries and greenhouses shall only be permitted if existing prior to May 25, 2006. If the intensity of the use increases, the use shall be a conditional use subject to the regulations in Chapters 1115 and 1147. In determining whether the intensity of the use is increased, the Zoning Administrator shall consider the factors in <b>subsection 1121.03 (c) (1)</b> .		
P = Permitted by right    C = Conditional    A = Accessory		

**1133.03 DEVELOPMENT STANDARDS.**

- (a) R-1 Traditional Single Family District. The following development standards shall be applied to all development in the R-1 Traditional Single Family District.
  - (1) Minimum Area. The area of a lot shall not be less than the dimensions set forth in **Schedule 1133.03 (a)**.
  - (2) Lot Requirements. Lots created and used in a residential district shall comply with the minimum lot width, frontage and the maximum lot coverage requirements specified in **Schedule 1133.03 (a)** for the district in which the lot is located, except as otherwise regulated in **Chapter 1137** for Conservation Developments and as otherwise regulated in **Chapter 1115** for Conditional Uses.

- (3) Maximum Distance of Dwelling from Fire Hydrant. No dwelling unit shall be constructed or maintained at a distance of more than 1,000 feet hose lay, from a fire hydrant.
- (4) Schedule 1133.03 (4) Development Standards in R-1 District:

	<b>R-1 Traditional Single Family District</b>
(a) Minimum lot area	43,560 sq. ft.
(b) Minimum lot frontage	40 ft.
(c) Minimum lot frontage on cul-de-sacs	40 ft.
(d) Minimum lot width	100 ft.
(e) Maximum lot coverage	25%
<p>In the event that the minimum lot width mandated by subsection <b>1133.03 (4)(d)</b> is not achieved at a distance of seventy-five (75) feet from the right-of-way line, no property located between the right-of-way line and the point where 100 feet of width is achieved, shall be included for the purpose of determining whether or not the lot complies with the requirements of subsection <b>1133.03 (4)(a)</b>, Minimum Lot Area. However, a single family detached dwelling and accessory buildings may be constructed on any lot that is separately owned or the creation of which, by subdivision, had been approved by the Planning and Zoning Commission prior to May 25, 2006.</p>	

- (b) R-2 Attached Single-Family/Townhouse District. Land area shall be divided and developed, and buildings shall be erected, altered, moved or maintained in a R-2 Attached Single-Family/Townhouse District only in compliance with the following area regulations.
  - (1) Minimum Development Area. The gross area of a project shall not be less than five (5) acres, as set forth in **Schedule 1133.03 (b)**. The entire tract of land to be developed shall be considered one zoning lot.
  - (2) Detached Single-Family Requirements. In the, R-2 District, single-family dwellings on individually subdivided lots shall comply with the regulations for detached, single family homes in the R-1, Traditional Single Family District in **Sections 1133.03 and 1133.04**.

- (3) Maximum Distance of Dwelling from Fire Hydrant. No dwelling unit shall be constructed or maintained at a distance of more than 1,000 feet, hose lay, from a fire hydrant.
- (4) Minimum Frontage. Each lot shall abut upon a public street for a distance not less than set forth in **Schedule 1133.03 (b)**. In an attached single family/townhouse development, buildings may be arranged in a group and all buildings need not front on a street.
- (5) Maximum Density. The residential density in a R-2 Attached Single-Family/Townhouse District shall not exceed four (4) dwelling units per acre.

Calculating Units. The total number of dwelling units permitted shall be calculated by multiplying the total project area, exclusive of public rights-of-way existing at the time the development plan is submitted, by the number of dwelling units permitted per acre. Any fractional units shall be rounded downward.

- (6) Building Spacing. The minimum distance separating buildings shall be not less than the distances set forth in **Schedule 1133.03(b)**.
- (7) Maximum Coverage. The maximum coverage of the lot, for all areas covered by buildings shall comply with the regulations as set forth in **Schedule 1133.03 (b)**.
- (8) Maximum Number of Attached Single-Family Units. A building comprised of attached single-family units shall have not more than three (3) such units attached.

(9) Schedule 1133.03 (9) Development Standards in R-2 District:

	<b>R-2 Attached Single- Family/Townhouse District</b>
(a) Minimum project area	5 acres
(b) Minimum lot frontage, including cul-de-sacs	100 ft.
(c) Minimum building separation	
(1) Main wall to main wall	30 ft.
(2) Main wall to end wall	30 ft.
(3) End wall to end wall	30 ft.
(d) Maximum lot coverage by buildings	25%
(e) Maximum dwelling units per acre	4 units

(10) Definitions. The following definitions shall apply to terms used in this Section:

- A. Main Wall. The outside wall of a building that contains the primary windows of any living, family or dining room.
- B. End Wall. The outside walls other than a main wall of a building, which may be blank or contain windows not considered to be primary windows.

**1133.04 SETBACK REQUIREMENTS.**

Principal buildings shall be located in a manner that maintains the minimum front, side and rear setbacks set forth in this Section for the district in which they are located, except as otherwise regulated in **Chapter 1143** for Conservation Developments and **Chapter 1147** for Conditional Uses.

For the purpose of this Section, buildings or structures erected on lands where the roads, drives, and/or streets are undedicated or private or owned in common, such are considered the same as public ways for the purpose of determining building setback lines.

(a) R-1 Traditional Single Family District.

- (1) Front Setback. Each lot shall maintain a front setback in compliance with [Schedule 1133.04\(a\)](#), except as otherwise permitted in [subsection \(2\)](#) below.
- (2) Front Setback on Built-up Block Faces. Where more than 50% of the lots on a residential block face when the block length does not exceed 2000 feet, are occupied by buildings of the type and use permitted in the district, the minimum front setback depth for new building shall be the average depth, plus or minus five feet, of the front setbacks of existing dwellings located within 100 feet on either side of a given lot, provided however, the depth of the front setback resulting there from shall not be less than one-half the distance set forth in [Schedule 1133.04\(a\)](#).
- (3) Front Setback on Through Lots. On a through lot, a front setback shall be provided on each frontage equal to the minimum required front setback as set forth in [Schedule 1133.04\(a\)](#). There shall be no required rear setback on a through lot.
- (4) Side Setbacks. Each interior and through lot shall have and maintain two side yards. [Schedule 1133.04\(a\)](#) sets forth the minimum width of any side setback.
- (5) Side Setbacks for Corner Lots. Principal buildings constructed or altered on a corner lot shall provide a side setback on the side street not less than twenty-five (25) feet from the edge of the right-of-way of the side street or highway, whether public or private.
- (6) Rear Setbacks. Each lot shall maintain a rear setback as specified in [Schedule 1133.04\(a\)](#).

(7) Schedule 1133.04(7) Minimum Setback Requirements in R-1 District:

	<b>R-1 Traditional Single Family District</b>
(a) Minimum front setback	75 ft. <sup>(1)</sup>
(b) Minimum side setback (each side)	15 ft.
(c) Minimum rear setback	40 ft.
<sup>(1)</sup> Except as otherwise permitted in Section 1133.04 (a) (2) above.	

(b) R-2 Attached Single-Family/Townhouse District. The following setback requirements shall be applied to all development in the R-2 Attached Single-Family/Townhouse District.

- (1) Detached Single-Family Requirements. In the R-2 District, single-family dwellings on individually subdivided lots shall comply with the regulations for detached, single family homes in the R-1, Traditional Single Family District, listed above.
- (2) Building Setback from Project Boundary. The setback of a dwelling from any project boundary shall be not less than the distance set forth in **Schedule 1133.04(b)**. The project boundary shall include all lot lines that divide the tract of land developed for attached single-family/townhouse units from adjacent lots not included in the development and shall be the boundaries of the minimum area set forth in **Schedule 1133.03(b)**.
- (3) Parking Setback from Project Boundary. The setback of off-street parking areas from any project boundary shall be not less than the distance set forth in **Schedule 1133.04(b)**.

(4) Schedule 1133.04 (4) Minimum Setback Requirements in R-2 District:

	<b>R-2</b> Attached Single-Family/Townhouse District
(a) Minimum Building Setback from Right-of-Way	50 feet
(b) Minimum Building Setback from Private Road	30 feet
(c) Minimum Building Setback from:	
(1) Project boundary lines abutting an R-1 District	40 feet
(2) Project boundary line abutting all other districts	20 feet
(d) Minimum Parking Setback from:	
(1) Project boundary lines abutting an R-1 District	25 feet
(2) Project boundary line abutting all other districts	15 feet
(3) Right-of-Way Line	25 feet

**1133.05 PRINCIPAL BUILDING PROJECTIONS INTO REQUIRED SETBACKS.**

- (a) For single-family detached dwellings: No portion of the building including steps, porches, skylights, sills, belt-courses, eaves, cornices, chimneys, and ornamental features attached to the principal building shall project into a required setback.
- (b) For single-family attached dwellings: The following projections shall be permitted into the required setback a maximum of one and one-half (1½) feet for the end units adjacent to the boundary lines: steps, porches, skylights, sills, belt-courses, eaves, cornices, chimneys, and ornamental features attached to the principal building.

**1133.06 FLOOR AREA REQUIREMENTS.**

In order to promote healthful living conditions and to stabilize the value and character of residential areas, single-family dwelling units and townhouses shall be erected, altered, moved, maintained or occupied only in accordance with the minimum floor area requirements set forth in this Section. For the purposes of calculating the total floor area, all areas within basements, garages and any attached or detached accessory building or structure shall not be included.

- (a) For detached single-family dwellings, the total floor area per dwelling unit shall not be less than 1,250 square feet above finished grade. Not less than 900 square feet shall be on the first floor, above the finished grade if such dwelling has a second floor reached by a permanently fixed inside stairway.
- (b) For attached single-family dwellings, the total floor area shall not be less than 1,250 square feet above finished grade.

**1133.07 HEIGHT REGULATIONS.**

All buildings and structures in any residential district shall comply with the following height regulations:

- (a) The height of principal buildings and structures shall not exceed 35 feet.
- (b) The height of accessory buildings and structures shall not exceed 18 feet or the height of the principal dwelling, whichever is less.

**1133.08 COMMON FACILITIES REQUIREMENTS**

- (a) Any common facilities established as part of a R-1 or R-2 development shall be either:
  - (1) Retained by the owners of such development; or,
  - (2) Dedicated to a homeowners association or similar legal entity that shall have title to the land to be retained as a common facility.
- (b) The legal documents relating to the ownership, management, public easements if any, and maintenance of such common facilities shall be reviewed and approved by the City's Law Director. The Law Director shall indicate such approval prior to the final development plan being approved by the Planning and Zoning Commission.

**1133.09 DESIGN CRITERIA FOR DWELLINGS IN THE R-1 DISTRICT.**

- (a) For any new single-family detached dwelling, an attached garage that has overhead garage doors that face the street shall be setback at least four (4) feet from the front façade of the main building mass. The following exceptions shall apply:
  - (1) An overhead garage door may be flush with the front façade of the building if the building has a porch, floor to ceiling bay window, balcony, structurally integral planter, or other significant design feature or combination of features that extend at least four (4) feet forward from the wall plane on which the garage door is placed. A garage door that is recessed within the thickness of the garage wall as a result of typical construction practices shall be considered flush; or
  - (2) An overhead garage door may be flush with the front façade of the residence if at least forty percent (40%) of the façade on which the door is located is comprised of windows; or
  - (3) An overhead garage door may be flush with the front façade of the residence if the garage is not more than thirty-five percent (35%) of the length of the street-facing façade; or,
  - (4) Designs approved by the Architectural Board of Review.
- (b) For any new single-family detached dwelling, the area of all attached or detached garages shall not exceed fifty percent (50%) of the area of the building footprint for the principal building. For the purpose of this subsection, the building footprint shall not include any proposed attached garage.

**1133.10 ACCESSORY USE REGULATIONS FOR SINGLE-FAMILY DETACHED DWELLINGS.**

Accessory uses, buildings and structures permitted in the R-1 district shall comply with the regulations set forth below as well as any applicable standards in [Chapter 1157](#), General Use Regulations.

- (a) Principal Building Required. No accessory building, structure or use shall be established on a lot unless a principal building or use has first been established on the lot in conformance with all applicable provisions of this Planning and Zoning Code.

- (b) Zoning Certificate Required. The construction and installation of all accessory buildings and structures shall require zoning certificate in compliance with the application requirements set forth in Chapter 1113, **Zoning Certificates and Certificates of Zoning Compliance**.
- (c) Landscaping and Incidental Structures Permitted. Hedges, shrubs, trees, flowers, plants, walks, latticework screens, arbors, trellises, mail boxes, lamp posts, bird baths, benches and similar landscaping features and incidental structures shall be permitted in a required setback provided such landscaping features and incidental structures comply with the visual clearance requirements for corner lots set forth in Section 1157.11, **Visibility at Intersections**.
- (d) Location Requirements for Accessory Uses. An accessory building or use permitted in a residential district shall be located in accordance with the restrictions set forth in **Schedule 1133.10**. However, an accessory use shall only be permitted to the extent such use complies with all other accessory use regulations set forth in this Planning and Zoning Code. No accessory building shall be located within an easement. If any accessory structure other than a building is located within an easement, the owner of such accessory structure shall be responsible for any costs associated with the removal and/or replacement of the structure should access to the easement be required.
- (e) Location Requirements for Play Structures. Play structures, including but not limited to slides and swings, shall not be permitted in the front yard.

(f) Schedule 1133.10 Permitted Accessory Structures In Front, Side and Rear Setback:

Use	Yard Permitted	Minimum Setback From Lot Line		
		Front	Side	Rear
(a) Attached accessory buildings and structures	None	(1)	(1)	(1)
(b) Detached accessory buildings, including garages	Side <sup>(2)</sup> , rear	NP <sup>(3)</sup>	15 ft.	15 ft.
(c) Driveways	Front, corner side, side, rear	NA	3 ft.	(1)
(d) Fences, walls	Front, corner side, side, rear	See § 1133.11 (e)(2)	(0)	(0)
(e) Uncovered porches, stairs, patios and decks	Side, rear	(1)	(1)	(1)
(f) Private swimming pools	Rear	NP	(1)	(1)
(g) Outdoor storage of recreation vehicle. See also sub-section 1133.11 (b).	Rear	NP	(1)	(1)

**Notes to Schedule 1133.10:**

(1) Shall comply with the development standards and setback requirements for principal buildings set forth in Section 1133.04.

(2) Accessory buildings on corner lots shall be setback seventy-five (75) feet from the side street right-of-way or in compliance with 1133.04 (a)(2).

(3) One accessory building is permitted in the front yard provided the accessory building is setback a minimum of 200 ft. from the right-of-way line.

NP - Not Permitted.  
NA – Not Applicable

(g) Maximum Area and Number of Accessory Buildings. The maximum allowable area for all accessory buildings on a zoning lot shall be as follows:

- (1) The maximum floor area for all accessory buildings and structures on lots of one (1) acre or less shall be 600 square feet.

- (2) The maximum floor area for all accessory buildings and structures on lots of more than one (1) acre shall be 600 square feet plus one (1) additional square foot per every 100 square feet of property over one (1) acre.

No more than two (2) accessory buildings shall be permitted on a single zoning lot.

- (h) Additional Regulations for Parking Areas. Required parking areas shall not be located in the front setback, and supplemental parking areas are prohibited between the front building line and the front setback line.

**1133.11 ACCESSORY USE REGULATIONS FOR ALL SINGLE FAMILY RESIDENTIAL DISTRICTS.**

Accessory uses, buildings and structures permitted in the R-1 and R-2 Districts shall comply with the regulations set forth below.

- (a) Additional Regulations for Parking Areas, Driveways and Vehicles. Open, off-street parking areas and vehicles shall comply with the regulations set forth below:
  - (1) Accessory off-street parking shall comply with the parking requirements set forth in **Chapter 1153**.
  - (2) The repainting, rebuilding, overhauling or dismantling of a vehicle or the storage of tires, motor, or auto body parts in an open yard is prohibited on a residential lot.
  - (3) The overnight parking or the outdoor storage of commercial motor vehicles shall comply with Section **1157.07**, Additional Regulations Regarding Motor Vehicles in Residential Zoning Districts.
- (b) Additional Regulations for Recreational Vehicles. Recreational vehicles are permitted in the R-1 and R-2 Districts provided they comply with the regulations set forth below:
  - (1) They shall not be permanently connected to electricity, water, gas, or sanitary sewer facilities, and at no time shall this equipment be used for living or housekeeping purposes.
  - (2) If the recreational vehicle is parked or stored outside, it shall be stored or parked in the rear yard; and shall not be stored or parked in any side setback. On a corner lot, a recreational vehicle shall be stored or parked in compliance with the corner side setback requirements in Section **1133.04**.

- (3) Notwithstanding the provisions of this sub-section, recreational vehicles may be parked anywhere on the premises for loading or unloading purposes, for a period of not more than 48 hours.
  - (4) If the recreational equipment is parked or stored outside, it shall be parked on an impervious surface, such as asphalt or concrete.
  - (5) All recreational equipment shall be kept in good repair and carry a current year's license or registration.
- (c) Outdoor Storage. Outdoor storage is prohibited.
- (d) Swimming Pools. Private swimming pools for the exclusive use of residents of the premises may be located in any residential district provided they comply with the locational and lot coverage requirements set forth in Schedule **1133.10** as well as the regulations in **Section 1157.06**, Swimming Pools.
- (e) Fences and Walls. Fences and walls in any residential district shall comply with Schedule **1133.10** and the following:
- (1) Height and Opacity.
    - A. Front Yards and Corner Side Yards. Fences in a front and or corner side yard shall not exceed forty-two (42) inches in height above the natural grade. At least 75% of the vertical surface of the fence located in a front or corner side yard shall be open and such openness shall be uniformly distributed across the vertical surface.
    - B. Side and Rear Yards. Fences and walls in the side or rear yard shall not exceed six (6) feet in height above the natural grade.
  - (2) Fences may be located in any part of the yard. Fences may be built up to, but not on, the property line, except adjacent to public rights-of-way in which case the fence shall have a one (1) foot setback. Fences shall be located entirely on the property of the person constructing it.
  - (3) Fences, gates, doors and other obstructions shall not swing across or over a sidewalk, property line, or public right-of-way.
  - (4) On a corner lot, all fences must comply with the visual clearance requirements for corner lots set forth in **Section 1157.11, Visibility at Intersections.**
  - (5) No fence shall be constructed, without City authorization, within a right-of-way or a utility easement. Any fence constructed within a utility

easement, or inhibiting access to such easement, may be removed by the City and the cost of such removal may be charged against those parties having an interest in the fence.

(6) Materials and Construction.

- A. Fences shall be constructed of finished masonry (unfinished masonry shall not be permitted), wood, or other similar synthetic materials, except that chain link fencing is permitted in the side or rear yard.
- B. No fence shall be electrified or topped with broken glass, spikes, barbed wire or other sharp edged material. A living fence whose species has briars, thorns or other foliage which can scratch, injure or harm a person or animal shall be kept trimmed by the owner when such fence is within the required front, side or rear setback.
- C. Fences that are painted shall be one color. Fences and walls shall be maintained in good repair at all times by the owner and/or occupant of the lot on which they are located. The smooth finished side of the fence shall be the side of the fence that faces outward from the yard being fenced.

**1133.12 ACCESSORY USE REGULATIONS FOR THE R-2, ATTACHED SINGLE-FAMILY DISTRICT.**

Location Requirements for Accessory Uses in the R-2 District. An accessory building or use permitted in the R-2 District shall be located in accordance with the restrictions set forth in Schedule **1133.10**. However, an accessory use shall only be permitted to the extent such use complies with all other accessory use regulations set forth in this Planning and Zoning Code. No accessory building shall be located within an easement. If any accessory structure other than a building is located within an easement, the owner of such accessory structure shall be responsible for any costs associated with the removal and/or replacement of the structure should access to the easement be required.

**1133.13 DEVELOPMENT PLAN REVIEW.**

In the R-1 and R-2 Districts, all permitted uses shall be allowed only after development plans have been reviewed and approved pursuant to the procedures set forth in Chapter 1111, Development Plan Review Procedures or Chapter 1113, Zoning Certificates and Certificates of Zoning Compliance, whichever is applicable.

**CHAPTER 1135**  
**Multi-Family Residential District Regulations**

1135.01	Purpose.	1135.06	Off-Street Parking Requirements.
1135.02	Use Regulations.	1135.07	Landscape, Lighting and Screening Requirements.
1135.03	Area and Density Regulations.	1135.08	Accessory Use Regulations.
1135.04	Dwelling Unit Area Requirements.	1135.09	Planning Criteria.
1135.05	Site Development Regulations.	1135.10	Development Plan Review.

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**1135.01 Purpose.**

Multi-Family Residential District (M, M-1) regulations are established in order to achieve, among others, the following purposes:

- (a) To preserve the character of differing neighborhoods by providing different districts with different densities and development standards.
- (b) Reserve residential charm within the City for those areas offering opportunity for a higher family density.
- (c) Provide, preserve and protect locations for medium and high-density apartment development in areas with appropriate levels of service.
- (d) Regulation of the bulk and location of dwellings to obtain proper privacy and useable open spaces appropriate for the various districts.
- (e) Regulation of the density and distribution of population to avoid congestion and to provide adequate public services.
- (f) To carry out the following specific purposes:
  - (1) The M District is established to provide, preserve and protect medium density residential areas for multi-family dwellings arranged to provide good building site design and effective open space in areas adequately served by City utilities and streets.
  - (2) The M-1 District is established to provide, reserve and protect locations for high-density apartment development in areas with appropriate levels of service.

**1135.02 USE REGULATIONS.**

- (a) Uses Permitted By Right. A use listed in **Schedule 1135.02** shall be permitted by right as a principal use in a district when denoted by the letter "P" provided that all requirements of other city ordinances and this Planning and Zoning Code have been met.
- (b) Conditional Uses. A use listed in **Schedule 1135.02** shall be permitted as a conditional use in a district when denoted by the letter "C", provided the Planning and Zoning Commission first makes the determination that the requirements of **Chapter 1147** have been met according to the procedures set forth in **Chapter 1115**.
- (c) Accessory Uses. An accessory use that is clearly incidental and subordinate to a use listed in **Schedule 1135.02** shall be permitted provided that the requirements of all other City Ordinances and this Planning and Zoning Code have been met. Accessory uses are further regulated as noted below as well as in other Sections of this Planning and Zoning Code.
  - (1) Accessory storage buildings including garages in compliance with **Section 1135.08, Accessory Use Regulations.**
  - (2) Fences, walls, landscape features and other structures in compliance with **Section 1135.08, Accessory Use Regulations** and **Chapter 1155, Landscaping and Land Use Buffers**
  - (3) Home occupations in compliance with **Section 1157.05, Home Occupations.**
  - (4) Private garages and off-street parking spaces in compliance with this Chapter and **Chapter 1153, Off-Street Parking and Loading Regulations.**
  - (5) Recreation and community facilities intended for use by residents of the development in compliance with this Chapter.
  - (6) Signs in compliance with Chapter **1151, Sign Regulations.**
- (d) Use Not Listed in Schedule. Although a use may be indicated as a permitted principal, conditional or accessory use in a particular multi-family residential district, it shall not be approved on a parcel unless it can be located thereon in full compliance with all of the standards and other regulations of this Planning and Zoning Code applicable to the specific use and parcel in question. Any use not specifically listed as either a permitted principal or conditional use shall be a prohibited use in these zoning districts and shall only be permitted upon amendment of this Code and/or the Official Zoning Map as provided in **Chapter**

1119 or upon a finding that a use is substantially similar as provided in **Section 1115.10, Similar Uses.**

(e) Schedule 1135.02 Permitted Uses.

	<b>M Multi-Family District</b>	<b>M-1 High Rise Apartment District</b>
<b>(a) Residential</b>		
(1) Multi-family dwellings	P	P
(2) Single-family attached dwellings	P	P
(3) Two-family dwelling	P	P
(4) Adult care facility for 3-5 Persons	P	P
(5) Adult care facility for 6-16 Persons	P	P
(6) Family day care home, for 1 to 6 Children (Type B) ) See Section 1157.04	P	P
(7) Residential facility for 5 or fewer persons	P	P
(8) Residential facility for 6-8 persons	P	P
(9) Residential facility for 9-16 persons	C	C
<b>(b) Community Facilities</b>		
(1) Churches/ places of worship	P	P
(2) Community recreation facilities	P	P
(3) Congregate care	P	P
(4) Cultural institutions	P	P
(5) Daycare center, child and/or adult	P	P
(6) Park	P	P
(7) Library	P	P
(8) Public Safety Facility	C	C
(9) Schools, elementary & secondary (public or private)	P	P
<b>(c) Other Uses</b>		
(1) Utility substation/distribution facility, indoor	C	C
(2) Wireless telecommunication facility	See Chapter 1161	
<b>(d) Accessory Uses</b>		
(1) Accessory Buildings	A	A

	<b>M Multi-Family District</b>	<b>M-1 High Rise Apartment District</b>
(2) Fences and walls	A	A
(3) Garbage and Rubbish disposal facilities	A	A
(4) Home Occupations	A	A
(5) Off-street parking/driveways	A	A
(6) Other accessory structures	A	A
(7) Private swimming pools/ tennis courts	A	A
(8) Restaurant, retail establishments, service establishments, recreational facilities <sup>(M-1)</sup>	A	A
(9) Signs	A	A
<u>Notes to Schedule 1135.02:</u>		
(M-1) These uses are permitted accessory uses in a multi-family building where authorized by the Planning and Zoning Commission, provided they occupy no more than fifty-percent (50%) of the gross floor area of the first or ground floor.		
P = Permitted by right      C = Conditional      A = Accessory		

**1135.03 AREA AND DENSITY REGULATIONS.**

Land area shall be divided and developed, and buildings shall be erected, altered, moved or maintained in an M or M-1 District only in compliance with the following regulations.

- (a) Minimum Development Area. The gross area of a tract of land shall not be less than the dimensions set forth in **Schedule 1135.03**. The entire tract of land to be developed shall be considered one zoning lot.
- (b) Minimum Lot Frontage and Width. Each zoning lot shall abut a public street not less than the dimensions set forth in **Schedule 1135.03**. The minimum width of a zoning lot shall not be less than the dimensions set forth in **Schedule 1135.03**.
- (c) Maximum Lot Coverage. The maximum lot coverage, for all areas covered by buildings shall not exceed the percentage of the total area of the development project set forth in **Schedule 1135.03**.
- (d) Maximum Density.
  - (1) The density of a multi-family residential development (M, M-1) shall not exceed the number of dwelling units per acre set forth in **Schedule 1135.03** for the district in which the development is located.

- (2) The total number of dwelling units permitted shall be calculated by multiplying the total development area, exclusive of public rights-of-way existing at the time the development plan is submitted, by the number of dwelling units permitted per acre. Any fractional units shall be rounded downward.

(e) **Schedule 1135.03** Lot and Density Regulations.

	<b>M Multi-Family District</b>	<b>M-1 High Rise Apartment District</b>
(a) Minimum development area		
(1) Residential dwellings	5 acres	8 acres <sup>(1)</sup>
(2) Non-residential uses	5 acres <sup>(2)</sup>	5 acres <sup>(2)</sup>
(b) Minimum lot frontage		
(1) Residential dwellings	100 ft.	100 ft.
(2) Non-residential uses	100 ft. <sup>(2)</sup>	100 ft. <sup>(2)</sup>
(c) Minimum lot width	100 ft. <sup>(3)</sup>	100 ft. <sup>(3)</sup>
(d) Maximum lot coverage by buildings (main & accessory)	25 %	25 %
(e) Maximum density	15 units/acre	No Limit <sup>(4)</sup>
<b>Notes to Schedule 1135.03:</b>		
(1) Eight (8) acres for one building, 12 acres for two high-rise buildings, and an additional 5 acres of land per apartment building thereafter constructed on the same land.		
(2) Except as otherwise regulated by <b>Chapter 1147, Conditional Use Regulations</b> .		
(3) All lots used for residential purposes must have an average width of 350 feet, except in the case of irregular lots whereby approval may be sought from the Planning and Zoning Commission, and confirmed by Council.		
(4) There shall be no limit to the number of dwelling units permitted on an acre of land except as the number of units is governed by compliance with the other provisions of this Planning and Zoning Code.		

**1135.04 DWELLING UNIT AREA REQUIREMENTS.**

In order to promote healthful living conditions and to stabilize the value and character of residential areas, dwelling units shall be erected, altered, moved, maintained or occupied only in accordance with the minimum floor area requirements set forth below:

Schedule 1135.04  
Dwelling Unit Area Requirements.

	<b>M Multi-Family District</b>	<b>M-1 High Rise Apartment District</b>
(a) One bedroom unit	750 sq. ft. <sup>(1)</sup>	550 sq. ft. <sup>(1)</sup>
(b) Two bedroom unit	900 sq. ft.	750 sq. ft.
(c) Three bedroom unit	1,100 sq. ft. <sup>(2)</sup>	900 sq. ft.
(d) Four bedroom unit	1,250 sq. ft. <sup>(2)</sup>	1,050 sq. ft.
<p><u>Notes to Schedule 1135.04:</u></p> <p>(1) No more than fifty percent (50%) of the dwelling units in an apartment building shall be in the one bedroom category.</p> <p>(2) No more than twenty percent (20%) of the dwelling units in an apartment building shall be in the three (3) or more bedroom category.</p>		

**1135.05 SITE DEVELOPMENT REGULATIONS.**

The following regulations are established to regulate the design and development of buildings in multi-family districts.

- (a) Building Setback from Project Boundary. The setback of a dwelling from any project boundary shall be not less than the distance set forth in **Schedule 1135.05**. The project boundary shall include all lot lines that divide the tract of land developed for multi-family units from adjacent lots not included in the development and shall be the boundaries of the minimum area set forth in **Section 1135.03(a)**.
- (b) Parking Setback from Project Boundary. The setback of off-street parking areas shall be not less than the distance set forth in **Schedule 1135.05**.
- (c) Building Spacing. The minimum distance between apartment buildings shall be determined as follows: the length and height of each proposed building shall be added and the result divided by four. Such result shall constitute the minimum distance between such buildings.  
  
 “Length” is defined as the length of the portion or portions of any wall of one building from which lines drawn perpendicular to the face of such wall intersects any wall of the other building.
- (d) Building Height. All buildings shall comply with the maximum height regulations set forth below:
  - (1) The height of principal buildings shall not exceed the maximum height set forth in **Schedule 1135.05**.

- (2) The height of accessory buildings shall not exceed fifteen (15) feet.
- (3) Permitted height exceptions are set forth in **Section 1157.02, Supplementary Height Regulations.**

(e) Schedule 1135.05 Site Development Standards

	<b>M</b> Multi-Family District	<b>M-1</b> High Rise Apartment District
(a) Minimum Building Setback from Right-of-Way	50 feet	100 feet
(b) Minimum Rear Setback from:		
(1) Project boundary lines abutting an R District	50 feet	100 feet
(2) Project boundary line abutting all other districts	50 feet	50 feet
(c) Minimum Side Setback from:		
(1) Project boundary lines abutting an R District	25 feet	50 feet
(2) Project boundary line abutting all other districts	25 feet	25 feet
(d) Minimum Parking Setback from Project boundary lines abutting an R District.	25 feet	25 feet
(e) Minimum Principal Building Height	NA	80 feet
(f) Maximum Principal Building Height	35 feet	150 feet <sup>(1)</sup>
<u>Notes to schedule 1135.05:</u>		
(1) Sundeck, restaurant, penthouse and other roof structures shall be within the one hundred fifty (150) feet maximum height limit.		
NA = Not Applicable		

**1135.06 OFF-STREET PARKING REGULATIONS.**

Off-street parking areas shall be provided for multi-family developments in accordance with the provisions set forth in **Chapter 1153.**

**1135.07 LANDSCAPE, LIGHTING, AND SCREENING REQUIREMENTS.**

Visual screening and landscape buffers shall be provided for multi-family developments in accordance with the provisions set forth in **Chapter 1155**. All exterior lighting shall comply with the regulations in **Section 1157.12**, Exterior Lighting Regulations.

**1135.08 ACCESSORY USE REGULATIONS.**

Any accessory use permitted in an M or M-1 District may occupy a part of the principal building, occupy a separate accessory structure or constitute an accessory land use.

- (a) No accessory uses shall be permitted in a front yard area.
- (b) Fence and Wall Regulations. Fences and walls may be located in the required setbacks set forth in **Schedule 1135.05** and shall comply with the regulations set forth in **Section 1133.11 (e), Fences and Walls**.
- (c) Swimming Pools. Private swimming pools for the exclusive use of residents of the premises shall comply with the supplemental regulations set forth in **Chapter 1157.06, Swimming Pools**.
- (d) Minimum Setbacks for Accessory Buildings and Uses. Accessory buildings, including garages; carports; and active recreation areas such as a swimming pool or tennis court which are intended for use by the residents of the residential development, shall be equal to the setback of the principal building set forth in **Schedule 1135.05**.
- (e) Outdoor Storage. Outdoor storage is prohibited.
- (f) Commercial Motor Vehicles. Commercial motor vehicles shall comply with the regulations in **Section 1157.07 (c), Additional Regulations Regarding Motor Vehicles in Residential Districts**.
- (g) Motor Vehicles. The repainting, rebuilding, overhauling or dismantling of a vehicle or the storage of tires, motor, or auto body parts is prohibited.

**1135.09 PLANNING CRITERIA.**

The following Planning Criteria standards shall apply to all developments in an M or M-1 District.

- (a) Multi-family buildings need not be distributed in a uniform height or density throughout the parcel.
- (b) The buildings shall be located so as to take advantage of the topography, natural features and superior views within the neighboring area. They shall be designed and arranged so that the distance between buildings and the various parts thereof

and between buildings and boundaries of adjoining areas will enhance the privacy, use and enjoyment of the maximum number of dwelling units within the buildings.

- (c) Paved walkways shall be provided and maintained connecting each outdoor entryway in a multi-family development to the parking area serving that building, to the public street, to other buildings on-site, and to any recreation facilities that are provided as part of the development. Where garages are constructed, the walls and roof shall be a part of the approved design of the buildings.
- (d) The landscaped areas shall be the minimum percentage of those portions of the parcel, which are not covered by buildings, structures, parking areas, driveways, and swimming pool or similarly permitted outdoor use. Lawns, trees and shrubs shall be planted and maintained.
- (e) Development plans should be designed to protect and preserve the residential character of any surrounding Single-family Residential District.
- (f) Every apartment building shall be of masonry construction and shall be faced above the basement ceiling with either stone or brick. No concrete or other blocks shall be used for facing above such basement ceiling line.
- (g) Utilities. All utilities required to serve a development shall be located underground.
- (h) Waste Receptacles. All solid waste products that result from any permitted principal, conditional or accessory use shall either be disposed of, stored in buildings, or completely enclosed in containers. Such building, container or dumpster shall be located in a side or rear yard on a paved surface in compliance with the minimum parking setbacks established in [Schedule 1135.05](#) as well as the screening requirements set forth in [Chapter 1155](#).
- (i) Performance Standards. All uses and developments shall comply with the Performance Standards in [Section 1157.10, General Use Regulations](#).

#### **1135.10 DEVELOPMENT PLAN REVIEW.**

All uses in an M and M-1 District shall be permitted only after development plans have been reviewed and approved pursuant to the procedures set forth in [Chapter 1111](#).

**CHAPTER 1137**  
**Commercial District Regulations**

1137.01	Purpose.	1137.08	Outdoor Dining Regulations.
1137.02	Use Regulations.	1137.09	Outdoor Display & Storage Regulations.
1137.03	Lot Regulations.	1137.10	Accessory Use Regulations.
1137.04	Setback Regulations.	1137.11	Design Standards.
1137.05	Height Regulations	1137.12	Performance Standards.
1137.06	Off-Street Parking and Loading Regulations.	1137.13	Development Plan Review.
1137.07	Landscaping and Screening Requirements.		

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**1137.01 PURPOSE.**

The Commercial Districts (B-1, B-2, B-3) and their regulations are established in order to achieve, among other purposes, the goals and objectives in the City’s Master Plan, as well as the following:

- (a) To provide in appropriate locations, sufficient areas for business activities and the exchange of goods and services.
- (b) To protect residential neighborhoods adjacent to business uses by regulating the types of establishments, particularly at the common boundaries, that would create congestion, noise or other objectionable influences.
- (c) To provide for various economic development options that strengthen the diversity of uses found in the City.
- (d) To establish design guidelines for new development or redevelopment to ensure that an aesthetically pleasing, and pedestrian friendly environment is created. Specifically, the design guidelines are intended to:
  - (1) Protect and preserve the appearance and character of the community;
  - (2) Reduce the impact between zoning districts; and,
  - (3) Provide interest along the streetscape.
- (e) To carry out the following specific purposes:
  - (1) The B-1 District and its regulations are established to provide a limited range of uses in select locations within the City.

- (2) The B-2 District and its regulations are established to develop an area with a traditional city center character, through a mix of civic, retail and office uses that are concentrated enough to encourage pedestrian activity and interaction among the uses.
- (3) The B-3 District and its regulations are established to accommodate mixed-use, pedestrian-oriented development that fosters a vital streetscape created by commercial buildings with entrances and windows oriented to the public street. This District is intended to be the City's core area for retail sales.

## **1137.02 USE REGULATIONS.**

- (a) Uses Permitted by Right. A use listed in **Schedule 1137.02** shall be permitted by right as a principal use in a district when denoted by the letter "P" provided that all requirements of other city ordinances and this Planning and Zoning Code have been met.
- (b) Conditional Uses. A use listed in **Schedule 1137.02** shall be permitted as a conditional use in a district when denoted by the letter "C", provided the Planning and Zoning Commission first makes the determination that the requirements of **Chapter 1147** have been met according to the procedures set forth in **Chapter 1115**.
- (c) Accessory Uses. An accessory use that is clearly incidental and subordinate to a use listed in **Schedule 1137.02** shall be permitted provided that the requirements of all other City ordinances and this Planning and Zoning Code have been met. Accessory uses are further regulated in subsequent sections of this Planning and Zoning Code.
- (d) Use Not Listed in Schedule. Although a use may be indicated as a permitted principal, conditional or accessory use in a particular commercial district, it shall not be approved on a parcel unless it can be located thereon in full compliance with all of the standards and other regulations of this Planning and Zoning Code applicable to the specific use and parcel in question. Any use not specifically listed as either a permitted principal or conditional use shall be a prohibited use in these zoning districts and shall only be permitted upon amendment of this Planning and Zoning Code and/or the Zoning Map as provided in **Chapter 1119** or upon a finding that a use is substantially similar as provided in **Section 1115.10, Similar Uses**.

(e) Schedule 1137.02 Permitted Uses.

	<b>B-1 Limited Commercial District</b>	<b>B-2 Commercial Campus/Mixed- Use District</b>	<b>B-3 High Density Mixed-Use Commercial District</b>
<b>(a) Residential</b>			
(1) Multi-family dwelling		C	P
(2) Dwelling unit(s) above the first floor of a building		P	P
<b>(b) Office and Professional Services</b>			
(1) Financial institutions, banks	P	P	P
(2) Hospital		P	P
(3) Medical and dental offices	P	P	P
(4) Offices – administrative, business and professional	P	P	P
<b>(c) Retail and Personal Services</b>			
(1) Assembly hall/ membership club/ conference center		C	P
(2) Bed and breakfast establishment		P	P
(3) Commercial recreation, indoor		C	C
(4) Commercial recreation, outdoor			C
(5) Drive-thru/ drive-up facility in association with a permitted use		C	C
(6) Freestanding automated teller machine or drive-thru		C	C
(7) Funeral home	C	P	P
(8) Health club		C	P
(9) Hotels / Motels		C	C
(10) Restaurant		P	P
(11) Retail establishment	P	P	P
(12) Service establishment, business	P	P	P
(13) Service establishment, personal	P	P	P

	<b>B-1 Limited Commercial District</b>	<b>B-2 Commercial Campus/Mixed- Use District</b>	<b>B-3 High Density Mixed-Use Commercial District</b>
(14) Studios for instruction	P	P	P
(15) Theater			P
(16) Veterinary office/ animal hospital, with no outdoor facilities		P	P
(17) Veterinary office/ animal hospital, with outdoor facilities		C	C
<b>(d) Automotive/Transportation</b>			
(1) Automotive service station		C	C
(2) Car wash			C
(3) Gasoline station/pumps		C	C
(4) Motor vehicle sales and rental <sup>(B-1)</sup> including boats, snowmobiles, scooters, etc.			C
(5) Structured parking deck			P
(6) Vehicle repair garages			C
<b>(e) Community Facilities/Other</b>			
(1) Community center buildings	P	P	P
(2) Congregate care facility		P	
(3) Nursing home		P	
(4) Day care center, child and adult	C	P	P
(5) Library, cultural institution		P	P
(6) Public safety facility	P	P	P
(7) Public service/maintenance facility		P	P
(8) School (public/private) college/university		C	C
(9) Utility substation/distribution facility, indoor	C	C	C
(10) Wireless telecommunication facility	See <b>Chapter 1161</b>		
(11) Park	P	P	P

	<b>B-1 Limited Commercial District</b>	<b>B-2 Commercial Campus/Mixed- Use District</b>	<b>B-3 High Density Mixed-Use Commercial District</b>
<b>(f) Accessory Uses</b>			
(1) Accessory building	A	A	A
(2) Accessory recreational facilities		A	A
(3) Auditorium		A	A
(4) Crematorium	A	A	A
(5) Fences and walls	A	A	A
(6) Garbage and rubbish disposal facilities	A	A	A
(7) Off-street parking and loading facilities	A	A	A
(8) Outdoor display/ sales		A	A
(9) Outdoor storage		A	A
(10) Other accessory structures	A	A	A
(11) Restaurant, outdoor dining		A	A
(12) Signs	A	A	A
<u>Notes to schedule 1137.02:</u>			
<sup>(B-1)</sup> Auto sales are limited to the sale and service of new automobiles and parts as well as used automobile sales if operated in conjunction with the sale of new automobiles.			
P = Permitted by right    C = Conditional    A = Accessory			

**1137.03 LOT REGULATIONS.**

The minimum lot requirements for uses in the Commercial Districts are specified in Schedule **1137.03**.

(a) **Schedule 1137.03** Minimum Lot Requirements.

	<b>B-1 Limited Commercial District</b>	<b>B-2 Commercial Campus/Mixed- Use District</b>	<b>B-3 High Density Mixed-Use Commercial District</b>
(a) Minimum lot area	½ acre	None	None
(b) Minimum lot width	100 ft.	None	None
(c) Minimum lot frontage	100 ft	None	None
(d) Maximum lot coverage by buildings	25%	NA	NA
(e) Maximum lot coverage by buildings and pavement	70%	60%	70% <sup>(1)</sup>
(f) Minimum open space (See §1137.03 (b) below)	NA	20%	NA
<u>Notes to schedule 1137.02:</u>			
<sup>(1)</sup> Shall only apply when Commercial District zoning boundary line abuts a parcel zoned R-1 and/or R-2			
NA = Not Applicable			

(b) **Open Space Requirements.** The required open space shall consist of any environmentally sensitive areas, such as stands of mature trees or wetlands. To the greatest extent possible, the required open space shall be large blocks with straightforward boundaries. Long, thin strips of open space shall be avoided, unless necessary to connect other significant areas on the site.

**1137.04 SETBACK REGULATIONS.**

The following regulations are established to regulate the design and development of buildings in a Commercial (B) District. Every permitted use of land and structures shall be located on a lot in a manner that maintains the minimum building setbacks set forth in this Section for the district in which the lot is located, measured from the appropriate lot line. Setbacks shall remain unobstructed by structures except as otherwise specifically permitted in this Code.

- (a) **Building Setback.** The setback of a principal building from any project boundary or lot line shall be not less than the distance set forth in Schedule 1137.04. The project boundary shall include all lot lines that divide the tract of land from adjacent lots not included in the development.
- (b) **Parking Setbacks.** The setback of off-street parking areas from any project boundary or lot line shall be not less than the distance set forth in Schedule 1137.04.
- (c) **Schedule 1137.04 Site Development Standards.**

	<b>B-1 Limited Commercial Districts</b>	<b>B-2 Commercial Campus/Mixed - Use Districts</b>	<b>B-3 High Density Mixed-Use Commercial Districts</b>
(a) Minimum setback from rights-of-way			
(1) On Federal and State highways	75 ft.	25 ft.	25 ft.
(2) On all other public streets	45 ft.	25 ft.	25 ft.
(b) Setback from side and rear lot line abutting M, M-1, and non-residential zoning districts	25 ft.	25 ft.	25 ft.
(c) Setback from side and rear lot line abutting R-1, R-2 zoning district	25 ft.	30 ft.	50 ft.
(d) Minimum parking setback			
(1) From street right-of-way	20 ft.	30 ft.	30 ft.
(2) From side and rear lot line abutting M, M-1, and non-residential districts	10 ft.	10 ft.	10 ft.
(3) From side and rear lot line abutting R-1, R-2 zoning district	20 ft.	20 ft.	30 ft.

**1137.05 HEIGHT REGULATIONS.**

Buildings and structures shall comply with the height regulations set forth below, based on the district in which the lot is located:

- (a) In B-1, Limited Commercial District, buildings and structures shall not exceed two (2) stories or a height of thirty (30) feet.
- (b) In B-2, Commercial Campus/Mixed Use District, buildings and structures two hundred (200) or more feet from a residential district boundary shall not exceed a height of forty (40) feet. Buildings within two hundred (200) feet of a residential district boundary shall not exceed a height of thirty (30) feet.
- (c) In B-3, High Density Mixed Use Commercial District, buildings within two hundred (200) feet of a residential district boundary shall not exceed a height of thirty-two (32) feet. Buildings and structures two hundred (200) feet or more from a residential district boundary shall not exceed a height of forty (40) feet. If the buildings are two hundred (200) feet or more from a residential boundary line and the applicant provides one of the following, the maximum building height is fifty-five (55) feet:
  - (1) Provides only twenty-five percent (25%) of all parking spaces between any building and any right-of-way; or,
  - (2) Provides a building and parking setback of fifty (50) feet from every public right-of-way that is landscaped with ground cover; one large, shade tree for every twenty-five (25) feet of frontage or fraction thereof; and one evergreen shrub, which is twenty-four inches in height at the time of planting, for every five (5) feet of frontage or fraction thereof.
- (d) Accessory buildings or structures, less than two hundred (200) square feet in gross floor area, shall not exceed a height of 18 feet.
- (e) Height exceptions are set forth in **Section 1157.02**, Supplementary Height Regulations.

**1137.06 OFF-STREET PARKING AND LOADING REGULATIONS.**

Off-street parking and loading areas shall be provided for Commercial (B) Districts in accordance with the provisions set forth in **Chapter 1153**, the parking setback requirements specified in **Schedule 1137.04**, and the regulations set forth below:

- (a) Cross Access to Off-Street Parking Lots. Parking lots shall be interconnected with non-residential parking lots on adjacent properties to the maximum extent feasible. Permanent cross-access easements or other acceptable agreements for adjacent lots with interconnected parking lots shall be submitted in language

acceptable to the City's Law Director and the Planning and Zoning Commission to ensure availability of shared parking to users.

- (b) Setbacks for Joint Parking Facilities. When cross access between two parking areas is required or provided, the parking setback shall not be required for the opening which accommodates the drive aisle, but it shall be required in all other areas that abut the shared property line. When shared parking, which spans the mutual property line, is required or provided, the parking setback is not required to be provided

**1137.07 LANDSCAPE AND SCREENING REQUIREMENTS.**

Visual screening and landscape buffers shall be provided for all lots in Commercial (B) Districts in accordance with the provisions set forth in **Chapter 1155**.

**1137.08 OUTDOOR DINING REGULATIONS.**

Outdoor dining shall be permitted, as set forth in Schedule **1137.02**, provided that:

- (a) Prior to issuance of an outdoor dining permit by the Zoning Administrator, the applicant shall furnish, to the Zoning Administrator, a dimensioned plan showing the proposed location of all outdoor dining furniture. Outdoor dining shall not be allowed within ten (10) feet of a fire hydrant, Fire Department standpipe connection, fire escape, bus stop, loading zone, mail boxes, or traffic signal stanchions.
- (b) The applicant shall also submit drawings or photos of the type of furniture and enclosure to be utilized, and any other equipment (including fences, planters, light posts, etc.) to be used. The type, style and color of outside tables, chairs and furnishings, for outdoor dining areas must be approved by the Architectural Board of Review, prior to the Zoning Administrator issuing an outdoor dining permit.
- (c) Areas devoted to outdoor display and outdoor dining shall comply with all building setbacks regulations for the district in which they are located as set forth in Section **1137.04**, Setback Regulations.
- (d) All outdoor dining areas shall be contiguous to the principal building.
- (e) The facility is used in conjunction with, and is under the same management and exclusive control of, a restaurant located on the same or contiguous property and shall not exceed the existing building or property width.

- (f) Tables, chairs and furnishings shall be arranged so as not to interfere with pedestrian movement on sidewalks, ingress into or egress from buildings, or otherwise interfere with the proper and safe movement of people or vehicles in parking areas or on City streets, alleys, rights-of-way or other municipally owned property.
- (g) Outside entertainment, whether by band, orchestra, instrument, musician, singer, radio, television, loudspeaker, microphone, recital or any other individual, group or mechanical device shall not be permitted in any outside dining facility if the noise from such entertainment is of such a volume so as to cause a disturbance to abutting property owners.

**1137.09 OUTDOOR DISPLAY AND STORAGE REGULATIONS.**

Outdoor activities permitted in the Commercial (B) Districts, as set forth in Schedule 1137.02, shall be permitted only when accessory to a permitted or conditionally permitted principal use and in compliance with the following regulations.

- (a) The outdoor display of merchandise for sale, except motor vehicle sales establishments, shall comply with the following:
  - (1) Outdoor display of merchandise for sale shall be accessory and limited to products that are customarily associated with the operation of the principal business located on the premises and conducted by employees of such principal business. There shall be no outdoor display of merchandise for sale by any person operating or conducting a business that is different or distinct from the principal business conducted at that location except for temporary displays pursuant to Chapter 1157.
  - (2) The area of the lot devoted to outdoor display shall not exceed fifteen (15) percent of the ground floor area of the building(s) on the lot. The Planning and Zoning Commission may grant an exception to this requirement when the ground floor area is five thousand (5,000) square feet or less.
  - (3) Outdoor display areas may be located in the front, side, or rear yard. The outdoor display area shall comply with the building setback requirements set forth in Schedule 1137.04 for the district in which the lot is located.
  - (4) The outdoor display area shall not be located in areas intended for traffic and pedestrian circulation or parking as identified on the development plan.
  - (5) All outdoor display areas shall be contiguous to the principal building.
  - (6) Any proposed outdoor display areas shall be approved as part of a Development Plan Review in accordance with Chapter 1111.

- (b) The outdoor storage of goods and general materials shall be an accessory use associated with a permitted use and shall comply with the following:
  - (1) Outdoor storage of materials shall include the storage of goods, materials, or products associated with the principal use. The storage of radioactive, toxic or otherwise hazardous materials shall not be permitted.
  - (2) All outdoor storage of goods and materials shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all materials therein from the view of any observer standing at the grade level of an abutting residential district line. However, in no case shall the height of the fence or wall be less than six (6) feet, nor more than eight (8) feet. The solid wall or fence and the associated gates shall be maintained in good condition.
  - (3) All materials shall be stored in such a fashion as to be accessible to fire-fighting equipment at all times.
  - (4) Areas devoted to outdoor storage shall be located in a rear yard so that it is behind the principal building and not visible from any public street, unless the storage is located on a corner lot. The enclosed area shall be setback thirty (30) feet from any property boundary that abuts a single-family residential district and in no case shall the side and rear setback of the enclosed area be less than five (5) feet.
  - (5) Any proposed outdoor storage areas shall be approved as part of a Development Plan Review in accordance with **Chapter 1111**.

**1137.10 ACCESSORY USE REGULATIONS.**

Accessory uses permitted in any Commercial (B) District, as set forth in Schedule **1137.02**, shall conform to the regulations in this Section as well as any other applicable Sections.

- (a) Accessory Buildings. Accessory buildings that have a gross floor area of two hundred (200) square feet or less shall be located in a side or rear yard and shall comply with the parking setbacks set forth in Schedule **1137.04**. All other buildings shall be considered principal buildings and shall conform to all lot and setback regulations and development plan review and approval requirements of the applicable Commercial District.
- (b) Fences and Walls. Fences and walls may be erected in any Commercial (B) District in compliance with the requirements set forth below.

(1) Location and Condition.

- A. Fences may be located in any part of the yard. Fences may be built up to, but not on, the property line, and shall be located entirely on the property of the person constructing it.
- B. In order to maintain clear vision lanes for vehicles and pedestrians, no opaque fences shall be permitted within ten (10) feet, in any direction, of the following points:
  - 1. At the intersection of a driveway and sidewalk (or front property line if there is no sidewalk);
  - 2. At the intersection of a driveway and public right-of way;
  - 3. At the intersection of any two driveways.
- C. Fences, gates, doors and other obstructions shall not swing across or over a sidewalk or public right-of-way.
- D. On a corner lot, all fences must comply with the visual clearance requirements for corner lots set forth in Chapter 1157, **General Use Regulations**.
- E. No fence shall be constructed, without City authorization, within a utility easement. Any fence constructed within a utility easement, or inhibiting access to such easement, may be removed by the City and the cost of such removal may be charged against those parties having an interest in the fence.
- F. All fences shall be maintained in good condition, be structurally sound and attractively finished at all times.

(2) Materials and Construction.

- A. Approved fencing materials include stone, brick, finished wood, iron, or synthetic look-alike products.
- B. A living fence whose species has briars, thorns or other foliage which can scratch, injure or harm a person or animal shall be kept trimmed by the owner when such fence is within the required front, side or rear setback.

- C. No fence shall be electrified or topped with broken glass, spikes, barbed wire or other sharp edged material.
  - D. Only ornamental fences shall be permitted in a front and/or corner side yard of a building, unless required for screening pursuant to **Chapter 1155**, Landscaping & Screening or provided for outdoor dining pursuant to **Section 1137.07**. At least 75% of the vertical surface of the fence located in a front or corner side yard shall be open and such openness shall be uniformly distributed across the vertical surface.
  - E. All fences shall be designed, constructed, and finished so that the supporting members face the property of the owner of the fence.
  - F. All fences on a single parcel shall have a unified style along a single plane and for all fence segments visible from off the premises from any single direction.
- (3) Height. No fence shall exceed seven (7) feet in height in any rear or side yard, or exceed three (3) feet in height when located in front of a building, unless otherwise required by this Planning and Zoning Code.
- (4) Screening and Landscaping.
- A. All fences, other than ornamental fences, when visible from public streets, shall be visually softened and reasonably screened from the street with appropriate landscaping as follows:
    - 1. Fences that are located within required building and parking setbacks shall be considered appropriately screened when the landscaping required in **Section 1155.05**, Landscaping along the Street Frontage, is planted within five (5) feet of the fence and between the fence and the property line.
    - 2. Fences that are not located within the required setback areas shall be screened with the following landscape materials, planted not more than five (5) feet from the fence and between the fence and the property line:
      - (I) One shade tree shall be provided for every thirty (30) linear feet of fence length or fraction thereof, not including gates or other fence openings. Each tree at the time of installation shall have a minimum caliper of 2.5 inches and a clear trunk height of at least six (6) feet;

- (II) One shrub, that is twenty-four (24) inches in height at planting, shall be provided for every five (5) feet fence length or fraction thereof, not including gates or other fence openings; and,
  - (III) The landscaping may be flexible in its arrangement by appropriately aggregating the required plant materials.
- (5) Any proposed fence shall be approved as part of a Development Plan Review in accordance with **Chapter 1111**.
- (c) Waste Receptacles. Solid waste, including empty packing boxes, crates and other materials that result from any permitted principal, conditional or accessory use, shall be disposed of, stored in buildings, or completely enclosed in containers, and shall not be permitted to accumulate on the lot. All trash receptacles, other than those completely enclosed by buildings, shall be located in a side or rear yard on a paved surface and shall comply with the minimum parking setbacks established in **Schedule 1137.04** and the Screening Requirements set forth in **Chapter 1155**.
- (d) Signs. Signs shall conform to the regulations in **Chapter 1151**
- (e) Parking Lot Shopping Cart Corals. If establishments permit shopping carts in parking lots, then shopping cart corals shall be provided. These corals shall be permanently anchored and are subject to review and approval by Architectural Board of Review.

### **1137.11 DESIGN STANDARDS**

- (a) Purpose. The buildings in the City's Commercial (B) Districts define Willoughby Hills's built environment. Enhancing the quality and compatibility of these buildings and thereby protecting the character of these areas is of utmost importance.

The standards set forth below are intended to achieve among others the following purposes:

- (1) To strengthen, enhance and improve the existing visual and aesthetic character of the B-1, B-2, and B-3 Districts.
- (2) To ensure that new development and/or redevelopment respects the City's qualities and resources through compatible design.
- (3) To protect and enhance property values.

- (4) To provide standards for property owners, architects and contractors to aid in the preparation of appropriate plans;
- (b) Applicability of Regulations. In addition to the development standards set forth in this Chapter, the design standards set forth in subsection **1137.11 (c)** shall apply to the exterior appearance and design of all new construction and exterior building renovations in the B-2 and B-3 Commercial Districts. The Planning and Zoning Commission may exempt applicants from these standards when the exterior building modifications are minor in nature, meaning the design modifications will have no discernable impact on neighboring properties, the public, the public right-of-way, or those intended to occupy or use the proposed development.
- (c) Design Standards Applicable to B-2 and B-3 Districts. The minimum design standards for uses in the B-2 and B-3 Districts are set forth below:
  - (1) Pedestrian activity shall be encouraged and safe pedestrian connections shall be provided between buildings, in a multi-building development, and between principal buildings, their parking lots, and sidewalks
  - (2) Buildings and principal building entrances shall be oriented toward the public street so as to define the street edge and contribute to a dynamic pedestrian and street environment.
  - (3) Monotony of design in multiple building projects shall be avoided. Variation in detail shall be used to provide visual interest.
  - (4) Facade openings, including windows, shall be vertical in proportion.
  - (5) Facades may be supplemented by awnings, which, if provided, shall be straight sheds, not cubed or curved.
  - (6) A minimum of sixty-five (65) percent of each building frontage shall have transparent, display type windows, meaning windows that allow a view of the interior to be seen. The bottom edge of such window shall not be higher than three (3) feet above grade.
  - (7) No more than twenty (20) percent of the windows that can be seen from all public or private rights-of-way, excluding alleys, shall be opaque.
  - (8) Any part of the building that is visible from a public or private right-of-way, parking area, or public circulation area shall have no more than six (6) feet of contiguous wall length devoid of windows, on any ground floor, unless the wall includes architectural features such as piers, columns, defined bays, or an undulation of the building so that a pedestrian scale,

- rhythm, and visual interest is created. In no case shall a continuous wall length be devoid of windows for more than fifteen (15) feet.
- (9) Any part of the building that is visible from a public or private right-of-way, parking area, or public circulation area shall have no more than six (6) feet of contiguous wall length devoid of windows, on any ground floor, unless the wall includes architectural features such as piers, columns, defined bays, or an undulation of the building so that a pedestrian scale, rhythm, and visual interest is created. In no case shall a continuous wall length be devoid of windows for more than fifteen (15) feet.
- (10) At least ninety (90) percent of the exterior finish material on all facades that face or are within 45 degrees of facing a public street, parking area or private circulation area shall be limited to the following: glass, brick, cut stone, cast stone, or wood. Dry vit or E.F.I.S shall not be permitted.
- (11) The structural frame of a building shall not be exposed to the exterior of a building.
- (12) All rooftop equipment shall be screened from public view with parapets that are architecturally integral to the building, or enclosed in building materials that match the structure. Mechanical roof screens are not acceptable.
- (13) Buildings, structures and landscaping is to be designed and located on the site and be of a scale to complement buildings in close proximity and to enhance the character of the surrounding area by having features that are appropriate and compatible with each other as well as with existing, contributing buildings and structures. In making this determination the Planning and Zoning Commission shall consider:
- A. Building height, width and general proportions;
  - B. Architectural features, including patterns of windows and doors, roof pitch, cornice lines, balconies, porches, shutters, dormers, eaves and other decorative detail;
  - C. General site characteristics which encourage well-landscaped parking areas, safe and comfortable pedestrian ways, and convenient pedestrian movement among adjacent and nearby buildings and parking areas.
  - D. Building materials.
- (d) Design Standard Applicable to the B-3 District . In the B-3 District, the building mass, which is adjacent or parallel to the public street or sidewalk or within 45

degrees of the street or sidewalk, should be divided into vertical bays that may vary in width from twenty (20) to forty (40) feet. These bays should be architecturally defined using pilasters, columns, or recesses with transparent windows between the columns, pilasters or recesses.

(e) Explanation of Terms. For the purpose of and use in this Chapter, certain terms and words shall be interpreted with regard to the following explanations:

(1) Appropriateness. A proposal is judged to be appropriate when it respects the existing architectural style of a building and fits comfortably within its setting, neighborhood and overall community. This condition applies to landscaping and accessory structures as well.

(2) Compatibility. A design or a material selection is compatible when it does not strongly deviate from its parent building, or the overall character of the neighborhood. To be compatible does not require look alike designs, but rather designs that reflect some aspects of its parent building or buildings in the general vicinity, such as scale of windows, overhangs, building materials, patterns of siding, roof slope. Conversely, incompatibility occurs when an architectural design, landscape design or accessory building proposal is aesthetically harsh or overwhelming relative to its neighbors.

(3) Noncontributing. A factor in a proposal or part thereof that is taken from an existing building characteristic or site feature such as design, scale, fenestration, architectural feature, or material that is determined by the Planning Commission to be not appropriate for replication in new projects or modifications to existing projects when:

A. It does not enhance or improve the character of the City and/or the surrounding environs of the project, or

B. It is unrepresentative of the overall character of the City and/or the prevalent character of the surrounding environs of the project.

(4) Proportion. The relationship of parts of a building, landscape, structures, or buildings to each other and to the whole balance.

(5) Proximity. Proximity shall be considered in terms of the potential for one property, by virtue of its location, to materially affect other properties. In determining a property to be in proximity to another, the following factors shall be considered:

A. The visibility of both properties from a common point; or

- B. The location of both properties within a relatively compact network of streets, walkways or spaces.

**1137.12 PERFORMANCE STANDARDS.**

All uses shall comply with the Performance Standards specified in [Section 1157.10, Performance Standards](#), and the following:

- (a) Lighting. The placement, orientation, distribution patterns and fixture types of outdoor lighting shall comply with the regulations set forth in [Section 1157.12, Exterior Lighting Regulations](#).
- (b) Enclosure. All uses and operations, except off-street parking and loading facilities, shall be performed wholly within enclosed buildings, unless specifically permitted otherwise.
- (c) Outdoor Vending Machines. In all commercial districts, there shall be no outdoor vending machines, such as machines that dispense bottled beverages or packaged food.
- (d) Overhead Utility Lines. All utilities required to serve a development shall be located underground.
- (e) Storage of Vehicles. No junk or unlicensed motor vehicles shall be parked or stored on the property.

**1137.13 DEVELOPMENT PLAN REVIEW.**

All uses in a Commercial (B-1, B-2, B-3) District shall be permitted only after development plans have been reviewed and approved pursuant to the procedures set forth in [Chapter 1111](#).

**Chapter 1139**  
**Research and Office District Regulations**

1139.01	Purpose.	1139.07	Landscaping, Screening and
1139.02	Use Regulations.		Lighting Requirements.
1139.03	Lot Regulations.	1139.08	Accessory Use Regulations.
1139.04	Setback & Spacing	1139.09	Performance Standards.
	Regulations.	1139.10	Planning Criteria.
1139.05	Height Regulations.	1139.11	Development Plan Review.
1139.06	Off-Street Parking and		
	Loading Regulations.		

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**1139.01 PURPOSE.**

The Research and Office (E) District and its regulations are established in order to achieve, among others the following purposes:

- (a) To provide appropriate locations for the development of research and office complexes, while maintaining the residential character of the City;
- (b) To create an environment conducive to well-designed office building and sites that accommodates the needs of office users;
- (c) To provide the most desirable land use and traffic patterns in accordance with the objectives of the City's Master Plan; and,
- (d) To protect residential neighborhoods adjacent to research and offices uses by regulating the sites, particularly at the common boundaries, that would create congestion, noise, or other objectionable influences.

**1139.02 USE REGULATIONS.**

- (a) Uses Permitted by Right. A use listed in **Schedule 1139.02** shall be permitted by right as a principal use in a district when denoted by the letter "P" provided that all requirements of other city ordinances and this Planning and Zoning Code have been met.
- (b) Conditional Uses. A use listed in **Schedule 1139.02** shall be permitted as a conditional use in a district when denoted by the letter "C", provided the Planning and Zoning Commission first makes the determination that the requirements of **Chapter 1147** have been met according to the procedures set forth in **Chapter 1115**.
- (c) Accessory Uses. An accessory use that is clearly incidental and subordinate to a use listed in **Schedule 1139.02** shall be permitted provided that the requirements of all other City ordinances and this Planning and Zoning Code have been met. Accessory uses are further regulated in subsequent sections of this Planning and Zoning Code.

- (d) Use Not Listed in Schedule. Although a use may be indicated as a permitted principal, conditional or accessory use in a particular district, it shall not be approved on a parcel unless it can be located thereon in full compliance with all of the standards and other regulations of this Code applicable to the specific use and parcel in question. Any use not specifically listed as either a permitted principal or conditional use shall be a prohibited use in these zoning districts and shall only be permitted upon amendment of this Code and/or the Zoning Map as provided in **Chapter 1119** or upon a finding that a use is substantially similar as provided in **Section 1115**.
- (e) **Schedule 1139.02 Permitted Uses.**

	<b>E Research and Office District</b>
<b>(a) Offices/Professional Services</b>	
(1) Financial institutions, banks	P
(2) Medical and dental offices	P
(3) Offices – administrative, business and professional	P
(4) Scientific research, development, training & testing facility	P
(5) Service establishment, business	P <sup>(E-1)</sup>
(6) Service establishment, personal	p <sup>(E-1)</sup>
<b>(b) Other Uses</b>	
(1) Drive-thru/ drive-up facility in association with a permitted use	C
(2) Freestanding automated teller machine or drive-thru	C
(3) Wireless telecommunication facility	See Chapter 1161
<b>(c) Accessory Uses</b>	
(1) Accessory building	A
(2) Auditorium <sup>(E-1)</sup>	A
(3) Fences and walls	A
(4) Garbage and rubbish disposal facilities	A
(5) Off-street parking and loading facilities	A
(6) Other accessory structures	A
(7) Signs	A

	<b>E Research and Office District</b>
(8) Lunchrooms/cafeterias, restaurants, and recreational facilities in association with a permitted principal use <sup>(E-1)</sup>	A
(9) Day care center, child and adult	A
(10) Library	A
(11) Utility substation/distribution facility, indoor	A
<p><u>Notes to Schedule 1139.02:</u>  <sup>(E-1)</sup> These uses shall be permitted by-right when part of a multi-establishment building, and it is not the principal use of a building. If the use is proposed to be the principal use in any building (i.e. occupying the majority of gross floor area), then the use is a conditional use.</p>	
<p>P = Permitted by right      C = Conditional      A = Accessory</p>	

**1139.03 LOT REGULATIONS.**

All lots created in a Research and Office (E) District shall comply with the requirements set forth in [Schedule 1139.03](#).

[Schedule 1139.03](#) Lot Requirements.

	<b>E Research and Office District</b>
(a) Minimum lot area	5 acres
(b) Minimum lot width	250 ft.
(c) Minimum lot frontage	100 ft.
(d) Minimum lot depth	250 ft.
(e) Maximum lot coverage	
(1) By building	25%
(2) Buildings and paving	60%

**1139.04 SETBACK AND SPACING REGULATIONS.**

The following regulations are established to regulate the design and development of buildings in a Research and Office (E) District. Every building in the Research and Office District shall be located on a lot in compliance with the setback and spacing requirements set forth in [Schedule 1139.04](#).

- (a) Building Setback. The setback of a principal building from any project boundary or lot line shall be not less than the distance set forth in [Schedule 1139.04](#). The project boundary shall include all lot lines that divide the tract of land from adjacent lots not included in the development and shall be the boundaries of the minimum area set forth in [Schedule 1139.03](#).
- (b) Parking Setback. The setback of off-street parking areas from any project boundary or lot line shall be not less than the distance set forth in [Schedule 1139.04](#).
- (c) Building Spacing. The minimum distance between buildings shall not be less than the distance set forth in [Schedule 1139.04](#)
- (d) [Schedule 1139.04](#) Site Development Standards.

	<b>E Research and Office District</b>
(a) Minimum setback from right-of-way	100 ft.
(b) Minimum side and rear setback	
(1) Adjacent to other non-residential district	30 ft.
(2) Adjacent to residential district <sup>(1)</sup>	50 ft.
(c) Minimum separation between buildings	25 ft.
(d) Minimum Parking Setback from:	
(1) Street Right-of-Way	25 ft.
(2) Adjacent residential district	30 ft.
(3) Adjacent non-residential district	15 ft.
<u>Notes To Schedule 1139.04:</u>	
(1) Buildings shall not have operable doors or windows, other than required fire exits, within 75 feet of any Residential District.	

**1139.05 HEIGHT REGULATIONS.**

Buildings and structures shall comply with the height regulations set forth below:

- (a) Buildings and structures shall not exceed a height of forty (40) feet, with the exception of accessory buildings less than 200 square feet. See [Section 1139.05 \(b\)](#) below.
- (b) Accessory buildings or structures, less than two hundred (200) square feet in gross floor area, shall not exceed a height of 18 feet.
- (c) Height exceptions are set forth in [Chapter 1157, General Use Regulations](#).

**1139.06 OFF-STREET PARKING AND LOADING REGULATIONS.**

Off-street parking and loading areas shall comply with the provisions set forth in [Chapter 1153](#) and with the parking setback requirements specified in [Section 1139.04](#).

**1139.07 LANDSCAPE AND SCREENING REQUIREMENTS.**

Visual screening and landscape buffers shall be provided for all lots in the Research and Office District in accordance with the provisions set forth in [Chapter 1155](#).

**1139.08 ACCESSORY USE REGULATIONS.**

Accessory uses permitted in the Research and Office (E) District according to [Schedule 1139.02](#) shall conform to the regulations of this Section.

- (a) Accessory Building. All accessory buildings shall be located in a side or rear yard. Accessory buildings that have a gross floor area of 200 square feet or less shall comply with the parking setbacks set forth in [Schedule 1139.04](#). All other buildings shall be considered principal buildings and shall conform to all lot and setback regulations and development plan review and approval requirements for the Research and Office (E) District.
- (b) Fences and Walls. Fences and walls may be erected in any Research and Office District in compliance with the following general standards.
  - (1) Location and Condition.
    - A. Fences may be located in any part of the yard. Fences may be built up to, but not on, the property line, and shall be located entirely on the property of the person constructing it.
    - B. In order to maintain clear vision lanes for vehicles and pedestrians, no opaque fences shall be permitted within ten (10) feet, in any direction, of the following points:
      - i. At the intersection of a driveway and sidewalk (or front property line if there is no sidewalk);

- ii. At the intersection of a driveway and public right-of-way; or
- iii. At the intersection of any two driveways
- C. Fences, gates, doors and other obstructions shall not swing across or over a public sidewalk or public right-of-way.
- D. On a corner lot, all fences must comply with the visual clearance requirements for corner lots set forth in Chapter 1157.11, Visibility at Intersections.
- E. No fence shall be constructed, without City authorization, within a utility easement. Any fence constructed within a utility easement, or inhibiting access to such easement, may be removed by the City and the cost of such removal may be charged against those parties having an interest in the fence.
- F. All fences shall be maintained in good condition, be structurally sound and attractively finished at all times.

(2) Materials and Construction.

- A. Approved fencing materials include stone, brick, finished wood, iron or synthetic look-alike products. Chain link fences may be permitted provided that they are constructed of a dark, neutral-colored, non-reflective material, as approved by the Planning and Zoning Commission.
- B. No fence shall be electrified or topped with broken glass, spikes, barbed wire or other sharp edged material. A living fence whose species has briars, thorns or other foliage which can scratch, injure or harm a person or animal shall be kept trimmed by the owner when such fence is within the required front, side or rear setback.
- C. Only ornamental fences shall be permitted in front and or corner side yard of a building, unless required for screening pursuant to Chapter 1155 for Landscaping and Screening Regulations.
- D. All fences shall be designed, constructed and finished so that the supporting members face the property of the owner of the fence.
- E. All fences on a single parcel shall have a unified style along a single plane and for all fence segments visible from off the premises from any single direction.

- (3) Height. No fence shall exceed seven (7) feet in height in any rear or side yard, or exceed forty-two (42) inches in height when located in a front and or corner side yard, unless otherwise permitted or required in this Code.

(4) Screening and Landscaping.

- A. Screening is not required for ornamental fences.
- B. All fences, other than ornamental fences, if visible from the public street, shall be visually softened and reasonably screened from the public street with appropriate landscaping as follows:
  - i. Fences that are located within required building and parking setbacks shall be considered appropriately screened when the landscaping required in **Chapter 1155, Landscaping and Screening Regulations** is planted within five (5) feet of the fence and between the fence and the property line.
  - ii. Fences that are not located within required setback areas shall be screened with the following landscape materials, planted not more than five (5) feet from the fence and between the fence and the property line:
    - I. One shade tree shall be provided for every thirty (30) linear feet of fence length or fraction thereof, not including gates or other fence openings. Each tree at the time of installation shall have a minimum caliper of 2.5 inches and a clear trunk height of at least six (6) feet.
    - II. One shrub, which is twenty-four (24) inches in height at planting, shall be provided for every five (5) linear feet fence length or fraction thereof, not including gates or other fence openings.
    - III. The landscaping may be flexible in its arrangement by appropriately aggregating the required plant materials

(5) Any proposed fence shall be approved as part of Development Plan Review in accordance with **Chapter 1111**.

(c) Signs. Signs shall conform to the regulations specified in **Chapter 1151, Sign Regulations**.

**1139.09 PERFORMANCE STANDARDS.**

All uses in a Research and Office (E) District shall comply with the Performance Standards specified in **Chapter 1157.10** as well as the regulations set forth below:

- (a) Operation of Permitted Use. Overnight parking of vehicles, other than passenger automobiles, outside of an enclosed structure, shall be prohibited. All uses and operations, except off-street parking and loading facilities, shall be performed wholly within enclosed buildings, unless specifically permitted otherwise.
- (b) Outdoor Vending Machines. In all commercial districts, there shall be no outdoor vending machines, such as machines that dispense bottled beverages or packaged food.
- (c) Overhead Utility Lines. All utilities required to serve a development shall be located underground.
- (d) Waste Receptacles. Solid waste, including empty packing boxes, crates and other materials that result from any permitted principal, conditional or accessory use, shall be disposed of, stored in buildings, or completely enclosed in containers, and shall not be permitted to accumulate on the lot. All trash receptacles, other than those completely enclosed by buildings, shall be located in a side or rear yard on a paved surface and shall comply with the minimum parking setbacks established in Schedule 1139.04 and the Screening Requirements set forth in Chapter 1155.

**1139.10 PLANNING CRITERIA.**

In addition to the development standards in this Chapter, all uses shall comply with the following:

- (a) All buildings and accessory uses shall be located so as to take advantage of the topography, natural features and superior views within the neighboring area. They shall be designed and arranged so that the distance between buildings and the various parts thereof and between buildings and boundaries of adjoining areas will enhance the privacy, use and enjoyment of the parcel and the surrounding neighborhood.
- (b) Trees shall be preserved wherever possible. With the development plan, the owner shall file a map or plat showing all existing trees on the parcel and those, which are to be preserved.
- (c) Paved walkways shall be provided and maintained connecting each outdoor entryway to the parking area serving that building, to the public street, and to other buildings on-site. Where garages are constructed, the walls and roof shall be a part of the approved design of the buildings.
- (d) Development plans should be designed to protect and preserve the residential character of any surrounding Single-family Residential District.

**1139.11 DEVELOPMENT PLAN REVIEW.**

All uses in a Research and Office (E) District shall be permitted only after development plans have been reviewed and approved pursuant to the procedures set forth in Chapter 1111.

**CHAPTER 1141  
Industrial District Regulations**

1141.01 Purpose.	1141.07 Landscape and Screening Requirements.
1141.02 Use Regulations.	1141.08 Outdoor Storage Regulations.
1141.03 Lot Regulations.	1141.09 Accessory Use Regulations.
1141.04 Setback Regulations.	1141.10 Performance Standards.
1141.05 Height Regulations	1141.11 Development Plan Review.
1141.06 Off-Street Parking and Loading Regulations.	

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**1141.01 PURPOSE.**

The Industrial District (I-1) and its regulations are established in order to achieve, among others, the following purposes:

- (a) To provide a convenient and sufficient zoning district for industrial activities and for the production, distribution, and exchange of goods and services in order to serve and promote the economic development of the community.
- (b) To protect residential neighborhoods adjacent to industrial uses by restricting the types of uses, particularly at the common boundaries, which would create congestion, noise or other objectionable influences beyond the district boundaries and by separating and insulating residential districts from the most intense industrial activities.
- (c) To establish performance standards, parking specifications and setback regulations to ensure that industrial development is compatible with adjacent uses.
- (d) To provide a Light Industrial District (I-1) which shall accommodate wholesale, warehouse, assembly, processing and other limited industrial uses, including storage and related activities, that operate with a minimum of noise, glare, odor, dust, vibration, air and water pollution, fire and safety hazard or any potentially nuisance characteristic. The I-1 District is designed to accommodate light industrial uses and activities, the operational and physical characteristics of which do not detrimentally affect surrounding zoning districts.

**1141.02 USE REGULATIONS.**

- (a) Uses Permitted by Right. A use listed in **Schedule 1141.02** shall be permitted by right as a principal use in a district when denoted by the letter "P" provided that all requirements of other City Ordinances and this Planning and Zoning Code have been met.
- (b) Conditional Uses. A use listed in **Schedule 1141.02** shall be permitted as a conditional use in a district when denoted by the letter "C", provided the Planning and Zoning Commission first makes the determination that the requirements of **Chapter 1147** have been met according to the procedures set forth in **Chapter 1115**.
- (c) Accessory Uses. A use listed in **Schedule 1141.02** shall be permitted as an accessory use in a district when denoted by the letter "A". Such use shall be permitted as a subordinate building or use when it is clearly incidental to and located on the same lot as the principal building or use. Accessory uses are further regulated in subsequent sections of this Planning and Zoning Code.
- (d) Use Not Listed in Schedule. Any use not specifically listed as either a permitted principal or conditional use shall be a prohibited use in these zoning districts and shall only be permitted upon amendment of this Code and/or the Zoning Map as provided in **Chapter 1119**, or upon a finding by the Planning and Zoning Commission that a use is substantially similar as provided in **Chapter 1115**.

(e) [Schedule 1141.02](#) Permitted Uses:

	<b>I-1 Light Industrial District</b>
<b>(a) Offices and Services</b>	
(1) Office - administrative, business and professional	P
(2) School, commercial, business, or trade	P
(3) Service establishment, business	P <sup>(I-1)</sup>
(4) Veterinary office, animal hospital with no outdoor facilities	P
(5) Kennel, animal hospital/veterinary office with outdoor facilities	C
<b>(b) Sales and Supplies</b>	
(1) Commercial plant nursery/green house	P
(2) Sales, service, repair and/or storage of farm implement, construction equipment, recreation vehicles, or other large equipment	C
(3) Wholesale sales & distribution, indoor	P
<b>(c) Storage and Distribution</b>	
(1) Outdoor storage (general) of materials	A
(2) Outdoor storage of equipment for sale or rental	A
(3) Outdoor storage of fleet vehicles for operation of principal use	A
(4) Self storage facility, indoor	P
(5) Transport and truck terminal	P
(6) Warehouse or indoor storage facility	P
<b>(d) Automotive/ Transportation</b>	
(1) Automotive service station	P
(2) Motor vehicle body shop	C
(3) Vehicle repair garage	C
<b>(e) Manufacturing, Processing, Research and Assembly</b>	
(1) Assembly and production facility utilizing products from previously and elsewhere manufactured materials	P
(2) Carpentry, cabinet, and machine shop	P
(3) Food and drink preparation, processing, production and storage	P
(4) Scientific research, development, training & testing facility	P

	<b>I-1 Light Industrial District</b>
<b>(f) Community Facilities / Other</b>	
(1) Day care center, child and/or adult	P <sup>(I-1)</sup>
(2) Public safety facility	P
(3) Public service/maintenance facility	C
(4) Utility substation/distribution facility, indoor and outdoor	P
<b>(5)</b> Wireless telecommunication facility	See Chapter 1161
<b>(g) Accessory</b>	
(1) Accessory building	A
(2) Fences and walls	A
(3) Garbage and rubbish disposal facilities	A
(4) Lunchrooms/cafeterias, restaurants, and recreational facilities in association with a permitted principal use <sup>(I-1)</sup>	A
(5) Off-street parking and loading facilities	A
(6) Other accessory structures	A
(7) Signs	A
<b>(h) Adult Oriented Business (as mandated by Federal Courts) See Chapter 1163, Adult Regulations</b>	<b>C</b>
<p><u>Notes to Schedule 1141.02:</u>  <sup>(I-1)</sup> These uses shall be permitted by-right when part of a multi-establishment building, and it is not the principal use a building. If the use is proposed to be the principal use in any building (i.e. occupying the majority of gross floor area), then the use is a conditional use.</p>	
<p>P = Permitted by right      C = Conditional      A = Accessory</p>	

**1141.03 LOT REGULATIONS.**

All lots created in Industrial Districts shall comply with the minimum requirements set forth in [Schedule 1141.03](#).

(a) [Schedule 1141.03](#) Minimum Lot Requirements.

	<b>I-1 Light Industrial</b>
(a) Minimum lot area	1 acre
(b) Minimum lot width	150 ft.
(c) Minimum lot frontage	75 ft
(d) Maximum lot coverage by buildings	40%
(e) Maximum lot coverage by buildings and pavement	70%

**1141.04 SETBACK REGULATIONS.**

The following regulations are established to regulate the design and development of buildings in an Industrial (I-1) District. Every building in the I-1, Industrial District shall be located on a lot in compliance with the setback and spacing requirements set forth in [Schedule 1141.04](#).

- (a) Building Setback. The setback of a building from any project boundary or lot line shall be not less than the distance set forth in [Schedule 1141.04](#). The project boundary shall include all lot lines that divide the tract of land from adjacent lots not included in the development and shall be the boundaries of the minimum area set forth in [Schedule 1141.03](#).
- (b) Parking Setback. The setback of off-street parking areas from any project boundary or lot line shall be not less than the distance set forth in [Schedule 1141.04](#).

(c) **Schedule 1141.04** Setback Regulations.

	<b>I-1 Light Industrial</b>
(a) Minimum building setback from:	
(1) Existing rights-of-way, excluding Curtis Wright Parkway	100 ft.
(2) New, internal industrial park streets & Curtis Wright Parkway	40 ft.
(b) Minimum side and rear building setback	
(1) Adjacent to residential district <sup>(1)</sup>	80 ft.
(2) Adjacent to a non-residential district	30 ft.
(c) Minimum Parking Setback from:	
(1) Adjacent residential district	40 ft.
(2) Adjacent non-residential district	15 ft.
(3) Existing rights-of-way, excluding Curtis Wright Parkway	60 ft.
(4) New, internal industrial park street & Curtis Wright Parkway	20 ft.
<u>Notes To Schedule 1141.04:</u>	
<sup>(1)</sup> Buildings shall not have operable doors or windows, other than required fire exits, within 125 feet of any Residential District.	

**1141.05 HEIGHT REGULATIONS.**

Buildings and structures shall comply with the height regulations set forth below:

- (a) Buildings and structures shall not exceed a height of thirty-five (35) feet, with the exception of accessory buildings less than 200 square feet. See **Section 1141.05** (b) below.
- (b) Accessory buildings or structures, less than 200 square feet in gross floor area, shall not exceed a height of 18 feet.
- (c) Height exceptions are set forth in **Chapter 1157, General Use Regulations.**

**1141.06 OFF-STREET PARKING AND LOADING REGULATIONS.**

Off-street parking and loading areas shall be provided for Industrial developments in accordance with the provisions set forth in **Chapter 1153** and to the parking setback requirements specified in Section **1141.04**.

**1141.07 LANDSCAPE AND SCREENING REQUIREMENTS.**

Visual screening and landscape buffers shall be provided for all lots in Industrial Districts in accordance with the provisions set forth in **Chapter 1155, Landscaping and Screening Regulations**.

**1141.08 OUTDOOR STORAGE REGULATIONS.**

Outdoor activities permitted in the I-1 District pursuant to **Schedule 1141.02** shall be permitted only when accessory to a permitted or conditionally permitted principal use and in compliance with the following regulations.

(a) Type of Storage.

- (1) General Storage of Materials. This type of outdoor storage shall include the storage of goods, materials or products associated with the principal use.
- (2) Storage of Fleet Vehicles. This type of outdoor storage shall include the storage of trucks, vans or other vehicles that are used, as part of the operation of a principal use, but not including privately owned customer or employee vehicles.
- (3) Storage of Equipment for Sale or Rental. This type of outdoor storage shall include the storage of equipment, motorized and non-motorized, for sale and/or rental, such as tools, trucks, tractors, construction equipment, agricultural implements and similar industrial equipment, but not including fleet vehicles or vehicles associated with automotive sales and rental.

(b) Location. Areas devoted to outdoor storage of any type shall be:

- (1) Accessible to fire fighting equipment at all times; and
- (2) Depicted on the development plan and shall not occupy or interfere with traffic circulation, required parking areas, required open space, public sidewalks or pedestrian access.

(c) Surfacing. Areas devoted to outdoor activities shall be paved with asphalt or concrete and maintained to be free of dust.

(d) Hazardous Materials. No storage of radioactive, toxic or otherwise hazardous materials shall be permitted in the I-1, Industrial District.

(e) Screening.

- (1) All outdoor storage of materials, goods, equipment and overnight storage of vehicles shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all operations and materials therein from the view of any observer standing at the grade level at an abutting residential district line or a public street. However, in no case shall the height of the fence or wall be less than six (6) feet, nor more than eight (8) feet. The solid wall or fence and associated gates shall be maintained in good condition.
- (2) All outdoor storage areas shall be effectively screened from adjacent residential districts, public parking areas and public streets according to the screening requirements set forth in **Chapter 1155**. The Planning and Zoning Commission may increase the minimum height of required screening when it is determined that additional height is needed to effectively conceal all materials from view of any observer standing at the grade level at an abutting residential district line or a public street.

(f) Signs. No signs shall be permitted in conjunction with outdoor activities except those otherwise in compliance with the sign regulations contained in **Chapter 1151, Sign Regulations**.

(g) Specific Outdoor Storage Regulations.

(1) General Outdoor Storage of Materials.

- A. Areas devoted to general outdoor storage of materials shall be located in a rear yard only, behind the principal building and in compliance with all building setbacks as set forth in **Section 1141.04**.
- B. The area of the lot devoted to general outdoor storage of materials shall not exceed twenty percent (20%) of the ground floor area of the principal building.

(2) Special Regulations for Landscape Materials. Outdoor storage areas shall not occupy an area greater in size than thirty percent (30%) of the floor area of the principal building and may be located in the side or rear of the principal building, provided:

- A. The area is landscaped or covered with porous materials; and
- B. The area is devoted to the storage of living landscape materials such as trees, shrubs and flowers.

- C. The area is in compliance with all parking setbacks set forth in [Section 1141.04](#).
- (3) Outdoor Storage of Fleet Vehicles. This type of outdoor storage shall include the storage of trucks, vans or other vehicles that are used, as part of the operation of a principal use, but not including privately owned customer or employee vehicles.
  - A. The accessory outdoor storage of fleet vehicles shall be located in a side or rear yard only, in compliance with the parking setbacks set forth in [Section 1141.04](#).
  - B. The area of the lot devoted to accessory outdoor storage of fleet vehicles shall not exceed twenty percent (20%) of the ground floor area of the principal building.
- (4) Outdoor Storage of Equipment for Sale or Rental. This type of outdoor storage shall include the storage of equipment, motorized and non-motorized, for sale and/or rental, such as tools, trucks, tractors, construction equipment, agricultural implements and similar industrial equipment, but not including vehicles associated with automotive sales and rental.
  - A. The accessory outdoor storage of equipment for sale or rental shall be located in a side or rear yard, in compliance with the parking setbacks set forth in [Section 1141.04](#).
  - B. The area of the lot devoted to accessory outdoor storage of equipment for sale or rental shall not exceed twenty percent (20%) of the ground floor area of the principal building.
- (g) Outdoor Display: Outdoor display, when permitted as an accessory use pursuant to [Schedule 1141.02](#), shall comply with the following:
  - (1) Outdoor display of retail items shall not exceed an area equal to twenty-five percent (25%) of the ground floor area of the principal building.
  - (2) Outdoor display areas may be located in the front, side, or rear yard. They shall comply with the setback regulations set forth in [Section 1141.04](#) and be contiguous to the principal building; however, such areas shall be spaced a sufficient distance from the building, as dictated by the City Fire Chief, to satisfy all fire safety requirements.
  - (3) Outdoor display areas shall be depicted on the development plan and shall not occupy or interfere with traffic circulation, required parking areas, sidewalks or pedestrian access.

**1141.09 ACCESSORY USE REGULATIONS.**

Accessory uses permitted in an Industrial (I-1) District according to [Schedule 1141.02](#) shall conform to the regulations of this Section.

- (a) Accessory Buildings. Accessory buildings that have a gross floor area of 200 square feet or less shall be located in a side or rear yard and shall comply with the parking setbacks set forth in [Schedule 1141.04](#). All other buildings shall be considered principal buildings and shall conform to all lot and setback regulations and development plan review and approval requirements of the I-1 Industrial District.
- (b) Fences and Walls. Fences and walls may be erected in any Industrial District in compliance with the following standards.
  - (1) Location and Condition.
    - A. Fences may be located in any part of the yard. Fences may be built up to, but not on, the property line, and shall be located entirely on the subject property.
    - B. In order to maintain clear vision lanes for vehicles and pedestrians, no opaque fences shall be permitted within ten (10) feet, in any direction, of the following points:
      - i. At the intersection of a driveway and sidewalk (or front property line if there is no sidewalk);
      - ii. At the intersection of a driveway and public right-of-way;  
or
      - iii. At the intersection of any two driveways
    - C. Fences, gates, doors and other obstructions shall not swing across or over a sidewalk or public right-of-way.
    - D. On a corner lot, all fences must comply with the visual clearance requirements for corner lots set forth in [Section 1157.11, Visibility at Intersections](#).
    - E. No fence shall be constructed, without City authorization, within a utility easement. Any fence constructed within a utility easement, or inhibiting access to such easement, may be removed by the City and the cost of such removal may be charged against those parties having an interest in the fence.

- F. All fences shall be maintained in good condition, be structurally sound and attractively finished at all times.
- (2) Materials and Construction.
- A. Approved fencing materials include stone, brick, finished wood, iron or synthetic look-alike products. Chain link fences shall be permitted provided that they are constructed of a dark, neutral-colored, non-reflective material, as approved by the Planning and Zoning Commission.
  - B. A living fence whose species has briars, thorns or other foliage which can scratch, injure or harm a person or animal shall be kept trimmed by the owner when such fence is within the required front, side or rear setback.
  - C. No fence shall be electrified or topped barbed wire or other sharp edged materials.
  - D. Only ornamental fences shall be permitted in front and/or corner side yard of a building, unless required for screening pursuant to **Chapter 1155, Landscaping and Screening Regulations**. At least 75% of the vertical surface of the fence located in a front or corner side yard shall be open and such openness shall be uniformly distributed across the vertical surface.
  - E. All fences shall be designed, constructed and finished so that the supporting members face the property of the owner of the fence.
  - F. All fences on a single parcel shall have a unified style along a single plane and for all fence segments visible from off the premises from any single direction.
- (3) Height. No fence shall exceed seven (7) feet in height in any rear or side yard, or exceed forty-two inches in height when located in a front and or corner side yard, unless otherwise permitted or required in this Code.
- (4) Screening and Landscaping.
- A. All fences, other than ornamental fences, when visible from a street, shall be visually softened and reasonably screened from the street with appropriate landscaping as follows:

- i. Fences that are located within required building and parking setbacks shall be considered appropriately screened when the landscaping required in **Chapter 1155** is planted within five (5) feet of the fence and between the fence and the property line.
  - ii. Fences that are not located within required setback areas shall be screened with the following landscape materials, planted not more than five (5) feet from the fence and between the fence and the property line:
    - I. One shade tree shall be provided for every thirty (30) linear feet of fence length or fraction thereof, not including gates or other fence openings. Each tree at the time of installation shall have a minimum caliper of 2.5 inches and a clear trunk height of at least six (6) feet.
    - II. One shrub, which is twenty-four (24) inches in height at the time of planting, shall be provided for every five (5) linear feet of fence length or fraction thereof, not including gates or other fence openings.
- B. The landscaping may be flexible in its arrangement by appropriately aggregating the required plant materials.
- (5) Any proposed fence shall be approved as part of Development Plan Review in accordance with **Chapter 1111**.
- (c) **Waste Receptacles.** Solid waste, including empty packing boxes, crates and other materials that result from any permitted principal, conditional or accessory use, shall be disposed of, stored in buildings, or completely enclosed in containers, and shall not be permitted to accumulate on the lot. All trash receptacles, other than those completely enclosed by buildings, shall be located in a side or rear yard on a paved surface and shall comply with the minimum parking setbacks established in **Schedule 1141.04** and the Screening Requirements set forth in **Chapter 1155**.
- (d) **Signs.** Signs shall conform to the regulations specified in **Chapter 1151**, Sign Regulations.

**1141.10 PERFORMANCE STANDARDS.**

All uses in the I-1, Industrial District shall comply with the following performance standards.

- (a) Compliance with State and Federal Regulations. All uses shall comply with all applicable state and federal Environmental Protection Agency, OSHA and all other state and federal regulations that pertain to the operation of industrial uses.
- (b) Storage Handling. All storage areas shall comply with the regulations set forth in Bulletin No. 30-L of the National Fire Protective Association and other fire protective codes of the City of Willoughby Hills. All parts shall be accessible to firefighting equipment.
- (c) Liquid Waste. Liquid wastes shall be disposed of in appropriate containers and removed from the site on a regular basis. Liquid waste or sewerage shall not be discharged into a reservoir, stream or other open body of water or into a storm or sanitary sewer until treated so that the insoluble substances, such as oils grease, acids, alkalines and other chemicals in the waste do not exceed the amount allowed by other codes of the City of Willoughby Hills.
- (d) Fire Hazards. All activities that involve the use of flammable or explosive material shall comply with the following:
  - (1) Any activity involving the use of flammable or explosive material shall be protected by adequate fire-fighting and fire-suppression equipment and by such safety devices as are normally used in the handling of any such material.
  - (2) Such activities shall only be permitted in structures having incombustible exterior walls.
  - (3) The applicable provisions of the Ohio Revised Code shall be complied with, and no explosives shall be stored, used or manufactured without first submitting to the Building Inspector a certificate of compliance from the State Fire Marshal or the City Fire Chief.
  - (4) No gasoline or other inflammable or explosive material shall be stored unless the location, plans and construction of the storage facility conform to the laws and regulations of the State and have the approval of the State Fire Marshal.
- (e) Electrical Disturbances.
  - (1) No activity shall emit dangerous radioactivity at any point or electrical discharges affecting the operation, at any point, of any equipment other than that of the creator of such disturbances.

- (2) Such disturbances shall be confined to the use and lot from which they originate and shall not occur across any lot line.

Noise. All uses shall comply with the following noise standards.

- (3) Measurement.
  - A. A sound-level meter shall be used to measure sound pressure level.
  - B. Noise levels shall be measured at the lot line for all lots in an I-1 District.
- (4) No use shall emit noise which exceeds the decibel limits set forth below:

<u>Octave Band Frequency</u> <u>(cycles per second)</u>	<u>Decibels</u>
0 to 74	76
75 to 149	71
150 to 299	63
300 to 599	59
600 to 1199	50
1200 to 2399	45
2400 to 4799	38
4800 and over	36

(f) Air Pollution.

- (1) The emission of smoke, soot, fly ash, fumes and dust shall be controlled by precipitation devices, height of stack, rate of emission or other manner so that the quantity deposited at any District boundary shall not be detrimental to or endanger the public safety, comfort, welfare or adversely affect property values.
- (2) Dust and other types of air pollution borne by the wind from sources such as parking areas, storage areas or yards shall be kept to a minimum by appropriate landscaping, paving, oiling and other acceptable treatment.

(g) Odorous Matter. The emission of odorous matter in such quantities as to produce a public nuisance or hazard outside the building is prohibited in an Industrial (I-1) District.

(h) Vibration. In the I-1 District, vibrations that are perceptible without the aid of instruments shall not permitted beyond the lot occupied by the use generating such vibration.

- (i) Noxious, toxic or corrosive fumes. Noxious, toxic or corrosive fumes or gasses shall not be emitted which shall be injurious to the property, vegetation or health of people residing or doing business in any adjacent District.
- (j) Heat and Glare. In an I-1 District, no use shall generate heat or glare which is perceptible without the aid of instruments at any point beyond the lot occupied by the use.
- (k) Erosion. No erosion, by either wind or water, which will carry objectionable substances onto neighboring properties, shall be permitted.
- (l) Water Pollution. Pollution of water is subject to the requirements and regulations established by the Ohio Water Commission and the Ohio Environmental Protection Agency.
- (m) Utility Lines. All utilities required to serve a development shall be located underground.
- (n) Enforcement. Where determinations can be made by the Zoning Administrator or other authorized City employee, using equipment normally available or obtainable without extraordinary expense, such determinations or evaluation shall be made whenever possible before a notice of violation is issued. Where technical complexity or extraordinary personnel or equipment is required to make the determination, the Planning and Zoning Commission may, in the case of the offenses under this Section, require the owner to either obtain and pay for an independent survey or share in the cost of an independent survey from a professional engineer experienced in the particular specialty.

**1141.11 DEVELOPMENT PLAN REVIEW.**

All uses in Industrial Districts shall be permitted only after development plans have been reviewed and approved pursuant to the procedures set forth in **Chapter 1111, Development Plan Review Procedures.**

**CHAPTER 1143**  
**Conservation Development Regulations**

1143.01	Purpose.	1143.07	Development Standards.
1143.02	Conformity to Standards.	1143.08	Street Requirements.
1143.03	Minimum Project Area.	1143.09	Homeowners Associations.
1143.04	Dwelling Types and Permitted Land Uses.	1143.10	Phased Development.
1143.05	Density.	1143.11	Procedures and Approval Criteria.
1143.06	Common Open Space Requirements.	1143.12	Development Plan Review Criteria.

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**1143.01 PURPOSE.**

It shall be the policy of Willoughby Hills, Lake County, Ohio, to simultaneously promote the progressive development of land and construction thereon, as well as the preservation of open space through Conservation Development Regulations.

- (a) Conservation Development is a permitted development option in the (R-1) Traditional Single-Family Residential District and in the (R-2) Attached Single-Family/Townhouse District in accordance with the standards and regulations set forth in this Chapter. These regulations are intended to encourage the use of Conservation Development techniques in order to accomplish the general purpose of this Planning and Zoning Code as stated in **Chapter 1101**, and to achieve the following objectives:
- (1) To allow creativity, variety, and flexibility in design as necessary to implement the goals and objectives set forth in this Chapter.
  - (2) To promote economical and efficient use of land and public services through unified development, especially in areas with limited road access or irregular shape or which are traversed by significant easements or rights-of-way.
  - (3) To preserve, to the greatest extent possible, the existing landscape features and amenities, and to utilize such features in a harmonious fashion.
  - (4) To permit the flexible spacing of lots and buildings in order to encourage the preservation of the natural features of the site and the provision of readily accessibly recreation areas and green spaces.

- (5) To ensure that the proposed Conservation Development occurs in a unified manner in accordance with a development plan prepared by the property owner.
  - (6) To ensure the development will not degrade or endanger the quality of life presently enjoyed by the existing residents.
- (b) It is not the intention of this Chapter to permit the application of these regulations to merely create a development that only appears to be a small lot subdivision and does not otherwise achieve the objectives of this Chapter. If the above objectives are not achieved, the Planning and Zoning Commission will not approve the Conservation Development proposal, in which case the standard zoning and subdivision regulations shall prevail.

**1143.02 CONFORMITY TO STANDARDS.**

Because of the special characteristics related to Conservation Development, specific provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this Chapter and those of other Chapters of this Planning and Zoning Code, the provisions set forth in this Chapter shall prevail. Any existing provisions that are not covered by this Chapter shall be governed by the respective provisions found elsewhere in this Planning and Zoning Code.

**1143.03 MINIMUM PROJECT AREA.**

The gross area of a tract of land proposed for development under Conservation Development regulations shall be a minimum of ten (10) acres. The area proposed shall be in one ownership; if in several ownerships, all owners of the properties included in the Conservation Development shall sign and file the application jointly.

**1143.04 DWELLING TYPES AND PERMITTED LAND USES.**

The dwelling types that are permitted as of right within a Conservation Development are listed in Schedule 1143.04.

**Schedule 1143.04  
Permitted Dwelling Types**

	R-1/R-2
(a) Single-Family Detached Dwelling	P
(b) Cluster Single-Family Detached Dwelling	P
(c) Accessory Uses; such as community buildings and recreational facilities	P
P = Permitted by right	

**1143.05 DENSITY.**

A Conservation Development shall not exceed the densities as set forth in **Schedule 1143.05**.

(a) Density. Density is calculated based on the gross area of the parcel rounded up to the next highest dwelling unit. No minimum lot size is required for each dwelling, however the project must satisfy the density requirements in this Section and the setback/spacing requirements set forth in **Section 1143.07, Development Standards**.

(b) Maximum Number of Units on Any One Acre. The number of units permitted on any one acre of the site shall not exceed the four units as set forth in **Schedule 1143.05**. An imaginary square, approximately 209 feet by 209 feet, shall be used to determine the maximum number of units on any one-acre of the site.

**Schedule 1143.05  
Conservation Development Density Regulations**

	R-1/R-2
(a) Maximum dwelling units per acre	.85
(b) Maximum net density on any one acre	4

**1143.06 COMMON OPEN SPACE REQUIREMENTS.**

A portion of the area in a Conservation Development shall be devoted to common open space.

(a) General Standards. The common open space shall comply with the following regulations:

- (1) The minimum common open space required shall be thirty-five percent (35%) of the entire project area in R-1 and the R-2 District.
- (2) Open space shall be aggregated areas but shall not include the following:
  - A. Public rights-of-way and parking areas;
  - B. Land fragments between two or more buildings, land fragments between buildings and parking areas, and any other land within fifteen (15) feet of all buildings and structures; and
  - C. Required yards or setbacks between project boundaries and buildings or parking areas, unless the required setback is contiguous to and part of a larger area of open space.

- (3) To the extent possible, open space areas shall be interconnected within the development and to adjacent parcels, and shall be easily accessible to residents of the Conservation Development. If the open space contains pedestrian trails that are open to the public then such trails may be deemed a substitute for the street sidewalks, if approved by the Planning and Zoning Commission.
- (4) Open space shall be designed and located to preserve significant natural features and historical elements to the maximum extent possible. The following priorities should be considered when determining the land for open space designation:
  - A. Wetlands, floodplains, lakes and ponds, and other water resources. The development plan should avoid alteration of or construction within natural drainage ways, and shall utilize low impact storm water management techniques such as grassy swales to the extent possible.
    - i. Wetlands Protection. Wetlands that are required by the Army Corps of Engineers or the Ohio EPA to be retained shall be protected by the following:
      - I. A buffer area having a width not less than twenty (20) feet measured from the edge of the designated wetland. The area within this buffer shall not be disturbed and shall be retained in its natural state.
      - II. A minimum building and pavement setback of thirty-five (35) feet, measured from the edge of the designated wetland.
    - ii. Conservation of Riparian Zones. All riparian zones shall comply with the regulations governing riparian zones.
  - B. Woodlands, orchards, prime farmlands, meadows, and other vegetation. The design and layout of the development shall conserve and incorporate these areas to the maximum extent possible, especially those containing significant wildlife habitats.
  - C. Scenic visual areas with respect to tree lines, unique vegetation, wildlife habitat, and other natural features. To the maximum extent possible, structures shall be located to ensure that scenic views and vistas are unblocked or uninterrupted, particularly as seen from existing and proposed public thoroughfares.
  - D. Historic structures or buildings. Buildings or structures with significant historic meaning or traditional meaning that pertains to

the areas history, such as barns, mills, etc. shall be preserved to the maximum extent possible.

- (5) When approved by the City, a portion of the common open space may be used as retention basins, provided they are designed, arranged and landscaped in a manner consistent with the requirements for open space areas.
  - (6) The common open space established as part of a Conservation Development shall be either:
    - A. Retained by the owners of the Conservation Development area;
    - B. Dedicated to a homeowners association or similar legal entity that shall have title to the land to be retained as common open space; or
    - C. Offered to the City for public open space. The City shall have the right to not accept any land area offered to the City. In the event of such refusal, the conditions of either A. or B. above, shall apply. Any land area that is accepted by the City for dedication as public open space shall also continue to be counted toward the requirement for common open space.
  - (7) The legal documents relating to the ownership, management, public easements if any, and maintenance of such common open space shall be reviewed and approved by the City's Law Director. The Law Director shall indicate such approval prior to the final development plan being approved by the Planning and Zoning Commission.
- (b) Recreation Allowances. With the exception of extremely environmentally sensitive areas, passive recreation shall be permitted in common open space for the enjoyment of the residents of the proposed development and/or the public. Active recreation shall be limited to no more than five percent (5%) of the common open space. Recreational facilities proposed to be constructed in dedicated open space shall be clearly shown on the development plans.
- (c) Prohibition of Further Development of Common Open Space. The common open space, required by Section 1143.06, shall be prohibited from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the City's Law Director and duly recorded in the Office of the Recorder of Lake County.

#### **1143.07 DEVELOPMENT STANDARDS.**

The following specific development standards shall be adhered to in the design and layout of any Conservation Development:

- (a) Minimum Setbacks from Project Boundaries and Streets: All buildings, structures and parking areas shall comply with the minimum setbacks set forth in **Schedule 1143.07**. Each building containing attached single-family dwelling units shall be counted as one building for the purpose of determining the minimum setback and spacing requirements.
- (b) Minimum Separation Between Buildings: In order to ensure reasonable privacy and separation, walls of individual buildings located within a Conservation Development shall be separated by the minimum distances set forth in **Schedule 1143.07**. The following definitions shall apply to terms used in this Section.
  - (1) Main Wall: The outside wall(s) of a building that contains the primary windows of any living, family or dining room.
  - (2) End Wall: The outside walls of a building, other than a main wall, which may be blank or contain windows not considered to be primary windows.
- (c) Unbroken Wall Length: No wall or facade shall extend for more than two (2) units without a change in the plane of the wall and roofline by at least five (5) feet.
- (d) Lot Requirements: Dwelling units are not required to be on lots. However, when lots for standard detached single-family dwellings or sub lots for cluster single-family detached dwellings are included as part of a Conservation Development, such lots or sub lots shall be of sufficient size and shape to accommodate dwelling units in compliance with the spacing requirements of this Section.
- (e) Required Buffer: A buffer area with a minimum width of thirty (30) feet from an existing right-of-way, and twenty-five (25) feet from a perimeter side or rear property line is required. The buffer area shall be landscaped with an acceptably designed wall, fence, planting screen, or mound, or some combination thereof, which shall comply with the regulations found in Chapter **1155**.
- (f) Utilities: Underground utilities, including telephone and electrical systems, are required within the limits of a Conservation Development. Appurtenances to these systems that can be effectively screened may be exempted from this requirement if the City finds that such exemption will not violate the intent or character of the proposed Conservation Development.
- (g) Sewage Disposal: Development shall be served by individual or public sewage disposal structures. Individual sewage disposal systems shall comply with all applicable regulations of the Lake County Health Department and may be located within common open space areas when approved by the City and the Lake County Health Department.

- (h) Additional Standards: Additional development requirements, whether standards or criteria, formulated to achieve the objectives of the Conservation Development may be established at the time a Conservation Development plan is reviewed. Any such development requirements adopted with such plan shall become binding land use requirements for the development.
  
- (i) Waivers: In the event the City, determines that certain standards set forth in this Chapter do not or should not apply specifically to the circumstances of a particular project and an alternative method of achieving the objectives of the numerical standard is equal to or better than the strict application of the specified standard, the Planning and Zoning Commission may relax such standard to the extent deemed just and proper, provided that the granting of such relief shall be without detriment to the health and safety of the community and without detriment to or impairment of the intent of this Chapter.

(j) Schedule 1143.07 Development Standards:

**Schedule 1143.07  
Development Standards**

	<b>R-1/R-2</b>
<b>(a) Minimum Setbacks</b>	
<b>(1) Building</b>	
◦ Existing street right-of-way	50 ft.
◦ Internal street <sup>(1)</sup>	25 ft.
◦ Side/Rear boundary line of project	35 ft.
<b>(2) Parking<sup>(2)</sup></b>	
◦ Existing street right-of-way	30 ft.
◦ Side/Rear property/boundary line of project	25 ft.
<b>(b) Minimum Spacing Between Buildings</b>	
(1) Front wall to front wall	45 ft.
(2) Front wall to end wall	20 ft.
(3) End wall to end wall	20 ft.
<sup>(1)</sup> If the internal street is public, the setback is measured from the right-of-way; if it is private the setback is measured from the pavement of the street. These distances may be waived on individual streets with less than 10 units. <sup>(2)</sup> Parking shall be provided in accordance with the requirements of <b>Chapter 1153</b> .	

**1143.08 STREET REQUIREMENTS.**

Each lot and building envelope within a Conservation Development shall have sufficient access to ensure safe and efficient traffic flow and reasonable ingress and egress for emergency vehicles. To this end, the street requirements for Conservation Developments are as follows:

- (a) Public Streets. A street shall be required to be publicly dedicated when such street is a major street that connects two (2) existing public streets, is intended to provide a future continuing street system beyond the project boundaries, or is expected to accommodate pass-through traffic going to and from adjacent developments.
- (b) Private Streets. Streets that are not otherwise required to be public streets pursuant to **subsection (a)** above may be approved as private streets when the City determines that:

- (1) The private street is not planned or expected to be extended to serve property outside the Conservation Development.
  - (2) Adequate utility easements are provided to the satisfaction of the City and the utilities.
  - (3) The design and layout of the private street provides adequate and safe access to the intended units.
  - (4) A private street with single access shall provide access to no more than fifteen (15) dwelling units.
- (c) Pavement Width. Private streets may be constructed with narrower pavement widths than required by the City for public streets provided they comply with the minimum standards set forth in **Schedule 1143.08** and are approved by the City Engineer.
- (d) Schedule 1143.08 Street Requirements:

**Schedule 1143.08  
Street Requirements**

Minimum Pavement Width	Two-Way	One-Way <sup>(1)</sup>
Private street with two (2) means of access serving:		
(a) More than fifteen (15) units	25 feet	15 feet
(b) Fifteen (15) units or less	20 feet	12 feet
(c) Private street with a single access serving fifteen (15) units or less	20 feet	N/A
<u>Notes to Schedule 1143.08.</u>		
<sup>(1)</sup> Widths apply if no parking is provided on the street. If the street also provides an aisle for off-street parking, then the street width shall be increased by four (4) feet.		
NA = Not Applicable		

- (e) Construction Standards. All elements of a private street that are to be provided in a Conservation Development shall be constructed in accordance with the construction standards set forth for public streets in Title Five, Subdivision Regulations. However, when the Planning and Zoning Commission determines that certain elements of a public street do not or should not specifically apply to a private street due to the circumstances of a particular project or portion of a project, the Commission may waive or permit a modification to the installation of any such element(s) to the extent deemed just and proper provided such relief may be granted without detriment to the public good. This provision also applies to waiving the requirement for curbs and storm sewers when the applicant demonstrates to the satisfaction of the City Engineer and the Planning and Zoning

Commission that, based on the topography of the site, open space, density and other environmental considerations, the proposed open natural drainage system will equally satisfy the drainage requirements.

**1143.09 HOMEOWNERS ASSOCIATIONS.**

Homeowners associations, community associations, or similar legal entities that, pursuant to **Section 1143.06(a)(6)**, are responsible for the maintenance and control of common areas including recreational facilities, common open space, private streets, and buffer areas, shall be established in such a manner that complies with **Section 1157.09**, Requirements for Owners Associations.

**1143.10 PHASED DEVELOPMENT.**

If the development is to be implemented in phases, each phase shall have adequate provision for access, parking, storm water management, and other public improvements to serve the development in accordance with the applicable criteria set forth. Each phase shall be provided with temporary or permanent transitional features, buffers, or protective areas in order to prevent any adverse impact on completed phases, future phases, and adjoining property.

**1143.11 PROCEDURES AND APPROVAL CRITERIA.**

The Planning and Zoning Commission shall review and approve a preliminary development plan for a proposed Conservation Development according to the procedures set forth in this Section.

- (a) Submission of Preliminary Development Plan. The applicant shall submit a Preliminary Development Plan application to the Zoning Administrator. The application shall include documentation illustrating compliance with the standards and criteria set forth in this Chapter. The application and documentation shall include, but not necessarily be limited to:
  - (1) Identification of existing site characteristics, including a general depiction of:
    - A. Boundaries of the area proposed for development, dimensions and total acreage;
    - B. Contour lines at vertical intervals of not more than five (5) feet, highlighting ridges, rock outcroppings and other significant topographical features.
    - C. Location of wetlands (and potential wetlands), the floodway boundary and floodway elevation as delineated by the Federal Emergency Management Agency, rivers and streams and their related river or stream bank, ponds, and water courses;

- D. Locations of all wooded areas, tree lines, hedgerows, and specimen trees;
  - E. Delineation of existing drainage patterns on the property, existing wells and well sites;
  - F. Description of significant existing vegetation by type of species, health, quality, etc.;
  - G. Existing buildings, structures and other significant man-made features on the site and within two hundred (200) feet of the project boundary;
  - H. Description of all structures and areas of known or potential historical significance; and
- (2) The preliminary development plan shall be drawn at a scale not less than 1" = 100', and shall include:
- A. A summary of the proposed development including the total acreage, number of residential units, type of dwellings, density by type of dwelling, and acreage of the common open space to be conserved;
  - B. A preliminary layout of standard single family lots, cluster lots and attached single-family dwellings, if any;
  - C. The location of the common open space and any proposed recreational facilities;
  - D. Natural features to be conserved and any required buffer areas;
  - E. Natural features to be altered or impacted by the development and areas where new landscaping will be installed, etc.;
  - F. General location of public street rights-of-way; and
  - G. Preliminary landscaping and buffering.
- (3) An outline of the method/structure to perpetually preserve the required open space which indicates:
- A. The structure of the association;
  - B. Membership requirements;
  - C. Financial responsibilities; and

- D. The relationship of the entity to public agencies having responsibilities related to the project.
- (4) A description of the project phasing including the phased construction of open space improvements.
- (b) Review For Completeness. Within fourteen (14) days of receiving the application, the Zoning Administrator shall review the application to determine that the application includes all the items required in **subsection (a) above**. If the application is deemed complete and the application fee paid, the Zoning Administrator shall officially accept the application on that date.
- (c) Review of Preliminary Development Plan by Others. The Zoning Administrator may refer the application to other City officials, and/or other private consultants for their review and comment. Comments pursuant to the referrals in this section shall be returned to the Planning and Zoning Commission within fourteen (14) days.
- (d) Review and Approval by City. The Planning and Zoning Commission shall review the preliminary development plan and any other material related to the plan. The Planning and Zoning Commission shall:
- (1) Approve the preliminary development plan;
  - (2) Approve the preliminary development plan subject to specific conditions not included in the plan as submitted; or
  - (3) Deny the preliminary development plan.
- Failure of the City to act within sixty (60) days from the date the application was determined complete, or an extended period as may be agreed upon, shall at the election of the applicant be deemed a denial of the preliminary development plan.
- (e) Significance of Approved Plan. Approval of the preliminary development plan shall:
- (1) Establish the development framework for the project, including the general location of open space, development areas, densities, unit types, recreational facilities, and street alignments.
  - (2) Be the basis for the application to proceed with detailed planning and engineering in reliance on the approved preliminary development plan.
  - (3) Provide the benchmark for the City to consider and approve amendments to the preliminary development plan when the City determines that the

amended plan is equal to or better than the approved preliminary development plan.

- (4) Authorize the applicant to apply for all other required regulatory approvals for the project or subsequent phases thereof.
- (f) Final Development Plan. Prior to receiving a Zoning Certificate, the final development plan must be approved by the Planning and Zoning Commission according to the Site Plan and Design Review procedures and criteria in Chapter **1111**, Development Plan Review Procedures. Such final plan may be approved for a phase of the project, or the final plan may include the entire project.
  - (1) Submission Requirements. In addition to the requirements in Chapter **1111**, the final development plan shall include:
    - A. A site plan indicating:
      - i. Dimensions of building spacing; and
      - ii. Designated common open space areas and a description of proposed open space improvements.
    - B. The Declaration, Articles of Incorporation and Code of Regulations for all Homeowners' Associations, and any other final covenants and restrictions and maintenance agreements to be imposed upon all the use of land and pertaining to the ownership, use, and maintenance of all common areas, including restricted open space.
    - C. Conditions imposed by other regulatory agencies.
  - (2) Review by the City's Law Director. The City's Law Director shall review the Declaration, Articles of Incorporation and Code of Regulations for a Homeowners' Association, and any other final covenants and restrictions and maintenance agreements to be imposed upon the Conservation Development. He/she shall provide a written opinion to the Planning and Zoning Commission verifying that the submitted documents demonstrate full compliance with the requirements of this Chapter.

**1143.12 DEVELOPMENT PLAN REVIEW CRITERIA.**

In addition to complying with the standards in this Chapter, the Planning and Zoning Commission shall only approve a preliminary or final development plan when it is determined to be in compliance with the following criteria:

- (a) Each part of the development can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have beneficial effect which could not be achieved under standard district regulations.
- (b) The development will preserve and be sensitive to the natural characteristics of the site in a manner that complies with the applicable regulations set forth in this Planning and Zoning Code.
- (c) The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the Conservation Development.
- (d) The development will result in a harmonious grouping of dwellings so that the area surrounding said development can be developed in coordination and substantial compatibility with the proposed development.
- (e) The existing and proposed utility services are adequate for population densities and nonresidential uses proposed.
- (f) Maximum possible privacy for adjacent residential properties shall be provided through good design and use of the proper building materials and landscaping according to the requirements set forth in this Planning and Zoning Code.
- (g) Adequate provisions are made in the final covenants and restrictions to be imposed upon the development relating to the following:
  - (1) The use and development of accessory buildings and uses associated with individual dwellings.
  - (2) The maintenance of the land, including any common areas and sidewalks.
- (h) On-site circulation shall be designed to provide for adequate fire and police protection, and safe and efficient pedestrian and vehicular circulation.
- (i) Adequate provision is made for storm drainage and sediment control in compliance with applicable City provisions.
- (j) The proposed development complies with all other applicable provisions of this Planning and Zoning Code.

**CHAPTER 1145**  
**SCR Senior Citizen Residential District Regulations.**

1145.01	Purpose.	1145.05	Site Planning Standards.
1145.02	Conformity to Standards.	1145.06	Development Design Criteria.
1145.03	Uses Permitted.	1145.07	Accessory Use Regulations.
1145.04	Project Development Requirements.	1145.08	Development Plan Review.

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**1145.01 PURPOSE.**

This District is established to enable the construction of senior citizen residential developments (SCRD) that provide for the unique housing needs of persons of retirement age. Such residential developments should be located where supporting facilities such as public transportation, retail stores, community facilities and other facilities and activities are available. This district establishes regulations that further recognize the unique needs of senior citizens with respect to: the location of buildings, the relationship of such buildings to one another, the design of dwellings, parking needs and the need or desire for congregate dining, recreation, and/or health care facilities that may not be satisfactorily accommodated through conventional residential zoning regulations.

In order to accomplish this purpose, it is the intention in establishing this District to permit the construction of senior citizen residential developments in a manner that:

- (a) Allows a mixture of dwelling unit types, congregate facilities and nursing home facilities typically found in a senior citizen community or continuing care facility.
- (b) Establishes development design criteria and site planning standards for Senior Citizen Residential Developments to ensure that aesthetically pleasing and pedestrian friendly environments are created. Specifically, the guidelines and standards are intended to:
  - (1) Protect and preserve the appearance and character of the community; and
  - (2) Reduce the impact between this district and abutting neighborhoods.
- (c) Ensures that senior citizen residential developments will occur in a unified manner and in a way that is compatible with the surrounding land uses.
- (d) Ensures that the residential development is designed for, reserved for, maintained as and marketed as a residential community for persons who are at least 55 years of age in compliance with the Housing for Older Persons Act of 1995.

- (e) Ensures that senior citizen residential developments comply with these objectives by requiring a development plan and establishing a review process to ensure that all phases of a development are consistent with the regulations.

**1145.02 CONFORMITY TO STANDARDS.**

Because of the special characteristics related to Senior Citizen Residential District, specific provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this Chapter and those of other Chapters of this Planning and Zoning Code, the provisions set forth in this Chapter shall prevail. Any existing provisions that are not covered by this Chapter shall be governed by the respective provisions found elsewhere in this Planning and Zoning Code.

**1145.03 USES PERMITTED.**

- (a) Uses Permitted By Right. A use listed in Schedule 1145.03 shall be permitted by right as a principal use in a district when denoted by the letter "P" provided that all requirements of other City Ordinances and this Planning and Zoning Code have been met.
- (b) Accessory Uses. An accessory use that is clearly incidental and subordinate to a use listed in Schedule 1145.03 shall be permitted as an accessory use in a district when denoted by the letter "A" provided that the requirements of all other City Ordinances and this Planning and Zoning Code have been met. Accessory uses are further regulated as listed below.
- (c) Schedule 1145.03 Permitted Uses:

	<b>SCR Senior Citizen Residential District</b>
<b>(a) Residential</b> <sup>(S-1)</sup>	
(1) Single-family detached dwelling	P
(2) Single-family attached dwelling	P
(3) Two-family dwellings	P
(4) Multi-family dwellings	P
<b>(b) Community Facilities</b>	
(1) Congregate care	P

	<b>SCR Senior Citizen Residential District</b>
(2) Assisted living facilities, which for the purposes of this Chapter shall be residential accommodations designed for and intended to be occupied by individuals who require supervision, assistance and health care services or who are otherwise dependent on the services of others by reason of age or physical or mental impairment.	P
(3) Nursing homes	P
<b>(c) Other Uses</b>	
(1) Health care facilities designed to meet the special needs of elderly residents, such as physical therapy offices and urgent care centers.	P
<b>(d) Accessory</b>	
(1) Accessory buildings	A
(2) Adult day care facilities	A
(3) Fences and walls	A
(4) Garbage and rubbish disposal facilities	A
(5) Home Occupations	A
(6) Off-street parking, private garages, parking areas and loading facilities	A
(7) Other accessory structures	A
(8) Signs	A
(9) Supporting retail services <sup>(S-2)</sup>	A
<p><u>Notes to Schedule 1145.03:</u>            (S-1) For the purposes of this Chapter, all residential uses permitted by right in Schedule 1145.05 shall be considered independent dwelling units.            (S-2) Supporting retail services when:            A. Located in a congregate or assisted living facility or health care facility;            B. Not exceeding twenty percent (20%) of the first floor area of the principal building or 2000 sq. ft., whichever is less; and            C. Having no exterior identification or advertising signs.</p>	
<p>P = Permitted by right      A = Accessory</p>	

**1145.04 PROJECT DEVELOPMENT REQUIREMENTS.**

- (a) Minimum Project Area. The gross area of a tract of land proposed to be developed as a Senior Citizen Residential Development (SCRD) shall not be less than 10 acres. The project area of a SCR D shall be in one ownership, or if in several ownerships, the application shall be filed jointly and signed by all owners of the properties included in the proposed SCR D boundaries.
- (b) Maximum Project Area Coverage. All buildings of a Senior Citizen Residence Development shall not occupy more than 30 percent of the project area.
- (c) Minimum Project Frontage and Project Width. The project area shall front on a major or secondary street with frontage of not less than 60 feet.
- (d) Maximum Density.
  - (1) For independent dwelling units, the density shall not exceed four (4) units per acre, except that the Planning Commission may approve a maximum density of 10 units per acre when the Senior Citizen Residential Development District is adjacent to a non-residential district, interstate highway right-of-way or other location where the Senior Citizen Residential Development District is either isolated from or serves as a transitional development to an abutting residential district.
  - (2) For congregate care and assisted living/nursing home facilities, the density shall be governed by the maximum building height and the maximum project area coverage.

**1145.05 SITE PLANNING STANDARDS.**

The following site planning standards shall be adhered to in the design and layout of any Senior Citizen Residential Development project.

- (a) Minimum Setbacks. In order to ensure that a Senior Citizen Residential Development is compatible with the existing residential environment of Willoughby Hills, such development shall comply with the minimum setback requirements set forth in Schedule **1145.05 (a)**:

**Schedule 1145.05(a) Minimum Setbacks**

	Building	Parking
(a) Setback from existing public street right-of-way Streets:	75 ft.	30 ft.
(b) Setback from project boundary, other than a public street		
(1) Abutting a multi-family or nonresidential district	30 ft.	20 ft.
(2) Abutting a single-family district	50 ft.	25 ft.

- (b) **Required Buffer.** Whenever a SCRD abuts a Single-family Residential District, a buffer area with a minimum width of 20 feet shall be located adjacent to the project boundary line, within the required setback from the project boundary specified in Schedule 1145.05(a).
  - (1) Such buffer may be located in common area or on individual lots.
  - (2) The buffer area shall include landscaping and screening in compliance with Section 1155.07, Buffering and Screening between Districts and Uses, to a minimum height of six (6) feet by use of hedges, planting, fence or other screening as may be determined by the Planning Commission.
- (c) **Maximum Building Height.** For any building constructed at any minimum setback line required by Schedule 1145.05 (a), the maximum building height shall be thirty-five (35) feet. The building height may be increased by one (1) foot for each two (2) additional feet of setback provided beyond the minimum setbacks mandated by Schedule 1145.05 (a), not to exceed four (4) stories.
- (d) **Minimum Unit Sizes.** The minimum floor area for independent dwelling units that have no congregate or common facilities shall be as indicated in Schedule 1145.05 (d).

**Schedule 1145.05(d) Minimum Unit Sizes**

Dwelling Unit Type	Minimum Floor Area (sq. ft.)	
	No congregate living area	With Congregate living areas
One-bedroom unit	750	550
Two-bedroom unit	900	700
Three-bedroom unit	1,100	900

- (e) Parking. The following off-street parking regulations shall be required:
  - (1) Independent dwelling units shall provide one and one-half (1.5) off-street parking spaces per dwelling unit.
  - (2) Congregate living and assisted living/nursing home facilities shall provide one off-street parking space per employee and 0.75 space per unit.

#### **1145.06 DEVELOPMENT DESIGN CRITERIA**

- (a) Common Areas. Common areas shall be provided, maintained and controlled according to the following:
  - (1) Whenever independent dwelling units are included in a development, common open space shall be provided for the use and benefit of the residents. A minimum of 20 percent of the portion of project area devoted to independent dwelling units shall be set aside as common open space, and further subdivision or development of this common open space is prohibited.
  - (2) Whenever common areas are included in a Senior Citizen Residential Development, a homeowners association, community association, condominium association or similar legal entity shall be created so that such association is responsible for the maintenance and control of common areas, including any required common open space.
  - (3) The Law Director shall determine that, based on documents submitted with the development plan, the association's bylaws or code of regulations ensure that the Association will be responsible for maintenance, control, and insurance of common areas, including private roads and common drives.
- (b) Pedestrian Circulation and Walkways. A pedestrian circulation system shall be included in the SCRCD and should be designed to ensure that pedestrians can walk safely and easily throughout the development. The pedestrian system should provide connections between properties and activities or special features within common areas and need not always be located along streets. If the pedestrian system intersects a public or private street within the development, "pedestrian crossing" signs shall be posted.
- (c) Required Utilities. Each use and all dwelling units in a senior citizen residential development shall be served by central water and sanitary sewer facilities, and underground utilities.

**1145.07 ACCESSORY USE REGULATIONS**

Any accessory use permitted in the SCR District may occupy a part of the principal building, occupy a separate accessory structure or constitute an accessory land use.

- (a) No accessory uses shall be permitted in a front yard area.
- (b) Fence and Wall Regulations. Fences and walls may be located in the required building setbacks set forth in **Schedule 1145.05 (a)** and shall comply with the regulations set forth in **Section 1133.11 (e), Fences and Walls.**
- (c) Swimming Pools. Private swimming pools for the exclusive use of residents of the premises shall comply with the supplemental regulations set forth in **Chapter 1157.06, Swimming Pools.**
- (d) Minimum Setbacks for Accessory Buildings and Uses. Accessory buildings, including garages; carports; and active recreation areas such as a swimming pool or tennis court which are intended for use by the residents of the development, shall be equal to the setback for the building set forth in **Schedule 1145.05 (a).**
- (e) Outdoor Storage. Outdoor storage is prohibited.
- (f) Commercial Motor Vehicles. Commercial motor vehicles shall comply with the regulations in **Section 1157.07, Additional Regulations Regarding Motor Vehicles in Residential Zoning Districts.**
- (g) Motor Vehicles. The repainting, rebuilding, overhauling or dismantling of a vehicle or the storage of tires, motor, or auto body parts is prohibited.

**1145.08 DEVELOPMENT PLAN REVIEW**

All uses in the SCR District shall be permitted only after development plans have been reviewed and approved pursuant to the procedures set forth in **Chapter 1111.**

**CHAPTER 1147**  
**Conditional Use Regulations**

1147.01	Purpose.	1147.05	Conditional Uses in Multi-Family Districts.
1147.02	General Criteria for All Conditional Uses.	1147.06	Conditional Uses in Commercial Districts.
1147.03	Specific Conditions for Conditional Uses.	1147.07	Conditional Uses in Research & Office and Industrial Districts.
1147.04	Conditional Uses in Single-Family Districts.	1147.08	Supplemental Regulations for Certain Uses.

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**1147.01 PURPOSE.**

Conditional uses are a classification of uses that are determined to generally be compatible in the district in which they are listed as a conditional use. However, this category of uses is so classified because of the need to adequately monitor the proposed use in order to ensure that the use and its operational aspects are indeed appropriate in the specific location in which the use is proposed. Such monitoring is necessary because the external impacts of a particular use are either sufficiently varied or indeterminable in advance, making it possible that, without the Planning and Zoning Commission's review, a particular use could be inappropriate in certain locations within the district.

These regulations are intended to ensure that conditional uses are reviewed in a reasonable and equitable manner, while safeguarding the property rights of all individuals and the health, safety, and general welfare of the community. Toward these ends, it is recognized that this Code should provide for more detailed evaluation of each use listed as a conditional use in a specific district with respect to such considerations as location, design, size, method(s) of operation, intensity of use, requirements for public facilities and traffic generation. In considering a proposed conditional use, the Planning and Zoning Commission may assign reasonable requirements to ensure that the proposed development is appropriate in the location in which it is proposed. Accordingly, conditional use applications shall conform to the procedures and requirements of Chapter 1111.

**1147.02 GENERAL CRITERIA FOR ALL CONDITIONAL USES.**

A conditional use, and uses accessory to such conditional use, shall be permitted in a district only when specified as a conditional use in such district, and only if such use conforms to the following general criteria, which are in addition to specific conditions, standards and regulations set forth in Sections 1147.03 through 1147.08. The Planning and Zoning Commission shall review the particular facts and circumstances of each proposed use in terms of the following criteria and shall find adequate evidence that:

- (a) The conditional use will be designed, constructed, operated and maintained so as to be harmonious and appropriate with the prevailing existing or intended character of the general vicinity.
- (b) The establishment, maintenance or operation of the conditional use will not endanger the public health, safety or general welfare.
- (c) The conditional use will not be more hazardous or more disturbing to the existing and future use and enjoyment of properties in the immediate vicinity than uses that are permitted by right, nor substantially diminish or impair property values within the neighborhood.
- (d) The establishment of the conditional use in the proposed location will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (e) There is minimal potential for future hardship on the conditional use that could result from the proposed use being surrounded by uses permitted by right that may be incompatible.

**1147.03 SPECIFIC CONDITIONS FOR CONDITIONAL USES.**

In addition to the general criteria established in Section 1147.02, the following specific conditions shall apply.

- (a) Supplementary Conditions and Safeguards. Nothing in these regulations shall prohibit the Planning and Zoning Commission from prescribing reasonable supplementary conditions and safeguards in addition to the requirements in this Chapter in order to ensure compliance with the criteria set forth in Section 1147.02.
- (b) Conformance with District Regulations. A conditional use shall conform to the regulations of the district in which it is located and to other substantive requirements of this Planning and Zoning Code, as well as satisfy the conditions, standards and requirements of this Chapter. Whenever there is a difference between the provisions of the conditional use regulations and the district regulations, the provisions of this Chapter shall prevail, unless clearly indicated differently in the regulations.
- (c) Overall Development Standards.
  - (1) No lighting shall constitute a nuisance and in no way shall impair safe movement of traffic on any street or highway. All outside lighting shall comply with the lighting requirements set forth in Chapter 1157, General Use Regulations.

- (2) Floodlights, loudspeakers or similar devices shall not be constructed or used in any manner that will cause hazards or annoyance to the public generally or to the occupants of adjacent property.
- (3) Landscaping and buffering shall be provided in compliance with Chapter 1155, Landscaping and Screening Regulations.
- (4) The proposed use shall not generate excessive noise, odor, dust or smoke beyond the premises. In order to minimize any effects of the above, the Planning and Zoning Commission may require all applicable surface areas to be paved, and impose additional noise reduction measures, including mounding, landscaping and sound barriers, to ensure that the level of noise is less than or the same as the prevailing noise levels of permitted uses in the district in which the conditional use is proposed.
- (5) The conditional use will be designed and constructed so that all access drives, access points to public streets, driveways, parking and service areas shall be in compliance with the regulations set forth in Section 1153.11, Regulations for Access Drives.
- (6) In a residential district, on lots of one (1) acre or more, all points of entrance or exit should be no closer than 75 feet from an intersection.

**1147.04 CONDITIONAL USES IN SINGLE-FAMILY DISTRICTS.**

Schedule 1147.04 sets forth regulations governing minimum lot area, minimum lot width and minimum setback requirements for principal and accessory buildings and parking areas for conditional uses in residential districts. Supplemental requirements pertaining to such uses are set forth in Section 1147.08, and the specific subsections are referenced in Schedule 1147.05, below.

Schedule 1147.04

**Regulations For Conditional Uses In Single-Family Residential Districts**

Conditional use	Condition al Use in District	Minimum Lot Regulations <sup>(1)</sup>		Minimum Building Setbacks <sup>(1)</sup>		Minimum Parking Setbacks <sup>(1)</sup>		Also See Section:
		Area <sup>(2)</sup>	Width	Front	Side/ Rear	Front	Side/ Rear	
1. Cemetery	R-1, R-2	5 acres	400 ft	(3)	30ft	NP	10 ft	1147.08(d)
2. Community recreation facility	R-1, R-2	5 acres	400 ft	(3)	40 ft	NP	20 ft	1147.08(g)

Conditional use	Condition al Use in District	Minimum Lot Regulations <sup>(1)</sup>		Minimum Building Setbacks <sup>(1)</sup>		Minimum Parking Setbacks <sup>(1)</sup>		Also See Section:
		Area <sup>(2)</sup>	Width	Front	Side/ Rear	Front	Side/ Rear	
3. Day care facility, child and/or adult accessory to a conditional use	R-1, R-2,	3 acres	200 ft	(3)	40 ft	NP	20 ft	1147.08(h)
4. Family Day Care Home (Type A)	R-1, R-2	(3)	(3)	(3)	(3)	NP	(3)	1147.08(j)
5. Golf Course	R-1, R-2	25 acres	400 ft	(3)	40 ft	NP	20 ft	1147.08 (o)
6. Library	R-1, R-2	3 acres	200 ft	(3)	40 ft	NP	20 ft	1147.08(e)
7. Church/Place of worship	R-1, R-2,	3 acres	200 ft	(3)	40 ft	NP	20 ft	1147.08(e)
8. Public safety facility	R-1, R-2,	3 acres	200 ft	(3)	40 ft	NP	20 ft	1147.08(n)
9. School facility, elementary/ secondary (public or private)	R-1, R-2,	3 acres	200 ft	(3)	40 ft	NP	20 ft	1147.08(r)
10. Utility substation/distribution facility, indoor	R-1, R-2,	None	None	(3)	40 ft	NP	20 ft	1147.08(s)
11. Wireless telecommunication facility	See Chapter 1161							
<p><u>Notes to Schedule 1147.04:</u></p> <p>(1) Uses shall comply with the standards in this table or the corresponding district standard whichever is greater.</p> <p>(2) Parcel size devoted to the use shall not exceed 10 acres.</p> <p>(3) Shall comply with the regulations for the district in which the conditional use is located.</p> <p>NP = Not Permitted</p>								
<p><u>List of Districts:</u></p> <p>R-1 Traditional Single Family District</p> <p>R-2 Attached Single-Family/Townhouse District</p>								

**1147.05 CONDITIONAL USES IN MULTI-FAMILY DISTRICTS.**

Schedule 1147.05 sets forth regulations governing minimum lot area, minimum lot width and minimum setback requirements for principal and accessory buildings and parking areas for conditional uses in residential districts. Supplemental requirements pertaining to such uses are set forth in Section 1147.08, and the specific subsections are referenced in Schedule 1147.05, below.

Schedule 1147.05

**Regulations For Conditional Uses In Multi-Family District**

Conditional use	Conditional Use in District	Minimum Lot Regulations <sup>(1)</sup>		Minimum Building Setbacks <sup>(1)</sup>		Minimum Parking Setbacks <sup>(1)</sup>		Also See Section:
		Area	Width	Front	Side/Rear	Front	Side/Rear	
1. Public safety facility	M, M-1	5 acres	200 ft	(2)	(2)	25 ft.	25 ft	1147.08(n)
2. Residential facility for 9-16 persons	M, M-1	20,000 sq ft	100 ft.	(2)	(2)	(2)	25 ft	1147.08(p)
3. Utility substation/distribution facility, indoor	M, M-1	None	None	(2)	50 ft	25 ft.	25 ft	1147.08(s)
4. Wireless telecommunication facility	See Chapter 1161							
<p><u>Notes to Schedule 1147.05:</u></p> <p>(1) Uses shall comply with the standards in this table or the corresponding district standard whichever is greater.</p> <p>(2) Shall comply with the regulations for the district in which the conditional use is located.</p>								
<p><u>List of Districts:</u></p> <p>M Multi-Family District</p> <p>M-1 High Rise Apartment District</p>								

**1147.06 CONDITIONAL USES IN COMMERCIAL DISTRICTS.**

Schedule 1147.06 sets forth regulations governing minimum lot area and minimum lot width requirements for conditional uses in a commercial district. Supplemental requirements pertaining to such uses are set forth in Section 1147.08, and the specific subsections are referenced in Schedule 1147.06, below.

Schedule 1147.06  
**Regulations For Conditional Uses In Commercial Districts**

Conditional Use	Conditional Use in District	Minimum Lot Regulations <sup>(1)</sup>		Also See Section:
		Area	Width	
1. Assembly hall/membership club/conference center	B-2	1 acre	125 ft	1147.08(a)
2. Automobile service station	B-2, B-3	1 acre	125 ft	1147.08(b)
3. Car wash	B-3	1 acre	125 ft.	1147.08(c)
4. Commercial recreation, indoor	B-2, B-3	(2)	(2)	1147.08(f)
5. Commercial recreation, outdoor	B-3	2 acres	200 ft	1147.08(o)
6. Day care center, child and adult	B-1	(2)	(2)	1147.08 (h)
7. Drive-thru facility in association with a permitted use	B-2, B-3	1 acre	125 ft	1147.08(i)
8. Freestanding automated teller machine or drive-thru	B-2, B-3	(2)	(2)	1147.08(i)
9. Funeral Home	B-1	1.5 acres	125 ft	1147.08(k)
10. Gasoline station / pumps	B-2, B-3	1 acre	150 ft	1147.08(b)
11. Health club	B-2	1.5 acres	125 ft	--
12. Hotel/Motel	B-2, B-3	2 acres	125 ft	--
13. Motor vehicle sales and rental	B-3	2 acres	200 ft	1147.08(b)
14. Multi-family dwelling development	B-2	2 acres	200 ft	1147.08(m)
15. School, (public/private) college/ university	B-2	10 acres	300 ft	1147.08(q)
16. Utility substation/distribution facility, indoor	B-1, B-2, B-3	none	none	1147.08(s)
17. Vehicle repair garage	B-3	2 acres	200 ft	1147.08(b)
18. Veterinary office/animal hospital with outdoor facilities	B-2, B-3	1 acre	125 ft	1147.08(l)
19. Wireless telecommunication facility	See Chapter 1161			
<b>Notes to Schedule 1147.06:</b>				
(1) Uses shall comply with the standards in this table or the corresponding district standard whichever is greater.				
(2) Shall comply with the regulations for the district in which the conditional use is located.				
<b>List of Districts:</b>				
B-1 Limited Commercial District				
B-2 Commercial Campus/Mixed Use District				
B-3 High Density Mixed-Use Commercial District				

**1147.07 CONDITIONAL USES IN RESEARCH & OFFICE and INDUSTRIAL DISTRICTS.**

Schedule 1147.07 sets forth regulations governing minimum lot area and minimum lot width requirements for conditional uses in an industrial district. Supplemental requirements pertaining to such uses are set forth in Section 1147.08, and the specific subsections are referenced in Schedule 1147.07, below.

Schedule 1147.07

**Regulations For Conditional Uses In the Research & Office and Industrial Districts**

Conditional Use	Conditional Use in District	Minimum Lot Regulations <sup>(1)</sup>		Also See Section:
		Area	Width	Area
1. Adult Oriented Business	I-1	See Chapter 1163		
2. Drive-thru, drive-in facility in association with a permitted use	E	1 acre	125 ft	1147.08(i)
3. Freestanding automated teller machine or drive-thru	E	(2)	(2)	1147.08(i)
4. Veterinary office, animal hospital, kennel with outdoor facilities	I-1	2 acres	200 ft	1147.08(l)
5. Motor vehicle body shop	I-1			1147.08(b)
6. Public service/maintenance facility	<del>E</del> , I-1	(2)	(2)	1147.08(n)
7. Sales, service, repair and/or storage of farm implement, construction equipment, recreation vehicles, or other large equipment	I-1	3 acres	200 ft.	
8. Vehicle repair garage	I-1	2 acres	200 ft	1147.08(b)
9. Wireless telecommunication facility		See Chapter 1161		
<b>Notes to Schedule 1147.07:</b>				
<sup>(1)</sup> Uses shall comply with the standards in this table or the corresponding district standard whichever is greater.				
<sup>(2)</sup> Shall comply with the regulations for the district in which the conditional use is located.				
<b>List of Districts:</b>				
E Research and Office District				
I-1 Light Industrial District				

**1147.08 SUPPLEMENTAL REGULATIONS FOR CERTAIN USES.**

The following are specific conditions, standards and regulations for certain conditional uses and are in addition to the criteria and standards set forth in Sections 1147.02 through 1147.08.

(a) Assembly hall, membership club, conference center:

- (1) All activities, programs and other events shall be directly related to the conditional use so granted.
- (2) The proposed use shall not generate excessive noise beyond the premises.
- (3) In order to minimize any effects of the above, the Planning and Zoning Commission may require additional noise reduction measures to assure that the level of noise is no more than the prevailing noise levels of permitted uses in the District.

(b) Automotive Related

(1) Motor vehicle sales and rental:

- A. Service garage, leasing department and other activities customarily incidental to a full service franchised automobile dealer shall be permitted as accessory to the sale of autos provided these activities are conducted in a wholly enclosed building.
- B. Only repair of vehicle customarily associated with the permitted vehicle sales shall be permitted and shall be conducted entirely inside a suitable building.
- C. No junk, inoperative or unlicensed vehicle will be permitted to remain outside on the property for more than 48 hours.

(2) Requirements for Gasoline Stations/Pumps; Automobile Service Stations; and Vehicle Repair Garage:

- A. No inoperative motor vehicles, equipment, or parts shall be permitted to remain outside on the property.
- B. Except while being serviced at a pump island, no vehicle shall be parked between the fuel pumps and the front property line.
- C. A car wash establishment may be combined with a gasoline station or an automobile service station provided that the minimum lot size for the combined uses is a minimum of 50,000 square feet.
- D. When located on a corner lot, the facility shall have not less than 150 feet frontage on each of the two intersecting streets. The location of access drives shall be placed as far as possible from the intersection;

and shall be limited to no more than one (1) access drive per street frontage.

- E. Vehicle parking areas, vehicle storage areas, maneuvering lanes and access ways to public streets shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site.
- (3) Gasoline Station. The only services permitted to be performed at a gasoline station shall be the dispensing of fuel, oil, air, and windshield wiper fluid and other common vehicular liquids and lubricants.
- (4) Automobile Service Station. Automobile service stations shall not provide services to vehicles that exceed one and one-half tons in capacity. All activities, except those required to be performed at a fuel pump, air dispenser or self-serve automobile vacuum, shall be conducted entirely within a building or garage.
- (5) Automobile Service Stations, Motor Vehicle Body Shop, and Vehicle Repair Garage. For automobile service stations and vehicle repair facilities, parking shall be located behind the front line of the principal building. An exception to this requirement may be granted where necessary due to the shallow depth of a parcel, its irregular shape, or other similar circumstances.
- (6) Automotive Service Stations and Vehicle Repair Garage. No oil draining pit or visible appliance for any such purpose, other than filling caps, shall be located within ten (10) feet of any street right-of-way or within twenty-five (25) feet of any residential district, except where such appliance or pit is within a building.
- (7) Motor Vehicle Body Shop. No inoperative motor vehicles, equipment, or parts shall be permitted to remain outside on the property.
- (c) Car wash.
- (1) Such facilities shall be located on a major or secondary street in an area least disruptive to pedestrian and vehicular traffic.
- (2) Any proposed loudspeaker system shall be approved as part of the conditional use application.
- (3) All access drives shall be located as far as practicable from existing intersections in order to minimize congestion and constricted turning movements.

- (4) Alleys or driveways abutting residentially zoned parcels shall not be used for circulation of customer traffic.
- (d) Cemetery.
- (1) Interior drives shall be installed, including the required pavement, as development progresses and as indicated on the final plans approved by the Planning and Zoning Commission.
  - (2) Sufficient parking spaces shall be provided throughout the cemetery so as not to hinder traffic flow.
  - (3) No gravesite shall be located within 50 feet of a public street right-of-way or residential property line.
  - (4) No mausoleum or crematory shall be located within 100 feet of a public street right-of-way or residential property line.
- (e) Church; place of worship; library; and other places of assembly.
- (1) Associated uses such as a convent, faculty residence, cafeteria, fieldhouse, or infirmary shall be located on the same lot as the principal use and comply with the principal building setback requirements set forth in the applicable zoning district.
  - (2) In any district, the Planning and Zoning Commission may require all outdoor children's activity areas to be enclosed by a fence or wall having a height of at least five (5) feet but not exceeding six (6) feet. An entry gate shall be securely fastened.
  - (3) The development plan shall indicate the emergency entrances or exits.
  - (4) In order to minimize any effects of the above uses, the Planning and Zoning Commission may require additional noise reduction measures to assure that the level of noise is no more than the prevailing noise levels of permitted uses in the District. In addition, the Planning and Zoning Commission may limit the hours/days of operation to insure that the use is compatible with surrounding land uses.
  - (5) In Residential Districts:
    - A. Such uses should be located on a major or secondary street or have direct access to a major or secondary street to minimize impacts on local streets and residential neighborhoods.
    - B. All access drives shall be located as far as practicable from an existing intersection in order to maximize traffic safety and minimize congestion and constricted turning movements.

- C. All activities, programs and other events shall be directly related to the conditional use permit so granted, and shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents or to the community in general.
- (6) In Single-family Residential Districts. The maximum lot coverage shall be forty-five percent (45%).
- (f) Commercial recreation, indoor:
  - (1) The proposed use shall not generate excessive noise beyond the premises.
  - (2) In order to minimize any effects of the above, the Planning and Zoning Commission may require additional noise reduction measures to assure that the level of noise is no more than the prevailing noise levels of permitted uses in the District.
  - (3) Buildings in which dance floor/entertainment is provided shall be located a minimum of 100 feet from a residential district.
  - (4) The Planning and Zoning Commission may limit the hours of operation to ensure that the proposed use is compatible with the surrounding uses.
  - (5) Such uses shall be located on a major or secondary street or have direct access to a major or secondary street.
  - (6) Such establishment shall be located so as to minimize the amount of space located in a retail setting that is inactive during normal business hours. Such facilities are encouraged to have associated retail uses located in the first floor space nearest the street or sidewalk to contribute to the retail environment of the zoning district.
- (g) Community recreation facility:
  - (1) Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking, and appearance.
  - (2) The Planning and Zoning Commission may require active recreation areas to be enclosed by a fence, which complies with the requirements for fences in the applicable zoning district, having a minimum height of five (5) feet.
  - (3) All activities, programs and other events shall be directly related to the conditional use permit so granted, and any proposed changes from the approved conditional use permit shall be reviewed and approved by the

- Planning and Zoning Commission according to the procedures in Chapter 1111.
- (4) An adequate number of public restrooms shall be provided and maintained.
  - (5) The Planning and Zoning Commission may limit the hours of operation to ensure that the proposed use is compatible with the surrounding uses.
  - (6) In a residential district, only incidental retail uses such as a snack bar, shall be permitted as an accessory use. Such facility shall be provided for the convenience of customers attending the Community Recreation Facility, and no sign advertising the retail use shall be permitted.
  - (7) Swimming pools shall comply with the following additional requirements:
    - A. Pools shall be adequately fenced to prohibit unauthorized access to the facility.
    - B. Pools and their enclosures shall have a minimum front setback of fifty (50) feet and a side and rear setback of thirty (30) feet.
    - C. The enclosure required in sub-section A. above shall be kept locked at all times the pool is not in use.
    - D. The Planning and Zoning Commission may limit the maximum lot coverage of related buildings and lounging/deck areas.
- (h) Day care facility, child or adult.
- (1) For the protection of children and adults enrolled in the day care center, a fence or wall having a height of at least five (5) feet shall enclose all outdoor activity areas. An entry gate shall be securely fastened.
  - (2) A drop-off/pick-up location that will not impede traffic on or off the site shall be provided to ensure the safety of the children and adults.
  - (3) In an R-1 and R-2 Districts, such use shall only be permitted as an accessory use in a church, other place of worship, or a school facility.
  - (4) The location and design of the facility shall provide for the protection of the children and adults from the traffic, noise, and other hazards of the area and/or the major street location.
  - (5) A day care center for children shall comply with the following:
    - A. An outdoor play area equal in area to the ground floor area of the day care facility is required. The required outdoor activity area

shall not be located closer than fifty (50) feet to any residential property.

- B. Play structures and other similar apparatus shall not be located closer than fifty (50) feet to any residential property.
- (i) Drive-thru facility in association with a permitted use; Freestanding automated teller machine.
  - (1) Such facilities shall be located on a major or secondary street in an area least disruptive to pedestrian and vehicular traffic.
  - (2) Any proposed loudspeaker system shall be approved as part of the development plan.
  - (3) All access drives shall be located as far as practicable from an existing intersection in order to minimize congestion and constricted turning movements.
- (j) Family Day Care Home, Type A.
  - (1) Parking shall be located behind the front line of the principal building. An exception to this requirement may be granted when necessary due to the shallow depth of the parcel, the location of mature trees, or other similar circumstances. Use of alternative pavements, such as brick pavers, is encouraged.
  - (2) A paved off-street drop-off area and pick up area shall be provided.
  - (3) This facility shall be located at least 500 feet from another such facility, an adult care facility for six (6) to sixteen (16) persons, or a residential facility for nine (9) to sixteen (16) persons. Separation distances are measured from property line to property line by the shortest distance.
  - (4) A copy of the site plan and descriptive plan of operation submitted to the applicable State agency shall be submitted.
  - (5) Exterior lighting shall be residential in character and compatible with the surrounding neighborhood.
  - (6) No exterior changes shall be made that are non-residential in character.
  - (7) A driveway entrance meeting the standards for single-family residential construction shall be provided.
  - (8) The use of alternative paving material, such as brick pavers or porous pavement is permitted and encouraged to retain the residential character in the single family residential districts.

- (k) Funeral home. In no case shall vehicles be permitted to wait or stack within the public right-of-way.
  
- (l) Kenel, animal hospital/veterinary office with outdoor facilities. Outdoor animal areas shall:
  - (1) Be located in the rear yard;
  - (2) Have a minimum side setback of thirty (30) feet and a minimum rear setback of fifty (50) feet;
  - (3) Have a minimum setback of 200 feet from any residential zoning district boundary;
  - (4) Be a maximum of twenty-five percent (25%) of the gross floor area of the principal building.
  - (5) Odor and noise shall be adequately controlled to ensure that animals do not create a nuisance.
  - (6) Within the required setbacks above, screening shall be provided pursuant to Section 1155.07 (g).
  - (7) Facility shall be operated in accordance with all applicable State of Ohio and Lake County Health Code regulations.
  
- (m) Multi-family.
  - (1) The principal orientation of all the multi-family buildings shall be the public street on which the lot has frontage. There shall be at least one entrance, for each building facing the street, and the principal windows of the multi-family units shall also face this public street.
  - (2) Vehicular entrances to the multi-family development shall be minimized and designed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any adjacent residential neighborhood.
  - (3) All accessory structures shall be located behind the rear building line of the multi-family dwellings.
  - (4) Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking, and appearance.

- (n) Public service; public safety/maintenance facility.
  - (1) In residential districts facilities shall be limited to structures that are essential for the distribution of services to the local area.
  - (2) In residential districts there shall be no outdoor storage of general materials.
  - (3) Outdoor storage of fleet vehicles used in the operation of the facility may be permitted provided such storage areas are located in the side or rear yard in off-street parking areas and are screened in accordance with Section 1141.07, Outdoor Storage Regulations.
  
- (o) Recreation Facilities Including: Commercial recreation, outdoor; Public swimming pool; Golf course, except miniature golf:
  - (1) The Planning and Zoning Commission may require active recreation areas to be enclosed by a fence having a minimum height of five (5) feet.
  - (2) The proposed use shall not generate excessive noise, odor, dust or smoke beyond the premises. In order to minimize any effects of the above, the Planning and Zoning Commission may require all applicable surface areas to be paved, and impose additional noise reduction measures, including mounding, landscaping and sound barriers, to ensure that the level of noise is less than or the same as the prevailing noise levels of permitted uses in the District.
  - (3) Rifle ranges, skeet shooting ranges, pistol ranges, and other activities involving the use of firearms shall not be permitted.
  - (4) Delivery trucks shall not be used as refreshment stands, souvenir stands and/or concession stands.
  - (5) All activities, programs and other events shall be directly related to the conditional use permit so granted, and shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents or to the community in general.
  - (6) An adequate number of public restrooms shall be provided and maintained.
  - (7) Vehicular approaches to the property shall be designed so as not to create an interference with traffic on surrounding public streets or roads.
  - (8) In a residential district, only incidental retail uses such as a snack bar, shall be permitted as an accessory use to a golf course. Such facility shall be provided for the convenience of customers attending the golf course and no sign advertising the retail use shall be permitted.

- (9) The Planning and Zoning Commission may limit the hours of operation to ensure that the proposed use is compatible with the surrounding uses.
  - (10) Swimming pools shall comply with the following additional requirements:
    - A. Pools shall be adequately fenced to prohibit unauthorized access to the facility.
    - B. Pools and their enclosures shall comply with the building setback requirements set forth for the district in which the pool is located.
    - C. The enclosure required in subsection A above shall be kept locked at all times the pool is not in use.
    - D. The Planning and Zoning Commission may limit the maximum lot coverage of related buildings and lounging/deck areas.
  - (11) Golf courses, including tees, fairways, greens and golf driving ranges shall be designed and landscaped in such a manner as to reasonably prevent a misfired ball from landing out of the golf course.
- (p) Residential facility for 9-16 persons.
- (1) All activities, programs and other events shall be directly related to the conditional use certificate applied for and as it is granted, and any changes from the approved conditional use certificate shall be reviewed and approved by the Planning and Zoning Commission according to the Procedures in Chapter 1111. All activities, programs and other events shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents, or to the community in general.
  - (2) The architectural design and site layout of the residential facility and the height of any walls, screens, or fences connected with any said group home shall be compatible with adjoining land uses and the residential character of the neighborhood.
  - (3) The applicant shall demonstrate that adequate qualified supervision will exist in the home on a 24-hour per day basis.
  - (4) The applicant shall comply with the applicable parking regulations of the Planning and Zoning Code and shall make adequate provision for on-site parking of vehicles used by visitors and the home supervisors. The use of alternative pavements such as brick pavers is encouraged. Parking for visitors and employees shall be located behind the front building line. An exception to this requirement may be granted due to the shallow depth of the parcel, the location of mature trees, or other similar factors.

- (5) The residential facility shall meet local fire safety and building code requirements for the proposed use and level of occupancy.
  - (6) Evidence shall be presented that the proposed facility meets the certification, licensing or approval requirements of the appropriate state agency. Failure to maintain such license, certification or other approval requirements shall result in immediate revocation of the facility's conditional use certificate.
  - (7) In considering whether to grant the conditional use certificate, the Planning and Zoning Commission shall take into consideration the proximity and location of other such facilities within the neighborhood so as not to change the character of the area, create undue congestion in the public ways, or otherwise adversely impact upon a given area with such use, but in no event shall a such a facility be closer than 1,000 feet from where an adult care or residential facility is located.
- (q) School, (public/private) college/university.
- (1) Such establishment should be located so as to minimize the amount of space located in a retail setting that is inactive during normal business hours. Such establishments are encouraged to have associated retail uses located in the first floor space nearest the street or sidewalk to contribute to the retail environment of the zoning district.
  - (2) Applicants must clearly demonstrate that the use will be compatible with the surrounding land uses and the surrounding built environment, particularly with regarding to traffic circulation, parking and appearance.
  - (3) Points of ingress and egress to the site shall be minimized and placed in such a way as to maximum safety, maximize efficient traffic circulation, and minimize the impact on the surrounding area.
  - (4) All activities, programs, and other events shall be directly related to the approved conditional use certificate and shall be adequately monitored so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents, or to the community in general.
  - (5) Building and roof design. The building and roof shall be designed to be compatible with surrounding development. Considerations include design elements that break up long, monotonous building or rooflines and any other design elements that are compatible with the desired character of the District.

- (6) Building materials. The materials used for buildings, roofs, fences and other structures shall be compatible with the surrounding built environment and/or the desired character of the District.
  - (7) Facades facing public streets. The design and layout of the street side of the site shall provide a varied and interesting facade. Considerations include the use of setbacks, building placement, roof design, variations in materials and building walls as well as other structural elements.
  - (8) Landscaping. The landscaping on the site shall provide appropriate transition from commercial to residential districts; separates and buffers the buildings from other uses especially abutting residential districts; and provides visual relief from stark, linear building walls.
- (r) School, (public/private) elementary/secondary.
- (1) General Requirements
    - A. Such uses should be located on a major or secondary street or have direct access to a major or secondary street to minimize impacts on local streets and residential neighborhoods, with the exception of elementary schools. Elementary schools may be located on local streets provided documentation is supplied that indicates a majority of students are within walking distance of the elementary school.
    - B. All access drives shall be located as far as practicable from existing intersections in order to maximize traffic safety and minimize congestion and constricted turning movements.
    - C. All activities, programs and other events shall be listed on the conditional use application and be directly related to the conditional use certificate so granted. These activities shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents or to the community in general. If any additional activities are proposed that were not included on the approved conditional use certificate, then a new conditional use certificate shall be requested according to the procedures in this Chapter 1111.
    - D. The structure shall be street oriented with the principal entrance oriented toward the public street.
    - E. A pedestrian walkway shall be provided from the public sidewalk to the principal entrance.

- (2) Requirements in the Residential Districts
  - A. The maximum lot coverage is fifty (50) percent.
  - B. Parking shall be located behind the front line of the principal building. An exception to this requirement may be granted where necessary due to the shallow depth of a parcel, the location of existing mature trees, or other similar circumstances.
  - C. Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking, and appearance.
  - D. Exterior lighting shall be compatible with the surrounding neighborhood.
  - E. Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
  - F. The scale, massing, and building design shall be compatible with the surrounding neighborhood.
- (s) Utility substation/distribution facility: indoor and outdoor.
  - (1) Public utility structures, including substations, shall be permitted as a conditional use only when the distribution of service is essential to the immediate neighborhood or when topological features restrict the location of such facility.
  - (2) Natural or man-made barriers shall be provided to lessen any intrusion into a residential area.
  - (3) Storage of materials shall be within a completely enclosed building.
  - (4) Substations, as measured from the outermost edge of the facility, shall be located a minimum of 50 feet from any residential property line.
  - (5) Wireless telecommunication facilities shall comply with Chapter 1161.

**TITLE NINE**  
**SIGN REGULATIONS**

**CHAPTER 1151**  
**Sign Regulations**

1151.01	Purpose.	1151.07	Design Criteria.
1151.02	Application of Sign Regulations.	1151.08	Regulations for Nonconforming Signs.
1151.03	Computations.	1151.09	Administrative Procedures.
1151.04	Signs in Residential Districts.	1151.10	Comprehensive Signage Plan.
1151.05	Signs in Nonresidential Districts.		
1151.06	Prohibited Signs.		

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**1151.01 PURPOSE.**

The purpose of this Chapter is to promote the public health, safety, and welfare through the provision of standards for existing and proposed advertising signs of all types. More specifically, this Chapter is intended to:

- (a) Enhance and protect the physical appearance of the community.
- (b) Promote and maintain visually attractive, residential, commercial, industrial, and research and office districts.
- (c) Ensure that signs are located and designed to reduce distraction and confusion that may be contributing factors in traffic congestion and accidents, and maintain a safe and orderly pedestrian and vehicular environment.
- (d) Prevent the erection of structures that will obstruct sight distance at the intersection of streets, alleys, or driveways.
- (e) Provide review procedures that enable the City to comprehensively evaluate the appropriateness of a sign to the site, building, and surroundings.
- (f) Prohibit all signs not expressly permitted by this Chapter.

**1151.02 APPLICATION OF SIGN REGULATIONS.**

- (a) The regulations contained in this Chapter shall apply to signs outside of the public right-of-way, except when specifically stated otherwise.
- (b) A sign may only be erected, established, painted, created, or maintained in conformance with the standards, procedures, exemptions and other requirements of this Chapter.

- (c) The following signs and displays are exempt from the regulations of this Chapter:
- (1) Any sign displaying a public notice or warning required by a valid and applicable federal, state, or local law, ordinance, or regulation;
  - (2) Building Marker not exceeding four (4) square feet in area;
  - (3) Flags of the United States, the state, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting these conditions shall be considered a sign and shall be subject to regulations as such.
  - (4) Works of art that do not include a commercial message.
  - (5) A decorative display of religious and/or other holiday lights and decorations containing no commercial message when displayed during the appropriate time of the year.
  - (6) Any traffic control sign, such as “STOP” or “YIELD,” located on private property that meets applicable governmental standards pertaining to such signs and does not display a commercial message.
  - (7) Instructional Signs. Instructional signs provided such signs comply with the following:
    - A. Instructional signs shall be clearly intended, designed and located for instructional purposes, as determined by the Zoning Administrator; and,
    - B. Each sign shall not be larger than necessary to serve the intended instructional purpose; and,
    - C. The sign is not in a location and does not possess design characteristics that constitute or serve the purposes of an identification sign.
    - D. If the Zoning Administrator determines that the proposed sign(s) does not serve instructional purposes, it shall be considered a freestanding or wall sign, as applicable, and subject to the pertinent regulations in this Chapter.

**1151.03 COMPUTATIONS.**

The following regulations shall control the computation of sign area, sign height, window area, and building frontage:

- (a) Determining Sign Area or Dimension. Sign area shall include the face of all the display area of the sign, including the frame and structural support. Architectural features are not considered signs and are exempt from these regulations.

For a sign that is framed, outlined, painted or otherwise prepared and intended to provide a background for a sign display, the area or dimensions shall include the entire portion within the outside dimensions of such background or frame.

- (1) For a sign comprised of individual letters, figures, emblems, logos or elements on a wall or similar surface of the building or structure, or an irregularly shaped freestanding sign, the area of the sign shall encompass a regular, or a combination of not more than three (3) regular, geometric shape(s) which form or approximate the perimeter of all the elements in the display. When separate elements are organized to form a single sign, but the elements are separated by open space, the area shall be calculated by determining the geometric form, or combination of forms, which comprise the entire display area, including the space between the elements. Up to five (5) percent of the permitted sign area may be considered minor protrusions and extend outside of the maximum limitation of three (3) regular geometric shapes, and are, therefore, exempted from being included as part of the sign area.
- (2) For freestanding and projecting signs, the area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point, as follows:
- A. When two identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure, are joined, are parallel or are within thirty (30) degrees of being parallel to each other and are at no point separated by a distance that exceeds three (3) feet, the sign area shall be computed by the measurement of one of the faces.
  - B. For any sign that has two (2) display faces that do not comply with the provision in **above subsection A.**, or has more than two (2) display surfaces, then each surface shall be included when determining the area of the sign.
  - C. For spherical signs, the sign face shall be considered the plane created by bisecting the sphere with an imaginary line through the center of the sphere.
- (3) In determining the area of freestanding signs, the following shall be exempted from being considered as part of the maximum permitted area:

- A. The portion of a solid sign base, up to a maximum height of three (3) feet that is at least seventy (70) percent screened by landscaping at the time of installation;
  - B. Additional base area, when such areas are determined to be:
    - 1. Constructed and designed with materials which are similar to, or compatible with, the architecture of the building or other site features; and,
    - 2. Not intended or designed to include messages and excludes colors, trademarks, or any other decorative design features that are primarily intended to attract attention, but rather are unobtrusive and compatible with the architecture of the building or other site features.
- (b) Determining Sign Height. The height of a sign shall be measured from the base of the sign or supportive structure at its point of attachment to the ground to the top most element of the sign. A freestanding sign on a man-made base, including a graded earth mound, shall be measured from the grade of the nearest street, drive or parking area, whichever is the highest grade reference.
- (c) Determining Building Frontage and Building Unit. The length of the building wall that faces the principal street or the length of the wall that contains the main entrance to the uses therein shall be considered the building frontage, except as further regulated in sub-section (3) below.
- (1) The building frontage shall be measured along the length of the front wall between the exterior faces of the exterior side walls.
  - (2) In the case of an irregular wall surface, a straight line extended along such wall surface shall be used to measure the length.
  - (3) The primary frontage shall be the portion of a frontage that serves as the main access point to a building or building unit. A site/building will be considered to have secondary frontage when any of the following site/building characteristics are present:
    - A. The subject site is a corner lot;
    - B. The primary parking area is not located adjacent to a public street; and,
    - C. The building or unit has walls with ingress and egress that do not face the public street.
  - (4) When a site has primary and secondary frontage as defined in **sub-section 1151.03 (c) (3)**, the property owner shall determine which wall shall be the primary building frontage and which wall(s) shall be the secondary building frontage. Only one outside wall of any business shall be

considered its primary frontage. In no case shall a building elevation abutting an R-1 or an R-2 District be considered primary or secondary frontage, and signage shall not be permitted on any building elevation that faces or is within forty-five degrees of facing an R-1 or an R-2 zoning district boundary.

- (5) For multi-tenant buildings, the portion of a building that is owned or leased by a single tenant shall be considered a building unit. The building frontage for a building unit shall be measured from the centerline of the party walls defining the building unit.
- (d) Determining Window Area. The window area of a building shall be the total glass area of windows on the ground floor of the building frontage, provided that for the purpose of these regulations, the height of windows on the ground floor shall be that portion of window (s) within fifteen (15) feet of grade.
- (e) Determining Sign Setbacks. The required setbacks for any freestanding sign shall apply to all elements of the sign, including its frame and base.

**1151.04 SIGNS IN RESIDENTIAL DISTRICTS.**

Signs for all residential uses and for nonresidential uses in residential districts shall comply with the regulations set forth in this Section.

- (a) Sign Standards. Permanent signs for all residential uses and for nonresidential uses in residential districts shall be limited in number, area, height and setback based on the type of use, as set forth in **Schedule 1151.04.**
- (b) Schedule 1151.04:

**Schedule 1151.04  
Permanent Signs in Residential Districts**

Type	Maximum Number Permitted	Maximum Area Per Sign	Regulations for Freestanding signs		
			Maximum Height	Minimum Setback from Right Of Way	Minimum setback from abutting property line
<b>(a) Signs for Single-Family Detached, Single-Family Attached, and Two-Family</b>					
(1) Freestanding sign	1/building	2 sq ft	6 ft	0 <sup>(1)</sup>	--
(2) Freestanding sign for residential development identification	See subsection <b>1151.04 (c) (3)</b>	30 sq ft	8 ft	--	--
(3) Nameplate or window sign	1 per DU	2 sq ft	--	--	--
<b>(b) Multi-Family Buildings:</b>					
(1) Entrance and exit signs	2 per driveway (1 in, 1 out)	3 sq. ft.	3 ft	Not less than 2 ft. nor more than 10 ft.	--
(2) Freestanding sign	1/development entrance	30 sq ft	8 ft	Equal to sign height	15 ft. <sup>(2)</sup>
(3) Nameplate or window sign	1 per each public entrance	2 sq ft	--	--	--
(4) Wall Sign	1/building	.75 sq ft per lineal ft of building frontage	--	--	--
<b>(c) Nonresidential Uses/ Conditional Uses</b>					
(1) Entrance and exit signs	2 per driveway (1 in, 1 out)	3 sq. ft.	3 ft	Not less than 2 ft. nor more than 10 ft.	--
(2) Freestanding sign	1 <sup>(3)</sup>	30 sq ft	8 ft	30 ft	30 ft.
(3) Nameplate sign	1/address	2 sq ft	--	--	--
(4) Wall Sign	1/building	1 sq ft per lineal ft of building frontage	--	--	--
<b>(d) Instructional Sign:</b>	Shall be exempt from regulations pursuant to Section <b>1151.02 (c) (7)</b> .				
Notes for <b>Schedule 1151.04</b> :					
<sup>(1)</sup> But no closer that ten (10) feet from the edge of pavement of the travel lane of the public or private street.					
<sup>(2)</sup> Setback from property line shall be 25 ft. when abutting an R-1 District.					
DU = Dwelling Unit					

- (c) Supplemental Regulations for Permanent Freestanding Signs.
  - (1) Freestanding signs shall be erected in a landscaped setting and not on sidewalks, drives, or in parking lots. Neither the landscaping nor the freestanding sign shall obstruct the view of vehicles entering or exiting the property.
  - (2) No part of a freestanding sign, the wall or entry feature on which a sign is mounted, or the landscaping shall obstruct the view of vehicles entering or exiting the property.
  - (3) For residential developments, the freestanding sign shall have a maximum of two sign faces per entrance and be either a double-faced freestanding sign or two (2) single-sided sign faces attached to walls or entry features located one on each side of the street entrance.
  - (4) For nonresidential uses, a maximum of thirty (30) percent of the permitted freestanding sign area may be devoted to changeable copy. Changeable copy may be either computer driven or manually changed.
  
- (d) Supplemental Regulations for Temporary Signs. Temporary signs are permitted in Residential Districts subject to the following provisions:
  - (1) Temporary Signs for lots in R-1, and R-2, Districts:
    - A. Each residential unit shall be permitted to erect two (2) temporary signs either in a window or as a freestanding sign in the front yard. The sign face area of such temporary signs shall not exceed twelve (12) square feet. Such temporary signs shall be displayed for no longer than thirty (30) days, after which time such signs shall either be removed or replaced.
    - B. Temporary freestanding signs shall not be located in the public right of way and shall be at least fifteen (15) feet from a side lot line.
    - C. Temporary signs for commercial uses shall not be permitted in residential districts except that temporary signs promoting a contractor working on-site shall be permitted for the duration of the contractor's work.
    - D. Garage Sale Signs. Only one "Garage Sale" sign, not exceeding four (4) square feet in area shall be permitted and only in conjunction with the casual sale of tangible personal property.
    - E. The height of temporary freestanding signs shall not exceed four (4) feet.

- (2) Temporary Signs in the M and M-1 Residential Districts. Two (2) temporary freestanding signs, that do not exceed eight (8) square feet each, may be erected for up to fifteen (15) days per calendar month.
- (3) Temporary Signs for Non-residential Uses. Such signs shall comply with the following:
  - A. One temporary freestanding sign or one banner attached to the front of the building shall be permitted for a period not to exceed seven (7) days, four times per calendar year. Such signs may be permitted for a period longer than seven (7) days only when the Architectural Board of Review approves an extended time frame. The maximum area shall be twelve (12) square feet.
  - B. A temporary freestanding sign shall be located no closer than 15 feet from the street right-of-way line or a side lot line.
- (4) Project Real Estate/Construction Signs. A project real estate or construction sign for a development project shall comply with the following:
  - A. One project real estate or construction sign shall be permitted for each street on which the lot has frontage.
  - B. Such signs shall be located a minimum of fifteen (15) feet from any street right-of-way.
  - C. A project real estate or construction sign shall be erected and maintained on a lot only during the period of time that the parcel is up for sale, rent, or lease or the building project is under construction. In the R-1 and R-2 Districts, when seventy-five percent (75%) of all lots/units have been sold, the project real estate or construction sign shall be removed. After such removal, individual signs may be erected on the remaining lots/units in conformance with Section 1151.04 (d)(1).
  - D. The maximum area shall be thirty-two (32) square feet, and the maximum height shall be eight (8) feet.

**1151.05 SIGNS IN NONRESIDENTIAL DISTRICTS.**

Signs in nonresidential districts shall conform to the standards set forth in this Section, except for residential uses, which shall comply with the standards set forth in **Section 1151.04**.

- (a) Maximum Number and Area of Permanent Signs Attached to Buildings. Permanent signs attached to buildings shall conform to the maximum number and area limitations set forth in **Schedule 1151.05(b)**.

(b) Schedule 1151.05 (b):

**Schedule 1151.05(b)  
Permanent Signs Attached to Buildings**

Type	Maximum Number Permitted	Maximum Area	
		B-1 District	B-2 and B-3 Districts
(a) Instructional sign	Shall be exempt from regulations pursuant to Section 1151.02 (c) (7).		
(b) Nameplate sign	1/address	2 sq ft	2 sq ft
(c) Projecting sign <sup>(1)</sup>	1/ground floor occupant frontage	8 sq ft	8 sq ft
(d) Building sign, <sup>(3)</sup> excluding projecting signs	In compliance with maximum area	1 square ft per linear ft of building frontage	1square ft per linear ft of building frontage
(e) Window sign	In compliance with maximum area	(2)	(2)

Notes to Schedule 1151.05 (b)

(1) As further regulated by subsection 1151.05 (c)(2)

(2) As further regulated by subsection 1151.05 (c) (1).

(3) Except as otherwise permitted by Section 1151.05 (c) (3) and/or (4)

(c) Supplemental Regulations for Permanent Signs Attached to Buildings.

(1) Window Signs shall comply with the following:

- A. Ground Floor Occupants. A window sign shall not exceed twenty percent (20%) of the total glass area of the ground floor windows.
- B. Upper Story Occupants. For a multi-story building, each occupant above the ground floor shall be permitted one permanent sign to be placed in a window of the occupant's space, not to exceed six (6) square feet or fifteen (15) percent of the area of the window in which the sign is placed, whichever is smaller. These signs shall be in addition to the maximum allowable area for building signs pursuant to Schedule 1151.05(b).

(2) Projecting Signs shall comply with the following:

- A. Projecting signs shall be limited to occupants that have a minimum of twenty (20) feet of building frontage.
- B. All projecting signs shall have a maximum height of fourteen (14) feet and a minimum clearance of eight (8) feet from the ground to the bottom of the sign, except when the projecting sign is located

above a landscaped area or other area that does not permit pedestrian traffic beneath the sign.

- (3) Sign Bonuses for Buildings with Large Building Setbacks. In the B-2 and B-3 Districts, the maximum allowable area for a building sign, excluding projecting signs, may be increased by 25% for each fifty (50) feet or fraction thereof of building setback when the principal building is located more than 100 feet from the principal street on which the building is located and the building is visible from the street, not to exceed 200% of the maximum allowable area.
- (4) Sign bonuses for Corner Lots and Side and Rear Entrances. The maximum allowable area for building signs shall be increased beyond the allowable area set forth in Schedule 1151.05 (b) in compliance with the following:
  - A. Additional area shall be permitted when a building has a secondary frontage as determined in Section 1151.03 (c), **Determining Building Frontage and Building Unit.**
  - B. The increased sign area for each secondary building frontage shall be fifty percent (50%) of the sign area permitted for the primary frontage, provided that the additional sign area is utilized only on the secondary building frontage.
  - C. Provided that on any eligible frontage the sign area shall not exceed two square feet of signage per lineal foot of building frontage.
  - D. Notwithstanding the above, signs shall only be installed on a maximum of three (3) building elevations.
- (d) Permanent Freestanding signs. Permanent freestanding signs shall comply with the maximum number, area, and height limitations and minimum setbacks set forth in Schedule 1151.05(e).
- (e) Schedule 1151.05 (e):

**Schedule 1151.05(e)  
Permanent Freestanding Signs**

	Maximum Number	Maximum Area	Maximum Height	Minimum Setback	
				from ROW	from Side Lot Line
(a) Freestanding Signs					
B-1, B-2 and B-3 Districts	1/zoning lot <sup>(1)</sup>	30 sq ft per first 100 feet of street frontage plus fifteen-hundredths (.15) sq. ft. for each additional foot of frontage, with a maximum area of 100 sq. ft. per face.	8 ft	5 ft	15 ft <sup>(2)</sup>
(b) Entrance/Exit Signs	2 per driveway (1 in, 1 out)	3 sq ft	3 ft	Not less than 2 ft. nor more than 10 ft.	--
(c) Instructional Signs	Shall be exempt from regulations pursuant to Section 1151.02 (c) (7).				
Notes to Schedule 1151.05(e)					
(1) Except as otherwise permitted in Section 1151.05(h).					
(2) Minimum setback from a property zoned R-1 and/or R-2 shall be 25 feet.					

(f) Supplemental Regulations for Permanent, Freestanding Signs.

(1) Additional Freestanding Signs for Large/Corner Lots. The number of freestanding signs on large or corner lots may be increased according to the following:

- A. One (1) additional sign for each two-hundred (200) ft. of frontage above four hundred (400) lineal feet of frontage shall be permitted;
- B. The area of each additional freestanding sign shall comply with Schedule 1151.05 (e);
- C. Two permitted, freestanding signs may be aggregated into a single sign, at the intersection of two streets, provided that the area of any freestanding sign face shall not exceed 150 percent of the maximum area permitted for a single sign; and,
- D. Notwithstanding any provision of this Section, the area of any freestanding sign shall not exceed 125 square feet.

- (2) Minimum Separation of Freestanding Sign. Freestanding signs on the same lot shall be separated by a minimum of 200 feet, as measured along the street right-of-way line. For corner lots, both sides of the intersection shall be used in measuring spacing.
  - (3) Minimum Sign Setback from Intersection. On corner lots, freestanding signs shall comply with the minimum sign setback from both street rights-of-way, as set forth in Schedule 1151.05(e) or the setbacks mandated by Section 1157.11, Visibility at Intersections, whichever is more.
  - (4) Landscaping. Freestanding signs shall be erected in a landscaped setting and not on sidewalks, drives or in parking lots. Neither the landscaping nor the freestanding sign shall obstruct the view of vehicles entering or exiting the property.
  - (5) Multi-Occupant Facilities. When a freestanding sign is permitted on a site that has more than one occupant, it is the property owner's responsibility to determine if the sign area shall be devoted to identification of the building(s), the anchor occupant, all occupants, or some combination thereof.
- (g) Temporary Signs In Nonresidential Districts. The following regulations for temporary signs in non-residential districts are in addition to the maximum sign area and height regulations set forth in Section 1151.05.
- (1) Project Real Estate/Construction Signs. A project real estate or construction sign for a development project shall be permitted only in compliance with the following:
    - A. One project real estate or construction sign shall be permitted for each street on which the lot has frontage.
    - B. Such sign shall be located a minimum of fifteen (15) feet from any street right-of-way.
    - C. A project real estate or construction sign shall be erected and maintained only during the period of time that the parcel is up for sale, rent, or lease or the building project is under construction. If applicable, such temporary sign shall be removed within two (2) business days of installation of the permanent identification sign.
    - D. The maximum sign area shall be thirty-two (32) square feet.
  - (2) Temporary Window Signs. Temporary window signs shall be attached to the interior of the building and shall comply with the following:

- A. The area of temporary window signs, either affixed thereto or visible from the outside, shall not exceed the percentage of the window area as set forth in **Section 1151.05 (c)(1)**. This area is in addition to the allowable sign area for identification signs that are permanently attached to windows.
  - B. All temporary window signs shall be displayed no longer than 30 days after placement, after which time such sign shall be removed. Temporary window signs shall only be displayed a maximum of four (4) times in a calendar year.
- (3) **Other Temporary Signs.** A temporary sign, whether a freestanding sign or a banner attached to the front of the building, shall be permitted for a period not to exceed fourteen (14) days not more than four (4) times per calendar year. Such signs may be permitted for a period longer than fourteen (14) days only when the Architectural Board of Review approves an extended time frame.

The maximum area for freestanding or banner signs shall be sixteen (16) square feet. The maximum height for temporary, freestanding signs shall be six (6) feet.

- (4) **Setbacks.** All temporary freestanding signs shall be located no closer than fifteen (15) feet from the street right-of-way line and fifteen (15) feet from a side lot line, unless specifically regulated otherwise.

**1151.06 PROHIBITED SIGNS.**

All signs not expressly permitted in this Chapter shall be prohibited in the City. Such signs include but are not limited to the following:

- (a) Animated, flashing, moving, blinker, racer type, intermittent, rotating, moving, animated, or revolving signs, whirligig devices, inflatable signs and tethered balloons, pennants, ribbons, streamers, spinners, exposed light bulbs, and strings of lights not permanently mounted to a rigid background, and other similar types of attention-getting devices, except those exempt under **Section 1151.02 (c)**;
- (b) Billboards;
- (c) Flags intended for advertising or commercial purposes;
- (d) Ghost signs;
- (e) Merchandise, equipment, products, vehicles or other items not themselves for sale or rent and placed for attention getting, identification or advertising purposes;

- (f) Permanent signs erected or attached to accessory structures, including outdoor furniture, benches, tables, chairs;
- (g) Pole signs;
- (h) Signs or advertising devices which attempt, or appear to attempt, to direct the movement of traffic, or which interfere with, imitate or resemble an official sign, signal or device;
- (i) Signs containing information or advertising for any product not sold or produced on the premises or for any use that does not occur on the premises;
- (j) Roof sign; and
- (k) Streamer signs.

**1151.07 DESIGN CRITERIA.**

In addition to ensuring compliance with the numerical standards of these regulations, the Architectural Board of Review shall consider the proposed general design arrangement and placement of the sign according to the following criteria:

- (a) All Signs.
  - (1) The lettering shall be large enough to be easily read but not overly large or out of scale with the building or site.
  - (2) The sign should be consolidated into a minimum number of elements.
  - (3) The ratio between the message and the background shall permit easy recognition of the message.
  - (4) The size, style and location of the sign shall be appropriate to the activity of the site.
  - (5) The sign shall complement the building and adjacent buildings by being designed and placed to enhance the architecture of the building.
  - (6) Signs shall be designed with a limited number, and harmonious use of colors.
  - (7) Signs, if seen in a series, shall have a continuity of design with the style of sign generally consistent throughout the building or block.

- (8) Instructional signs shall contain the minimum information, and the minimum area, necessary to convey the message and instruct the viewer in the safe and efficient use of the facility.

(b) Construction Standards.

- (1) The construction, erection, safety and maintenance shall comply with all applicable building codes.
- (2) All signs shall be constructed in a professional manner in conformance with the appropriate building code and other applicable requirements of the City and shall be structurally sound.
- (3) All signs shall be located and secured so as to pose no threat to pedestrian or vehicular traffic.
- (4) Permanent signs shall be fabricated on and of materials that are of good quality and good durability.
- (5) Any glass forming any part of any sign shall be safety glass. Where a single piece of glass has an area exceeding three (3) square feet, it shall be wire glass.
- (6) Electric signs and all permanent signs involving structural requirements of the applicable building code shall be installed, repaired, altered and serviced only by a contractor licensed to perform such tasks. Wiring supplying electricity to signs shall be installed underground.
- (7) No sign shall be erected so as to project over or obstruct any window, door, fire escape, balcony, platform, stairway, ladder, vent or other means of ingress of any building.
- (8) No sign shall be attached to a utility pole, tree, trash receptacle, bench or other structure not intended or approved as a sign support.
- (9) Temporary signs shall be durable and weather-resistant, and fastened or anchored sufficiently, whether attached to the building or positioned in the ground.
- (10) No sign regulated by any of the provisions of this section shall be erected in the right-of-way or at the intersection of any streets in such a manner as to obstruct free and clear vision, or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device, or which makes use of the words "STOP", "LOOK", "DANGER" or any other

word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic.

- (11) In the event there is a conflict between the provisions of this section and the provisions of any applicable building codes, the provisions of the applicable building code shall govern.

(c) Maintenance. All signs shall be maintained in accordance with the following:

- (1) The property owner, occupant or other person responsible for the sign shall maintain the sign in a condition fit for the intended use and he/she shall have a continuing obligation to comply with all applicable building code requirements.
- (2) If the Zoning Administrator or Building Inspector finds that any sign is unsafe, insecure, a menace to the public, or constructed, erected, or maintained in violation of the provisions of this Code, notice shall be given in writing by the Zoning Administrator to the owner. The owner of the sign shall, within seventy-two (72) hours of such notification, correct such unsafe condition or remove the sign. If the correction has not been made within the allotted seventy-two hours, the sign may be removed or altered by the City to comply with these regulations at the expense of the owner or occupant of the property upon which the sign is located. The Zoning Administrator or designated agent may cause any sign, which, in the City's opinion, creates a danger to persons or property to be removed immediately and without notice.
- (3) Whenever any sign, either conforming or non-conforming to these regulations, is required to be removed for the purpose of repairing, refurbishing or repainting, the same may be done without a permit or any payment of fees provided that all of the following conditions are met:
- A. There shall be no alteration or remodeling to the sign base or sign support(s) of the mounting of the sign itself.
  - B. There shall be no enlargement or increase in any of the dimensions of the sign or its structure.
  - C. The sign shall be accessory to a legally permitted, conditional or non-conforming use.
- (4) The Zoning Administrator may order any sign to be painted or refurbished whenever needed to keep the sign in a neat and safe condition. All supporters, guys, braces and anchors for such signs shall be maintained in a safe condition.

- (5) The face of any permanent sign which advertises a business that has not been conducted on the premises for 180 consecutive days, or fails to serve the purposes for which it was intended, or evidences a lack of maintenance, shall be removed by the owner, agent or person having the beneficial use of the building, structure or land upon which such sign is located, within ten (10) business days after written notice by the Zoning Administrator, and the sign area shall be replaced by a neutral, single background color panel or similar cover. If the sign is comprised of individually raised letters, the letters shall be removed so as to be in compliance with Section 1151.06 (d). Upon failure to comply with such notice within the time specified in such order, the Zoning Administrator or designated agent is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the property on which the sign is located.
- (d) Illumination. Signs shall be permitted to be illuminated in compliance with the following:
- (1) Light sources shall be shielded from all adjacent buildings and streets.
  - (2) Lights shall not be of such brightness so as to cause glare that is hazardous to pedestrians or motorists, or cause reasonable objection from adjacent residential districts.
  - (3) Signs shall not include flashing, moving, or intermittent lighting in which any part of the message changes at a rate of more than once every 10 seconds.
  - (4) The illumination of signs shall not obstruct traffic control or any other public informational signs. Signs visible from sight lines along streets shall not contain symbols or words, or red and green lights that resemble highway traffic signs or devices.
  - (5) In Single-family Residential Districts, temporary signs shall not be illuminated.

**1151.08 REGULATIONS FOR NONCONFORMING SIGNS.**

- (a) Maintenance of Nonconforming Signs. Nonconforming signs shall be maintained in good condition in accordance with the requirements of this Section.
- (b) Alteration, Relocation or Replacement of Nonconforming Signs. A nonconforming sign shall not be structurally altered, relocated, or replaced unless

it is brought into compliance with the provisions of this Chapter, except as otherwise permitted in this Chapter.

- (c) **Reconstruction of Damaged Sign.** If a sign face and/or its support is damaged to the extent where the repair cost exceeds 50% of the replacement cost of the sign, the sign shall be removed or brought into compliance with this Chapter. If the repair costs do not exceed 50% of the replacement cost of the sign, the sign may be repaired, subject to approval by the Architectural Board of Review.
- (d) **Termination.** A legal nonconforming sign shall immediately lose its legal nonconforming status, and therefore shall be brought into conformance with this Chapter or removed, when any of the following occur:
  - (1) The size or shape of the sign is changed; or
  - (2) The building to which the sign is accessory is renovated or remodeled to the extent that more than 50% of the gross floor area is removed or replaced, or otherwise affected by renovation or remodeling; or
  - (3) The building is expanded and the total sign area permitted for the expanded building is more than 50% greater than the existing sign area; or
  - (4) When **seven (7) years** have elapsed from the effective date of this provision, which effective date is May 25, 2006.

**1151.09 ADMINISTRATIVE PROCEDURES.**

No person shall erect, locate, move, alter, or replace any sign or cause a sign to be located or maintained, unless all provisions of this Chapter have been met.

- (a) **Signs Requiring a Permit.** The following signs shall require a permit prior to the erection or alteration of the sign.
  - (1) The Architectural Board of Review shall review and act on sign applications for the following signs according to the design and construction criteria set forth in **Section 1151.07**. If the Architectural Board of Review approves the sign application, the Zoning Administrator shall issue the sign permit.
    - A. Permanent, building signs;
    - B. Entrance and Exit signs;
    - C. Permanent, freestanding signs; and,
    - D. Building markers exceeding four (4) square feet

- (2) The Zoning Administrator shall review and act on applications for the following signs according to the design and construction criteria set forth in **Section 1151.07**.
  - A. Building markers less than four (4) square feet;
  - B. Temporary signs for uses other than those listed in **subsection (b)** below; and,
  - C. Instructional signs.
- (b) Signs Not Requiring Permit. The erection of the following signs shall not require a permit provided that all applicable regulations of this Chapter are complied with:
  - (1) Nameplates;
  - (2) Temporary signs for single-family detached, single-family attached, and two-family dwellings; and,
  - (3) Maintenance of existing signs in compliance with **Section 1151.07(c)**.
- (c) Application Requirements. An application for a sign shall be made to the Zoning Administrator. The application shall include two (2) copies; one (1) copy depicting the actual colors of the building and sign, either drawing or photo, with the second copy at eight and one half by eleven (8 ½ x 11”) size and suitable for reproduction. The application shall present the sign in a manner which best illustrates how the sign shall be experienced by the public after it is erected on the site. Specifically, the application shall include:
  - (1) A photograph and site plan showing the location of the sign and its relationship to the building, the building setbacks and lot width, the locations and square footage areas of all existing signs on site, the adjacent parcels and parking lots, drives and sidewalks;
  - (2) Detailed drawings showing the design of the sign, including size, content, style of lettering, logo and other graphic features, colors of the applied lettering and background, materials of the sign and the frame or structure, and approximate weight of the sign; and
  - (3) Construction, erection or fastening details, including wattage of electric lamps or illuminating tubes, if applicable.
  - (4) A permit fee for each sign application, as established by City Council.

When any person other than the owner of the property submits a sign application, the owner of the property or a designated agent for the owner shall also sign such application.

- (d) Permit Issuance. The Zoning Administrator shall be responsible for the issuance of a sign permit when it is determined that all applicable provisions of this chapter have been met by the applicant.
- (e) Term of Permit. The sign permit issued pursuant hereto shall be valid so long as the owner complies with the terms and conditions of this Planning and Zoning Code or any amendment thereto.
- (f) Permit Fee. Council shall by ordinance establish a schedule of fees related to sign permit administration. The schedule of fees shall be available at the office of the Zoning Administrator. No sign permit will be approved until all appropriate fees have been submitted.
- (g) Inspection. Prior to installation, all signs are subject to inspection, whether a permit is required or not.
  - (1) The Zoning Administrator or any other official of the City is hereby authorized to enter upon any property or premise to determine if the provisions of this Chapter are being complied with. Such inspection may be made at any reasonable time.
  - (2) The Zoning Administrator may order removal of any sign that is not maintained in accordance with the provisions of this chapter.
- (h) Removal. When a sign is removed for any reason, a new permit for future installation of the sign shall be obtained, and all mast arms, guys of any nature, clips, brackets, and all structures of the old sign shall be removed with the sign.

#### **1151.10 COMPREHENSIVE SIGNAGE PLAN**

Comprehensive Signage Plan: A comprehensive signage plan or set of graphic design criteria shall control all future signage at all new or substantially renovated or remodeled existing multi-tenant buildings and development projects such as shopping centers and business complexes. For the purposes of this subsection, substantially renovated shall mean more than 50% of the gross floor area is removed or replaced, or otherwise affected by the renovation or remodeling

- (a) Submission Requirements. A comprehensive signage plan shall be required for all said centers or complexes, and an agreement shall be made to incorporate design criteria requirements in all future relationships, contractual or otherwise, with tenants and other parties desiring signage at the subject center or complex.

- (1) A comprehensive signage plan shall be required for all said centers or complexes, and an agreement shall be made to incorporate design criteria requirements in all future relationships, contractual or otherwise, with tenants and other parties desiring signage at the subject center or complex.
  - (2) Existing signage will be permitted to remain as long as the same tenant is in the same location. If the existing tenant wishes to change said sign in any way, or a new tenant occupies the location, then the sign shall conform to the on-site comprehensive signage plan.
  - (3) When more than one use or business is located on a parcel or within a complex that functions as a shopping center or business complex, the overall signage plan for the lot or center, or complex shall provide for consistency among signs on the premises with regard to the following: material, location of each sign on the building(s); sign proportions; color schemes; lettering or graphic style; lighting; area allocated to each tenant.
  - (4) When a comprehensive signage plan is submitted, such plan shall indicate nonconforming signs to the required plan. If the total existing signage exceeds the total permitted signage under the new regulations, a new or replacement tenant would be allowed its share of signage based on the approved common signage plan.
- (b) Approval. The Architectural Board of Review shall review and act on a comprehensive signage plan according to the design and construction criteria set forth in Section 1151.07 and the review procedures for development plan review set forth in Chapter 1111, prior to the issuance of any sign permits.

**TITLE ELEVEN**  
**SUPPLEMENTAL DEVELOPMENT STANDARDS**

**CHAPTER 1153**  
**Off-Street Parking and Loading Regulations**

1153.01	Purpose.	1153.09	Parking Spaces for Persons With Disabilities
1153.02	Parking Facilities Required.	1153.10	Parking Design Standards.
1153.03	Units of Measure.	1153.11	Regulations for Access Drives.
1153.04	Off-Street Parking Standards.	1153.12	Off-Street Loading Requirements.
1153.05	Allowance for Shared Parking.	1153.13	Improvement and Maintenance Standards.
1153.06	Deferred Construction of Required Spaces.	1153.14	Parking Lot Landscaping and Screening.
1153.07	Location of Required Parking Spaces.	1153.15	Development Plan Review.
1153.08	Off-Street Waiting Spaces for Drive-Thru Facilities.		

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**1153.01 PURPOSE.**

Off-street parking regulations are established to achieve, among others, the following:

- (a) To relieve congestion so streets can be utilized more fully for movement of vehicular traffic;
- (b) To promote the safety and convenience of pedestrians and shoppers by separating parking areas and extensive car movements in the vicinity of pedestrian ways;
- (c) To protect adjoining residential neighborhoods from on-street parking;
- (d) To promote the general convenience, welfare and prosperity of residential, business, service and manufacturing developments which depend on off-street parking facilities; and,
- (e) To provide regulations and standards for the development of accessory off-street parking and loading facilities in accordance with objectives of the Master Plan and codes of the City.

**1153.02 PARKING FACILITIES REQUIRED.**

Accessory off-street parking facilities, including access driveways, shall be provided prior to the occupancy of a building or use. Facilities shall be provided for the entire building or use in accordance with the regulations contained in this Chapter whenever:

- (a) A building is constructed or a new use is established.
- (b) The use of an existing building is changed to a use requiring more off-street parking facilities.
- (c) An existing building is altered and there is an increase in seating capacity, floor area of the building, or number of employees.

**1153.03 UNITS OF MEASURE.**

In computing the number of parking spaces required by this Planning and Zoning Code, the following rules shall apply:

- (a) Floor Area. Where floor area is designated as the standard for determining parking space requirements, gross floor area shall be used, unless specifically noted otherwise.
- (b) Seats. Where seating capacity is the standard for determining parking spaces, the capacity shall mean the number of seating units installed or indicated, or one seat for each 24 lineal inches of benches or pews. When fixed seats are not indicated, the capacity shall be determined as being one seat for each 20 square feet of floor area of the assembly room.
- (c) Employees. Where employees are the standard for determining parking space requirements, employees shall mean the maximum number of employees on any two successive shifts.
- (d) Fractional Numbers. Where the computation results in a fractional unit, one additional off-street parking space shall be provided.
- (e) Parking for Mixed Uses. Where a building or group of buildings contains two (2) or more uses, normally operating during the same hours, the number of parking spaces for each use shall be computed separately and the total spaces provided shall not be less than the sum of the spaces required for each use, except as otherwise provided for in this Chapter.

**1153.04 OFF-STREET PARKING STANDARDS.**

The number of off-street parking spaces for each facility or use shall be determined by application of the standards set forth in [Schedule 1153.04](#). For a use not specified in this

Schedule, the Planning and Zoning Commission shall apply the standard for a specified use that the Commission determines to be most similar to the proposed use.

**Schedule 1153.04  
Required Off-Street Parking Spaces**

<u>Principal Building or Use</u>	<u>Minimum Spaces Required</u> <sup>(1)</sup>
<b>(a) Residential Uses:</b>	
(1) Single-family detached dwelling	2 enclosed parking spaces per dwelling unit
(2) Single-family attached dwelling (townhouse)	2 parking spaces per dwelling unit, 1 enclosed
(3) Two-family dwelling	2 parking spaces per dwelling unit, 1 enclosed
(4) Upper floor apartments in Commercial Districts	1 space per dwelling unit
(5) Multi-family dwelling	2 spaces per dwelling unit, plus parking for visitors at the rate of 1 space for every 4 dwelling units
(6) Congregate care facilities, nursing home	1 space per 2 beds of maximum capacity
(7) Adult care facility & residential facility	1 space per 2 beds of maximum capacity
<b>(b) Community / Educational Facilities</b>	
(1) Auditorium, assembly hall, membership club, conference center	1 space for every 4 seats in assembly hall, plus 1 space per 50 square feet in dining room
(2) Church or other place of worship	1 space for every 4 seats in principal meeting room
(3) Elementary, junior high,	2 spaces per classroom plus 1 space for every 4 seats in the largest auditorium or assembly room
(4) High school	1 space for every teacher, employee and administrator, plus 1 space per 7 students, plus 1 space for every 4 seats in the largest auditorium or sports arena
(5) Kindergarten, nursery school, child or adult day care center	2 spaces per classroom but not less than 6 spaces for the building
(6) Library, cultural institution, or similar public building	1 space per 250 square feet of floor area
(7) School, commercial, business, or trade	1 space for every 3 students
(8) Studios for instruction	1 space for every 3 students
<b>(c) Office, Professional Services</b>	
(1) Banks, financial institutions	1 space per 250 square feet of floor area
(2) Business, professional and administrative	1 space per 300 square feet of floor area

<b><u>Principal Building or Use</u></b>	<b><u>Minimum Spaces Required</u></b> <sup>(1)</sup>
offices (excluding medical and dental)	
(3) Hospital	1½ space for every 2 beds
(4) Scientific research, development, training and testing facilities	1 space per 400 square feet of floor area
(5) Medical, dental office and/or clinic, including urgent care clinic	1 space per 200 square feet of floor area
<b>(d) <u>Restaurants/Retail/ Personal Services</u></b>	
(1) Beauty, barber and nail shops	2 spaces per beauty, barber or nail chair
(2) Commercial plant nursery, greenhouse	1 space per 400 square feet of sales floor area
(3) Funeral home	1 space per 50 square feet of floor area of sitting or service rooms, plus one space for each vehicle maintained on the premises
(4) Hotel, motel, bed & breakfast establishment	1¼ space per guest room or unit
(5) Hotel retail shop, dining room or meeting room	1 space per 125 square feet of floor area
(6) Restaurant (including bars/taverns)--Table Service	1 space per 50 square feet of floor area, or 1 space for every 2 seats, whichever is greater
(7) Retail store	1 space per 250 square feet of floor area
(8) Service establishment, business	1 space per 250 square feet of floor area
(1) Service establishment, personal (except as otherwise regulated in this Section)	1 space per 250 square feet of floor area
(9) Veterinary office, animal hospital, and kennel	1 space per 400 square feet of floor area
(10) All other commercial uses	1 space per 250 square feet of floor area
<b>(e) <u>Entertainment – Recreation</u></b>	
(1) Bowling alley	4 spaces per bowling lane, plus 1 space per 100 square feet of floor area used for a restaurant or lounge
(2) Commercial recreation, indoor (theaters, sports arenas, dance halls)	1 space for every 4 seats, plus 1 space per 50 square feet of floor area used for a restaurant
(3) Commercial recreation, outdoor	1 spaces per 250 square feet of recreation area
(4) Golf course	6 spaces per hole, plus 1 space per every 2 seats in restaurant area
(5) Health club	1 space per 200 square feet of exercise area, including locker and equipment rooms

<u>Principal Building or Use</u>	<u>Minimum Spaces Required</u> <sup>(1)</sup>
(6) Miniature golf	2 spaces per hole
(7) Skating rink	1 space per 100 square feet of floor area (including lounging and spectator area)
(8) Swimming pools (not associated with residences)	1 space for every 5 persons based on pool capacity
(9) Tennis Courts	4 spaces per court
<b>(f) <u>Automotive Uses</u></b>	
(1) Automotive service station	2 spaces per service bay
(2) Car wash	1 space for every employee
(3) Gasoline station/pumps	1 space per employee
(4) Sales, service, repair and/or storage of farm implement, construction equipment, recreation vehicles, or other large equipment	1 space per 400 square feet of floor area of sales room, plus 2 spaces for each service bay
(5) Vehicle repair garage, motor vehicle body shop	2 spaces per service bay
<b>(g) <u>Warehousing and Manufacturing Uses</u></b>	
(1) Distribution, warehouse facility, and wholesale businesses	1 space per 800 square feet of floor area
(2) Light manufacturing, assembly	1 space per 400 square feet of floor area
(3) Self-storage facility, indoor	1 space per 400 square feet of floor area
(4) Transport and truck terminal	1 space for every 2 employees
(5) All other industrial uses	1 space per 400 square feet of floor area.
<sup>(1)</sup> A minimum of five (5) spaces is required for each facility other than a single-family detached dwelling, single-family attached dwelling or two-family dwelling.	

**1153.05 ALLOWANCE FOR SHARED PARKING.**

Parking spaces that are designed and developed to comply with the requirements for one building or use shall not be counted as fulfilling the parking requirement of another building or use except as specifically permitted in this Section. The Planning and Zoning Commission may approve a development plan with a reduction in the number of parking spaces required if it can be shown that the lesser number of spaces is appropriate and consistent with these regulations and when it is determined that:

- (a) In a project with more than one use or a single-use project for which the different components of the use have varying peak demands, the uses can be adequately

accommodated with a lesser number of parking spaces than that which is required based on the sum of the various uses computed separately.

- (b) The required parking spaces for a proposed use can be accommodated on an adjacent or nearby site in compliance with **Section 1153.07** (d), Location of Required Parking Spaces, provided that binding, recorded agreements are made between the business owners and property owners of uses that are not normally open, used or operated during the same hours to ensure the perpetual joint use and maintenance of such shared parking areas and the continuance of such upon transfer of ownership. The binding agreement shall specify the parking spaces that shall be shared. In such case, not more than 50 percent of the required parking spaces shall be shared.

#### **1153.06 DEFERRED CONSTRUCTION OF REQUIRED SPACES.**

If the number of parking spaces required in **Schedule 1153.04** is substantially larger than the number anticipated by the applicant and the applicant provides sufficient evidence that supports the reduced parking needs, a development plan may be approved with an allowance for the construction of a lesser number of parking spaces provided that:

- (a) The total number of spaces initially constructed shall not be less than 70 percent of the spaces required by **Schedule 1153.04, Required Off-street Parking Spaces**.
- (b) Suitable area(s) are reserved for the construction of the balance of the total number of spaces otherwise required by **Schedule 1153.04**. Such suitable areas shall be illustrated on the development plan in locations and with landscaping in full compliance with this Planning and Zoning Code. Such areas shall not be counted towards any open space requirement set forth in this Planning and Zoning Code.
- (c) The Planning and Zoning Commission, upon reevaluation of the project's parking needs, may at any time direct that some or all of the parking spaces identified in **subsection (b)** be constructed.
- (d) Any additional parking shall be provided according to the approved development plan.

#### **1153.07 LOCATION OF REQUIRED PARKING SPACES.**

In addition to specific requirements contained in each district regulation, the location of off-street parking facilities shall further be regulated according to the following provisions:

- (a) Single-Family Detached and Two-family Dwellings. Off-street parking spaces required for dwelling units shall be located on the same lot as the dwelling unit served.
- (b) Single-Family Attached Dwelling/Townhouses. One (1) of the two (2) required off-street parking spaces required for a dwelling unit shall be located on the same lot as the dwelling unit served.
- (c) Multi-Family, High-Rise and Upper Floor Apartment Dwellings. All required off-street parking spaces shall be located on the same zoning lot and within 400 feet walking distance of the entrance to the building for which the parking spaces are intended to serve. Required guest parking in a multi-family development shall be equally distributed throughout the development.
- (d) All Districts. All required off-street parking spaces shall be located on the same lot as the use served, unless otherwise stated in this Chapter. If the parking spaces required in **Schedule 1153.04** cannot reasonably be provided on the same lot on which the principal use is conducted, the Planning and Zoning Commission may permit such spaces to be provided on other off-street property, provided that such spaces shall be within 400 feet walking distance, measured along the route of public access to the property, of a public entrance to such principal use and use of the off-street parking spaces are secured according to **Section 1153.05 (b)**.
- (e) Access. All required off-street parking spaces shall have direct access to an aisle or driveway without the need to move any other vehicle, except as otherwise specifically permitted in this Chapter.
- (f) Parking in Designated Areas Only. Any vehicle customarily or seasonally parked on any lot shall be so parked only in parking areas specifically constructed for such purposes, and shall not be parked on tree lawns, sidewalks, lawns or other areas required by this Code to be landscaped.
- (g) Areas Computed as Parking Spaces. Areas that may be computed as open or enclosed off-street parking spaces include any private garage, carport or other area available for parking, other than a street or driveway, except as specifically permitted below:
  - (1) For a single family attached dwelling/townhouse or a two-family dwelling, a driveway in the front or side yard shall be permitted to compute as a eligible parking space up to a maximum of one (1) parking space per dwelling unit.
  - (2) In a multi-family development, any dwelling unit that has its own separate and individual private driveway shall be permitted to compute as eligible

those parking spaces located in the private driveway, up to a maximum of two parking spaces per dwelling unit.

**1153.08 OFF-STREET WAITING SPACES FOR DRIVE-THRU FACILITIES.**

Drive-thru establishments and other establishments which, by their nature, create lines of customers waiting to be served within automobiles shall provide off-street waiting areas, on the same lot as the use, in addition to the required number of parking spaces specified in **Schedule 1153.04**, in accordance with the following:

(a) Minimum Number of Waiting Spaces:

(a) Establishments serving and/or selling food and/or drinks:	Six (6) waiting spaces per drive-thru window as measured from the order board or station
(b) Automatic car wash facilities where a chain conveyor or other similar method is used to move the vehicle through the structure:	Five (5) waiting spaces
(c) Facilities with service windows or service entrances such as banks, ticket booths, drive-up ATM machines and other similar facilities:	Four waiting spaces for the first drive-thru window or stall and two (2) waiting spaces for each additional window or stall
(d) Self-serve car wash facilities:	Four (4) waiting spaces per stall
(e) Gasoline stations:	Two (2) waiting spaces per accessible side of a gasoline pump island
(f) All other uses	Three (3) waiting spaces for each window or stall

(b) Vehicles Prohibited within the Public Right-of-Way. In any case, vehicles shall not be permitted to wait within the public right-of-way for service at such drive-in or drive-thru facilities.

(c) Waiting Space Dimensions. Each off-street waiting space shall have an area not less than 144 square feet (measuring 8 feet by 18 feet) exclusive of access drives and parking aisles and shall not interfere with parking or circulation.

**1153.09 PARKING SPACES FOR PERSONS WITH DISABILITIES.**

In accordance with the Americans with Disabilities Act (ADA) of 1990, all new construction and alterations to places of public accommodation and commercial facilities shall

provide parking spaces that are designed and constructed to be readily accessible to persons with disabilities.

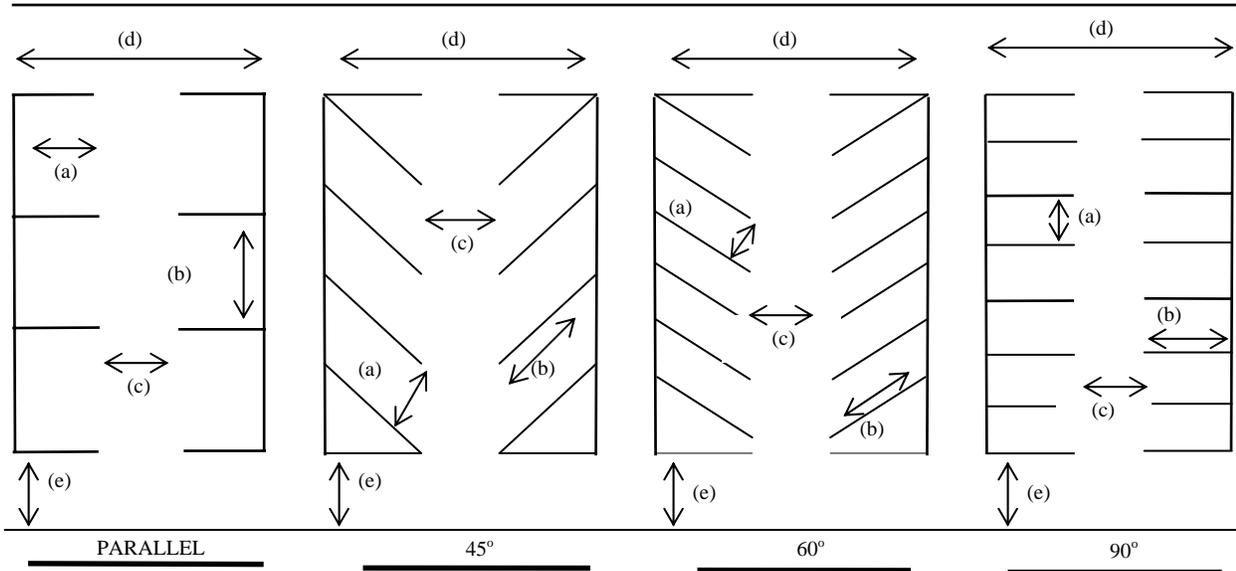
**1153.10 PARKING DESIGN STANDARDS.**

Off-street parking area shall be designed and constructed in accordance with the following minimum dimensions set forth in **Schedule 1153.10**, based on the angle of the spaces. **Figure 1153.10** illustrates the requirements for each angle scenario.

**Schedule 1153.10  
Minimum Dimensions for Parking Areas**

	<b>45°</b>	<b>60°</b>	<b>90°</b>	<b>PARALLEL</b>
(a) Width of Parking Space	9 ft.	9 ft.	9 ft.	9 ft.
(b) Length of Parking Space	20 ft.	20 ft.	20 ft.	23 ft.
(c) Width of Parking Aisle*	18 ft.	20 ft.	22 ft.	12 ft.
(d) Width of Double-Loaded Parking Module when Spaces Interlock	58 ft.	60 ft.	62 ft.	30 ft.
(e) Width of Circulation Aisle	17 ft.	14 ft.	14 ft.	14 ft.
<p><u>Note to Schedule 1153.10:</u> *Parking aisles having a width less than 22 feet shall be one-way aisles.</p>				

**Figure 1153.10  
Illustration of Minimum Parking Design Standards**



**Notes to Figure 1153.10:**

- (a) Width of parking space.
- (b) Length of parking space.
- (c) Width of parking aisle.
- (d) Width of double-loaded parking module when spaces interlock
- (e) Width of circulation aisle

**1153.11 REGULATIONS FOR ACCESS DRIVES.**

All accessory parking spaces shall have vehicular access to a street or alley. Access drives to major streets shall be designed in the interest of public safety and located so that vehicles can safely enter and leave the facility. The location, width, and number of entrance and exit access drives to accessory parking spaces shall be in accordance with the following:

- (a) **Location.** The location and width of entrance and exit driveways to parking facilities shall be planned to interfere as little as possible with the use of nearby property and with pedestrian and vehicular traffic on the nearest streets.
  - (1) Access driveways shall be located at least fifty (50) feet from the right-of-way line of the nearest intersecting street.
  - (2) No access drive shall be within 300 feet, measured along the road centerlines from the outermost freeway ramp right-of-way to the first access drive.
  - (3) The minimum distance between non-residential access drives, on adjacent parcels, shall be as set forth in **Schedule 1153.11** below, as measured from centerline to centerline. The Planning and Zoning Commission may grant

an exception to the regulations in Schedule 1153.11 when the Commission determines that reduced spacing will not impair public safety or the management of traffic on abutting roadways. In granting this exception, the Planning and Zoning Commission may require the property owner to enter into a recorded agreement with the City that pre-existing access points to the site will be closed and eliminated after the completion of a joint access driveway with an adjacent parcel.

**Schedule 1153.11**  
**Minimum Spacing between Non-residential Access Drives**

<b>Posted Speed Limit (MPH)</b>	<b>Minimum Spacing (in feet)</b>
25	125
30	155
35	185
40	225
45+	300

(b) Number of Drives.

- (1) Each parcel shall have not more than two access drives from each abutting street unless otherwise permitted below.
- (2) One additional access drive may be permitted for lots that have 200 or more feet of frontage on one street.
- (3) The Planning Commission may permit an additional access drive for lots that have more than 500 feet of frontage when the Commission determines that such additional drive will improve public safety and/or the management of traffic.
- (4) Insofar as practical, the use of common drives by two (2) or more uses shall be encouraged to reduce the number of such highway access points.

(c) Width of Access Drives.

- (1) The width of such entrance and exit lanes shall be not less than nine (9) feet or more than 12 feet per lane and shall not exceed a total of 36 feet.
- (2) Entrances and exits shall be limited to two (2) lanes, except where one driveway provides the sole access to the property and serves as both an entrance and exit, and then it shall be limited to three (3) lanes.

- (d) Radius. The radius of the edge of the access drive apron shall be at least 30 feet so that a vehicle may enter from or exit onto the curb lane without obstructing vehicles in other traffic lanes.

**1153.12 OFF-STREET LOADING REQUIREMENTS.**

Off-street loading spaces when provided, shall be maintained for business, commercial and industrial buildings in compliance with the following regulations:

- (a) All loading spaces shall be located on the same lot as the use served and no part of any required setback, off-street parking area, or access drive thereto, shall be used for loading or unloading purposes.
- (b) Off-street loading spaces shall not be used, designed, intended or constructed to be used, in a manner so as to obstruct or interfere with the free use of any street, alley or adjoining property.
- (c) Access to truck loading and unloading space shall be provided directly from any public street or alley or from a right-of-way that will not interfere with public convenience and that will permit the orderly and safe movement of trucks.
- (d) Streets, sidewalks, alleys or other public rights-of-way or other public property shall not be used for loading purposes nor shall vehicles be parked on such areas during loading and unloading.
- (e) Off-street loading facilities shall be located in compliance with the principal building setback requirements.
- (f) Loading spaces shall not be used for repairing or servicing or motor vehicles.
- (g) Off-street loading spaces shall be in addition to and not considered as meeting a part of the requirements for off-street parking spaces.
- (h) Each off-street loading space shall have the minimum dimensions of 12 feet in width, 50 feet in depth and 15 feet in height.

**1153.13 IMPROVEMENT AND MAINTENANCE STANDARDS.**

All driveways, parking areas, curbs, and bumper guards shall be constructed in accordance with standards established by the City Engineer and the following:

- (a) Paving. All parking and loading areas and access drives, with the exception of driveways accessing single-family detached dwellings, shall be bituminous, concrete or a similar hard surface approved by the City Engineer. Such paving material and base materials related thereto, shall be capable of supporting all

anticipated loads without damage. The owner shall, at his/her own expense, maintain the surface in a smooth and dust-free condition and repair any disintegration of the surface by patching or sealing when such disintegration takes place.

- (b) Drainage. Parking areas shall be graded, drained and provided with adequate drainage facilities so that adjacent properties and rights-of-way, including public sidewalks, shall not be subject to flooding by run-off water from the proposed parking area.
- (c) Illumination in Open Areas. Parking areas shall be illuminated whenever necessary to protect the public safety. Light sources shall be designed and located in compliance with the regulations set forth in Chapter 1157, General Use Regulations.
- (d) Curbs and Wheel/Bumper Guards. Appropriate bumper guards or barrier curbs shall be provided in order to define parking spaces, access drives or limits of paved areas, contain the cars on sloping surfaces, and to prevent bumper overhang or other encroachment into required yards, walkways, aisles or spaces.
- (e) Marking. Any off-street parking area for five (5) or more parking spaces shall indicate the location of each parking space, the location of spaces for persons with disabilities, and the location and direction or movement along the aisles and access drives providing access thereto by painting upon the surface, by raised directional signs, or by markers or other similar measures placed in the surface.
- (f) Signs. Signs shall be provided in accordance with Chapter 1151, Sign Regulations.
- (g) Maintenance. A parking area or loading space shall be maintained in a manner to keep it as free as practicable from rubbish, paper and other loose particles, and snow and ice shall be promptly removed by the operator. All adjacent sidewalks shall be kept free from dirt, ice, sleet and snow and in a safe condition for use by pedestrians. All signs, markers or any other methods used to indicate direction of traffic movement and location of parking and/or loading spaces shall be maintained in a neat and legible condition. Any walls, trees and shrubbery, as well as surfacing of the parking lot, shall be maintained in good condition throughout its use for parking purposes.
- (h) Storage. All off-street parking areas for nonresidential uses shall not be used for the continuous storage of a vehicle for more than 48 hours, except where expressly permitted in this Planning and Zoning Code as accessory to the principal use of the lot.

- (i) **Driveways.** In the R-1 and the R-2 zoning districts, common driveways, that is driveways which provide access to more than one dwelling unit, may be permitted pursuant to the following:
  - A. In a conservation development proposed pursuant to Chapter 1143 and in a single-family attached dwelling development in the R-2 zoning district, the length of such common driveway shall not exceed 200 hundred feet from its point of intersection with the public/private street, and it shall not serve more than four (4) dwelling units. The common driveway shall be constructed in accordance with the construction standards for public streets set forth for in Title Five, Subdivision Regulations.
  - B. In all other instances, common driveways shall provide access to no more than two (2) dwelling units.

**1153.14 PARKING LOT LANDSCAPING AND SCREENING.**

All screening and buffering of parking areas shall be in conformance with the regulations set forth in **Chapter 1155, Landscaping and Screening Regulations.**

**1153.15 DEVELOPMENT PLAN REVIEW.**

Detailed drawings showing the features of off-street parking and loading areas shall be submitted for development plan review as required by **Chapter 1111, Development Plan Review Procedures.**

**CHAPTER 1155  
Landscaping and Land Use Buffers**

1155.01	Purpose.	1155.08	Screening of Accessory Uses.
1155.02	Scope of Application.	1155.09	Residential Landscaping.
1155.03	Definitions.	1155.10	General Requirements.
1155.04	Street Tree Planting Requirements.	1155.11	Recommended Tree Species.
1155.05	Landscaping Along Street Frontage.	1155.12	Approval Process for Required
1155.06	Screening and Landscaping of Parking Lots.		Landscaping, Fences and Walls.
1155.07	Buffering and Screening Between Districts and Uses.	1155.13	Flexibility.

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**1155.01 PURPOSE.**

The preservation of existing trees and vegetation, as well as the planting of new trees and vegetation, can significantly add to the quality of the physical environment of the City of Willoughby Hills. The regulations contained below are designed to provide for the health, safety, and welfare of the residents of the City:

- (a) To promote the proper utilization of landscaping and screening as a buffer between certain land uses and to minimize the possibility of nuisances including potential noise, glare and visual clutter of parking and service areas.
- (b) To protect, preserve and promote the aesthetic appeal, character and value of the City of Willoughby Hills neighborhoods.
- (c) To establish a minimum standard for the consistent appearance of plant material in the community landscape.
- (d) To soften the appearance of building masses and paved areas and reduce generation of heat and storm water run-off.
- (e) To protecting, preserving, and promoting the aesthetic character valued by the residents of the City of Willoughby Hills.

**1155.02 SCOPE OF APPLICATION.**

- (a) The provisions of this Chapter shall apply to:
  - (1) All new development on vacant land that requires the submission of a development plan and issuance of a zoning certificate or building permit. The required landscaping shall be so indicated on plans submitted as part of the application.

- (2) The entire site of existing development when substantial expansion or alteration is conducted. An alteration or expansion of an existing property is substantial when:
    - A. The expansion of the square footage of an existing building or structure exceeds twenty-five percent (25%) of the gross floor area of the existing building.
    - B. The expansion of the square footage of the vehicular use area exceeds twenty-five percent (25%) of the total existing vehicular use area.
    - C. The land area of the development site is increased by twenty percent (20%) or more.
  - (3) The portion of a developed site devoted to the expansion or alteration of an existing building, structure or vehicular use area when such site is not governed by [subsection 1155.02\(a\)\(2\)](#) above. The minimum landscaping and screening required by this Chapter shall be provided to the extent of the alteration or expansion, but not for the entire property of which the alteration or expansion is a part.
- (b) Single-family and two-family residences shall be exempt from the requirements of this Chapter except those regulations in [Section 1155.09](#).
  - (c) The requirements of this Chapter are minimum landscaping requirements, and nothing herein shall preclude a developer and the City from agreeing to more extensive landscaping.

### **1155.03 DEFINITIONS.**

Terms related to required landscaping and screening shall have the following meanings:

- (a) Berm. An earthen mound, located on private property, designed to provide visual interest, screen undesirable views, and/or decrease noise. This definition shall not include any portion of the public right-of-way.
- (b) Caliper. The American Association of Nurseryman standard for trunk measurement of nursery stock. Caliper of the trunk shall be taken six (6) inches above the ground up to and including four (4) inch caliper size, and twelve (12) inches above the ground for a caliper size greater than four (4) inches.
- (c) Diameter-at-breast-height (DBH). The diameter of a tree trunk measured in inches at a height 4.5 feet above ground. If a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point below the split.

- (d) Large Tree. A living tree with a DBH measurement at maturity of at least six (6) inches or more.
- (e) Shade Tree. A tree with foliage that usually sheds annually and is planted primarily for its high crown of foliage or overhead canopy.
- (f) Shrub. A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground.
- (g) Small Tree. A living tree with a DBH measurement at maturity of at least four (4) inches.

**1155.04 STREET TREE PLANTING REQUIREMENTS.**

In all zoning districts, developers shall plant and maintain shade trees along public streets in compliance with the following:

- (a) Species. Trees shall be limited to species characterized as hardy, long-lived shade trees. Suggested species are listed in **Schedule 1155.11**. The Zoning Administrator or the Planning and Zoning Commission may approve other species.
- (b) Location Requirements.
  - (1) One tree shall be provided for every thirty (30) linear feet of frontage, or fraction thereof, along each road.
  - (2) Trees are to be planted within three (3) feet of the rights-of-way of the road or roads within and abutting the development or at the discretion of the City, within the right-of-way of such roads.
  - (3) Each tree at the time of installation shall have a minimum caliper of 2.5 inches and a clear trunk height of at least six (6) feet.
  - (4) Trees shall be planted an adequate distance from intersections so that at full maturity such planting shall comply with **Section 1157.11, Visibility at Intersections**, to ensure the unobstructed visibility of motorists and pedestrians.
- (c) Planting Procedures.
  - (1) The developer shall provide the Zoning Administrator with a state inspection certificate and a certificate for tree species authenticity for each tree within five (5) days of planting.
  - (2) All nursery tags shall remain on planted trees until removed by the Zoning Administrator.

- (d) Maintenance. The developer shall be required to maintain the trees for two (2) years after the trees are planted and to replace any tree that dies within such two-year guarantee period.
  - (1) Upon completion of the street tree planting, the landscape contractor shall contact Zoning Administrator.
  - (2) The two-year guarantee period shall begin after the approval from the Zoning Administrator.
  - (3) A final inspection shall be made at the end of the guarantee period.
  - (4) The developer shall notify the Zoning Administrator within five (5) business days of the end of the guarantee period to schedule the final inspection.
  - (5) All trees not exhibiting a healthy, vigorous growing condition, as determined by the City's inspection, shall be replaced at the expense of the developer or builder.
  - (6) If the City determines that replacement of a tree is required, such replacement shall occur within thirty (30) days of the date the City's inspection report is submitted to the developer. The two-year guarantee period shall begin anew for each replacement tree.
  - (7) In order to secure the guarantee, the developer shall deposit an amount equal to fifty percent (50%) of the total cost of providing and installing the street trees as determined by the Zoning Administrator. The deposit shall be in the form of a bond, with the developer as principal and with a surety company authorized to do business in the State of Ohio; a certified check; or an irrevocable letter of credit. The deposit shall be in a form acceptable to the City Attorney.

**1155.05 LANDSCAPING ALONG THE STREET FRONTAGE.**

All areas within the required front or corner building and/or parking setback, excluding driveway openings, shall be landscaped as required below. The following minimum plant materials shall be provided and maintained on all lots or developments except lots devoted to single-family detached and two-family dwellings.

- (a) Three (3) large deciduous trees shall be provided for every one-hundred (100) linear feet of lot frontage or fraction thereof, not including drive entrances.
- (b) Each tree at the time of installation shall have a minimum caliper of 2.5 inches and a clear trunk height of at least six (6) feet.

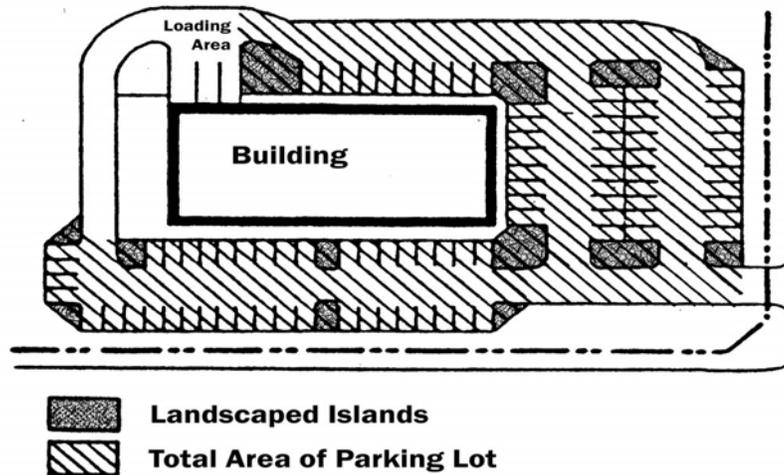
- (c) Twenty shrubs shall be provided for every one-hundred (100) linear feet of lot frontage or fraction thereof, not including drive entrances.
- (d) All areas not devoted to trees and shrubs shall be planted with grass, ground cover or other live landscape treatment.
- (e) Trees and shrubs may be aggregated appropriately.

**1155.06 SCREENING AND LANDSCAPING OF PARKING LOTS.**

- (a) Landscaping on the Interior of Parking Lots: Interior landscaping of parking lots shall be provided in accordance with the following requirements.
  - (1) For any parking area designed to accommodate five (5) or more vehicles, a minimum of five percent (5%) of the parking lot shall be planted as landscaped island areas, developed and reasonably distributed throughout the parking lot to define major circulation aisles and driving lanes and provide visual and climatic relief from broad expanses of pavement.
  - (2) Interior landscaped areas shall be dispersed so as to define aisles and break up the expanse of paving and limit unbroken rows of parking to a maximum of one-hundred (100) feet. Each interior landscaped area shall be no less than one-hundred (100) square feet. The minimum width for each area shall be ten (10) feet;
  - (3) Within the landscaped islands, there shall be provided one shade tree for every ten (10) parking spaces. Each landscape island shall have at least one (1) shade tree.
  - (4) Shrubs or low, spreading plant materials shall be planted within the required landscaped islands in such a way that there is no impairment to the visibility of motorists or pedestrians.
  - (5) If the specific application of the interior landscape requirements will seriously limit functions of the building site, the Zoning Administrator shall have authority to permit consolidation and relocation of these landscaped areas on the building site.
  - (6) Landscaped areas along the perimeter of the parking area, or in any part of a setback or yard, shall not be counted as interior parking lot landscaped areas. Except perimeter plantings may be used to satisfy the requirements in this section when parking facilities are less than forty-two (42) feet in width and accommodate twenty (20) or fewer vehicles.

- (7) For the purpose of this Section, the area of a parking lot shall be the total vehicular surface area within the perimeter of the parking lot, including the landscaped islands, parking spaces and all circulation aisles except those with no parking spaces or landscaped islands located on either side. See Figure 1, Parking Lot Interior Calculation.

Figure 1. Parking Lot Interior Calculation.



- (b) Perimeter Landscaping Requirements. In addition to the requirements of [subsections 1155.06\(a\) and 1155.06\(c\)](#) hereof, perimeter landscaping shall be required along any side of a parking lot that abuts adjoining property that is not a right of way. A landscaped strip at least ten (10) feet in width shall be located between the parking area and the abutting property lines. One (1) large deciduous or two (2) small deciduous trees for each forty (40) lineal feet shall be planted in the landscaping strip. However, this does not mean that shade trees must be located forty (40) feet on center or be spaced forty (40) feet apart. This ten (10) foot wide strip shall be landscaped open space free of any wall, fence, embankment and/or walkway. Such wall, fence, etc. may exist or be constructed on the edge of such landscape strip. The requirements of this section shall not apply where planting is required for screening pursuant to [Section 1155.07](#).
- (c) Street Frontage Planting Requirements. In addition to the requirements of [subsections 1155.06\(a\) and 1155.06\(b\)](#) hereof, when a parking lot is located adjacent to a public right-of-way, screening shall be provided to reduce the visual impact of the parking lot utilizing one of the following methods. The requirements of this sub-section shall not apply where planting is required for screening pursuant to [sub-section 1155.07\(c\)\(5\)](#).
- (1) Landscaped setbacks. Provide at least a ten (10) foot wide landscaped area exclusive of that required for sidewalks or utility easements, as specified in the Zoning Code, between the right-of-way and the parking

- lot, to be planted with one (1) large deciduous or two (2) small deciduous trees for each forty lineal (40) feet of frontage. This landscaped strip shall contain at least a three (3) foot high evergreen hedge, masonry wall or ornamental fence, such wall, fence, etc. shall be constructed on the edge of such landscape strip closest to the parking lot.
- (2) Grade changes. In cases where substantial grading is necessary that results in a parking lot lower in elevation than the surrounding or adjacent right-of-way, the resulting embankment should be planted with low shrubs and shade or ornamental trees. A minimum of ten (10) feet of landscaping should be provided between the right-of-way and the parking lot.
  - (3) Landscape berms. Create at least a two (2) foot high berm with slopes not to exceed twenty-five percent (25%) for lawn areas. Berms planted with ground cover and shrubs can be steeper; however, no slope should exceed forty percent (40%).
  - (4) Woodland preservation. In cases where quality woodland exists, preserve existing trees between the parking lot and the right-of-way. Provide additional evergreen shrubs if needed to achieve an effective visual buffer. The vegetation should be saved.
- (d) Landscaping Design Criteria.
- (1) The primary landscaping materials used in parking lots shall be trees that provide shade or are capable of providing shade at maturity. Shrubbery, hedges, and other live planting material may be used to complement the tree planting scheme or landscape design but shall not be the sole components of the landscaping. Avoid tall shrubs or low branching trees that will restrict visibility. Effective use of earth berms and existing topography is also encouraged as a component of the landscape plan.
  - (2) In large parking lots, separate pedestrian walkways should be provided to allow safe movement within the lots. These walkways should generally be oriented perpendicular to and between parking bays. Adjacent to the walks, trees should be planted. These plantings will aid in the identification of walkway locations within the lot and also aid in providing shade for the pedestrian. The following guidelines apply to the development of walkways within large parking lots.
    - A. One walkway can serve as a collector for up to four bays of parked cars.

- B. The walkways shall be a minimum of four (4) feet wide, allowing an additional thirty (30) inches on each side for overhanging of automobiles.
  - C. All walkways shall be raised to a standard sidewalk height and shall be constructed of different paving material than the parking lot.
- (e) Accessways. Necessary accessways shall be permitted to traverse the required landscaping area. The width of such accessways shall not be subtracted from the linear dimensions used to determine the minimum number of trees required in this Section.
  - (f) Vehicular Encroachment. A vehicle shall not encroach upon any landscaped area.
  - (g) Vehicular Use Areas. Vehicular use areas, other than parking spaces or parking lots, for all land uses require two (2) square feet of landscaped area for each 100 square feet of pavement or fraction thereof.

**1155.07      BUFFERING AND SCREENING BETWEEN DISTRICTS AND USES.**

- (a) Intent. The intent of this section is to establish provisions for a visual screen or buffer between incompatible uses and to reduce the effects of glare from automobile headlights, noise and other objectionable activities conducted on a given lot.
- (b) Screening. Screening, as required by the provisions of this Code, shall be of such nature and density that will screen the activities on the lot from view from the normal level of a first story window on an abutting lot.
- (c) When Required. A buffer yard shall be required when:
  - (1) A lot in any Commercial, Research and Office, or Industrial District abuts a Residential district;
  - (2) A lot in a Multi-family Zoning District abuts a Single-Family Residential District;
  - (3) A lot in a Residential District is devoted to a non-residential conditional use;
  - (4) Required by the Conditional Use Regulations in **Chapter 1147**;

- (5) When any wall of a non-residential building in a Commercial, Research and Office, or Industrial District faces or is across the street from a Residential district, screening shall be installed along the full length of such street frontage. No screening shall be required when the Commercial, Research and Office, or Industrial District lot is used for residential purposes.
- (d) Width of Buffer Yard. The width of the-buffer yard shall be equal to the most restrictive parking set back set forth in the applicable zoning district.
- (e) Location. The buffer yard shall be located entirely within the higher intensity zoning district or use and abutting the zoning district line or lot line of lower intensity use. However, the buffer yard may be placed in the lower intensity zoning district or partially within both zoning districts if both sides of the zoning district line and the entire buffer yard width are within common ownership and a permanent easement is provided over any portion of the buffer yard not within the higher intensity zoning district.
- (f) Buffer Yard Abutting an Adjacent Jurisdiction. When property lines abut an adjacent jurisdiction, the Planning and Zoning Commission shall determine the specific screening and buffering requirements along that property line after consideration of the zoning designation and/or land use of the adjacent property. Requirements shall not exceed those that would be required for similarly situated/zoned property within the City of Willoughby Hills.
- (g) Screening. When the natural vegetation within the required buffer yard does not form a solid, continuous, visual screen or does not have a minimum height of six (6) feet along the entire length of the common boundary at the time of occupancy, screening shall be installed in compliance with the following:
- (1) Screening Materials. Screening design and development shall be compatible with the existing and proposed land use and development character of the surrounding land and structures. Screening within the buffer yard shall consist of one or more or combination thereof of the following:
- A. A dense vegetative planting incorporating trees and/or shrubs of a variety which shall be equally effective in winter and summer. Trees and/or shrubs shall be adequately spaced to form a solid, continuous visual screen within three (3) years after the initial installation. At a minimum, at the time of planting, the spacing of trees shall not exceed twelve (12) feet on center, and the planting pattern shall be staggered. Shrubbery shall be more closely spaced.

- B. Non-living opaque structures such as a solid masonry wall that is compatible with the principal structure or a solid wood fence together with a landscaped area at least fifteen (15) feet wide. For solid fences, fences shall be designed, constructed, and finished so that the supporting members face the property owner of the fence and they shall be maintained in good condition, be structurally sound, and attractively finished at all times.
  - C. An ornamental fence with openings through which light and air may pass together with a landscaped area at least fifteen (15) feet wide. A chain link fence shall not be permitted.
  - D. A landscaped mound or berm at least ten (10) feet wide, with no more than a 3:1 slope.
- (2) Location. The location of the wall, fence, or vegetation shall be placed within the buffer yard to maximize the screening effect, as determined by the Zoning Administrator or the Planning and Zoning Commission.
  - (3) Installation of Screening. Screening shall be continuous and in place at the time of occupancy. If vehicular or pedestrian access through the screen is necessary, the screening function shall be preserved.
  - (4) Height of Screening. The height of screening shall be in accordance with the following:
    - A. Visual screening by walls, fences, or mounds in combination with vegetation, fences or walls shall be a minimum of six (6) feet high measured from the natural grade, except as set forth in **subsection B. below**.
    - B. Whenever the required screening is located within a front yard or within twenty-five (25) feet of a parking lot, drive, or driveway entrance, the required screening shall not exceed a height of three (3) feet.
    - C. When used alone, vegetation shall be a minimum of six (6) feet high, as measured from the natural grade, in order to accomplish the desired screening effect. The required height shall be achieved no later than two (2) years after the initial installation.
- (h) Modifications to Buffering and Screening Requirements. Buffer yards required by this Chapter shall be applied equally to all similarly situated properties. The Planning and Zoning Commission is empowered to modify the above buffering and screening requirements if, and only if:

- (1) Natural land characteristics such as topography or existing vegetation on the proposed building site would achieve the same intent as this Section.
- (2) Innovative landscaping or architectural design is employed on the building site to achieve an equivalent screening and buffering effect.
- (3) The required screening and landscaping would be ineffective at maturity due to the proposed topography of the site, and/or the location of the improvements on the site.
- (4) The topography of adjacent and surrounding sites is such as to render required screening ineffective at maturity.
- (5) A written request is received from the owners of the abutting residential district property that the screening as required herein should be waived or varied based on stated purposes.
- (6) It can be clearly demonstrated that it is highly improbable that the abutting property will be developed for residential purposes due to circumstances, which have taken place since the adoption of the Master Plan and this Code.

**1155.08 SCREENING OF ACCESSORY USES.**

Screening of accessory uses shall be provided according to the following:

- (a) Trash Collection Areas. Trash and/or garbage collection areas shall be enclosed on at least four (4) sides by a solid wall or fence and a solid gate at least one (1) foot-higher than the highest refuse container in the collection area if such area is not within an enclosed building or structure. Such solid wall or solid fence shall be situated so as to screen the view of the collection area from adjacent roads and properties. Such wall or fence shall be constructed of wood, brick, decorative concrete, block, stone or shrubs.
- (b) Ground-mounted Mechanical Equipment. Ground mounted mechanical equipment shall be screened with evergreen shrubbery so that within two (2) years the equipment is completely obscured from view.
- (c) Outdoor Storage and Loading Areas. Permitted accessory loading areas, outdoor storage of goods, supplies, equipment or vehicles used in the operation of an establishment, where permitted, shall be enclosed with a solid fence or wall, including solid gates. The wall or fence shall have a height tall enough to conceal all operations and materials therein from the view of any observer standing at the grade level of an abutting lot or a public street. The Zoning District Chapter may contain additional regulations governing outdoor storage.

- (d) Height of Screening. Screening shall be a minimum of six (6) feet in height placed adjacent to the waste receptacles, storage or loading areas so as to effect screening from any adjacent streets and any adjoining properties.

**1155.09 RESIDENTIAL LANDSCAPING.**

- (a) Intent. This section is intended to maintain or improve the unique character of residential neighborhoods and streets and to contribute to the general welfare through the planting of trees.
- (b) Application. This section shall apply to all new developments and to alterations to existing buildings that will increase the number of dwelling units. Existing trees may fulfill these minimum requirements.
- (c) Required Trees for Residential Unit Types.
  - (1) Single-Family Detached and Two-Family Lots: One large deciduous or evergreen tree per forty (40) feet of lot frontage or fraction thereof, to be planted in the front yard setback area when the lawn is installed.
  - (2) Single-Family Attached Dwelling/Townhouses. One large deciduous or evergreen tree per unit to be planted between the building and the public street or private road and planted when the lawn is installed; or in the case of a conversion, trees shall be planted within six months of the issuance of a building permit, unless an extension is given by the Zoning Administrator due to adverse weather conditions.

**1155.10 GENERAL REQUIREMENTS, INSTALLATION, AND MAINTENANCE.**

Areas within the setback and all other portions of the lot not covered by permitted structures shall be landscaped with grass, trees, shrubbery and/or other appropriate ground cover or landscaping material, which at all times shall be maintained in good and healthy condition.

- (a) Installation.
  - (1) Each tree at the time of installation shall have a minimum caliper of 2 inches and a clear trunk height of at least six (6) feet, unless otherwise specified.
  - (2) When a small tree is permitted by this Chapter, such tree shall have a minimum caliper of 1.5 inches and a clear trunk height of at least five (5) feet at the time of installation.

- (3) If installation of plantings is not completed in a planting season, then landscaping must be installed during the next planting season.
- (b) Performance Guarantee. No landscape plan required by this Code shall be approved and no zoning certificate issued until the owner of the lot and/or building in question has posted a performance guarantee with the City conditioned upon satisfactory installation of the approved landscaping in the owner's landscape plan. Such guarantee shall be in the form of a performance, surety bond, certified check or any other such type of guarantee approved by the City Attorney. The financial guarantee shall cover the estimated cost of all required landscaping, installation of such landscaping and any other landscaping obligations on the part of the owner.
- (c) Planting Arrangement. Trees and shrubs shall be arranged to create varied and attractive views and plant material should provide a variety of color displayed throughout the year.
- (d) Screening. All screening and buffer yards shall be free of advertising or other signs, except for directional signs and other signs for the efficient flow of vehicles.
- (e) Parking. Vehicle parking shall not be permitted in landscaped areas.
- (f) Pedestrian Movement. Materials shall not be placed where they will prevent pedestrian movement unless so planted for that or similar purpose.
- (g) Maintenance. The owner of landscaping required by this Code shall maintain such landscaping in good condition so as to present a healthy, neat and orderly appearance, free from refuse and debris. When necessary, plant materials shall be replaced, and replacement material shall conform to the original intent of the landscape plan.
- (h) Acceptable Trees. Acceptable trees, for the requirements of this Chapter, include, but are not limited to those identified as suitable for the intended use in Schedule **1155.11**, Recommended Tree Species.

**1155.11 RECOMMENDED TREE SPECIES.**

Acceptable trees include, but are not limited to, those identified as suitable for the use intended in the schedule below.

- (a) Schedule 1155.11 - Recommended Trees:

**Schedule 1155.11  
Recommended Tree Species**

Species Name	Suitability
(a) Autumn Blaze Maple	T
(b) Bald Cypress	T
(c) Bird Cherry	T
(d) Bur Oak	T
(e) Catalpa (Only Dwarf Varieties)	P
(f) Celebration Maple	T
(g) Cleveland Select Pear	P, T
(h) Common Thornless Honeylocust	P, T
(i) Crabapple	P, T
(j) Flowering Cherry	P, T
(k) Ginkgo	T
(l) Hawthorn	P
(m) Hybrid Elms (Elms resistant to Dutch Elm Disease)	T
(n) Japanese Tree Lilac	P
(o) Kentucky Coffeetree	P, T
(p) Little Leaf Linden	T
(q) Shingle Oak	P, T
(r) Swamp White Oak	T
(s) Turkish Filbert	T
P = Parking Lot Trees T = Tree Lawn	

- (b) Evergreen trees should only be used for landscaping and screening purposes on private property and shall not be permitted in any public street right-of-way. Evergreen trees shall only be planted in planting areas with sufficient space to permit the trees to grow to maturity.

**1155.12 APPROVAL PROCESS FOR REQUIRED LANDSCAPING, FENCES, AND WALLS.**

- (a) The location of proposed landscaping, fences or walls required to fulfill the standards and criteria of this Chapter shall be reviewed and approved as part of a development plan pursuant to **Chapter 1111**.

- (b) However, when a fence or wall is proposed at a separate time from any other development for new construction, additions or site renovation, a fence or wall may be approved administratively by the Zoning Administrator when the Zoning Administrator determines that the proposal:
  - (1) Complies with the requirements of this Chapter;
  - (2) Is consistent with any previously approved plan;
  - (3) Is compatible with the current site development if there is no approved plan; and
  - (4) Will have a minimal adverse impact to the surrounding areas.

**1155.13 FLEXIBILITY.**

The standards and criteria in this Chapter establish the City's objectives and levels of landscaping intensity expected. However, in applying these standards during the development plan review, the Planning and Zoning Commission may exercise discretion and flexibility with respect to the placement and arrangement of the required elements to assure that the objectives of the district and the proposed development or redevelopment are best satisfied.

**CHAPTER 1157  
General Use Regulations**

1157.01	Prohibited Uses.	1157.08	Lot Regulations.
1157.02	Supplementary Height Regulations.	1157.09	Requirements for Owners Associations.
1157.03	Temporary Buildings and Enclosures and Outdoor Sales Activities.	1157.10	Performance Standards.
1157.04	Family Day Care Home.	1157.11	Visibility at Intersections.
1157.05	Home Occupations.	1157.12	Exterior Lighting Regulations.
1157.06	Swimming Pools.	1157.13	Driveway Aprons and Entrances.
1157.07	Additional Regulations Regarding Motor Vehicles in Residential Districts.	1157.14	Dumping.

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**1157.01 PROHIBITED USES.**

Any use not specifically listed as either permitted by right or a conditional use, in the zoning districts established in **Section 1105.01**, shall be a prohibited use in these zoning districts and shall only be permitted upon amendment of this Planning and Zoning Code and/or the Official Zoning Map as provided in **Chapter 1119** or upon a finding by the Planning and Zoning Commission that a use is substantially similar to a specified permitted or conditional use.

**1157.02 SUPPLEMENTARY HEIGHT REGULATIONS.**

Principal or accessory buildings shall be erected, altered, moved or maintained only in accordance with the maximum height of building regulations as established in **Title Seven**, except that the following structures may be permitted above the aforesaid limitation:

- (a) Chimneys, church spires, cupolas, domes, belfries, clock and radio towers, solar collector panels, water tanks, radio or television antennae, monuments, elevator bulkheads and other permitted mechanical appurtenances located upon or constructed as an integral part of the main building may exceed the above height regulations.
- (b) Cornices and parapet walls, solely for ornament and without windows, may extend not more than three feet above the height limit.

**1157.03 TEMPORARY BUILDINGS AND ENCLOSURES AND OUTDOOR SALES ACTIVITIES.**

- (a) Structures for Construction Operations. Temporary structures for construction operations may be permitted in any district if such structures are deemed necessary, provided:

- (1) A temporary special permit is issued by the Zoning Administrator, for a period not to exceed eighteen months;
  - (2) The use of such structures shall be limited to offices; buildings for the storage of lumber, equipment and other building material;
  - (3) All temporary structures shall be located at least one hundred (100) feet from the nearest occupied residential dwelling, where feasible;
  - (4) A temporary structure for the construction office may be placed on the site no sooner than two weeks before the start of grading or construction;
  - (5) All temporary structures for construction operations shall be removed within thirty (30) days after the completion of work on the premises for which a permit has been issued or if construction is not pursued diligently.
- (b) Subdivision and Apartment Sales and Rental Offices. Subdivision and apartment sales and rental offices may be permitted, providing a temporary special permit is issued by the Zoning Administrator. The temporary permit may be for a period not to exceed two (2) years. In addition:
- (1) Such an office shall be incidental to and located within the subdivision which it serves;
  - (2) Such an office shall continue only until the sale or lease of all dwelling units in the development has been completed, but in no event shall the time exceed two (2) years from the issuance of a special temporary permit.
- (c) Temporary Outdoor Sales Activities. Temporary outdoor merchandising activities directed at the general public may be allowed as an accessory use in certain commercial zoning districts and on the premises of permitted and conditional uses subject to the requirements of this section. It is the intent of this section to provide for temporary outdoor sales which are distinguished from permanent outside business activities that are permitted or conditional uses in a zoning district.
- (1) Definition. Temporary outdoor sales activities include sidewalk sales, inventory reduction or liquidation sales, seasonal merchandise sales, and transient produce merchant sales. Seasonal merchandise sales include the sale of plants (also vegetables), flowers, shrubs, trees, mulch, fertilizer, weed killer products, soil, peat moss, lime, small decorative stones, landscape timbers, railroad ties, pumpkins, salt (for ice removal) and similar products, and Christmas trees.

- A. Temporary outdoor sales activities shall not include carnivals, festivals, promotional events or any City-sponsored function, which may or may not include outdoor sales of food and/or merchandise related to such events.
  - B. A transient produce merchant sale involves the selling of products of the farm or garden occupied and cultivated by that person on property other than that which the produce is grown.
- (2) Standards. The following shall apply to all proposed temporary outdoor sales activities allowed by this section in addition to other applicable building and safety code requirements as determined by the Building Inspector, Fire Department and/or City Engineer.
- A. Sidewalk sales, inventory reduction sales, liquidation sales, damaged goods sales, and transient produce merchant sales shall not exceed a maximum of seven (7) consecutive calendar days, per event. Two (2) such outdoor sales events per calendar year shall be permitted, per property and shall be allowed in a B-2, and B-3 District.
  - B. Seasonal merchandise sales shall not exceed a total of one hundred (120) calendar days per year, per property. Only four (4) seasonal sales activities per calendar year, per property, shall be permitted. Seasonal merchandise sales shall be permitted in a B-2, and B-3 District. Seasonal merchandise, such as mulch, peat moss, soil, fertilizer, decorative stones, lime, sale and other similar goods as well as landscape timbers, railroad ties, bicycles, lawn mowers, tractors, wheel barrows, snow blowers, leaf blowers and other large lawn equipment items which are stored, displayed and/or sold outdoors shall be located on hard-surfaced walkways immediately adjacent to the principal building.
  - C. All sales activities including any temporary structures, tents and stands shall not be located within a required setback or public right of way and must be in an area that is paved and the activity does not interfere with parking, sight distance, traffic circulation or emergency vehicle access and will not reduce the required number of parking spaces required to serve principal use(s) on the site.
  - D. Temporary sales on unpaved, landscaped areas are prohibited.
  - E. Temporary outdoor sales activities within all temporary structures, tents, stands, under canopies or awnings and in all unroofed areas shall be limited to ten percent (10%) of the

enclosed gross floor area of the principal building on the lot associated with the temporary outdoor sales activity. Existing fenced-in outdoor storage areas and permanent accessory structures shall be excluded from the ten percent (10%) calculation.

(3) General Requirements.

- A. The temporary outdoor sales activity shall be clearly accessory to the permitted or conditional use(s) approved for the site. Only merchandise which is normally sold, or stocked by the occupant(s) on the subject premises shall be sold, provided that seasonal merchandise, and licensed transient produce merchant activities and itinerant vendors as defined by this section or **Chapter 1103** may be allowed.
- B. The required number of off-street parking spaces for the principal use(s) shall be provided for the duration of the sale. Determination of compliance with this requirement shall be made by the Zoning Administrator.
- C. Signage related to the temporary outdoor sales activities shall be in compliance with the temporary sign regulations in **Chapter 1151**. The erection and removal of such signage shall be the responsibility of the applicant and/or owner of the property.

**1157.04 FAMILY DAY CARE HOME.**

This Zoning Ordinance recognizes that the availability of safe and affordable, good-quality child day care is important to the well being of parents and children. Furthermore, it is the purpose of this section to regulate the operation of child day care in a manner that preserves the residential character of neighborhoods. According to ORC 5104.054, any type “B” family day-care home, whether certified or not certified by the county director of human services, shall be considered to be a residential use of property for purposes of municipal, county, and City zoning and shall be a permitted use in all zoning districts in which residential uses are permitted. A type “B” family day-care home is a permanent residence of the provider where childcare is provided for 1 to 6 children and where no more than three children are under two years of age. For the purposes of this definition, any children under six years of age who are related to the provider and who are on the premises of the day-care home shall be counted. Type “B” family day-care homes are a permitted accessory use in residential districts, and do not require a zoning certificate or a certificate of zoning compliance.

**1157.05 HOME OCCUPATIONS.**

The purpose of this section is to set forth regulations, which control the establishment and operation of home occupations. The intent of these regulations is to control the

nonresidential use of a residential dwelling unit so that the nonresidential use is limited to an accessory use, and shall not in any way adversely affect the uses permitted in the residential district of which they are a part. Compliance with these regulations should result in all home occupations being located and conducted in such a manner that their existence is not detectable in any manner from the outside of the dwelling unit.

- (a) No customary home occupation shall be permitted or carried on unless the customary home occupation complies with all of the following regulations:
  - (1) Customary home occupations shall comply with all local, State or Federal statutes, ordinances and/or regulations pertinent to the activity pursued; and
  - (2) The dwelling housing the customary home occupation shall be otherwise lawful and conform to all safety, fire, housing and building codes; and
  - (3) The customary home occupation shall be conducted wholly within the principal building and shall be incidental and subordinate to the use of the dwelling for residential purposes. Not more than twenty-five percent (25%) of the net floor area of the living area of any dwelling shall be used in the conduct of a customary home occupation; and
  - (4) No customary home occupations shall engage in any activity resulting in or creating noise, vibration, odors, glare, smoke pollution, electronic interference or other nuisance or safety hazard to any person or adjacent or nearby property or residence; and
  - (5) The customary home occupation shall not generate vehicular or pedestrian traffic abnormal to the neighborhood; and
  - (6) Trucks or other mobile equipment shall not be parked or stored in open yards. Any need for parking generated by the conduct of such home occupation shall be met on the driveway or parking area on the premises, but shall not be permitted in the public right-of-way; and
  - (7) Vehicles used for deliveries to or from a home occupation shall comply with the weight limits established for through traffic; and
  - (8) No more than a total of two vehicles for employees, patrons or customers of a customary home occupation may be permitted on the site of a customary home occupation at any one time. Vehicles used for the personal use (that is not used in conjunction with the customary home occupation) of the proprietor or owner of the customary home occupation shall not be included within the limitation of this subsection; and

- (9) There shall be no use of utilities or community facilities beyond that reasonable to the use of the property for residential purposes; and
  - (10) The residential character of the dwelling exterior shall not be changed and there shall be no display that will indicate from the exterior that the building or premises are being used in part for any purpose other than that of a residential dwelling; and
  - (11) The customary home occupation shall not require or involve the posting of any sign upon the premises publishing or advertising such customary home occupation unless otherwise permitted by the Codified Ordinances and/or this Planning and Zoning Code; and
  - (12) Only goods produced or processed on the premises may be sold on the premises; and
  - (13) All storage of materials, goods, supplies or equipment related to the operation of a customary home occupation shall be inside the principal building; and
  - (14) There shall be no storage of materials hazardous to adjacent nearby property or persons; and
  - (15) No customary home occupation shall be permitted to employ more than one employee whose regular place of employment is at the residence or on the premises of the customary home occupation and who is not a family member occupying the dwelling unit; the name of such employee shall be registered with the office of the Zoning Administrator; and
  - (16) One automobile, truck or van used primarily for the customary home occupation shall be permitted to be parked or stored on the premises provided it complies with [Section 1157.07](#), and all other requirements of this Planning and Zoning Code.
- (b) A home occupation shall be permitted only after a zoning certificate has been issued by the Zoning Administrator. Those uses which are questionable shall be reviewed by the Planning and Zoning Commission to assure that they are in character with this section and will not constitute an objectionable use of the residentially zoned property due to potential noise, increased pedestrian and vehicular traffic, or any other conditions that might interfere with the general welfare of the surrounding residential area.

- (c) When any home occupation results in an undesirable condition interfering with the general welfare of the surrounding residential area, such home occupation may be terminated by the Zoning Administrator. Such termination may be appealed to the Board of Zoning Appeals. An undesirable condition may be identified as abnormal traffic, objectionable noise or any other condition not conducive to a residential neighborhood situation.

**1157.06 SWIMMING POOLS.**

In addition to the requirements for accessory buildings and uses in **Title Seven**, the following provisions shall apply for swimming pools:

- (a) Private Outdoor Swimming Pools. A private swimming pool is any pool, lake or open tank not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than one (1) foot. No such swimming pools, exclusive of portable swimming pools with a diameter less than twelve (12) feet or with an area of less than one hundred (100) square feet, shall be allowed in any commercial or residential district except as an accessory use and unless it complies with the following additional requirements:
  - (1) The pool is intended and is to be used solely by the occupants and guests of the principal use of the property on which it is located;
  - (2) It shall be setback, including any walks or paved areas or accessory structures adjacent thereto, as specified in the applicable zoning district or ten (10) feet, whichever is greater;
  - (3) The pool, or the entire property on which it is located, shall be so walled or fenced so as to prevent uncontrolled access from the street or from adjacent properties. Such fences or wall shall be at least six (6) feet in height and maintained in good condition, with a gate and lock.
  - (4) Proper drainage shall be provided to ensure that pool overflow does not affect adjacent properties.
  - (5) The construction and operation of a pool shall meet all other applicable City regulations.
- (b) Public, Community or Club Swimming Pool. A public, community or club swimming pool is any pool constructed by the City, an association of property owners, or by a private club for use by the general public or by members of the association or club and their families. Public, community and club swimming pools are permitted in all districts, but shall comply with the following conditions and requirements:

- (1) The pool is intended solely for the use of the general public or the members and families and guests of members of the association of club under whose ownership or jurisdiction the pool is operated;
- (2) The pool and accessory structures thereto, including the unenclosed areas used by the bathers, shall not be closer than 100 feet to any property line of the property on which it is located;
- (3) The pool and all of the area used by the bathers shall be so walled or fenced as to prevent uncontrolled access by children from the street or from adjacent properties. Such fence or wall shall be six (6) feet in height and maintained in good condition, with a gate and lock.
- (4) Proper drainage shall be provided to ensure that pool overflow does not affect adjacent properties.
- (5) The construction and operation of a pool shall meet all other applicable City regulations.

**1157.07      ADDITIONAL REGULATIONS REGARDING MOTOR  
VEHICLES IN RESIDENTIAL ZONING DISTRICTS.**

- (a) Driveways in residential districts may be used for the parking of private motor vehicles owned by the occupants of the dwelling and their visitors.
- (b) The parking of one (1) commercial vehicle per dwelling unit shall be permitted provided said vehicle:
  - (1) Does not exceed 10,000 pounds gross vehicle weight;
  - (2) Is operated by an occupant of the dwelling unit; and
  - (3) Such automobile, truck or van is either stored and/or parked in a permitted enclosed permanent structure or stored and/or parked behind the rear building line, properly screened year-round with foliage or natural vegetation as approved by the Zoning Administrator, such that the vehicle is not visible from any street or abutting residential property and meets the side and rear setback requirements of associated District.

**1157.08      LOT REGULATIONS.**

- (a) Required Setbacks to be Maintained. The required setbacks surrounding an existing building shall not be separated in ownership from that portion of the lot upon which the building is located, and no part shall be considered as providing a required setback for any other existing building on the same or on an adjacent

lot. A setback shall not be reduced in any manner to less than the required dimensions for the zoning district in which it is located, and a setback of less than the required dimensions shall not be further reduced in any manner unless otherwise permitted in this Code. Every required setback shall be open and unobstructed from the ground, except for accessory structures as set forth in **Title Seven**, and as per the parking setbacks in **Title Seven**.

- (b) When one or more buildings, or parts thereof, are constructed or enlarged so as to cross one or more lot lines in the same ownership, all such lots shall be joined into one lot provided all other zoning and subdivision regulations are met.
- (c) Required Lot Area to be Maintained. A parcel of land may be subdivided into two or more parcels, provided all lots resulting from such division shall conform to all the lot area and width regulations of the zoning district in which it is located. A nonconforming lot of record that is owned separately from adjoining lots on the effective date of this Code, or as amended, shall not be reduced in any manner that would increase its nonconforming situation.
- (d) No single-family dwelling or two-family dwelling shall be constructed on a lot upon which a principal building already exists. New multi-family apartments and townhouse complexes may be erected with more than one principal building to the lot or parcel. Commercial, industrial or institutional buildings may be erected with more than one principal building on a lot or parcel providing they are all under the same ownership.

#### **1157.09 REQUIREMENTS FOR OWNERS ASSOCIATIONS.**

As part of a development where a homeowners association, community association, condominium association or similar legal entity/agency shall be created to be responsible for the maintenance and control of common areas, including the required open space, private streets, facilities, common drives, etc. The City Attorney shall determine that, based on documents submitted with the development plan, the association's or agency's bylaws or code of regulations specify the following requirements:

- (a) Provision for the establishment of the association or similar entity is made before any lot in the development is sold or any building occupied;
- (b) Membership in the Association shall be mandatory for all purchasers of lots in the development or units in a condominium.
- (c) The Association shall be responsible for maintenance, control, and insurance of open space and all common areas.
- (d) The Association shall have the power to impose assessments on members for the maintenance, control and insurance of open space and common areas, and have

the power to place liens against individual properties for failure to pay assessments.

- (e) The conditions and timing of transfer of control from the developer to the unit or lot owners shall be specified.
- (f) The Association shall not authorize its dissolution or the sale, transfer or other disposal of any common area, including restricted open space, without (i) an affirmative vote of seventy-five (75) percent of its members, (ii) having established a successor entity to take over said property pursuant to the City's Planning and Zoning Code; and (iii) the approval of the City Council.
- (g) The Association shall convey to the City and other appropriate governmental bodies, after proper notice, the right to enter to any common area for emergency purposes or in the event of nonperformance of maintenance or improvements affecting the public health, safety and welfare. Such governments shall have the right, after proper notice, to make improvements and perform maintenance functions. In addition, the City shall have the right to proceed against the Association for reimbursements of said costs, including the right to file liens against individual condominium units, houses, townhouse units, and vacant building lots.

#### **1157.10 PERFORMANCE STANDARDS.**

No land or structure in any zoning district shall be used or occupied in any manner to create a dangerous or objectionable condition, substance or element, in such a manner or in such amount to adversely affect the adjoining premises or surrounding area. All uses, except those in Industrial Districts whose performance standards are set forth in Section 1141.10, shall comply with the following performance standards:

- (a) Americans with Disabilities Act. All uses shall comply with all applicable requirements of the Americans with Disabilities Act, and all other applicable federal, state, and county regulations.
- (b) Lighting and Glare. All exterior lighting and conditions that generate glare shall comply with the requirements of **Section 1157.12, Exterior Lighting Regulations**.
- (c) Heat. No use shall generate heat that is perceptible without the aid of instruments at any point beyond the lot occupied by the use.
- (d) Noise. No person shall cause or permit noise to intrude into the property of another person that exceeds the levels listed in **Schedule 1157.10 (4)**, between the hours of 7:00 am. and 10:00 p.m. and **Schedule 1157.10 (5)**, between the hours of 10:00 p.m. and 7:00 a.m.

- (1) Between the hours of 7:00 am. and 10:00 p.m., the noise in **Schedule 1157.10 (4)** may be exceeded by no more than:
  - A. 5 dBA for a total of 15 minutes in any 1-hour period,
  - B. 10 dBA for a total of 5 minutes in any 1-hour period, or
  - C. 15 dBA for a total of 30 seconds in any 1-hour period.
- (2) Between the hours of 10:00 p.m. and 7:00 a.m., the noise limits in Schedule **1157.10 (5)** may be exceeded by no more than:
  - A. 5 dBA for a total of 10 minutes in any 1-hour period or
  - B. 10 dBA for a total of 3 minutes in any 1-hour period.
- (3) Impulsive sound (such as sounds with a duration of less than 1 second, such as from punch presses) shall not exceed the levels of **Schedule 1157.10 (4)** (daytime) or **Schedule 1157.10 (5)** (nighttime) by more than 5 dBA, as measured with the sound level meter on the slow response setting.
- (4) Daytime Noise Limits.

**Schedule 1157.10 (4)**  
Daytime Noise Limits

Noise Source	Receiving Property		
	Residential	Business	Industrial
Commercial	60 dBA	60 dBA	65 dBA
Manufacturing	60 dBA	65 dBA	70 dBA
Residential	60 dBA	60 dBA	65 dBA

- (5) Nighttime Noise Limits.

**Schedule 1157.10 (5)**  
Nighttime Noise Limits

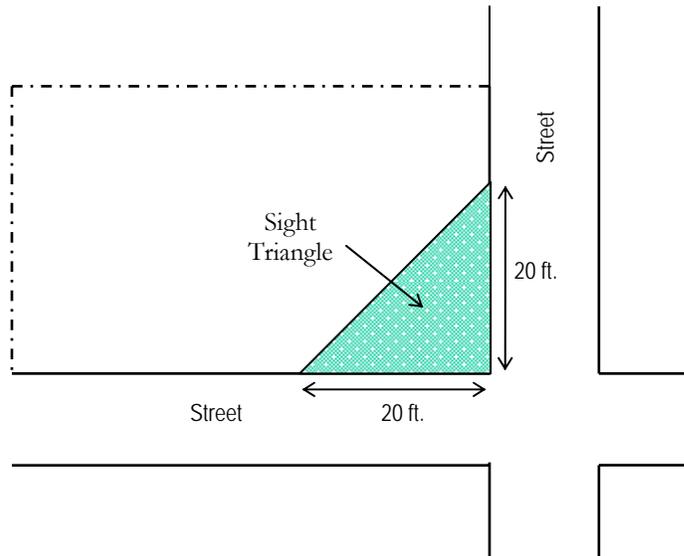
Noise Source	Receiving Property		
	Residential	Business	Industrial
Commercial	50 dBA	60 dBA	65 dBA
Manufacturing	50 dBA	65 dBA	70 dBA
Residential	60 dBA	60 dBA	65 dBA

- (e) Vibration. Vibrations, which are perceptible without the aid of instruments, shall not be permitted beyond the lot occupied by the use generating such vibration.
- (f) Smoke. No use shall emit smoke for longer than eight (8) minutes in any hour which is of a shade darker than Number 3 on the Standard Ringelmann Chart as issued by the U.S. Bureau of Mines.
- (g) Odors. No use shall emit malodorous gas or matter that is discernible on any adjoining lot or property.
- (h) Air Pollution. No use shall emit fly ash, dust, vapors or other substances that are harmful to health, animals, vegetation or other property or which can cause excessive soiling.
- (i) Fire Hazards. Flammable or explosive materials shall only be permitted in structures having incombustible exterior walls.
- (j) Storage Handling. Storage handling and use of flammable liquids shall comply with regulations as set forth in Bulletin No. 30-L of the National Fire Protective Association. Storage of other materials in yards or structures shall comply with other fire protective codes of the City of Willoughby Hills and all parts shall be accessible to firefighting equipment.
- (k) Solid Waste. Solid waste, including empty packing crates and other excess materials, shall not be allowed to accumulate on a lot and shall be disposed of on a regular basis.
- (l) Liquid Waste. If liquid wastes are disposed of in containers, they shall be appropriate containers, and the wastes shall be removed from the site on a regular basis. Liquid waste or sewerage shall not be discharged into a reservoir, stream, or other open body of water or into a storm or sanitary sewer except as allowed by other codes of the City of Willoughby Hills, County, State or similar jurisdictional authority.
- (m) Noxious, toxic or corrosive fumes. Noxious, toxic or corrosive fumes or gasses shall not be emitted which shall be injurious to the property, vegetation or health of the people residing in any adjacent residential district.
- (n) Radioactive or Electrical Disturbances. Radioactive emissions or electrical discharges shall be confined to the use and lot from which they originate and shall not occur across any lot line.
- (o) Infectious and Medical Waste Materials. The storage, incineration or disposal of infectious or medical waste materials in such a manner or in such quantities as to produce a public nuisance or a hazard to the public health and welfare of the community shall not be permitted.

**1157.11 VISIBILITY AT INTERSECTIONS.**

**Sight Triangles.** In any zoning district, on any corner lot, no fence, structure or planting shall be erected or maintained between 2.5 feet and eight (8) feet, above the rights-of-way lines, within a clear sight triangle formed by the right-of-way lines of two intersecting streets, and a line drawn between two points, each measuring twenty (20) feet from the intersection of the right-of-way lines. See Figure 1 below.

**Figure 1**  
Visibility at Intersection of Public Streets



**1157.12 EXTERIOR LIGHTING REGULATIONS.**

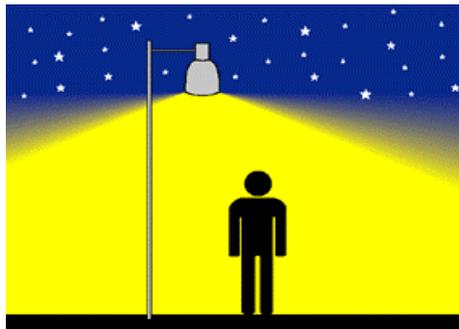
- (a) A lighting plan is required for all uses that are required to file a development plan and shall be approved according to the procedures set forth in **Chapter 1111**. All existing uses on which exterior lighting is installed or changed shall conform to these standards. The lighting plan shall demonstrate compliance with the exterior lighting standards of this Section, and shall include the following items:
  - (1) A site plan showing location of all exterior light fixtures, controllers and transformers.

- (2) Property boundaries, building location(s), parking lot layout, pedestrian paths, adjacent rights-of-way, north arrow and scale.
- (3) Specifications and drawings or photographs for all exterior light fixture types, poles, conduit and appurtenant construction.
- (4) Lamp wattage of all proposed luminaries.
- (5) Information that indicates a minimum light level of one-half (0.5) foot-candles at grade in all vehicular use areas and connecting pedestrian paths.
- (6) Cut sheets for all proposed exterior light fixtures and poles.
- (7) Any other information and data reasonably necessary to evaluate the required lighting plan.

(b) General Requirements.

- (1) All outdoor lighting fixtures regulated according to this Section, including but not limited to those used for parking areas, buildings, building overhangs, canopies, signs, displays and landscaping, shall be full-cutoff type fixtures.
  - A. Full-cutoff fixtures shall be installed and maintained so that the shielding is effective as shown in Figure 2 below.

**Figure 2**  
**Full Cut-off Type Fixture**



*Full cut-off lighting directs light down and to the sides as needed.*

University of Texas, Austin

- B. Automobile-oriented uses such as gasoline stations, service stations and drive-through facilities shall install recessed ceiling fixtures in any canopy.

- C. Signs that are wholly illuminated from within and freestanding signs that are externally illuminated with an exposed incandescent lamp not exceeding twenty-five (25) watts shall not require shielding.
- (2) Light trespass over a property line shall be limited to no more than one-quarter (0.25) horizontal foot-candle at the property line. All on-site lighting of buildings, lawns, parking areas and signs shall be designed so as not to shine onto any adjacent residential property or building, or to cause glare onto any public street or vehicle thereon.
- (3) Measurement.
  - A. Light levels shall be measured in foot-candles with a direct reading, portable light meter. Readings shall be taken only after the cell has been exposed long enough to take a constant reading.
  - B. Measurements shall be taken at the property line, along a horizontal plane at a height of three-and-one-half (3.5) feet above the ground.
- (4) All non-essential outdoor lighting fixtures, including parking, sign, display and aesthetic lighting, shall be turned off after business hours. Only that lighting needed for safety or security may remain lit after close of business, in which case the lighting shall be reduced to the minimum level necessary.
- (5) Maximum Height of Light Poles. The total height of exterior lighting poles shall not exceed the following height regulations. Height shall be measured from the average grade surrounding each light pole:

<u>Districts:</u>	<u>Maximum Height</u>
R-1, R-2	20 feet
M-1, M-2 B-1	25 feet
B-2, B-3, E, I	28 feet

(c) Exemptions.

- (1) Decorative outdoor lighting fixtures with bulbs of less than twenty-five (25) watts, installed seasonally, are exempt from the requirements of this Chapter.

- (2) Temporary construction or emergency lighting is exempt from the requirements of this Section. Such lighting shall be discontinued immediately upon completion of the construction work or abatement of the emergency necessitating such lighting.
- (3) All outdoor lighting fixtures existing and legally installed prior to May 25, 2006 shall be exempt from the requirements of this Section. When existing lighting fixtures become inoperative, their replacements shall be subject to the provisions of this Section.
- (4) Nothing in this Section shall apply to lighting required by the FAA or any other federal regulatory authority.

**1157.13 DRIVEWAY APRONS AND ENTRANCES.**

The installation of driveway entrances or aprons shall follow the guidelines provided by the Building Department, which have been set forth by the City Engineer. An application for a driveway entranceway or apron shall be submitted with a site plan indicating the proposed location. The Zoning Administrator will review the application and site plan to determine and confirm that the information provided is adequate and compliant with all applicable city Ordinances and Building Codes. The Zoning Administrator will forward copies of the application and the site plan to the Police and Fire Chiefs if he determines that moving traffic, parking, and visibility of such entranceway or apron to roadway traffic and pedestrians may cause concern for the public's life, health, safety, and welfare. If such planned location is found acceptable, a permit to proceed with work will be issued. If such application is found to endanger the public's safety or interfere with reasonable flow of vehicular or pedestrian traffic, the Zoning Administrator shall deny such application.

**1157.14 DUMPING.**

In the interest of public health and welfare, the dumping of garbage, organic or animal or human refuse, including metallic and flammable rubbish, but excluding ashes, stone and earth, on the ground is specifically prohibited in all districts, except for the purposes of residential, non-commercial composting or gardening in compliance with accepted composting practices and regulations. Applications to bury garbage, organic or animal or human refuse which does not originate on the property, on any land in the City shall be referred to the Board of Building and Zoning Appeals and can be approved only after public hearing and due consideration of the effect of the water supply in adjoining properties, geology of the underlying strata and effect on properties fronting on roads or highways converging on the burying ground over which such refuse would be hauled.

**CHAPTER 1161**  
**Regulations for Wireless Telecommunication Facilities**

1161.01	Purpose.	1161.06	Standards Applicable to All Wireless Telecommunications Facilities.
1161.02	Definitions.	1161.07	Abandoned Telecommunications Facilities.
1161.03	Permitted Locations.	1161.08	Approval Required.
1161.04	Locations Requiring Conditional Use Approval.	1161.09	Design Review.
1161.05	Standards Applicable for Conditional Use Applications.	1161.10	Exemption of Certain City Property.

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**1161.01 PURPOSE.**

These regulations are established to provide for the construction and use of wireless telecommunication towers and facilities as permitted uses and conditional uses depending on the specific land areas of the City in which they are proposed to be located. The purpose of these regulations is to balance the competing interests created by the Federal Telecommunications Act of 1996, Public Law 104-104, and the interests of the City in regulating wireless telecommunication towers and related facilities. Specifically, these regulations are intended to achieve the following purposes:

- (a) To protect property values;
- (b) To regulate a commercial use so as to provide for orderly and safe development within the City;
- (c) To provide for and protect the health, safety and general welfare of the residents of the City;
- (d) To minimize any adverse effects on residential properties, parks, open spaces and the non-intensive commercial zoning districts;
- (e) To promote collocation of wireless telecommunication facilities in order to decrease the number of towers in the City;
- (f) To maintain the aesthetic appearance of the City; and
- (g) To maintain, where possible, the integrity of this Planning and Zoning Code.

**1161.02 DEFINITIONS.**

- (a) Collocation: The use of a wireless telecommunications facility by more than one wireless telecommunications provider or by one provider for more than one type of telecommunication technology.
- (b) Lattice tower: A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure, which often tapers from the foundation to the top.
- (c) Monopole: A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.
- (d) Radio operator, amateur: An individual that participates in the non-commercial hobby of amateur radio, as defined by the rules of the Federal Communications Commission.
- (e) Technically suitable: The location of a wireless telecommunication antenna that reasonably serves the purpose for which it is intended within the bandwidth of frequencies for which the owner or operator of the antenna has been licensed by the Federal Communications Commission (FCC) to operate without a significant loss of communication capability within developed areas of the City.
- (f) Telecommunications: The technology that enables information to be exchanged through the transmission of voice, video or data signals by means of electrical, optical or electromagnetic systems.
- (g) Wireless telecommunications antenna: The physical device through which electromagnetic, wireless telecommunications signals authorized by the FCC are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.
- (h) Wireless telecommunications facility: A facility consisting of the equipment and structures involved in the commercial activity of receiving or transmitting telecommunications or radio signals from other communications sources.
- (i) Wireless telecommunications tower: A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.

**1161.03 PERMITTED LOCATIONS.**

A wireless telecommunications tower or facility is permitted in the following areas when in compliance with these regulations and approved by the Planning and Zoning Commission according to the procedures set forth in **Chapter 1111**, Development Plan Review. Efforts shall be made to locate in the order of priority listed below. If a location other than the most preferred location is proposed, the applicant shall demonstrate to the Planning and Zoning Commission that a technically suitable, higher priority location is not available and that the proposed location is needed to meet the reasonable service requirements of the applicant.

- (a) New wireless antennas may collocate on existing telecommunication towers or on existing structures, which have been constructed for other purposes, such as but not limited to water towers, church towers, electric transmission towers, chimneys, and cooling towers, provided the antenna does not exceed twenty (20) feet above the highest point of the structure and the transmission and receiving equipment, where feasible, is stored inside the existing building or structure or on the roof in an enclosure. The foregoing does not preclude the use of small PCS base stations and repeaters on the sides of buildings, utility poles, or in ground mounted pedestals.
- (b) New wireless telecommunication towers may be located on public owned land and/or public right-of-ways in the following priority:
  - (1) City owned property;
  - (2) County owned property; and
  - (3) State owned property.
- (c) A wireless telecommunication tower may be located in a I-1 zoning district, when located a distance at least two (2) times the height of the tower from a residential district.
- (d) A wireless telecommunication tower may be located within a recorded electric high tension power line easement, provided that the tower shall not exceed the height of the existing high tension power line towers by more than ten (10) feet and the wireless telecommunication tower shall be located within forty (40) feet of such existing high tension power line towers.
- (e) A Wireless Communications Tower shall be permitted in any interstate highway right-of-way and shall be set back from any dwelling unit a distance of 110 percent (110 %) of the height of the tower.

**1161.04 LOCATIONS REQUIRING CONDITIONAL USE APPROVAL.**

A wireless telecommunications tower or facility may be considered in the following areas as a conditional use when approved by the Planning and Zoning Commission according to the procedures set forth in **Chapter 1115**, Conditional Use Certificates. When considering an application, the Planning and Zoning Commission shall determine that the applicant demonstrates compliance with the standards set forth in **Section 1161.05** as well as the standards set forth in **Chapter 1147**, Conditional Use Regulations, and the applicant has demonstrated that more preferred locations are not technically suitable. Efforts shall be made to locate the towers in the order of priority listed.

- (a) New wireless telecommunication towers can be located in B-2, B-3, E, and I-1 districts when said tower is two hundred (200) feet from residential property and shall be subject to the regulations set forth in this Chapter.
- (b) A wireless telecommunication facility that includes a tower shall not be permitted in a single-family or multi-family residential district with the exception of placement on any property with an institutional use (e.g. church, park, library, municipal government, hospital, school, utility) located in these districts. However, antennas attached to existing buildings or structures are permitted. In applying for a permit in any residential district, the applicant must present substantial evidence as to why it is not technically feasible to locate in a more appropriate nonresidential zone.

**1161.05 STANDARDS APPLICABLE FOR CONDITIONAL USE APPLICATIONS.**

A wireless telecommunication facility that is proposed in a location that requires conditional use approval shall comply with the following:

- (a) A wireless telecommunication facility shall be permitted in a location set forth in **Section 1161.04** only to the extent that a technically suitable location is not available in an area identified in **Section 1161.03**. The applicant shall demonstrate that a technically suitable location in an area identified in **Section 1161.03** is not available because:
  - (1) A technically suitable location does not exist in any area set forth in **subsection 1161.03**. The applicant shall provide documentation that supports the applicant's claim that no such technically suitable location exists; or
  - (2) If another tower, building or structure set forth in **subsection 1161.03** is technically suitable then the applicant shall show that reasonable efforts have been made to:

- A. Request co-location on the existing tower(s), building(s) or structure(s) and that each co-location request was rejected by the owner of the tower, building or structure; or
  - B. Request all owners of properties that are determined to be technically suitable locations to permit construction of a wireless telecommunication tower, within reasonable terms, and demonstrate that each request was rejected.
- (b) As a condition of approving the conditional use permit to construct and operate a wireless telecommunication tower in the City, the owner/operator of the wireless telecommunication tower shall be required to allow co-location until said tower has reached full antenna capacity. In no event shall the owner/operator agree to allow fewer than two additional antenna platforms. Agreement to this provision shall be included in the applicant's lease with the landowner, if different from the owner/operator of such tower. Written documentation shall be presented to the Planning and Zoning Commission showing that the owner of the property on which such tower is to be located has agreed to the terms of this subsection as well as all other applicable requirements, regulations and standards set forth in this Chapter.
- (c) Any wireless telecommunication tower proposed as a conditional use shall be located a minimum of one-half mile from any other wireless telecommunication tower proposed or previously approved as a conditional use.

**1161.06 STANDARDS APPLICABLE TO ALL WIRELESS TELECOMMUNICATION FACILITIES.**

All wireless telecommunication towers and facilities shall comply with the following standards and conditions.

- (a) Towers shall be of monopole design with no guy wires. The Planning and Zoning Commission may approve a lattice-type structure when the applicant demonstrates that such a structure provides greater ability to collocate additional antenna. Towers and antennas shall be designed to meet all applicable building code requirements.
- (b) When reasonably possible, wireless telecommunication towers should be constructed with "stealth" design technology. Examples of stealth technology include architecturally screened roof mounted antennas, antennas integrated into architectural elements, the design of the tower to look like a light pole, power pole and trees, or other structures that may blend into the surrounding area.
- (c) Unless otherwise provided for in this Chapter, a wireless telecommunication facility shall comply with the setback and yard requirements applicable to buildings in the underlying zone in which it is located. A wireless telecommunication tower shall

be placed upon the lot in such a way as to minimize the visual impact on adjoining roads and properties. In no event shall any portion of a wireless telecommunication facility be located in front of the principal use or building on the lot, if any.

- (d) Recognizing that the Federal Aviation Administration (FAA) may impose greater restrictions, a wireless telecommunication tower shall in no event be more than two hundred (200) feet in height as measured from the average ground level at the base of the tower. The applicant of a proposed tower shall demonstrate that the proposed tower is the minimum height necessary to accommodate the antenna and is no higher than existing towers housing similar antenna.
- (e) Any accessory structure related to the wireless telecommunication facility shall comply with the district regulations in which the tower is located.
- (f) Underground equipment shelters are encouraged and may be requested by the Planning and Zoning Commission.
- (g) Outdoor storage of any supplies, vehicles, or equipment related to the use of the facility is prohibited.
- (h) Existing vegetation, inclusive of trees and shrubs, shall be preserved to the maximum extent possible.
- (i) A buffer area of two hundred (200) feet shall be placed between the wireless telecommunication facilities and the public right-of-way.
- (j) The base of the tower and all related facilities shall be completely enclosed with a secure fence having a minimum height of eight (8) feet. Such fence shall be equipped with a locked gate.
- (k) A landscaped buffer area of not less than fifteen (15) feet in depth shall be located around the required fence. The buffer area shall be continuously maintained and promptly restored when necessary and shall consist of at least one of the following:
  - (1) A row of hardy evergreen trees tightly spaced and deciduous trees planted twelve (12) feet on center with a 2.5-inch caliper. The initial evergreen plantings shall be no less than six (6) feet tall and planted a maximum of five (5) feet on center.
  - (2) Other appropriate landscaping that achieves the screening objective, as approved by the Planning and Zoning Commission.
- (l) The communication tower and equipment shelter shall comply with all natural resource protection standards established in the Planning and Zoning Code and/or

other applicable sections in the Codified Ordinances of the City of Willoughby Hills, including those for flood plains, wetlands and steep slopes.

- (m) The tower shall be painted a non-contrasting gray or similar color as approved by the Architectural Board of Review minimizing its visibility, unless otherwise required by the Federal Communications Commission (FCC) or the FAA.
- (n) The tower shall be equipped with an appropriate anti-climbing device or shall have all climbing pegs from the lower twenty (20) feet of the tower removed and separately secured from the public.
- (o) Except as required by law, an antenna or a tower shall not be illuminated and lighting fixtures shall not be attached to the antenna or tower. Lighting for security purposes shall be permitted at the base of the wireless telecommunication tower with a prior approval of the Architectural Review Board and the Planning and Zoning Commission.
- (p) “No Trespassing” signs and a warning sign shall be posted on the required fence in clearly visible locations. The warning sign shall include phone numbers for the police, fire and county emergency management facilities, and a local or toll-free telephone number of whom to contact in the event of an emergency. The warning sign shall be twelve (12) inches by twelve (12) inches. No other signs or advertising shall be located anywhere on the facility or site.
- (q) Signage, as required by the Federal Communications Commission or any other regulating agency, shall be displayed at the Wireless Telecommunications Facility.
- (r) After issuance of a building permit to construct a Wireless Telecommunication Facility, the applicant shall commence construction within six (6) months and shall complete construction within one (1) year or the permit shall expire.
- (s) All utility lines from the utility source to the Wireless Telecommunication Facility shall be underground.
- (t) The owner of the antenna and/or tower shall annually file a declaration with the Zoning Administrator as to the continuing operation of every facility installed subject to this Chapter.
- (u) As capacity permits, all Wireless Telecommunications Facilities shall be made available to the City, County, State, or Federal Government for antennas and equipment that serves the public interest. The owner of the facility may not levy unreasonable rental fees for said usage.

**1161.07 ABANDONED TELECOMMUNICATIONS FACILITIES.**

- (a) In the event the use of a wireless telecommunications tower ceases for a period of six months, whether the tower has had no antenna mounted upon it or the antenna(s) mounted thereon is not operated, the facility shall be considered abandoned. The owner/operator shall agree to remove the nonfunctioning facility within one hundred eighty (180) days after receipt of a notice from the Zoning Administrator to do so. If reactivation or dismantling does not occur within 180 days, the municipality will remove or will contract to have the facility removed, and assess the owner/operator the costs associated with such removal. Prior to receiving a zoning certificate, the owner/operator shall:
  - (1) Sign a written consent to annual inspection of the wireless telecommunication facility by the City Engineering Department or other representatives as appointed by the municipality; and,
  - (2) Be required as a condition to the issuance of a zoning certificate to post a performance guarantee of not less than two hundred dollars (\$200.00) per vertical foot. Said bond shall insure that any abandoned obsolete or destroyed wireless telecommunication antenna or tower shall be removed within the mandatory 180 days. Any co-locator shall also execute such a bond to insure that the bond will be in place during the period of time that the co-locator occupies the tower. Any successor-in-interest or assignee of the applicant shall be required to additionally execute such bond.
- (b) In the event that more than one wireless telecommunication service provider is using a wireless telecommunications tower, the tower shall not be considered abandoned until all such users cease using the tower, as provided in this Section.
- (c) The site shall be restored to its original state within six (6) months following the date that the wireless telecommunications tower or facility is no longer operational.

**1161.08 APPROVAL REQUIRED.**

- (a) All wireless telecommunications towers and facilities shall comply with the procedures for development plan review set forth in Chapter 1111.
- (b) In addition to the submission requirements for development plans and conditional use certificates, the applicant shall submit the following additional items:
  - (1) Name, address and telephone number of the owner or lessee of the parcel of land on which the telecommunications facility is to be situated.

- (2) The legal description, including County Auditor's parcel identification number, city lot number, and address upon which the telecommunications facility is to be situated.
  - (3) The names, addresses and telephone numbers of all owners of other telecommunications facilities within a 2,500 foot radius of the proposed new tower or antenna, including City-owned property.
  - (4) Detailed description of the wireless telecommunications towers or facility's capacity including the number and types of antenna that it can accommodate.
  - (5) Demonstration that the wireless telecommunications tower must be located where it is proposed in order to service the applicant's service area, including an explanation of why a tower at this proposed site is technically necessary.
  - (6) When the telecommunications tower is located on a property with another principal use, the applicant shall present documentation that the owner of the property has granted an easement or entered into a lease for the proposed facility and that vehicular access is provided to the facility.
  - (7) Documentation certifying that the wireless telecommunication facility complies with all current Federal Communications Commission (FCC) regulations for non-ionizing electromagnetic radiation (NIER).
  - (8) A vicinity map (at a scale of 1' = 1,000') indicating within a two-mile radius of the proposed site the location of all wireless telecommunications towers and facilities and electrical utility high-tension wires.
  - (9) A list of names and phone numbers of whom to contact in an emergency. This list shall be kept current at all times.
  - (10) A list of any and all hazards that are within the secured area.
  - (11) When the proposed facility is to include a new tower, a plot plan, including all building uses within 500 feet, shall be required at a scale not less than one-inch equal to a 1000 feet (1 inch = 1000 feet). Aerial photos and/or renderings may augment the plot plan.
- (c) Prior to receiving approval for a new Wireless Telecommunications Facility, the applicant shall demonstrate to the City that such facility is needed to meet the reasonable service requirements of the applicant. This assessment shall include consideration of alternative sites and the operational implications of such alternatives with respect to, but not limited to, height, opportunities for co-location, impact on residents and impact on service levels. The City may retain consultants to review the information, with the reasonable costs for such consultation being borne by the applicant.

- (d) When the applicant requests a building permit, the following items shall be provided:
- (1) A report prepared by a licensed professional engineer shall be included with the submitted application and shall contain the height, design and proof of compliance with nationally-accepted structural standards published by the American National Standards Institute/Electronic Industry Association section 222-F, as amended.
  - (2) A soil report complying with the standards of ANSI/EIA 222-F (Annex I: Geotechnical Investigations for Towers), as amended, shall be submitted to the Building Inspector to document and verify the design specifications of the foundation for the tower, and anchors for the guy wires, if used.
  - (3) Wireless telecommunications towers and antennas shall be designed to withstand sustained winds at the minimum wind speed listed for Lake County in the TIA/EIA-222-F standards.
  - (4) The ANSI/EIA section 222-F (Annex H: Commentary on Ice Design Criteria for Communications Structures) shall be consulted for ice load specifications.
  - (5) Elevations of existing and proposed structures showing width, depth, and height of the telecommunications facility as well as the specifications of the antenna and support structure shall be presented.
  - (6) The applicant shall present documentation that the tower is designed in accordance with the standards established in the Section 1161.06.
  - (7) The applicant shall demonstrate that the proposed tower complies with all Federal Aviation Administration regulations concerning safety.
  - (8) The applicant shall demonstrate that the proposed tower complies with all Federal Communications Commission regulations addressing radio frequency emissions standards.
  - (9) All applicants shall be required to construct or locate on a base tower structure and structure foundation that is designed to be buildable up to 200 feet above the finished grade. Although the initial capacity may be for one antenna, the structure shall be designed to serve as a base for a reconstructed tower with the capacity for three (3) providers when constructed to the maximum allowable height.

**1161.09 DESIGN REVIEW.**

- (a) Upon approval by the Planning and Zoning Commission, the permit application must be reviewed and approved by the Architectural Board of Review. In addition to the submission requirements in Section 1111.07, Final Development Plan Submission Requirements, the applicant shall provide the following information:
  - (1) The location of any electrical or signal transmitting wires or cables to be used;
  - (2) The specific antenna support structure device which is to be used;
  - (3) The proposed method of screening the antenna support structure to make it as inconspicuous as possible and help it blend into the surrounding area, where feasible;
  - (4) Elevation drawings illustrating the placement, height, color and material of the antenna and its support structure; and
- (b) If the information provided in sub-section (a) above does not clearly convey placement alternatives on the site, the Architectural Board of Review may require an independent evaluation of signal access for a minimum of the three most feasible, alternated locations on the site. The evaluation shall be prepared by a consultant approved by the Architectural Board of Review and paid for by the applicant.
- (c) Prior to approval of a wireless telecommunication facility, the Architectural Board of Review shall find as follows:
  - (1) There is no other location on the site for the proposed antenna support structure which would resulting a less conspicuous or more aesthetically pleasing installation while still providing reasonable signal access;
  - (2) The antenna and its support structure is the smallest possible for the frequency used and optimally located to allow reasonable signal access;
  - (3) Apart from the tower or monopole structure, the facility appurtenances shall be aesthetically and architecturally compatible with the architecture of the surrounding environment;
  - (4) The color of the structure blends with the surrounding environmental characteristics; and

- (5) A landscape plan shall be reasonably designed to enhance the aesthetic quality of the tower, location and to adequately screen the site from the view of drivers and pedestrians to the greatest extent possible.

**1161.10 EXEMPTION OF CERTAIN CITY PROPERTY.**

Notwithstanding the provisions of this Chapter, a Wireless Telecommunication Facility may be permitted on any property owned or controlled by the City and currently used for public services, and such Facility shall be constructed, erected, maintained, extended and removed under such conditions, standards and regulations as may be required by the City Council.

**CHAPTER 1163  
Adult Regulations**

1163.01 Purpose.  
1163.02 Findings.  
1163.03 Definitions.

1163.04 Location Regulations.  
1163.05 Severability.

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**1163.01 PURPOSE.**

The City of Willoughby Hills has determined that permitting adult oriented businesses, as defined in this Section, in proximity to residential, institutional, and non-adult oriented retail uses would have a detrimental effect on such adjacent uses. It has been demonstrated that adult oriented businesses, as defined in this Section, have been known to cause undesirable secondary effects on residential and institutional uses, particularly those where children are present, as well as adjacent non-adult oriented businesses. The provisions of this Chapter do not have the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Further, it is not the intent of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material. Therefore, in order to prevent potential deterioration in Willoughby Hills' retail areas; and to avoid potential adverse impacts on residential and institutional uses particularly those where children are present, and thereby protecting the public health, safety and welfare, adult oriented businesses, as defined in this Section, shall be permitted only in the I-1 District subject to the following requirements.

**1163.02 FINDINGS.**

The City Council has received substantial evidence concerning the adverse secondary effects of adult uses on the community in findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), and on studies in other communities, including, but not limited to, Phoenix, Arizona; Tucson, Arizona; Garden Grove, California; Los Angeles, California; Whittier, California; Indianapolis, Indiana; Oklahoma City, Oklahoma; Amarillo, Texas; Austin, Texas; Beaumont, Texas; Houston, Texas; and Seattle, Washington.

**1163.03 DEFINITIONS.**

- (a) "Adult arcade" means any place to which the public is permitted or invited where either or both:
  - (1) Motion picture machines, projectors, video or laser disc players, or other video or image-producing devices are available, run via coin, token or any form of consideration, to show images to five or fewer persons at one time; and

- (2) Where the images shown and/or live entertainment presented are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”
- (b) “Adult bookstore,” “adult novelty store” or adult video store” means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
  - (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, videodisks, CD-ROM disks, or video reproductions, slides or other visual representations which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; or
  - (2) Instruments, devices or paraphernalia, other than prophylactics, that are designed for use in connection with “specified sexual activities.”
- (c) “Adult cabaret” means a nightclub, bar, restaurant or similar commercial establishment that regularly features:
  - (1) Persons who appear in a “state of nudity” or “state of semi-nudity”; or
  - (2) Live entertainment characterized by the depiction or description of “specified anatomical areas” or by “specified sexual activities”; or
  - (3) Live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators or similar entertainment; or
  - (4) Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”
- (d) “Adult motion picture theater” means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, videodisks, CD-ROM disks, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”
- (e) “Adult theater” means a theater, concert hall, auditorium or similar commercial establishment that regularly features persons who appear in a “state of nudity” or “semi-nudity” or live performances which are characterized by the by the depiction or description of “specified anatomical areas,” by “specified sexual activities,” or live entertainment of an erotic nature, including exotic dancers, strippers, male or female impersonators, or similar entertainment.
- (f) “Nude model studio” means any place where a person who appears in a “state of nudity” or “semi-nudity” or “who displays specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons who pay money or any form of consideration.

- (g) “Nudity,” “state of nudity” or “nude” means exposing to view the genitals, pubic area, vulva, perineum, anus, anal cleft or cleavage, or pubic hair with less than a fully opaque covering; exposing to view any portion of the areola of the female breast with less than a fully opaque covering; exposing to view male genitals in a discernibly turgid state, even if entirely covered by an opaque covering; or exposing to view any device, costume or covering that gives the appearance of or simulates any of these anatomical areas.
- (h) “Semi-nudity,” “state of semi-nudity” or “semi-nude” means exposing to view with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other clothing, provided that the areola is not exposed in whole or in part.
- (i) “Sexual encounter center” means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
  - (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
  - (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is semi-nude.
- (j) “Adult oriented business” means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude model studio or sexual encounter center.
- (k) “Specified anatomical areas” means any of the following:
  - (1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
  - (2) Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.
- (l) “Specified sexual activities” means any of the following:
  - (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast;
  - (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy;
  - (3) Excretory functions as part of or in connection with any of the activities set forth in subsection (l) (1) or (2) above.

**1163.04 LOCATION REGULATIONS.**

- (a) Subject to any other applicable regulations in the Codified Ordinances of the City of Willoughby Hills, other provisions of this Planning and Zoning Code, and any State law or regulation, an adult oriented business may be located only in accordance with the following restrictions:
  - (1) An adult oriented business may only be located as a conditional use in an I-1 District.
  - (2) No adult oriented business shall be established within 500 feet of any residential zoning district boundary.
  - (3) No adult oriented business shall be established within a radius of 1,000 feet of any lot containing a school, library, or teaching facility, whether public or private, governmental or commercial, which school, library, or teaching facility is attended by persons under 18 years of age.
  - (4) No adult oriented business shall be established within a radius of 1,000 feet of any lot containing a park or recreational facility attended by persons under 18 years of age.
  - (5) No adult oriented business shall be established within a radius of 1,000 feet of any lot containing another adult oriented business.
  - (6) No adult oriented business shall be established within a radius of 1,000 feet of any lot containing a church, synagogue, or permanently established place of religious services, which is attended by persons under 18 years of age.
- (a) For the purposes of **subsection (a)** hereof, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where an adult oriented business is conducted, to the nearest property line of the premises of a place of worship, public library or public or private elementary or secondary school.
- (b) For the purposes of **subsection (a)** hereof, the distance between any two adult oriented businesses shall be measured in a straight line, without regard to intervening structures or objects from the closest exterior wall of the structure in which each business is located.
- (c) A conditional use permit for an adult oriented business shall not be rendered invalid by the subsequent location of a place of worship, public or private elementary or secondary school, public park or public library within 1,000 feet of the adult oriented business.

- (d) No person shall establish, operate or cause the establishment or operation of any adult oriented business in violation of the provisions of this Chapter, any other provisions of the Codified Ordinances of the City of Willoughby Hills, and any State statute or regulation.
  
- (e) Nothing in this Section shall be construed to prohibit or limit the display, sale or rental of descriptive, printed, film or video material or any live performance which, taken as a whole, contains serious literary, artistic, political, medical, educational or scientific value.

**1163.05 SEVERABILITY.**

If any section, subsection or clause of this chapter shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Chapter 1167  
Hillside Regulations**

1167.01	Purpose.	1167.07	Driveways.
1167.02	Definitions.	1167.08	Administration and Appeals.
1167.03	Protected Hillside Area Map and Criteria.	1167.09	Schedule of Fees and Deposits.
1167.04	Applicability.	1167.99	Penalty
1167.05	Permit Procedures.		
1167.06	Retaining Walls.		

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**1167.01 PURPOSE.**

The purpose of the Hillside Regulations is to provide standards which permit development on hillside areas while conserving and promoting the public health, safety and general welfare by minimizing water run-off, soil erosion and other building and development problems unique to hillside development. Further, these regulations are designed to preserve, enhance and promote the appearance and resources of hillside areas, and to retain the sense of image and identity that the hillside areas impart to the City and its residents; these regulations also recognize the unique and sensitive nature of the hillsides within the community and the need to specially address development thereon.

These regulations are designed to achieve, among others, the following objectives:

- (a) To protect the public and private property owners from the potential damage to human life and safety, and property damage that could potentially be caused by increased hillside instability.
- (b) To assure access to properties within the Protected Hillside Area by emergency Police and Fire vehicles to protect persons and property.
- (c) To preserve and protect the unique scenic resources and scenic river habitats in the Protected Hillside Area.
- (d) To preserve and protect the valuable hydrologic systems, fragile hillsides and valuable flora and fauna in the Protected Hillside Area.
- (e) To permit, subject to the best available technology, development on Protected Hillside Area while conserving and promoting the public health, safety, convenience and general welfare by minimizing problems due to water runoff and soil erosion problems incurred in adjustment of the topography to meet development needs.

- (f) To use the best-accepted design, landscape architecture, architecture, civil engineering and hydrological engineering to preserve, enhance and promote the existing and future appearance and resources in Protected Hillside Area.
- (g) To preserve and enhance the natural beauty of Protected Hillside Areas by encouraging the maximum retention of natural topographical features such as natural drainage swales, streams, slope ridge lines, rock outcropping, vistas from and of hillside, trees and other natural plant formations and retain the sense of identity and image that the Protected Hillside Area areas now impart to the municipality. (Ord. 1995-15. Passed 6-8-95.)

**1167.02 DEFINITIONS.**

Only for the purposes of this Chapter, the following terms shall have the meaning herein indicated:

- (a) "Cut" means a portion of land surface or areas from which the earth has been removed, or will be removed, by excavation; the depth below the original ground surface or excavating surface.
- (b) "Develop" or "Development" means construction of a building or structure, subdivision of land, or the grading, excavating, removing or destroying of any natural vegetation, or removing any topsoil, unless otherwise excluded from the application of this Chapter by the provisions of [Section 1167.04 \(b\)](#).
- (c) "Earth moving" means any excavating, cutting or filling, or any stockpiling thereof.
- (d) "Erosion" means the general process whereby soils are detached and moved by the flow of surface or subsurface water, wind, ice and gravity.
- (e) "Excavating" means removing of soil or other materials, by any means whatsoever, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.
- (f) "Fill" means depositing of soil, rock or other materials by other than natural means.
- (g) "Finish grade" means the final grade or elevation of the ground surface after grading is completed.
- (h) "Grade" means the degree of rise or descent or a sloping surface.
- (i) "Grading" means any excavating, cutting or filling, stockpiling of land or earth or combination thereof, including the conditions resulting from any of the above.

- (j) "Hillside area" and/or "Protected Hillside Area" includes land in all zoning districts in the Municipality with slopes having a natural gradient within the limits set forth in Exhibit A, which is attached to Ordinance 1995-15 and incorporated herein by reference.
- (k) "Hillside control measures" means all of the planning work and control that is required and specified by this Chapter.
- (l) "Impervious surface" means roads, buildings and structures, tennis courts, roofs, driveways, sidewalks, pools, patios, pool decks, decks, parking lots and other similar surfaces.
- (m) "Natural ground surface" means the ground surface in its original state before any grading, excavating or filling.
- (n) "Natural vegetation" means plant materials which are indigenous to the area and exist on a site prior to any construction or earth moving activity.
- (o) "Owner/developer/builder" means an individual, firm, association, syndicate, partnership or corporation having sufficient proprietary interest to seek development of land.
- (p) "Run-off" means the part of precipitation which flows over land without filtering into the soil.
- (q) "Silviculture" means art, science and practice of establishing, tending and reproducing forest stands of desired characteristics based on knowledge of species characteristics and environmental requirements. This definition is provided by the Ohio Department of Natural Resources – Division of Forestry that is accepted and utilized by the USDA – Nature Resources Conservation Service and the Ohio State University.
- (r) "Undisturbed" means that portion of the parcel to be developed that will not be re-graded, have any vegetation removed from or have any impervious surface construction or cover as specified in this Chapter. (Ord. 1995-15. Passed 6-8-95.)

**1167.03 PROTECTED HILLSIDE AREA MAP AND CRITERIA.**

- (a) The City Engineer, in consultation with such other professionals as hydrological and geological engineers, botanists, biologists, and landscape architects as he may deemed necessary, shall create a map identifying the protected hillside areas. Said map shall be reviewed by the Planning and Zoning Commission and approved by City Council and shall become a part of this regulation. Copies of the Protected Hillside Area Map shall be made available for reference to property owners and the general public. Said map shall be published as a

convenient reference document and the information contained therein shall be believed to be accurate; however, the City shall not certify the accuracy of the map and shall assume no liability or responsibility for discrepancies between the map and the criteria for the Protected Hillside Area as set forth in **Section 1167.03(b)**. Said map shall become a guide only after it has been reviewed by the Planning and Zoning Commission and approved by legislation of Council, after public notice and hearing.

- (b) Protected hillside areas shall be those lands within the City which are located within the designated Protected Hillside Areas as designated on the Protected Hillside Area Map or those lands outside the Protected Hillside Areas which contain one or more of the following characteristics:
  - (1) The lands have exhibited evidence of instable soil conditions; or
  - (2) The lands have a natural gradient within the limits set forth in **Exhibit A**. (Ord. 1995-15. Passed 6-8-95.)

#### **1167.04 APPLICABILITY.**

- (a) No person, whether as owner, developer, builder or occupant shall make changes to any land located within a Protected Hillside Area by grading, excavating, removing or destroying any natural vegetation, or removing any topsoil without first having obtained a permit authorizing such activity as provided herein.
- (b) This Chapter shall not be interpreted to prohibit normal landscaping, gardening, maintenance, or silviculture or to prohibit small scale planting of ornamental flowers or shrubs or the removal of diseased, dead or damaged trees or trees which are a threat to the health and safety of the owner of the property. However, such activity shall be carried out in the conformance with the standards of vegetation or re-vegetation of this Chapter. (Ord. 1995-15. Passed 6-8-95.)

#### **1167.05 PERMIT PROCEDURES.**

All applications for Protected Hillside Area Permits shall be submitted to the Building Inspector with three (3) copies of the application and accompanying documents submitted to the City Engineer. The Building Inspector shall review the application to ensure compliance with the requirements of this Chapter; for good cause stated in writing, the City Engineer may recommend waiver of all or part of the requirements contained herein. The City Planning and Zoning Commission is authorized to waive the applicant's compliance with any provision(s) of this Chapter if the Planning and Zoning Commission determines that compliance is unnecessary to the preservation of the integrity of the Hillside area and/or the preservation of the objectives stated herein at **Section 1167.01, Purpose**. In connection with such review, the Building Inspector, the City Engineer, and/or the City Planning and Zoning Commission is authorized to consult and obtain opinions from such other professionals as hydrological and geotechnical engineers, botanists, biologists and landscape architects as they may deem necessary. No Protected Hillside Area permit shall be issued until the application, together with the report of

the Building Inspector, has been reviewed and approved by the Planning and Zoning Commission. Upon filing of a request for a permit to grade, excavate, clear, remove vegetation or topsoil, build, or subdivide in a Protected Hillside Area with the City Building Inspector, the applicant shall provide the following:

(a) Preconstruction Regulations.

(1) Preconstruction Record.

A. Video Tape Record. A videotape record shall be filed with the City Building Inspector prior to any building, grading, or clearing activity on the Protected Hillside Area; the videotape record shall show pre-development conditions of the Protected Hillside Area sufficient to insure compliance with these regulations.

B. Maps. Maps and data, either separately or combined, should be provided as follows:

i. Vicinity Map. A print, showing thereon the location of the proposed development and its relationship to adjacent streets and all community facilities which serve or influence it; the minimum scale for the vicinity map shall be one (1) inch equals one thousand (1,000) feet.

ii. Property Line Map. A drawing, prepared by a Registered Surveyor showing bearings and distances of the parcel to be developed, location, width and purpose of easements, the name, width and location of abutting streets including location of pavements and sidewalks, structures on the parcel and within one hundred (100) feet on adjoining property; the minimum scale for the property line map shall be one (1) inch equals fifty (50) feet.

iii. Topographic Map. A drawing, showing contours at two (2) foot intervals based on the County datum plane. It shall show approximate direction and gradient of ground slope on immediately adjacent land; and show watercourses, marshes, wooded areas, isolated preservable trees and other significant features. In addition to those requirements, this drawing will clearly indicate the limits of the Protected Hillside Area; the minimum scale for the topographic map shall be one (1) inch equals fifty (50) feet.

iv. Subsurface Map. A drawing showing subsurface conditions of the tract, including soil types; the minimum

scale for the subsurface map shall be one (1) inch equals fifty (50) feet.

- (2) Grading Plans. All proposed grading plans shall be of a minimum scale of one (1) inch equals thirty (30) feet and shall show the following:
  - A. A contour map with two (2) foot intervals and suitable cross sections and profiles of areas including, but not limited to, streets, driveways, buildings, utilities, pools, septic systems or where grading construction is proposed, along with quantities of cut and fill volumes;
  - B. Notes and details of existing terrain, including the natural topography of the Protected Hillside Area to be developed, the location and size of all structures, the finish grade of all improvement locations, and the dimensions, elevations and contours of any proposed earth moving. Subdivision grading plans shall include road profiles and cross-sections showing all significant changes in cross slopes and the proposed and natural grade at the centerline and right-of-way line of all streets and the proposed building setback lines.
  - C. A time schedule showing anticipated starting and completion dates of each stage of the project.
- (3) Geotechnical Report. A geotechnical report by a qualified geotechnical engineer, that addresses all factors pertinent to site stability, both present and future, will be required by the City, and shall include the following:
  - A. Present Stability Evaluation. An evaluation of the present stability of site, based on field exploration that includes test borings, followed by lab testing and stability analysis.
  - B. Future Stability Evaluation. An evaluation of the effect of the planned development on stability based on the findings in A. above.
  - C. Recommended Strategies. Detailed strategies to ensure that existing or potential instabilities will be mitigated.
- (4) Construction Plans. Plans, specifications, or drawings, prepared by a registered architect or a structural engineer, shall be submitted for any structure which is proposed to be constructed or otherwise placed in the Protected Hillside Area.

(b) Performance Regulations

- (1) Earth Moving Controls. The following minimum standards shall apply to earth moving;
  - A. Minimum alterations. Earth moving shall be limited to the minimum required for building foundations, driveways, drainage control structures and immediate yard areas.
  - B. Erosion control. Controls creating the lowest possible potential for airborne or waterborne transportation of soil shall be used; where possible, these erosion controls shall be installed prior to disturbance of existing vegetation or earth moving activity. Erosion controls shall be maintained and modified as necessary to ensure their proper operation; the owner(s), or any subsequent owner(s), of the premises shall be responsible for such maintenance, with such responsibility noted of record with the office of the Lake County Recorder.
  - C. Compaction. All fill shall be stabilized in conformance with generally accepted engineering standards, with a minimum compaction of 90% of maximum density. The City may require compaction tests by a qualified geotechnical engineer; the expense for such tests shall be the responsibility of the owner, developer, builder and/or occupant.
  - D. Prompt completion. All earth moving shall be accomplished in the shortest practical period of time. In no event shall the existing vegetation be destroyed, removed or disturbed more than fifteen (15) days prior to the initiation of earth moving;
  - E. Cut and fill. Cut and fill slopes shall be no steeper than three (3) horizontal to one (1) vertical; fill slopes shall neither be located on natural slopes steeper than 3:1 nor where fill slope toes out within twelve (12) feet horizontal of the top of an existing or planned cut slope. No unnecessary cuts and/or fills shall be allowed.
  - F. Buffer areas. Buffer areas consisting of undisturbed land shall exist around the perimeter of the parcel according to the following:

- i. For building sites not requiring plat approval:

Width of Parcel at Building Line (Ft.)	Side Lot Line Buffer Area Required (Ft.)*	Rear Lot Line Buffer Area Required (Ft.)
Less than 125	15	Regardless of width of parcel at building line, 25% of average lot depth or 50 feet, whichever is greater
At least 125 but less than 150	20	
At least 150 but less than 200	40	
200 feet or greater	50	
*Side lot line buffer area excludes the area within 50 feet of the Right-of-Way if such area is necessary to be used for driveway and/or utility purposes.		

- ii. For building sites requiring plat approval under Title Five, Subdivision Regulations, of the City’s codified ordinances:

- I. Buffer area. An undisturbed buffer area of one hundred (100) feet wide around entire boundary of the proposed subdivision, with the exception of areas required to be disturbed for entrance roads, easements or utilities, which disturbance shall be no more than minimally necessary for such purpose(s).
- II. For sublots within a subdivision, the area from the Right-of-Way to a distance fifty (50) feet from the Right-of-Way may be disturbed to allow for the placement of the roadway, utilities, and to provide grading for such.
- III. Within a subdivision, the requirement of **subsection (b)(1)F.i.** hereof relative to required side lot line buffer areas is waived for sublots which contain the one hundred (100) foot side lot line buffer area required by **subsection (b)(1)F.ii.I.** hereof along the entire length of the side lot line(s).
- IV. Within a subdivision, the requirement of **subsection (b)(1)F.i.** hereof relative to rear lot line buffer areas is waived for sublots which contain the one hundred (100) foot rear lot line buffer area required by **subsection (b)(1)F.ii.I.** hereof along the entire length of the rear lot line.

- (2) Hydrological Controls. The following standards shall apply to hydrologic controls:
- A. Natural channels. Perennial streams shall be left preserved. Intermittent streams and other natural drainage ways shall be preserved to the maximum extent possible. Natural drainage ways shall be preserved to the maximum extent possible in accordance with generally accepted engineering principles, below drainage and culvert discharge points to prevent channel erosion and to dissipate the energy of the discharge;
  - B. Controlled run-off. Run-off shall be collected and transported in a pipe or other approved manner to a storm sewer system, if available, or, otherwise to the bottom of a ravine or steep slope in a non-erosive manner. If required by the City Engineer, in accordance with generally accepted engineering principles, storm water detention facilities shall be installed. If run-off cannot be transported or collected as required herein, the applicant shall provide another manner of collection or transportation to the satisfaction of the City Engineer.
  - C. Interceptor ditches. Where required, interceptor ditches shall be established above steep slopes in such a way as not to saturate or erode soil; the intercepted water shall be conveyed in a pipe or other approved manner to a storm sewer system or to the bottom of a ravine or steep slope. If intercepted water cannot be conveyed in a manner required herein, the applicant shall provide another manner of conveyance to the satisfaction of the City Engineer.
  - D. Early completion. A drainage system shall be completed and operational at the earliest possible time during construction;
  - E. Hydrological control plan. A hydrological control plan, prepared by a registered professional civil engineer or landscape architect shall be submitted with the following information:
    - i. Inventory. A reasonably detailed description of:
      - I. The direction of flow within the local drainage basin;
      - II. All natural drainage channels directed toward and away from the hillside area within fifty (50) feet of its perimeter;

- III. Other natural drainage ways which may affect or be affected by the proposal;
  - IV. Any proposed re-alignment of the natural channels.
- ii. Special notations. Special notations shall be included highlighting details of the terrain, existing natural surface drainage and areas subject to seepage or spring flow;
  - iii. Proposed facilities. The location of all surface and sub-surface drainage devices and protective measures to be installed as part of the proposed development, together with a statement concerning existing active erosion occurring at the outlet of existing or proposed systems;
- (3) Vegetation and Re-vegetation. The following standards shall apply to vegetation and re-vegetation:
- A. Exposure. The smallest area of land possible shall be exposed at any given time during development and shall be exposed for as short a time as possible; where required to prevent erosion or where exposed land will remain for time periods exceeding fifteen (15) days, temporary cover shall be used during development; for land disturbances exceeding one acre, the project shall be designed and completed in phases so as to minimize the exposure of large areas of land.
  - B. Re-vegetation. Areas disturbed during development shall be landscaped, using native plantings with deep root systems whenever possible. Trees removed during development shall be replaced with native Ohio tree saplings that are typical to the site.
- (4) Landscape Plan. A landscape plan, prepared by a professional registered landscape architect shall be submitted, and shall include the following:
- A. Existing inventory. A site plan inventory describing the location and types of vegetation on the hillside area shall be submitted; such plan shall show the types and location of vegetation.
  - B. Re-vegetation. A site plan describing the type and location of proposed revegetation of disturbed areas;
  - C. Method. A detailed description of any slope, stabilization, and revegetation proposals. (Ord. 1995-15. Passed 6-8-95.)

**1167.06      RETAINING WALLS.**

Where required by topographic conditions or by generally accepted engineering principles, retaining walls shall be used to stabilize the hillside area, prevent unnatural erosion, protect and preserve the integrity of abutting roadways and to retain fill or cut slopes; such improvements shall require the prior approval of the City Engineer. (Ord. 1995-15. Passed 6-8-95.)

**1167.07      DRIVEWAYS.**

The maximum grade of a driveway, measured from the edge of the roadway, as that term is defined at Section 301.33 of the City's Codified Ordinances, shall not exceed ten percent (10%); notwithstanding anything contained herein to the contrary, the maximum of grade of the driveway, as stated herein, shall not exceed ten percent (10%) for the first one hundred (100) feet from the edge of the roadway, and a maximum grade of fifteen percent (15%) thereafter, if the City Engineer determines that the integrity of the Protected Hillside Area, and the objectives contained herein at Section 1167.01, Purpose, would be damaged by strict compliance with the ten percent (10%) maximum grade and would be enhanced by the use of the alternate grade stated herein. Each driveway shall provide sufficient space and distance such that motor vehicles can enter the roadway in a forward motion. (Ord. 1995-15. Passed 6-8-95.)

**1167.08      ADMINISTRATION AND APPEALS.**

- (a) The City Building Inspector and City Engineer shall review Protected Hillside Area Applications. In connection with such review, they are authorized to consult and obtain opinions from such other professionals as hydrological and geotechnical engineers, botanists, biologists, and landscape architects as they may deem necessary. No Protected Hillside Area permit shall be issued until the application has been reviewed and approved by the Planning and Zoning Commission. Any permit for activity within a Protected Hillside Area shall be denied if the proposal does not comply with the requirements contained in this Chapter, or if the proposal is so designed, or will be so located, constructed or maintained as to endanger the public health, safety and welfare based upon generally accepted engineering principles.
- (b) Appeals shall be to the City's Board of Building and Zoning Appeals and shall be governed by the provisions of Chapter 1117, Appeals and Variances, of the Codified Ordinances of the City.
- (c) Compliance with the provisions of this Chapter 1167, Hillside Regulations, does not relieve the applicant from compliance with other applicable provisions of the City's Codified Ordinances; in the event of conflict between the provisions of this Chapter and any other provision of the City's Codified Ordinances, the more restrictive provision shall control. (Ord. 1995-15. Passed 6-8-95.)

**1167.09 SCHEDULE OF FEES AND DEPOSITS.**

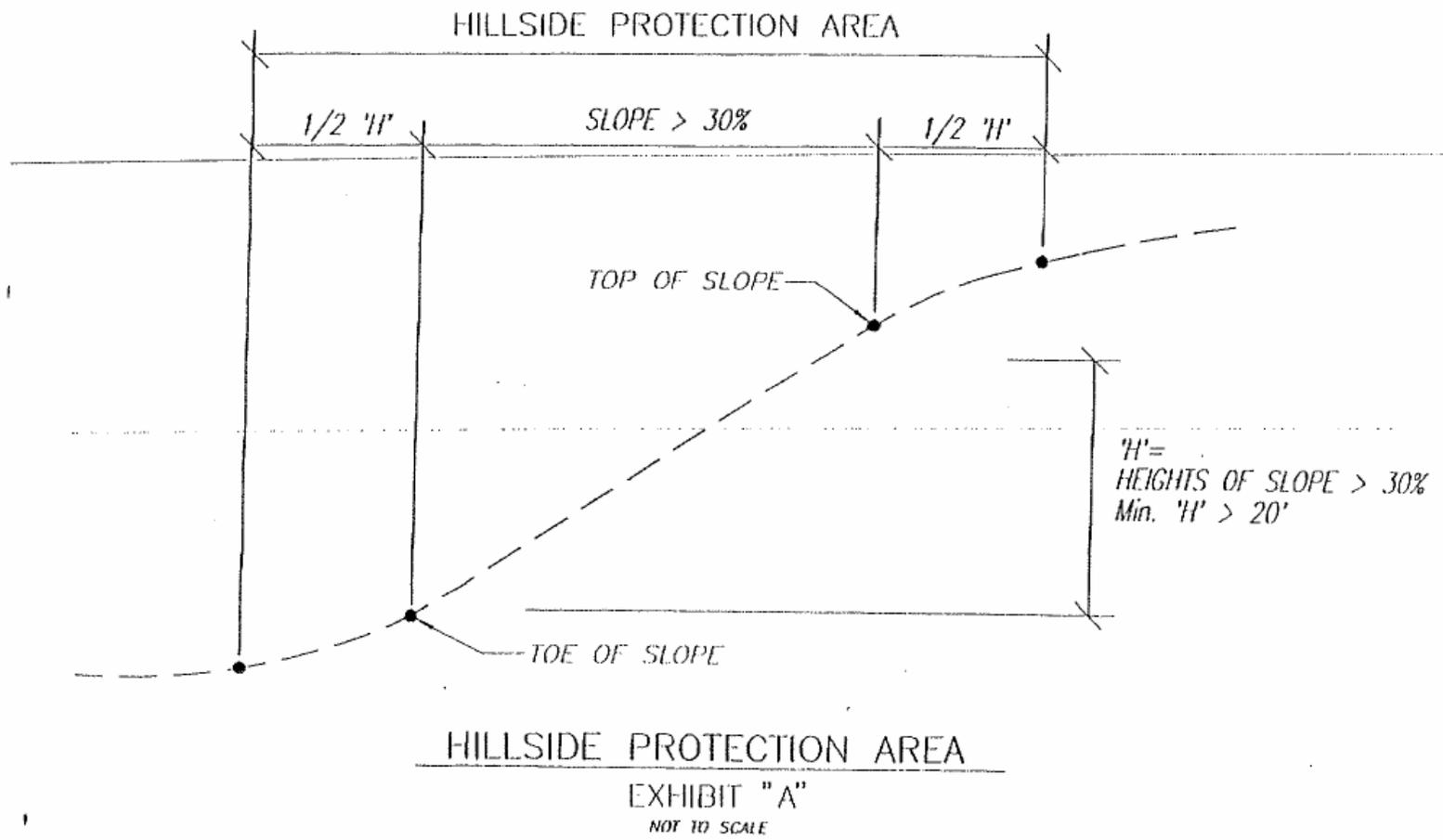
- (a) At the time of filing the application for a Protected Hillside Area permit, there shall be paid to the Director of Finance a filing fee in the amount of fifty dollars (\$50.00). There shall also, at such time, be deposited with the Director of Finance and thereafter maintained on deposit the amount of one thousand dollars (\$1,000.00) or such larger or lesser amount as may be determined by the Building Inspector based on his estimate of the costs to be incurred by the City in reviewing the application for permit and to insure payment by the applicant of expenses incurred by the City in the processing of the application and all pertinent papers connected therewith.
- (b) The cost and expense of any investigation which may be necessary by the Building Inspector, City Engineer, hydrological and geotechnical engineers, botanists, biologists, landscape architects, and the Law Director and such other City officials to determine whether the proposed application is in accordance with law, the cost of any and all notices required, and all other necessary expenses shall be paid by the applicant.
- (c) The actual expenditures shall be paid by the applicant upon demand of the Director of Finance. The unexpended balance of the deposit shall be refunded to the applicant upon completion of all administrative proceedings involved in connection therewith. No filing fee shall be refunded or returned. No permits shall be issued until any amounts required to be paid by the applicant have been paid. (Ord. 1995-15. Passed 6-8-95.)

**1167.99 PENALTY.**

- (a) Civil. In addition to any other penalty provided herein, in the event that work performed does not conform with the provisions of the Protected Hillside Area permit, a written notice to comply shall be served upon the architect, owner, developer, builder, contractor, and/or occupant. Such notice shall set forth the nature of the correction required and the time within which correction shall be made. Failure to comply with such notice shall result in the issuance of a stop work order applicable to all activity except that necessary for correction of the violation. Upon correction of the violation, the stop work order shall be voided and all permitted activity may resume.

If the Building Inspector concludes that the issuance of additional corrective notices would be futile, any bonds or cash deposits posted with the City shall be forfeited, whereupon such security shall be used for completion of the Protected Hillside Area permit as approved. Any additional costs incurred by the City may be certified to Council for certification to the County Auditor for placement as a lien upon the property under authority of Ohio Revised Code Section 715.47.

- (b) Criminal. The owner or owners of any land or part thereof, where anything in violation of this Chapter shall be placed or shall exist and any developer, architect, owner, developer, builder contractor, and/or occupant, and all persons or corporations who violate any provisions of this Chapter or fail to comply herewith or who build or otherwise develop in violation of the provisions of this Chapter or fail to comply herewith or who build or otherwise develop in violation of the provisions of this Chapter shall, for each and every violation or non-compliance, be fined not more than two hundred fifty dollars for the first offense and not more than five hundred dollars (\$500.00) for each subsequent offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.
  
- (c) In addition to any other penalties provided herein, in the event of noncompliance with the provisions of this Chapter, the Law Director shall be authorized to institute an appropriate action at law if the Building Inspector, alone or in consultation with other professionals, determines that a real and present emergency exists that is detrimental to the public health, safety or general welfare. (Ord. 1995-15. Passed 6-8-95.)





**CHAPTER 1169  
Flood Hazard Precautions**

1169.01	Purpose: Methods of Reducing Flood Losses.	1169.04	Development Permit Procedures; Duties of Administrator; Appeal and Variance Procedures.
1169.02	Definitions.		
1169.03	Application, Compliance and Penalty.	1169.05	Provisions for Flood Hazard Reduction.

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**1169.01 PURPOSE: METHODS OF REDUCING FLOOD LOSSES.**

- (a) Statement of Purpose. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
- (1) Protect human life and health;
  - (2) Minimize expenditure of public money for costly flood control projects;
  - (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - (4) Minimize prolonged business interruptions;
  - (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in areas of special flood hazard;
  - (6) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to minimize future flood blight areas;
  - (7) Ensure that potential buyers are aware that property is in an area of special flood hazard; and,
  - (8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- (b) Methods of Reducing Flood Losses. In order to accomplish its purposes, this Chapter includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water hazards, or which result in damaging increases in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging and other development which may increase flood damage; and,
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert waters or which may increase flood hazards in other areas.

**1169.02 DEFINITIONS.**

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application, and only for the purposes of this Chapter, the following terms shall have the meaning herein indicated:

- (a) “Accessory structure” means a structure on the same lot width, and of a nature customarily incidental and subordinate to, the principal structure.
- (b) “Appeal” means a request for a review of the interpretation of the Building Inspector of any provision of this chapter or a request for a variance.
- (c) “Area of shallow flooding” means a designated AO or AH zone on a community’s Flood Insurance Rate Map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- (d) “Area of special flood hazard” means the land in the flood plain within a community subject to a one (1) percent or greater annual chance of flooding in any given year. Areas of special flood hazard are designated by the Federal Management Agency as Zone A, AE, AH, AO, A1-30 and A99.
- (e) “Base flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the one hundred-year (100-year) flood.

- (f) “Basement” means any area of the building having its floor subgrade (below ground level) on all sides.
- (g) “Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.
- (h) “Federal Emergency Management Agency” (FEMA) means the agency with the overall responsibility for administering the National Flood Insurance Program.
- (i) “Flood or flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (1) The overflow of inland or tidal waters, or
  - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (j) “Flood Insurance Rate Map” (FIRM) means an official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- (k) “Flood insurance study” means the official report in which the Federal Emergency Management Agency has provided flood profiles, floodway boundaries and the water surface elevations of the base flood.
- (l) “Floodway” means the channel of a river or other watercourse and the adjacent land areas that shall be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. For the Chagrin River, the allowable rise is one-half foot, for the Euclid Creek North and South Tributaries, the allowable rise is one foot.
- (m) “Historic structure” means any structure that is:
  - (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
  - (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
  - (3) Individually listed on the State of Ohio’s inventory of historic places with the Ohio Historic Preservation Office; or

- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - A. By an approved state program as determined by the Secretary of the Interior
  - B. Directly by the Secretary of the Interior in states without approved programs.
  
- (n) “Lowest floor” means the lowest floor of the lowest enclosed area (including a basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided that such enclosure is built in accordance with the applicable design requirements specified in **Chapter 1169**, Flood Hazard Precautions, for enclosures below the lowest floor.
  
- (o) “Manufactured home” means a residential dwelling built in an off-site manufacturing facility in accordance with the Federal Manufactured Home Safety and Construction Standards. The term manufactured home does not include a recreational vehicle.
  
- (p) “Manufactured home park” means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent. This definition excludes any manufactured home park as defined in ORC 3733.01, over which the Ohio Public Health Council has exclusive rule making power.
  
- (q) “Manufactured home subdivision” means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for sale. This definition excludes any manufactured home park as defined in ORC 3733.01, over which the Ohio Public Health Council has exclusive rule making power.
  
- (r) “Market value” means the most recent appraisal for adjusted assessed value of the existing structure as prepared by the County’s Auditor’s office for tax assessment purposes. Should this amount be in question, the permit applicant can submit an independent appraisal by a qualified appraiser to substitute for the “market value.”
  
- (s) “New Construction” means structures for which the “start of construction” commenced on or after the initial effective date of Willoughby Hills’ Flood Insurance Rate Map, and includes any subsequent improvements to such structures.
  
- (t) “Recreational vehicle” means a vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

- (u) “Start of construction” means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, filling, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of a building.
- (v) “Structure” means a walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.
- (w) “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. Substantial damage also means flood related damage sustained by a structure on two (2) separate occasions during the 10-year period for which the cost of repairs at the time of each such flood event, on the average equals or exceeds twenty-five (25) percent of the market value of the structure before the damage occurred.
- (x) “Substantial improvements” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include:
  - (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,
  - (2) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure;” or,
  - (3) Any improvement to a structure that is considered new construction.
- (y) “Variance” is a grant of relief from the standards of this Chapter consistent with the variance conditions herein.

- (z) “Violation” means the failure of a structure or other development to be fully compliant with this ordinance.

**1169.03 APPLICATION, COMPLIANCE AND PENALTY.**

- (a) Land to which this Chapter Applies. This Chapter shall apply to all areas of special flood hazard within the jurisdiction of the City of Willoughby Hills as identified by the Federal Emergency Management Agency, including any additional flood hazard areas annexed by the City of Willoughby Hills that are not identified on the effective Flood Insurance Rate Map. (Ord. 1998-77. Passed 4-8-99)
- (b) Basis for Establishing Areas of Special Flood Hazard. The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled “Flood Insurance Study for the City of Willoughby Hills.” This study, with accompanying Flood Insurance Rate Maps, dated May 2, 2002, and any revisions thereto is hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at the City of Willoughby Hills, 35405 Chardon Road, Willoughby Hills, Ohio. (Ord. 2002-24. Passed 2-14-02.)
- (c) Compliance. Unless specifically exempted from filing for a development permit as stated in **Section 1169.04(b)**, no structure or land shall hereafter be located, erected, constructed, re-constructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of this Chapter and all other applicable regulations which apply to uses within the jurisdiction of this Chapter.
- (d) Abrogation and Greater Restrictions. This Chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Chapter and another chapter, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (e) Interpretation. In the interpretation and application of this chapter, all provisions shall be:
  - (1) Considered as minimum requirements;
  - (2) Liberally construed in favor of the governing body; and
  - (3) Deemed neither to limit nor repeal any other powers granted under State statutes. Where a provision of this chapter may be in conflict with a State law, such State law shall take precedence over this Chapter.
- (f) Warning and Disclaimer of Liability. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on

rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City of Willoughby Hills, any officers or employee thereof, or the Federal Emergency Management agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

- (g) Violations and Penalties. Violation of the provisions of this Chapter or failure to comply with any of its requirements shall constitute a misdemeanor of the third degree. Any person who violates this ordinance or fails to comply with any of its requirements (including violations of conditions of and safeguards established in connection with conditions) shall upon conviction thereof be fined not more than five hundred dollars (\$500.00) or imprisoned as provided by the laws of the City of Willoughby Hills. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Willoughby Hills from taking such other lawful actions as is necessary to prevent or remedy any violations. The City of Willoughby Hills shall prosecute any violation of this ordinance in accordance with the penalties stated herein.
- (h) Severability. Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid. (Ord. 1998-77. Passed 4-8-99.)

**1169.04 DEVELOPMENT PERMIT PROCEDURES; DUTIES OF ADMINSTRATOR; APPEAL AND VARIANCE PROCEDURES.**

- (a) Establishment of Development Permit. A development permit shall be obtained from the Building Inspector before construction or development begins within any area of special flood hazard established in **Section 1169.03(b)**. Application for a development permit shall be made on forms furnished by the Building Inspector and may include, but not be limited to: site specific topographic plans drawn to scale showing the nature, location, dimension and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:
  - (1) Elevation in relation to mean sea level of the lowest floor, including basement, of all proposed structures located in special flood hazard areas where base flood elevation data are utilized;
  - (2) Elevation in relation to mean sea level to which any proposed nonresidential structure will be floodproofed in accordance with **Section 1169.05(b)(2)** where base flood elevation data are utilized;

- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in **Section 1169.05(b)(2)** where base flood elevation data are utilized;
  - (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development and certification by a registered professional engineer that the flood carrying capacity of the watercourse will not be diminished;
  - (5) Certification by a registered professional engineer, architect, or surveyor of the structure's as-built lowest floor or floodproofed elevation; and,
  - (6) Certification by a registered professional engineer or architect of the construction cost of the improvement.
- (b) Exemption from Filing a Development Permit. An application for a development permit shall not be required for painting activities. An application shall also not be required for other maintenance work such as roofing, basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than twenty-five hundred dollars (\$2,500). Any proposed action exempt from filing for a Development Permit is also exempt from the standards of this ordinance.
- (c) Designation of the Flood Damage Prevention Administrator. The Building Inspector is hereby appointed to administer and implement this Chapter by granting or denying development permit applications in accordance with its provisions.
- (d) Duties and Responsibilities of the Building Inspector. The Building Inspector's duties and responsibilities shall include but are not limited to:
- (1) Permit Review.
    - A. Review all development permit applications to determine that the permit requirements of this Chapter have been satisfied.
    - B. Review all development permit applications to assure that all necessary permits have been received from those Federal, State or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the Department of the Army under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act.

- C. Review all development permit applications to determine if the proposed development is located within a designated floodway. Floodways are delineated in the Flood Boundary and Floodway Map or the Flood Insurance Rate Map of the Flood Insurance Study. Floodways may also be delineated in other sources of flood information. If the proposed development is located within a designated floodway, assure that the encroachment provisions of Section 1169.05(c)(1) is met.
  - D. Inspect all development projects before, during, and after construction to ensure proper elevation of the structure and to ensure compliance with all provisions of this ordinance.
- (2) Use of Other Base Flood Elevation and Floodway Data. Areas of special flood hazard where base flood elevation data have not been provided by the Federal Emergency Management Agency in accordance with Section 1169.03(b) are designated as Zone A on the Community's Flood Insurance Rate Map. Within those areas, the Building Inspector shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Section 1169.05(b)(1), Section 1169.05(b)(2) and Section 1169.05(c). (Ord. 1998-77. Passed 4-8-99.)
- (3) Information to be Obtained and Maintained. Where base flood elevation data are utilized within areas of special flood hazard on the Flood Insurance Rate Map, regardless of the source of such data, the following provisions apply:
- A. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and record whether or not such structures contain an enclosure below the lowest floor;
  - B. For all new or substantially-improved floodproofed non-residential structures:
    - i. Verify and record the actual elevation (in relation to mean sea level) to which the structure was floodproofed; and
    - ii. Maintain the floodproofing certifications required in Section 1169.04 (a) (3) hereof.
  - C. Maintain for public inspection all records pertaining to the provisions of this Chapter including base flood elevation data, Flood Insurance Rate Maps, variance documentation, Conditional Letter of Map Revision, Letters of Map Revision, Letters of Map

Amendment, and as-built elevations. (Ord. 2002-24. Passed 2-14-02.)

(4) Alteration of Watercourses.

- A. Notify adjacent communities, the Ohio Department of Natural Resources, Division of Water and the U.S. Army Corps of Engineers prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency. A watercourse shall be considered to be altered if any change occurs within its banks.
- B. Maintain engineering documentation required in **Section 1169.04(a)(4)** that the flood carrying capacity of the altered or relocated portion of said watercourse will not be diminished.
- C. Require that necessary maintenance will be provided for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished.

(5) Interpretation of Flood Boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). Where a map boundary and elevations disagree, the elevations delineated in the flood elevation profile shall prevail. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in **Section 1169.04(e)** hereof.

(e) Variance Procedure.

(1) Appeal Board.

- A. The Board of Building and Zoning Appeals (BZA) as established by **Charter Section 5.3** shall hear and decide appeals and requests for variances from the requirements of this Chapter.
- B. The BZA shall hear and decide appeals when it is alleged that is an error in any requirement, decision or determination made by the Building Inspector in the enforcement or administration of this Chapter.
- C. Those aggrieved by the decision of the BZA, or any interested party, may appeal such decision to the Court of Common Pleas of Lake County, Ohio, as provided in Ohio R.C. Chapter 2506.

- D. In passing upon such applications, the BZA shall consider and make findings of fact on all elevations, all relevant factors, standards specified in other sections of this Chapter, and:
- i. The danger that materials may be swept onto other lands to the injury of others;
  - ii. The danger to life and property due to flooding or erosion damage;
  - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - iv. The importance of the services provided by the proposed facility to the community;
  - v. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - vi. The necessity to the facility of a waterfront location, where applicable;
  - vii. The compatibility of the proposed use with existing and anticipated development;
  - viii. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area;
  - ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - x. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
  - xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- E. Upon consideration of the factors of Section 1169.04 (e) (1) D. hereof and the purposes of this chapter, the BZA may attach such conditions to the granting of the variances as it deems necessary to further the purposes of this chapter.

F. The Flood Plain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(f) Conditions for Variances.

- (1) Variances may only be issued where due to physical characteristics of the property compliance with the requirements of this Chapter creates an exceptional hardship. Increased cost or inconvenience of meeting the requirements of this ordinance do not constitute an exception hardship.
- (2) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the items in **Section 1169.04(e)(1)D.** hereof have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (3) Variances may be issued for the repair, restoration, reconstruction or rehabilitation of historic structures upon a determination that the proposed repair, restoration, reconstruction, or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon:
  - A. A showing of good and sufficient cause;
  - B. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - C. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in this chapter, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in **Section 1169.04(e)(1)D.** hereof, or conflict with existing local laws or ordinances; and

- D. A determination that the structure or other development is protected by methods to minimize flood damages.
- (7) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 1988-77. Passed 4-8-99; Ord. 1999-9. Passed 4-29-99.)

**1169.05 PROVISIONS FOR FLOOD HAZARD REDUCTION.**

- (a) General Standards. The following standards apply in all areas of special flood hazards including those where base flood elevation data have been provided. Where a structure, including its foundation members, is elevated on fill to a minimum of 18 inches above the base flood level, the requirements for **Section 1169.05(a)(1)**, Anchoring, and **Section 1169.05(a)(2)**, Construction materials and methods, are satisfied.

- (1) Anchoring.

- A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors.
- B. All manufactured homes not otherwise regulated by the Ohio Revised Code pertaining to manufactured home parks shall be anchored to prevent floatation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors.

- (2) Construction Materials and Methods.

- A. All new construction and substantial improvements shall be constructed with materials resistant to flood damage.
- B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage

- C. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (3) Utilities. The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code.
- A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
  - B. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
  - C. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
  - D. An individual “off-lot” discharge of a home sewage system will not be permitted unless a National Pollutant Discharge Elimination System (NPDES) permit is obtained from the Ohio Environmental Protection Agency and written authorization is received from the Lake County Health District.
- (4) Subdivision Proposals.
- A. All subdivision proposals, including manufactured home subdivisions, shall be consistent with the need to minimize flood damage;
  - B. All subdivision proposals, including manufactured home subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
  - C. All subdivisions proposals, including manufactured home subdivisions, shall have adequate drainage provided to reduce exposure to flood damage; and
  - D. All subdivision proposals, including manufactured home subdivisions, shall meet the specific standards of **Section 1169.05(b) and 1169.05(c).**

- (5) Standards in Areas of Special Flood Hazard without Base Flood Elevation Data. In all areas of special flood hazard identified as Zone A on the Flood Insurance Rate Map where base flood elevation data are not available from any source, new construction and substantial improvement of any residential, commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated to at least two feet above the highest adjacent natural grade.
  
- (b) Specific Standards. In all areas of special flood hazards where base flood elevation data have been provided as set forth in [Section 1169.03\(b\)](#), [Section 1169.04\(d\)\(2\)](#), or [Section 1169.05\(a\)\(5\)](#), the following provisions are required:
  - (1) Residential Construction.
    - A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of 18 inches above the base flood elevation.
  
  - (2) Nonresidential Construction.
    - A. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to a minimum of 18 inches above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall;
      - i. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water to the level of the base flood elevation. In order to be eligible for lower flood insurance rates, the structure should be floodproofed to a minimum of 18 inches above the base flood elevation;
      - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
      - iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the standards of this subsection. Such certification shall be provided to the official as set forth in [Section 1169.04\(a\)\(3\)](#).
  
  - (3) Accessory Structures.

- A. A relief to the elevation or dry floodproofing standards may be granted for accessory structures such as sheds or detached garages containing 600 square feet or less in gross floor area. Such structures shall meet the encroachment provisions of Section 1169.05(c)(1) hereof, and the following additional standards:
  - i. They shall not be used for human habitation;
  - ii. They shall be constructed of flood resistant materials;
  - iii. They shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters;
  - iv. They shall be firmly anchored to prevent flotation;
  - v. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to a minimum of 18 inches above the level of base flood elevation; and
  - vi. They shall meet the opening requirements of **Section 1169.05(b)(5)**.
  
- (4) Manufactured homes and Recreational vehicles. The following standards shall apply to all new and substantially-improved manufactured homes not subject to the manufactured home requirements of Ohio R.C. 3733.01.
  - A. Manufactured homes shall be anchored in accordance with **Section 1169.05(a)(1)B**. hereof.
  - B. Manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is a minimum of 18 inches above the base flood elevation. These standards also apply to recreational vehicles that are either (1) located on sites for 180 days or more, or (2) are not fully licensed and ready for highway use.
  
- (5) Enclosures Below the Lowest Floor. The following standards apply to all new and substantially-improved residential and non-residential non-basement structures which are elevated to a minimum of 18 inches above the base flood elevation using pilings, columns, or posts, or solid foundation perimeter walls with opening sufficient to allow unimpeded movement of flood waters. These structures may enclose the area below the base flood elevation provided the following conditions are met:

- A. Fully enclosed areas below the lowest floor that are useable solely for the parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
  - B. Design for meeting this requirement must:
    - i. Be certified by a registered professional engineer or architect; or
    - ii. Shall meet or exceed the following criteria:
      - I. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
      - II. The bottom of all openings shall be no higher than one foot above grade; and
      - III. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (6) Subdivisions and Large Developments. In all areas of special flood hazard where base flood elevation data have not been provided in accordance with [Section 1169.03\(b\)](#), “Basis for establishing the areas of special flood hazard,” or [Section 1169.04\(d\)\(2\)](#), “Use of other base flood elevation and floodway data,” the following standards apply to all subdivision proposals, including manufactured home subdivisions, and other proposed developments containing at least 50 lots or 5 acres (whichever is less):
- A. The applicant shall provide base flood elevation data performed in accordance with standard engineering practices;
  - B. If [Section 1169.05 \(b\)\(6\)A.](#), is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provision of [1169.05\(a\)](#), General Standards, and [Section 1169.05\(b\)](#), Specific Standards.
- (c) Floodways. The Flood Insurance Study referenced in [Section 1169.03\(b\)](#), Basis for Establishing the Areas of Special Flood Hazard, identifies a segment within areas of flood hazard known as a floodway. Floodways may also be delineated in other sources of flood information as specified in [Section 1169.04\(d\)\(2\)](#), Use of

**Other Base Flood Elevation and Floodway Data.** The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris potential projectiles, and erosion potential. The following provisions apply within all delineated floodway areas:

- (1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a hydrologic and hydraulic analysis performed in accordance with standard engineering practices demonstrates that the proposed encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If **Section 1169.05(c)(1)** hereof is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.
- (3) Any encroachment within the floodway that would result in an increase in base flood elevation can only be granted upon the prior approval by the Federal Emergency Management Agency. Such requests must be submitted by the Building Inspector to the Federal Emergency Management Agency and must meet the requirements of the National Flood Insurance Program. (Ord. 1988-77. Passed 4-8-99.)