

Proposed: 10/2/2017

ORDINANCE NO. 105-2017 (PD), *First Reading*

By Council Member

An Ordinance amending various sections of Part Eleven, Zoning Code, of the Codified Ordinances of the City of Cleveland Heights.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The following sections of Part Eleven, *Zoning Code*, of the Codified Ordinances of the City of Cleveland Heights as set forth in Exhibit A, a copy of which is attached hereto incorporated herein by reference, with the language of the new provisions in red and the provisions to be deleted struck out:

**Chapter 1103 Definitions.**

Section 1103.03                   DEFINITIONS OF GENERAL TERMS  
Section 1103.04                   DETERMINATION OF HOUSEHOLD STATUS. (enacting)

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

Section 1105.02                   DISTRICTS ESTABLISHED.

**Chapter 1109 Board of Zoning Appeals.**

Section 1109.06                   POWERS AND DUTIES OF THE BOARD.

**Chapter 1115 Procedures.**

Schedule 1115.01                ZONING APPROVAL RESPONSIBILITY.  
Section 1115.02                BUILDING PERMIT REQUIRED.  
Section 1115.06                APPEAL PROCEDURE AND HEARING.  
Section 1115.07                VARIANCES; PROCEDURES, AND REVIEW CRITERIA.  
Section 1115.08                CONDITIONAL USES SUBMISSION REQUIREMENTS AND PROCEDURES.  
Section 1115.09                REVIEW OF DEVELOPMENT PLANS FOR CONDITIONAL USES.  
Section 1115.11                REVIEW OF DEVELOPMENT PLANS FOR S-1 MIXED USE DISTRICT.

**Chapter 1119 Amendments.**

Section 1119.01                AMENDMENT BY COUNCIL.  
Section 1119.02                CONTENTS OF APPLICATION OR PETITION FOR ZONING MAP AMENDMENT.

**Chapter 1121 AA and A Single-Family and B Two-Family Residential Districts.**

Section 1121.04                CONDITIONALLY PERMITTED USES.  
Section 1121.09                DWELLING UNIT REQUIREMENTS.

Section 1121.12 ACCESSORY USE REGULATIONS.  
Schedule 1121.12(a) MINIMUM YARD REQUIREMENTS FOR ACCESSORY USES  
Schedule 1121.12(d) MAXIMUM AREA AND REAR YARD COVERAGE

**Chapter 1123 MF-1, MF-2 and MF-3 Multiple-Family Residential Districts.**

Section 1123.04 CONDITIONALLY PERMITTED USES.

**Chapter 1131 Commercial Districts.**

Section 1131.01 PURPOSE.  
Section 1131.02 PRINCIPAL AND CONDITIONALLY PERMITTED USES.  
Schedule 1131.02 PERMITTED USES IN COMMERCIAL DISTRICTS  
Schedule 1131.03 PERMITTED ACCESSORY USE  
Section 1131.04 LOT AREA AND WIDTH REGULATIONS  
Schedule 1131.06 MINIMUM YARD REQUIREMENTS FOR PRINCIPAL USES  
Section 1131.07 HEIGHT REGULATIONS.  
Section 1131.075 COMMERCIAL AND MIXED USE DISTRICT DESIGN STANDARDS.  
Section 1131.08 ACCESSORY USE REGULATIONS.  
Section 1131.13 SUPPLEMENTARY REGULATIONS FOR LIVE/WORK DWELLINGS IN COMMERCIAL DISTRICTS.

**Chapter 1133 Park District.**

Section 1133.04 MINIMUM YARD REQUIREMENTS

**Chapter 1141 Planned Development Objectives.**

Section 1141.02 (deleted)

**Chapter 1143 S-1 Mixed Use District.**

Section 1143.02 PERMITTED USES.  
Section 1143.07 PARKING AREAS.  
Section 1143.09 LIGHTING.  
Section 1143.10 PROCEDURES.

**Chapter 1153 Supplemental Standards for Conditional Uses.**

Schedule 1153.03 AREA, WIDTH AND YARD REGULATIONS FOR CERTAIN CONDITIONAL USES  
Section 1153.05 SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES.

**Chapter 1155 Planned Residential Development.**

Section 1155.02 APPROVAL CRITERIA.  
Section 1155.03 PERMITTED USES.  
Section 1155.04 MINIMUM LAND AREA.  
Section 1155.05 DEVELOPMENT STANDARDS.

**Chapter 1161 Off-Street Parking and Loading Regulations.**

Schedule 1161.03 REQUIRED OFF-STREET PARKING SPACES  
Section 1161.10 NON-RESIDENTIAL JOINT USE DRIVEWAYS AND CROSS-ACCESS EASEMENTS

Section 1161.103 (deleted)  
Section 1161.11 IMPROVEMENT AND MAINTENANCE STANDARDS.

**Chapter 1163 Sign Regulations.**

Section 1163.07 PROJECTING SIGNS.

**Chapter 1166 Landscape Requirements.**

Section 1166.04 GENERAL LANDSCAPE DESIGN STANDARDS.

Schedule 1166.04(k) (deleted)

Section 1166.05 LANDSCAPE YARDS.

Schedule 1166.05(b)(1) FRONT & CORNER SIDE YARD LANDSCAPING PLANT  
UNIT EXAMPLES

Section 1166.06 PARKING LOT LANDSCAPING.

Section 1166.07 BUFFER YARDS.

Section 1166.10 SCREENING REQUIREMENTS.

**Chapter 1171 Intent and General Regulations.**

Section 1171.02 EXISTING USE DEEMED CONDITIONAL USE; PERMIT  
REQUIRED FOR CHANGE.

**Chapter 1175 Nonconforming Lots and Structures**

Section 1175.02 NONCONFORMING LOTS OF RECORD,

SECTION 2. This proposed amending ordinance shall be transmitted to the Planning Commission pursuant to Section 1119.03 of the Codified Ordinances.

SECTION 3. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 4. This Ordinance shall take effect and be in force at the earliest time possible permitted by law.

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CHERYL L. STEPHENS, Mayor  
President of the Council

LAURIE SABIN  
Clerk of Council

PASSED:

# **Exhibit A**

**CHAPTER 1103**  
**Definitions**

**1103.03 DEFINITIONS OF GENERAL TERMS.**

Words used in this Zoning Code are used in their ordinary English usage. However, for the purpose of this Zoning Code, certain words used herein are defined and whenever used in this Code shall have the meaning indicated in this section, whether or not capitalized or otherwise highlighted, except where the context clearly indicates a different meaning.

- (a) The following are general terms of reference:
- (1) "Board" means the Board of Zoning Appeals of Cleveland Heights, Ohio. (See Chapter 1109.)
  - (2) "City" means the City of Cleveland Heights, Ohio.
  - (3) "City Manager" means the chief administrative officer of the City.
  - (4) "Commission" means the City Planning Commission of Cleveland Heights, Ohio. (See Chapter 1111.)
  - (5) "Commissioner of Building" means the individual designated by the City Manager as being in charge of the Division of Building in the Department of Public Service, and is synonymous with "Building Commissioner".
  - (6) "Council" means the City Council of Cleveland Heights, Ohio.
  - (7) "Date of passage" means the date upon which this Zoning Code was passed by Council.
  - (8) "District" means a part of the City wherein regulations of this Zoning Code are uniform as classified by the provisions of Chapter 1105.
  - (9) "Municipal" means anything of or pertaining to the City.
  - (10) "Public notice" means advance notice of a hearing or proceeding as prescribed in this Zoning Code which states the subject matter to be heard and the time and place of the hearing or proceeding, printed once in a newspaper of general circulation in the Municipality.
  - (11) "Zoning Administrator" means the Planning and Development Director or the Director's designee. (See Chapter 1107.)
- (b) Certain general terms are hereby defined as follows:
- (1) "Abutting" means having a common border with, or being separated from such a common border by a right of way, alley or easement.
  - (2) "Accessory building" means a subordinate building which is incidental to or customarily in connection with the principal building or use and which is detached from the principal building but located on the same lot with such principal building or use.
  - (3) "Accessory use or structure" means a use, object or structure constructed or installed on, above or below grade which is incidental to or customarily in connection with, or subordinate to, the principal building or use and is located on the same lot with such principal building or use.
  - (4) "Alley" means a public or private way permanently reserved as a secondary means of access to abutting property.
  - (5) "Animal clinic" or "veterinary office" means a place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the clinic use, unless longer-term animal day care or overnight boarding of animals has been approved under the terms of Section 1153.05(bb).
  - (6) "Animal day-care facility" means a facility that cares for pet animals during the day at the request of the pets' owners. An animal day-care facility shall not include overnight boarding unless explicitly approved by the Planning Commission in the conditional use permit.
  - (7) "Automobile service station, major repair" means a building or portion of a building in which structural repair, rebuilding or reconditioning of motor vehicles, or parts thereof, is conducted, including collision service; spray painting; body, fender, clutch, transmission, differential, axle, spring, and frame repairs; major overhauling of engines requiring the removal of the engine cylinder, head or crankcase pan; repairs to radiators requiring the removal thereof; complete recapping or retreading of tires; or similar

activities.

- (8) "Automobile service station, minor repair" (See also gasoline station) means a building or part of a building, structure or space used for the retail sale of lubricants and motor vehicle accessories, the routine maintenance and service and the making of repairs to motor vehicles, except that repairs described as major repairs in subsection (b)(6) hereof shall not be permitted.
- (9) "Bar, tavern or night club" means any premises wherein alcoholic beverages are sold at retail for consumption on the premises and minors are excluded therefrom by law for all or part of the time the establishment is open for business, and in which dancing may be permitted.
- (10) "Basement" means a portion of a building partly or entirely underground whose ceiling or underpart of the floor above is four (4) feet or less above the average finished ground elevation. The "average finished ground elevation" is the mean elevation of the finished grade around all of the exterior of the building.
- (11) "Blockface" means the properties that face the same side of a single street which are located between intersecting streets. A corner lot shall be part of the blockface parallel to the lot's front lot line.
- (12) "Boarding house". See lodging house.
- (13) "Building" means any structure having a roof supported by or suspended from columns or walls and which is completely enclosed to serve as a shelter or enclosure for persons, animals, chattels or property of any kind. The term "building" does not include any vehicle, trailer (with or without wheels) nor any removable device, such as furniture, machinery or equipment.
- (14) "Building height" means the vertical distance from the grade to the highest point of the roof surface if it is a flat roof; to the deck line for a mansard roof; and to the mean height level between eaves and ridge line for gambrel, gable or hip roofs.
- (15) "Building line" means an imaginary linear extension of the building wall parallel to the street right-of-way line defining the limits of the front yard, or in the case of a corner lot, the side yard abutting the street.
- (16) "Building, principal" means a building occupied by the main use or activity on the lot on which such building is located.
- (17) "Car wash" means a building or 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.
- (18) "Cellar". See basement.
- (19) "Cemetery" means land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including columbariums and mausoleums, when operated in conjunction with and within the boundaries of such cemetery.
- (20) "Child day-care" means administering to the needs of infants, toddlers, pre-school children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage or adoption for any part of the twenty-four (24) hour day in a place or residence other than a child's own home.
- ~~(21) "Child day-care center" means any place other than a child day-care home in which child day-care is provided.~~
- (2221) "Child day-care home" means a permanent residence of the provider in which child day-care is provided for one (1) to six (6) children at one (1) time and in which no more than three (3) children may be under two (2) years of age at one (1) time. In counting children for the purposes of this definition, any children under six (6) years of age who are related to the provider and who are on the premises of the child day-care home shall be counted.

- (2322) "Clinic" means a building where human patients are admitted for examination and treatment by a group of physicians or dentists practicing medicine together, but who are not lodged overnight.
- (2423) "Cluster development" means a development design technique that groups buildings on the site, with no increase in overall density, to allow a better arrangement of open space.
- (24a24) "Community garden" means any piece of land (publicly or privately held) that is cultivated by a group of people rather than a single family or individual.
- (25) "Conditional use" means a use permitted in a district other than a principally permitted use which is allowed only under certain conditions, requiring a conditional use permit as regulated in Title Seven and approval of the City Planning Commission or Zoning Administrator in accordance with the standards and procedures of Sections 1115.08 and 1115.09.
- (26) "Conditional use permit" means a permit issued by the Zoning Administrator upon approval by the City Planning Commission, when required, to allow a use other than a principally permitted use to be established within the district on a specific parcel.
- (27) "Corner lot". See "lot types".
- (28) ~~"Child day care center" means any place other than a child day care home in which child day care is provided, an establishment in which the operator is provided with compensation in return for providing individuals with care for less than twenty-four hours (24) hours at a time. This term includes, but is not limited to, a day nursery, nursery school, pre-school, child or adult day care center and may include incidental facilities for the preparation and consumption of meals, rest and recreation. This term does not include a child day-care home.~~
- (2829) "Density" means the number of dwelling units permitted per acre of land.
- (2930) "Dormitory" means a building used as group living quarters for a student body, religious order, or other group as an associated use to a college, university, boarding school, orphanage, convent, monastery, or other similar use. Dormitories do not include kitchen facilities, except a group kitchen facility to serve all residents.
- (3031) "Drive-through facility" means any portion of a building or structure 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-through" also includes "drive-up" and "drive-in".
- (3132) "Dry-cleaning and laundry counter outlets" means a business that provides home-type washing, drying, and/or ironing machines for use by customers on the premises, or serves as a drop-off for dry-cleaning or laundry, but where no dry-cleaning processing is done on the premises.
- (3233) "Dwelling" means any building or portion thereof which is designed and used exclusively by one (1) or more human occupants for the purpose of residing for an extended time. A dwelling may be comprised of more than one (1) dwelling unit.
- (3334) "Dwelling, multiple family" means a building or portion thereof designed for occupancy by three (3) or more families living independently of each other in three (3) or more dwelling units where the units are separated by party walls with varying arrangements of entrances.
- (3435) "Dwelling, single-family" means a building designed or arranged for use by a single family consisting of one dwelling unit only in one of the following forms:
- A. "Dwelling, single-family detached" means a building designed or arranged for use by a single family consisting of one dwelling unit only, separated from other dwelling units by open space; or
  - B. "Dwelling, single-family, attached" means a single-family dwelling that is joined by party walls to another single-family dwelling on a separate parcel.



- (3536) " Dwelling, town house" means a building that has single-family dwelling units erected as a single 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.  
The words "townhouse", "terrace" and "row house" shall be considered synonymous.
- (3637) " Dwelling, two-family" means a dwelling consisting of two (2) dwelling units arranged, intended or designed to be occupied by two (2) families only. The dwelling units may be either attached side by side or one (1) above the other.
- (3738) " Dwelling unit" means a group of rooms arranged, maintained or designed to be occupied by a single family and consisting of a complete bathroom with toilet, lavatory and tub or shower facilities; one (1) and one (1) only complete kitchen or kitchenette with approved cooking, refrigeration and sink facilities; approved living and sleeping facilities. All of these facilities shall be in contiguous rooms and used exclusively by such family. The words "dwelling unit", "apartment" and "suite" shall be considered synonymous.
- (3839) " Enclosed space" means an area that is surrounded on all sides. See also building.
- (3940) " Family" means a group of individuals who function as a single, cohesive household. The Zoning Administrator shall determine whether a specified group of persons constitutes a household by virtue of being the functional equivalent of a family in the manner set forth in Section 1103.04. ~~one (1) individual or a number of individuals related by blood, adoption or marriage to the head of the household or to the spouse of the head of the household, and/or other relationships as provided hereinafter living as a single housekeeping unit in a single dwelling unit, but limited to the following:~~
- ~~A. Husband or wife of the head of the household.~~
  - ~~B. Children and grandchildren of the head of the household or of the spouse of the head of the household.~~
  - ~~C. Father, mother, grandfather and grandmother of the head of the household, or of the spouse of the head of the household.~~
  - ~~D. A family may include those persons described in subsection D.1. or 2. hereof, or a combination of subsections D.1. and 2. hereof, so long as such combination does not exceed two (2) additional persons:
 
    - ~~1. Not more than two (2) additional persons not related within the scope of subsections A. through C. hereof, whether or not otherwise related to the head of the household or to the spouse of the head of the household. Such additional persons shall be at least eighteen (18) years of age, provided that such additional persons may be less than eighteen (18) years of age if such persons are foster children, as defined by subsection (b)(43) hereof, placed with the head of the household, or with the spouse of the head of the household.~~
    - ~~2. Not more than two (2) additional persons under eighteen (18) years of age, related by blood or adoption to the head of the household, or to the spouse of the head of the household, or to the child or parent of the head of the household, for whom such family member has been appointed legal guardian, or not more than one (1) additional person under eighteen (18) years of age who is the child or ward of an additional person, as defined in subsection D.1. hereof. In order for a person under eighteen (18) years of age to be considered the ward of another, such other person must have been appointed legal guardian by a court of competent jurisdiction.~~~~
  - ~~E. A family may consist of one (1) individual.~~

F. ~~One (1) person shall be designated as head of the household who shall be that person who customarily furnishes the greatest percentage of the financial support to the maintenance of the family.~~

G. Notwithstanding the provisions of this definition, no family unit shall exceed in total number those persons permitted under the applicable provisions of the Housing Code describing required habitable floor and bedroom areas for each occupant.

(39a41) "Farmers' Market" means a market consisting of individual vendors, mostly farmers/producers who sell directly to customers.

(4042) "Fence" means any structure composed of wood, iron, steel, masonry, stone or other material and erected in such a manner and in such location as to enclose, secure, partially enclose or secure, provide privacy, decorate, define or enhance all or any part of any premises. Trellises or other structures supporting, or for the purpose of supporting, vines, flowers and other vegetation, when erected in such a position as to enclose all or any part of the premises or otherwise satisfy the intent of this definition shall be considered a fence.

(4143) "Floor area, gross" means the total number of square feet of all floor space contained within the outside surface of the exterior walls of a building or from the center line of a common wall separating two (2) buildings 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.

(4244) "Floor area of a dwelling unit" means the sum of the gross horizontal areas of a building devoted to residential use measured from the exterior faces of exterior walls or from the center line of common walls separating two (2) dwelling units. "Floor area of a dwelling unit" shall not include unfinished basement, attached garage, attic, terraces, breezeways, open porches and covered steps.

(4345) "Floor area ratio" means the ratio between the number of square feet of floor area and the number of square feet of land in the lot.

(4446) "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.

(4547) "Funeral home" means 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.

(4648) "Game rooms" means any premises open to the public other than a residence upon or within which there is located more than ~~three-seven (37)~~ billiard tables, bowling lanes or pinball machines, videogames or other similar player-oriented amusement devices, as defined by the Codified Ordinances, or any combination of billiard tables, bowling lanes and amusement devices in excess of ~~three-seven (37)~~. For the purposes of this definition, residence shall include any single-family, two-family and multi-family structure, and a dormitory for college students with a student union operated in conjunction with such dormitory facility, so long as such residence is open to residents and their invited guests only, and is not open to the general public.

(4749) "Garage, parking" means a principal or accessory building or an enclosed

space within the principal building in which motor vehicles owned by the general public are parked, including facilities operated as a business enterprise with a service charge or fee paid to the owner or operator of such facility, with no facilities for mechanical service or repair of a commercial or public nature.

- (4850) "Garage, private" means a detached accessory building or portion of the principal building designed to store motor vehicles and other normal household accessories of the residents of the principal building, with no facilities for mechanical service or repair of a commercial or public nature.
- (4951) "Gasoline station" (See also automobile service station) means 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 facilities available for the sale of other retail products.
- (5052) "Grade" means the average level of the finished surface of ground adjacent to the exterior walls of the building, except when any wall of a building approximately parallels and is not more than five (5) feet from a street right-of-way line, then the elevation of the street center line at the center of the building wall adjoining the street shall be the grade.
- (5153) "Greenbelt" means an open area which may be cultivated or maintained in a natural state surrounding development or used as a buffer between land uses or to mark the edge of a developed area.
- (5254) "Green roof" means a roof of a building that is partially or completely covered with vegetation and a growing medium with the capacity to absorb rainwater and reduce a building's heat island effect.
- (5355) "Greenway" means a linear park, alternative transportation route, or open space conservation area that provides a passive recreational opportunity, pedestrian and/or bicycle paths and/or conservation of open spaces or natural areas.
- (5456) "Home occupation" means an occupation for gain which is subordinate and incidental to the use of the premises as a dwelling, carried on by a person in the home in which he or she resides.
- (5557) "Hotel" means a building in which lodging is provided and offered to the public for compensation on a daily rate and which is open to occupancy for periods of less than one (1) week, in contrast to a lodging house as defined in this section. Motels are not included in this definition.
- (5658) "Indoor recreation" means an indoor facility for any number of uses such as game courts, exercise equipment, exercise and/or dance floor area, pools, locker rooms, spa, whirlpool or hot tub, and which may include an accessory retail shop for the sale of related equipment.
- (5759) "Industrial design" means an establishment where the form, usability, physical ergonomics, marketing, brand development and sales of various products are researched and developed. An industrial design establishment may only create prototypes of products, but may not manufacture products for sale and distribution. Outside storage or display is prohibited. All business, servicing, processing and storage uses must be located within the building.
- (5860) "Junk motor vehicle" means any motor vehicle, licensed or unlicensed, without regard to its age or value, that is parked in any unenclosed area of any portion of a yard or lot, with or without the consent of the owner of the property, for a period of seventy-two hours (72) hours or longer, when such motor vehicle is apparently inoperable, or is in such condition that it could not be legally operated on the public streets, or is in an extensively damaged, dilapidated or disassembled condition.
- (5961) "Junk yard" means any building, open area, or part thereof, used as a place of storage of waste and refuse or of old material which is capable of being used again in some form.
- (6062) "Landscaped area" means an area that is permanently devoted to and maintained for the growing of trees, shrubs, grass or other plant material.

- (~~61~~63) "Live/Work Dwelling" means a space used by a single household as a dwelling unit and as a work space, where the work space occupies at least 50% of the unit's total floor area. The living space of the live/work dwelling shall contain a kitchen area and sanitary facilities. The work space in a live/work dwelling is designed or equipped exclusively or principally for the conduct of work activities and is to be regularly used for such activities by one or more occupants of the unit.
- (~~62~~64) "Loading space, off-street" means an area located totally outside of any public right-of-way for the temporary parking of vehicles entering the premises for picking up and making delivery,
- (~~63~~65) "Lodging house" means a building occupied for, or arranged, intended or designed to be occupied for rooming, or rooming and boarding for compensation by not less than four (4) persons by prearrangement for definite periods of not less than one (1) week in contrast to a hotel which is open for occupancy for shorter periods. The term "lodging house" includes "boarding house" and "rooming house".
- (6466) "Lot" means a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. The term "zoning lot" is used synonymously with "lot" in this Zoning Code. Such lot shall have frontage on an improved public street but not include any portion thereof, or on an approved private street, and may consist of:
- A. A single lot of record;
  - B. A portion of a lot of record.
  - C. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.
- (~~65~~67) "Lot area" means the area contained within the lot lines exclusive of any portion of the right of way of any public street.
- (~~66~~68) "Lot coverage" means the ratio of total ground floor area of all buildings on a lot to the area of the lot expressed as a percentage.
- (~~67~~69) "Lot line" means the boundary line defining the limits of the lot. "Lot line" is synonymous with "property line".
- A. "Front lot line" means the line separating the lot from the street right of way on which the lot fronts. On a corner lot, the front lot line shall be the shorter lot line abutting a street except that if the lot is square (depth to width dimensions is a ratio of from 3:2 to 3:3) then the front lot line may be either lot line abutting a street.
  - B. "Rear lot line" means 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. "Side lot line" means any lot line other than a front or rear lot line.
- (~~68~~70) "Lot of record" means a lot or parcel of land the deed of which has been recorded in the office of the Recorder of Deeds of Cuyahoga County prior to the effective date of this Zoning Code.
- (~~69~~71) "Lot types": Terminology used in this Zoning Ordinance with reference to corner lots, interior lots and through lots is as follows:
- A. "Corner lot" means a lot abutting on two (2) streets at their intersection where the angle of such intersection is not more than 135 degrees.
  - B. "Interior lot" means a lot with only one (1) frontage on a street.
  - C. "Through lot" means a lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.
- (~~70~~72) "Lot width" means the distance between the side lot lines measured along a straight line parallel to the front lot line at the required front setback line.
- (~~71~~) "~~Motel~~". (~~See hotel.~~)

- (734) “Mixed-Use Building” means a multi-story building with multiple uses including two or more of the following: residential, office, retail and other commercial uses permitted in the zoning district.
- (7274) "Mural" means a graphic illustration or presentation other than a sign that is painted or otherwise applied to an outside wall, facade or surface of a building or structure.
- (7375) “Neighborhood high school” means an educational facility designed to serve residents of the community with educational services for high school aged youth.
- (7476) "Nonconformity" means a lot, use of land, building, use of buildings, or use of buildings and land in combination lawfully existing at the time of enactment of this Zoning Code or its amendments which do not conform to the regulations of the district or zone in which it is situated, and is therefore incompatible.
- A. "Nonconforming use" means any building or land lawfully occupied by a use on the effective date of this Zoning Code or any amendment thereto which, on such effective date, does not conform with the use regulations of the district in which it is situated.
- B. "Nonconforming site condition" means any lot, building or structure lawfully existing on the effective date of this Zoning Code or any amendment thereto, which, on such effective date, does not conform to the lot area, width or yard regulations, parking requirements, sign regulations, landscaping or screening requirements or other development standards of the district in which it is situated.
- (7577) "Nursing home" means an extended or intermediate care facility which provides skilled nursing and dietary care for persons who are ill or incapacitated or which provides service for the rehabilitation of the persons who are convalescing from illness or incapacitation, ~~excluding homes or similar institutions or facilities for persons suffering from acute or chronic alcoholism, or other drug dependency, or persons who are mentally incapacitated from causes other than simple senility or who regularly require restraint.~~
- (7678) “Ornamental Pool” means any water pool having less than 100 square feet of water surface containing less than two (2) feet of water at its deepest point, located out-of-doors on private property.
- (7779) “Outdoor Play Equipment” or “Recreational Equipment” means play apparatus such as swing sets and slides, sandboxes, poles for nets, trampolines and similar equipment.
- (7880) "Outdoor storage" means the keeping, in an unroofed area, of any goods, material, merchandise, vehicles, or junk in the same place for more than twenty-four (24) hours.
- (7981) "Overlay district" means a district described on the zoning map within which, through superimposition of a special designation, further regulations and requirements apply in addition to those of the underlying districts to which such designation is added.
- (8082) “Overnight boarding of animals” describes an activity that may be conditionally permitted in conjunction with an animal clinic, veterinary office, animal grooming facility, or animal day-care facility in which overnight care is provided for pet animals at the request of the pets’ owners.
- (8183) “Parcel” means a tract of land that is recorded by the Cuyahoga County Auditor as a distinct entity for taxing purposes and which is identified by a single permanent parcel number.
- (8284) "Parking deck" means a one (1) story unenclosed structure in which and on which motor vehicles may be parked.

- (8385) "Parking lot" (See also garage, parking) means an area not within a building where motor vehicles may be stored for the purposes of temporary, daily or overnight off-street parking.
- (8486) "Parking space, off-street" means an open or enclosed area adequate for parking an automobile with room for opening doors on both sides, with access to a public street. Arrangement of the parking space shall be such as to allow ingress and egress of an automobile without the necessity of moving any other automobile, and shall be located totally outside of any public right of way.
- (8587) "Personal services" mean any enterprise conducted for gain which primarily offers services to the general public such as shoe repair, watch repair, barber shops, beauty parlors, and similar activities.
- (8688) "Places of worship" mean a building in a residential district originally designed for and only for, and used primarily for public worship. The word "place of worship" includes the words "church", "chapel", "synagogue", ~~and~~ "temple", and "mosque", and their uses and activities which are customarily related. Church, chapel, synagogue, temple, mosque or other place dedicated to worship located in a commercial district shall be treated as a "meeting room" for the purposes of enforcing this Zoning Code.
- 
- (86a89) "Planned Development" or "PD" shall mean an area of land in which a variety of residential, commercial and/or office uses are accommodated as a conditional use in a pre-planned environment under more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under the standard district regulations. The procedure for approval of such development contains requirements in addition to those of permitted uses.
- (8790) "Portable on-demand storage structure" means any container, storage unit, shed-like container or other portable storage structure with a volume equal to or exceeding fifty cubic feet other than an accessory building or shed complying with Code requirements that can be or is used for the storage of personal property of any kind and which is located for such purpose outside a building.
- (8891) "Premises" means a lot together with all buildings and structures thereon.
- (8992) "Public land" means any land owned by the City or by any other governmental entity.
- (9093) "Public use" means any use of a building or land by the City or by any other governmental entity for any public purpose.
- (9194) "Recycling collection station" means an accessory use that serves as a neighborhood drop-off point for the collection and temporary storage of small recoverable resources such as glassware, plastic jugs and metal cans, but which does not involve any processing.
- (9295) "Regional high school" means an educational facility marketed and designed to serve a larger area than the community with educational services for high school aged youth.
- (9396) "Research and development, limited" means an establishment where research and development is conducted in industries that include, but are not limited to, green technology, biotechnology, pharmaceuticals, medical instrumentation or supplies, communication and information technology, electronics and instrumentation, and computer hardware and software. Limited research and development does not involve the manufacture, fabrication, processing or sale of products, except as incidental to the research and development business. Outside storage or display is prohibited. All business, servicing, processing and storage uses must be located within the building.
- (9497) "Research and testing laboratory" means a building or group of buildings 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.

- ~~(95)~~ "Residential home for handicapped persons" means any building or portion thereof which is designed and used exclusively for sole, bona fide and permanent residential purposes by more than three (3) handicapped persons, including resident staff, who are not related by blood, adoption or marriage and live together as a single housekeeping unit in a single dwelling unit. As used herein, the term "handicapped" shall mean having:
- ~~A.~~ A physical or mental impairment that substantially limits one (1) or more of such person's major life activities so that such person is incapable of living independently;
  - ~~B.~~ A record of having such an impairment; or
  - ~~C.~~ Being regarded as having such an impairment.
- However, "handicapped" shall not include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term "residential home for handicapped persons" does not include "halfway house", "quarterway house", "three quarterway house" or other housing facilities serving as an alternative to incarceration, "nursing home", "rest home", "boarding house", "rooming house", "lodging house", "residential treatment home/center", "special care home" or any other such similar building or use of a building.
- ~~(9698)~~ "Restaurant, ~~counter service~~" means a ~~retail~~ service establishment whose principal business is the sale of foods, ~~frozen desserts~~, or beverages ~~in ready to consume individual servings~~, for consumption either within the restaurant building or for carry-out, ~~and where customers are not served their food, frozen desserts, or beverages by a restaurant employee at the same table or counter where the items are consumed.~~
- ~~(97)~~ "Restaurant, table service" means a ~~retail service establishment wherein the entire business activity, or substantially all of the business activity, consists of the sale of foods to patrons seated at tables for consumption within the building.~~
- ~~(9899)~~ "Right-of-way" means a strip of land 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. "Right-of-way line" also means "street line".
- ~~(99100)~~ "Row house". (See dwelling, town house.)
- ~~(100101)~~ "Satellite dish receiving antenna" also referred to as a satellite earth station, means a round parabolic antenna designed to receive television broadcasts relayed by microwave signals from communications satellites orbiting the earth.
- ~~(101102)~~ "School facilities" mean 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 Ohio R.C. Chapter 3313; or publicly or privately owned 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.
- ~~(102103)~~ "Senior citizen apartments" mean a building or group of buildings containing independent living units of which no less than eighty percent (80%) are occupied by persons sixty-two (62) years or older or by disabled persons.
- ~~(103104)~~ "Setback" means the required minimum horizontal distance between a lot line and a structure as established by this Zoning Code.
- ~~(104105)~~ "Setback line" (See also "~~required yard, required~~") means a line established by this Zoning Code generally parallel with and measured from the lot line, defining the limits of the required yard in which no

building, or structure may be located above ground, except as may be provided in this Zoning Code. The term "setback line" also includes "required setback line".

~~(105) "Shopping center" means a group of commercial establishments offering a wide range of retail and service uses planned, constructed, and managed as a total entity with customer and employee parking provided on site.~~

(106) "Sign" means any identification, description, illustration or device which is affixed to or integrated into a building, structure or land, or otherwise situated on a lot and which is intended to direct or attract attention to, or announce or promote a product, place, activity, person, institution or business by means of letters, words, designs, colors, symbols, flags, banners, fixtures, images or illuminations. Signs shall be further classified by physical design or structure, and function or purpose based on the following:

A. Physical Characteristics.

1. "Advertising device" means any banner affixed on a pole, wire or rope, or streamer, wind operated device, flashing lights or other similar device.
2. "Awning" means a sign located on the face of the awning material.
3. "Freestanding" means a sign which is supported from the ground or a structure, other than a building.
4. "Marquee" means a sign affixed to a marquee which marquee is over an entrance to a building and supported from that building. For the purposes of these regulations, a marquee shall be permitted only for an auditorium used for dance, plays, concerts, movies and other similar productions.
5. "Portable" means a sign which is designed to be moved and is not permanently, or intended to be permanently, attached to a building, structure or the ground.
6. "Projecting" means a sign erected on the outside wall of a building and which projects out at an angle therefrom.
7. "Temporary" means a sign which is designed to be used for a period not to exceed forty-five (45) days, and which is either a window sign that is not painted on or otherwise permanently affixed to a window or glass portion of a door, or a yard sign.
8. "Wall sign" means a sign erected parallel to or affixed on the outside wall of any building, and not extending more than twelve (12) inches therefrom, and which does not project above the roof line or beyond the corner of the building.
9. "Window" mean a sign on the inside of a building affixed to, or near, a window for the purposes of being visible to and read from the outside of the building.

B. Functional.

1. "Building marker" means a sign indicating the name of a building and date and incidental information about its construction or historical significance, which sign is cut into a masonry surface or made of bronze or other permanent material, and mounted at the time the building was constructed or affixed subsequent to a structure being designated as an historical landmark.
2. "Commercial identification" means a sign primarily intended to identify the use, activity, service or business on the premises.



3. "Construction" means a sign identifying a building project only during the time of construction, including new construction, additions and renovations.
  4. "Directional" means a sign located near the street directing or guiding traffic and parking on private property with no part of any such sign more than four (4) feet above grade.
  5. "Institutional identification" means a sign identifying the name and/or address of a place of worship, school, public library, public safety facility, public park or playground, public recreation facility, cemetery, or public parking lot or garage, and which may include a bulletin board, and which contains only messages pertaining to activities on the site.
  6. "Instructional" means a sign intended to instruct employees, customers or users as to specific parking requirements; the location or regulations pertaining to specific activities on the site or in the building; specific services offered, or methods of payment accepted.
  7. "Name plate" means a sign indicating only the name and address of the person, business, profession or activity occupying the lot, or building(s).
  8. "Public purpose/safety" means a sign erected by a public authority, utility, public service organization or private industry upon the public right-of-way or on private property which is required by law or otherwise intended to control traffic, direct, identify or inform the public, or provide needed public service as determined by the rules and regulations of governmental agencies or through public policy.
  9. "Residential identification" means a sign identifying the name and address of a completed residential subdivision, or the name, address and phone number of a multiple-family development. A residential identification sign for a multiple-family development may also include a removable insert advising of a unit for rent in the building, subject to the provisions of Sections 1163.06(f)(2) and 1163.06(f)(6) herein.
- (107) "Story" means that part of a building other than a basement or a half-story between any floor and the floor above, or, in its absence, the ceiling or roof above.
  - (108) "Street" means a public way which affords the principal means of access to abutting property.
  - (109) "Street center line" means a line halfway between the street right-of-way lines.
  - (110) "Structure" means anything constructed or erected, the use of which requires a fixed location on the ground or is attached to something having a fixed location on the ground, and including, but not limited to signs, fences, backstops for ~~tennis courts~~ sports fields or courts, pergolas, decks, pools, patios, paved areas, sidewalks and gazebos.
  - (111) "Structural alteration" means any change that would prolong the life of the supporting members of a building or structure, such as the bearing walls, columns, beams or girders.
  - (112) "Swimming Pool" means any water pool having more than 100 square feet of water surface, which is capable of containing in excess of two (2) feet of water at its deepest point, located out-of-doors on private property. All other pools are "ornamental pools."
  - (113) "Sustainable" means in a manner which supports healthy, productive environments and minimizes waste and consumption of non-renewable materials.

- (114) “Sustainable Development” means development which: increases the efficiencies with which buildings and their sites use energy, water and materials; and reduces building impacts on human health and environment through better siting, design, construction, operation, and maintenance.
- (115) "Townhouse". (See dwelling, townhouse.)
- (116) “Veterinary office”. See “animal clinic.”
- (117) “Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions , including swamps, marshes, bogs, and similar areas. (See 40 CFR 232.2(r)). Wetlands shall be delineated by a site survey approved by the City of Cleveland Heights using delineation protocols accepted by the U.S. Army Corps of Engineers and the Ohio EPA at the time of application of this regulation. If a conflict exists between the delineation protocols of these two agencies, the delineation protocol that results in the most inclusive area of wetlands shall apply.
- (118) “White roof” means a roof that is white or light in color that reflects light and heat and measurably reduces a building’s heat island effect.
- (119) "Yard" means an open space on the same lot with a principal building that lies between the principal building and the nearest lot line, unoccupied and unobstructed by any portion of the structure from the ground upward, except for accessory uses, structures or buildings as expressly permitted in this Zoning Code.
- (120) "Yard, corner side" means 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.
- (121) "Yard, front" means a yard across the full width of the lot extending from the front of the principal building to the front lot line. On a residential corner lot in a residential district, the front yard shall face the shorter street dimension of the lot except that if the lot is square or almost square; i.e., has depth to width dimensions in a ratio of from 3:2 to 3:3, then the front yard may face either street. On a corner lot of a nonresidential use or in a nonresidential district, the front yard shall face the major street.
- (122) "Yard line". (See building line.)
- (123) "Yard, rear" means a yard extending the full width of the lot between the principal building and the rear lot line. On a corner lot, the rear yard shall be the area between the rear lot line and the principal building, extending from the side lot line abutting an interior lot to the side yard abutting a street.
- (124) "Yard, required" (See also setback line) means the open space between a lot line and a setback line that is the minimum area required to comply with the regulations of the district in which the lot is located, and within which no structure shall be located except as expressly permitted in this Zoning Code.
- (125) "Yard, side" means a yard between the principal building and the side lot line and extending from the front yard to the rear yard on an interior lot.
- (126) "Yard, width or depth" means the horizontal distance from a lot line to the principal building measured perpendicular to the building.
- (127) "Zoning lot". (See lot.)

#### 1103.04 DETERMINATION OF HOUSEHOLD STATUS.

For the purposes of enforcement of this Zoning Code, as well as any other references within the Cleveland Heights Codified Ordinances, the following standards shall be used by the Zoning Administrator in order to make a determination of whether a specified group of persons constitutes a household by virtue of being the functional equivalent of a family.

(a) Responsibilities. It shall be the responsibility of the property owner to provide

information / evidence as may be required by the Zoning Administrator as defined herein to document that a household meets the functional equivalency test as a family. The Zoning Administrator through the powers and duties set forth in Section 1107.02 shall have the final determination in deciding whether the functional equivalency test is met.

(b) Factors. The determination of whether a group of unrelated persons living together are the functional equivalent of a family shall be based on the following factors. The presence or absence of any single factor is not necessarily determinative of whether the unit constitutes a family:

- (1) The same group of persons, or a majority of them, has resided together at a different location for a period of no fewer than six (6) months, or resided together at the present location for at least twelve (12) months shall be considered evidence in support of the proposition that the group is a household.
- (2) One (1) or two (2) members of the group have executed the lease for the entire premises, including the entire rental obligation, and there are no sub-lease, hold harmless or other arrangements to pro-rate the rent or recover the rent from other members of the group shall be considered evidence in support of the proposition that the group is a household.
- (3) Individual members of the group have entered into separate leases for the same premises or parts thereof, with the obligation under each lease constituting only a portion of the total periodic rent payment due to the landlord for occupancy of the premises shall be considered evidence negating the proposition that the group is a household.
- (4) The premises are furnished with key-operated locks on individual rooms or with other means through which one member of the group may prevent other members of the group from entering his/her room or portion of the premises when he/she is not physically present shall be considered evidence negating the proposition that the group is a household. Existence of a skeleton key, deadbolt, chain, or other locking device operated only from the inside of the room shall not be considered as evidence of the status of the group.
- (5) Voter registration by a majority of the eligible members of the group listing the address of the group's dwelling shall be considered evidence in support of the proposition that the group is a household. Voter registration listing other addresses by a majority of the adult members of the group, or by a majority of those actually registered to vote shall be considered evidence negating the proposition that the group is a household.
- (6) Drivers licenses held by a majority of the adult members of the group listing the address of the group's dwelling shall be considered evidence in support of the proposition that the group is a household. Driver's licenses listing other addresses by a majority of the adult members of the group, or by a majority of those actually holding such licenses shall be considered evidence negating the proposition that the group is a household.
- (7) The registration of motor vehicles regularly found at the dwelling listing the address of the group's dwelling shall be considered evidence in support of the proposition that the group is a household. The regular presence at the dwelling of one or more motor vehicles belonging to members of the group and registered at one or more other addresses shall be considered evidence negating the proposition that the group is a household.
- (8) The filing of tax returns by a majority of the members of the group listing the address of the group's dwelling shall be considered evidence in support of the proposition that the group is a household. The filing of tax returns listing other addresses by members of the group shall be considered evidence negating the proposition that the group is a household. Evidence that one or more individuals are claimed as dependents on the income tax return of individuals not resident in the household shall be considered evidence that the group is not a household.
- (9) The presence of minor dependent children regularly residing in the dwelling unit and enrolled in local schools with one or more members of the group acting in the role of parents (and primary care-givers) shall be considered evidence in support

- of the proposition that the group is a household.
- (10) Evidence that different residents of the dwelling unit are away during the summer and that they have several as opposed to a single summer address shall be considered evidence negating the proposition that the group is a household.
  - (11) Evidence of common acquisition and ownership of furniture and appliances shall be considered evidence in support of the proposition that the group is a household.
  - (12) Full-time employment of some members of the group in the general community shall be considered evidence in support of the proposition that the group is a household.
  - (13) Evidence that groceries are purchased and meals regularly prepared for the group as a whole shall be considered evidence in support of the proposition that the group is a household. For purposes of this factor, weekly joint purchases of groceries and the preparation and sharing of at least seven meals per week shall be considered “regularly prepared.”

(c) Evidence. In making the determination of whether the group constitutes a household, the decision shall be made based on the preponderance of the evidence made available to the Zoning Administrator.

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

### **1105.02 DISTRICTS ESTABLISHED.**

For the purposes of this Zoning Code the City is hereby divided into the following districts of permitted uses as follows:

- AA Single-Family Residential District
- A Single-Family Residential District
- B Two-Family Residential District
- MF-1 Multiple-Family Residential District
- MF-2 Multiple-Family Residential District
- MF-3 Multiple-Family Residential District
- C-1 ~~Office-Transition~~ District
- C-2 Local Retail District
- C-2X Multiple Use District
- C-3 General Commercial District
- P Park District
- S-1 Mixed Use District
- S-2 Mixed Use District
- PDO Planned Development Overlay District.

**CHAPTER 1109**  
**Board of Zoning Appeals**

**1109.06 POWERS AND DUTIES OF THE BOARD.**

For the purpose of this Zoning Code, the Board of Zoning Appeals is given the following powers and duties:

- (a) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation or determination made by the Zoning Administrator in the administration or enforcement of this Zoning Code.
- (b) To authorize such variances from the terms of this Zoning Code as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of this Code will result in practical difficulty or, in the case of a use variance, unnecessary hardship, and so that the spirit of this Code shall be observed and substantial justice done. Specifically, variances shall be reviewed according to the criteria set forth in Section 1115.07(e) and may be granted as guided by the following:
  - (1) Vary the yard or height regulations for a permitted principal or accessory building or structure where there is an exceptional or unusual physical condition of a lot when the condition is not generally prevalent in the neighborhood and which, when related to the yard regulations of this Zoning Code, would prevent a reasonable arrangement of buildings on the lot.
  - (2) Vary the sign regulations where topography or existing buildings interfere with usual visibility under such conditions, including time limits, as the Board may deem necessary in order to prevent the granting of a special privilege.
  - (3) Vary the lot area or lot width requirements where there is an exceptional or unusual physical condition of a lot, when the condition is not generally prevalent in the neighborhood.
  - (4) Vary the garage door requirements in multiple-family uses only, in exceptional or unusual circumstances, taking into consideration the following physical factors:
    - A. The topography, including the grade of lane where the building and accessory garage are situated and the entryway to the garage or garages;
    - B. The maneuvering space available to enter the parking stall;
    - C. The number of garages involved;
    - D. Design and usage of the garage structure; and
    - E. All other applicable factors included within Section 1109.06(b) hereof.
  - (5) Vary the applicable off-street parking requirement established in Section 1161.03, or as reduced for shared facilities pursuant to Section 1161.04, or as modified by the Planning Commission as a conditional use pursuant to Section 1161.05, when there are exceptional or unusual circumstances that result in practical difficulty in complying with the requirements.
  - (6) ~~Vary the restrictions contained in the definition of "family" to allow persons in addition to those permitted by the family definition provided the Board determines that such will:~~
    - ~~A. Not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood, taking into consideration the size of the household, availability of public parks and school grounds in the immediate area, size of the family occupying the premises, and all other relevant considerations; and~~
    - ~~B. Will not constitute an undue burden on the appropriate school district, taking into consideration school enrollment at schools involved, and all other relevant considerations. Unless authorities from the appropriate school district present evidence to the contrary, it shall be~~

~~presumed that an undue burden is not a factor to be considered. The Commission shall adopt rules and regulations establishing procedures for the obtaining of prior approval by duly authorized agencies, institutions, and individuals for the occupancy of a dwelling unit by more than two (2) wards of the Court under eighteen (18) years of age or foster children.~~

- (c) To resolve any disputes with respect to the precise location of a zoning district boundary, using, where applicable, the standards and criteria of Section 1105.05.
- (d) To adopt rules or bylaws for the holding of regular and special meetings, for the transaction and disposition of its business and the exercise of its powers.
- (e) To allow or permit the expansion or extension of a nonconforming use where the enforcement of the regulations pertaining to nonconforming uses will result in unnecessary hardship.
- (f) To grant special exceptions from the off-street parking requirements for new uses in new or expanded buildings in certain major commercial districts, according to the criteria set forth in Section 1115.13 and Section 1161.13(a)(2).
- (g) To grant special exceptions to provide a reasonable accommodation as required by state and/or federal law, according to the criteria set forth in Section 1115.13.

**CHAPTER 1115  
Procedures**

**Schedule 1115.01  
SUMMARY OF ZONING APPROVAL RESPONSIBILITIES**

	Permitted No Permit Required	Zoning Administrator Approval	Board/Comm- ission Approval
A. <u>Principal Uses</u>		X	
1. Principal building-construction/alteration			
2. S-1 District			X
3. S-2 District (see D. Conditional Uses)		X	
4. Reoccupancy by a principal use		X	
B. <u>Residential Accessory Uses</u>			
1. Detached garages		X	
2. Pavement/driveway		X	
3. Pool house/storage shed		X	
4. Swimming pool/ornamental pool		X	
5. Deck, porch, handicap ramp		X	
6. Fences:			
Front/corner side yard			X
Side/rear yard		X	

7. Sidewalks (private property)		X	
8. Garaging a truck		X	
9. Outdoor storage of recreational vehicles		X	
10. Use of carriage house as a dwelling		X	
11. Home occupation in dwelling unit	X		
12. Non-commercial greenhouse		X	
13. Vegetable/edible and flower gardens		X	
14. Children's play equipment	X		
15. Gatehouse/guardhouse		X	
16. Leasing office		X	
17. Retail in an MF Building		X	

	Permitted No Permit Required	Zoning Administrator Approval	Board/Comm- ission Approval
<b>B. <u>Residential Accessory Uses</u> (Cont.)</b>			
18. Trash receptacles		X	
<b>C. <u>Commercial Accessory Uses</u></b>			
1. Off-street parking		X	
2. Storage building		X	
3. Employee cafeteria		X	
4. Recycling and trash receptacle and enclosures/ screening		X	
<del>5. Retail use in an Office Building 5. [intentionally omitted]</del>		X	
6. Accessory parking garage		X	
7. Fences:			
Fences parallel and within 25 ft. of the street right-of- way (i.e., fences in front yard)			X
All other fences		X	
<b>D. <u>Conditional Uses</u></b>			
1. Places of worship			X

2. Private golf course			X
3. Parochial school			X
4. Cemetery			X
5. Public library			X
6. Public safety facility			X
7. Private school			X
8. Day care home			
in AA, A Districts		X	
in B Districts			X

	Permitted No Permit Required	Zoning Administrator Approval	Board/Comm- ission Approval
D. <u>Conditional Uses</u> (Cont.)			
9. Outdoor community festival in Residential District			
Up to 1 day		X	
Renewal - up to 1 day		X	
Longer than 1 day			X
Renewal - longer than 1 day			X
10. Outdoor community festival in a Commercial District			
Up to 3 days		X	
Renewal - up to 3 days		X	
Longer than 3 days			X
Renewal - longer than 3 days			X
11. Satellite dishes			X
12. PDO Development Plan			X
13. S-2 Planned Development			X
14. Planned Residential Development			X
15. Residential homes for the handicapped			
4 persons		X	
5-8 persons			X
16. Outdoor dining facility with 25 or fewer seats		X	



17. Outdoor dining facility with more than 25 seats			X
18. Adaptive Reuse of Existing Non-Residential Buildings in a Residential District			X
19. Farmers' Markets		X	
20. Community Gardens		X	
21. Commercial Renewable Energy Systems			X

	Permitted No Permit Required	Zoning Administrator Approval	Board/Comm- ission Approval
<b>D. <u>Conditional Uses</u> (Cont.)</b>			
22. Chicken Coops and Chicken Runs		X	
23. Live/Work Dwellings in Commercial Districts			X
24. Greenhouses as Principal Use in Commercial Districts			X
25. Shared Renewable Energy Systems			X
26. All other conditional uses			X
<b>E. <u>Site Improvements for Principal Uses</u></b>			
1. Required landscaping		X	
2. Required screening		X	
3. Land bank parking		X	
<b>F. <u>Nonconforming Conditions</u></b>			
1. Reconstruction of a legal nonconforming garage - smaller than required		X	
2. Construction of addition to a nonconforming SF or 2F dwelling no closer to the side lot line than existing structure (AA, A and B Districts)		X	
3. Rear yard addition encroachments (A and B Districts)		X	
<b>G. <u>Signs</u></b>			
1. Residential safety/security	X		
2. Nameplate	X		
3. Temporary window sign	X		
4. Directional signs		X	

5. Residential identification			X
6. Institutional identification			X
7. Commercial identification			X
8. Instructional signs - 10 sq. ft. or less		X	
9. Instructional signs - more than 10 sq. ft. or within 25 ft. of the street right-of-way			X
10. Building markers		X	
11. Public purpose/safety signs		X	
12. Construction signs		X(a)	
13. Freestanding gas station signs			X
14. S-1 District - freestanding signs			X
15. Projecting signs			X
16. Permanent window signs			X
17. Alterations to a nonconforming sign			X

(a) Unless Zoning Administrator determines it should be reviewed by the Architectural Board of Review.

**1115.02 BUILDING PERMIT REQUIRED.**

No building or other structure shall be erected, constructed, reconstructed, enlarged, moved or structurally altered nor shall any excavation or site improvements be commenced, until a building permit has been applied for and received by the owner of the property involved or a person having an interest in such property and acting under written authority of the owner, and issued by the Building Commissioner. No building permit shall be issued until the Zoning Administrator or designated agent has approved the application for the permit.

(a) Such approval shall be granted only when:

- (1) The Zoning Administrator or designated agent finds that all applicable requirements and standards of this Zoning Code have been complied with;
- (2) A request for a variance has been approved by the Board of Zoning Appeals in accordance with the limitations, procedures and requirements of this chapter and has been approved by Council, [as applicable](#);
- (3) The Planning Commission has issued a conditional use permit for the conditional use in accordance with the procedures described in this chapter;
- (4) The Planning Commission has made a determination in accordance with the procedures described in this chapter that a proposed use is substantially similar to a principal or conditionally permitted use in the zoning district in which such use is located;
- (5) The Board of Control has approved a detailed development plan for a proposal in the S-1 District, according to the procedures established in Section 1143.10; and/or
- (6) The Architectural Board of Review has approved the application for the proposed use, building or structure as required by the City's Codified Ordinances including this Zoning Code.

(b) In the event that an application for a building permit requires approval by more than one (1) board or commission, the following order of review should generally be observed:

- (1) Review by the Board of Zoning Appeals;
  - (2) Review by the Architectural Board of Review;
  - (3) Review by the Planning Commission or Board of Control, as applicable;
  - (4) Review by Council.
- (c) In the event that an application for a fence permit requires approval by more than one (1) board or commission, the following order of review should generally be observed:
- (1) Review by the Architectural Board of Review;
  - (2) Review by the Board of Zoning Appeals;
  - (3) Review by the Planning Commission or Board of Control, as applicable;
  - (4) Review by Council.
- (d) It is the objective of this Zoning Code to process applications as expeditiously as possible. Therefore, recognizing the interrelationships of the various review components, the Zoning Administrator, prior to Council consideration and with the consent of the applicant, may alter the above order to accomplish the review in an order deemed more timely.

#### **1115.06 APPEALS; PROCEDURE AND HEARING.**

Appeals may be taken to the Board of Zoning Appeals by any person adversely affected by a decision of the Zoning Administrator.

- (a) Initiation of Appeal. Such appeal shall be taken within thirty (30) calendar days from issuance of notice of the decision of the Zoning Administrator by filing with the Zoning Administrator and the Secretary of the Board of Zoning Appeals a written notice of appeal specifying the grounds thereof and accompanied by the fee established by Council.
- (b) Transmittal to the Board. The Zoning Administrator shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.
- (c) Public Hearing by Board. The Board shall select a reasonable time and place for the public hearing of the appeal within ~~sixty-seventy-five (6075)~~ days of the date the appeal was filed with the Zoning Administrator. Any person affected may appear and testify at the hearing, either in person or by duly authorized agent or attorney.
- (d) Notice of Public Hearing. Before conducting the public hearing required in subsection (c) hereof, notice of such hearing shall be given in one (1) or more newspapers of general circulation in the City at least ten (10) days before the date of such hearing. Also, a written notice of the hearing shall be mailed by the Zoning Administrator, by first class mail, at least ten (10) days before the day of the public hearing to the appellant, and to owners of any other property deemed by the Zoning Administrator to be affected.
- (e) Decision by the Board. The Board shall render a decision on the appeal without unreasonable delay. The Zoning Administrator shall notify the appellant in writing of the decision of the Board, and shall maintain a detailed report of the proceedings and decisions of the Board on each appeal heard by the Board.
- (f) Time Frame for Board Action. A person initiating an appeal to the Board may request that the Board decide such appeal within ninety (90) days after the start of the public hearing. An appellant may by subsequent written communication or by oral representation under oath agree to an extension of such prescribed time for Board action. Failure of the Board to act within the prescribed time (or as so extended) shall, at the election of the appellant, be deemed a denial of the appeal.

#### **1115.07 VARIANCES; PROCEDURES, AND REVIEW CRITERIA.**

A request for variance may be submitted to the Board of Zoning Appeals by the owner of the property involved or a person having a legal interest in such property or acting under written authority of the owner. Requests shall be filed with the Zoning Administrator upon the forms provided, and shall be reviewed by the Board pursuant to Section 1109.06(b), and in accordance with the following procedures:

- (a) Submission Requirements. A request for a ~~variation-variance~~ from a ~~numerical~~

standard in this Zoning Code shall be accompanied by the following requirements necessary to convey the reasons for the requested variance:

- (1) Name, address, email address and phone number of applicant(s);
  - (2) Proof of ownership, legal interest or written authority from owner;
  - (3) Description of property or portion thereof;
  - (4) Description or nature of variance requested;
  - (5) Narrative statements establishing and substantiating the justification for the variance pursuant to Section 1115.07(e);
  - (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) Any other documents deemed necessary by the Zoning Administrator.
- (b) Review for Completeness by the Zoning Administrator. Upon receipt of a written request for variance, the Zoning Administrator shall within ~~three-ten (310)~~ working-business days make a preliminary review of the request to determine whether such application provides the information necessary for review and evaluation and if it is determined that such application does not provide the information necessary for such review and evaluation, the Zoning Administrator shall so advise the applicant of the deficiencies and shall not further process the application until the deficiency is corrected.
- (c) Public Hearing by the Board of Zoning Appeals. The Board of Zoning Appeals shall hold a public hearing within ~~sixty-seventy-five (6075)~~ days from the date the application is accepted as complete by the Zoning Administrator.
- (d) Notice of Public Hearing. Before conducting the public hearing required in subsection (c) hereof, notice of such hearing shall be ~~given in one (1) or more newspapers of general circulation in the City~~ on the City's website and posted at City Hall and the public libraries listed in Section 107.02(a)(1) at least ten (10) days before the date of such hearing. In addition, written notice of the hearing shall be mailed by the Zoning Administrator by first class mail at least ten (10) days before the day of the public hearing to the applicant and also to the owner of the property if he or she is not the applicant, and to adjacent properties to the attention of the owners of such properties as follows:
- (1) Properties on the same side of the street which abut the site on which the building or use is sought to be located;
  - (2) Properties on the same side of the street next contiguous to the premises so abutting;
  - (3) Properties across the street immediately opposite the site; and opposite the abutting and contiguous premises referred to in subsections (1) and (2) hereof; and
  - (4) All other premises abutting the site.
- The notice shall set forth the time and place of the public hearing and the nature of the proposed variance. The failure of any person to receive such notice shall not affect the right and power of the Board to hear such request or to take action in accordance with such public notice.
- (e) Review by Board. The Board of Zoning Appeals shall review each request for a variance to determine if such request complies with the purpose and intent of this Zoning Code and the applicant can demonstrate that the literal enforcement of this Code will result in practical difficulty or, in the case of a use variance, unnecessary hardship.
- (1) The following factors shall be considered and weighed by the Board in determining whether the applicant has met the burden of demonstrating practical difficulty by the preponderance of the evidence:
    - 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 adjacency to nonconforming 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) No variance shall be granted to allow a use not permissible under the terms of this Zoning Code in the zoning district in which the property is located unless the Board finds, and Council approves, that the applicant for the variance has demonstrated that the applicant will suffer unnecessary hardship if strict compliance with the terms of the Code is required and the applicant has met the burden of demonstrating such hardship ~~must be demonstrated~~ by clear and convincing evidence as to all of the following criteria:
- A. The property cannot be put to any economically viable use under any of the permitted uses in the zoning district;
  - 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 Zoning Code; and
  - G. The variance sought is the minimum which will afford relief to the applicant.
- (f) Action by Board of Zoning Appeals. After the public hearing required in subsection (c) hereof, the Board of Zoning Appeals shall either approve, approve with supplementary conditions as specified in subsection (g) hereof, or disapprove the request for variance. The Board shall further make a finding in writing that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building or structure.
- (g) Conditions and Limitations by Board. The Board of Zoning Appeals may further prescribe any conditions, stipulations, safeguards and limitations on the duration of the variance so authorized as the Board determines and prescribes. Any variance when so issued by the Zoning Administrator upon order of the Board following approval by Council as-if required ~~in-by~~ subsection (i) hereof shall set forth such conditions, stipulations, safeguards and duration limit. The Board may not extend the scope or extend the duration of a variance previously issued upon its order. Any additional action so desired may be effected only upon application to the Zoning Administrator for approval of a new variance in accordance with

- the provisions of this Zoning Code.
- (h) Time Frame for Board Action. A person initiating a request for variance to the Board may request that the Board approve or disapprove such request for variance within ninety (90) days of the start of the public hearing. A person requesting a variance may by subsequent written communication or by oral representation under oath agree to an extension of such prescribed time for Board action. Failure of the Board to act within the ninety (90) days or extended time period as so agreed upon, shall, at the election of the person seeking such variance, be deemed a denial of the request for variance. A Board action not subject to Council approval by subsection (i) hereof becomes and is in full force and effect at the time of said Board action pursuant to Section 1109.05.
- (i) Approval by Council. A use variance shall be granted and have effect only following approval by Council. A certified copy of the ~~resolution~~ finding of the Board granting such variance shall be filed with the Clerk of Council. The record before the Board shall be provided to Council and a staff report summarizing the same shall be made before the Committee of the Whole. If Council finds the applicant met the burden of demonstrating all the criteria set forth in Section 1115.07(e)(2) by clear and convincing evidence, Council shall approve the action of the Board. If Council does not find that the applicant demonstrated all the criteria set forth in Section 1115.07(e)(2) to the Board by clear and convincing evidence, Council shall disapprove the action of the Board. Council shall set forth the specific reasons for such disapproval. If, within the ~~thirty-fourty-five (3045)~~ day period next succeeding such filing, Council by a majority vote disapproves the Board's action in granting the use variance, the use variance shall be void and shall not be issued, otherwise ~~the use variance~~, together with any additional conditions imposed by Council, becomes and is in full force and effect on the day next succeeding the ~~thirty-fourty-five (4530)~~ day period. However, should Council approve the action of the Board within the ~~thirty-fourty-five (3045)~~ day period, the variance becomes in full force and effect from the date of the approval.
- (j) Terms of the Variance. Each variance granted by the Board of Zoning Appeals shall state upon its face the time limit within which the applicant shall complete the installation, construction or alteration of the structure which is the subject of the application. Failure on the part of the applicant to complete the installation, alteration or construction within the allotted time shall terminate all rights under such permit. However, the Board may, for good cause shown, extend from time to time the time limit but in no case more than a date eighteen (18) months from and after the date of the original time limit within which the applicant was required to complete the installation, construction or alteration ~~issuance of the variance~~, unless construction is actively underway. If any action is taken that is contrary to the terms of the variance or contrary to conditions accompanying the variance, or if the conditions stipulated are not properly maintained, the Board may revoke such variance. A variance granted pursuant to this chapter shall "run with the land" and be valid for successors in interest unless otherwise specified by the Board.

### **1115.08 CONDITIONAL USES; SUBMISSION REQUIREMENTS AND PROCEDURES.**

When a proposed use is permitted in a zoning district as a conditional use as set forth in the district regulations, a conditional use permit is required prior to the issuance of a building permit. 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 permit upon forms provided by the Zoning Administrator. Conditional Use applications requiring approval by the Planning Commission shall be reviewed in ~~Except where Zoning Administrator approval of the conditional use permit is permitted, tThe Planning Commission shall review each application in~~ accordance with the following procedures:

- (a) Submission Requirements. An application for a conditional use permit shall be accompanied by plans, elevations, drawings, and other documentation as set forth in Section 1115.09, and the payment of the application fee as established by

Council.

- (b) Review for Completeness by the Zoning Administrator. Upon receipt of an application, the Zoning Administrator shall, within ~~three-ten~~ (310) working days, make a preliminary review of the application to determine whether such application provides the information necessary for review and evaluation. If it is determined that such application does not provide the information necessary for such review and evaluation, the Zoning Administrator shall so advise the applicant of the deficiencies and shall not further process the application until the deficiency is corrected.
- (c) Public Hearing by the Planning Commission. The Planning Commission shall hold a public hearing within ~~sixty-seventy-five~~ (6075) days from the date the application is accepted as complete by the Zoning Administrator.
- (d) Notice of Public Hearing. Before conducting the public hearing required in subsection (c) hereof, notice of such hearing shall be given on the City's website and posted at City Hall and the public libraries listed in Section 107.02(a)(1) ~~one (1) or more newspapers of general circulation in the City~~ at least ten (10) days before the date of such hearing. In addition, a written notice of the hearing shall be mailed by the Zoning Administrator or designated agent by first class mail at least ten (10) days before the day of the public hearing to the applicant, the owner of the property if he or she is not the applicant, and to adjacent properties to the attention of the owners of such properties as follows:
- (1) Properties on the same side of the street which abut the site on which the building or use is sought to be located;
  - (2) Properties on the same side of the street next contiguous to the premises so abutting;
  - (3) Properties across the street immediately opposite the site; and the premises opposite the abutting and contiguous premises referred to in subsections (1) and (2) hereof; and
  - (4) All other premises abutting the site.
- The notice shall set forth the time and place of the public hearing and the nature of the proposed conditional use. The failure of any person to receive such notice shall not affect the right and power of the Commission to hear such application or to take action in accordance with such public notice.
- (e) Review by the Commission. The Planning Commission shall review each application for a conditional use permit to determine if such request complies with the purpose and intent of the conditional use regulations as set forth in Title Seven of this Zoning Code.
- (f) Action by the Planning Commission. After the public hearing required in subsection (c) hereof, the Commission shall either approve, approve with supplementary conditions as specified in subsection (g) hereof, or disapprove the request for conditional use permit.
- (g) Additional Conditions. The Planning Commission may impose such additional conditions, stipulations, safeguards and limitations on the duration of the use as it may deem necessary for the general welfare, for the protection of individual property rights, and for ensuring that the intent and objectives of this Zoning Code will be observed. Any conditional use permit when so issued by the Zoning Administrator upon order of the Commission shall set forth such conditions, stipulations, safeguards and duration limit. The Commission may not extend the scope or extend the duration of a conditional use permit previously issued upon its order. Any additional action so desired may be effected only upon application to the Zoning Administrator for issue of a new conditional use permit in accordance with the provisions of this Zoning Code.
- (h) Time Frame for Commission Action. An applicant may request that an application for a conditional use permit be acted upon by the Commission within ninety (90) days of the start of the public hearing. An applicant may by subsequent written communication or oral representation under oath agree to an extension of such prescribed time for Commission action. Failure of the Commission to act within the ninety (90) days or extended time period as so agreed upon, shall, at the election of the applicant, be deemed a denial of the

conditional use permit. A Commission action becomes and is in full force and effect at the time of said Commission action pursuant to Section 1111.05.

- (i) Terms of Conditional Use Permit. Each conditional use permit granted by the Planning Commission shall state upon its face the time limit within which the applicant shall complete the installation of the use, or the construction or alteration of the structure which is the subject of the application. Failure on the part of the applicant to complete the installation, alteration or construction within the allotted time shall terminate all rights under such conditional use permit. However, the Commission may, for good cause shown, extend from time to time the time limit but in no case more than a date eighteen (18) months from and after the date of the original ~~issuance of the conditional use permit~~ time limit within which the applicant was required to complete the installation of the use, unless construction is actively underway. If any action is taken that is contrary to the terms of the conditional use permit or contrary to conditions accompanying the conditional use permit, the Commission may revoke such conditional use permit. A conditional use permit issued pursuant to this chapter shall be valid only to the person to whom issued, unless a transfer of such permit has been approved by the Commission.

### **1115.09 REVIEW OF DEVELOPMENT PLANS FOR CONDITIONAL USES.**

Application for a conditional use permit for development under the provisions of this chapter shall require the submission of a development plan for the proposed use or building. However, based on the nature of the proposed conditional use, the Zoning Administrator may waive certain submission requirements that are deemed unnecessary for the review and evaluation of such conditional use.

- (a) Preparation of Development Plan. Development plans shall be prepared by a qualified professional, drawn to an appropriate scale and shall include the following information:
- (1) Plat, plot plan. Plat, property lines of the parcel or parcels proposed for development including existing utilities, easements, street rights-of-way, and locations of existing principal buildings and land uses on adjacent parcel and across existing streets. Permanent parcel numbers of the development and adjacent parcels shall be included.
  - (2) Topography. Topographic maps showing existing and generally proposed grading contours at not greater than two (2) foot intervals including integration into and topography on adjacent properties, wooded areas and trees of substantial size. The topography may be included on the plot plan.
  - (3) Principal and accessory buildings. The number, height, location and grouping of proposed dwelling units, nonresidential uses, recreational facilities and public uses, along with notation of the development standards for building spacing, setback from public streets and maximum building height.
  - (4) Traffic. The proposed system of on-site vehicular circulation, details for access to streets, methods for control of traffic, and an assessment of the impact of the proposed development on the existing circulation system.
  - (5) Parking areas. The layout, dimensions and estimate of the number of parking spaces, the landscaping and other design features of the parking area and types of pavement.
  - (6) Outdoor lighting fixtures. The location, type and illumination intensity of any existing or proposed outdoor lighting fixtures.
  - (7) Signs. Indication of the size, location, color and nature of any existing or proposed signs on the property.
  - (8) Landscaping and screening plan. A preliminary description of the location and nature of existing and proposed vegetation, landscaping and screening elements.
  - (9) Outdoor storage. The location and layout of all outdoor storage including storage of waste materials and trash receptacles.
  - (10) Phasing, sequencing of project. A detailed statement of the phasing and



staging of specific elements of the plan, including a proposed construction sequencing schedule.

(11) Utilities. Show proposed location of new utilities and authority to connect these into existing infrastructure. Storm Water shall address requirements of Chapter 1335, Storm Water Management.

- (b) Review by Zoning Administrator. The Zoning Administrator shall determine that the application contains the above information or, when deemed unnecessary, make a written notation of those items specifically waived.
- (c) Development Guidelines Prepared by Planning Commission. The Commission may prepare development guidelines for an area in an S-2 or for a planned residential development which shall set forth criteria for the development of a particular area. The guidelines shall contain those elements listed in subsection (a) hereof, as necessary, to set forth policy for permitted land use, building envelope, building height, allowable density and parking areas. Such development guidelines as prepared by the Planning Commission shall become the official Development Plan for the project area only upon approval by City Council. Subsequent to the approval of such Development Plan by Council a property owner, or agent thereof, may apply for a conditional use permit to develop all or a portion of the land within the area for which the Development Plan has been adopted. The applicant shall submit a project plan that contains the elements required in subsection (a) hereof to indicate compliance with the adopted Development Plan.
- (d) Modifications to a Development Plan. After the issuance of a conditional use permit for a proposed development, the conditions, limitations, and phasing of construction specified in the permit shall only be altered or modified by the approval of a new conditional use permit according to the procedures of Section 1115.08.
- (e) Preliminary Plans. The applicant may meet informally with the Planning Commission to review preliminary plans prior to preparing a development plan pursuant to subsection (a) hereof. Preliminary plans should be submitted to the Zoning Administrator ten (10) days prior to the Planning Commission meeting at which the review of the preliminary plan is scheduled on its agenda.

#### **1115.11 REVIEW OF DEVELOPMENT PLANS FOR S-1 MIXED USE DISTRICT.**

Application for approval for development within an S-1 Mixed Use District shall require the submission of a development plan as set forth in Chapter 1143. Development Plan shall address requirements of Chapter 1335, Stormwater Management.

## CHAPTER 1119 Amendments

### 1119.01 AMENDMENT BY COUNCIL.

Whenever the public necessity, convenience, general welfare, [petition by application](#) or good zoning practices require, City Council may by ordinance amend, revise, rearrange, renumber or recodify this Zoning Code or amend, supplement, change or repeal the boundaries or classification of property according to the procedures set forth in this chapter and subject to the procedures provided by law. Such amending ordinance may be introduced upon Council's own initiative, upon recommendation of the Planning Commission, or upon petition.

### 1119.02 CONTENTS OF APPLICATION OR PETITION FOR ZONING MAP AMENDMENT.

Applications [or petitions](#) for amendments to the official Zoning Map adopted as part of this Zoning Code by Chapter 1105 shall contain at least the following information:

- (a) The name, address, and phone number of the applicant and the property owner if other than the applicant;
- (b) The proposed amending ordinance, approved as to form by the ~~City Law~~ Director of Law;
- (c) A statement of the reason(s) for the proposed amendment;
- (d) Present use and zoning district;
- (e) Proposed use and zoning district;
- (f) 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;
- (g) A statement on the ways in which the proposed amendment relates to the comprehensive plan or strategic plan;
- (h) The payment of the application fee as established by Council.

## CHAPTER 1121 AA and A Single-Family and B Two-Family Residential Districts

### 1121.04 CONDITIONALLY PERMITTED USES.

The categories of conditional uses which may (together with their accessory uses) be permitted in the AA and A Single-Family and B Two-Family Residential Districts, provided they conform to the conditions, standards, and requirements of Title Seven and are approved for a particular zoning lot in accordance with the administrative provisions of Section 1115, shall include the following:

- (a) Planned Residential Developments (PRD);
- (b) Places of worship;
- (c) Elementary, junior and senior high schools;
- (d) Public libraries;
- (e) Public safety facilities;
- (f) Public and private parks and playgrounds;
- (g) Public recreation facilities;
- (h) Golf courses;
- (i) Cemeteries;
- (j) Public parking (surface lot or one-story covered garage) as principal use for a permitted use not on the same lot;
- (k) Accessory parking for a commercial use, contiguous with a C-1, C-2, C-2X or C-3 District ~~in compliance with Section 1131.08(a);~~
- ~~(l) Residential home for the handicapped; [intentionally omitted]~~
- (m) Day care center and ~~nursery~~ preschool in a school or religious institution;
- (n) Day care home;
- (o) Home occupation in an accessory building;
- (p) Outdoor community festivals;
- (q) Satellite dish receiving antenna.
- (r) Attached single-family dwelling units, newly constructed or formed by the

resubdivision of existing side-by-side two-family dwellings, may be conditionally permitted in B Districts. In A, AA, and MF Districts, attached single-family dwelling units may be conditionally permitted on lots which contain legally non-conforming side-by-side two-family dwellings in accordance with the additional regulations and standards set out in Section 1153.03(b)(50) and Section 1153.05(aa)

- (s) Adaptive reuse of non-residential buildings in residential districts
- (t) Farmers' markets
- (u) Community gardens

**1121.09 DWELLING UNIT REQUIREMENTS.**

In order to provide healthful living conditions and to preserve the character of the neighborhood, dwelling units shall be erected, altered, moved, maintained or occupied only in accordance with the following standards establishing minimum floor areas of dwelling units and required garage space.

- (a) Minimum Area of Dwelling Unit. The minimum floor area of a dwelling unit shall not be less than specified below. For the purpose of determining the minimum floor area, porches, steps, terraces, breezeways, attached or built-in garages, or other attached structures not intended for human occupancy shall be excluded.

District	Type of Dwelling	Minimum Floor Area Per Dwelling Unit (In Square Feet)
AA	Single Family	2,000
A	Single Family	1,500
B	Single Family	1,500
B	Two Family	1,000

- (b) Enclosed Parking Spaces Required. ~~Required Two (2)~~ off-street enclosed parking spaces shall be provided for each dwelling unit, either in a garage that is attached ~~to and integrated with or in one that is~~ detached and accessory to the dwelling unit in accordance with Schedule 1161.03. When 75% or more of a block ~~face~~ have detached rear yard garages or attached garages with doors not visible on the street elevation, new attached garages shall have doors not visible on the street elevation. A new attached garage of a home on a corner lot may have garage doors visible on one of the streets. Furthermore, all parking areas shall be provided, designed and constructed in accordance with the accessory use standards in Section 1121.12 and the parking requirements in Chapter 1161.

**1121.12 ACCESSORY USE REGULATIONS.**

Accessory uses, buildings and structures permitted in AA, A and B Districts shall conform to the location, coverage and maintenance standards contained in this section. Attached garages as part of a dwelling are subject to all yard requirements for a principal building specified in Section 1121.08 and shall comply with the floor area regulations for garages established in subsection (e) hereof.

- (a) Minimum Yard Requirements for Accessory Uses. An accessory building or use permitted in an AA, A or B District shall be located as set forth in Schedule 1121.12(a), however, an accessory use shall only be permitted to the extent such use complies with all other accessory use regulations set forth in subsections 1121.12(b) through (i).

**Schedule 1121.12(a)**  
**MINIMUM YARD REQUIREMENTS FOR ACCESSORY USES**

<u>Permitted Use, Structure, Building</u>	<u>Yard in Which Permitted</u>	<u>Minimum Distance (in feet) From</u>			
		<u>Rear Lot Line</u>	<u>Side Lot Line</u>	<u>Side Street (Corner Lot)</u>	<u>Principal Building</u>
(1) Detached garage	Rear	3(a)(i)	3(i)	25(b)	<del>10</del> 0
	Side	5(a)(i)	(c)(i)	25(b)	<del>10</del> 0
(2) Pool house, storage shed ( <del>to</del> ), other similar buildings	Rear only	5	5	(e)	<del>10</del> 0
(3) Swimming pool (above and below ground)	Rear and side	15	15	15(b)	5
(4) Deck, porch, handicap ramp, steps, <u>hot tub</u> , and similar structures exceeding 3 feet in height (f) (k)	Rear and side	5	5	(d)	0
	Front	See Section 1121.12(b)			
(5) Deck, patio, porch steps, ornamental pool, coldframe and similar structures not exceeding 3 feet in height (f) (k)	Rear and side	3	3	(d)	0
	Front	See Section 1121.12(b)			
(6) Fences exceeding 3 feet in height	Rear and Side	(g)	(g)	(g)	0(g)
(7) Fences not exceeding 3 feet in height (k)	Front, side and rear	0(g)	0(g)	0(g)	0(g)
(8) Sidewalk and driveway	Front, side and rear	3	3	NA	0
(9) Open parking areas for storage of noncommercial vehicles and recreational equipment ( <del>to</del> ) <u>(h)</u>	Rear only	3	3	<del>(h)</del> NA	0
(10) Freestanding air conditioning machinery, emergency generator, above-ground components of geothermal energy systems, and other similar equipment	Rear and side, except not in required minimum side yard (see Section 1121.08) and standard screening, see note (m).				

(11) Rain Barrels and Above Ground Cisterns (j)	Rear and side, provide standard screening, see note (m)	(j)	(j)	(k)	0
(12) Laundry clothesline	Rear only	3	3	NA	0
(13) Vegetable/edible gardens	(1)	(1)	(1)	(1)	(1)
(14) Compost Bin(s) (n)	Side and Rear	3	3	N/A	3
(15) Chicken coop and run	Rear	10	10	N/A	10

Notes to Schedule 1121.12(a)

- (a) When the rear yard of a corner lot abuts the side yard of an interior lot, a detached garage shall be located no less than 10 feet from the rear lot line.
- (b) Or no closer to the side street than the principal building, whichever is greater.
- (c) Shall maintain the minimum dimension for the side yard of a principal use as specified in Section 1121.08.
- (d) See Section 1121.12(b).
- (e) Shall be no closer to the side street than the principal building, unless specifically permitted elsewhere in this Zoning Code.
- (f) "Height" of a deck, porch, ramp, or steps means the vertical distance from the average finished ground elevation to the top of the floor surface.
- (g) See Section 1121.12(i) for additional fence regulations.
- (h) See Section 1165.02(c) for parking of non-passenger vehicles. See section 1121.12(k) for parking pad regulations.
- ~~(i) In a rear yard of 2,000 square feet in area or less, storage buildings shall be no closer than 3 feet from a rear or side property line.~~
- (i) The Zoning Administrator may approve reduced rear and side yard setbacks for a garage, provided that in no event shall the Zoning Administrator approve setbacks less than those of an existing or previously existing garage on the property and shall adhere to all applicable Building Code regulations.
- (j) See Section 1121.12(m) for additional regulations.
- (k) When in the front or corner side yard are permitted only with Architectural Board of Review approval.
- (l) See Section 1121.12(l) for additional vegetable/edible garden regulations.
- (m) Standard screening means a fence, masonry wall or evergreen hedge which is eighty (80%) or more solid and either six (6) feet high or a height adequate to screen the view from a person six (6) feet tall standing on a public street or on adjacent property.
- (n) See Section 1121.12(o) for additional compost bin regulations.
- (o) In a rear yard of 2,000 square feet in area or less, storage buildings shall be no closer than 3 feet from a rear or side property line.

- (b) Permitted Structures in Front Yard and Corner Side Yard. Unenclosed porches, decks, and patios, handicap ramps and steps may extend into a front or corner side yard no more than ~~ten twelve (1012)~~ feet in front of the building provided that it does not extend more than six (6) feet into a required front yard. provided further that ~~Steps, ramps and lifts of the which provide access to such~~ accessory structure

may extend into the front or corner side yard subject to Architectural Board of Review approval.

- (c) Maximum Front and Side Yard Coverage. Accessory structures permitted in a front or side yard (as set forth in Schedule 1121.12(a)) shall cover no more of the front and side yard than set forth below:
- (1) Maximum coverage of the front yard shall be thirty percent (30%), provided that the area of pavement for sidewalks and driveways shall not exceed the following:
    - A. 2,000 square feet total area for a lot with seventy-five (75) feet or less of street frontage.
    - B. 3,000 square feet total area for a lot with more than seventy-five (75) feet of street frontage.
    - C. ~~Only one driveway and one curb cut shall be permitted per lot. However, lots 100' wide or greater shall be permitted one (1) additional curb cut and/or circular driveway which shall comply with Schedule 1121.12(a)(9) which permits parking in rear yard only and 1121.12 (c) & (d); and~~
    - ~~D. Pavement width shall not exceed twelve (12) feet except where necessary to provide direct access to a garage.~~
  - (2) Maximum coverage of the side yards on interior lots shall be sixty percent (60%) of the total area of both side yards.
  - (3) The maximum coverage of the corner side yard shall be thirty percent (30%).
- (d) Maximum Area and Rear Yard Coverage of Accessory Uses. The percent of rear yard covered by accessory uses, buildings and structures (limited to those permitted in Sections 1121.05 and 1121.12) and the maximum floor area of such accessory use, building or structure, shall not be greater than as set forth in Section 1121.12(d). The area of building, structure or pavement shall be the maximum area of land on which, or above which, such building, structure or pavement is constructed. The percentage shall be the area of building, structure and/or pavement in ratio to the area of the rear yard. However, in no case shall an accessory use, building or structure exceed the maximum area set forth in Schedule 1121.12(d).

**Schedule 1121.12(d)  
MAXIMUM AREA AND REAR YARD COVERAGE**

Permitted Use, <u>Building Structure</u>	Maximum Percentage of Rear <u>Yard Coverage</u>		Maximum Area (in sq. ft.)		
	AA and A <u>District</u>	B <u>District</u> <del>(a)</del>	AA <u>District</u>	A <u>District</u>	B <u>District</u>
(1) Accessory building	20 <del>(a)(b)(c)(e)(f)</del>	30 <del>(a)(b)(c)(e)(f)</del>	<del>(e)(f)</del>	<del>(e)(f)</del>	1,200 <del>(e)(f)</del> , <del>(f)</del>
(2) Accessory structures exceeding 3 feet in height	15	15	2,000	2,000	2,000
(3) Pavement related to parking, including driveway	30 <del>(b)</del>	30(b)	2,000	2,000	2,000
(4) Accessory structures not exceeding 3 feet in height, including sidewalks and patios	60	60	6,500	4,000	4,000

(5) Total maximum rear yard coverage <del>(de)</del>	60	60	12,000	----	----
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Notes to Schedule 1121.12(d)

- ~~(a) Nonconforming lots may be permitted to have up to 40% rear yard coverage by accessory buildings or parking pursuant to Section 1175.02(e).~~
- ~~(a) Nonconforming lots may be permitted to have up to 40% rear yard coverage by accessory buildings subject to Zoning Administrator approval of landscaping and screening plan which addresses stormwater management and minimizes adverse impact on neighboring lots. Total rear yard coverage shall not exceed 70%.~~
- ~~(b) Nonconforming lots may be permitted to have up to 40% rear yard coverage by pavement or unenclosed parking subject to Zoning Administrator approval of landscaping and screening plan which addresses stormwater management and minimizes adverse impact on neighboring lots. Total rear yard coverage shall not exceed 70%.~~
- ~~(bc) In the event that the construction of a required private garage on a nonconforming lot will exceed the rear yard coverage limitation permitted for a garage, the Zoning Administrator may approve a lesser number of enclosed parking spaces pursuant to Schedule 1161.03(a)(1).~~
- ~~(ed) See also Section 1121.12(e) for maximum floor area of a garage.~~
- ~~(de) While each specific category (1-4) has a maximum size limitation, the total coverage of all accessory uses shall not exceed the area limit for the rear yard.~~
- ~~(ef) On a corner lot, a garage may cover up to 60% of rear-yard area. Total permitted rear-yard coverage on a corner lot is 80% of rear-yard area.~~
- ~~(f) In the event the construction of a required private garage on a nonconforming lot cannot be undertaken without a variance, the Zoning Administrator may administratively approve a garage construction plan according to the following guidelines:~~
  - ~~(1) The Zoning Administrator may approve a garage which covers up to 130% of the rear yard area normally permitted for garage coverage if such approval accommodates an otherwise conforming rear yard garage;~~
  - ~~(2) If the exercise of the provisions of subsection (1) hereinabove is not sufficient, in and of itself, to accommodate an otherwise conforming rear yard garage, the Zoning Administrator may approve reduced rear and side yard setbacks for a garage, provided, however, that in no event shall the Zoning Administrator approve setbacks less than those of an existing or previously existing garage on the property;~~
  - ~~(3) In the event that the construction of a rear yard garage would result in pavement access of less than 20 feet to an enclosed parking space, the Zoning Administrator may approve a lesser number of enclosed parking spaces;~~
  - ~~(4) If the exercise of one or more of the options specified in subsections (1), (2) and (3) hereinabove does not result in an otherwise conforming garage, the property owner shall be required to seek a variance(s) from the Board of Zoning Appeals.~~

- (e) Maximum Floor Area of a Garage. A single-family dwelling shall be permitted no more than one (1) attached and one (1) detached garage with a total maximum area of 500 square feet plus one (1) additional square foot of garage area for every fifteen (15) square feet of lot area greater than 6,000 square feet. However, the area of a the garage(s) shall not exceed 1,200 square feet. A two-family dwelling

shall be permitted ~~no more than one (1) attached and~~ one (1) ~~detached~~ garage with a maximum floor area of 1,200 square feet.

- (f) Maximum Number of Accessory Buildings. A maximum of two (2) detached accessory buildings shall be permitted on a zoning lot, ~~provided that on a zoning lot there shall be no more than one (1) garage, detached or attached.~~
- (g) Maximum Height of Accessory Structures. A permitted accessory structure shall not exceed fifteen (15) feet in height, except as otherwise regulated in this Code.
- (h) Swimming Pools. In addition to the location and coverage regulations set forth in this section, swimming pools shall be subject to the following additional regulations.
  - (1) The term "swimming pool", as used in this section, means any water pool having more than 100 square feet of water surface, which is capable of containing in excess of two (2) feet of water at its deepest point, located out-of-doors on private property. All other pools are "ornamental pools" and need not comply with the following standards.
  - (2) Swimming pools shall be located in association with a permitted principal use and shall be used for private recreational purposes by the residents or in connection with a non-profit institution and not operated as a business.
  - (3) Every swimming pool shall be completely enclosed by a wall or fence of sturdy construction not less than six (6) feet in height, so constructed as not to permit access to such pool except by means of a necessary gate which shall be self-closing and self-latching construction and operation.
  - (4) Outdoor lighting shall be arranged so as not to shine on adjacent property.
- (i) Fences. Fences and walls to be erected, placed and maintained on a lot shall be approved by the Zoning Administrator and a fence permit issued unless otherwise noted. The appearance and height of fences shall be regulated and limited by its location on the lot as follows:
  - (1) A fence or wall located in a front or corner side yard shall have a maximum height of four (4) feet above ground level and shall require Architectural Board of Review approval. Fences within ten (10) feet of an intersection shall comply with Section 1165.03(e) and shall require Architectural Board of Review approval.
  - (2) Except as limited in subsection (i)(5) hereof, fences and walls located in a side or rear yard shall not exceed seven (7) feet above ground level provided that a fence or wall may be located parallel to a principal building no closer than a distance equal to the height of the fence or wall.
  - (3) When a side yard fence having a length greater than ten (10) feet is parallel to and visible from the street, it shall be landscaped according to an approved landscape plan.
  - (4) In the portion of the rear yard of a corner lot which abuts the front yard of an interior lot, a fence no greater than five (5) feet in height may be located in such rear yard provided it shall be no closer than five (5) feet to the rear lot line and shall be landscaped according to an approved landscape plan. The fence shall be approved by the Architectural Board of Review.
  - (5) The side of a fence closest to the adjacent property line and facing outward from the yard being fenced shall be the smooth finished side. All structural members shall be on the interior side of such fence.
  - (6) No chain link or mesh, wire fence or barb wire shall be constructed in a front yard or corner side yard.
  - (7) Deer net fencing - no fence permit required:
    - A. Deer net fencing around vegetable/edible and flower gardens is permitted in rear and interior side yards, and is limited to a maximum height of seven feet, including all posts.
    - B. Proper installation is required, including six inches of the fence grid flared onto the ground to prevent deer from pushing underneath the fence.
    - C. Deer net fencing is permitted in community gardens with no location limitations.



- (8) Chicken coops and runs - no fence permit required. See Code Section 1153.05(gg).
- (j) Residential Use of Existing Carriage House. In an AA or A District there shall be only one (1) dwelling unit on a lot except that an existing carriage house may continue as a nonconforming dwelling unit in compliance with the following:
- (1) The carriage house shall have been occupied (regardless of the length of time), designed for, constructed for, or intended for residential occupancy and legally constructed or created prior to the adoption of this Zoning Code.
  - (2) Alterations to the carriage house shall be regulated by Section 1173.01(a) and (b).
  - (3) For the purposes of this section, the occupants of the carriage house shall be considered as part of the family of the principal dwelling unit and shall comply with the family definition.
- (k) Single Family and Two Family Residential Parking Pad. In any District single-family and two-family dwellings are permitted a paved parking pad in addition to the required enclosed parking.
- (1) Parking pads may be located in the interior side or rear yard but must be located three (3) feet from any lot line. Parking pads are prohibited in the front and corner side yard or forward of the front building line.
  - (2) Any driveways that access the parking pad are limited to twelve (12) feet in width and must meet the requirements of this Ordinance for single-family and two-family residential driveways.
  - (3) The maximum coverage requirements for the lot may not be exceeded to accommodate a parking pad.
  - (4) Paving pads must be surfaced and maintained in accordance with Section 1161.11(d). Paving with semi-pervious materials, permeable pavers, porous asphalt, porous concrete, grass-crete or gravel-crete, is encouraged. However, a semi-pervious parking pad or driveway is still subject to the coverage requirements of each individual yard.
- (l) Vegetable/Edible Gardens. Vegetable/edible gardens are allowed in all yards in the residential districts. Any vegetable/edible garden located in the front and corner side yard must comply with the following standards:
- (1) Vegetable/edible gardens must be kept weed-free between plants and rows.
  - (2) There shall be no trash or debris in the vegetable/edible gardens.
  - (3) Vegetable/edible gardens are required to be harvested on a regular basis.
  - (4) The vegetable/edible gardens must be designed and maintained so that water and fertilizer will not drain onto adjacent property or the public right-of-way.
  - (5) Use of insecticides made from synthetic chemical materials is prohibited. Acceptable alternatives, applied in accordance with established safe handling instructions, include rotenone, pyrethrin and Safer Soap.
  - (6) The use of herbicides and weed killers is discouraged.
  - (7) Areas of dry, loose soil that may be moved by wind must be covered by mulch or otherwise confined.
  - (8) Vegetable/edible gardens fences shall meet the standards of subsection 1121.12(i) above.
- (m) Rain Barrels and Above Ground Cisterns.
- (1) Rain barrels and above ground cisterns are permitted in the rear and interior side yards. Rain barrels and above ground cisterns are permitted in the front and corner side yard only with Architectural Board of Review approval.
- (n) Chicken Coops and Chicken Runs. The keeping of chickens shall be permitted as a conditional use on the property pursuant to Section 1153.05(gg).
- (o) Compost bins. Compost bins are permitted in the rear and interior side yard subject to the following maintenance standards:
- (1) The organic waste must be generated and used on-site.
  - (2) An in-vessel is required (an enclosed container with no openings greater than one quarter (1/4) inch) for organic waste.
  - (3) Composting activities must:

- A. Not create a nuisance (odor, litter, dust or noise, or attracts vectors or pests).
  - B. Provide a rat and other vector (insects, rodents, birds and other vectors or pest) control. Control measures may include grinding ingredients, providing screening or netting, or conducting composting operations in an in-vessel.
  - C. Provide surface water control to prevent composting material from sitting in ponded seepage surface water.
  - D. Not contain sewage, sludge, seepage or catch basin waste.
  - E. Composting of animal flesh is prohibited.
- (4) Compost bins must be a minimum of three (3) feet from property line and a minimum of three (3) feet from any building foundation.

(p) Driveways. In addition to the location and coverage regulations set forth in this section, residential driveways shall be subject to the following additional regulations:

- (1) Only one driveway and one curb cut shall be permitted per lot except lots 100' wide or greater shall be permitted one (1) additional curb cut which shall comply with Schedule 1121.12(a)(9); and
- (2) Pavement width shall not exceed twelve (12) feet except where necessary to provide direct access to a garage.

**CHAPTER 1123  
MF-1, MF-2 and MF-3 Multiple-Family Residential Districts**

**1123.04 CONDITIONALLY PERMITTED USES.**

When denoted by the letter C, a use listed below is a conditional use which may (together with its accessory uses) be permitted in the MF-1, MF-2 and MF-3 Residential Districts provided it conforms to the conditions, standards and requirements of Title Seven and is approved for a particular zoning lot in accordance with the administrative provisions of Chapter 1115.

	<u>Land Use Category</u>	MF-1 District	MF-2 District	MF-3 District
(a)	Planned Residential Development (PRD)	C		
(b)	Places of worship	C	C	C
(c)	Elementary, junior and senior high schools	C	C	C
(d)	Colleges and universities	C	C	C
(e)	Special training schools and adult education facilities	C	C	C
(f)	Public libraries	C	C	C
(g)	Public safety facilities	C	C	C
(h)	Public and private parks and playgrounds	C	C	C
(i)	Public recreation facilities	C	C	C
	<u>Land Use Category</u>	MF-1 District	MF-2 District	MF-3 District
(j)	Parking deck or one-story garage as a principal use for a permitted use that is not on the same lot	C	C	C
(k)	Accessory parking for a commercial use, contiguous with a <del>C-1</del> , C-2, <del>C-2X</del> or C-3 District	C	C	C
(l)	Day care center, <del>nursery</del> -preschool in a school or religious institution	C	C	C
(m)	Outdoor community facilities	C	C	C
(n)	Dormitories, fraternities, sororities	C	C	C
(o)	Lodging houses, boarding houses, convents, homes for the aged, other congregate living and residential care facilities	C	C	C
(p)	Nursing homes, intermediate and long-term care facility	C	C	C
(q)	Hospitals	C	C	C
(r)	Public use of public land	C	C	C
(s)	Public utilities	C	C	C
(t)	Satellite dish receiving antennas	C	C	C
(u)	Attached single-family dwelling units, newly constructed or formed by the resubdivision of existing side-by-side two-family dwellings, may be conditionally permitted in B Districts. In A, AA, and MF Districts, attached single-family dwelling units may be conditionally permitted on lots which contain legally non-conforming side-by-side two-family dwellings in accordance with the additional regulations and standards set out in Schedule 1153.03(b)(50) and Section 1153.05(aa).			
(v)	Farmers' Markets may be conditionally permitted in MF Districts subject to regulations and standards set out in Section 1153.05(dd).			
(w)	Community Gardens may be conditionally permitted in MF Districts subject to regulations and standards set out in Section 1153.05(ee).			

## CHAPTER 1131 Commercial Districts

### 1131.01 PURPOSE.

Commercial District regulations are established to ensure the availability of suitable areas for business and commercial uses and to encourage sustainable development and practices. Desirable and beneficial uses of land are sought through these regulations to preserve and enhance the character of the City and the value of these districts. Four (4) commercial zoning districts have been established to meet the needs of the community.

- (a) The C-1 ~~Transition-Office~~ District is for limited application along certain major streets adjacent to ~~higher density~~ residential areas ~~where the integration of offices would be appropriate but where retail and commercial services would not be~~ and commercial districts to provide for a transition between these districts. The buildings shall be pedestrian scale and parking and drives may not disrupt pedestrian activity.
- (b) The C-2 Local Retail District is established to provide standards for the continued operation of small neighborhood commercial establishments and to concentrate new retail businesses in buildings that typically locate side by side in order to promote and encourage pedestrian activity. Parking and driveways are generally located so as not to disrupt the pedestrian activity.
- (c) The C2-X Multiple-Use District is established to provide standards for the continued operation of mixed use neighborhoods and to provide for dense, mixed uses along main thoroughfares and to concentrate mixed-use buildings to promote and encourage pedestrian activity. Parking and driveways are generally located so as not to disrupt the pedestrian activity.
- (d) The C-3 General Commercial District is established to provide for higher intensity commercial uses (including automotive uses) along certain major streets where the level of traffic volume warrants such uses and to provide locations for commercial uses which generally require independent, freestanding buildings and larger amounts of parking.

### 1131.02 PRINCIPAL AND CONDITIONALLY PERMITTED USES.

(a) Unless otherwise provided by law or in this Code, buildings, structures or land shall only be used or occupied following the adoption of this Zoning Code for the uses permitted herein. Schedule 1131.02, on the following page, enumerates those uses that may locate in a C-1 ~~TransitionOffice~~, C-2 Local Retail, C-2X Multi-Use and C-3 General Commercial District as a matter of right as a principal use, and those uses which may locate in a given district only upon obtaining a conditional use permit.

- (1) A use listed in Schedule 1131.02 shall be permitted by right in a district when denoted by the letter "P" provided that all requirements of other City ordinances and this Zoning Code have been met.
  - (2) A use listed in Schedule 1131.02 may be permitted as a conditional use in a district when denoted by the letter "C", provided that the requirements of Title Seven have been met.
- (b) Although a use may be indicated as permitted or conditionally permitted 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 Code applicable to the specific use and parcel in question.

Schedule 1131.02

PERMITTED USES IN COMMERCIAL DISTRICTS

<u>Land Use Category</u>		<u>C-1 Transition Office Dis trict</u>	<u>C-2 Retail District</u>	<u>C-2X Multi- Use Dis trict</u>	<u>C-3 Commercial District</u>
(a)	<u>Residential Uses:</u>				
(1)	Multiple-family dwelling as a free-standing building	P			
(2)	Multiple-family dwelling units above the first floor in association with permitted commercial use	P	P	P	P
(3)	Lodging house and boarding house including convent, home for the aged, residential care facility, and other congregate living facility	C	C	C	C
(4)	Nursing home including intermediate and long-term care facility	C	C	C	C
(5)	Dormitories, fraternities, sororities	C	C	C	C
(b)	<u>Office/Professional/Medical Uses:</u>				
(1)	<del>Business, medical and government offices</del> <u>Offices</u> provided that only samples of merchandise are displayed or stored in the premises	P	P	P	P
(2)	Financial establishment without drive-through facility	P	P	P	P
(3)	Financial establishment with drive-through facility	€	C	C	C
(4)	Financial establishment with Automatic Teller Machine (ATM)	C	C	C	C
(5)	Animal clinics, veterinary offices, animal training, animal grooming facilities, animal day-care facilities, overnight boarding of animals in conjunction with animal clinics, veterinary offices, animal grooming facilities and animal day-care facilities	<u>C</u>	C	C	C
(6)	Funeral homes and mortuaries		€	€	C
(7)	Hospitals	C			C
(8)	Urgent care clinics	C	C	C	P
(c)	<u>Retail/Service Uses:</u>				
(1)	Retail establishments in wholly enclosed buildings		P	P	P

	(2)	<del>Convenience retail and service establishments in an office building provided such business occupies no more than an area equal to 100% of first floor area</del>	€	P	P	P
	(23)	Personal services including dry cleaning, laundry, beauty salon, tattoo parlor, body piercing		P	P	P
	(34)	Restaurants, <del>(table and counter service)</del> bar, tavern, nightclub		P	P	P
	(45)	Catering		C	C	P
	(56)	Outdoor dining facility		C	C	C
	(67)	Drive-through facility in association with a permitted <u>restaurant</u> , retail or service use		C	C	C
	(78)	Hotels	C	C	C	C
	(8)	<u>Subsections (c)(1)-(5), (7) in a Mixed Use Building</u>	P	P	P	P
(d)	<u>Automotive Uses:</u>					
	(1)	Automobile sales, new or new and used				C
	(2)	Automobile rental				C
	(3)	Truck, boat sales/rental				C
	(4)	Gasoline station				C
	(5)	Car wash establishment				C
	(6)	Automobile service station - major and minor repair				C
	(7)	Parking lot as a principal use	€	C	C	P
	(8)	Parking deck or parking garage as a principal use	€	C	C	P
(e)	<u>Commercial Entertainment/Recreation Uses:</u>					
	(1)	Indoor commercial entertainment facility including game room, bowling alley, skating rink, and movie theater		C	C	C
	(2)	Private indoor and/or outdoor recreation including a health, tennis and racquet club		C	C	C
	(3)	Dance studio, <del>karate exercise</del> class		C	C	P
	(4)	Meeting room, <del>banquet hall, party center</del>		C	C	P

	<del>(5)</del>	<u>Banquet hall, party center</u>		<u>C</u>	<u>C</u>	<u>P</u>
	<del>(56)</del>	Mural	P	P	P	P
	<del>(76)</del>	Satellite dish receiving antenna	C	C	C	C
	<del>(8)</del>	<u>Subsections (e)(1)-(5) in a Mixed Use Building</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
(f)	<u>General Commercial/Light Industrial Uses:</u>					
	(1)	Shops and studios for custom work of making articles to be sold at retail on the premises	<u>P</u>	P	P	P
	(2)	Printing and publishing	<u>P</u>	P	P	P
	(3)	Storage and warehousing of goods, self-storage				C
	(4)	Research & Development, Limited	P	P	P	P
	(5)	Industrial Design	P	P	P	P
	(6)	Nursery and garden supply with accessory outdoor storage		C	C	C
	(7)	Greenhouse	C	C	C	C
(g)	<u>Educational Facilities:</u>					
	(1)	Elementary, junior and senior high school	C	C	C	C
	(2)	College, university, trade and training schools, adult education facilities	C	C	C	C
	(3)	<del>Child day</del> <u>Day</u> care center, <del>nursery</del> <u>preschool</u> , <del>tutoring center</del>	C	C	C	C
	<del>(4)</del>	<u>Tutoring center</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
(h)	<u>Community Facilities:</u>					
	<del>(1)</del>	<del>Places of worship</del>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>
	<del>(21)</del>	Public library, museum	C	C	C	C
	<del>(32)</del>	Public safety facilities	C	C	C	C
	<del>(43)</del>	Public service and maintenance facilities	C	C	C	C
	<del>(54)</del>	Public parks and playgrounds	C	C	C	C
	<del>(65)</del>	Outdoor community festival <del>longer than 3 days</del>	C	C	C	C
	<del>(7)</del>	<u>Public use of public land</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>
(i)	<u>Live/Work Dwellings</u> subject to the regulations of Section 1131.13.		<u>EP</u>	C	C	C

**Schedule 1131.03**

**PERMITTED ACCESSORY USES**

<u>Land Use Category</u>		<u>C-1 Transition Office-District</u>	<u>C-2 Retail District</u>	<u>C-2X Multi- Use District</u>	<u>C-3 Commercial District</u>
(a)	Off-street parking and loading facilities as required and regulated in Chapter 1161	A	A	A	A
(b)	Signs as permitted and regulated in Chapter 1163	A	A	A	A
(c)	Home occupations subject to the regulations of Section 1165.02(b)	A	A	A	A
(d)	Enclosed storage building for incidental storage of goods and supplies sold on the premises		A	A	A
(e)	Employee cafeterias	A	A	A	A
(f)	Recycling collection station or trash receptacle enclosed in a principal building, in an approved structure or screened according to the regulations of Section 1166.10	A	A	A	A
(g)	All accessory uses permitted within a Multiple-Family District in connection with permitted multiple-family dwellings	A			
<del>(h)</del>	<del>Retail and service establishments not to exceed an area equal to 50% of the first floor area of a permitted office or multiple family building</del>	<del>A</del>			
<del>(h)</del>	Greenhouses*	A	A	A	A
* A Greenhouse is only permitted on the interior side yard or rear yard of a lot. In size, a Greenhouse shall not exceed 25% of the gross floor area of the principal building and shall never exceed 400 square feet.					

**1131.04 LOT AREA AND WIDTH REGULATIONS.**

Principal buildings and uses permitted in the C-1-TransitionOffice, C-2 Local Retail and C-3 General Commercial Districts shall be located only on a lot that complies with the lot area and lot width regulations set forth in Schedule 1131.04, unless otherwise specifically provided for elsewhere in this Zoning Code.



Schedule 1131.04

LOT AREA AND WIDTH REGULATIONS

Principal Use		Permitted Use District	Minimum Development Area (in sq. ft.)	Minimum Land Area per D.U. (d) (in sq. ft.)	Minimum Lot Width at Building Line (in feet)
(a)	Multiple-family dwellings (a)	C-1	<del>20,000</del> <u>10,000</u>	1,740	<del>100</del> <u>70</u>
(b)	Multiple-family dwelling units above the first floor (b)(e)	C-1; C-2; C-3	10,000	1,740	70
(c)	Commercial (c)	C-1;C-2	10,000	NA	70
(d)	Commercial (c)	C-3	20,000	NA	100

Notes to Schedule 1131.04:

- (a) Shall be the principal use on the lot.
- (b) The first floor of the building shall be occupied by principal use other than multiple-family residences.
- (c) Shall include all nonresidential permitted uses in the zoning district.
- (d) D.U. means dwelling unit
- (e) In a C-1 District, a Mixed-Use building in shall have no limitation on dwelling unit location.

Schedule 1131.06

MINIMUM YARD REQUIREMENTS FOR PRINCIPAL USES (a)

Specified Yard		Minimum Dimensions by District (in feet)	
		C-1, C-2 Districts	C-3 Districts
(a)	Front (b)	5(b)	5(b)
(b)	Yards abutting a C Commercial District or S District		
	(1) Side	0(c)	0
	(2) Rear	5	5
	(3) Corner side when rear yard abuts	5	5
(c)	Yard abutting a MF Multiple-Family District		
	(1) Side and rear	15	15
	(2) Corner side when rear yard abuts	10	10

(d)	Yards abutting an AA, A or B Residential District		
	(1) Side and rear	20	20
	(2) Corner side when rear yard abuts	10	10

**Notes to Schedule 1131.06:**

- (a) ~~New multiple family residential developments in a C-1 District must comply with the MF-2 regulations. [intentionally omitted]~~
- (b) See Section 1131.12 for supplemental regulations for parking garages and parking decks.
- (c) A building not sharing a common wall with an adjacent building shall maintain the minimum separation specified in the Building Code.

**1131.07 HEIGHT REGULATIONS.**

The height of a principal building in the C-1-~~Transition~~Office, C-2 Local Retail and C-3 General Commercial Districts shall not exceed forty-five (45) feet. Mechanical space for building equipment placed on the building roof may be allowed above the maximum height specified, provided that such mechanical space is set back a minimum of fifteen (15) feet from any exterior wall, does not exceed fifteen (15) feet in height and is adequately screened from view. The height of an accessory building or structure shall not exceed twenty (20) feet, unless otherwise specified in this Zoning Code.

**1131.075 COMMERCIAL AND MIXED USE DISTRICT DESIGN STANDARDS.**

The following standards are applicable to all commercial buildings in the City:

- (a) Windows. Windows must be constructed of clear or lightly tinted glass. Reflective glass and tinting above twenty percent (20%) is prohibited. A wall facing a public street must provide windows along at least 60% of its lineal frontage at street level. These windows shall provide views to allow people to see and be seen for passive security and to encourage pedestrian activity and district vitality.
- (b) Building Entrances and Siting.
  - (1) All buildings shall have a public entrance from the sidewalk along the Primary street frontage.
  - (2) Façades that abut parking areas and contain a public entrance shall make provisions for pedestrian walkways and landscape areas.
  - (3) If outlot buildings are a part of a large retail development, outlot buildings must define the street frontage by placement near the street with showcase windows and entrances oriented toward the street, as well as to the interior parking lot.
- (c) Roof Design. Green roof and white roof designs are encouraged.
- (d) Parking Structures. Parking structures are encouraged to be “faced” with commercial uses along any façade that is adjacent to a public street.

**1131.08 ACCESSORY USE REGULATIONS.**

Accessory uses, buildings and structures permitted in a C Commercial District shall conform to the regulations of this section, and shall be landscaped and screened from view in accordance with ~~Section 1165.05~~Chapter 1166, as applicable.

- (a) Off-Street Parking Lots. Off-street parking spaces in a parking lot may be located on the same lot as the principal use served, or may be located on a separate lot, or conditionally permitted in residential districts in accordance with Section 1161.11 1161.06, and shall provided:
  - ~~(1) A landscaped area not less than fifteen (15) feet in width adjacent to a public right of way.~~
  - ~~(2) A landscaped area not less than ten (10) feet in width adjacent to a side or rear lot line which coincides with a side or rear lot line in an AA, A or B District.~~
  - ~~(3) A landscaped area not less than five (5) feet in width adjacent to a side or rear lot line which coincides with a side or rear lot line in a MF District.~~

- (41) ~~The landscaped area shall comply with the landscaping standards in accordance with set forth in Sections 1166.06 and 1166.07. Any area located between a lot line and a parking area that is not covered by a permitted building shall be landscaped and maintained in accordance with Section 1166.06 and 1166.07.~~
- (5) ~~Conditionally permitted parking lots in residential districts shall comply with the regulations set forth in Section 1131.08(a).~~
- (62) Parking shall not be permitted in front or corner-side yards or between a principal building and a public right-of-way. Drive aisles shall not be permitted between a principal building and a public right-of-way.
- (73) Surface parking lots that exclusively serve a specific principal use or uses to the exclusion of other principal uses in the district are limited to sixty-two feet in width. Width shall be measured along the edge of the parking lot that is closest to and parallel or roughly parallel to the street.
- (b) Location of Accessory Buildings/Structures. Accessory buildings and structures shall be located in a side or rear yard in compliance with the yard regulations for principal uses set forth in Schedule 1131.06.
- (c) Fences. Fences may be erected in any commercial district provided they comply with the following regulations:
- (1) A fence located in a front yard shall have a maximum height of ~~42-48~~ inches above ground level.
  - (2) In a rear or interior side yard, a fence shall have a maximum height of seven feet above ground level.
  - (3) In a corner side yard, a fence shall have a maximum height of ~~42-48~~ inches above ground, except as required by Section 1166.07 for lots adjacent to a residential district, or unless set back 15 or more feet from the public right of way, in which case a fence shall have a maximum height of seven feet above ground level.
  - (4) Any fence within 25 feet of a public right of way and parallel or approximately parallel to such street shall be approved by the Architectural Board of Review. No chain-link ~~or wire mesh~~ fencing shall be permitted in front or corner side yard.
  - (5) No barbed wire fence shall be constructed or erected on any lot. Any nonconforming barbed wire fence shall be removed following five years from the adoption of the amendment to this Zoning Code which made such fence nonconforming.
  - (6) A fence which has the sole purpose of enclosing a seasonal outdoor activity shall be removed during the times of the year when the seasonal activity is not in operation if it causes a nuisance or limits safe travel along public sidewalks.
  - (7) A pergola or other freestanding structure may be permitted in front of a building but not within the required front yard, subject to Architectural Board of Review approval.

### 1131.13 SUPPLEMENTARY REGULATIONS FOR LIVE/WORK DWELLINGS IN COMMERCIAL DISTRICTS.

In C1 District, a live/work dwelling is permitted. In C2, C-2X, and C3 all Commercial Districts ~~(C1, C2, C-2X and C3)~~, the Planning Commission may conditionally permit a live/work dwelling subject to the following standards:

- (a) The following uses are permitted in a live/work dwelling. Only one (1) such use is permitted per dwelling:
- (1) Arts Studio
  - (2) Medical/Dental Clinic – One of the licensed practitioners in the business must be the owner and resident in the dwelling.
  - (3) Office
  - (4) Other uses possessing characteristics similar to the above-mentioned uses with respect to the absence of noise, vibration, fire

hazards, explosion hazards, smoke, or other health or environmental conditions that would be incompatible with habitation.

- (b) Conversion is subject to the following design and performance standards and approval by the Architectural Board of Review.
  - (1) Windows shall provide views into the work portion of the unit to allow people to see and be seen for passive security and to encourage pedestrian activity and district vitality.
  - (2) All conversions shall be designed to be visually compatible with nearby commercial buildings.
  - (3) The principal entrance for the non-residential use must be a direct entry from the primary abutting street.
  - (4) The owner of the business must be the owner and resident of the dwelling.
- ~~(c)~~ ~~(5)~~ Parking requirements shall only be calculated for the non-residential part of the dwelling. No additional off-street parking is required for the residential use.

## CHAPTER 1133 Park District

### 1133.04 MINIMUM YARD REQUIREMENTS.

For each permitted use located in a Park District, front, side and rear yards shall be provided in accordance with the following:

- (a) Principal and accessory buildings and active recreational areas shall be located no less than fifty (50) feet from a front, side and rear lot line.
- (b) Any playground structure or picnic shelter shall be located no closer to a front, side or rear lot line than a distance equal to its height.
- (c) Off-street parking areas shall ~~be located~~ comply with Chapter 1161 and landscaped no closer than:
  - ~~(1) Fifteen (15) feet to a public right of way;~~
  - ~~(2) Ten (10) feet to an AA, A or B District;~~
  - ~~(3) Five (5) feet to an MF District.~~in accordance with Sections 1166.06 and 1166.07.

~~An area located between a lot line and a parking area that is not covered by a permitted building or structure shall be landscaped and maintained in accordance with Section 1165.05.~~

## CHAPTER 1141 Planned Development Objectives

### 1141.02 DEFINITION.

~~Planned Development or PD shall mean an area of land in which a variety of residential, commercial and office uses are accommodated as a conditional use in a pre-planned environment under more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under the standard district regulations. The procedure for approval of such development contains requirements in addition to those of permitted uses.~~  
[intentionally omitted]

## CHAPTER 1143 S-1 Mixed Use District

### 1143.02 PERMITTED USES.

Within the S-1 District, the following uses enumerated in this section are either permitted principal uses, conditional uses or accessory uses permitted in association with a principal use.

All development shall be subject to the review and approval of the Board of Control as set forth in Section 1143.10.

- (a) Principal Uses. Any principal use or combination of uses permitted in the MF-3 or C-3 Districts is permitted in the S-1 District in accordance with the approved preliminary land use plan for the District.
- (b) Accessory Uses. Accessory uses shall be permitted in association with a principal use subject to the regulations for such accessory uses in the respective MF or Commercial District.

#### **1143.07 PARKING AREAS.**

Parking areas shall be suitably screened with planting, and improved to meet the standards of Chapters 1161 and 1166. ~~In addition, for parking areas designed to accommodate twenty (20) or more vehicles, a minimum of ten percent (10%) of the parking lot shall be appropriately designed with landscaped areas and planted islands, developed and distributed throughout the parking lot as to interrupt the expanse of pavement. Such planted islands and landscaped areas shall be a minimum of ten (10) feet in any dimension. Shrub plantings adjacent to a building along the perimeter of the parking lot, or in any part of a yard, shall not be counted as interior landscaping. For the purpose of this section the area of a parking lot shall be the total vehicular surface area including circulation aisles. Curbing, at least five (5) inches in height, shall surround each landscaped island as protection from vehicles.~~

#### **1143.09 LIGHTING.**

All lighting of exterior and interior building areas, parking areas, grounds and signs shall be so designed ~~that the light shall not cause undue glare or appear out of place, as determined by the Board of Control according to the provisions of Section 1165.07.~~

#### **1143.10 PROCEDURES.**

Development in the S-1 Mixed Use District shall be permitted only after review and approval of a detailed development plan by the Board of Control according to the procedures set forth in this section:

- (a) Preparation of a Detailed Development Plan. A proposal for development shall be accompanied by a detailed development plan prepared by a qualified professional, drawn to an appropriate scale. The detailed development plan shall include the following information, provided that the Zoning Administrator may waive certain submission requirements that are deemed unnecessary for the review and evaluation of such proposed development.
  - (1) Plat, plot plan. Plat, property lines of the parcel or parcels proposed for development including existing utilities, easements, street rights of way, and locations of existing principal buildings and land uses on adjacent parcels and across existing streets. Permanent parcel numbers of the development and adjacent parcels shall be included.
  - (2) Topography. Topographic maps showing existing and generally proposed grading contours at not greater than two (2) foot intervals, including integration into and topography on adjacent properties, wooded areas and trees of substantial size. The topography may be included on the plot plan.
  - (3) Principal and accessory buildings. The number, height, location and grouping of proposed dwelling units, nonresidential uses, recreational facilities and public uses, along with notation of the development standards for building spacing, setback from public streets and maximum building height.
  - (4) Traffic. The proposed system of on-site vehicular circulation, details for access to streets, methods for control of traffic, and an assessment of the impact of the proposed development on the existing circulation system; data showing the average and maximum volume of traffic expected to be generated by the development.
  - (5) Parking areas. The layout, dimensions and estimate of the number of parking spaces, the landscaping and other design features of the parking area and types of pavement, the loading and unloading areas.

- (6) Outdoor lighting fixtures. The location, type and illumination intensity of any existing or proposed outdoor lighting fixtures.
  - (7) Signs. Indication of the size, location, color and nature of any existing or proposed signs on the property.
  - (8) Landscaping and screening plan. A preliminary description of the location and nature of existing and proposed vegetation, landscaping and screening elements; a proposed maintenance plan to ensure the upkeep of natural areas.
  - (9) Outdoor storage. The location and layout of all outdoor storage including storage of waste materials and trash receptacles.
  - (10) Architectural drawings. Complete architectural drawings including floor plans, elevations and specifications for the proposed development.
  - (11) Phasing, sequencing of project. A detailed statement of the phasing and staging of specific elements of the plan, including a proposed construction sequencing schedule.
  - (12) Utilities. Show proposed location of new utilities and authority to connect these into existing infrastructure. Storm Water must address requirements of Chapter 1335, Storm Water Management.
- 
- (b) Review for Completeness by the Zoning Administrator. Upon receipt of the proposal, the Zoning Administrator shall, within three (3) working days, make a preliminary review of the application to determine whether such application provides the information necessary for review and evaluation. If it is determined that such application does not provide the information necessary for such review and evaluation, the Zoning Administrator shall so advise the applicant of the deficiencies and shall not further process the application until the deficiency is corrected.
  - (c) Review by the Board of Control. The Board of Control shall review the proposal and shall grant approval only after determining that the proposal complies with the preliminary land use plan for the S-1 District and that the proposal is within the intent and purpose of the S-1 District and will not be harmful to surrounding properties. The Board may grant variances from relevant provisions of this chapter or from any other applicable provisions of the Zoning Code where practical difficulty is demonstrated. However, the Board shall not have the power to grant a use variance.
  - (d) Review by Planning Commission. It is intended that any detailed development plan which will substantially change the use(s), building(s), or traffic pattern(s), within the S-1 Districts shall be reviewed by the Planning Commission prior to Board of Control approval or disapproval. Therefore, when a proposed development plan involves the placement of buildings on previously undeveloped land or a change in the circulation of traffic within the District or a change in the basic use to which land or a building is devoted, the Board shall refer the development plan to the Planning Commission for approval, approval with modifications or disapproval. The Commission shall be allowed a reasonable time, not less than thirty (30) days, for its consideration and recommendation. If the Planning Commission disapproves the proposal within such thirty (30) day period or thereafter, but prior to voting by the Board of Control upon the proposal, the Board of Control shall not approve the proposal except by the concurring votes of not less than three-fourths (3/4ths) of the members of the Board of Control. Any proposal may be amended prior to the voting thereon by the Board of Control without further notice or postponement, if such amendment to the proposal is in accordance with the recommendation, if any, of the Planning Commission.
  - (e) Notice of Planning Commission Review. When such detailed development plan is referred to the Planning Commission, written notice shall be given by the Zoning Administrator to the applicant, the owner of property (if not the applicant), and to the owners of adjacent, abutting and contiguous properties. The notice shall either be hand delivered or sent by first class mail at least ten (10) days before the hearing by the Planning Commission on the development. The notice shall set forth the time and place of the hearing and the nature of the

development proposal. The failure of any person to receive such notice shall not affect the right and power of the Planning Commission and/or Board of Control and/or Council to review such application or to take action on the application.

- (f) Council Approval. Approval by the Board of Control of a detailed development plan shall not become effective unless and until it has been approved by Council. If Council takes no action in approving or disapproving the plan within thirty (30) days from receipt of certification of approval by the Board of Control, the action of the Board of Control in approving the proposal shall become in full force and effect.
- (g) Building Permit. No building permit for the improvement of a parcel, or any portion thereof, or for the erection of any building shall be issued unless the detailed development plan has been approved in accordance with the provisions of this section. All construction and development under any building permit shall be in accordance with the approved, detailed development plan. Any departure from the approved plans shall be cause for revocation of the building permit.
- (h) Amendments to Plans. The preliminary land use plan or a detailed development plan may be amended according to the following:
  - (1) An amendment to the preliminary land use plan shall be considered an amendment to the zoning map and shall be governed by Chapter 1119 of the Zoning Code.
  - (2) An amendment to the detailed development plan shall be governed by the provisions of this chapter pertaining to the approval of detailed development plans.

**CHAPTER 1153  
Supplemental Standards for Conditional Uses**

**1153.03 SPECIFIC AREA, WIDTH AND YARD REGULATIONS.**

(a) Schedule 1153.03 sets forth regulations governing lot area, lot width and minimum yard dimensions for principal and accessory buildings and parking areas for conditional uses that require area, width and yard regulations different from the district regulations. Additional standards and requirements pertaining to such uses are set forth in Section 1153.05.

(b) In addition, all parking areas adjacent to a single-family or two-family dwelling shall be landscaped in accordance with Section 1165.05.

Schedule 1153.03  
**AREA, WIDTH AND YARD REGULATIONS  
FOR CERTAIN CONDITIONAL USES**

				<u>Min. Yard Dimensions (in feet)</u>				See Also Section
				<u>Buildings (d)</u>	<u>Parking</u>			
<u>Conditional Use</u>	<u>Min. Lot Area</u>	<u>Min. Lot Width (Feet)</u>	<u>Front</u>	<u>Side/ Rear</u>	<u>Side/ Front</u>	<u>Rear</u>		
(1) PRD	---	--	--	--	--	--	1155.01-1155.08	
(1a) PDO Development District	2 acres						1147.01 - 1147.09	
(2) Place of worship	1 acre	150	50	50	50	10	1153.05(a)	
(3) School facilities	1 acre	150	50	50	50	10	1153.05(b)	

(4)	Public libraries	1 acre	150	50	50	50	10	---
(5)	Public safety facilities	1 acre	150	50	50	50	10	---
(6)	Public and private parks and playgrounds, and public recreation facilities	None	None	50(a)	50(a)	(b)	(c)	1153.05(b)
(7)	Golf courses	None	None	50	50	50	50	---
(8)	Cemetery	---	--	--	--	--	--	1153.05(c)
(9)	Parking lot for a permitted use not on the same zoning lot	None	None	N/A	N/A	(b)	(c)	---
(10)	Accessory parking for a commercial use	---	--	--	--	--	--	1153.05(f)
(11)	Parking deck or one-story garage for a permitted use not on the same zoning lot	20,000 sq.ft.	100	30	15	N/A	N/A	---
(12)	Day care home	---	--	--	--	--	--	1153.05(d)
(13)	Day care center, <del>nursery preschool, kindergarten</del>	---	--	--	--	--	--	1153.05(e)
(14)	<del>Residential home for the handicapped [intentionally omitted]</del>	---	--	--	--	--	--	<del>1153.05(g)</del>
(15)	Home occupation in an accessory building	---	--	--	--	--	--	1153.05(h)
(16)	Outdoor community festivals	---	--	--	--	--	--	1153.05(i)
(17)	Dormitories, fraternities, sororities	20,000 sq. ft.	100	30	15	30	15	1153.05(j)
(18)	Lodging houses, boarding houses, convents, home for the aged, other congregate living and residential care facilities	20,000 sq. ft.	100	30	15	30	15	1153.05(k)
(19)	Nursing home, intermediate and long-term care facility	1 acre	150	50	50	30	15	---
(20)	Special training schools and adult education facilities	<del>1 acre</del>	<del>150</del>	<del>50</del>	<del>50</del>	<del>30</del>	<del>15</del>	---
(21)	Hospitals	2 acres	200	50	50	30	15	---
(22)	Colleges and universities	2 acres	200	50	50	30	15	---
(23)	Drive-thru facilities	---	--	--	--	--	--	1153.05(l)
(24)	Automatic Teller Machine	---	--	--	--	--	--	1153.05(m)
(25)	Funeral homes and mortuaries in a C-2 or C-3 District	20,000 sq. ft.	100	50	50	15	(b)	---



(26)	Animal clinics, veterinary offices, or animal grooming facilities	---	--	--	--	--	--	1153.05(n)
(26 A)	Animal day-care facilities and overnight boarding of animals	---	--	--	--	--	--	1153.05(bb)
(27)	<del>Convenience retail in an office building [intentionally omitted]</del>	---	--	--	--	--	--	<del>1153.05(e)</del>
(28)	Catering	---	--	--	--	--	--	---
(29)	Outdoor dining	---	--	--	--	--	--	1153.05(p)
(30)	Dance studios, <del>karate exercise</del> classes and similar uses	---	--	--	--	--	--	1153.05(q)
(31)	Auto sales, new, (new and used) and auto rental	20,000 sq. ft.	100	(b)	(b)	15	(b)	1153.05(r)
(32)	Auto sales, used	20,000 sq. ft.	100	(b)	(b)	15	(b)	1153.05(s)
(33)	Truck, boat, sales/rental	20,000 sq. ft.	100	(b)	(b)	15	(b)	1153.05(s)
(34)	Gasoline stations	20,000 sq. ft.	100	(b)	(b)	15	(b)	1153.05(t)
(35)	Car wash establishment	20,000 sq. ft.	100	(b)	(b)	15	(b)	1153.05(u)
(36)	Auto service-major <u>&amp; minor</u> repair	20,000 sq. ft.	100	(b)	(b)	15	(b)	1153.05(u)
(37)	<del>Auto service-minor repair [intentionally omitted]</del>	<del>20,000 sq. ft.</del>	<del>100</del>	<del>(b)</del>	<del>(b)</del>	<del>15</del>	<del>(b)</del>	<del>1153.05(u)</del>
(38)	Game rooms	---	--	--	--	--	--	1153.05(v)
(39)	Indoor commercial entertainment	---	--	--	--	--	--	---
(40)	Private indoor/outdoor recreation	---	--	--	--	--	--	---
(41)	<del>Meeting room,</del> banquet hall, party center	---	--	--	--	--	--	---
(42)	Satellite dish receiving antenna	---	--	--	--	--	--	1153.05(w)
(43)	<del>Murals</del> <u>Meeting room</u>	---	--	--	--	--	--	1153.05(x)
(44)	Storage and warehousing of goods	---	--	--	--	--	--	---
(45)	Research and testing laboratories	---	--	--	--	--	--	---
(46)	Nursery and garden supply with accessory outdoor storage	---	--	--	--	--	--	1153.05(z)

(47)	Public indoor/outdoor entertainment, public indoor recreation	---	--	50(a)	50(a)	(b)	(b)	---
(48)	Reduction in parking requirements	---	--	--	--	--	--	1161.05
(49)	Architecturally significant nonconforming signs	---	--	--	--	--	--	1163.11
(50)	Attached single-family dwelling unit (e)	---	--	--	--	--	--	1153.05(aa)
(51)	Chicken coop and run	---	--	--	10	--	10	1153.05(gg)
(52)	Commercial Renewable Energy Systems (“Solar Farms”)	2 acres	--	25	25	--	--	1153.05(ff)

**Notes to Schedule 1153.03:**

- (a) Playground structures and picnic shelters shall be located no closer to a front, side or rear lot line than a distance equal to its height.
- (b) Shall comply with the district regulations.
- (c) Shall comply with the parking regulations for multiple-family uses set forth in Section 1123.12(a).
- (d) Shall include principal and accessory buildings unless specified otherwise in this Zoning Code.
- (e) For the purpose of determining applicable lot area, width, and yard regulations, adjoining parcels containing attached single-family dwelling units and common areas shall be considered a single zoning lot. Any parcel on which an attached single-family dwelling unit is located shall have frontage on a public street.

**1153.05 SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES.**

The following conditional use regulations are specific requirements pertaining to the location and maintenance of certain conditional uses and are in addition to the general criteria set forth in Chapter 1151 and the lot area, width and yard regulations set forth in Section 1153.03.

- (a) Places of Worship. In ~~any a residential~~ district, a place of worship shall be used only for local purposes of the congregation ~~of the organization~~ and shall not be used or operated as or in connection with a business, except for the renting of rooms for a use that provides a service to the community, i.e., day care, exercise classes, ~~AA classes~~ meeting space.
- (b) Public and Private Schools, Parks and Playgrounds. In any district, the Planning Commission may require a school, park or playground to fence in the outdoor play area to minimize traffic hazards and buffer neighboring properties.
- (c) Cemeteries. Existing cemeteries are a conditionally permitted use in AA, A and B Residential Districts and may be permitted to expand no more than 150 feet from an existing property line provided no dwellings are destroyed in order to do so. No new cemeteries shall be permitted.
- (d) Day Care Home. A conditional use permit for a child day care home in an AA or A District may be administratively issued by the Zoning Administrator, however Planning Commission review shall be required for a day care home in a B District. The property on which the child day care home is located shall not be contiguous at any point (including sharing the intersection of two (2) property lines) with the property on which an existing day care home is located; not be within 150 lineal frontage feet of the property on which an existing day care home is located; and not be directly across the street from any existing child day care home. The provisions contained in Section 1165.02 governing home occupations shall apply to a child day care home except that there shall be no restrictions as to

the hours during which motor vehicles may bring children to or pick up children from the home.

- (e) ~~Day Care Center, Nursery-Preschool, Kindergarten.~~ In a residential district, a day care center, ~~or nursery-preschool or kindergarten~~ may be conditionally permitted provided the facility is located in a school, place of worship or a conditionally permitted adaptively reused non-residential building as set forth in Subsection 1153.05(cc) of this Code. In a commercial district such uses may be conditionally permitted ~~to locate in a building that meets the lot and yard requirements set forth in the district regulations.~~ In residential and commercial districts, a day care center or preschool having 49 or fewer wards may be conditionally approved by the Zoning Administrator; a facility with more than 49 wards shall require Planning Commission approval.

- (f) Accessory Parking for a Commercial Use. In residential districts, parking lots contiguous to and within 150 feet of a ~~C-1~~, C-2, C-2X or C-3 District and accessory to a use located within that District and conforming to the requirements of Chapter 1161 may be conditionally permitted in compliance with the following:

- (1) For the purposes of this section, contiguous includes a parcel directly across a public right of way. The start of the 150 foot distance shall be measured from the side of the public right of way on such contiguous lot;
- (2) An approved parking area shall be used solely for the parking of the passenger automobiles of the employees and customers of the use to which it is accessory;

- (3) The Planning Commission may establish specific hours of operation; and

- ~~(4) Each entrance and exit shall conform to the standards established for commercial uses adjacent to a residential district as set forth in Section 1161.10.~~

- ~~(5) Landscaping ed-buffers-complying shall comply with the standards in sections 1166.06 and 1166.07. shall be of the following dimensions:~~

~~A. Not less than fifteen (15) feet in width adjacent to a public right of way.~~

~~B. Not less than ten (10) feet in width adjacent to a side or rear lot line which coincides with a side or rear lot line in an AA, A or B District.~~

~~C. Not less than five (5) feet in width adjacent to a side or rear lot line which coincides with a side or rear lot line in a MF District.~~

~~D. Any area located between a lot line and a parking area that is not covered by a permitted building shall be landscaped and maintained in accordance with Section 1165.05.~~

- (g) [intentionally omitted] Residential Home for the Handicapped. In an AA, A or B Residential District, a residential home for the handicapped as defined in this Zoning Code shall be permitted provided such use complies with the criteria specified herein below. A residential home for the handicapped which will have four residents may be approved administratively by the Zoning Administrator pursuant to the criteria herein. Applications for residential homes for the handicapped for five to eight residents shall be submitted to Planning Commission. The Zoning Administrator may require an applicant for a four-resident home to submit an application for a conditional use permit to the Planning Commission if the Administrator has questions as to whether the proposed home meets the criteria specified herein.

- (1) The persons residing in such residential home shall live as a single housekeeping unit in a single dwelling unit and maintain such home as their sole, bona fide, permanent residence. The term "permanent residence" means:

~~A. The resident intends to live at the dwelling on a continuous basis; and~~

~~B. The resident does not live at the dwelling primarily to receive counseling, treatment, therapy or medical care;~~

- ~~(2) Prior to a handicapped person commencing residence in the home, either~~

the applicant or the placement agency shall certify that it has determined that the resident is handicapped as defined in 42 U.S.C. Sec. 3602(h) and that the resident can function adequately in a community residential setting. The applicant or the placement agency shall have a continuing duty to provide such certification to the Zoning Administrator for each handicapped person who resides in the home after a conditional use permit is granted;

- ~~(3) The applicant or placement agency shall demonstrate that adequate qualified supervision will exist in the home as necessary;~~
- ~~(4) The home shall not have more residents than the maximum number of occupants permitted under the applicable provisions of the Housing Code describing required habitable floor and bedroom areas for each occupant; however, in no event shall the total number of persons residing at the home exceed eight;~~
- ~~(5) In order to maintain the single-family residential character of AA and A Districts, the dwelling shall not be changed or redesigned for any purpose other than a single housekeeping residential use and if modifications are made to the premises which may render it unmarketable as a single-family dwelling, the applicant is required and shall agree that upon termination of this conditional use for any reason, the applicant shall restore the premises to a condition in which it is marketable as a single-family dwelling, unless ownership and/or possession of the premises is transferred to a person(s) who has obtained a similar conditional use permit for the premises;~~
- ~~(6) Signs or other means of identification as a residential home for handicapped persons shall not be permitted;~~
- ~~(7) The applicant shall comply with the applicable parking regulations of the Zoning Code for the type of residential structure used by the residential home and shall make adequate provision for on-site parking of vehicles used by visitors, home supervisors, service providers and residents, if applicable;~~
- ~~(8) In considering whether to grant the conditional use permit, the Zoning Administrator or Planning Commission shall take into consideration the proximity and location of other such residential homes for handicapped persons within the neighborhood so as not to change the residential character of the area or create undue congestion in public ways;~~
- ~~(9) The owner/operator shall be licensed or certified by the State of Ohio or Cuyahoga County. Failure to maintain such license or certification shall result in immediate revocation of the home's conditional use permit.~~

(h) Home Occupation in an Accessory Building. A home occupation in an accessory building may be conditionally permitted by the Zoning Administrator in any district

~~A home occupation may be conducted in an accessory building~~ provided that the following standards are met and maintained:

- ~~(1) The accessory building or portion of accessory building used for the home occupation shall be located no less than five (5) feet from the side and rear lot line;~~
- ~~(21) There shall be no display or other indication from the exterior that the building is being utilized for any nonresidential purpose, and the external appearance of the structure in which the use is conducted shall be compatible with the dwelling unit and neighboring residential structures;~~
- ~~(32) There shall be no merchandise manufactured or processed for sale, bought, sold, exchanged or traded in or on the premises. A home occupation involving individual works of art and involving some machine process as part of the creation of individual works of art is permitted, provided it meets all other criteria of this section, and involves no direct sales of such works of art to consumers on a regular basis from the premises;~~
- ~~(43) There shall be no person employed or engaged in the furtherance of the home occupation other than a member of the immediate family residing in the same dwelling unit as the home occupation;~~

- (54) There shall be no mechanical, electrical or chemical equipment used in furtherance of such home occupation, except such as causes no disturbances of any kind beyond the premises where the home occupation is located;
- (65) There shall be no storage of material, goods or equipment used for a business activity conducted off the premises;
- (76) There shall be no motor vehicles bringing clients or customers to the place of the home occupation other than for the periods from 9:00 a.m. to 5:00 p.m. on weekdays, and from 9:00 a.m. to 12:00 noon on Saturday. All such vehicles visiting the place of the home occupation shall be parked on private property;
- (87) No home occupation shall be permitted in any accessory building, or portion thereof, where the conduct of such home occupation is or will be offensive to neighboring property owners or occupants of the same dwelling structure by reason of excessive noise, late hours or business activity, the intensity of the business activity or other such reasons; and
- (98) No home occupation shall be permitted in that portion of a garage that is required by this Zoning Code to provide enclosed parking spaces for a dwelling.
- (i) Outdoor Community Festivals. An outdoor community festival may be conditionally permitted in any district in compliance with the following:
- (1) ~~In any district, t~~The festival shall be sponsored by a street club, neighborhood association, religious or educational institution, or other nonprofit community organization. ~~, including in a commercial district, a merchant's organization;~~
  - (2) ~~In a commercial district, a local merchant's organization or special improvement district shall be permitted to sponsor a festival. In a residential district, the Zoning Administrator may authorize a nonprofit organization to conduct an outdoor festival so long as such outdoor activity is designed to accommodate and to be used primarily by the street residents, church membership or sponsoring nonprofit organization and provided further that such outdoor activity shall be limited in time to no more than twenty four (24) hours. Festivals for a longer duration shall be approved by the Planning Commission;~~
  - (3) ~~In a commercial district, The Zoning Administrator may approve a conditional use permit for a festival lasting up to four (4) consecutive days. Festivals for five (5) or more consecutive days shall be approved by the Planning Commission.~~  
~~the Zoning Administrator may authorize a civic, business or community nonprofit organization to conduct an outdoor festival that does not extend for a period longer than three (3) days. Festivals for a longer duration shall be approved by the Planning Commission;~~
  - (4) A festival may include activities in an area where property is publicly owned so long as the owner of such public property files with the application for such event a written consent to the activities proposed on its property.;
  - (5) The permit issued for such use shall contain special limitations thereon in accordance with the difference in circumstances which may attend each such requested use.
- (j) Dormitories, Sororities and Fraternities. In a multiple-family or commercial district, dormitories, sororities and fraternities, and associated dining halls may be conditionally permitted provided that:
- (1) The land upon which such use or combination of uses is proposed to be located shall be owned by or under the permanent or continuing control of a recognized, established and operating educational institution which conducts a full-time program of educational instruction;
  - (2) The proposed use shall be for the purpose of furnishing housing or other permitted use facilities for students, faculty or permanent administrative personnel of such educational institution;

- (3) Sleeping and living facilities shall be designed and arranged for such purposes only, and no student dormitory or other separate arrangement of dormitory rooms for such purposes shall contain any permanent cooking facilities in those rooms used for sleeping and living facilities;
  - (4) The land upon which it is proposed to establish such use shall be within one-half (0.5) mile of the educational facilities of the institution proposing to establish such use;
  - (5) The parcel upon which such use is to be established shall contain not less than 400 square feet of land area for each person proposed to be housed in any building to be constructed in connection with such use and have direct access to a duly dedicated public street or highway. Ingress and egress therefrom shall be provided by means of roads or drives of such number, location and character as shall be sufficient to supply necessary public or private services to the property and the residents therein;
  - (6) Off-street parking shall be supplied in accordance with Chapter 1161. However, in determining off-street parking requirements, the Planning Commission shall take into consideration and allow credit for any existing or proposed off-street parking facilities either owned or controlled by the educational institution the use of which is available to such educational institution in a manner other than as merely a member of the general public;
  - (7) The size, type, location and arrangement of all sleeping or living rooms in any building shall be such as will provide adequate light and air or other means of ventilation for the occupants thereof. However, no provision of any Codified Ordinance or ordinance establishing standards for area of rooms for multiple-family dwellings shall be deemed to apply to a building or use approved under this subsection, and in any combination of rooms designed for occupancy by more than one (1) person, there shall be contained not less than 150 square feet of floor area for the first occupant thereof, and not less than 100 additional square feet of floor area for each additional occupant thereof.
- (k) Boarding Houses, Lodging Houses, Convents, Monasteries and Other Congregate Living Facilities. Congregate living facilities may be conditionally permitted in multiple-family and commercial districts provided that the land area per bed shall be not less than the following:
- (1) In a MF-1 District, the minimum land area per bed shall be 1,500 square feet;
  - (2) In MF-2, MF-3 and all commercial districts, the minimum land area per bed shall be 750 square feet.
- (l) Drive-Thru and Drive-In Facilities. Drive-thru and drive-in facilities may be conditionally permitted in a C-1, C-2, C-2X or C-3 Commercial District in association with a permitted use as set forth in Schedule 1131.02 and may be regulated according to the following:
- (1) Such facility should be located so as to be the least disruptive to pedestrian traffic;
  - (2) The location of access drives shall be evaluated according to Section 1161.10;
  - (3) For locations where such facility abuts a residential district, a buffer ~~zone~~ **yard** along the entire length of the common boundary between the commercial district and the residential district shall be required pursuant to Section 116~~6.075.05(b)~~;
  - (4) The Planning Commission may impose restrictions on the hours of operation.
  - (5) Drive aisles of drive-through facilities shall only be permitted in the rear or interior side yard. Such facilities shall be effectively screened from view along the public right-of-way and at the edges of sites adjacent to residential properties in order to minimize the impact of exterior site lighting, headlight glare and any menu intercom displays. Such screening shall be approved during the site plan review process and shall consist of

an opaque masonry wall (stone, stucco or brick), a solid wood or simulated wood screen fence, or dense evergreen hedge six (6) feet in height. Plant materials shall be installed along any fence or wall to provide a softening effect.

- (m) Automatic Teller Machines. An Automatic Teller Machine (ATM) on the outside or in a vestibule of principal building, and which is accessible during no regular business hours or enclosed separately in a freestanding building, shall only be permitted as a conditional use and shall be developed according to the following:
- (1) Such facility should be located so as to be the least disruptive to pedestrian and vehicular traffic;
  - (2) There shall be adequate and safe standing space for persons waiting to use the facility;
  - (3) The Police Division has determined that the location and operation of the proposed ATM would not constitute a traffic or safety hazard;
  - (4) The Planning Commission may require additional parking spaces, if deemed necessary, than otherwise required for the principal use; and
  - (5) The ATM shall be owned and operated by the financial establishment on the same premises.
- (n) Animal Clinics, Veterinary Offices and Animal Grooming. An animal clinic, veterinary office or animal grooming establishment may be conditionally permitted in a C-2, C-2X or C-3 District provided such use is located in a building having adequate soundproofing and odor controls to ensure that any noises and odors associated with the operation of the facility are not detectible on neighboring properties. See subsection (bb), “Animal day-care facilities and overnight boarding of animals”.
- (o) ~~[intentionally omitted] Convenience Retail in an Office Building. In a C-1 District, convenience retail uses may be conditionally permitted to occupy no more than an area equal to one hundred percent (100%) of the ground floor of a permitted office building, however when such use occupies less than fifty percent (50%) of the ground floor such use shall be deemed an accessory use and shall not require Planning Commission approval. In any case, access to such ground floor retail use shall be through the primary means of egress to the principal building and no exterior signage for such retail use shall be permitted.~~
- (p) Outdoor Dining. In C-1, C-2, C2-X and C-3 Districts, an outdoor dining facility may be conditionally permitted. An outdoor dining facility located on private property and having 25 or fewer seats may be approved by the Zoning Administrator; a facility with more than 25 seats shall require Planning Commission approval. In granting approval for an outdoor dining facility, the following standards shall apply:
- (1) The facility shall only be used in conjunction with, and under the same management and exclusive control of, a restaurant located on the same or contiguous property.
  - (2) The use shall not interfere with the flow of pedestrian traffic. The approving authority shall determine to what extent, if any, such use may encroach upon the public right-of-way, provided that an unobstructed walkway of a width specified in the conditional use approval is reserved for public passage. In no case shall the unobstructed walkway be less than six feet in width.
  - (3) Before a conditional use permit is granted for the use, it shall be determined that the facility will not create an undue parking shortage within the district.
  - (4) Temporary stanchions with chains or ropes may be approved for the outdoor dining facility, the extent and nature of which shall be set out in the conditional use permit. Architectural Board of Review approval shall be required only for fencing that is temporarily or permanently affixed to the ground or floor of the outdoor dining area. Fencing shall be subject to regulations in Section 1131.08(c).
- (q) Dance, Exercise, and Martial Arts Studios, Karate Classes and Similar Uses. ~~In a C-2 District, establishments offering non-academic instruction should be located~~

~~to be the least disruptive to the pedestrian traffic. Second floor is preferred. In commercial districts, dance, exercise or martial arts studios may be conditionally permitted. A dance, exercise or martial arts studio having 49 or fewer students may be conditionally approved by the Zoning Administrator; a facility with more than 49 students shall require Planning Commission approval.~~

- (r) Automobile Sales, New or New and Used, and Auto Rental. Establishments offering new or new and used vehicles for sale may be conditionally permitted in a C-2 or C-3 District, and establishments offering automobiles for rental may be conditionally permitted in a C-3 District, in compliance with the following items (1) through (6):
- (1) Sale of new automobiles means a building and land used by a franchised automobile dealer principally for the sale of new automobiles. The sale of used automobiles may be permitted as an accessory use provided the inventory of used automobiles does not exceed fifty percent (50%) of the overall inventory at any one (1) time.
  - (2) 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 wholly enclosed buildings.
  - (3) Only repair of automobiles customarily associated with automobile sales shall be permitted, and shall be conducted inside a suitable building.
  - (4) No junk, inoperative or unlicensed vehicle will be permitted to remain outside on the property for more than forty-eight (48) hours.
  - (5) All outdoor wiring, including electrical and telephone wiring, shall be installed underground.
  - (6) Locations where such use abuts a neighborhood district or dwelling shall also provide a buffer zone along the entire length of the common boundary between the commercial use and the residential use which shall be maintained not less than ten (10) feet in depth. This buffer zone shall be landscaped with grass, shrubbery and trees, as approved by the Planning Commission and shall contain a solid brick wall three (3) feet in height from the residential building line of the adjoining residential use to the street, and six (6) feet in height from such residential building line to the rear property line of the adjoining residential use.
- (s) Sales and Rentals of New Trucks, New Trailers, and New Boats. In a C-3 District, the sale or rental of new trailers, new boats, and new trucks not exceeding three-quarter (3/4) ton rate capacity may be conditionally permitted provided that:
- (1) The sale and storage of such vehicles is on the same lot or on a lot contiguous to the principal use;
  - (2) Vehicles may be stored outside provided the storage area is adequately screened in compliance with Section 1165.05(c);
  - (3) There shall not be more than fifty (50) vehicles located on the site outside of a completely enclosed building at any one (1) time;
  - (4) All work on vehicles, including but not limited to cleaning, servicing and repair, shall be done only inside a suitable service building;
  - (5) No junk, inoperative or unlicensed vehicle will be permitted to remain outside on the property for more than forty-eight (48) hours;
  - (6) All outdoor wiring, including electrical and telephone wiring, shall be installed underground;
  - (7) Locations where such use abuts a residential district or dwelling shall also provide a buffer zone along the entire length of the common boundary between the commercial use and the residential use which shall be maintained not less than ten (10) feet in depth. This buffer zone shall be landscaped with grass, shrubbery and trees, as approved by the Planning Commission and shall contain a solid brick wall three (3) feet in height from the residential building line of the use to the street and six (6) feet in height from such residential building line to the rear of the residential use or residential district property line.



- (t) Gasoline Stations. In a C-3 District, a gasoline station may be conditionally permitted in compliance with the following:
- (1) Such use should be located so as to be the least disruptive to pedestrian traffic;
  - (2) A gasoline station in a C-2 District shall comply with the standards and regulations set forth in Section 1131.09;
  - (3) A gasoline station may be combined with a car wash or service station provided that the minimum lot area shall be no less than 30,000 square feet and that such dual use is in compliance with the regulations established for each use.
- (u) Automobile Service Station - Major Repair, Automobile Service Station - Minor Repair, Car Wash. In a C-3 District, an automobile service station or a car wash may be conditionally permitted provided that:
- (1) There shall be a minimum building floor area of 1,200 square feet;
  - (2) All activities including cleaning, washing and drying operations shall take place inside the building;
  - (3) No merchandise except oil may be stored or displayed outdoors;
  - (4) No junk, inoperative or unlicensed vehicle will be permitted to remain outside on the property for more than forty-eight (48) hours;
  - (5) All outdoor wiring, including electrical and telephone wiring, shall be installed underground;
  - (6) Locations where such use abuts a residential district or dwelling shall also provide a buffer zone along the entire length of the common boundary between the commercial use and the residential use which shall be maintained not less than ten (10) feet in depth. This buffer zone shall be landscaped with grass, shrubbery and trees, as approved by the Planning Commission and shall contain a solid brick wall three (3) feet in height from the residential building line of the use to the street and six (6) feet in height from such residential building line to the rear of the residential use or residential district property line;
  - (7) An automobile service station or car wash may be combined with a gasoline station provided the minimum lot area shall be no less than 30,000 and the regulations for each use are maintained.
- (v) Game rooms. In a C-2, C-2X and C-3 District, an indoor game room may be conditionally permitted provided that:
- (1) The Fire Division shall determine that the premises is not in violation of any provision of any statute, ordinance or Fire Safety Code adopted by the State of Ohio or the City;
  - (2) The Fire Division shall determine that the floor plan submitted by the applicant as a part of the application for the permit would not violate any provision of any statute, ordinance or Fire Safety Code adopted by the State of Ohio or the City, and would not otherwise endanger the fire safety of persons using the premises;
  - (3) The Police Division shall determine that the supervision and security plan submitted by the applicant as a part of the application for the permit is adequate to maintain security and lawful order within the game room premises, in its required parking areas, and upon the public right of way abutting upon the premises;
  - (4) The Planning Commission shall determine that the sound control plan submitted by the applicant as a part of the application for the permit is adequately designed, in order that the sounds produced within the premises shall not be heard by persons outside of the premises;
  - (5) If the game room premises, or its required parking areas, are within 200 feet of the property line of any single, double or multiple-family residence, then the game room shall cease its operation not later than midnight on Friday and Saturday nights, and no later than 10:00 p.m. on all other nights, and shall not commence operation before 8:00 a.m. on any day. However, if such residence is located in a commercial use district, or in a

special use district, then the Commission shall have the authority, based upon the evidence, to modify the requirements of this subsection;

- (6) The applicant is in compliance with the applicable off-street parking ordinances and regulations of the City;
- (7) Any conditional use permit issued pursuant to the provisions of this subsection shall be subject to the applicant's obtaining of the appropriate license from the City. The conditional use permit shall remain in effect only so long as the applicant possesses such a license and such license has not been suspended or revoked. The issuance of a conditional use permit is not intended to be, and shall not serve to modify in any way, the requirements for the obtaining of a license for a billiard room, bowling lane or amusement device, or with the jurisdiction of the City Manager relating thereto.

(w) Satellite Dish Receiving Antenna. In any district, an antenna may be conditionally permitted by the Zoning Administrator subject to the following regulations:

- (1) No satellite dish receiving antenna shall be located in the front or side yard of a dwelling or other building;
- (2) A satellite dish receiving antenna may be located on the roof of a building in a residential district only if it is not technically feasible to locate the dish in the rear yard and if the dish is located in such a manner that it is not visible from the public streets or any neighboring premises. A satellite dish receiving antenna may be located on the roof of a building in a commercial district only if it is located or screened so that it is not visible from the public streets, or, if ~~in the judgment of the Planning Commission,~~ its visibility will not adversely impact the overall character and orderly appearance of the neighborhood in which it is located.
- (3) No sign shall be permitted on a satellite dish receiving antenna;
- (4) The satellite dish receiving antenna shall be constructed and anchored in such a manner as to be able to withstand a wind force of up to 100 miles per hour;
- (5) The perimeter of the satellite dish receiving antenna shall be landscaped or otherwise screened in such a manner as will not cause the presence of the satellite dish receiving antenna to interfere with or diminish the use and enjoyment of the adjacent properties;
- (6) In all residential districts through MF-2, the landscaping or other screening must be sufficient to preclude visibility of the satellite dish receiving antenna from the first floor of adjacent residences;
- (7) The diameter of a satellite dish receiving antenna shall not exceed ten (10) feet in any residential district through MF-2 and shall not exceed fifteen (15) feet in any other district;
- (8) Except in cases where a satellite dish receiving antenna is located on the top of a building, the height of a satellite dish receiving antenna shall not exceed fifteen (15) feet in any residential district through MF-2 and shall not exceed twenty (20) feet in any other district;
- (9) All setback requirements for the zoning district in which a satellite dish receiving antenna is to be located shall be complied with, and no variance shall be granted with respect to this requirement;
- (10) A satellite dish receiving antenna shall not be used for the transmitting of any radio or television signal or for any other purpose that would result in an interference with the radio and/or television reception of surrounding properties;
- (11) Application for the issuance of a conditional use permit pursuant to this section shall include a site plan indicating the location of the proposed satellite dish receiving antenna on the property and shall include all technical data necessary for the consideration of the application.

(x) ~~(EDITOR'S NOTE: Pursuant to Ordinance 14-2017, passed March 20, 2017, subsection (x) has been deleted.)~~ Meeting Room. In commercial districts, meeting rooms may be conditionally permitted. A meeting room accommodating 49 or

fewer persons may be conditionally approved by the Zoning Administrator; a meeting room which accommodates more than 49 persons shall require Planning Commission approval.

- (y) Flower or Plant Store Outdoor Display. Outdoor display of flowers and plants may be permitted at a flower or plant shop, provided that:
- (1) The location of the outdoor display is limited to privately owned property and shall not encroach upon public property;
  - (2) The spatial limits of the outdoor display shall provide adequate room for pedestrian ingress and egress;
  - (3) No price tags or signage shall accompany the outdoor display;
  - (4) Plant materials shall be in sturdy and substantial containers; and
  - (5) The display shall be for decorative purposes rather than commercial display of plant material merchandise.
- (z) Retail Plant Nursery and Garden Supply Business. A retail plant nursery and garden supply business with outdoor display of plant materials may be permitted in a C-2, C-2X and C-3 Districts in accordance with the following:
- (1) Outdoor display shall be limited to living plants in containers or balled and burlaped, and bulk supplies. All dead and diseased plants, empty tables and any other unutilized materials shall be immediately removed from outdoor areas;
  - (2) Storage and sale of firewood shall be a minimum of thirty feet from the property line of any residential use or district and fifteen feet from the property line of any commercial use or district. The Fire Warden shall also review any proposed firewood storage or sale area and may request that the Planning Commission place additional restrictions upon a specific installation due to potential fire hazards as described in the Ohio Fire Code. Additional regulations for the prevention of the harborage of pests may also be required.
  - (3) Plant identification and cost signs shall be limited in size to five tenths square feet (six inches by twelve inches) and in number to one sign for each distinct group of plants;
  - (4) Outdoor plant displays shall be set back from all property lines a minimum of ten feet or screened with a fence and/or evergreen hedge;
  - (5) Maximum fence and/or evergreen hedge height shall conform with district limits, with the exception of property lines along rights-of-way, where the maximum height shall be three feet, six inches;
  - (6) All outdoor lighting shall be directed from periphery toward interior of site, and there shall be no direct light spillover to adjacent properties;
  - (7) Drainage from outdoor plant display areas shall be contained on the property and directed to storm drains;
  - (8) Spraying shall not create a hazard or nuisance to neighboring properties;
  - (9) Motorized equipment shall be limited to devices with noise levels conforming with Section 509.03(b) of the Codified Ordinances;
  - (10) All outdoor activity shall be confined between the hours of 7:00 a.m. and 10:00 p.m.;
  - (11) The arrangement of principal and accessory structures may be varied by the Planning Commission to allow flexibility and encourage development of neighborhood garden centers. The minimum front, side and rear yard requirements for principal uses in the applicable district shall still be in effect. Excluding the area within these required setbacks however, principal and accessory structures and buildings may be arranged by approval of the Planning Commission without a variance from the Board of Zoning Appeals.
  - (12) Bulk storage and sale of materials such as peat moss, sand, mulch and topsoil shall be permitted outdoors if the materials are in individual bags in a location approved by the Planning Commission. Such bulk storage shall be a minimum of thirty feet from the property line of any residential use or district and fifteen feet from the property line of any commercial use or district. The Planning Commission may also approve bulk storage

and sale of such materials if the material is fully surrounded by walled bins. Unreasonable runoff, dust and other undesirable side effects from such outdoor storage shall be mitigated so as to not create a nuisance to neighboring properties. The area occupied by bulk storage shall not exceed ten percent (10%) coverage of the lot area.

- (aa) Attached Single-Family Dwelling Unit. Attached single-family dwelling units may be conditionally permitted in B, A, AA, and MF Districts in accordance with the following:
- (1) In A, AA, and MF Districts, attached single-family dwelling units may be conditionally permitted only on lots which contain legally non-conforming side-by-side two-family dwellings.
  - (2) Each attached single-family dwelling unit must be on a separate parcel. When applicable, lots must be subdivided per Section 1111.06(b)(5).
  - (3) Attached single-family dwelling units shall be permitted only on corner lots on which each dwelling unit fronts upon a different street.
  - (4) Each attached dwelling unit shall have its own driveway and two-car garage.
  - (5) Before approving a necessary resubdivision or granting a conditional use permit for an attached single-family dwelling unit, the Planning Commission must ascertain that the following requirements have been met:
    - A. Existing dwelling units which are converted to attached single-family dwelling units must be brought into compliance with all applicable regulations of the Cleveland Heights Housing and Building Code.
    - B. To the extent feasible, each unit shall be required to have separate utility meters and separate HVAC systems.
    - C. The owner(s) shall provide, through deed restrictions or other appropriate legal documentation approved by the City's ~~Law~~ Director of Law, access to and maintenance of the common areas and other areas which, as a practical matter, should be maintained jointly including, without limitation, party walls, roofs, foundations, sewer and water lines, and mechanical systems which are not able to be separated, and to provide for uniform appearance of the exterior of the house.
- (bb) Animal Day-Care Facilities and Overnight Boarding of Animals. An animal day-care facility may be conditionally permitted in a C-2, C-2X or C-3 District, provided the standards listed in this subsection are met. Overnight boarding of animals may be conditionally permitted in conjunction with an animal clinic, veterinary office, animal grooming facility, or animal day-care facility in a C-2, C-2X or C-3 District. In the process of applying for a conditional use permit, the applicant shall clearly set out a plan to assure that animals will be cared for in a humane, safe, and sanitary manner, and that all feasible steps will be taken to limit negative impacts on the surrounding neighborhood. The applicant shall provide floor plans and accompanying commentary explaining how the standards listed below shall be met.
- (1) Facilities shall be subject to inspection by an animal control officer, the Zoning Administrator, the Building Commissioner, or their designated agent(s) upon request during business hours.
  - (2) Facilities must provide and adhere to a plan for minimizing negative impact of the operation on neighboring properties due to noise, odors or other external effects of the operation.
  - (3) Facilities shall have adequate exhaust outlets as approved by the Building Commissioner. Outdoor exhaust shall terminate at a point at which it will not be drawn into a ventilation system of a neighboring property and any odors will not be detectible on neighboring properties.
  - (4) Outdoor runs and activity areas should be sufficiently distant from neighboring properties to ensure that activities therein do not cause a nuisance to occupants of those neighboring properties.

- (5) All dogs on the premises must be licensed.
  - (6) All waste shall be disposed of with adequate frequency and in such a sanitary manner as to avoid odors, vermin or other nuisance conditions or the spread of disease.
  - (7) The facility shall be maintained in a humane, safe and sanitary condition in accordance with accepted veterinary standards to ensure the health, safety and welfare of animals on the premises.
  - (8) Failure to comply with the conditions set forth in this section and any additional conditions imposed by the Planning Commission shall be grounds for revocation of the conditional use permit.
- (cc) Adaptive Reuse of Existing Non-Residential Buildings in Residential Districts.  
 The following provisions are for adaptive reuse of a non-residential building such as a place of worship, library or school into a use compatible with the larger residential district. Adaptive reuse of non-residential buildings in residential districts is allowed by conditional use and subject to the following standards:
- (1) The existing building is clearly non-residential in its original construction.
  - (2) A non-residential building in a residential district may be converted to the following uses:
    - A. Multi-family dwelling
    - B. Office
    - C. Industrial design
    - D. Limited research and development
    - E. Recreation and education classes such as exercise, art, writing, theater, continuing education, after-school programs, etc.
    - F. Other uses similar to (A) through (E) that are found to be compatible with the larger residential district.
  - (3) Off-street parking is required in accordance with Chapter 1161 of this Code.
  - (4) The character of the site and community amenities should be preserved, maintaining a balance between the building, green space and parking.
  - (5) These shall be no mechanical, electrical or chemical equipment utilized in furtherance of use, except as causes no disturbances of any kind beyond the premises where the use is located.
  - (6) The conduct of such use shall not be offensive to neighboring property owners or occupants by reason of excessive noise, late hours of business activity, the intensity of the business activity or other such reason.
  - (7) The use must provide and adhere to a plan for minimizing negative impact of the operation on neighboring properties due to noise, hours of operation or other external effects of the operation.
  - (8) Signage shall meet the requirements of the original use as set out in Chapter 1163.
  - (9) For any non-residential use, outside storage or display ~~if is~~ prohibited. All servicing, processing and storage uses must be fully enclosed.
  - ~~(10)~~ Diminished setbacks due to alterations or additions shall meet the setback requirements of the original use as set forth in schedule 1153.03 unless a variance is obtained.
- (dd) Farmers' Markets. A farmers' market may be conditionally permitted as a temporary use for specific periods of time and specific hours of operation in all districts by the Zoning Administrator in compliance with the following:
- (1) Farmers' markets may be operated on a property occupied by a house of worship, school facility, public park or other public property, library, an adaptive reuse of a nonresidential building or on a parking lot in a commercial districts.
  - (2) Farmers' markets may be operated in a parking lot only if parking within the lot is not necessary for off-street parking purposes during the time that the farmers' market will be operated.
  - (3) Farmers' markets may not be operated on a property principally used for residential purposes.

- (4) Only the following products may be exhibited or offered for sale: fresh eggs and dairy goods, meats, fruits, vegetables, juices, flowers, plants, herbs and spices produced or grown by the vendor, foods made by the vendor, and arts and crafts made by the vendor.
  - (5) As a part of its application, the operator shall provide and commit to an appropriate litter abatement program.
  - (6) Operation of the farmers' market shall not cause a nuisance or disturbance to neighboring properties.
- (ee) Community Gardens. A community garden may be conditionally permitted in all districts by the Zoning Administrator provided the standards listed in this subsection are met:
- (1) The applicant shall establish that the contiguous property owners have been notified about the intended use and have no objection.
  - (2) The applicant shall provide information establishing that an adequate water source is available.
  - (3) Community gardens are limited to the cultivation of herbs, fruits, flowers, or vegetables including the cultivation and tillage of soil and the production, cultivation, growing and harvesting of any agricultural, floricultural or horticultural commodity.
  - (4) One bee hive may be kept in a Community Garden provided the following standards are met:
    - A. The community garden members have agreed to permit the keeping of bees in the community garden
    - B. At least 10 days prior to granting a conditional use permit which authorizes the keeping of bees, the Zoning Administrator shall cause notice of the intent to keep bees and opportunity for comment to be sent to the owners of all properties within 300 feet of the proposed Community Garden. The Zoning Administrator shall not permit the keeping of bees if he or she believes there is reasonable cause for withholding permission in light of any of the notified property owners' expressed concerns.
    - C. The bee hive must be registered with Ohio Department of Agriculture.
  - (5) The keeping of livestock or other animals is prohibited.
  - (6) The Applicant must establish that the soil to be used in the community garden has been tested and is sustainable for the intended use. Soil testing is not required for planter boxes.
  - (7) The site must be designed and maintained so that water and fertilizer will not drain onto adjacent property.
  - (8) The growing of intoxicating or poisonous plants is prohibited.
  - (9) The use of herbicides and weed killers is prohibited.
  - (10) The premises on which the community garden is located shall be maintained free of litter and debris.
  - (11) Composting shall comply with Section 1121.12(o).
  - (12) Areas of dry, loose soil that may be moved by wind must be covered by mulch or otherwise confined.
  - (13) A landscape screen or open fence is required along the front and corner side lot line to define and screen the garden. Open fences of a minimum of three up to four (43) feet in height are required permitted along the front and corner side lot line and shall be constructed of wood, ~~or~~ ornamental metal or other material ~~and are~~ subject to approval by the Architectural Board of Review. Decorative fences are encouraged along the front and corner side lot lines. Six (6) foot solid fences or the adjoining owner's consent for an alternative landscape or fence plan are required along the interior side and rear lot line.
  - (14) The use shall not require off-street parking.
  - (15) The application shall identify and show the location of any proposed compost bins or rain barrels or other proposed structures.

- (16) Maintenance of the community garden will not cause a nuisance or disturbance to neighboring properties.
- (17) Use of insecticides made from synthetic chemical materials is prohibited. Acceptable alternatives, applied in accordance with established safe handling instructions, include rotenone, pyrethrin and Safer Soap.
- (ff) Commercial Renewable Energy Systems. Commercial Renewable Energy Systems ("Solar Farms") may be permitted as a conditional use by the City Planning Commission in C-1, C-2 and C-3 Zoning Districts provided the standards listed in this section are met:
  - (1) The minimum lot size for a Solar Farm shall be two (2) acres.
  - (2) Solar panels shall be erected no less than 25 feet from any property line and all other structures on the property must meet District yard requirements.
  - (3) On-site power lines shall be placed underground to the extent possible.
  - (4) The entry to office or guests facilities shall address the street, with direct access to office or guest facilities from street frontage and parking areas.
- (gg) Chicken Coops and Chicken Runs.
  - (1) Chicken coops and runs may be conditionally permitted in the AA, A, and B residential districts by the Zoning Administrator provided the standards listed in this subsection are met:
    - A. A maximum of four (4) chickens may be kept on the property.
    - B. No commercial activity will result from the keeping of chickens on the property.
    - C. Roosters are not permitted.
    - D. Chicken coops and runs shall be allowed in the rear yard only.
    - E. Chicken coops and runs shall be located a minimum of ten (10) feet away from any principal building and ten (10) feet from an adjacent lot. At all times, chickens shall be contained within the coop and/or run.
    - F. The facility shall be kept in good repair, maintained in a clean and in a sanitary condition, and free of vermin, obnoxious smells and substances. The facility will not create a nuisance or disturb neighboring residents due to noise, odor, damage or threats to public health.
    - G. The ~~chicken~~-chicken coop and run shall be designed to ensure the health and well-being of the animal is not endangered by the manner of keeping or confinement and to protect the chickens from animals and to prevent unauthorized access to the chickens by general members of the public.
    - H. The chicken coop and run shall be adequately lighted and ventilated.
    - I. The coop and run enclosures shall be of uniform and sturdy design and shall be constructed and maintained in good condition to protect the safety of the chickens and the aesthetics of the neighborhood.
    - J. Chicken coop and run fencing material shall be securely fastened to posts of reasonable strength firmly set into the ground and, if used, chicken wire or other woven wire shall be stretched tightly between support posts.
    - K. No storage of chicken manure shall be permitted within twenty (20) feet of the property line.
    - L. Chickens shall be kept in coops from dusk to dawn.
    - M. Slaughtering of the chickens is prohibited.
  - (2) Zoning Administrator shall verify general compliance with City Codes before issuing conditional use permit.
  - (3) Written notice of approved conditional use permits shall be mailed by the Zoning Administrator by first class mail to adjoining properties to the attention of the owners of such properties. Such notice shall reference this

- subsection and provide contact information for any questions or complaints relating to the approved use.
- (4) Any unresolved complaints concerning the above listed conditions shall be sent by the Zoning Administrator to be heard by the Planning Commission who shall have the power to revoke, modify, or affirm the conditional use permit.
- (hh) Hotel. In a C-1, C-2, C-2X or C-3 district, a hotel may be conditionally permitted in compliance with the following:
- (1) Patron drop-off area(s) shall be located and/or screened to minimize negative effect on adjacent residential properties. The design and operation of the drop-off shall cause minimal disturbance to the flow of vehicles on public streets and safety of pedestrians on public sidewalks.
  - (2) All delivery, refuse, HVAC equipment, emergency power equipment areas, drop-off areas, and loading berths shall be located and oriented to minimize negative effect on adjacent properties and screened in accordance with Code Section 1166.10.
  - (3) Hotel staff shall be on-site 24 hours each day.
  - (4) Overnight parking of trucks with more than 2 axles or recreational vehicles shall be only in areas as designated on Planning Commission approved site plan.

## CHAPTER 1155 Planned Residential Development

### 1155.02 APPROVAL CRITERIA.

A Planned Residential Development shall be approved by the Planning Commission as a conditional use. In addition to the general review criteria for conditional uses set forth in Chapter 1151, the Planning Commission shall review a proposed PRD giving particular consideration to the following:

- (a) Uses within the proposed PRD shall be located so as to reduce any adverse influences and to protect the residential character of areas both within and adjacent to the PRD;
- (b) Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between development and the land;
- (c) Significant buffer zones with adequate landscaping shall be provided between ~~single-single~~-family dwellings and multiple-family dwellings;
- (d) Roadway systems, service areas, parking areas, entrances, exits, and pedestrian walkways within the PRD shall be so designed as to have access to public, primary and secondary streets without creating traffic hazards or congestion;
- (e) The layout of parking areas, service areas, entrances, exits, yards, courts, landscaping, signs, lighting, noise or other adverse influences shall be designed and located to protect the residential character within and adjacent to the PRD;
- (f) ~~All drainage systems and utilities shall be located underground.~~ All utilities shall be located underground. Storm water must address requirements of Chapter 1335, Storm Water Management.

### 1155.03 PERMITTED USES.

As part of a Planned Residential Development, the uses and dwelling types permitted in each residential district are those denoted by the letter P below:

		<u>Zonin</u>				
		<u>g District</u>				
	<u>Use</u>	<u>AA</u>	<u>A</u>	<u>B</u>	<u>MF-1</u>	<u>C-1</u>
(a)	Standard single-family subdivision	P	P	P		
(b)	Cluster single-family	P	P	P		



(c)	Two-family (attached side-by-side)	P	P	P	P	
(d)	Townhouses		P	P	P	<u>P</u>
(e)	<del>Apartments</del> <u>Multi-family dwelling</u>				P	<u>P</u>
(f)	Accessory recreational and community facilities for use by residents of PRD	P	P	P	P	<u>P</u>

**1155.04 MINIMUM LAND AREA.**

The gross area of a tract of land proposed to be developed in a PRD in the respective zoning districts shall be no less than the number of acres specified as follows:

- (a) Three (3) acres in an AA or A Single-Family Residential District.
- (b) Two (2) acres in a B Two-Family Residential District.
- (c) One and one-half (1.5) acres in an MF-1 Multiple Family Residential District.
- (d) One and one-half (1.5) acre in a C-1 Transition District.

**1155.05 DEVELOPMENT STANDARDS.**

A PRD approved as a conditional use shall comply with the purpose and approval criteria in Sections 1155.01 and 1155.02 and may vary from the standard requirements of the district as follows:

- (a) Maximum Density. The maximum density of a PRD in a particular zoning district shall be:
  - (1) 3.2 dwelling units per acre in an AA District;
  - (2) 6.7 dwelling units per acre in an A District;
  - (3) 8.4 dwelling units per acre in a B District;
  - (4) 14.9 dwelling units per acre in an MF-1 District.
  - (5) 25 dwelling units per acre in an C-1 District.

The total number of units permitted shall be calculated by multiplying the total land area, exclusive of public streets existing at the time the plan is submitted, by the maximum density allowable per acre.

- (b) Yard Requirements. ~~Buildings located within fifty (50) feet of a single-family property shall maintain the established building line of the adjacent property. The front, side and rear yard requirements may be varied by the Planning Commission to accommodate a variety of structural patterns, clustering designs, and housing types, provided that for projects adjacent to substantially developed single family neighborhoods, buildings located within fifty (50) feet of such single family property shall maintain the established building line of the adjacent property.~~
- (c) Height Regulations. The height of buildings and structures in the AA, A and B Districts shall not exceed the height limits specified in the respective district regulations. In the MF-1 District, buildings and structures shall not exceed thirty-five (35) feet in height. In the C-1 District, buildings and structures shall not exceed forty-five (45) feet in height.
- (d) Additional Standards. Additional site specific development requirements formulated to achieve the objectives of this chapter shall be established at the time the conditional use request and Development Plan are reviewed. Any dimensional specifications adopted with such plan become binding land use requirements for the PRD and shall supersede those contained in the district regulations.

**CHAPTER 1161**

**Off-Street Parking and Loading Regulations**

**1161.03 NUMBER OF PARKING SPACES REQUIRED.**

The required number of off-street parking spaces for each facility or use shall be

determined by application of the standards noted in Schedule 1161.03. For a use not specified in Schedule 1161.03, the Planning Commission shall apply the standard for a specified use which the Commission determines to be most similar to the proposed use.

Schedule 1161.03

REQUIRED OFF-STREET PARKING SPACES

	<u>Principal Building or Use</u>	<u>Minimum Spaces Required</u>
(a)	<u>Residential Uses:</u>	
	(1) Single-family dwellings	2 spaces, of which both spaces shall be enclosed (a)(b)
	(2) Two-family dwellings	2 spaces for each dwelling unit, of which both spaces per dwelling unit shall be enclosed (a)(b)
	(3) Townhouses	2 spaces for each dwelling unit, of which both spaces per dwelling unit shall be enclosed.
	(4) <del>Apartments</del> Multi-family dwelling	<del>12</del> spaces for each dwelling unit, of which not less than <del>1.5</del> space per unit shall be enclosed.
	(5) Senior citizen apartments	1 space for each dwelling unit, of which not less than 0.5 spaces per dwelling unit shall be enclosed.
	(6) Lodging house, boarding houses	1 space for each bed.
	(7) Dormitories, sororities and fraternities	1 space for each 3 persons based on the maximum capacity as established in the Housing Code.
	(8) Nursing homes	1 space per 3 beds
(b)	<u>Office, Professional Service Uses: (b)</u>	
	(1) <del>Business, professional and administrative offices and services (excluding medical and dental)</del> Office, medical office & financial establishments	1 space for each 300 sq. ft. of floor area.
	<del>(2) Medical, dental offices and clinics, including urgent care clinics</del>	<del>1 space for each 200 sq. ft. of floor area</del>
	<del>(3) Financial establishments</del>	<del>1 space for each 300 sq. ft. of floor area.</del>
	<del>(4) Animal clinic, veterinary office</del>	<del>1 space for each 300 sq. ft. of floor area.</del>
	<del>(52)</del> Funeral homes, mortuaries	1 space for each 50 sq. ft. of floor area in parlors or service rooms.
	<del>(63)</del> Hospitals	2 spaces per room
(c)	<u>Retail/Service Uses: (b)</u>	
	(1) Retail or business uses permitted in any C District, unless specific standards given below	1 space for each 300 sq. ft. of floor area

	(2)	Furniture and appliance; retail nursery garden supply, establishments	1 space for each 500 sq. ft. of floor area
	(3)	Restaurants; bars; taverns; night clubs	1 space for each 300 sq. ft. floor area (outdoor dining area excluded)
	(4)	Hotels and motels	5 spaces plus 1 space for each sleeping room or suite
(d)	<u>Automotive Uses:</u> (b)		
	(1)	Auto sales; new and used, auto, truck, boat sales, rental facilities	1 space for each 500 sq. ft. of floor area (indoor area only)
	(2)	Gasoline stations	.5 spaces per pump +1 per 500 sq. ft. of accessory retail area
	(3)	Car wash facilities	1 space per bay plus sufficient area for stacking spaces
	(4)	Automobile service stations — major & <u>minor</u> repair	4 spaces per bay
	<del>(5)</del>	<del>Automobile service station — minor repair</del>	<del>4 spaces per bay</del>
(e)	<u>Commercial Entertainment/Recreation Uses:</u> (b)		
	(1)	Bowling alleys	2 spaces per each lane.
	(2)	Game rooms	1 space for each billiard table or amusement device
	(3)	Skating rinks	1 space per 200 sq. ft. of floor area
	(4)	Indoor movie theaters, auditorium and other public assembly places	1 space for every 4 seats for first 400 seats then 1 space per 10 seats
	(5)	Golf course	4 spaces per hole
	(6)	Tennis or racquet ball court	2 spaces per court
	(7)	Indoor or outdoor swimming pools, public or private	1 space per 200 sq. ft. of water area.
	(8)	Health, fitness, recreation club	1 space for every 200 sq. ft. of exercise area, including locker room, and equipment room.
(f)	<u>General Commercial Uses:</u> (b)		
	(1)	Printing, publishing, storage and warehousing of goods	1 space for each 800 sq. ft. of floor area.
	(2)	Research and testing laboratories	1 space for each 400 sq. ft. of floor area.
(g)	<u>Educational Facilities:</u>		
	(1)	junior high schools, elementary schools and kindergartens	2 spaces per classroom +1 space per 15 seats in largest assembly hall
	(2)	Neighborhood high schools	2 spaces per classroom
	(3)	Regional high schools	5 spaces per classroom.

	(4)	Colleges, universities	10 spaces for every classroom
	(5)	<del>Child</del> -Day Care Centers, <del>nursery</del> preschools and similar uses	1 space for each staff person or employee plus a minimum of 2 pick-up/drop-off spaces
(h)	<u>Community Facilities:</u>		
	(1)	Places of worship	1 space for every 4 seats
	(2)	Community center, library, museum or similar public or private semi-public building	1 space for every 4 seats or for each 300 sq. ft. of floor area, whichever is greater.
(i)	<del>Shopping Center</del>		<del>1 space per 250 sq. ft. of leasable floor area.</del>

Notes to Schedule 1161.03:

- (a) All existing lots of record of a single-family and two-family dwelling that does not meet the minimum lot area or lot width requirements of the district are permitted to provide fewer enclosed parking spaces in a detached garage if the Zoning Administrator verifies that construction of a code-conforming detached garage cannot be accommodated on the site and approves a landscaping and screening plan which addresses stormwater management and minimizes adverse impact on neighboring properties. The site must meet one (1) or more of the following standards:
- (i) The maximum rear yard coverage limitation would be exceeded with the construction of a Code-conforming two-car detached garage.
  - (ii) The maximum lot coverage or impervious surface limitation would be exceeded with the construction of a two-car Code-conforming detached garage. ~~This standard applies only if the principal building exceeds the minimum floor area of a dwelling unit by no more than ten percent (10%).~~
  - (iii) ~~\_\_\_\_\_~~ The previously existing detached garage on the lot was a single-car garage for single-family dwelling or fewer than four-car garage for a two-family dwelling.
  - (iv) Special conditions peculiar to the land or structure which are not applicable generally to other lands or structures in the same Zoning District render a code-conforming garage impractical.
  - ~~(v) Construction of a rear-yard garage would result in pavement access of fewer than 20 feet to an enclosed parking space.~~
- ~~\_\_\_\_\_~~ (b) If the previously existing detached garage on the lot was a single-car garage for single-family dwelling or fewer than four-car garage for a two-family dwelling, the Zoning Administrator may approve a garage with the same number of enclosed spaces. A minimum of five (5) spaces is required unless otherwise modified pursuant to Sections 1161.04 or 1161.05.
- ~~(c) \_\_\_\_\_~~ For the purposes of this section, a neighborhood shopping center shall include one (1) or more multitenant building and/or a group of buildings when the required parking spaces are provided in a shared parking lot, parking deck or parking garage.

~~\_\_\_\_\_~~ **1161.10 ACCESS DRIVES IN COMMERCIAL DISTRICTS.**

~~\_\_\_\_\_~~ In C-1, C-2 and C-3 Commercial Districts, there shall be adequate provision for ingress and egress to all parking and loading spaces and access drives shall be provided as follows:

- ~~\_\_\_\_\_~~ (a) Each zoning lot shall be permitted one (1) entrance and one (1) exit per street frontage.
- ~~\_\_\_\_\_~~ (b) One (1) additional entrance and exit drive may be permitted for every 150 feet of street frontage or fraction thereof.
- ~~\_\_\_\_\_~~ (c) The width of an access drive measured at the front lot line shall not be less than twelve (12) feet per lane or have a total width greater than thirty six (36) feet.
- ~~\_\_\_\_\_~~ (d) An access drive shall be located no closer than ten (10) feet to a residential district

~~and the resulting adjacent open area shall be properly landscaped and maintained in accordance with the standards in Section 1166.07.~~

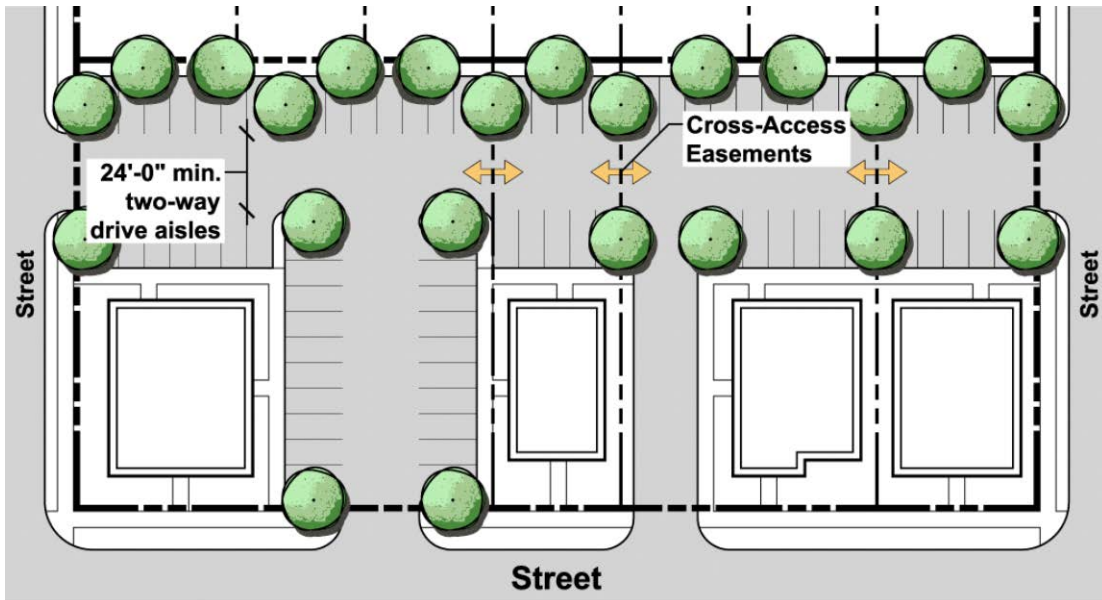
### 1161.103 NON-RESIDENTIAL JOINT USE DRIVEWAYS AND CROSS-ACCESS EASEMENTS.

(a) Adjacent non-residential uses that possess dedicated parking areas are encouraged to provide joint use driveways and cross-access easements to allow circulation between sites. Property owners are encouraged to pursue agreements with neighboring property owners prior to submittal of required permits and approvals. If joint use driveways and cross-access easements will be provided, the property owner must provide proof that adjacent property owners have been contacted in writing. (See Figure 1161.103(a): Joint Use Driveways and Cross-Access Easements)

- (b) Joint use driveways and cross-access easements must incorporate the following:
- (1) A travel aisle and driveway width of twenty-four (24) feet to ensure two-way travel aisles to accommodate automobiles, service vehicles and loading vehicles.
  - (2) Bump-outs and other design features to make it visually obvious that the abutting properties are tied together.
  - (3) A unified access and circulation plan for shared parking areas.

(c) Pursuant to this section, property owners who establish cross-access easements must record an easement allowing cross-access to and from properties served by the joint use driveways and cross-access easement.

**FIGURE 1161.103(a): JOINT USE DRIVEWAYS & CROSS-ACCESS EASEMENTS**



### 1161.11 IMPROVEMENT AND MAINTENANCE STANDARDS.

All ~~required~~ off-street parking and loading facilities including entrances, exits, maneuvering areas, waiting areas, and parking and loading spaces shall be in accordance with the following standards and specifications.

- (a) Parking Space Dimensions. Each off-street parking space, open or enclosed, shall measure at least nine (9) feet by twenty (20) feet ~~exclusive of access drives or aisles~~. Compact parking spaces measuring at least seven feet six inches (7' 6") by sixteen (16) feet are permitted as regulated in 1161.107.

- (b) Waiting Space Dimensions. Each off-street waiting space for a drive-thru or drive-in facility shall have an area not less than 160 square feet (measuring eight (8) feet by twenty (20) feet) ~~exclusive of access drives and parking aisles.~~
- (c) Circulation Aisles. The maximum width for a two-way circulation aisle shall be twenty-four (24) feet and the minimum width for a circulation aisle shall be:
- (1) Twenty-two (22) feet for 90 degrees or perpendicular parking;
  - (2) Eighteen (18) feet for 60 degrees parking;
  - (3) Thirteen (13) feet for 45 degrees parking.
- ~~(c1) Access drives. There shall be adequate provision for ingress and egress to all parking and loading spaces. Access drives shall be provided as follows:~~
- ~~(1) Each zoning lot shall be permitted one (1) entrance and one (1) exit per street frontage.~~
  - ~~(2) The width of an access drive measured at the front lot line shall not be less than eleven (11) feet per lane nor greater than twelve (12) feet per lane and shall have a total width no greater than thirty-six (36) feet.~~
  - ~~(3) An access drive shall be located no closer than ten (10) feet to a residential district and the resulting adjacent open area shall be properly landscaped and maintained in accordance with the standards in Section 1166.07.~~
- (d) Paving. All ~~required parking~~ spaces, together with driveways, aprons, parking pads, other circulation aisles and access sidewalks, both public and private, shall be surfaced as follows:
- (1) Parking lots and circulation aisles for parking lots: Concrete not less than six (6) inches in thickness, or with bituminous surface not less than three (3) inches in depth on top of a compacted crushed stone base not less than six (6) inches in depth. Paving with semi-pervious materials (e.g. permeable pavers, porous asphalt, porous concrete, grass-crete or gravel-crete) that are able to withstand vehicular traffic or other heavy-impact uses are permitted in accordance with Paragraph (4) below. Surfaces in areas designated as accessible parking and/or accessible pedestrian paths shall meet all applicable federal and state standards.
  - (2) Aprons: Concrete not less than six (6) inches in thickness for residential aprons and concrete not less than eight (8) inches in thickness for commercial aprons.
  - (3) Driveways: Concrete not less than four (4) inches in thickness, or with bituminous surface not less than four (4) inches thick consisting of two (2) inches of compacted #301 binder course and two (2) inches of compacted #404 surface course over a four (4) inch compacted aggregate base or paving with semi-pervious materials that are able to withstand vehicular traffic or other heavy-impact uses is permitted (e.g. permeable pavers, porous asphalt, porous concrete, grass-crete or gravel-crete).
  - ~~(3a) Parking pads: Rear yard parking pads may be constructed of gravel subject to rear yard coverage and setback provisions and shall be designed and maintained to prevent displacement of gravel.~~
  - (4) Alternative paving materials: Semi-pervious materials, such as permeable pavers, porous asphalt, porous concrete, grass-crete or gravel-crete shall permit natural percolation of water and be installed and maintained in accordance with industry and manufacturer's standards and the following:
    - A. The manufacturer's specifications are applicable to the subject property's particular soil type and slope (gradient) so that vehicles are supported without rutting and water percolation is achieved.
    - B. Semi-pervious parking areas must allow storm water to percolate into the ground at a rate sufficient to accommodate the five-year, 24-hour storm event.
    - C. The City may inspect the semi-pervious parking areas as needed. If maintenance is required, the owner may be required to submit to the City documentation of the removal of visible surface sediment accumulations, and/or test results of infiltration rate through the pervious concrete and sub-grade soils system.
    - D. For non-residential uses, if only a portion of the parking area is

designated for semi-pervious materials, the area designated for semi-pervious parking shall be located at the perimeter of the parking lot, and if possible, remote or furthest removed from the principal building.

- (5) Sidewalks, both public and private: Concrete not less than four (4) inches in thickness, or an equivalent stone material. Sidewalks on private property may be constructed of alternative paving materials described in Section 1161.11(d)(4).
- (e) Drainage. All required spaces, together with driveways and other circulation aisles, shall have adequate provision for underdrainage and for the disposal of storm water, so that water shall not flow onto adjoining property or adjacent sidewalks in a quantity or manner that would be detrimental thereto, or inconvenient to persons using the sidewalk.
- (f) Curbs and Curb Inlets. A concrete or stone curb at least six (6) inches high shall be installed and maintained along the perimeter of a parking or loading area in accordance with the following:
  - (1) When abutting a landscaped area;
  - (2) When located in the front yard;
  - (3) When a commercial or public parking lot is located adjacent to a residential district.
  - (4) Curb inlets are required to allow water to flow into the landscape areas as permitted by site grading.
- (g) Marking. The location of each parking space and the location and direction of movement along the driveways providing access thereto shall be indicated by painting upon the surface, by raised directional signs, or by markers or other similar measures placed in the surfacing.
- (h) Screening. Screening and landscaping of parking areas shall be provided pursuant to Section 1166.06 and 1166.10.
- (i) Signs. Signs shall be provided in accordance with Chapter 1163.
- (j) Lighting. Wherever a parking lot or garage is to be used during darkness, a system of floodlighting shall be installed to provide an adequate standard of illumination over the entire parking lot. All floodlights shall be shielded so that a minimum glare will extend to adjacent property and shall be in compliance with Section 1165.07.
- (k) Attendant's Shelter. A properly designed shelter for a parking lot attendant may be maintained on the lot and shall maintain the same distance from the right of way as the building on the adjacent parcels.
- (l) Maintenance. A parking lot or garage shall be maintained in a manner to keep it as free as practicable from dust, 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 spaces shall be maintained in a neat and legible condition. Any walls, trees and shrubbery, as well as surfacing of the parking lot or garage, shall be maintained in good condition throughout its use for parking purposes. All exposed concrete walls shall be painted or finished.

## **CHAPTER 1163 Sign Regulations**

### **1163.07 PROJECTING SIGNS.**

No projecting sign shall be constructed, erected or maintained on any lot in Cleveland Heights except in accordance with the requirements and procedures contained in this section.

- (a) Preparation of Projecting Sign Application. The following materials shall be provided:
  - (1) Building sections and elevations drawn to scale, at a scale of 1/4" = 1'-0", or alternative scale approved by the Building Commissioner. Clearly

- describe materials, colors, dimensions, method of illumination (show conduit, meter, and other visible items), and method of attachment (supports, brackets, mounting hardware).
- (2) Computation of the total sign area of the building, the area of each sign and the building frontage.
  - (3) Accurate indication on the elevations/section drawings of the location of each existing and proposed sign.
  - (4) Depiction and/or description of color scheme, lettering or graphic style, materials, location of sign on the building, sign proportions; framing; and method of attachment.
  - (5) Perspective rendering or photograph illustrating proposed sign in context with other building signage, neighboring businesses' signage, and the architectural character of the vicinity.
- (b) Guidelines and Regulations. Projecting signs shall comply with the following standards:
- (1) ~~The area of a projecting sign shall not exceed sixteen (16) square feet per sign face.~~ The area of one face (as calculated from an elevation view) of a two-faced sign shall be part of the total identification sign area permitted in Schedule 1163.04.
  - (2) A projecting sign may not extend above the parapet line of a building, except on a single-story building or single-story wing of a multiple-story building, in which case its width, orientation and projection shall comply with the applicable building code.
  - (3) ~~A projecting sign shall not project out more than four (4) feet from the wall of the building.~~ Projection shall comply with all applicable provisions of the Building Code.
  - (4) Projecting signs over a public right of way shall be permitted only in accordance with the liability stipulations of Code Section 1163.08(q).
  - (5) To avoid blocking view of traffic control signs and traffic, projecting signs shall not extend closer than four (4) feet to a curb as measured in plan.
  - (6) The lowest element of any sign above a pedestrian or vehicular way shall be at least ~~ten seven (107)~~ feet above the finished grade of a sidewalk or other pedestrian way and at least fifteen (15) feet above the finished grade of pavement used for vehicular traffic.
  - (7) ~~Box-shaped s~~Signs having one internally lit plastic face per side shall not be permitted as projecting signs. The purpose of this restriction is to encourage projecting signs that are artistic, creative and fabricated with craftsmanship.
  - (8) Projecting signs shall be at a 90° angle to the facade of the building and projecting signs at the corner of a building shall be at a 135° angle to each facade. The Architectural Board of Review shall have discretion to vary this requirement.
- (c) Architectural Review Required. Projecting signs shall be subject to review and approval of the Architectural Board of Review.

## CHAPTER 1166 Landscape Requirements

### 1166.04 GENERAL LANDSCAPE DESIGN STANDARDS.

Landscape plans, as described above will be evaluated and approved based on the following design criteria.

- (a) Scale and Nature of Landscape Material. The scale and nature of landscape materials must be appropriate to the size of the site and related structures.
- (b) Selection of Plant Material. Plant material must be selected for its form, texture, color, pattern of growth and suitability to local conditions. Species that are included on the list of prohibited species, which is maintained by and on file with the Planning Director, are prohibited.
- (c) Shade Trees. All deciduous shade trees at the time of installation shall have a



minimum caliper of two and one-half (2.5) inches and a clear trunk height of at least six (6) feet, unless otherwise specified. Caliper of the trunk is taken at diameter-at-breast-height (DBH). DBH is defined as outside bark diameter at breast height. Breast height is defined as four and one-half (4.5) feet above the ground line on the uphill side of the tree. The ground line includes the duff layer that may be present, but does not include unincorporated woody debris that may rise above the ground line.

- (d) Evergreen Trees. Evergreen trees must have a minimum height of six (6) feet at installation.
- (e) Ornamental Trees. Single stem ornamental trees must have a minimum caliper of two (2) inches taken at DBH, unless otherwise specified. Multiple stem ornamental trees must have a minimum height of eight (8) feet at planting and a minimum of three (3) trunks, unless otherwise specified.
- (f) Shrubs. The minimum height at installation of all shrubs must meet the dimensions of Schedule 1166.04(f). Large shrubs are those species that reach five (5) or more feet in height at maturity. Small shrubs are those species that can grow up to five (5) feet in height if left unmaintained, but should be kept at heights of eighteen (18) to thirty-six (36) inches.

SCHEDULE 1166.04(f) : SHRUB INSTALLATION SPECIFICATIONS	
SHRUB TYPE	MINIMUM DIMENSION
Deciduous, Large	3 feet
Deciduous, Small	18 inches
Evergreens, conifers	2-1/2 to 3 feet
	18 to 24 inches
Evergreen, broadleaf	2 to 2-1/2 inches
	18 inches

- (g) Perennials and Groundcovers. Unless otherwise specified, perennials and groundcovers must be a minimum of four (4) inch container stock and maximum twelve (12) inch on-center spacing.
- (h) Mulch. Unless otherwise specified, mulch must be a minimum two (2) and a maximum of four (4) inch dressing and must be applied on all exposed soil surfaces of planting areas except turf, creeping or rooting groundcovers, or direct seeding applications where mulch is contra-indicated. Bare soil should be left at the base of the plant to avoid trunk suffocation, "mulch volcanoes" or rot.
- (i) Irrigation.
- (1) Sprinkler irrigation systems may be required for certain landscaped areas, as determined during landscape plan approval. All irrigation systems must be designed to minimize the use of water and are approved as part of the landscape plan.
  - (2) When irrigation is installed, irrigation should comply with the following standards:
    - A. Automatic controllers that are set to water between 7:00 p.m. and 10:00 a.m. to reduce evaporation.
    - B. Irrigation systems designed to avoid runoff, low-head drainage, overspray or other similar conditions where water flows or drifts onto adjacent property, non-irrigated areas, sidewalks, roadways or structures.
    - C. Low-volume irrigation systems with automatic controllers are recommended. Low-volume irrigation systems include low-volume sprinkler heads, dry emitters, and bubbler emitters.
    - D. Integral, under-the-head or in-line anti-drain, valves should be installed as needed to prevent low-head drainage.
    - E. Where automatic control systems are installed, the systems should be able to accommodate all aspects of the design. Automatic controllers should be digital, have multiple programs, multiple cycles and sensor input capabilities.
    - F. Soil moisture sensors and rain or moisture-sensing override devices are required.
    - G. Sprinkler heads selected and spaced for proper area coverage, application rate, operating pressure and adjustment capability, with matched precipitation and application rates within each control valve circuit.
    - H. Backflow prevention devices are recommended.
- (j) Energy Conservation. Plant material placement must be designed to reduce the energy consumption needs of the development. Shade trees must be included on the exposed west and south elevations when landscape is required.
- (k) Species Diversity. Diversity among required plant material for on-site landscaping is required not only for visual interest, but to reduce the risk of losing a large population of plants due to diseases or pests. ~~Schedule 1166.04(k) indicates the percentage of diversity required based on the total quantity of species being used. For example, if a development requires forty five (45) shade trees, no more than eighteen (18) trees nor less than five (5) trees can be of one~~

~~(1) species, and there must be a minimum of five (5) different species within the forty five (45) trees.~~

SCHEDULE 1166.04(k)- DIVERSITY REQUIREMENTS			
TOTAL NUMBER OF PLANTS PER PLANT TYPE	DIVERSITY REQUIREMENTS		MINIMUM NUMBER OF SPECIES
	MAXIMUM OF ANY SPECIES	MINIMUM OF ANY SPECIES	
1-4	100%	Not Applicable	1
5-10	60%	40% <del>Not Applicable</del>	2
11-15	45%	20% <del>Not applicable</del>	3
16-75	40%	10%	5
76-500	25%	5%	8
500-1,000	30%	5%	10
1,000+	15%	4%	15

### 1166.05 LANDSCAPE YARDS.

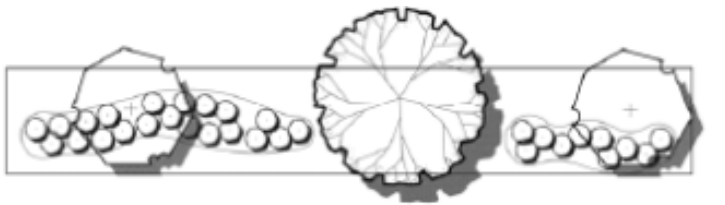

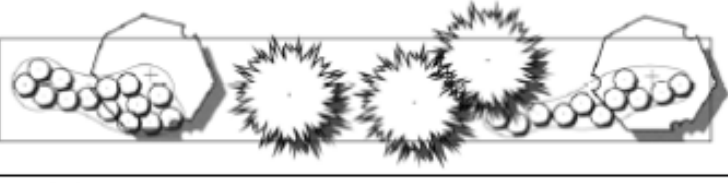
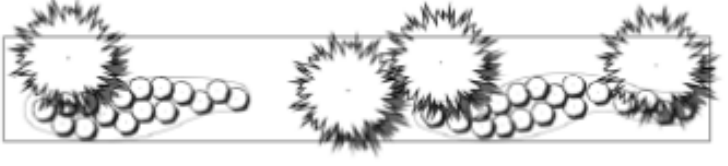
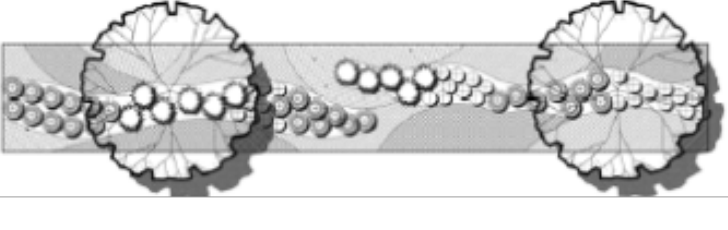
(a) Required Front Yard Landscaping. In all districts, every part of a front yard shall be open to the sky and unobstructed except for parking areas and signs as permitted and regulated in the district regulations and sign regulations, and shall be landscaped with grass, trees and shrubs to be permanently protected from soil erosion.

(b) Required Front and Corner Side Yard Landscaping for Multi-Family or Non-residential Uses. Where a multi-family dwelling of four (4) or more dwelling units, a mixed-use development, or a commercial or other non-residential use maintains a front or corner side yard of ten (10) or more feet, a landscape yard a minimum of ten (10) feet in width must be installed along that lot line in compliance with the following:

- (1) ~~Five (5) plant unit options are presented in Schedule 1166.05(b)(1). Any alternative or a combination of alternatives may be used.~~ Plantings may be spaced at various intervals and/or clustered based on specific site requirements or design scheme to be approved as part of the landscape plan. ~~Examples are presented in Schedule 1166.05(b)(1).~~
- ~~(2) — One (1) plant unit per one hundred (100) linear feet must be provided.~~
- ~~(3) — When figuring the number of plant units or quantity of plant material required, the number must be rounded up. For example, three and one-tenths (3.1) shade trees would be rounded up to four (4) shade trees.~~
- (42) All plant materials, excluding trees, must be in the bedline. All plant materials in raised planters do not meet the requirements of this section.
- (53) Ornamental rocks in lieu of groundcover plantings may not exceed ten percent (10%) of the total front yard landscape area, including driveways and walkways.

**SCHEDULE 1166.05(b)(1). : FRONT & CORNER SIDE YARD LANDSCAPING PLANT UNIT**

**OPTIONSEXAMPLES**

PLANT UNIT OPTIONS	QUANTITY & TYPE OF PLANTS	ILLUSTRATION
STANDARD PLANT UNIT	1 Shade Tree 2 Ornamental Tree 20 Shrubs	
ALTERNATIVE UNIT A	1 Shade Tree 1 Ornamental Tree 1 Evergreen Tree 30 Shrubs	
ALTERNATIVE UNIT B	2 Ornamental Trees 3 Evergreen Trees 25 Shrubs	
ALTERNATIVE UNIT C	4 Evergreen trees 34 Shrubs	
ALTERNATIVE UNIT D	Native Landscaping Alternative	

**1166.06 PARKING LOT LANDSCAPING.**

(a) Required Parking Lot Landscaping.

- (1) Perimeter parking lot landscaping is required for all parking lots and must be established along the edge of the parking lot.
- (2) Interior parking lot landscaping is required for those lots of ten (10) or more spaces.
- (3) For existing parking lots that currently do not comply with the required parking lot landscaping, such landscaping must be provided when any one (1) of the following occurs:
  - A. A new principal building is constructed on the site.
  - B. Over fifty percent (50%) of the total area of an existing parking lot is reconstructed.

- C. When an existing parking lot up to ten thousand (10,000) square feet in area is expanded by fifty percent (50%) or more in total surface area.
  - D. When an existing parking lot of ten thousand (10,000) square feet or more in area is expanded by twenty-five percent (25%) or more in total surface area.
- (4) When an existing parking lot is required by this section to provide landscape which would result in creating a parking area that no longer conforms to the parking regulations of this Zoning Ordinance, the existing parking lot is not required to install all or a portion of the required landscape. The property owner is required to show that landscape cannot be accommodated on the site. ~~I and if only certain requirements are able to be accommodated on the site, only elements are required. The the~~ Zoning Administrator will make the determination that all or a portion of required landscaping does not have to be installed.
- (5) Nothing in this section prevents the applicant's voluntary installation of additional parking lot landscaping, so long as parking space requirements and parking lot design requirements are complied with.
- (6) All parking lot landscape areas must be protected from parked cars by curbs.
- Curb inlets are required to allow water into the landscape areas as permitted by grading.
- (b) Perimeter Parking Lot Landscaping. Perimeter parking lot landscaping provides for the enhancement and screening of parking lots and enhancement of the street's shade tree canopy by requiring a scheme of landscaping along public streets. A perimeter landscape yard is required for all parking lots and the landscape treatment must run the full length of the parking lot where it abuts a street. In the case of parking located at the front of the building, the front landscape yard requirements control. The perimeter parking lot landscape yard must be improved as follows. (See Figure 1166.06(b): Parking Lot Perimeter Landscape Yard)
- (1) The perimeter landscape yard must be a minimum of fifteen (15) feet in width.
  - (2) A single hedge row is required planted with one (1) shrub every thirty-six (36) inches on center, spaced linearly. The shrubs must measure a minimum of twenty-four (24) inches at planting, and a minimum of thirty-six (36) inches to a maximum of forty-eight (48) inches in height at maturity.
  - (3) A minimum one (1) foot of width of groundcover and/or mulch.
  - (4) One (1) shade tree every twenty-five (25) feet on-center, spaced linearly. Trees may be spaced at various intervals and/or clustered based on specific site requirements or design scheme to be approved as part of the landscape plan.
  - (5) Alternatively, a low pedestrian wall the height of which provides effective screening to a maximum height of three (3) feet may be used instead of shrubs. Where possible, plant materials must be installed between the sidewalk and the wall to provide a softening effect on the wall.
  - (6) All perimeter parking lot landscaping areas must be protected with raised curb and gutter. Curb inlets are required to allow water to infiltrate into the landscape areas as permitted by grading.
- (c) Interior Parking Lot Landscaping.
- (1) For parking lots consisting of ten (10) or more spaces, interior parking lot landscaping is required.
  - (2) One (1) parking lot island must be provided between every ten (10) contiguous parking spaces. As part of the landscape plan approval, parking lot island locations may be varied based on specific site requirements or design scheme, to be approved as part of the landscape plan, but the total number of islands must be no less than the amount required one (1) island for every ten (10) spaces.

- (3) In addition to parking lot islands, additional landscaped areas must be provided within the interior of parking lots. All rows of parking spaces must terminate in a parking lot island or landscaped area. The minimum interior landscaped area, including parking lot islands, is ten percent (10%) of the parking lot area.
- (4) Parking lot islands or landscaped areas must be at least one-hundred twenty-five (125) square feet in area. Double rows of parking must provide double-row width islands. See Figure 1166.06(c)(4)
- (5) Parking lot islands must be at least six (6) inches above the surface of the parking lot and protected with concrete curbing, except where designed to apply sustainable techniques allowing the flow and access of runoff. Such islands and landscaped areas must be properly drained and irrigated to ensure survivability.
- (6) The following plantings are required in parking lot islands and landscaped areas:
  - A. Shade trees must be the primary plant materials used in parking lot islands and landscaped areas. Ornamental trees, shrubs, hedges and other plant materials may be used to supplement the shade tree plantings but must not create visibility concerns for automobiles and pedestrians. One (1) shade tree is required every parking lot island or landscaped area. If the island extends the width of a double row, then two (2) shade trees are required.
  - B. The remaining area of a parking lot island must be planted in shrubs, live groundcover, perennials or ornamental grasses. Mulch is required to fill in planting areas for early growth protection until the groundcover is established and covers the planting area. It is encouraged to mulch bare areas for three (3) to five (5) years, or until the plant material is fully established in the parking islands.
- (7) The above specific planting provisions may be waived during site plan review if the applicant presents an alternate landscape plan that provides a combination of tree canopy and non-reflective auto canopies that shade at least fifty percent (50%) of the parking lot paved surface. This may include areas designated for solar powered electric auto recharging stations.

#### **1166.07 BUFFER YARDS.**

~~(a)~~ Buffer yards maintain an appropriate relationship between adjacent developments by clarifying the delineation between properties and creating attractive and effective buffers between uses.

~~(b)(a)~~ Where the parking lot or a drive-thru/drive-in facility of a non-residential use or district abuts a residential district along the interior side or rear lot line, a buffer yard of ten (10) feet must be provided along the interior side lot line and/or rear lot line.

~~(e)(b)~~ The buffer yard ~~must~~ shall be landscaped as follows:

- (1) A screen fence or wall six (6) feet in height is required. In front and corner side yard the fence or wall shall be three (3) feet in height. Screen fences must be solid and made of wood, simulated wood or masonry. Chain-link fences are prohibited.
- (2) A single hedge row planted with one (1) shrub every thirty-six (36) inches on center, spaced linearly. The shrubs must measure a minimum of twenty-four (24) inches at planting, and a minimum of thirty-six (36) inches to a maximum of forty-eight (48) inches in height at maturity.
- (3) One (1) shade tree for every twenty-five (25) linear feet of the adjacent property line.
- (4) The remainder of the area must be planted with turf or live groundcover.

#### **1166.10 SCREENING REQUIREMENTS.**

(a) Refuse Disposal Dumpsters and Refuse Storage Areas. All refuse disposal dumpsters, containers and refuse storage areas must be fully enclosed on three (3) sides by a solid wood or simulated wood screen fence, an opaque masonry wall (stone, stucco or brick) or

principal structure wall at least six (6) feet in height. The enclosure must be gated. The materials used for screening, including the enclosure, must complement the architecture of the principal building. An extension of an exterior principal building wall may be used as one of the screening walls for a refuse container, provided that the wall is at least six (6) feet in height and is of the same building materials as the principal building. The wall may not serve as the required gated enclosure.

(b) Loading Berths. ~~Where feasible, if~~ loading berths ~~must shall~~ be located and oriented so as not to be visible from the street and adjacent properties, while still allowing access to the use served. In addition, loading berths ~~must shall~~ be screened ~~as much as possible~~, unless such screening is determined unnecessary by the Zoning Administrator. Such screening must consist of an opaque masonry wall (stone, stucco or brick) or a solid wood or simulated wood screen fence at least six (6) feet in height.

(c) Outdoor Storage and Display Areas.

(1) Outdoor Storage and Display Areas.

- A. All outdoor storage areas must be completely screened by an opaque masonry wall (stone, stucco or brick) or a solid wood or simulated wood screen fence six (6) feet in height. Where feasible, plant materials must be installed along the fence or wall located along the public right-of-way to provide a softening effect. No materials stored outdoors may exceed the height of the required fence or wall with the exception of construction material.
- B. Outdoor storage areas must provide landscaping and shading of the interior with a combination of tree canopy and non-reflective canopies covering twenty-five percent (25%) of the site.

(2) Outdoor Sales and Display Areas.

- A. When the rear or interior side yard of an outdoor display area abuts a residential district, the outdoor display area must be effectively screened from view by an opaque masonry wall (stone, stucco or brick), a solid wood or simulated wood screen fence or dense evergreen hedge six (6) feet in height.
- B. All outdoor display areas must be designed with a landscape yard along the public right-of-way, excluding alleys, a minimum of ten (10) feet in width and planted with shade or evergreen trees at a rate of one (1) tree per twenty-five (25) feet, and supplemented with shrubs and perennials to enhance the view from the public right-of-way. These screening requirements are not intended to prohibit openings necessary for access drives and walkways. However, motor vehicle dealerships with outdoor sales and display lots are permitted to be designed with permanent screening that consists of small shrubs and/or a low pedestrian wall no less than three (3) feet in height.
- C. Growing areas for nursery stock located in the front or corner side yard are considered to meet these screening requirements.

## **CHAPTER 1171 Intent and General Regulations**

### **1171.02 EXISTING USE DEEMED CONDITIONAL USE; PERMIT REQUIRED FOR CHANGE.**

A lawfully existing use that would be eligible for a conditional use permit in the district in which it is located shall not be a nonconforming use, but without further action, shall be deemed to have obtained a conditional use permit. A new conditional use permit shall be required, however, for any change of ownership or intensity of use, or change, modification, enlargement or alteration of such use, or site development conditions ~~or signs~~.

**CHAPTER 1175**  
**Nonconforming Lots and Structures**

**1175.02 NONCONFORMING LOTS OF RECORD.**

Lots of record prior to passage of the Zoning Code, or amendments thereto which created such nonconforming lot(s) of record, with less area or width than heretofore established may be used in accordance with the following provisions:

- (a) Single Nonconforming Lots of Record. In an AA, A or B District, a single- ~~or two-~~ family dwelling and customary accessory buildings may be erected on any single nonconforming lot of record which existed prior to passage of the most recent amendments to the Zoning Ordinance ~~in 1921~~, notwithstanding limitations imposed by other provisions of this Zoning Code. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variances of requirements listed in this Code, other than parking requirements as provided for in subsection (c) hereof, lot area or lot width, shall be obtained only through action of the Board of Zoning Appeals as provided in Section 1115.07.
- (b) Nonconforming Lots of Record in Combination. If two (2) or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage of this Zoning Code, and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Code, and no portion of such parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Code, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements stated in this Code.
- ~~(c) Accessory Use Regulations for Nonconforming Lots in a B District. The provisions of Sections 1121.09, 1121.12, and 1161.03 notwithstanding, for nonconforming lots in B Two Family Districts, the total area devoted to unenclosed paved areas and sidewalks shall not exceed thirty percent (30%) of the area of the rear yard. However, if the owner has installed landscaping and/or fencing in compliance with a landscape plan approved by the Zoning Administrator, the total area of unenclosed paved area and sidewalks shall not exceed forty percent (40%) of the area of the rear yard. The landscape plan shall be designed to minimize adverse impact on neighboring lots. The total area devoted to accessory buildings including, but not limited to, garages shall not exceed forty percent (40%) of the area of the rear yard. However, the total combined area of unenclosed paved area and sidewalks and accessory buildings including, but not limited to, garages shall not exceed seventy percent (70%) of the area of the rear yard. In the event that the parking standards for such use require a garage that would exceed the rear yard coverage limitations or that is not able to be accommodated on the zoning lot due to insufficient lot width, enclosed parking spaces and related pavement shall then be provided to the extent possible without creating additional nonconforming conditions.~~