



# CLEVELAND HEIGHTS

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**Council Committee of the Whole  
January 17, 2023  
6:00 p.m.  
City Hall – Executive Conference Room**

## **Agenda**

1. Legislation Review/Caucus (15 minutes)
2. Planning Commission-Annual Code Review (15-20 minutes)
3. Check-in/update on inquiry email process (15-20 minutes)
4. Feedback on budget process (5 minutes)
5. Discussion on additional extension of CRC application (5 minutes)
6. Women's History Month/International Women's Day (5 minutes)

## MEMORANDUM

**To:** Council President Hart and City Council Members  
**Cc:** Mayor Seren; William Hanna, Law Director  
**From:** Eric Zamft, Planning Director; Karen Knittel, Assistant Planning Director  
**Date:** January 9, 2023  
**Subject:** Summary of Planning Commission 2022 Annual Code Review Changes

Pursuant to Section 1119.08 of the Codified Ordinances of the City of Cleveland Heights, the Planning Commission is required annually to review the Zoning Code and make recommendations to Council. During the course of 2022, the Planning Commission discussed elements of the Zoning and Building Codes with staff from the Departments of Planning & Development and Law as a result of cases that have appeared before them.

At the October 26, 2022, November 9, 2022, and December 14, 2022 Planning Commission meetings, the Planning Commission discussed with staff areas of the Zoning and Building Codes that needed review or topics that are not reflected in the Zoning and Building Codes.

Based upon this review and discussion, the Planning Commission identified and recommends the following areas for revision at this time: private parking garages, fences, window transparency, rain barrels and gardens, non-conformities, public notice requirements, fees, and general changes to ensure consistency. There were a number of other areas that the Planning Commission acknowledged require further review and did not recommend revision at this time.

The Planning Commission recognizes that any zoning text amendments must follow the procedures put forth in Chapter 1119, including, but not limited to Council referral to the Planning Commission, Planning Commission review and recommendation, and Council public hearing.

This memorandum summarizes the recommended changes by the Planning Commission as part of their Annual Review. Also find attached to this memorandum 1) the resolution adopted by the Planning Commission; 2) the proposed changes within the Zoning Code – Exhibit A; and 3) the proposed changes within the Building Code – Exhibit B.

### Environmental/Sustainability

- Added language regarding environmental stewardship to Purpose of zoning code (Section 1101.02)
- Added/revised definitions for ‘rain barrel’ and ‘rain garden’ (Section 1103.03 and 1341.2301 and 1341.2302)
- Revised where rain barrels are permitted (Section 1121.12(m))
- Permit rain barrels as an accessory use in multiple-family districts (Section 1123.05)
- Standardized reference to ‘stormwater’
- Provides credit for use of pervious pavers/materials (Section 1121.12(c) and (d))

- Added language regarding stormwater runoff to Purpose for landscaping (Section 1166.01)
- Revised Building Code language regarding rain barrels/gardens (Section 1351.25(f))

#### General / General throughout Code

- Replaced 'citizen' with 'resident'
- Standardized how numbers are written (for example – 'two (2)'; 'fifty percent (50%)')
- Revisions related to consistency of terms (e.g., 'town house dwelling', 'multiple-family')
- Standardized term 'Zoning Code'; 'Codified Ordinances'
- Corrected misspellings
- Standardized in definitions how similar terms are referenced (for example "Veterinary office". (See "animal clinic".)
- Removed requirements to keep records, including the zoning map, on display/in City Hall (Sections 1107.02(e); 1109.04; 1111.04; 1166.03(c))
- Revised references to 'Chairman' to 'chairperson'
- Clarifies what a development plan is, standardizes nomenclature ('Development Plan'), removes specific reference to City's Strategic Development Plan.
- Standardized lists to includes semi-colons, and then 'and' or 'or' before last entry
- Standardized language related to referencing regulations in other sections (for example 'subject to the regulations of Section X')
- Corrected incorrect references to notes, sections, etc.
- Changes approvals of 'Planning Director' to 'Zoning Administrator'
- Standardized reference to 'Planning Commission'
- Corrected reference to permitted conditional uses in the MF-2 District regarding the S-2 District (Section 1145.02(b)(2))
- Clarified legal, nonconforming gasoline stations in the C-2 District (Section 1153.05(t)(2))

#### Noticing

- Removed requirement to place public notice in newspaper of general circulation (Sections 1103.03(a)(10); 1115.06(d); 1115.07(d); 1115.08(d); 1143.10(e))
- Revised requirement that public notice must be posted 10 days in advance of hearing (Sections 1115.06(d); 1115.07(d); 1115.08(d))
- For Zoning Text Amendments and Zoning Map Changes, revised noticing to be consistent with Chapter 107 of the City's Codified Ordinances (Sections 1119.05 and 1119.06)
- Removed specific notice of approval to neighbors regarding bees (Section 1153.05(ee)(4)(B))
- Removed specific notice of approval and reference to complaints regarding chicken coops (Section 1153.05(gg)(3) and (4))

Annexation of New Territory

- Removed Section 1105.06 (Annexation of New Territory), which requires that any new territory annexed by the City be designated an AA District

Building Permit Procedures

- Clarified the type and order of reviews for building permits (Section 1115.02)

BZA

- Requires written authority from owner (Section 1115.07)
- Clarifies staff report role in Council approval (Section 1115.07(i))

Fees

- Removes requirement that schedule of fees be available at City Hall (Section 1115.12). Note, Council passed new fees on 12/5/2022, which took effect on 1/4/2023.

ABR Review (Note these changes were discussed also with the ABR Chair)

- Removed ABR review of a number of administrative approvals, where such change is not visible from the public street or screened, and/or those approvals that require ABR review already (Sections 1121.08(c); 1121.12(b); 1123.11; 1131.13; 1153.05(p)(4); 1153.05(ee)(13)).

Schedule Updates

- Multiple revisions to Schedule 1121.12(a)
- Multiple revisions to Schedule 1121.12(d)
- Added title to Schedule 1123.07
- Added title to Schedule 1161.035
- Revised notes in Schedule 1163.04 to remove unreferenced notes

Fences/Walls

- Changed approval to Building Commissioner (Sections 1121.12(i) and 1321.01(a) and (b))
- Other changes to fence regulations to be consistent (Sections 1121.12(i); 1166.06(b)(5); 1166.07(b)(1))

Commercial District Changes

- Removed metric for window transparency, as it is hard to measure (Sections 1131.075 and 1131.076)
- Permit sale of liquid fuel as part of principally or conditionally-permitted use (Section 1131.11)

Parking

- Created new standard for single-family dwelling unit with 2 or fewer bedrooms (Schedule 1161.03)

- Clarified that reduction in enclosed private parking only applies to properties with existing buildings and does not apply to new construction (Section 1161.051)
- Adds that an administrative approval of going from a one-car garage to a one-car garage (Section 1161.051(a)(iii))
- Adds requirement that new parking lots shall not be in front yard (Section 1161.06(e))
- Permits curb-stops instead of curbs (Section 1161.11(f), 1166.06(a)(6), 1166.06(b)(6) )

#### Signs

- Permits historic district signs as public signs (Section 1163.02(b)(1))
- Clarify that maximum sign area is per sign face (Section 1163.06(b))
- Removes some regulations for construction signs (Section 1163.06(g))

#### Landscaping

- Requires that a tree preservation plan be submitted and approved by Planning Commission for larger scale projects (Section 1166.11(f))

#### Non-Conformities

- Limits alterations to non-conforming buildings (Section 1173.01(a))

#### Attachments

**RESOLUTION**  
**CITY OF CLEVELAND HEIGHTS PLANNING COMMISSION**  
**ANNUAL CODE REVIEW**

**December 14, 2022**

**WHEREAS**, zoning codes are living, breathing documents and should be revisited from time-to-time; and

**WHEREAS**, pursuant to Section 1119.08 of the Codified Ordinances of the City of Cleveland Heights, the Planning Commission is required annually to review the Zoning Code and make recommendations to Council; and

**WHEREAS**, during the course of 2022, the Planning Commission has discussed elements of the Zoning and Building Codes with staff from the Departments of Planning & Development and Law as a result of cases that have appeared before them; and

**WHEREAS**, at the October 26, 2022, November 9, 2022, and December 14, 2022 Planning Commission meetings, the Planning Commission discussed with staff areas of the Zoning and Building Codes that needed review or topics that are not reflected in the Zoning and Building Codes, including, but not limited to: re-examining private parking garage regulations, sign regulations, places of worship, accessory dwelling units, short-term rentals, fences, front yards on partially built-up blocks, window transparency, sustainability, solar panels, sidewalk standards, non-conformities, public notice requirements, fees, diversity, equity, and inclusion, and general consistency within the Zoning Code; and

**WHEREAS**, based upon this review and discussion, the Planning Commission has identified and recommends the following areas for revision at this time: private parking garages, fences, window transparency, rain barrels and gardens, non-conformities, public notice requirements, fees, and general changes to ensure consistency; and

**WHEREAS**, the Planning Commission acknowledges that many of the other areas that were discussed, including sign regulations, accessory dwelling units, short-term rentals, front yards on partially built-up blocks, sustainability, solar panels, sidewalk standards, and diversity, equity, and inclusion, require further review, technical expertise, or other input and should be addressed separately at a later date; and

**WHEREAS**, the Planning Commission recognizes that any zoning text amendments must follow the procedures put forth in Chapter 1119, including, but not limited to Council referral to the Planning Commission, Planning Commission review and recommendation, and Council public hearing; and

**NOW, THEREFORE**, be it

**RESOLVED**, that the City of Cleveland Heights Planning Commission has concluded its annual Code review for 2022, which has resulted in a number of recommendations to Council; and be it further

**RESOLVED**, that the Planning Commission offers the recommendations as follows:

1. General Proposed Zoning Text and Building Code Amendments, including, but not limited to private parking garages, fences, window transparency, rain barrels and gardens, non-conformities, public notice requirements, fees, and general changes to ensure consistency, attached hereto as Exhibits A and B; and be it further

**RESOLVED**, that this resolution be signed by the Chairperson and shared with the City Council; and be it finally

**RESOLVED**, that the Planning Commission recommends that Council consider this resolution and the suggested changes under Section 1119.01 at its January 17, 2023 meeting.

On a motion of Commissioner Michael Gaynier, Seconded by Commissioner Ken Surratt, this resolution was approved by the following vote:

|            |          |
|------------|----------|
| AYES:      | <u>4</u> |
| NAYES:     | <u>0</u> |
| ABSTAINED: | <u>0</u> |
| ABSENT:    | <u>3</u> |



Jessica Cohen, Chairperson

12/21/22

Date

# **EXHIBIT A**

## **PROPOSED ZONING TEXT AMENDMENTS:**

**RE-EXAMINATION OF ENCLOSED PRIVATE PARKING GARAGE REGULATIONS**  
**FENCES**  
**WINDOW TRANSPARENCY**  
**RAIN BARRELS AND GARDENS**  
**NON-CONFORMITIES**  
**PUBLIC NOTICE REQUIREMENTS**  
**FEES**  
**GENERAL CHANGES TO ENSURE CONSISTENCY**

**As Recommended by the Planning Commission on December 14, 2022 as Part of its Annual  
Code Review**

## **PART ELEVEN - ZONING CODE**

### **TITLE ONE - Administration**

- Chap. 1101. Purpose, Interpretation and Validity.
- Chap. 1103. Definitions.
- Chap. 1105. Establishment of Districts and Maps.
- Chap. 1107. Zoning Administrator.
- Chap. 1109. Board of Zoning Appeals.
- Chap. 1111. Planning Commission.
- Chap. 1113. Board of Control.
- Chap. 1115. Procedures.
- Chap. 1117. Enforcement and Penalties.
- Chap. 1119. Amendments.

### **TITLE THREE - District Regulations**

- Chap. 1121. AA and A Single-Family and B Two-Family Residential Districts.
- Chap. 1123. MF-1, MF-2 and MF-3 Multiple-Family Residential Districts.
- Chap. 1131. Commercial Districts.
- Chap. 1133. Park District.

### **TITLE FIVE - Special Districts**

- Chap. 1141. Planned Development Objectives.
- Chap. 1143. S-1 Mixed Use District.
- Chap. 1145. S-2 Mixed Use District.
- Chap. 1147. Planned Development Overlay District.

### **TITLE SEVEN - Conditional Use Regulations**

- Chap. 1151. General Criteria.
- Chap. 1153. Supplemental Standards for Conditional Uses.
- Chap. 1155. Planned Residential Developments.

### **TITLE NINE - Supplementary Regulations**

- Chap. 1161. Off-Street Parking and Loading Regulations.
- Chap. 1163. Sign Regulations.
- Chap. 1165. Additional Regulations Governing Uses.
- Chap. 1166. Landscape Requirements
- Chap. 1167. Prohibited Uses.
- Chap. 1169. Sexually Oriented Businesses.

### **TITLE ELEVEN - Nonconformities**

- Chap. 1171. Intent and General Regulations.
- Chap. 1173. Nonconforming Uses.
- Chap. 1175. Nonconforming Site Conditions.

### **APPENDIX - Zoning Map Changes**

## ***TITLE ONE - Administration***

- Chap. 1101. Purpose, Interpretation and Validity.
- Chap. 1103. Definitions.
- Chap. 1105. Establishment of Districts and Maps.
- Chap. 1107. Zoning Administrator.
- Chap. 1109. Board of Zoning Appeals.
- Chap. 1111. Planning Commission.
- Chap. 1113. Board of Control.
- Chap. 1115. Procedures.
- Chap. 1117. Enforcement and Penalties.
- Chap. 1119. Amendments.

## **CHAPTER 1101**

### **Purpose, Interpretation and Validity**

- 1101.01 Short title.
- 1101.02 Purpose.
- 1101.03 Interpretation of Zoning Code; minimum requirements.
- 1101.04 Conflicting laws.
- 1101.05 General scope.
- 1101.06 Severability.

#### **CROSS REFERENCES**

- Definitions - see P. & Z. Ch. 1103
- Procedures - see P. & Z. Ch. 1115
- Enforcement and penalties - see P. & Z. Ch. 1117

#### **1101.01 SHORT TITLE.**

This Zoning Code shall be known as the Zoning Code of the City of Cleveland Heights.

#### **1101.02 PURPOSE.**

The City of Cleveland Heights is hereby zoned to promote the public health, environmental stewardship, safety, convenience, comfort, morals, prosperity and general welfare, including the promotion of home ownership, the protection of residential sections of the City, the protection of property values, the assurance of adequate light and air, and the limitation, control and regulation of buildings in the City in accordance with a “well-established” plan of use, height, size and area for all property and its development in the City and the implementation of the principles of sustainability and protection of the physical environment and natural resources for all ~~citizens~~residents.

#### **1101.03 INTERPRETATION OF ZONING CODE; MINIMUM REQUIREMENTS.**

(a) In interpreting and applying the provisions of this Zoning Code, the provisions shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.

(b) This Zoning Code shall not interfere with, abrogate or annul any easement, covenant or other agreement between parties except that in cases where this Zoning Code imposes a greater restriction upon the use of buildings or premises, upon the height of buildings, upon the lot area per family, or requires larger yards or other open spaces than are imposed or required by such easements, covenants or agreements, the provisions of this Zoning Code shall control.

(c) The lot or yard areas of any use existing on the date of passage of this Zoning Code (Ordinance 20-2012, passed May 21, 2012,) shall not be diminished below the requirements imposed by this Zoning Code for any use to be made hereafter.

#### 1101.04 CONFLICTING LAWS.

This Zoning Code shall not repeal, abrogate, annul or in any way impair or interfere with any existing law or ordinance, or any rules or regulations heretofore or hereafter adopted or promulgated pursuant to law regulating the use of land or buildings. However, in cases where this Zoning Code imposes a greater restriction upon the use of buildings or premises, upon the height of buildings, upon the lot area per family, or requires larger yards or other open spaces than are imposed or required by such other laws or ordinances, or by such rules and regulations, the provisions of this Zoning Code shall control.

#### 1101.05 GENERAL SCOPE.

Nothing in this Zoning Code shall be construed to limit Council in the exercise of all of the powers to zone or redistrict now or hereafter authorized by the Ohio Constitution or Ohio statutes or the City Charter.

#### 1101.06 SEVERABILITY.

Sections and subsections of this Zoning Code and the several parts or provisions thereof are hereby declared to be independent sections, subsections, parts and provisions, and the holding of any such section, subsection, part or provision thereof to be unconstitutional, void or ineffective for any cause shall not affect nor render invalid any other such section, subsection, part or provision thereof.

## **CHAPTER 1103**

### **Definitions**

- 1103.01 Use of code section references.
- 1103.02 Special meanings.
- 1103.03 Definitions of general terms.
- 1103.04 Determination of household status.

#### **CROSS REFERENCES**

- Planned Development (PD) defined - see P. & Z. 1141.02
- Landscaping and screening definitions - see P. & Z. 1165.05(a)
- Regional Dwelling House Code definitions - see BLDG. 1301.02 (RDH Ch. 17)
- Housing Code definitions - see BLDG. Ch. 1341
- Business Maintenance Code definitions - see BLDG. Ch. 1361

#### **1103.01 USE OF CODE SECTION REFERENCES.**

Throughout this Zoning Code, reference to section numbers means the numbered sections of this Zoning Code. Reference to section numbers separated by the word “to” (such as Sections 1101.85 to 1101.87) is to be taken as equivalent to the words “to and including”.

#### **1103.02 SPECIAL MEANINGS.**

Words used in the present tense include the future. The masculine, feminine or neuter gender includes either of the others. The singular number includes the plural and the plural the singular. The word “shall” is mandatory; the word “may” is permissive. The word “lot” includes the word “plot”. The word “erected” includes the word “used” and the word “altered”. The phrase “used for” includes “occupied for”, “intended for”, “designed for” or “arranged for”. The word “build” includes to “erect”, “convert”, “enlarge”, “reconstruct” or “structurally alter” a building or structure or part thereof.

#### **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) “Commission” means the City Planning Commission of Cleveland Heights, Ohio. (See Chapter 1111.)

(4) “Commissioner of Building” means the individual designated by the Mayor as being in charge of the Division of Building in the Department of Public Service, and is synonymous with “Building Commissioner”.

(5) “Council” means the City Council of Cleveland Heights, Ohio.

(6) “Date of passage” means the date upon which this Zoning Code was passed by Council.

(7) “District” means a part of the City wherein regulations of this Zoning Code are uniform as classified by the provisions of Chapter 1105.

(8) “Mayor” means the Chief Executive Officer of the City.

(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.

(2.5) “Accessory parking space” means an open or enclosed area, accessible from a street, for parking motor vehicles of owners, occupants, employees, customers, or tenants of the main 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)(67) 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 also “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 also “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 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.

(22) “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.

(23) “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.

(24) “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 also “lot types”.)

(28) “Day-care center” means 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”.

(29) “Density” means the number of dwelling units permitted per acre of land.

(30) “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.

(31) “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”.

(32) “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.

(33) “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.

(34) “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.

(35) “Dwelling, single-family” means a building designed or arranged for use by a single family consisting of one (1) 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 (1) 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.

(36) “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-terms~~ “town house dwelling”, “townhouse”, “terrace” and “row house” shall be considered synonymous.

(37) “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.

(38) “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-terms~~ “dwelling unit”, “apartment” and “suite” shall be considered synonymous.

(39) “Enclosed space” means an area that is surrounded on all sides. (See also “building”.)

(40) “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. 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.

(41) “Farmers’ ~~Market~~market” means a market consisting of individual vendors, mostly farmers/producers who sell directly to customers.

(42) “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.

(43) “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.

(44) “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 parking garage, attic, terraces, breezeways, open porches and covered steps.

(45) “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.

(46) “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.

(47) “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.

(48) “Game rooms” means any premises open to the public other than a residence upon or within which there is located more than seven (7) 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 seven (7). For the purposes of this definition, residence shall include any single-family, two-family and ~~multiple~~~~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.

(49) “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. Parking garage may be attached or detached and shall be considered enclosed parking spaces. A “parking deck” shall be considered a parking garage. An “existing carriage house” shall not be considered a parking garage.

(50) “Garage, private parking” means a detached accessory building or an attached 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. “Private parking garage” shall be considered enclosed parking spaces.

(51) “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.

(52) “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.

(53) “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.

(54) “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.

(55) “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.

(56) “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.

(57) “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.

(58) “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.

(59) “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.

(60) “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. Junk motor vehicle shall include “abandoned junk motor vehicle” as defined by Ohio R.C. 4513.63.

(61) “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.

(62) “Landscaped area” means an area that is permanently devoted to and maintained for the growing of trees, shrubs, grass or other plant material.

(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 fifty percent (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 (1) or more occupants of the unit.

(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,

(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”.

(66) “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; or
- 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.

(67) “Lot area” means the area contained within the lot lines exclusive of any portion of the right of way of any public street.

(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.

(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.

(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.

(71) "Lot types": Terminology used in this Zoning ~~Ordinance Code~~ 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.

(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.

(73) "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.

(74) "Neighborhood high school" means an educational facility designed to serve residents of the community with educational services for high school aged youth.

(75) "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.

(76) "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.

(77) "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.

(78) "Outdoor Play Equipment" or "Recreational Equipment" means play apparatus such as swing sets and slides, sandboxes, poles for nets, trampolines and similar equipment.

(79) "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.

(80) “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.

(81) “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.

(82) “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.

(83) “Parking deck” means a one (1) story unenclosed structure in which and on which motor vehicles may be parked.

(84) “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.

(85) “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.

(86) “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.

(87) “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”, “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.

(88) “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.

(89) “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.

(90) “Premises” means a lot together with all buildings and structures thereon.

(91) “Public land” means any land owned by the City or by any other governmental entity.

(92) “Public use” means any use of a building or land by the City or by any other governmental entity for any public purpose.

(93) “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.

(94) “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.

(95) “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~~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.

(96) “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.

(97) “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.

(98) “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”.

(99) “Row house”. (See also “dwelling, town house”.)

(100) “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.

(101) “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.

(102) “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.

(103) “Setback” means the required minimum horizontal distance between a lot line and a structure as established by this Zoning Code.

(104) “Setback line” (See also “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) “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.

(106) “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.

(107) “Street” means a public way which affords the principal means of access to abutting property.

(108) “Street center line” means a line halfway between the street right-of-way lines.

(109) “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 sports fields or courts, pergolas, decks, pools, patios, paved areas, sidewalks and gazebos.

(110) “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.

(111) “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.”

(112) “Sustainable” means in a manner which supports healthy, productive environments and minimizes waste and consumption of non-renewable materials.

(113) “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.

(114) “Townhouse”. (See also “dwelling, townhouse”.)

(115) “Veterinary office”. (See also “animal clinic”.)

(116) “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 (2) agencies, the delineation protocol that results in the most inclusive area of wetlands shall apply.

(117) “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.

(118) “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.

(119) “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.

(120) “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.

(121) “Yard line”. (See also “building line”.)

(122) “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.

(123) “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.

(124) “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.

(125) “Yard, width or depth” means the horizontal distance from a lot line to the principal building measured perpendicular to the building.

(126) “Zoning lot”. (See also “lot”.)

(XX) “Accessory parking space” means an open or enclosed area, accessible from a street, for parking motor vehicles of owners, occupants, employees, customers, or tenants of the main building or use.

(XX) “Existing carriage house” means an existing, nonconforming accessory residential dwelling unit that was legally constructed or created prior to the adoption of this Zoning Code.

(XX) “Façade” means any exterior wall of a structure, including projections from and attachments to the wall that are architecturally integrated into the structure. Projections and attachments shall include, but are not limited to, balconies and porches.

(XX) “Primary structure” means a Structure having a roof supported by columns or by walls and intended for the shelter, housing, enclosure, or storage of persons or property. A primary structure shall include, but is not limited to porches, dwellings, principal buildings. A private parking garage, patio, or deck shall not be considered a primary structure.

(XX) “Codified Ordinances” means the Codified Ordinances of the City of Cleveland Heights, as amended.

(XX) “Meeting room” means a room or space for public assembly or meeting.

(XX) “Rain barrel” means a container used to collect and store rainwater runoff, typically from roof tops via rain gutters.

(XX) “Rain garden” means an area of land designed to capture stormwater runoff from impervious areas such as roofs, driveways, walkways, parking lots, and compacted lawn areas, and allow it to infiltrate in to the water table.

#### 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 group of three (3) or fewer unrelated persons shall be deemed the functional equivalent of a family regardless of the presence or absence of any factors described herein.

(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 four (4) or more 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 (1) 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 (1) or more motor vehicles belonging to members of the group and registered at one (1) 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 (1) 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 (1) 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 by the property owner or designee. The property owner or designee shall carry the burden of proof.

## **CHAPTER 1105**

### **Establishment of Districts and Map**

- 1105.01 Purpose.
- 1105.02 Districts established.
- 1105.03 Zoning District Map.
- 1105.04 District symbols.
- 1105.05 Interpretation of district boundaries.
- 1105.06 Annexation of new territory.

#### **CROSS REFERENCES**

Maintenance of official Zoning Map - see P. & Z. 1107.02(e)  
Amendments to official Zoning Map - see P. & Z. 1119.02

#### **1105.01 PURPOSE.**

The purpose of this ~~chapter~~ **Chapter** is to establish zoning districts in order to realize the general purposes set forth in this Zoning Code to provide for orderly growth and development, and to protect the property rights of all individuals by assuring the compatibility of uses and practices within districts.

#### **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 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.

#### **1105.03 ZONING DISTRICT MAP.**

The districts established in Section 1105.02 are shown upon the Zoning Map, which, together with all accompanying notations, references, rules and designations, is hereby adopted and made a part

of this Zoning Code, thereby having the same force and effect as if herein fully described in writing. The map is entitled “Zoning Map of the City of Cleveland Heights” and, with all its future additions, amendments, changes and supplements, designates the area assigned to the respective use districts and their boundaries.

#### 1105.04 DISTRICT SYMBOLS.

The several districts may be designated upon the Zoning Map by use of the respective symbols used in Section 1105.02. Such symbols when used in this Zoning Code refer to their respective districts.

#### 1105.05 INTERPRETATION OF DISTRICT BOUNDARIES.

The following rules shall be used to determine the precise location of any zoning district boundary when there is a discrepancy or uncertainty as to the precise location of the boundary:

(a) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be such boundaries;

(b) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Zoning Map;

(c) Whenever any street, alley, or other public way is vacated by official Council action, the zoning district adjoining each side of such street, alley, or public way shall automatically be extended to the center of such vacation, and all areas within that vacation shall thenceforth be subject to all regulations appropriate to the respective extended district;

(d) All questions and disputes concerning the exact location of zoning district boundaries shall be resolved by the Board of Zoning Appeals.

#### ~~1105.06 ANNEXATION OF NEW TERRITORY.~~

~~Any territory annexed to the City after the date of passage of this Zoning Code (Ordinance 20-2012, passed May 21, 2012) shall become and be an AA District and be subject to all the regulations of this Zoning Code which relate to such a district until otherwise amended as provided in Chapter 1119.~~

## **CHAPTER 1107**

### **Zoning Administrator**

- 1107.01 Establishment.
- 1107.02 Powers and duties.

#### **CROSS REFERENCES**

- Department of Planning and Development - see ADM. Ch. 127
- Zoning Administrator defined - see P. & Z. 1103.03(a)(11)
- Record of zoning approval and certificates of compliance - see P. & Z. 1115.05
- Enforcement of Zoning Code - see P. & Z. 1117.01
- Review of S-1 District proposal - see P. & Z. 1143.10(b)

#### **1107.01 ESTABLISHMENT.**

The Planning and Development Director, ~~appointed by the Mayor,~~ may designate a person known as the Zoning Administrator to administer and enforce this Zoning Code. The Zoning Administrator may be provided with the assistance of such other persons as the Planning and Development Director may direct.

#### **1107.02 POWERS AND DUTIES.**

For the purpose of this Zoning Code, the Zoning Administrator shall have the following duties:

- (a) Enforce the provisions of this Zoning Code and interpret the meaning and application of its provisions.
- (b) Issue zoning approval as provided by this Zoning Code and keep a record of same with a notation of any special conditions involved.
- (c) Accept and review for completeness all applications upon which the Zoning Administrator is authorized to review by the provisions of this Code. The Zoning Administrator shall promptly review each application submitted to determine compliance with applicable district regulations and submission requirements. If the application is deemed insufficient, the Zoning Administrator shall promptly notify the applicant of necessary changes. If the application is deemed sufficient and the application fee has been paid, the Zoning Administrator shall officially accept the application on that date from consideration of the action(s) requested.
- (d) Respond to questions concerning applications for amendments to the Zoning Code text and the official Zoning Map.
- (e) Maintain in current status the official Zoning Map ~~which shall be kept on permanent display in the City offices.~~
- (f) Maintain permanent and current records required by this Code, including but not limited to zoning approval, inspection documents, and records of all variances, amendments, conditional uses, and similar use determinations.
- (g) Make such records available for the use of Council, the Planning Commission, the Board of Zoning Appeals, and the public.

(h) Conduct inspections of buildings and uses of land to determine compliance with this Zoning Code and, in the case of any violation, to notify in writing the person(s) responsible, specifying the nature of the violation and ordering corrective action.

(i) Determine the existence of any violations of this Zoning Code and cause such notifications, revocation notices, stop orders, or tickets to be issued, or initiate such other administrative or legal action as needed, to address such violations.

RECOMMENDED

## **CHAPTER 1109**

### **Board of Zoning Appeals**

- 1109.01 Establishment and duties; rules and regulations.
- 1109.02 Membership; terms of office; chairman.
- 1109.03 Compensation of members; payment of expenses.
- 1109.04 Secretary; duties and records.
- 1109.05 Meetings and quorum.
- 1109.06 Powers and duties of the Board.

#### **CROSS REFERENCES**

- Determination of exact zoning district boundaries - see P. & Z. 1105.05(d)
- Appeals; procedure and hearing - see P. & Z. 1115.06
- Variances; procedure and review criteria - see P. & Z. 1115.07

#### **1109.01 ESTABLISHMENT AND DUTIES; RULES AND REGULATIONS.**

The Board of Zoning Appeals is hereby established. The Board shall have the powers and shall perform the duties prescribed in this Zoning Code and shall establish such rules and regulations as it determines to be necessary for taking and hearing of appeals to the Board and other proceedings of the Board.

#### **1109.02 MEMBERSHIP; TERMS OF OFFICE; CHAIRMAN.**

(a) The Board of Zoning Appeals shall consist of five (5) regular members, all of whom shall be residents of the City of Cleveland Heights, appointed by Council and not employed by the City of Cleveland Heights, as well as one (1) alternate member having the same qualifications as the regular members who shall serve in the absence or disqualification of a regular member. The alternate member may participate in a meeting as a Board member only if he/she is acting as a replacement for a regular Board member at such meeting.

(b) The terms of all members shall be for a period of four (4) years. A vacancy occurring during the term of any member shall be filled for the unexpired term in the manner authorized for an original appointment. Council may remove any ~~citizen~~-member for cause.

(c) The Board shall annually choose a ~~Chairman~~-chairperson from its members, who shall serve until his or her successor is chosen.

#### **1109.03 COMPENSATION OF MEMBERS; PAYMENT OF EXPENSES.**

The ~~Chairman~~-chairperson and other ~~citizen~~-members of the Board of Zoning Appeals shall each receive such compensation, and the expenses of the Board shall be paid, as Council may provide by ordinance.

#### 1109.04 SECRETARY; DUTIES AND RECORDS.

A Secretary of the Board of Zoning Appeals shall be provided by the Planning and Development Director. The Secretary shall keep a permanent record of the attendance of the members and of the proceedings of the Board, showing its action and the votes of the several members upon all resolutions, decisions and proceedings of the Board. The Secretary shall prepare all notices, conduct all correspondence and perform such other duties as shall be required by the Board. All files and records shall be kept ~~in the City Hall~~ and shall be public records.

#### 1109.05 MEETINGS AND QUORUM.

Subject to the provisions of Chapter 107 of the Codified Ordinances, all meetings of the Board of Zoning Appeals shall be public and shall be held in the City Hall, at such times as the Board determines. Except as otherwise provided by the Charter or Codified Ordinances, attendance by Board members shall be in person. The presence of three (3) or more members shall constitute a quorum for the transaction of all business. Except as provided by this section, the transaction of all business and action by the Board shall be effected by the concurring votes of at least three (3) members. In the case of an appeal to the Board from an order, requirement, decision or determination of the Zoning Administrator or other City official, action to deny an appeal may be effected by a vote of those Board members present. In the case of an appeal, a tie vote shall be deemed to be an affirmance of the order, requirement, decision or determination being appealed and shall, therefore, constitute a denial of the appeal.

#### 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.

(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) Reserved.

(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 1111**

### **Planning Commission**

- 1111.01 Establishment and duties; rules and regulations.
- 1111.02 Membership; terms of office; chairman.
- 1111.03 Compensation of members; payment of expenses.
- 1111.04 Secretary; duties and records.
- 1111.05 Meetings and quorum.
- 1111.06 Powers and duties of the Commission.

#### **CROSS REFERENCES**

- Establishment and powers - see CHTR. Art. XI
- Conditional use review - see P. & Z. 1115.08(e), (f)
- Determination of similar uses - see P. & Z. 1115.10
- Annual Zoning Code review - see P. & Z. 1119.08
- Review of S-1 District proposed - see P. & Z. 1143.10(d)
- Preparation of S-2 District Development Plan - see P. & Z. 1145.08

#### **1111.01 ESTABLISHMENT AND DUTIES; RULES AND REGULATIONS.**

The Planning Commission is hereby established in accordance with Article XI of the City Charter and shall perform the duties prescribed in this Zoning Code. The Commission shall establish such rules and regulations as it determines to be necessary to perform the duties prescribed in this Zoning Code.

#### **1111.02 MEMBERSHIP; TERMS OF OFFICE; CHAIRMAN.**

(a) The Planning Commission shall consist of seven (7) voting members, all of whom shall be residents of the City of Cleveland Heights, appointed by the Council, and not employed by the City of Cleveland Heights.

(b) The terms of all members shall be for a period of six (6) years. A vacancy occurring during the term of any member shall be filled for the unexpired term in the manner authorized for an original appointment. Council may remove any member for cause.

(c) There shall be the following nonvoting members of the Planning Commission: the Chairman of the Council Planning and Development Committee, and the Mayor.

(d) The Commission shall annually choose a ~~Chairman~~chairperson from its members, who shall serve until his or her successor is chosen.

#### **1111.03 COMPENSATION OF MEMBERS; PAYMENT OF EXPENSES.**

The ~~Chairman~~chairperson and other ~~citizen~~ members of the Planning Commission each shall receive such compensation, and the expenses of the Planning Commission shall be paid, as Council may provide by ordinance.

#### 1111.04 SECRETARY; DUTIES AND RECORDS.

A Secretary of the Planning Commission shall be provided by the Planning and Development Director. The Secretary shall keep a permanent record of the attendance of the members and of the proceedings of the Planning Commission, showing its action and the votes of the several members upon all resolutions, decisions and proceedings of the Planning Commission. The Secretary shall prepare all notices, conduct all correspondence and perform such other duties as shall be required by the Planning Commission. All files and records shall be kept ~~in the City Hall~~ and shall be public records.

#### 1111.05 MEETINGS AND QUORUM.

Subject to the provisions of Chapter 107 of the Codified Ordinances, all meetings of the Planning Commission shall be public and shall be held in the City Hall at such times as the Commission determines. Attendance by Commission members shall be in person. The presence of four (4) or more members shall constitute a quorum for the transaction of all business and action by the Commission on any matter shall be effected by the concurring votes of at least four (4) members.

#### 1111.06 POWERS AND DUTIES OF THE COMMISSION.

For the purpose of this Zoning Code, the Planning Commission has the following powers and duties:

(a) Pursuant to Article XI, Section 2 of the City Charter, the Planning Commission may make recommendations to Council and the Mayor on all matters affecting the physical development of the City. These may include, without limitation:

(1) To make recommendations on plans and maps of the whole or any portion of the City and make recommendations on changes in such plans or maps when it deems it advisable;

(2) To investigate and propose on its own initiative recommendations for such amendments to the Zoning Code as it may deem wise and proper;

(3) To investigate and prepare on its own initiative recommendations for the location and design of public parks, parkways, playgrounds, recreational facilities and other park areas;

(b) In addition to the powers conferred by Charter, the Planning Commission shall have the following powers and duties:

(1) To review and approve or disapprove an application for a conditional use for a particular zoning lot;

(2) To determine that a proposed use that is not listed or provided for in this Zoning Code is substantially similar to a principal or conditionally permitted use that is listed and provided for in this Code;

(3) To review development plans and/or conditional uses as required by this Zoning Code;

(4) To hear any unresolved complaints concerning any conditional use permits, including those issued by the Zoning Administrator. Planning Commission shall have the power to revoke, modify, or affirm any issued conditional use permits that are the subject of unresolved complaints;

(5) To review any substantial changes to public parks.

(6) To review ordinances submitted to it by Council, including ordinances to amend the Zoning Code and Map and to submit to Council the Commission's recommendations with respect to such ordinances;

(7) To review and approve or disapprove plats for the resubdivision of any lots or parcels of land. As used in this ~~chapter~~Chapter, resubdivision includes either dividing or joining of lots or parcels;

(8) To recommend to the Landmark Commission for its consideration such places, buildings, structures, works of art and other suitable objects as the Planning Commission shall believe may be eligible for a designation as a landmark, in accordance with Chapter 143 of the Codified Ordinances;

(9) At the request of Council to investigate and make recommendations to Council with respect to:

A. The general design and development plan for the location, relocation or removal (elimination or demolition) of, or major alterations in or with respect to, public buildings or other public structures, including landscaping with respect to any new or relocated facility referred to in this subsection.

B. The establishment, location, relocation or vacation of streets, highways or other public places.

C. Any proposed ordinance or regulation proposing or dealing with or related to any feasibility study with respect to the use and/or development of land within the City, including transportation plans or proposals, capital improvements, land acquisitions, land use and any and all other programs for the development and/or improvement of the City or a portion thereof.

(10) To adopt rules and bylaws for the holding of regular and special meetings, for the transaction and disposition of its business and the exercise of its powers.

(11) To otherwise fulfill responsibilities which may be conferred upon the Planning Commission by action of Council.

## **CHAPTER 1113**

### **Board of Control**

1113.01 Establishment; powers and duties.

1113.02 Membership.

1113.03 Meetings and quorum.

#### **CROSS REFERENCES**

Board of Control review of S-1 District proposal - see P. & Z. 1143.10(c)

#### **1113.01 ESTABLISHMENT; POWERS AND DUTIES.**

The Board of Control is established to administer the provisions of Chapter 1143 governing the S-1 Mixed Use District. The Board shall have full power and authority to do and perform any and all acts provided for herein and necessary or incident to the successful administration and execution of the powers provided for in this Zoning Code. Such powers so granted are subject to the powers reserved to Council by Section 1143.10.

#### **1113.02 MEMBERSHIP.**

The Board of Control shall consist of five (5) members: the President of Council; the ~~Chairman~~ chairperson of the Planning and Development Committee of Council; the Mayor; the ~~Chairman~~ chairperson of the Planning Commission; and the ~~Chairman-chairperson~~ of the Board of Zoning Appeals; by virtue of their respective offices or positions. All members shall serve without compensation.

#### **1113.03 MEETINGS AND QUORUM.**

Subject to the provisions of Chapter 107 of the Codified Ordinances, all meetings of the Board of Control shall be public and shall be held in the City Hall, at such times as the Board determines. Except as otherwise provided by the Charter or Codified Ordinances, attendance by Board members shall be in person. The presence of three (3) or more members shall constitute a quorum for the transaction of all business. The transaction of all business and action by the Board of Control shall be effected by the concurring votes of at least three (3) members.

## CHAPTER 1115

### Procedures

- 1115.01 Purpose.
- 1115.02 Building permit required.
- 1115.03 Building permits contrary to Zoning Code are void.
- 1115.04 Utility uses; exception.
- 1115.05 Record of zoning approval and certificates of compliance.
- 1115.06 Appeals; procedure and hearing.
- 1115.07 Variances; procedures and review criteria.
- 1115.08 Conditional uses; submission requirements and procedures.
- 1115.09 Review of development plans for conditional uses.
- 1115.10 Determination of similar uses.
- 1115.11 Review of development plans for S-1 Mixed Use District.
- 1115.12 Schedule of fees.
- 1115.13 Special exceptions.

#### CROSS REFERENCES

- Zoning Administrator - see P. & Z. Ch. 1107
- Board of Zoning Appeals - see P. & Z. Ch. 1109
- Planning Commission - see P. & Z. Ch. 1111

#### 1115.01 PURPOSE.

(a) In order to accomplish the purposes for which this Zoning Code is adopted, it is essential that its regulations be soundly and consistently applied, and that this Code be vigorously administered.

(b) Administrative provisions are accordingly established in this ~~chapter~~Chapter to carry out the purposes and other substantive provisions of this Zoning Code, and in particular:

(1) To establish procedures for the administration of this Code.

(2) To establish procedures for considering and acting upon applications for building permits, appeals from administrative actions, requests for variances, requests for conditional uses, determination of similar uses and approval of development plans for a conditional use.

#### 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. If applicable, No-no building permit shall be issued until the Zoning Administrator or designated agent has approved the application for the permit for Zoning Code compliance.

(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~~ Chapter and has been approved by Council, as applicable;

(3) The Planning Commission or Zoning Administrator has issued a conditional use permit for the conditional use in accordance with the procedures described in this ~~chapter~~ Chapter;

(4) The Planning Commission has made a determination in accordance with the procedures described in this ~~chapter~~ 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, as applicable;

(2) Review by the Architectural Board of Review, as applicable;

(3) Review by the Landmarks Commission, as applicable;

~~(34)~~ Review by the Planning Commission or Board of Control, as applicable;

~~(45)~~ Review by Council, as applicable.

(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, as applicable;

(2) Review by the Board of Zoning Appeals, as applicable;

(3) Review by the Planning Commission or Board of Control, as applicable;

(4) Review by Council, as applicable.

(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.

#### 1115.03 BUILDING PERMITS CONTRARY TO ZONING CODE ARE VOID.

Any permit issued contrary to the provisions of this Zoning Code shall be void. Any material misstatement of fact by an applicant for a permit or any material misrepresentation in the plans or specifications shall render void any permit issued pursuant thereto.

#### 1115.04 UTILITY USES; EXCEPTION.

Except as otherwise provided in this Zoning Code, no provision in this Code which in any way restricts the use of lands or buildings shall be held to apply to locating the distribution lines of public utility companies, whether municipally owned or privately owned, such as water mains, gas mains, telephone and electric lines above or below ground, essential for the service to the residents

of the community. The foregoing exclusion, however, shall not include permanent storage yards, supply depots, manufacturing or service and repair shops, or distribution, transmission and transformer stations as specifically listed and regulated in Sections 1123.04 and 1131.02.

#### 1115.05 RECORD OF ZONING APPROVAL AND CERTIFICATES OF COMPLIANCE.

The Zoning Administrator shall maintain a record of all action taken by the Board of Zoning Appeals and Planning Commission, and copies shall be furnished, upon request, and upon payment of the established fee to any person.

#### 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 seventy-five (75) 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 posted on the City's website 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 variance from a 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, or legal interest ~~or and~~ 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 ten (10) 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 seventy-five (75) 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~~ posted on the City's website 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 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 if required 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 finding of the Board granting such variance shall be filed with the Clerk of Council. The record before the Board as well as a staff report 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 forty-five (45) 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 forty-five (45) day period. However, should Council approve the action of the Board within the forty-five (45) 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, 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~~ 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-use~~ applications requiring approval by the Planning Commission shall be reviewed 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 ten (10) 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 seventy-five (75) 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~~ posted on the City's website 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 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~~ 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 development plan conditional use permit ~~for development~~ under the provisions of this ~~chapter~~ 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~~Stormwater shall address requirements of Chapter 1335, ~~Storm Water~~Stormwater 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 District or for a ~~planned-Planned residential Residential development-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.

#### 1115.10 DETERMINATION OF SIMILAR USES.

Where a specific use is proposed that is not listed or provided for in this Zoning Code, the Planning Commission may make a determination that the proposed use is substantially similar to a specific use that is listed or provided for as a principal or conditionally permitted use in this Code. If the Commission finds that a use is substantially similar to a specific use listed in this Code, the substantially similar use may be permitted as a conditional use in those districts which have the principal use or conditionally permitted use most similar. Similar uses shall be approved in accordance with the conditional use procedures set forth in Sections 1115.08 and 1115.09.

#### 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.

#### 1115.12 SCHEDULE OF FEES.

Council shall by ordinance establish a schedule of fees for building permits, amendments, appeals, variances, conditional use permits, and other procedures and services pertaining to the administration and enforcement of this Zoning Code after considering the recommendations of the Zoning Administrator with respect to actual administrative costs, both direct and indirect. The schedule of fees shall be available at City Hall on the City's website, and may be altered or amended only by Council. Until all such appropriate fees, charges, and expenses have been paid in full, no action shall be taken on any application, appeal, or administrative procedure.

#### 1115.13 SPECIAL EXCEPTIONS.

Property owners seeking a special exception from the Board of Zoning Appeals shall adhere to the procedures set out in Section 1115.07 for property owners seeking a variance, though Section 1115.07(e) shall not apply. Instead, the Board shall review the request for a special exception according to the terms of the section of this Code in which the special exception is authorized.

## **CHAPTER 1117**

### **Enforcement and Penalties**

- 1117.01 Enforcement by Zoning Administrator.
- 1117.02 Construction and use to be as provided in applications, plans, permits and certificates.
- 1117.03 Complaints regarding violations.
- 1117.04 Entry and inspection of property.
- 1117.05 Stop work order.
- 1117.06 Permit revocation.
- 1117.07 Notice of violation.
- 1117.99 Penalties.

#### **CROSS REFERENCES**

Department of Planning and Development - see ADM. Ch. 127

Zoning Administrator - see P. & Z. Ch. 1107

Building permit required - see P. & Z. 1115.02

#### **1117.01 ENFORCEMENT BY ZONING ADMINISTRATOR.**

The provisions of this Zoning Code shall be administered and enforced by the Zoning Administrator or a designated agent.

#### **1117.02 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS AND CERTIFICATES.**

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

#### **1117.03 COMPLAINTS REGARDING VIOLATIONS.**

Whenever a violation of this Zoning Code occurs, or is alleged to have occurred, any person may file a complaint according to the rules and procedures established by the Department of Building.

#### **1117.04 ENTRY AND INSPECTION OF PROPERTY.**

(a) The Zoning Administrator, or a designated agent, is hereby granted the power and authority to enter, at reasonable times, any premises in the City to investigate a condition which might constitute a violation of the provisions of this Zoning Code. The Zoning Administrator shall have the authority to require the person in control of or in charge of such premises to furnish a statement

as to the number of persons occupying the premises, the terms and conditions of such occupancy and such other information as may be deemed pertinent to the investigation.

(b) Prior to entry to any property or structure for such examination or survey, the Zoning Administrator shall obtain the permission of the owner or occupant to inspect. If such permission is denied or cannot be obtained, the Zoning Administrator shall secure a valid search warrant prior to entry.

#### 1117.05 STOP WORK ORDER.

Subsequent to a determination that work is being done contrary to this Zoning Code, the Zoning Administrator or designated agent shall write a stop work order and post it on the premises involved. Removal of a stop work order, except by the order of the Zoning Administrator or designated agent, shall constitute a punishable violation of this Code.

#### 1117.06 PERMIT REVOCATION.

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

#### 1117.07 NOTICE OF VIOLATION.

Whenever the Zoning Administrator or designated agent finds any building, structure or premises, or any part thereof, to be in violation of the provisions of this Zoning Code, he or his agent shall give or cause to be given or mailed to the owner, agent, occupant or operator of such structure or premises a written notice stating the violation therein. Such notice shall order the owner, agent, occupant or operator, within a stated reasonable time to comply with the Zoning Code. Such delivery or mailing shall be deemed legal service of notice. If the person to whom a notice of violation is addressed cannot be found within Cuyahoga County after a reasonable and diligent search, then notice shall be sent by registered mail to the last known address of such person, and a copy of such notice shall be posted in a conspicuous place on the structure or premises to which it relates. Such mailing and posting shall be deemed legal service of notice.

#### 1117.99 PENALTIES.

(a) It shall be unlawful to:

(1) Use or occupy any land or place; build, erect, alter, remodel, restore or rebuild thereon any building or structure; or permit any building or structure to remain on such land; or use, occupy, or operate such building or structure, in any way or for any use or purpose which is not permitted by the provisions of this Zoning Code; or

(2) Use or occupy any parcel of land or use or occupy a new building or make an enlargement or substitution or other change in the use or occupancy of any land or building without having

received approval indicating compliance with the provisions of this Zoning Code from the Zoning Administrator; or

(3) Aid, assist, or participate with any person in placing, building, erecting, altering, remodeling, restoring or rebuilding any building or structure which is not permitted by the provisions of this Zoning Code; or

(4) Violate or fail to perform any condition, stipulation or safeguard set forth in any permit issued pursuant to this Zoning Code or continue to use or occupy the premises or building as previously authorized by such permit beyond the duration limit therein stated; or

(5) Fail to maintain any conditions, stipulations, or safeguards imposed by the Board of Zoning Appeals or the Planning Commission when a variance was granted or conditional use permit issued; or

(6) Continue construction, renovation, or improvements contrary to a stop work order or notice of violation; or

(7) Refuse to permit the Zoning Administrator to enter any premises in the City to investigate a reported violation of the provisions of this Zoning Code or refuse or fail to furnish to such Zoning Administrator a statement as to the number of persons occupying such premises; or

(8) Knowingly make any materially false statement of fact in an application to the Zoning Administrator for a permit or in the plans or specifications submitted to the Zoning Administrator in relation to such application.

(b) Any person, firm or corporation who violates this Zoning Code, or fails to comply with any of its requirements, shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00), or imprisoned not more than six (6) months, or both, for each act or omission, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues after receipt of a violation notice shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

## CHAPTER 1119 Amendments

- 1119.01 Amendment by Council.
- 1119.02 Contents of application or petition for zoning map amendment.
- 1119.03 Transmittal to Planning Commission.
- 1119.04 Recommendation by Planning Commission.
- 1119.05 Public hearing by Council.
- 1119.06 Notice to property owners by Council.
- 1119.07 Action by Council.
- 1119.08 Annual Code review by Planning Commission.

### CROSS REFERENCES

- Records of zoning amendments - see P. & Z. 1107.02(f)
- Amendment by Council - see P. & Z. 1119.01
- Zoning Map amendment application - see P. & Z. 1119.02

#### 1119.01 ZONING TEXT AMENDMENTS 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~~ 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 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.

### 1119.03 TRANSMITTAL TO PLANNING COMMISSION.

After the introduction of an amending ordinance by Council such amending ordinance shall be transmitted to the Planning Commission for its consideration and recommendation. The Commission shall be allowed a reasonable time, not less than thirty (30) days, nor more than sixty (60) days for its consideration and recommendations.

### 1119.04 RECOMMENDATION BY PLANNING COMMISSION.

The Planning Commission may recommend to Council that the amendment be granted as requested, or it may recommend a modification of the amendment as requested, or it may recommend that the amendment be denied. The decision of the Planning Commission shall indicate the specific reason(s) upon which the recommendation is based. If the Planning Commission does not make a recommendation within sixty (60) days, and the time for responding is not extended by Council, Council shall determine that the recommendation of the Planning Commission is that the amendment be denied.

### 1119.05 PUBLIC HEARING BY COUNCIL.

At the time of transmission of the amending ordinance to the Planning Commission, notice of the public hearing shall be given by Council by ~~at least one (1) publication in one (1) or more newspapers of general circulation in the City~~ posting on the City's website. Such notice shall be published ~~at least thirty (30) days before~~ prior to the date of the required hearing, per the notice regulations in Chapter 107 of the Codified Ordinances. The published notice shall set forth the time and place of the public hearing and a summary of the proposed amendment.

### 1119.06 NOTICE TO PROPERTY OWNERS BY COUNCIL.

If the proposed amendment intends to rezone or redistrict ten (10) or less parcels of land, ~~as listed on the tax duplicate~~, written notice of the hearing shall be mailed by the Clerk of Council, ~~by first class mail, at least twenty (20) days before~~ prior to the date of the public hearing, per the notice regulations in Chapter 107 of the Codified Ordinances, to all owners of property with, contiguous to, and directly across the street from such area proposed to be rezoned or redistricted to the addresses of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list, and to such other list or lists that may be specified by Council. The failure to deliver the notification as provided in this section shall not invalidate any such amendment. The notice shall contain the same information as required of notices ~~published in newspapers~~ as specified in Section 1119.05.

#### 1119.07 ACTION BY COUNCIL.

After the public hearing required by Section 1119.05, Council shall either adopt or deny the recommendation of the Planning Commission or adopt some modification thereof. If the Planning Commission recommends disapproval of a proposal for a Zoning Code amendment, Council shall not pass the proposed amendment except by the concurring votes of not less than three-fourths (3/4) of the members of Council. Any such proposal may be amended prior to the voting thereon by Council without further notice or postponement, if such amendment to the proposal shall be germane to the subject matter thereof and is in accord with the recommendation, if any, of the Commission.

#### 1119.08 ANNUAL CODE REVIEW BY PLANNING COMMISSION.

The Planning Commission shall review the entire Zoning Code at least once each year and make recommendations to Council as to any changes which it recommends to improve this Zoning Code. The first annual review by the Planning Commission shall be completed not later than December 31, 1992, and each subsequent annual review shall be completed not later than December 31 of each year thereafter.

### ***TITLE THREE - District Regulations***

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

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

Chap. 1131. Commercial Districts.

Chap. 1133. Park District.

RECOMMENDED

## **CHAPTER 1121**

### **AA and A Single-Family and B Two-Family Residential Districts**

- 1121.01 Purpose.
- 1121.02 Permitted uses.
- 1121.03 Principal uses.
- 1121.04 Conditionally permitted uses.
- 1121.05 Accessory uses.
- 1121.06 Minimum lot area and width regulations.
- 1121.07 Minimum lot frontage.
- 1121.08 Minimum yard requirements for principal uses.
- 1121.09 Dwelling unit requirements.
- 1121.10 Height regulations.
- 1121.11 Buildings permitted on a zoning lot.
- 1121.12 Accessory use regulations.

#### **CROSS REFERENCES**

Establishment of Districts and Maps - see P. & Z. Ch. 1105  
Additional regulations governing uses - see P. & Z. Ch. 1165

#### **1121.01 PURPOSE.**

Cleveland Heights is a City primarily consisting of single-family residences, most of which are owner-occupied. Single-family residences are extremely sensitive to adverse effects from other land uses and require high standards for occupancy and use of the principal building as well as location and use of accessory buildings if these areas are to be maintained and to continue to be good places in which to live. In addition, certain parts of Cleveland Heights have been developed primarily with two-family residences having a similar character to the single-family districts, and it is appropriate that there be a zoning district for this distinctive use. Single-family and two-family district regulations are established to achieve the following particular objectives:

- (a) The AA Single-Family District is established to provide for single-family residential uses with a minimum lot size of 15,000 square feet, compatible with the existing larger lot developments in areas so defined, as a means of preserving the unique character of these areas.
- (b) The A Single-Family District is established to provide for single-family residential uses on smaller lots with a minimum of 7,500 square feet.
- (c) The B Two-Family District is established to permit single-family units on lots with a minimum of 7,500 square feet and two-family residential uses with a minimum lot size of 10,000 square feet.
- (d) To encourage as a conditional use flexible residential development to promote creative and efficient use of land through unified development.
- (e) To regulate the location and lot coverage of accessory uses, buildings and structures so as to permit such uses to be established and maintained in a manner which makes them compatible with the existing residential neighborhoods.
- (f) To encourage sustainable development and practices in residential neighborhoods.

#### 1121.02 PERMITTED USES.

(a) In the AA or A Single-Family Districts or B Two-Family District, land and structures shall be used or occupied, or structures shall be erected, constructed, enlarged, moved, or structurally altered only for a principal use specified, or a conditional use in accordance with Title Seven, or an accessory use to a permitted principal or conditional use as regulated herein. Sections 1121.03 through 1121.05 enumerate those uses that may locate in each AA, A and B ~~zoning district~~ District as a matter of right, either as a principal or accessory use, and those uses which may locate in a given district only upon obtaining a conditional use permit.

(b) Although a use may be indicated as permitted or conditionally permitted in a particular district, it shall be approved on a parcel only when it can be located thereon in full compliance with all of the standards and other regulations of this Zoning Code applicable to the specific use and parcel in question.

#### 1121.03 PRINCIPAL USES.

When denoted by the letter P, a use listed below is a principal use permitted by right in the AA and A Single-Family and B Two-Family Residential Districts provided that all requirements of ~~other city ordinances~~ the Codified Ordinances and this Zoning Code have been met.

|     | <i>Land Use Category</i>         | <i>AA District</i> | <i>A District</i> | <i>B District</i> |
|-----|----------------------------------|--------------------|-------------------|-------------------|
| (a) | Single-Family Detached Dwellings | P                  | P                 | P                 |
| (b) | Two-Family Dwellings             |                    |                   | P                 |

#### 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 parking lot, parking deck, or parking garage) as a principal use;
- (k) Accessory parking spaces for a commercial use, contiguous with a C-1, C-2, C-2X, ~~or C-3, District S-1, or S-2 District~~, as regulated in Code chapters subject to the regulations of Section 1153.05(f) & Chapter 1161;

(l) Accessory parking for a ~~multiple~~multi-family use contiguous with MF-1, MF-2, MF-3, S-1, S-2, ~~a~~C-1, C-2, C-2X, or C-3 District, ~~as regulated in Code chapters~~subject to the regulations of Chapter 1161;

(m) Day care center and 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~~subject to the regulations of Sections 1153.03(b)(50) ~~and Section~~& 1153.05(aa);

(s) Adaptive reuse of non-residential buildings in residential districts;

(t) Farmers' markets; ~~and~~

(u) Community gardens.

#### 1121.05 ACCESSORY USES.

Accessory buildings, structures, and uses, subject to the regulations in Section 1121.12 and as noted, are permitted in association with and subordinate to a permitted or conditionally permitted use in the AA and A Single-Family and B Two-Family Residential Districts and are limited to the following:

(a) Private parking garages and related residential off-street parking, subject to the regulations of Chapter 1161;

(b) Signs, subject to the regulations of Chapter 1163;

(c) Home occupations in a dwelling unit, subject to the regulations of Section 1165.02(b);

(d) Swimming pools and associated pool house;

(e) Porches, decks, patios, and gazebos;

(f) Storage shed, and other similar buildings for the storage of domestic supplies;

(g) Fences;

(h) Noncommercial greenhouse not to exceed twenty-five percent (25%) of ground floor area of the principal building;

(i) Vegetable/edible and flower gardens;

(j) Children's play equipment;

(k) Gatehouse, guard house;

(l) Parking of non-passenger vehicles, subject to the regulations of Section 1165.02(c);

(m) Parking of recreational vehicles, subject to the regulations of Section 1165.02(d);

(n) Portable on-demand storage structures, subject to the regulations of Section 1165.02(f);

(o) Rain barrels and above-ground cisterns;

(p) Laundry clotheslines;

(q) Ornamental pool;

(r) Compost bins, subject to the regulations of Section 1121.12(o)~~of this Code~~; and

(s) Chicken coops or runs, subject to the regulations of Section 1153.05(gg)~~of this Code~~.

## 1121.06 MINIMUM LOT AREA AND WIDTH REGULATIONS.

The minimum area and width of a lot that may be used for purposes of a dwelling are specified below.

| <b>District</b> | <b>Type of Dwelling</b> | <b>Minimum Lot Area (Square Feet)</b> | <b>Minimum Lot Width at Building Line (Feet)</b> |
|-----------------|-------------------------|---------------------------------------|--------------------------------------------------|
| AA              | Single-Family           | 15,000                                | 100                                              |
| A               | Single-Family           | 7,500                                 | 50                                               |
| B               | Single-Family           | 7,500                                 | 50                                               |
| B               | Two-Family              | 10,000                                | 60                                               |

## 1121.07 MINIMUM LOT FRONTAGE.

Every zoning lot or tract of land shall have a width at the front lot line of not less than twenty-five (25) feet, and at no point shall the width be less than twenty-five (25) feet between the front lot line and the building line.

## 1121.08 MINIMUM YARD REQUIREMENTS FOR PRINCIPAL USES.

For each principal use located in the AA, A and B Districts, front, side, and rear yards shall be provided in accordance with the dimensions specified in the following table, except as regulated in subsections (a), (b) and (c) hereof. Each yard shall be unobstructed by any structure except as otherwise provided in this ~~chapter~~Chapter. Such areas, together with all other portions of the zoning lot not covered by permitted structures, shall be landscaped with grass, trees, shrubbery and/or other appropriate ground cover or landscaping material, which shall be adequately maintained, so as to assure absorption of rainfall, and to prevent erosion from rapid runoff of surface water.

|                 | <b>Schedule 1121.08</b><br><b>Minimum Dimensions in Feet</b><br>Except as regulated in subsections (a) and (b) |                        |                             |                                    |
|-----------------|----------------------------------------------------------------------------------------------------------------|------------------------|-----------------------------|------------------------------------|
| <b>District</b> | <b>Front Yard Depth</b>                                                                                        | <b>Rear Yard Depth</b> | <b>Each Side Yard Width</b> | <b>Each Corner Side Yard Width</b> |
| AA              | 30                                                                                                             | 30                     | 10                          | 20                                 |
| A               | 25                                                                                                             | 30                     | 5                           | 15                                 |
| B               | 20                                                                                                             | 30                     | 5                           | 10                                 |

(a) Front Yards on Partially Built-up Blocks. Where, on the effective date of this Zoning Code (Ordinance 56-1970, passed December 7, 1970), forty percent (40%) or more of a block face was occupied by two (2) or more dwellings, then the required front yard for a lot proposed for development shall be established in the following manner:

(1) Where the dwelling farthestmost from the street provides a front yard not more than ten (10) feet deeper than the dwelling closest to the street, then the required front yard shall be an average of the existing front yards;

(2) Where subsection (a)(1) hereof is not the case and a lot is within 100 feet of a dwelling on each side, then the front yard is a line drawn from the closest front corners of these two adjacent dwellings;

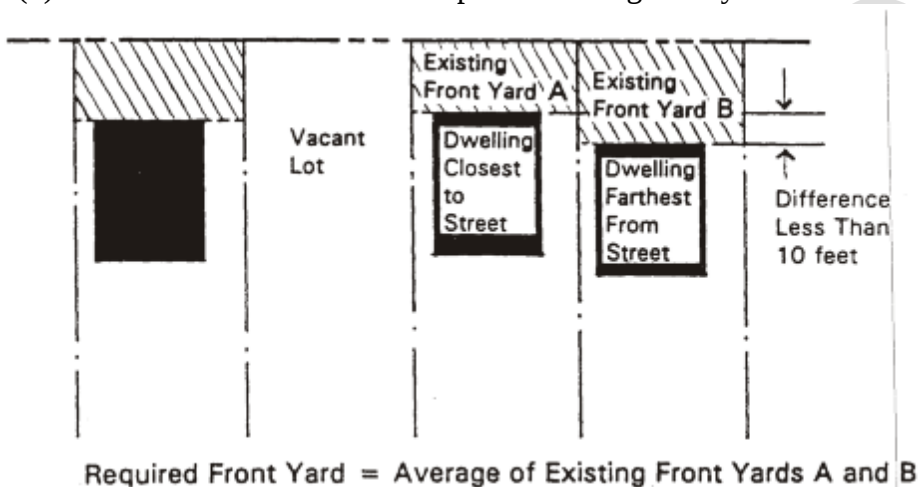
(3) Where neither subsections (a)(1) or (2) hereof are the case, and the lot is within 100 feet of an existing dwelling on one (1) side only, then the front yard is the same as that of the existing adjacent dwelling;

(4) An addition to the front of an existing dwelling shall comply with the required front yard set forth in the above table unless the adjacent dwellings have a front yard greater than required in the above table, in which case the addition shall comply with the front yard regulations established in subsections (a)(1), (2) or (3) hereof as applicable.

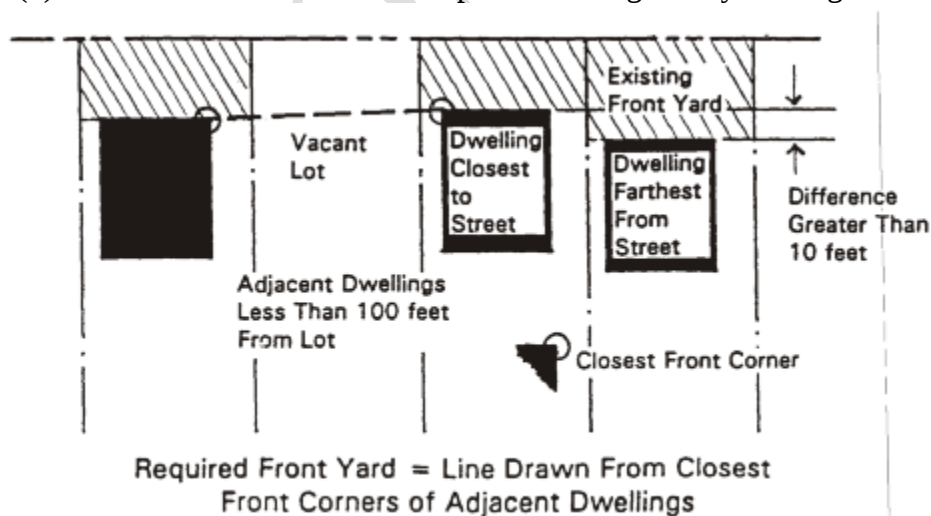
## ILLUSTRATION OF FRONT YARDS ON PARTIALLY BUILT UP BLOCKS IN AA, A AND B DISTRICTS

### Section 1121.08(a)

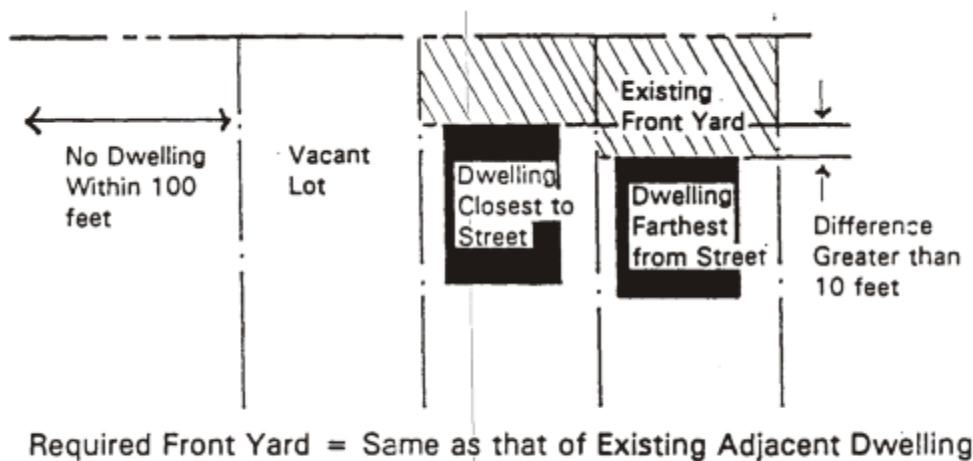
(1) When the difference in the depth of existing front yards is less than 10 feet:



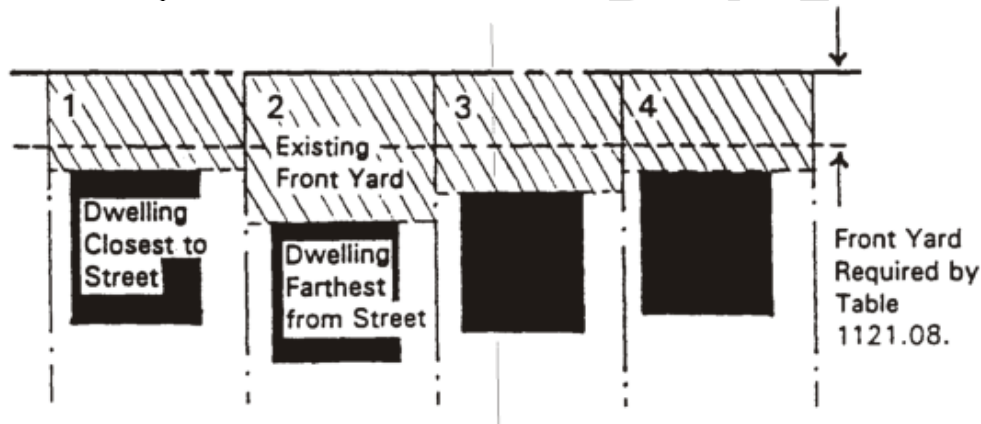
(2) When the difference in the depth of existing front yards is greater than 10 feet:



(3) When there is only one (1) dwelling within 100 feet (and #1 does not apply):



(4) When an addition to the front of an existing dwelling is proposed on a lot when the front yard is greater than required:



Dwelling 1 - No addition permitted.

Dwelling 2 - May add on to dwelling in compliance with subsection (a)(1) or (a)(2).

Dwelling 3 - May add on to dwelling in compliance with subsection (a)(2).

Dwelling 4 - No addition permitted.

(b) Yards on Corner Lots. Where new construction or an addition to an existing building is proposed for a corner lot, such building or building addition shall maintain a corner side yard that complies with the following:

(1) When the rear lot line of a corner yard coincides with the rear lot line of another corner lot the corner side yard shall be the greater of:

A. The corner side yard of the abutting corner lot; or

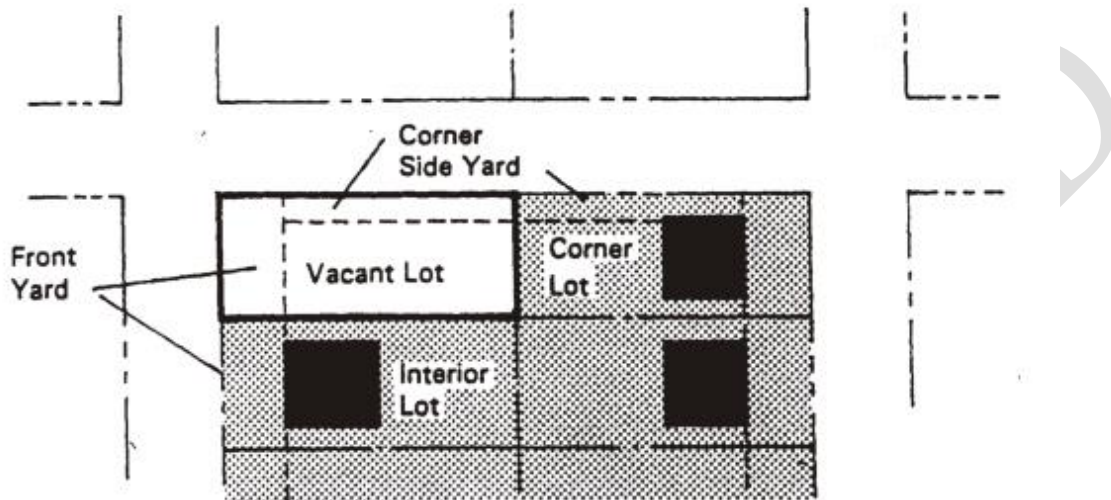
B. Twenty (20) feet in an "AA" District; fifteen (15) feet in an "A" District; and ten (10) feet in a "B" District.

(2) When the rear lot line of a corner lot coincides with the side lot line of an interior lot, the corner side yard shall comply with the requirements for a front yard, including subsection (a) hereof for front yard dimensions on partially built-up blocks.

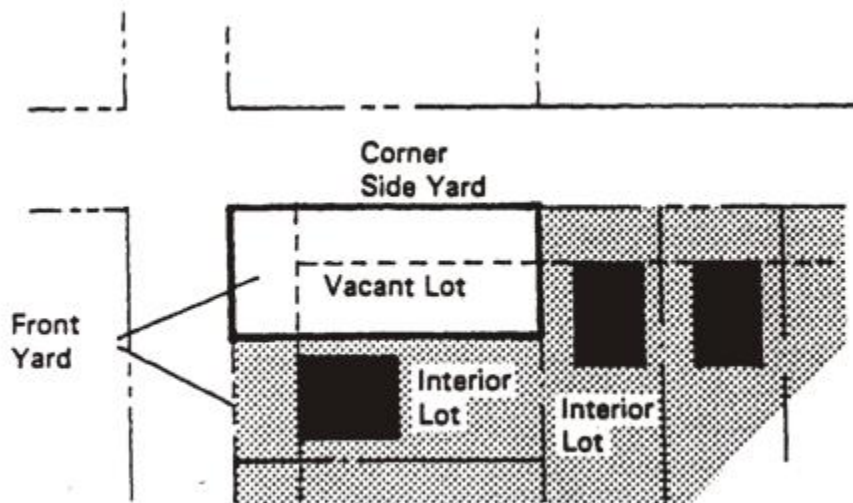
**ILLUSTRATIONS OF CORNER SIDE YARD REQUIREMENTS FOR PRINCIPAL BUILDINGS IN AA, A AND B DISTRICTS**  
**Section 1121.08(b)**

(1) NEW CONSTRUCTION

(a) Corner Lot Abutting Another Corner Lot.

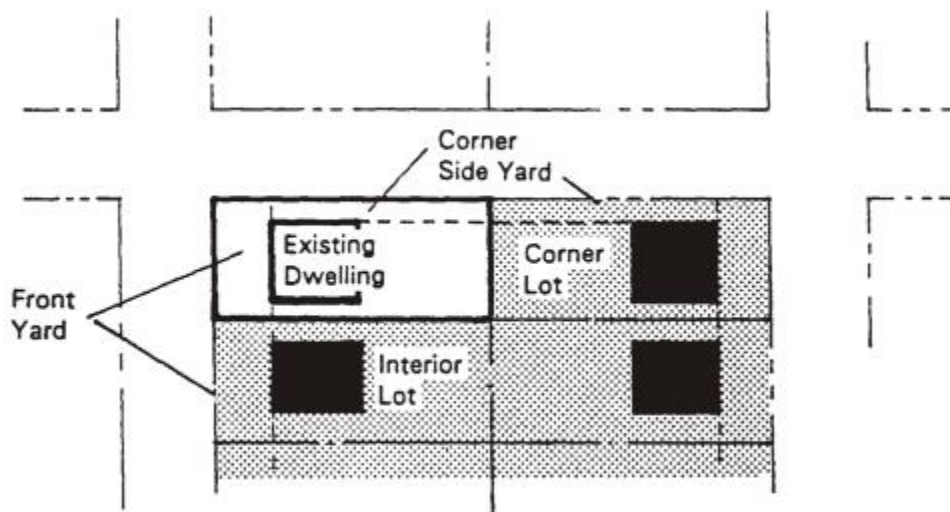


(b) Corner Lot Abutting Interior Lots.

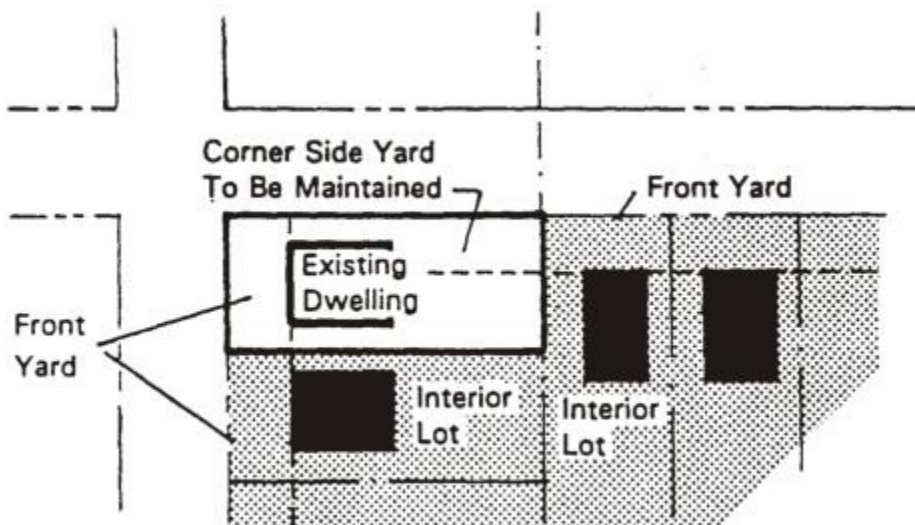


(2) NEW ADDITION

(a) Corner Lot Abutting Another Corner Lot.



(b) Corner Lot Abutting Interior Lots.



(c) Rear Yard Addition Encroachments. Existing single-family homes in the A and B Districts on existing lots that do not meet existing lot area requirements may encroach up to ten (10) feet into rear yards for additions if the following standards are met, subject to Zoning Administrator and Architectural Board of Review review and approval:

(1) Such encroachment will not alter the essential character of the rear yard development pattern within the block the lot is located upon. The applicant must supply contextual photographs of the general neighborhood. These include photographs of the view of rear yards of structures on

either side, as seen from the subject property's rear yard, and photographs of the front facades of the blockface. These may be supplemented with aerial images obtained online.

(2) On-site improvements must be made to accommodate detention of the stormwater generated within the area of encroachment by a five-year, 24-hour storm event.

A. Examples of such improvements include, but are not limited to, the use of rain barrels, cisterns, dry wells, French drains beneath driveways, permeable pavers or porous asphalts. The Zoning Administrator may require that the improvements be permanent in nature, such as semi-pervious surfaces, cisterns and French drains. Landscaping improvements such as rain gardens may also be permitted to satisfy this requirement.

B. The City may require the applicant to provide a detention plan prepared by a civil engineer. This would be determined on a case-by-case basis.

#### 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.

(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 parking garages, or other attached structures not intended for human occupancy shall be excluded.

| <i>District</i> | <i>Type of Dwelling</i> | <i>Minimum Floor Area Per Dwelling Unit<br/>(In Square Feet)</i> |
|-----------------|-------------------------|------------------------------------------------------------------|
| AA              | Single Family           | 2,000                                                            |
| A               | Single Family           | 1,500                                                            |
| B               | Single Family           | 1,500                                                            |
| B               | Two Family              | 1,000                                                            |

#### 1121.10 HEIGHT REGULATIONS.

In AA and A Single-Family and B Two-Family Districts, the height of any building for a permitted principal use shall not exceed thirty-five (35) feet or two and one-half (2-1/2) stories, except for appurtenances as regulated in Section 1165.04.

#### 1121.11 BUILDINGS PERMITTED ON A ZONING LOT.

There shall be not more than one (1) single-family or, where permitted, one (1) two-family dwelling located on a zoning lot, except as otherwise provided for in this Zoning Code, and both units of a two-family dwelling shall be within the same building.

## 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 private parking garages are subject to all yard requirements for a principal building specified in Section 1121.08 and shall comply with the floor area regulations for private parking 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 (1p).

### Schedule 1121.12(a)

#### MINIMUM YARD REQUIREMENTS FOR ACCESSORY BUILDINGS AND STRUCTURES

| Permitted Use, Structure, Building                                                                                                                   | Yard in Which Permitted                                                                                             | Minimum Distance (in feet) From |                              |                          |                    |
|------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|---------------------------------|------------------------------|--------------------------|--------------------|
|                                                                                                                                                      |                                                                                                                     | Rear Lot Line                   | Side Lot Line                | Side Street (Corner Lot) | Principal Building |
| (1) Detached private parking garage                                                                                                                  | Rear                                                                                                                | 3(a)(i)                         | 3(i)                         | 25(b)                    | 0                  |
|                                                                                                                                                      | Side                                                                                                                | 5(a)(i)                         | (c)(i)                       | 25(b)                    | 0                  |
| (2) Pool house, <del>storage shed (e)</del> , other similar buildings                                                                                | Rear only                                                                                                           | 5                               | 5                            | (e)                      | 0                  |
| (3) Swimming pool (above and below ground)                                                                                                           | Rear and side                                                                                                       | 15                              | 15                           | 15(b)                    | 5                  |
| (4) Deck, porch, handicap ramp, steps, hot tub and similar structures exceeding 3 feet in height (f) <del>(k)</del>                                  | 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) <del>(k)</del>                    | Rear and side                                                                                                       | 3                               | 3                            | (d)                      | 0                  |
|                                                                                                                                                      | Front                                                                                                               |                                 | See Section 1121.12(b)       |                          |                    |
| (6) Fences exceeding 4 feet in height                                                                                                                | Rear side and corner side                                                                                           | (g)                             | (g)                          | (g)                      | 0(g)               |
| (7) Fences not exceeding 4 feet in height (k)                                                                                                        | Front, side, rear and corner side                                                                                   | 0(g)                            | 0(g)                         | 0(g)                     | 0(g)               |
| (8) Sidewalk and driveway                                                                                                                            | Front, side, <u>corner side</u> , and rear                                                                          | 3                               | 3                            | NA                       | 0                  |
| (9) Reserved                                                                                                                                         | Reserved                                                                                                            | Reserved                        | Reserved                     | Reserved                 | Reserved           |
| (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)- | <u>3</u>                        | <u>AA-10 &amp; A&amp;B-5</u> | <u>NP</u>                | <u>NA</u>          |
| (11) Rain Barrels and Above Ground Cisterns (j)                                                                                                      | Rear, <u>front</u> , and side; <u>provide standard screening, see note (m)</u>                                      | (j)                             | (j)                          | (j)                      | 0                  |
| (12) Laundry clothesline                                                                                                                             | Rear only                                                                                                           | 3                               | 3                            | NA                       | 0                  |
| (13) Vegetable/edible gardens                                                                                                                        | (l)                                                                                                                 | (l)                             | (l)                          | (l)                      | (l)                |
| (14) Compost Bin(s) (n)                                                                                                                              | Side and Rear                                                                                                       | 3                               | 3                            | <u>NA</u>                | 3                  |
| (15) Chicken coop and run                                                                                                                            | Rear                                                                                                                | 10                              | 10                           | <u>NA</u>                | 10                 |
| <u>(16) Storage sheds</u>                                                                                                                            | <u>Rear</u>                                                                                                         | <u>3</u>                        | <u>3</u>                     | <u>(e)</u>               | <u>0</u>           |

Notes to Schedule 1121.12(a):

NA Not Applicable

NP Not Permitted

- (a) When the rear yard of a corner lot abuts the side yard of an interior lot, a detached private parking garage shall be located no less than ~~10~~five (5) 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) Reserved.
- (i) The Zoning Administrator may approve reduced rear and side yard setbacks for a detached private parking garage, provided that in no event shall the Zoning Administrator approve setbacks less than those of an existing or previously existing detached private parking 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~~Reserved.
- (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 percent (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.
- ~~(e) 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 may extend into a front or corner side yard no more than twelve (12) feet in front of the building provided that it does not extend more than six (6) feet into a required front yard. Steps, ramps and lifts of the accessory structure may extend into the front or corner side yard subject to Zoning Administrator Architectural Board of Review review and 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), including buildings, structures, or pavement) 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.

(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%).

(4) Pervious pavers/materials shall count seventy-five percent (75%) towards any calculations set forth in this subsection.

(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). Pervious pavers/materials shall count seventy-five percent (75%) towards any calculations set forth in this subsection.

#### Schedule 1121.12(d)

##### MAXIMUM AREA AND REAR YARD COVERAGE

| <i>Permitted Use, Building Structure</i>                                                    | <i>Maximum Percentage of Rear Yard Coverage</i> |                          | <i>Maximum Area (in sq. ft.)</i> |                   |                   |
|---------------------------------------------------------------------------------------------|-------------------------------------------------|--------------------------|----------------------------------|-------------------|-------------------|
|                                                                                             | <i>AA and A District</i>                        | <i>B District</i>        | <i>AA District</i>               | <i>A District</i> | <i>B District</i> |
| (1) Accessory building                                                                      | 20(a) <del>(e)</del> (f)                        | 30(a) <del>(e)</del> (f) | (d)                              | (d)               | 1,200(d)          |
| (2) Accessory structures exceeding 3 feet in height (g)                                     | 15                                              | 15                       | 2,000                            | 2,000             | 2,000             |
| (3) Pavement related to parking, including driveway                                         | 30(b)                                           | 30(b)                    | 2,000                            | 2,000             | 2,000             |
| (4) Accessory structures not exceeding 3 feet in height, including sidewalks and patios (g) | 60                                              | 60                       | 6,500                            | 4,000             | 4,000             |
| (5) Total maximum rear yard coverage (e)                                                    | 60                                              | 60                       | 12,000                           | ----              | ----              |

##### Notes to Schedule 1121.12(d):

- (a) Nonconforming lots may be permitted to have up to forty percent (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 seventy percent (70%).
- (b) Nonconforming lots may be permitted to have up to forty percent (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 seventy percent (70%).
- (c) ~~The Zoning Administrator may approve a lesser number of accessory parking spaces pursuant to Section 1161.03(a)Reserved.~~
- (d) See also Section 1121.12(e) for maximum floor area of a private parking garage.
- (e) 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.
- (f) On a corner lot, a private parking garage may cover up to sixty percent (60%) of rear-yard area. Total permitted rear-yard coverage on a corner lot is eighty percent (80%) of rear-yard area.
- (g) For the purposes of maximum area and rear yard coverage, fences shall be excluded.

#### (e) Supplemental Regulations for Enclosed Parking Spaces, Private Parking Garages, and Accessory Parking Spaces.

(1) **Maximum Number of Private Parking Garages.** A single-family dwelling shall be permitted no more than one (1) attached and one (1) detached parking garage. A two-family dwelling shall be permitted no more than one (1) attached and one (1) detached garage.

(2) **Maximum Floor Area of Private Parking Garages.** For a single-family dwelling, the total maximum floor area of all parking garages shall be 600 square feet plus one (1) additional square foot of parking garage area for every fifteen (15) square feet of lot area greater than 6,000 square feet. However, the area of the parking garage(s) shall not exceed 1,300 square feet. For a two-family dwelling, the total maximum floor area of all parking garages shall be 1,300 square feet.

#### (3) Design Standards for Private Parking Garages.

A. Any attached private parking garage should be designed to be compatible and complimentary of the primary residence, including materials, color, roof design, and massing, and should not be the dominant structure on the site.

B. Any attached private parking garage shall be located at least five (5) feet behind the front façade of the primary structure. A new attached private parking garage on a corner lot shall be set

back at least five (5) feet from the façade of the primary structure on the side that contains the driveway.

C. The garage doors of any private parking garage may face the street, side, or rear property lines.

(f) Maximum Number of Accessory Buildings. A maximum of two (2) detached accessory buildings shall be permitted on a zoning lot.

(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~~Building Commissioner and a fence permit issued unless otherwise noted. The appearance and height of fences shall be reviewed by the Zoning Administrator and regulated and limited by its location on the lot as follows:

(1) A fence or wall located in a front 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 public street, it shall be landscaped according to an approved landscape plan.

(4) A fence or wall located in a side yard of a corner lot shall have a maximum height of six (6) feet above ground level and shall require Architectural Board of Review approval.

(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, mesh, wire, or barbed wire fence shall be constructed in a front yard or corner side yard.

(7) Deer net fencing is temporary during growing seasons ~~—and~~ 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.

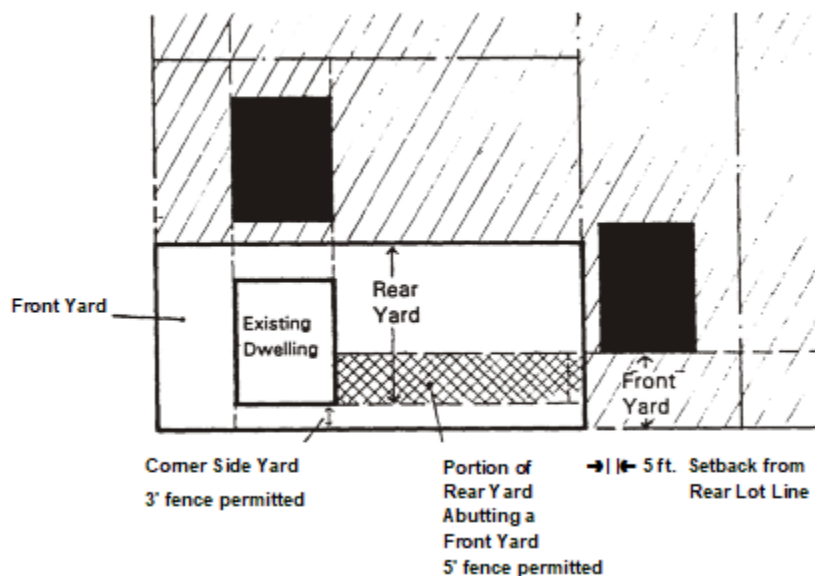
(8) Chicken coops and runs - no fence permit required. See ~~Code~~ Section 1153.05(gg) for additional regulations.

(9) Fences that run parallel to buildings must be a minimum of three (3) feet from the parallel building wall.

(10) All fencing shall comply with the regulations of Section 1165.03(e).

## **ILLUSTRATION OF FENCE REGULATIONS FOR CORNER LOTS IN AA, A AND B DISTRICTS**

### **Section 1121.12(i)**



(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~~ subject to the regulations of Sections ~~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 an AA, A, or B District, single-family and two-family dwellings are permitted to utilize a paved parking pad in addition to and/or as part of the required 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-Zoning Code 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-concrete or gravel-concrete, 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.

(m) Rain Barrels and Above Ground Cisterns.

(1) Rain barrels and above ground cisterns are permitted in the rear, front, corner, and interior side yards. Rain barrels and above ground cisterns ~~are permitted~~ in the front ~~and-or~~ corner side yard that are visible from the public street are permitted 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 subject to the regulations of 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 (1) driveway and one (1) curb cut shall be permitted per lot except lots 100 feet wide or greater shall be permitted one (1) additional curb cut which shall comply with Schedule 1121.12(a)(8).

(2) Pavement width shall not exceed twelve (12) feet except where necessary to provide direct access to a private parking garage or accessory parking space.

(3) Pavement width for a single-car attached private parking garage shall comply with Section 1161.105.

(4) Shared driveways are permitted, ~~in accordance with Codes~~ subject to the regulations of Section 1161.105.

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

- 1123.01 Purpose.
- 1123.02 Permitted uses.
- 1123.03 Principal uses.
- 1123.04 Conditionally permitted uses.
- 1123.05 Accessory uses.
- 1123.06 Lot area and width regulations.
- 1123.07 Minimum yard requirements principal uses.
- 1123.08 Building arrangement and spacing of multiple buildings on a lot.
- 1123.09 Arrangement of townhouses.
- 1123.10 Dwelling unit requirements.
- 1123.11 Height regulations.
- 1123.12 Accessory use regulations.

**CROSS REFERENCES**

Establishment of Districts and Maps - see P. & Z. Ch. 1105  
Additional regulations governing uses - see P. & Z. Ch. 1165

**1123.01 PURPOSE.**

Apartments and other multiple-family dwellings occupy but a small part of the corporate area of Cleveland Heights yet this type of use accommodates about one-fourth (1/4) of the City's population. Three (3) zoning districts have been designed to accommodate multiple-family residential uses at varying densities to offer a variety of living environments. Each district is structured to permit more than one (1) principal building on a zoning lot.

(a) The MF-1 District is established to provide for townhouses and garden-type apartments where buildings are low (two (2) stories) and there is ample open space and parking on surface lots usually in the rear of the buildings. These are placed in the MF-1 District which has a minimum lot area per dwelling unit resulting in a density of approximately twelve (12) dwelling units an acre.

(b) The MF-2 District is established to provide for medium density developments of approximately twenty-five (25) dwelling units an acre.

(c) The MF-3 District is established to provide for very high density residential development in limited areas of Cleveland Heights. The standards for the MF-3 District permit development of approximately fifty-eight (58) dwelling units per gross acre.

**1123.02 PERMITTED USES.**

(a) In the MF-1, MF-2 and MF-3 Multiple-Family Residential Districts, land and structures shall be used or occupied, or structures shall be erected, constructed, enlarged, moved or structurally altered only for a principal use specified, or a conditional use in accordance with Title Seven or an accessory use to a permitted principal or conditional use as regulated herein. Sections

1123.03 through 1123.05 enumerate those uses that may locate in each multiple-family residential zoning district as a matter of right, either as a principal or accessory use, and those uses which may locate in a given district only upon obtaining a conditional use permit.

(b) Although a use may be indicated as permitted or conditionally permitted in a particular district, it shall be approved on a parcel only when it can be located thereon in full compliance with all of the standards and other regulations of this Zoning Code applicable to the specific use and parcel in question.

#### 1123.03 PRINCIPAL USES.

In the MF-1, MF-2 and MF-3 Multiple-Family Residential Districts, the following are principal uses permitted by right provided that all requirements of ~~other city ordinances~~ the Codified Ordinances and this Zoning Code have been met.

- (a) Townhouses.
- (b) Multiple-family dwellings.
- (c) Cluster development.
- (d) Public parking (surface lot).

#### 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.

|     | <i>Land Use Category</i>                                                                                               | <i>MF-1 District</i> | <i>MF-2 District</i> | <i>MF-3 District</i> |
|-----|------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------|----------------------|
| (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                    |
| (j) | Parking deck or private parking garage as a principal use                                                              | C                    | C                    | C                    |
| (k) | Accessory parking for a commercial use, contiguous with a C-2, C-2X or C-3 District                                    | C                    | C                    | C                    |
| (l) | Day care center, 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).                                                                                                                                                                                                                                                                                                                                                         |   |   |   |

## 1123.05 ACCESSORY USES.

When denoted by the letter A, a use listed below is an accessory use permitted in association with and subordinate to a permitted or conditionally permitted use in MF-1, MF-2 and MF-3 Multiple-Family Residential Districts, subject to the regulations of Section 1123.12 and are limited to the following:

|     | <b><i>Land Use Category</i></b>                                                                                                                                                                                         | <b><i>MF-1 District</i></b> | <b><i>MF-2 District</i></b> | <b><i>MF-3 District</i></b> |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|-----------------------------|-----------------------------|
| (a) | Private parking garages and related residential off-street parking, subject to the regulations of Chapter 1161 .                                                                                                        | A                           | A                           | A                           |
| (b) | Signs, subject to the regulations of Chapter 1163 .                                                                                                                                                                     | A                           | A                           | A                           |
| (c) | Home occupations, subject to the regulations of Section 1165.02(b)                                                                                                                                                      | A                           | A                           | A                           |
| (d) | Recreation and community room facilities, such as pools and tennis courts, for use by residents of an associated multiple- family development                                                                           | A                           | A                           | A                           |
| (e) | Porches, decks, arbors, patios, gazebos                                                                                                                                                                                 | A                           | A                           | A                           |
| (f) | Storage shed and other similar buildings for the storage of domestic supplies                                                                                                                                           | A                           | A                           | A                           |
| (g) | Fences                                                                                                                                                                                                                  | A                           | A                           | A                           |
| (h) | Noncommercial greenhouse not to exceed <u>twenty-five percent (25%)</u> of the ground floor area of the principal building                                                                                              | A                           | A                           | A                           |
| (i) | Vegetable/edible and flower gardens                                                                                                                                                                                     | A                           | A                           | A                           |
| (j) | Leasing office in a multiple-family dwelling or as part of a multiple-family development                                                                                                                                | A                           | A                           | A                           |
| (k) | Retail and service establishments not to exceed <u>fifty percent (50%)</u> of the area of the first floor of a multiple-family dwelling when such dwelling has at least 50 units, in accordance with Section 1123.12(b) |                             |                             | A                           |
| (l) | Guard house, gate house                                                                                                                                                                                                 | A                           | A                           | A                           |
| (m) | Trash receptacles                                                                                                                                                                                                       | A                           | A                           | A                           |
| (n) | <u>Rain Barrels and Above Ground Cisterns</u>                                                                                                                                                                           | <u>A</u>                    | <u>A</u>                    | <u>A</u>                    |

### 1123.06 LOT AREA AND WIDTH REGULATIONS.

Land and buildings in the MF-1, MF-2 and MF-3 Districts shall be used in accordance with the density, lot area and lot width regulations set forth below.

|     |                                                          | <i>MF-1 District</i> | <i>MF-2 District</i> | <i>MF-3 District</i> |
|-----|----------------------------------------------------------|----------------------|----------------------|----------------------|
| (a) | Minimum land area per dwelling unit (in square feet) (1) | 3,500                | 1,750                | 750                  |
| (b) | Minimum development area (in square feet)                | 20,000               | 20,000               | 20,000               |
| (c) | Maximum dwelling units per acre                          | 12.4                 | 25                   | 58                   |
| (d) | Minimum lot width at building line (in feet)             | 100                  | 100                  | 100                  |
| (e) | Minimum lot frontage (in feet)                           | 60                   | 60                   | 60                   |

Note:

(1) Units may be clustered on smaller areas of land than specified provided that the total development area maintains the required minimum land area per dwelling unit.

### 1123.07 MINIMUM YARD REQUIREMENTS FOR PRINCIPAL USES.

The minimum depth or width of any yard separating any principal building or part thereof from the nearest lot line shall be not less than the minimum dimension set forth in Schedule 1123.07 and each front, side and rear yard shall not be obstructed by any structure except as otherwise provided in this ~~chapter~~Chapter.

#### Schedule 1123.07

#### MINIMUM YARD REQUIREMENTS FOR PRINCIPAL USES

|     |                                     | <i>Minimum Dimension in Feet</i> |                      |                      |
|-----|-------------------------------------|----------------------------------|----------------------|----------------------|
|     | <i>Specified Yard</i>               | <i>MF-1 District</i>             | <i>MF-2 District</i> | <i>MF-3 District</i> |
| (a) | Front Yard                          | 30                               | 30                   | 30                   |
| (b) | Side Yard                           |                                  |                      |                      |
|     | (1) Abutting a MF, C or S District  | 15(b)                            | 15(b)                | 15(b)                |
|     | (2) Abutting an AA, A or B District | 15(b)                            | 25(b)                | 25(a)(b)             |
| (c) | Rear Yard                           |                                  |                      |                      |
|     | (1) Abutting a MF, C or S District  | 30                               | 15                   | 15                   |
|     | (2) Abutting an AA, A or B District | 30                               | 25                   | 25(a)                |
| (d) | Corner Side Yard                    |                                  |                      |                      |
|     | (1) Abutting a MF, C or S District  | 30                               | 30                   | 30                   |
|     | (2) Abutting an AA, A or B District | 30                               | 30                   | 30(a)                |

Notes to Schedule 1123.07:

(a) When the building height exceeds 65 feet, the building shall be located no closer to a side or rear lot line than a distance equal to ~~40-forty~~ percent (40%) of the building height.

(b) 0' ~~foot~~ side yard setback shall be permitted when townhouse dwelling abuts another townhouse dwelling in the same development.

### 1123.08 BUILDING ARRANGEMENT AND SPACING OF MULTIPLE BUILDINGS ON A LOT.

In a multiple-family residential development, the following spacing shall be maintained between two (2) or more buildings, or two (2) or more walls of the same building, but need not be greater than sixty (60) feet.

(a) Between two (2) walls facing each other, the distance between two (2) such walls shall be no less than twenty (20) feet or equal to the height of the smaller building, whichever is greater.

(b) When the shorter of two (2) walls facing each other is greater than forty (40) feet in wall length, the distance between two (2) such walls shall have one (1) additional foot of spacing for each foot of wall length overlap greater than forty (40) feet.

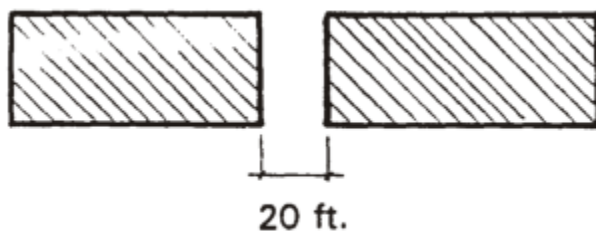
(c) An additional one-half (0.5) foot of spacing shall be provided for each foot of building height greater than thirty-five (35) feet.

(d) Between a principal and accessory building, the distance shall be equal to the height of the accessory building but no less than ten (10) feet.

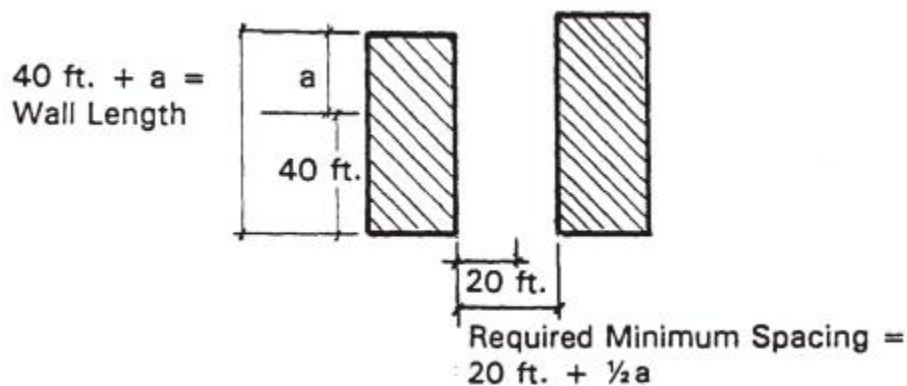
## ILLUSTRATION OF BUILDING ARRANGEMENT AND SPACE REGULATIONS FOR MULTIPLE BUILDINGS ON A LOT IN MF DISTRICTS.

### Section 1123.08

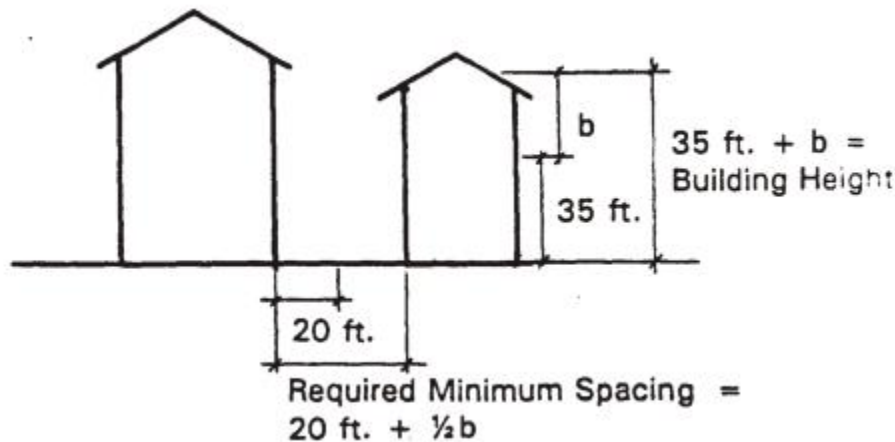
(a) Minimum Spacing.



(b) Additional Spacing for Wall Length Greater than 40 Feet.



(c) Additional Spacing for Buildings Taller than 35 Feet.



#### 1123.09 ARRANGEMENT OF TOWNHOUSES.

A multiple-family development which is comprised of some or all townhouses shall be designed and arranged in accordance with the following:

- (a) The arrangement of units within each building and between buildings shall maximize the privacy of each unit by providing screening walls and private yards where appropriate.
- (b) Townhouse dwelling units shall comply with the spacing requirements set forth in Section 1123.08.

#### 1123.10 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.

- (a) Minimum Area of Dwelling Unit. In a MF Multiple Family Residential District, the minimum floor area for a dwelling unit shall be not less than specified below. For townhouse and ~~multiple~~multi-family dwellings, where applicable, measurements will be made to the center line of party walls. All areas within private parking garages, porches, public halls and general storage rooms in ~~multiple~~multi-family dwellings shall be excluded in this measurement.

|                 | <i>Minimum Floor Area (in square feet)</i>           |                                                 |
|-----------------|------------------------------------------------------|-------------------------------------------------|
| <i>District</i> | <i>By Type of Unit Townhouse/Cluster Development</i> | <i><del>Multiple</del>Multi-family dwelling</i> |
| MF-1            | 1,250                                                | 500                                             |
| MF-2            | 1,250                                                | 500                                             |
| MF-3            | 1,250                                                | 500                                             |

### 1123.11 HEIGHT REGULATIONS.

The maximum height of a principal or accessory building or structure in a MF-1, MF-2 and MF-3 Multiple-Family Residential District is set forth below, except as otherwise provided in Section 1165.04.

| <b>Zoning District</b> | <b>Principal Building (in feet)</b> | <b>Accessory Structure (in feet)</b> |
|------------------------|-------------------------------------|--------------------------------------|
| MF-1                   | 35(b)                               | 15                                   |
| MF-2                   | 45(b)                               | 15                                   |
| MF-3                   | (a)(b)                              | 15                                   |

Note:

(a) Building height shall be limited by a maximum floor area ratio which shall not exceed one and one-half (1.5) building floor area to zoning lot area.

(b) Mechanical space for building equipment placed on the roof or a stair enclosure affording roof access may be allowed above the maximum height specified, provided that such mechanical space or roof access is set back a minimum of fifteen (15) feet from any exterior wall; does not exceed fifteen (15) feet in height; is not visible from the public street and-or is adequately screens ~~building equipmented~~, ~~subject to Architectural Board of Review approval.~~

### 1123.12 ACCESSORY USE REGULATIONS.

Accessory uses, buildings and structures permitted in a MF Multiple-Family District shall conform to the regulations of this section.

(a) Minimum Yard Requirements for Accessory Uses. An accessory building or use permitted in an MF District shall be located as set forth in Schedule 1123.12 (a).

Schedule 1123.12(a)

#### MINIMUM YARD REQUIREMENTS FOR ACCESSORY USES

|                                |                                                                                                                                                | <b>Minimum Dimension in Feet</b> |                                     |                                     |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|-------------------------------------|-------------------------------------|
|                                |                                                                                                                                                | <b>Side/Rear Yard</b>            |                                     |                                     |
| <b>Permitted Accessory Use</b> |                                                                                                                                                | <b>Front Yard</b>                | <b>Abutting MF, C or S District</b> | <b>Abutting AA, A or B District</b> |
| (1)                            | Private parking garage and related accessory parking areas                                                                                     | NP                               | 5                                   | 10                                  |
| (2)                            | Circulation drives                                                                                                                             | 20                               | 5                                   | 10                                  |
| (3)                            | Recreation facilities and community rooms, including swimming pools, tennis courts and associated structures                                   | NP                               | (a)                                 | (a)                                 |
| (4)                            | Storage shed, greenhouses and other similar accessory buildings                                                                                | NP                               | (a)                                 | (a)                                 |
| (5)                            | Trash receptacles                                                                                                                              | NP                               | (a)                                 | (a)                                 |
| (6)                            | Porches, decks, patios                                                                                                                         | (a)                              | (a)                                 | (a)                                 |
| (7)                            | Guard house, gate house                                                                                                                        | -                                | -                                   | -                                   |
| (8)                            | Leasing office                                                                                                                                 | (a)                              | (a)                                 | (a)                                 |
| (9)                            | Freestanding air conditioning machinery, above-ground components of geothermal energy systems, emergency generator and other similar equipment | NP                               | (a)                                 | (a)                                 |

Notes to Schedule 1123.12(a):

NP Not Permitted

(a) Shall maintain the same minimum yard requirement as for a principal use set forth in Section 1123.07.

(b) Accessory Retail and Service Uses. Retail sales and service establishments in an MF-3 District are permitted as accessory uses when clearly incidental to a multiple-family dwelling provided:

(1) The accessory use shall be located in a building that contains no less than fifty (50) dwelling units.

(2) Such gross floor area of the accessory use shall not exceed an area equal to fifty percent (50%) of the first floor area of the permitted multiple-family dwelling building.

(3) All such accessory uses shall be confined within the building and shall have no exterior entrance for customers.

(c) Accessory Recreational Facilities. Private pools, tennis courts, and other recreational facilities may be located in a Multiple-Family District as an accessory use to a multiple-family development. Swimming pools shall be completely enclosed by a 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. Outdoor lighting for recreational purposes shall be arranged so as not to shine on adjacent property.

(d) Trash Receptacles. Trash receptacles shall be enclosed in an approved structure or be screened from view as required by Section 1166.10(a).

(e) Fences and Walls. Fences and walls shall comply with the regulations for fences and walls in AA, A and B Districts contained in Section 1121.12.

(f) Supplemental Regulations for Enclosed Parking Spaces, Private Parking Garages, and Accessory Parking Spaces.

(1) Enclosed parking spaces shall be provided for each dwelling unit in compliance with Chapter 1161, either in an attached private parking garage that is integrated with or in a detached private parking garage that is accessory to the principal building.

(2) Design Standards for Private Parking Garages.

A. Any attached private parking garage should be designed to be compatible and complimentary of the primary structure, including materials, color, roof design, and massing, and should not be the dominant structure on the site.

B. Any attached private parking garage shall be located at least five (5) feet behind the front façade of the primary structure. A new attached private parking garage on a corner lot shall be set back at least five (5) feet from the front façade of the primary structure.

C. The garage doors of any private parking garage may face the street, side, or rear property lines.

## CHAPTER 1131 Commercial Districts

- 1131.01 Purpose.
- 1131.02 Principal and conditionally permitted uses.
- 1131.03 Accessory uses.
- 1131.04 Lot area and width regulations.
- 1131.05 Minimum lot frontage.
- 1131.06 Minimum yard requirements for principal uses.
- 1131.07 Height regulations.
- 1131.075 Commercial and Mixed Use District Design Standards.
- 1131.076 Window transparency.
- 1131.08 Accessory use regulations.
- 1131.09 Supplemental regulations for gasoline stations.
- 1131.10 Supplemental regulations for automobile sales/rental.
- 1131.11 Supplemental regulations for outdoor display, sales of goods.
- 1131.12 Supplemental regulations for private parking garages and parking decks that are principal uses.
- 1131.13 Supplementary regulations for live/work dwellings in commercial districts.
- 1131.14 C-2X Multiple Use District.

### CROSS REFERENCES

Establishment of Districts and Maps - see P. & Z. Ch. 1105  
Additional regulations governing uses - see P. & Z. Ch. 1165

#### 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 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.

(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 ~~C-2C2~~-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 Office, C-2 Local Retail, C-2X ~~Multi-Multiple~~ 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~~ the Codified 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 AND CONDITIONALLY PERMITTED USES IN COMMERCIAL DISTRICTS

| Land Use Category |                                                                                                                                            | C-1<br>Office<br>District | C-2 <u>Local</u><br>Retail<br>District | C-2X <u>Multi-</u><br><u>Multiple</u> Use<br>District | C-3 <u>General</u><br>Commercial<br>District |
|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|----------------------------------------|-------------------------------------------------------|----------------------------------------------|
| (a)               | <u>Residential Uses:</u>                                                                                                                   |                           |                                        |                                                       |                                              |
|                   | (1) <del>Multiple</del> -family dwelling as a free-standing building                                                                       | P                         |                                        |                                                       |                                              |
|                   | (2) <del>Multiple</del> -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                                            |
|                   | (6) Live/Work Dwelling subject to the regulations of Section 1131.13                                                                       | P                         | C                                      | C                                                     | C                                            |
| (b)               | <u>Office/Professional/Medical Uses:</u>                                                                                                   |                           |                                        |                                                       |                                              |
|                   | (1) Offices 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                                                     | 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,                           | C                         | C                                      | C                                                     | C                                            |

|     |                                                  |                                                                                                                                                                                         |   |   |   |    |
|-----|--------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|----|
|     |                                                  | overnight boarding of animals in conjunction with animal clinics, veterinary offices, animal grooming facilities and animal day-care facilities                                         |   |   |   |    |
|     | (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)                                              | Convenience retail and service establishments in an office building provided such business occupies no more than an area equal to <u>one-hundred percent (100%)</u> of first floor area | C | P | P | P  |
|     | (3)                                              | Personal services including dry cleaning, laundry, beauty salon, tattoo parlor, body piercing                                                                                           |   | P | P | P  |
|     | (4)                                              | Restaurants bar, tavern, nightclub                                                                                                                                                      |   | P | P | P  |
|     | (5)                                              | Catering                                                                                                                                                                                |   | C | C | P  |
|     | (6)                                              | Outdoor dining facility                                                                                                                                                                 |   | C | C | C  |
|     | (7)                                              | Drive-through facility in association with a permitted restaurant, retail or service use                                                                                                |   | C | C | C  |
|     | (8)                                              | Hotels                                                                                                                                                                                  | C | C | C | C  |
| (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 private parking garage as a principal use                                                                                                                               | C | C | C | C  |
| (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, exercise class                                                                                                                                                            |   | C | C | P  |
|     | (4)                                              | Meeting room                                                                                                                                                                            | C | C | C | PC |
|     | (5)                                              | Banquet hall, party center                                                                                                                                                              |   | C | C | P  |
|     | (6)                                              | Mural                                                                                                                                                                                   | P | P | P | P  |
|     | (7)                                              | Satellite dish receiving antenna                                                                                                                                                        | C | C | C | C  |
| (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                                                                                               |   | P | P | P  |
|     | (2)                                              | Printing and publishing                                                                                                                                                                 |   | 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)                          | Day care center, preschool, tutoring center                                 | C | C | C | C |
| (h) | <b>Community Facilities:</b> |                                                                             |   |   |   |   |
|     | (1)                          | Public library, museum                                                      | C | C | C | C |
|     | (2)                          | Public safety facilities                                                    | C | C | C | C |
|     | (3)                          | Public service and maintenance facilities                                   | C | C | C | C |
|     | (4)                          | Public parks and playgrounds                                                | C | C | C | C |
|     | (5)                          | Outdoor community festival longer than 3 days                               | C | C | C | C |

### 1131.03 ACCESSORY USES.

When denoted by the letter A, a use listed in Schedule 1131.03 is an accessory use permitted in association with and subordinate to a permitted or conditionally permitted use in a C-1, C-2, C-2X, or C-3 ~~Commercial~~ District, subject to the regulations of Sections 1131.08 and 1131.14(c).

#### Schedule 1131.03

#### PERMITTED ACCESSORY USES

| <b>Land Use Category</b> |                                                                                                                                                                                                                                   | <b>C-1<br/>Office<br/>District</b> | <b>C-2 <u>Local</u><br/>Retail<br/>District</b> | <b>C-2X <u>Multi-</u><br/><u>Multiple</u> Use<br/>District</b> | <b>C-3 <u>General</u><br/>Commercial<br/>District</b> |
|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|-------------------------------------------------|----------------------------------------------------------------|-------------------------------------------------------|
| (a)                      | Off-street parking and loading facilities, as required and regulated in Chapter 1161, including enclosed parking spaces, private parking garages, parking decks and accessory parking spaces                                      | 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, <del>according subject</del> 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                                  |                                                 |                                                                |                                                       |
| (h)                      | Retail and service establishments not to exceed an area equal to <u>fifty percent (50%)</u> of the first floor area of a permitted office or multiple-family building                                                             | A                                  |                                                 |                                                                |                                                       |
| (i)                      | Greenhouses*                                                                                                                                                                                                                      | A                                  | A                                               | A                                                              | A                                                     |
| -                        | <del>* 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.</del> |                                    |                                                 |                                                                |                                                       |

#### Note to Schedule 1131.03:

(a) A Greenhouse is only permitted on the interior side yard or rear yard of a lot. In size, a Greenhouse shall not exceed twenty-five percent (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 Office, 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

| <i>Principal Use</i>                                         | <i>Permitted Use District</i> | <i>Minimum Development Area (in sq. ft.)</i> | <i>Minimum Land Area per D.U. (d) (in sq. ft.)</i> | <i>Minimum Lot Width at Building Line (in feet)</i> |
|--------------------------------------------------------------|-------------------------------|----------------------------------------------|----------------------------------------------------|-----------------------------------------------------|
| (a) Multiple-family dwellings (a)                            | C-1                           | 20,000                                       | 1,740                                              | 100                                                 |
| (b) Multiple-family dwelling units above the first floor (b) | 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

#### 1131.05 MINIMUM LOT FRONTAGE.

Every zoning lot shall have a width at the front lot line of not less than sixty (60) feet, and at no point shall the width be less than sixty (60) feet between the front lot line and the building line.

#### 1131.06 MINIMUM YARD REQUIREMENTS FOR PRINCIPAL USES.

In C-1 Office, C-2 Local Retail, and C-3 General Commercial Districts~~In C-1, C-2 and C-3 Commercial Districts~~, each zoning lot shall maintain the minimum front, side and rear yards specified in Schedule 1131.06, except as otherwise provided for in this ~~chapter~~Chapter. Each yard shall be unobstructed by a principal use, including outdoor storage of goods, supplies and equipment as permitted in this ~~chapter~~Chapter, or a principal building, except as otherwise provided in this Zoning Code. Such areas, together with all other portions of the zoning lot not covered by permitted structures, shall be landscaped with grass, trees, shrubbery and/or other appropriate ground cover or landscaping material, which at all times shall be maintained in good and healthy condition so as to assure adequate screening of parking and loading areas, as well as absorption of rainfall.

## Schedule 1131.06

### MINIMUM YARD REQUIREMENTS FOR PRINCIPAL USES (a)

|                       |                                                      | <i>Minimum Dimensions by District (in feet)</i> |                      |
|-----------------------|------------------------------------------------------|-------------------------------------------------|----------------------|
| <i>Specified Yard</i> |                                                      | <i>C-1, C-2 Districts</i>                       | <i>C-3 Districts</i> |
| (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.
- (b) See Section 1131.12 for supplemental regulations for private parking garages, parking decks that are principal uses.
- (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 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 sixty percent (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.

#### 1131.076 WINDOW TRANSPARENCY.

All windows in all commercial buildings shall provide views to allow people to see and be seen for passive security and to encourage pedestrian activity and district viability. Windows must be constructed of clear or lightly tinted glass. Reflective glass ~~and tinting above twenty percent (20%)~~ is prohibited. The adequacy and necessity of such visibility shall be subject to approval by the Zoning Administrator.

#### 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 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, in accordance with Section 1161.11, provided:

(1) Landscaping shall be in accordance with Sections 1166.06 and 1166.07.

(2) 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.

(3) Surface parking lots that exclusively serve a specific principal use or uses to the exclusion of other principal uses on a lot are limited to a maximum of 62 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 four (4) feet above ground level.

(2) In a rear or interior side yard, a fence shall have a maximum height of seven (7) feet above ground level.

(3) In a corner side yard, a fence shall have a maximum height of six (6) feet 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 (7) 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 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.

#### 1131.09 SUPPLEMENTAL REGULATIONS FOR GASOLINE STATIONS.

In addition to the above regulations, gasoline stations permitted in a C-3 General Commercial District shall comply with the following standards:

(a) Gasoline stations located on a corner lot shall have not less than 100 feet frontage on each of the two (2) intersecting streets.

(b) Fuel pumps may be erected in a front yard but not less than twenty-five (25) feet from the public right of way.

(c) Pavement to provide access to a gasoline pump shall be located no less than fifteen (15) feet from the public right-of-way. The resulting open space shall be landscaped and maintained in satisfactory condition and, except for entrance and exit drives and permitted signs, shall not be used for any other purpose.

(d) A canopy may be constructed over the pump island provided the canopy shall be no closer than fifteen (15) feet to the right of way.

(e) The only services permitted to be performed on a vehicle shall be the dispensing of fuel, oil, air and windshield wiper fluid.

(f) The location, display or storage of rental trailers, automobiles, trucks or other rental equipment on the premises is not permitted.

(g) No merchandise, except fuel and oil, may be stored or displayed outside the building.

(h) Except while being serviced at a pump island, no vehicles shall be parked between the pump setback line and the front property line; nor on a corner lot shall any vehicles be parked between the pump setback line and the property line on either of the intersecting streets. A vehicle parked in violation hereof during the time such station is open for business shall be presumed to have been so parked with the knowledge and consent of the operator of that station.

(i) No junk, inoperative or unlicensed motor vehicles will be permitted to remain on gasoline station property for more than forty-eight (48) hours.

(j) All refuse shall be kept or stored within the building, or be screened from view as required by Section 1166.10.

(k) All outdoor wiring, including electrical and telephone wiring, shall be installed underground.

(l) At least one (1) standard tree and at least two (2) standard shrubs ~~pursuant to Section 1166.04~~ shall be planted and maintained on the lot for each gasoline pump on the station property, subject to the regulations of Section 1166.04.

(m) A landscaped area at least fifteen (15) feet wide shall be provided on private property adjacent to the public sidewalk areas, except where interrupted by driveways.

(n) Locations where such use abuts a residential district or use 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, standard shrubs and standard trees, ~~pursuant~~ subject to the regulations of Section 1166.07.

#### 1131.10 SUPPLEMENTAL REGULATIONS FOR AUTOMOBILE SALES/RENTAL.

In addition to the above regulations, business establishments for automobile sales, new or new and used, or automobile rental permitted in a C-3 General Commercial District shall comply with the following standards:

(a) 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.

(b) Service garage, leasing department and other activities customarily incidental to a full service franchised automobile dealer shall be permitted as accessory to the sale of automobiles provided these activities are conducted in a wholly enclosed building.

(c) Only repair of automobiles customarily associated with automobile sales shall be permitted, and shall be conducted inside a suitable building.

(d) No junk, inoperative or unlicensed vehicle will be permitted to remain outside on the property for more than forty-eight (48) hours.

(e) All outdoor wiring, including electrical and telephone wiring, shall be installed underground.

(f) 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, standard shrubs and standard trees, ~~pursuant~~ subject to the regulations of Sections 1166.06 and 1166.07.

#### 1131.11 SUPPLEMENTAL REGULATIONS FOR OUTDOOR DISPLAY, SALES OF GOODS.

The sale or service of food outside of a building; or the display or sale outside of a building of house furnishings, merchandise or vehicles, shall only be permitted as specified below:

(a) The display of ~~liquid fuel and~~ oil at a gasoline station or automobile service station;

(b) The display of automobiles and other rental vehicles as permitted in the C-3 District or for which a conditional use permit has been obtained pursuant to Chapter 1153.

(c) The sale or display of flowers, plants, shrubs and trees in the open in connection with a nursery flower mart, landscape business for which a conditional use permit has been obtained pursuant to Chapter 1153.

(d) An outdoor dining facility for which a conditional use permit has been obtained pursuant to Chapter 1153.

(e) An outdoor dining facility or outdoor sales of goods in conjunction with a duly authorized festival.

(f) The display of liquid fuel, such as propane, in conjunction with a principally or conditionally-permitted use.

#### 1131.12 SUPPLEMENTAL REGULATIONS FOR PRIVATE PARKING GARAGES, AND PARKING DECKS THAT ARE PRINCIPAL USES.

Private parking garages and parking decks that are principal uses shall comply with the following standards:

(a) All parking decks and private parking garages shall be approved by the Architectural Board of Review.

(b) A parking deck or private parking garage shall comply with the yard requirements for a principal use specified in Schedule 1131.06 except that open parking decks and open private parking garages in which vehicles are visible from the public street shall be located not less than fifteen (15) feet from a public right of way.

(c) Open parking decks and open private parking garages shall be landscaped according to the requirements established in Section 1166.06.

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

In all Commercial Districts (C-1, C-2C1, C2, C-2X, and C-3C3), 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 (1) 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.

(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.

## 1131.14 C-2X MULTIPLE USE DISTRICT.

The C-2X Multiple Use District shall be governed by the following regulations:

- (a) Permitted Uses: All uses currently permitted in the C-2 **Zoning** District.
- (b) Conditional Uses: All uses currently permitted as conditional uses in the C-2 **Zoning** District.
- (c) Permitted Accessory Uses: All uses which are currently permitted as accessory uses in C-2 **Zoning** Districts.
- (d) Conditionally Permitted Accessory Uses: All uses which are currently conditionally permitted accessory uses in C-2 **Zoning** Districts.
- (e) Lot Area and Width Regulations: There shall be no minimum area or width requirements for lots in C-2X Districts.
- (f) Yard Requirements: Yard requirement shall be as set forth in the following table:

| <i>Yard (illustrations 1-4)</i>       | <i>C-2X District Minimum</i> | <i>C-2X District Maximum</i> |
|---------------------------------------|------------------------------|------------------------------|
| Front*                                | 0                            | 10(b)                        |
| Yards abutting a C or S District      |                              |                              |
| Interior Side                         | 0                            | No max. depth                |
| Rear                                  | 5                            | No max. depth                |
| Corner Side*                          | 0                            | 15(b)                        |
| Yards abutting an MF District         |                              |                              |
| Interior side and rear                | 15                           | No max. depth                |
| Corner side*                          | 5                            | 15(b)                        |
| Yards abutting an AA, A or B District |                              |                              |
| Interior side and rear                | 20                           | No max. depth                |
| Corner side(a)                        | 10                           | No max. depth                |

Notes:

(a) For the purposes of measuring front and corner-side yards in C-2X Districts, the yard shall be measured from the “built-to” line, which shall be a line running along the inner edge of the existing public sidewalk.

(b) The Planning Commission may conditionally approve a front or corner side yard use, other than parking, that would result in a building being set back more than the maximum distance permitted from the “built-to” line.

(g) Height Regulations. Height regulations shall be as follows:

(1) Buildings in C-2X Districts shall not exceed 65 feet in height. 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 15 feet from any exterior wall, does not exceed 15 feet in height and is adequately screened from view.

(2) The portion of a building in a C-2X District which is within 30 feet of a residential district may not exceed 45 feet in height (Illustration 5).

(3) A building in a C-2X District that exceeds 45 feet in height shall have transparent glazing covering at least **fifteen percent (15%)** of the face area of each wall that exceeds 50 feet in width, unless prohibited by the Building Code or other applicable regulations.

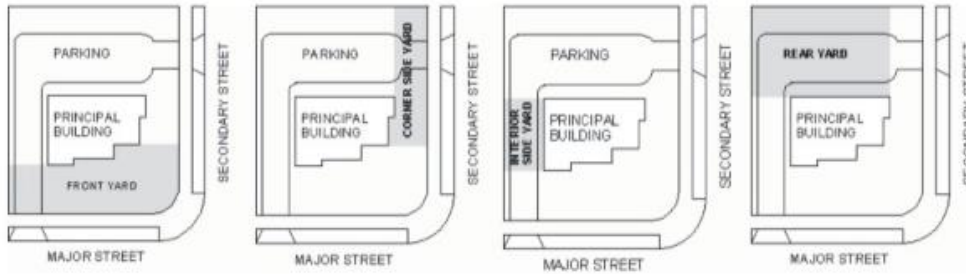
(4) When a building exceeds 45 feet in height, at least one-half (**1/2**) of each building face on the building’s top floor shall be set back at least 8 feet from the building’s setback at street level.

(h) District Boundaries: All properties within a C-2X District shall be within convenient walking distance of a system of public parking facilities, and the District shall contain one (**1**) or more businesses which habitually draw a substantial number of customers from the region outside of Cleveland Heights as well as from Cleveland Heights residents.

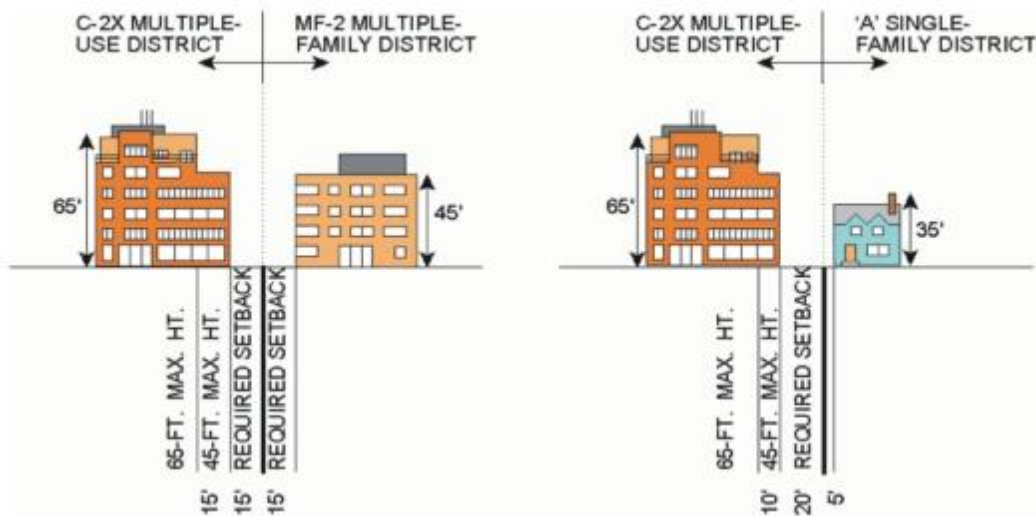
(i) Other Regulations: All other regulations in the Zoning Code pertaining to commercial properties shall be applicable to properties within the C-2X ~~Zoning~~ District unless inconsistent with the above regulations in which case the above regulations shall govern.

The illustrations below depict the commercial district yard definitions (front, corner side, interior side, and rear.)

1. 2. 3. 4.



The illustration below depicts the height limitation that would apply to C-2X properties bordering residential zoning districts.



## CHAPTER 1133

### Park District

- 1133.01 Purpose.
- 1133.02 Permitted uses.
- 1133.03 Lot area and width regulations.
- 1133.04 Minimum yard requirements.
- 1133.05 Height regulations.
- 1133.06 Lighting.

#### CROSS REFERENCES

Park use regulations - see S. U. & P. S. Ch. 923  
Establishment of Districts and Maps - see P. & Z. Ch. 1105  
Additional regulations governing uses - see P. & Z. Ch. 1165

#### 1133.01 PURPOSE.

The Park District is established to provide for the proper zoning control of public park land to ensure its preservation and protection for its recreational, aesthetic, and environmental benefits to the community and to ensure that the uses of such park lands remain compatible with the adjacent residential areas.

#### 1133.02 PERMITTED USES.

In the Park District, land and structures shall be used or occupied, or structures shall be erected, constructed, enlarged, moved, or structurally altered only for a principal use, a conditional use in accordance with Title Seven, or an accessory use to a permitted principal or conditional use specified below and regulated herein.

(a) Principal Uses. The following uses are principal uses permitted by right in a Park District provided that all requirements of ~~other City ordinances~~ the Codified Ordinances and this Zoning Code have been met:

- (1) Public parks and playgrounds;
- (2) Public outdoor recreation facilities;

(b) Conditionally Permitted Uses. Outdoor community festivals, public indoor or outdoor entertainment, public indoor recreation and similar establishments, including ancillary concession stands, may be permitted in a Park District 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.

(c) Accessory Uses. The following accessory buildings and uses are permitted in association with and subordinate to a permitted or conditionally permitted use:

- (1) Off-street parking, subject to the regulations of Chapter 1161;
- (2) Signs, subject to the regulations of Chapter 1163;
- (3) Storage buildings, restrooms and other maintenance facilities;
- (4) Fences.

### 1133.03 LOT AREA AND WIDTH REGULATIONS.

The minimum lot area and lot width for each permitted use shall be not less than the area required to accommodate the principal and accessory buildings and uses, on-site circulation, off- street parking and required yards.

### 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 comply with Chapter 1161 and landscaped in accordance with ~~Sections~~Section 1166.06 and 1166.07.

### 1133.05 HEIGHT REGULATIONS.

In a Park District, the height of any building for a permitted principal use shall not exceed thirty-five (35) feet, and any permitted accessory structure shall not exceed fifteen (15) feet unless permitted elsewhere in this Zoning Code.

### 1133.06 LIGHTING.

Floodlighting and other lighting of recreational facilities, buildings and parking areas shall be located and designed so as to shield the light source from adjoining residences.

## ***TITLE FIVE - Special Districts***

Chap. 1141. Planned Development Objectives.

Chap. 1143. S-1 Mixed Use District.

Chap. 1145. S-2 Mixed Use District.

Chap. 1147. Planned Development Overlay District.

RECOMMENDED

## **CHAPTER 1141**

### **Planned Development Objectives**

1141.01 Objectives of the planned development regulations.

#### **CROSS REFERENCES**

PDO Planned Development Overlay District - see P. & Z. Ch. 1147

#### **1141.01 OBJECTIVES OF THE PLANNED DEVELOPMENT REGULATIONS.**

The regulations contained in Chapters 1143, 1145, and 1147 are provided to address specific situations and unique development issues in Cleveland Heights. Being a predominantly built-up community, it is necessary to permit development flexibility to promote residential, commercial and mixed use facilities which are well planned in a manner compatible with the character of the City. Each of the three (3) special districts is created specifically for the purpose stated in the respective chapters, and generally to accomplish the following objectives:

(a) To provide an opportunity for new and innovative development in areas of the City where there is vacant land or in areas which have special characteristics or special redevelopment opportunities ~~as designated in this City's Strategic Development Plan approved by Council.~~

(b) To protect residential and commercial property values.

(c) To safeguard the aesthetics of the City's residential and commercial neighborhoods.

(d) To encourage sustainable development and practices.

(e) To promote both residential and commercial development and, where appropriate, mixed use development in order to maximize the City's potential tax base and its provision of services.

(f) To ensure that such creative and flexible development complies with the foregoing objectives by requiring a ~~Project Plan~~Development Plan for all Planned Developments and establishing a review process to ensure that all development is consistent with the approved plan.

(g) To protect residential neighborhoods from commercial encroachment.

## **CHAPTER 1143**

### **S-1 Mixed Use District**

- 1143.01 Purpose.
- 1143.02 Permitted uses.
- 1143.03 Required area.
- 1143.04 Development standards.
- 1143.05 Standards of quality.
- 1143.06 Roads and streets.
- 1143.07 Parking areas.
- 1143.08 Signs.
- 1143.09 Lighting.
- 1143.10 Procedures.
- 1143.11 Phasing.
- 1143.12 Bond or escrow agreement.

#### **CROSS REFERENCES**

- Planned Development objectives - see P. & Z. Ch. 1141
- S-2 Mixed Use District - see P. & Z. Ch. 1145
- PDO Planned Development Overlay District - see P. & Z. Ch. 1147

#### **1143.01 PURPOSE.**

The City contains some large parcels of land which have not been developed to their full economic potential. It is desirable that a zoning district be established that will preserve the present charm and beauty of these parcels and the residential character of the City, yet at the same time promote a unique, densely developed environment well set back from the street in a landscaped surrounding. The purpose of the S-1 Mixed Use District is:

- (a) To designate, regulate and restrict the location, design and use of buildings, structures and interior streets;
- (b) To promote high standards of external appearance of buildings and grounds;
- (c) To stabilize and improve property values with the smallest possible burden on City services and facilities and the highest possible return to the City from tax revenues consistent with maintaining and improving the residential character of the City;
- (d) To promote health, safety, comfort, convenience and the general welfare; and thus
- (e) To provide the economic, environmental and social advantages resulting from an orderly planned use of these large parcels of land.
- (f) To ensure that development complies with the adopted preliminary land use plan for the District and these objectives by requiring approval of a detailed development plan for any subsequent development.

#### 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.

#### 1143.03 REQUIRED AREA.

The minimum area of an S-1 Mixed Use District shall be not less than fifty (50) acres. The entire area need not be developed at any one (1) time.

#### 1143.04 DEVELOPMENT STANDARDS.

A proposed development as permitted in this district shall comply with the following development standards:

(a) Yard Requirements. Buildings and accessory uses shall be located in accordance with the following:

- (1) Buildings shall be located no closer than forty (40) feet to an existing public right of way.
- (2) Accessory parking areas shall be located no closer than forty (40) feet to an existing public right-of-way bounding the district and twenty (20) feet to an interior public or private street.
- (3) Buildings and parking areas shall be located no closer than 150 feet to an AA or A District.
- (4) All portions of the property not covered by buildings, parking areas and other permitted structures shall be landscaped with grass, trees, shrubbery and/or other appropriate ground cover or landscaping material as required by the Board of Control, and which at all times shall be maintained in good and healthy condition so as to assure adequate screening of parking and loading areas, as well as absorption of rainfall.

(b) Height Regulations. The height of a proposed building shall be limited as follows by its location on the development site in relationship to adjacent properties:

(1) The maximum building height shall not exceed one-half ( $1/2$ ) the distance from the building to any property line in an AA, A, or B District, provided the yard requirements set forth in subsection (a) hereof are maintained.

(2) The maximum building height shall not exceed the distance from the building to any property line in a MF District, provided the yard requirements set forth in subsection (a) hereof are maintained.

(3) The maximum height of a building as set forth in subsections (b)(1) and (2) hereof shall be measured from the average grade along the property line of the adjacent residential property.

(4) In no case shall buildings exceed 120 feet in height.

(c) Additional Standards. Additional site specific development requirements formulated to achieve the objectives of the S-1 Mixed Use District shall be established during the approval process at the time the detailed development plan is reviewed. Any dimensional specifications adopted with such plan become binding land use requirements for the proposed development.

#### 1143.05 STANDARDS OF QUALITY.

Buildings and structures shall be of sizes, heights, locations and designs which will best accomplish the development of a parcel, or any portion thereof, and shall be such as are appropriate for a development in landscaped surroundings, consistent with the spirit and intent of this zoning district.

#### 1143.06 ROADS AND STREETS.

Access and interior service roads and streets shall be properly related to the public street and highway system in order to promote safety and minimize traffic congestion. Dedication of interior roads for public streets, as the Board of Control may deem essential, shall be a condition of approval of the plan.

#### 1143.07 PARKING AREAS.

Parking areas shall be suitably screened with planting, and improved to meet the standards of Chapters 1161 and 1166.

#### 1143.08 SIGNS.

Signs shall be permitted according to the provisions of Chapter 1163.

#### 1143.09 LIGHTING.

All lighting of exterior and interior building areas, parking areas, grounds and signs shall be designed 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~~Stormwater must address requirements of Chapter 1335, ~~Storm Water~~Stormwater 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~~ 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~~ Chapter pertaining to the approval of detailed development plans.

#### 1143.11 PHASING.

If a development is to be implemented in phases, each phase shall have adequate provision for access, parking, storm-water management and other public improvements to serve the development in accordance with the applicable criteria set forth. Where the overall development of an entire S-1 development site will require more than twenty-four (24) months to complete, such developments shall be required to be phased. Each phase shall be provided with temporary or permanent transitional features, buffers, or protective areas in order to prevent damage to completed phases, to future phases, and to adjoining property.

#### 1143.12 BOND OR ESCROW AGREEMENT.

As a prerequisite to the issuance of a permit under this ~~chapter~~Chapter, for any project involving new construction on a two (2) acre parcel or larger, the applicant shall file with the City within ten (10) days after approval of the detailed development plan a surety bond or escrow agreement to insure the construction of the project within the period specified by the Board of Control. The bond or escrow shall be enforceable by or payable to the City in a sum at least equal to the estimated costs of all of the site improvements (streets, drives, walks, walls, storm and sanitary sewers, landscape planting, ornamental features not on a building, and terraces, but not buildings) for the entire project. The bond or escrow shall be in a form and with surety and conditions approved by the Director of Law. In the event of default under such bond or escrow, the City may use the sum defaulted to construct such site improvements to the extent of the funds available.

## **CHAPTER 1145**

### **S-2 Mixed Use District**

- 1145.01 Purpose.
- 1145.02 Permitted uses.
- 1145.03 Minimum project area for an S-2 Planned Development.
- 1145.04 Development standards for an S-2 Planned Development.
- 1145.05 Procedures.
- 1145.06 Phasing.
- 1145.07 Bond or escrow agreement.
- 1145.08 Preparation of development plan by Planning Commission.

#### **CROSS REFERENCES**

- Planned Development objectives - see P. & Z. Ch. 1141
- S-1 Mixed Use District - see P. & Z. Ch. 1143
- PDO Planned Development Overlay District - see P. & Z. Ch. 1147

#### **1145.01 PURPOSE.**

(a) The purpose of the S-2 Mixed Use District is to provide an opportunity for modern and imaginative architectural design, site arrangement and city planning for certain special areas in Cleveland Heights which offer unique development opportunities.

(b) These regulations are intended to encourage higher density commercial and/or residential development provided that such development which exceeds the intensity permitted by right under the standard regulations is developed according to an approved ~~Project Plan~~Development Plan.

(c) Specifically, an S-2 Planned Development is intended to achieve the following objectives:

(1) To offer incentives for creative high density commercial, residential and mixed-use development projects in areas that have special characteristics or special redevelopment opportunities as designated in the City's Strategic Development Plan.

(2) To ensure that such high density development occurs in a unified manner in accordance with a Development Plan prepared by either the City or the property owner.

(3) To encourage sustainable development and practices.

#### **1145.02 PERMITTED USES.**

In the S-2 District, the following uses enumerated in this section are either principal uses permitted by right, conditional uses permitted only upon obtaining a conditional use permit, or accessory uses permitted in association with a principal or conditional use.

(a) Principal Uses. Any principal use permitted in the MF-2 or C-2 District shall be permitted in the S-2 District in accordance with the respective district standards. If a property owner chooses to develop his or her property with a principal use enumerated in the MF-2 or C-2 District, such development is reviewed in the same manner as a permitted use in an MF-2 or C-2 District.

(b) Conditional Uses. The following uses may be allowed as a conditional use in the S-2 District subject to the provisions of Title Seven:

(1) Any use allowed as a conditional use in the MF-2 or C-2 District. If incorporated as part of a Planned Development, these conditional uses may not be required to comply with the development standards in Chapter 1153.

(2) S-2 Planned Developments in accordance with an approved Development Plan. An S-2 Planned Development may include any combination of principal or conditional uses permitted in the MF-~~3~~2 and C-2 Districts.

(c) Accessory Uses. Accessory use shall be permitted in association with a principal or conditional use subject to the regulations in the respective MF or Commercial Districts.

#### 1145.03 MINIMUM PROJECT AREA FOR AN S-2 PLANNED DEVELOPMENT.

The gross area of a tract of land proposed to be developed in an S-2 Planned Development shall be no less than two (2) acres.

#### 1145.04 DEVELOPMENT STANDARDS FOR AN S-2 PLANNED DEVELOPMENT.

The development standards for an S-2 Planned Development approved as a conditional use shall be determined by applying the objectives and intent set forth in Chapter 1141 and Section 1145.01, and may vary from the applicable standards of the MF-2 and C-2 Districts as follows:

(a) Maximum Density. When residential dwelling units are proposed as part of an S-2 Planned Development, the maximum density shall be fifty-eight (58) dwelling units per acre. 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. The front, side and rear yard requirements may be varied 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 a proposed building shall be limited as follows by its location on the development site in relationship to adjacent properties:

(1) The maximum building height shall not exceed one-half (1/2) the distance from the building to any property line in an AA, A<sub>2</sub>, or B District.

(2) The maximum building height shall not exceed twice the distance from the building to any property line in a MF District.

(3) Building may be approved up to the property line when adjacent to a commercial district.

(4) The maximum height of a building as set forth in subsections (c)(1) and (2) hereof shall be measured from the average grade of the adjacent residential property.

(d) Additional Standards. Additional site specific development requirements formulated to achieve the objectives of the S-2 District 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 proposed development.

#### 1145.05 PROCEDURES.

The procedures for the approval of an S-2 Planned Development shall comply with the administrative provisions set forth in Sections 1115.08 and 1115.09, including the submission of a ~~development~~ Development plan Plan. It is suggested that the applicant with preliminary sketches confer informally with the Planning Commission regarding basic concepts of the proposed development prior to submitting the formal Development Plan pursuant to Section 1115.09.

#### 1145.06 PHASING.

If the development is to be implemented in phases, each phase must have adequate provision for access, parking, storm-water management and other public improvements to serve the development in accordance with the applicable criteria set forth. Where the overall development of an entire S-2 Planned Development site will require more than twenty-four (24) months to complete, such developments shall be required to be phased. Each phase shall be provided with temporary or permanent transitional features, buffers, or protective areas in order to prevent damage to completed phases, to future phases, and to adjoining property.

#### 1145.07 BOND OR ESCROW AGREEMENT.

As a prerequisite to the issuance of a conditional use permit under this ~~chapter~~ Chapter, for any project involving new construction on a two (2) acre parcel or larger, the applicant shall file with the Planning Commission within ten (10) days after approval of the Development Plan a surety bond or escrow agreement to insure the construction of the project within the period specified in Section 1115.08 or as extended or changed by the Planning Commission. The bond or escrow shall be enforceable by or payable to the City in a sum at least equal to the estimated costs of all of the site improvements (streets, drives, walks, walls, storm and sanitary sewers, landscape planting, ornamental features not on a building, and terraces, but not buildings) for the entire project. The bond or escrow shall be in a form and with surety and conditions approved by the Director of Law. In the event of default under such bond or escrow, the City may use the sum defaulted to construct such site improvements to the extent of the funds available.

#### 1145.08 PREPARATION OF DEVELOPMENT PLAN BY PLANNING COMMISSION.

The Planning Commission may prepare the Development Plan pursuant to Section 1115.09 for an existing or proposed S-2 District. Such approved plan shall be the basis for developing the property provided that an applicant shall submit a project plan for all or part of the area within such S-2 District and receive a conditional use permit before a building permit may be issued. An applicant may elect to develop only a portion of the area encompassed by the Development Plan, which may be an area less than the required two (2) acres, provided the proposed development complies with the sequencing established by the adopted Development Plan.

## CHAPTER 1147 Planned Development Overlay District

- 1147.01 Purpose.
- 1147.02 Application of the district.
- 1147.03 PDO District procedures.
- 1147.04 Permitted uses.
- 1147.05 Minimum project area for a Planned Development.
- 1147.06 Development standards for a PDO District.
- 1147.07 Development plan procedures.
- 1147.08 Phasing.
- 1147.09 Bond or escrow agreement.

### CROSS REFERENCES

Overlay District defined - see P. & Z. 1103.03(b)(47)

#### 1147.01 PURPOSE.

The Planned Development Overlay ~~“(PDO”)~~ District is hereby created and hereafter established to achieve the following objectives:

- (a) To provide greater opportunity for development or redevelopment in areas of the City that have shallow commercial or high density residential frontages which abut low density residential areas.
- (b) To promote new commercial and residential development and, where appropriate, mixed use development while assuring that any increased density or commercial development is compatible with the surrounding areas.
- (c) To assure that a proposed Planned Development occurs in a unified manner in accordance with a conditionally approved Development Plan prepared by either the City or the property owner.
- (d) To encourage sustainable development and practices in residential and commercial areas.

#### 1147.02 APPLICATION OF THE DISTRICT.

(a) The ~~Planned Development Overlay~~PDO District shall be in addition to and shall overlay all other zoning districts where the PDO District is established, so that any parcel of land lying in a PDO District shall also lie in one (1) or more of the other zoning districts provided for in this Zoning Code. The district designation of PDO District shall be superimposed over the existing zoning designations on the Zoning Map.

(b) The Zoning Code provisions of the underlying district(s) shall remain in effect except when development occurs in accordance with a conditionally approved Development Plan, in which case the regulations and requirements of this ~~chapter~~Chapter and of the approved PDO District shall supersede those of the underlying district(s).

### 1147.03 PDO DISTRICT PROCEDURES.

A ~~Planned Development Overlay~~PDO District shall be established in accordance with the required procedures for a Zoning Map amendment pursuant to Chapter 1119 upon recommendation of the Planning Commission and shall include development standards pursuant to Section 1147.06, provided that a Development Plan be conditionally approved by the Planning Commission at the time the property is rezoned.

### 1147.04 PERMITTED USES.

In the PDO District, the following uses enumerated in this section are either principal uses permitted by right, conditional uses permitted only upon obtaining a conditional use permit, or accessory uses permitted in association with a principal or conditional use.

(a) Principal Uses. Any principal use permitted in the underlying district(s) shall be permitted in accordance with the regulations and standards of the underlying district(s).

(b) Conditional Uses. The following uses may be allowed as a conditional use in the PDO District subject to the provisions of Title Seven.

(1) Any conditional use enumerated in the underlying district. If incorporated as part of a Planned Development these conditional uses may not be required to comply with the development standards in Chapter 1153.

(2) Planned Developments in accordance with an approved Development Plan. A Planned Development may include any use or combination of uses permitted in the underlying zones, irrespective of the underlying zoning district boundaries.

(c) Accessory Uses. Any accessory use permitted in the underlying district(s) shall be permitted in association with a principal use subject to the regulations in the respective district(s).

### 1147.05 MINIMUM PROJECT AREA FOR A PLANNED DEVELOPMENT.

The gross area of a tract of land proposed to be developed as a Planned Development shall be no less than two (2) acres.

### 1147.06 DEVELOPMENT STANDARDS FOR A PDO DISTRICT.

The development standards for a ~~Planned Development Overlay~~PDO District shall be determined by applying the objectives and intent set forth in Chapter 1141 and Section 1147.01 and shall be recommended to Council by Planning Commission when the Commission initiates the PDO District rezoning process pursuant to Section 1147.03. Standards related to density, dwelling unit area, yard requirements, height and parking shall be as outlined below, however, the Planning Commission may recommend modification(s) to these requirements if the modifications (1) are appropriate and consistent with the proposed use(s); (2) are appropriate and consistent with the surrounding properties and neighborhood character; and (3) further sustainability guidelines set forth in Section 1165.06:

(a) Maximum Density. The maximum density permitted for development for the entire overlay area shall be the maximum density for the most intense use in the underlying districts.

(b) Yard Requirements. The front, side and rear yard requirements may be varied 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 a proposed building shall be limited as follows by its location on the development site in relationship to adjacent properties:

(1) The maximum building height shall not exceed the distance from the building to any property line in an AA, A<sub>1</sub>, or B District.

(2) The maximum building height shall not exceed twice the distance from the building to any property line in a MF District.

(3) The maximum height of a building as set forth in subsections (c)(1) and (2) hereof shall be measured from the average grade of the adjacent residential property.

(d) Parking Requirements. The parking requirements for the proposed use(s) shall be as stated in Chapter 1161.

(e) Additional Standards. Additional site specific development requirements formulated to achieve the objectives of the Planned Development OverlayPDO District shall be established at the time the conditional use request and the Development Plan are reviewed. Any dimensional specifications adopted with such plan become binding land use requirements for the proposed development.

#### 1147.07 DEVELOPMENT PLAN PROCEDURES.

The procedures for the approval by Planning Commission of a Development Plan shall comply with the administrative provisions set forth in Sections 1115.08 and 1115.09(a) and (b). It is suggested that the applicant share preliminary sketches with the Planning Commission regarding basic concepts of the proposed development prior to submitting the formal Development Plan pursuant to Section 1115.09. Such preliminary sketches shall be the basis of Planning Commission's initiation of the PDO District pursuant to Section 1147.03 and may inform the Commission's recommendations concerning development standards under Section 1147.06.

#### 1147.08 PHASING.

If the development is to be implemented in phases, each phase shall have adequate provision for access, parking, storm-water management and other public improvements to serve the development in accordance with the applicable criteria set forth. Where the overall development of an entire site will require more than twenty-four (24) months to complete, such developments shall be required to be phased. Each phase shall be provided with temporary or permanent transitional features, buffers, or protective areas in order to prevent damage to completed phases, to future phases, and to adjoining property.

#### 1147.09 BOND OR ESCROW AGREEMENT.

As a prerequisite to the issuance of a conditional use permit under this ~~chapter~~Chapter, for any project involving new construction on a two (2) acre parcel or larger, the applicant shall file with the Planning Commission within ten (10) days after approval of the Development Plan and PDO District a surety bond or escrow agreement to insure the construction of the project within the period specified in Section 1115.08 or as extended or changed by the Planning Commission. The bond or escrow shall be enforceable by or payable to the City in a sum at least equal to the estimated costs of all of the site improvements (streets, drives, walks, walls, storm and sanitary sewers, landscape planting, ornamental features not on a building, and terraces, but not buildings) for the entire project. The bond or escrow shall be in a form and with surety and conditions approved by the Director of Law. In the event of default under such bond or escrow, the City may use the sum defaulted to construct such site improvements to the extent of the funds available.

## ***TITLE SEVEN - Conditional Use Regulations***

Chap. 1151. General Criteria.

Chap. 1153. Supplemental Standards for Conditional Uses.

Chap. 1155. Planned Residential Developments.

RECOMMENDED

## CHAPTER 1151 General Criteria

1151.01 Purpose.

1151.02 General standards for all conditional uses.

### CROSS REFERENCES

Conditional use defined - see P. & Z. 1103.03(b)(24)

Conditional use permit defined - see P. & Z. 1103.03(b)(25)

#### 1151.01 PURPOSE.

The potentially diverse characteristics and impacts of a number of new and unique uses have fostered the development of regulations designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety and general welfare of the community. Toward these ends, this ~~chapter~~ **Chapter** provides for a more detailed evaluation of each use conditionally permitted in a specific zoning district with respect to such considerations as location, design, size, method(s) of operation, intensity of use, public facility requirements, and traffic generation. The evaluation ensures consistency with the intent and objectives of the particular district in which it is to be located. The process also encourages sustainable development and practices. Accordingly, conditional use permits shall conform to the procedures and requirements of Sections 1115.08 and 1115.09.

#### 1151.02 GENERAL STANDARDS FOR ALL CONDITIONAL USES.

A conditional use, and uses accessory to such conditional use, shall be permitted in a residential, commercial or special district only when specified as a permitted conditional use in such district, or when such use is determined by the Planning Commission to be a similar use, and only if such use conforms to the following standards in addition to any specific conditions, standards and regulations for such category of use set forth in this ~~chapter~~ **Chapter**. Furthermore, the Planning Commission shall find:

- (a) That the conditional use will be in general accord with the purpose, intent and basic planning objectives of this Zoning Code, and with the objectives for the district in which located;
- (b) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;
- (c) That the conditional use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not essentially change the character of the same area;
- (d) That the conditional use will 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;
- (e) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

- (f) That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
- (g) That adequate measures have been or will be taken to provide ingress and egress designed as to minimize traffic congestion in the public streets;
- (h) That the establishment of the conditional use should not be detrimental to the economic welfare of the community by creating excessive additional requirements at public cost for public facilities such as police, fire and schools;
- (i) That there is minimal potential for future hardship on the conditional use that could result from the proposed use being surrounded by uses permitted by right that are incompatible;
- (j) That the conditional use shall address the sustainability guidelines of Section 1165.06.
- (k) That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located as well as the specific supplemental conditions set forth in Chapter 1153.

## **CHAPTER 1153**

### **Supplemental Standards for Conditional Uses**

- 1153.01 Purpose.
- 1153.02 Conformance with district regulations.
- 1153.03 Specific area, width and yard regulations.
- 1153.04 Supplemental height regulations.
- 1153.05 Supplemental regulations for specific uses.

#### **CROSS REFERENCES**

- Conditional use defined - see P. & Z. 1103.03(b)(24)
- Conditional use permit defined - see P. & Z. 1103.03(b)(25)
- Planning Commission to approve or disapprove of conditional uses - see P. & Z. 1111.06(b)(1)
- General standards for all conditional uses - see P. & Z. 1151.02

#### **1153.01 PURPOSE.**

In addition to the general criteria established in Chapter 1151, the following specific conditions pertaining to each use or group of uses shall apply. Nothing in this ~~chapter~~Chapter shall prohibit the Planning Commission from prescribing supplementary conditions and safeguards in addition to these requirements.

#### **1153.02 CONFORMANCE WITH DISTRICT REGULATIONS.**

A conditional use, except as specifically otherwise provided in this title or in the district regulations for the district in which such use is to be located, shall conform to such district regulations, and to other substantive requirements of this Zoning Code, as well as satisfying the conditions, standards and requirements of this ~~chapter~~Chapter.

#### **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

|                        |                                                                                                                       |                      |                              | <i>Min. Yard Dimensions (in feet)</i> |                  |                   |             |                         |
|------------------------|-----------------------------------------------------------------------------------------------------------------------|----------------------|------------------------------|---------------------------------------|------------------|-------------------|-------------|-------------------------|
|                        |                                                                                                                       |                      |                              | <i>Buildings (d) Parking</i>          |                  |                   |             |                         |
| <i>Conditional Use</i> |                                                                                                                       | <i>Min. Lot Area</i> | <i>Min. Lot Width (Feet)</i> | <i>Front</i>                          | <i>Side/Rear</i> | <i>Side/Front</i> | <i>Rear</i> | <i>See Also Section</i> |
| (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 private parking garage as a principal use                                                             | 20,000 sq. ft.       | 100                          | 30                                    | 15               | N/A               | N/A         | ---                     |
| (12)                   | Day care home                                                                                                         | ---                  | --                           | --                                    | --               | --                | --          | 1153.05 (d)             |
| (13)                   | Day care center, preschool                                                                                            | ---                  | --                           | --                                    | --               | --                | --          | 1153.05 (e)             |
| (14)                   | (Intentionally omitted)                                                                                               | ---                  | --                           | --                                    | --               | --                | --          |                         |
| (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                                                               | ---                  | ---                          | ---                                   | --               | --                | --          | ---                     |
| (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)  |
| (26A) | Animal day-care facilities and overnight boarding of animals      | ---            | --  | --    | --    | --  | --  | 1153.05 (bb) |
| (27)  | Convenience retail in an office building                          | ---            | --  | --    | --    | --  | --  | 1153.05 (o)  |
| (28)  | Catering                                                          | ---            | --  | --    | --    | --  | --  | ---          |
| (29)  | Outdoor dining                                                    | ---            | --  | --    | --    | --  | --  | 1153.05 (p)  |
| (30)  | Dance studios, exercise 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 and minor repair                               | 20,000 sq. ft. | 100 | (b)   | (b)   | 15  | (b) | 1153.05 (u)  |
| (37)  | (Intentionally omitted)                                           |                |     |       |       |     |     |              |
| (38)  | Game rooms                                                        | ---            | --  | --    | --    | --  | --  | 1153.05 (v)  |
| (39)  | Indoor commercial entertainment                                   | ---            | --  | --    | --    | --  | --  | ---          |
| (40)  | Private indoor/outdoor recreation                                 | ---            | --  | --    | --    | --  | --  | ---          |
| (41)  | Banquet hall, party center                                        | ---            | --  | --    | --    | --  | --  | ---          |
| (42)  | Satellite dish receiving antenna                                  | ---            | --  | --    | --    | --  | --  | 1153.05 (w)  |
| (43)  | Meeting room                                                      | ---            | --  | --    | --    | --  | --  | 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.

#### 1153.04 SUPPLEMENTAL HEIGHT REGULATIONS.

Height limits heretofore established may be exceeded in the case of places of worship, public, semi-public, public service, hospital, institutional or educational buildings, any of which when conditionally permitted may be erected to a height not exceeding seventy-five (75) feet if the building is set back from each front, side and rear yard line as required herein at least one (1) foot for each foot of additional building height above the height limit otherwise permitted in the district in which the building is built.

#### 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 a residential district a place of worship shall be used only for local purposes of the congregation 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, 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<sub>1</sub> 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, Preschool. In a residential district, a day care center or preschool 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. 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-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;

(4) Landscaping shall comply with the standards in Sections 1166.06 and 1166.07.

(g) (Intentionally Omitted).

(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 provided that the following standards are met and maintained:

(1) 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;

(2) 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;

(3) 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;

(4) 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;

(5) There shall be no storage of material, goods or equipment used for a business activity conducted off the premises;

(6) 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;

(7) 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

(8) No home occupation shall be permitted in that portion of a private parking garage that provides enclosed parking spaces for a dwelling unit in fulfillment of the required accessory parking spaces for such dwelling unit by this Zoning Code.

(i) Outdoor Community Festivals. An outdoor community festival may be conditionally permitted in any district in compliance with the following:

(1) In any district, the festival shall be sponsored by a street club, neighborhood association, religious or educational institution, or other nonprofit community organization.

(2) In a commercial district, a local merchant's organization or special improvement district shall be permitted to sponsor a festival.✚

(3) 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.

(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~~1/2) 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~~the Codified Ordinances 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 yard along the entire length of the common boundary between the commercial district and the residential district shall be required pursuant to Section 1165.07;

(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) 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, ~~C-2X~~~~C2X~~ 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 and Similar Uses. 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 legal, nonconforming 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 square feet and the regulations for each use are maintained.

(v) Game rooms. In a C-2, C-2X<sub>2</sub> 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 Mayor 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, 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) 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 (1) sign for each distinct group of plants;

(4) Outdoor plant displays shall be set back from all property lines a minimum of ten (10) 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 (3) feet, six (6) 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 provide the requisite number of accessory parking spaces per this Zoning Code.

(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 Codes.

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 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<sub>2</sub> 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<sub>2</sub> 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. ~~Multiple~~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 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~~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~~place 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 (1) 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.~~

CB. 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. Fences of up to four (4) feet in height are permitted and shall be constructed of wood, ornamental metal or other material ~~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~~ 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~~ the Codified Ordinances 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<sub>1</sub> or C-3 ~~district~~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

- 1155.01 Purpose.
- 1155.02 Approval criteria.
- 1155.03 Permitted uses.
- 1155.04 Minimum land area.
- 1155.05 Development standards.
- 1155.06 Procedures.
- 1155.07 Phasing.
- 1155.08 Bond or escrow agreement.

### CROSS REFERENCES

Planned development objectives - see P. & Z. Ch. 1141  
PDO Planned Development Overlay District - see P. & Z. Ch. 1147

#### 1155.01 PURPOSE.

A Planned Residential Development (~~“(PRD)”~~) may be conditionally permitted in an AA, A, B<sub>2</sub>, or MF-1 ~~Residential~~ District in accordance with the standards and regulations set forth in this ~~chapter~~Chapter. These regulations are intended to encourage the use of ~~Planned Residential Developments~~PRDs in order to achieve the following objectives:

- (a) To provide density incentives that will encourage new residential development.
- (b) To allow creativity, variety and flexibility in design as necessary to implement the various goals and objectives set forth in the City’s Strategic Plan and this ~~chapter~~Chapter, including the creation of new developments that are more sustainable and minimize negative impacts to the environment.
- (c) To encourage the development of housing types which are not generally found in Cleveland Heights such as cluster housing and townhouse developments.
- (d) To promote economical and efficient use of land through unified development.
- (e) To permit the application of modern planning techniques in the development of such residential areas.
- (f) To ensure that the proposed ~~Planned Residential Development~~PRD occurs in a unified manner in accordance with a development plan prepared by either the City or the property owner.

#### 1155.02 APPROVAL CRITERIA.

A ~~Planned Residential Development~~PRD 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-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 utilities shall be located underground. ~~Storm-water~~Stormwater must address requirements of Chapter 1335, ~~Storm-Water~~Stormwater Management.

#### 1155.03 PERMITTED USES.

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

| Use |                                                                             | Zoning District |   |   |      |
|-----|-----------------------------------------------------------------------------|-----------------|---|---|------|
|     |                                                                             | AA              | A | B | MF-1 |
| (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    |
| (e) | <del>Multiple</del> <u>Multi</u> -family dwelling                           |                 |   |   | P    |
| (f) | Accessory recreational and community facilities for use by residents of PRD | P               | P | P | P    |

#### 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.

#### 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.

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. All yard requirements may be varied by the Planning Commission to accommodate a variety of structural patterns, clustering designs, and housing types.

(c) Height Regulations. The height of buildings and structures in the AA, A<sub>2</sub>, 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.

(d) Additional Standards. Additional site specific development requirements formulated to achieve the objectives of this ~~chapter~~ 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.

#### 1155.06 PROCEDURES.

The procedures for the approval of a PRD shall comply with the administrative provisions set forth in Sections 1115.08 and 1115.09, including the submission of a Development Plan. It is suggested that the applicant with preliminary sketches confer informally with the Planning Commission regarding basic concepts of the proposed PRD, prior to submitting the formal Development Plan pursuant to Section 1115.09.

#### 1155.07 PHASING.

If the development is to be implemented in phases, each phase must have adequate provision for access, parking, storm-water management and other public improvements to serve the development in accordance with the applicable criteria set forth. Where the overall development of an entire PRD site will require more than twenty-four (24) months to complete, such developments shall be required to be phased. Each phase shall be provided with temporary or permanent transitional features, buffers, or protective areas in order to prevent damage to completed phases, to future phases, and to adjoining property.

#### 1155.08 BOND OR ESCROW AGREEMENT.

As a prerequisite to the issuance of a conditional use permit under this ~~chapter~~ Chapter for any project involving new construction on a one and one-half (1.5) acre parcel or larger, the applicant shall file with the Planning Commission within ten (10) days after approval of the Development Plan a surety bond or escrow agreement to insure the construction of the project within the period specified in Section 1115.08 or as extended or changed by the Planning Commission. The bond or escrow shall be enforceable by or payable to the City in a sum at least equal to the estimated costs of all of the site improvements (streets, drives, walks, walls, storm and sanitary sewers, landscape

planting, ornamental features not on a building, and terraces, but not buildings) for the entire project. The bond or escrow shall be in a form and with surety and conditions approved by the Director of Law. In the event of default under such bond or escrow, the City may use the sum defaulted to construct such site improvements to the extent of the funds available.

RECOMMENDED

## ***TITLE NINE - Supplementary Regulations***

Chap. 1161. Off-Street Parking and Loading Regulations.

Chap. 1163. Sign Regulations.

Chap. 1165. Additional Regulations Governing Uses.

Chap. 1167. Prohibited Uses.

Chap. 1169. Sexually Oriented Businesses.

RECOMMENDED

## **CHAPTER 1161**

### **Off-Street Parking and Loading Regulations**

- 1161.01 Purpose.
- 1161.02 Determination of required off-street parking spaces.
- 1161.025 Electric automobile charging stations in parking areas.
- 1161.03 Number of parking spaces required.
- 1161.035 Required bicycle parking spaces.
- 1161.04 Allowance for shared parking.
- 1161.05 Modification of requirements.
- 1161.055 Parking maximums.
- 1161.058 Land banked parking.
- 1161.06 Location of required parking spaces.
- 1161.065 Car-share facilities.
- 1161.07 Off-street waiting spaces for drive-thru facilities.
- 1161.08 Parking of junk motor vehicles.
- 1161.09 Off-street loading spaces required.
- 1161.10 Non-residential joint use driveways and cross-access easements.
- 1161.105 Single-family and two-family residential driveways.
- 1161.107 Compact parking spaces.
- 1161.11 Improvement and maintenance standards.
- 1161.12 Tractor-trailer parking.
- 1161.13 Exceptions to off-street parking requirements in commercial districts.

#### **CROSS REFERENCES**

- Parking generally - see TRAF. Ch. 351
- Loading space, off-street defined - see P. & Z. 1103.03(b)(56)
- Parking deck defined - see P. & Z. 1103.03(b)(72)
- Parking lot defined - see P. & Z. 1103.03(b)(73)
- Parking space, off-street defined - see P. & Z. 1103.03(b)(74)
- Parking lot fees - see BLDG. 1311.071

#### **1161.01 PURPOSE.**

Off-street parking regulations are established in order to protect residential neighborhoods from on-street parking; to promote the general convenience, welfare and prosperity of commercial developments; and to relieve congestion so the streets can be utilized more fully for movement of vehicular traffic. The off-street parking regulations also work to minimize the negative impacts that result from large expanses of paved parking areas and encourage alternate modes of transportation, including walking, biking and public transportation. Therefore, accessory off-street parking shall be provided as a condition precedent to the occupancy or use of any building, structure or land, and at any time a building, structure or use of land is enlarged, expanded, increased in capacity or use, in conformance with the following provisions.

## 1161.02 DETERMINATION OF REQUIRED OFF-STREET PARKING SPACES.

In computing the number of parking spaces required by this ~~Ordinance~~Zoning Code, the following rules shall apply:

(a) Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross horizontal area of all the floors measured from the exterior faces of the building.

(b) Where seating capacity is the standard for determining parking space requirements, the capacity shall mean the number of seating units installed or indicated, or when fixed seats are not indicated, the capacity shall be determined as being one (1) seat for each twenty (20) square feet of floor area of the assembly room.

(c) Where employees are the standard for determining parking space requirements, employees shall mean the maximum number of employees on any two (2) successive shifts.

(d) Fractional numbers shall be increased to the next whole number.

(e) The parking spaces required for mixed uses shall be the sum of the parking required for each use considered separately.

## 1161.025 ELECTRIC AUTOMOBILE CHARGING STATIONS IN PARKING AREAS.

Parking spaces within parking lots or structures may be installed with electric automobile charging stations, including models that charge by solar energy. Such spaces must be accessible to the public and clearly designated as charging stations. Such spaces count toward parking requirements.

## 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 (a)

|     | <i>Principal Building or Use</i>                                            | <i>Minimum Spaces Required</i>                                                                             |
|-----|-----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| (a) | <u>Residential Uses:</u>                                                    |                                                                                                            |
|     | <del>(1a)</del> Single-family dwellings <u>with 2 or fewer bedrooms</u>     | <del>2 spaces</del> <u>1 space</u> for each dwelling unit (b)                                              |
|     | <del>(1b)</del> <u>Single-family dwellings with greater than 2 bedrooms</u> | <del>2 spaces</del> <u>for each dwelling unit (b)</u>                                                      |
|     | (2) Two-family dwellings                                                    | 2 spaces for each dwelling unit, of which not less than 0.5 spaces per dwelling unit shall be enclosed (c) |
|     | (3) Townhouses                                                              | 2 spaces for each dwelling unit, of which both spaces per dwelling unit shall be enclosed (b)              |
|     | (4) <del>Multiple</del> <u>Multi</u> -family dwelling                       | 1 space for each dwelling unit                                                                             |
|     | (5) Senior citizen apartments                                               | 1 space for each dwelling unit                                                                             |
|     | (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:</u>        |                                                                                            |                                                                                              |
|     | (1)                                              | Office, medical office, animal clinic and financial establishments                         | 1 space for each 300 sq. ft. of floor area.                                                  |
|     | (2)                                              | Funeral homes, mortuaries                                                                  | 1 space for each 50 sq. ft. of floor area in parlors or service rooms.                       |
|     | (3)                                              | Hospitals                                                                                  | 2 spaces per room                                                                            |
| (c) | <u>Retail/Service Uses:</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                                                   |
| (c) | <u>Retail/Service Uses:</u>                      |                                                                                            |                                                                                              |
|     | (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>                          |                                                                                            |                                                                                              |
|     | (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 and minor repair                                       | 4 spaces per bay                                                                             |
| (e) | <u>Commercial Entertainment/Recreation Uses:</u> |                                                                                            |                                                                                              |
|     | (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>                  |                                                                                            |                                                                                              |
|     | (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)                                              | Day Care Centers, 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.       |

Notes to Schedule 1161.03:

- (a) Unless modified by the Planning Commission, per Section 1161.05.
- (b) Parking spaces shall be enclosed, except as otherwise provided in Section 1161.051.
- (c) At least 0.5 parking spaces shall be enclosed, except as otherwise provided in Section 1161.051.

### 1161.035 REQUIRED BICYCLE PARKING SPACES.

The following requirements for bicycle parking spaces are applicable to any use where a new principal building is constructed on the premises or when a new addition of 25,000 ~~sq-square~~ feet or more is made to an existing building. In addition, the requirements shall be considered by the Planning Commission as possible conditions when reviewing applications for conditional use permits under Title Seven of the Zoning Code.

(a) Required Number of Bicycle Parking Spaces.

(1) Where off-street parking facilities are provided, the number of bicycle parking spaces must be provided as required by Schedule 1161.035: Required Bicycle Parking Spaces. All uses listed within Schedule 1161.035 are required to provide short-term bicycle parking spaces, which are areas where bicycles will be left for short stops, requiring a high degree of convenience. Certain uses listed within Schedule 1161.035 require a percentage of the required bicycle parking spaces to provide long-term bicycle parking spaces, where bicycles will be left for longer periods of time, and require a safe and weather-protected storage area.

(2) In all cases where bicycle parking is required, a minimum of two (2) bicycle spaces is required.

(3) After the first thirty (30) required bicycle parking spaces are provided, additional bicycle parking spaces are required at one-half (1/2) space per unit listed in Schedule 1161.035.

(4) When a use is exempt from vehicle parking requirements by this Zoning ~~Ordinance~~Code, the use is also exempt from the requirements for bicycle parking spaces.

(5) Shower and locker facilities for bicyclists are required for offices, universities/colleges and hospitals over ~~twenty-five thousand~~ (25,000) square feet in gross floor area of structure. Lockers for clothing and other personal effects must be located in close proximity to showers and dressing areas to permit access to the locker areas by ~~either gender~~all genders. A minimum of one (1) clothes locker is required for each long-term bicycle parking space provided.

#### Schedule 1161.035

#### REQUIRED BICYCLE PARKING SPACES

| <del>Schedule 1161.035: Required Bicycle Parking Spaces</del>                      |                                         |                                                    |
|------------------------------------------------------------------------------------|-----------------------------------------|----------------------------------------------------|
| USE                                                                                | REQUIRED BICYCLE SPACES                 | REQUIRED PERCENTAGE OF LONG-TERM SPACES            |
| <del>Multiple</del> Multi-Family Dwelling                                          | 1 per 4 dwelling units                  | <del>Eighty percent</del> (80%) required long-term |
| Dormitory; Fraternity/Sorority                                                     | 1 per 4 beds                            | <del>Eighty percent</del> (80%) required long-term |
| Retail/Service Establishments Over 10,000 sq. ft. <del>sf</del> 000sf in GFA       | 1 per 2,500 <del>sf</del> sq. ft. 500sf |                                                    |
| Offices Over 10,000 sq. ft. <del>sf</del> 000sf in GFA                             | 1 per 5,000 sq. ft. <del>sf</del> 000sf | <del>Fifty percent</del> (50%) required long-term  |
| Entertainment/Recreation Facilities Over 10,000 sq. ft. <del>sf</del> 000sf in GFA | 1 per 5,000 sq. ft. <del>sf</del> 000sf |                                                    |
| Junior high schools, elementary schools and kindergartens                          | 2 per classroom                         |                                                    |
| High Schools                                                                       | 3 per classroom                         |                                                    |

|                                                                  |                                                |                                               |
|------------------------------------------------------------------|------------------------------------------------|-----------------------------------------------|
| Colleges and Universities                                        | 1 per 5,000 sq. ft., <del>sf000sf</del><br>GFA | <u>Fifty percent (50%)</u> required long-term |
| Places of Worship Over 10,000 sq. ft., <del>sf000sf</del> in GFA | 1 per 5,000 sq. ft., <del>sf000sf</del><br>GFA |                                               |
| Hospitals                                                        | 1 per 25 beds                                  | <u>Fifty percent (50%)</u> required long-term |
| Community Facilities                                             | 1 per 2,500 sq. ft., <del>sf500sf</del><br>GFA |                                               |

(b) Location of Bicycle Parking Spaces.

(1) The bicycle parking area must be convenient to building entrances and street access, but may not interfere with normal pedestrian and vehicle traffic. For passive security purposes, the bike parking shall be well-lit and clearly visible to building occupants or clearly visible from the public street.

(2) Bicyclists must not be required to travel over stairs or other obstacles to access bicycle parking.

(3) All required bicycle spaces must be located on the same lot as the use or within fifty (50) feet of the lot when on private property. The property owner may also make suitable arrangement with the City to place bike parking spaces in the public right-of-way. Parking in the public right-of-way must be within fifty (50) feet of the zoning lot.

(4) Short-term bicycle parking spaces must be located no more than fifty (50) feet from the principal building entrance and at the same grade as the sidewalk or an accessible route.

(5) Long-term bicycle parking spaces must be located in a covered area that is easily accessible from the public-right-of-way and building entrances. The area must comply with one (1) of the following secure locations:

- (i) Enclosed in a locked room.
- (ii) Enclosed by a fence with a locked gate.
- (iii) Located within view or within one-hundred (100) feet of an attendant or security guard.
- (iv) Located in an area that is monitored by a security camera.
- (v) Located in an area that is visible from employee work areas.

(6) Required bicycle parking for residential uses may be provided in garages, storage rooms and other resident-accessible, secure areas. Space within dwelling units or on balconies are not counted toward satisfying bicycle parking requirements.

(c) Design of Bicycle Parking Spaces.

(1) Required bicycle spaces must have a minimum dimension of two (2) feet in width by six (6) feet in length, with a minimum overhead vertical clearance of seven (7) feet. Each required bicycle parking space must be accessible without moving another bicycle. There must be an aisle at least (five) 5 feet wide between each row of bicycle parking to allow room for bicycle maneuvering.

(2) The area devoted to bicycle parking must be surfaced as required for vehicle parking areas.

(3) All long-term bicycle parking spaces must be covered, which can be achieved through use of an existing overhang or covered walkway, weatherproof outdoor bicycle lockers or an indoor storage area. Where bicycle parking is not located within a building or locker, the cover design must be of permanent construction, designed to protect bicycles from rainfall and with a minimum overhead vertical clearance of seven (7) feet.

(4) Bicycle parking facilities must provide lockable enclosed lockers or racks, or similar structures, where the bicycle may be locked by the user. Racks must support the bicycle in a stable position. Structures that require a user-supplied locking device must be designed to easily allow a

high-security U-shaped lock to secure the bike frame and one (1) wheel while both wheels are still on the frame's brackets. All lockers and racks must be securely anchored to the ground or a structure to prevent the racks and lockers from being removed from the location.

(5) If required bicycle parking facilities are not visible from the public street or principal building entrance, signs must be posted indicating their location.

#### 1161.04 ALLOWANCE FOR SHARED PARKING.

(a) Institutions, theaters and similar uses may make arrangements with banks, offices, retail stores and similar uses that are not normally open, used or operated during the same hours to share parking facilities, provided not more than fifty percent (50%) of the required parking spaces are shared.

(b) Off-street parking spaces for separate uses may be provided collectively if the aggregate number of spaces provided is not less than the sum of the spaces required in Schedule 1161.04(b): Collective Parking Calculation. Schedule 1161.04(b) is applied in the following manner:

(1) The required number of spaces for each use is calculated according to Schedule 1161.03.

(2) The required number of spaces for each use is then applied to the percentages for each time, according to the appropriate land use category in Schedule 1161.04(b) to determine the number of required spaces. This is done for each time category.

(3) The numbers are summed for all land uses within each timeframe and the highest sum total in a timeframe is the required number of spaces.

#### ~~SCHEDULE~~ Schedule 1161.04(b): COLLECTIVE PARKING CALCULATION

| LAND USE      | Weekday |         |         | Weekend |         |         |
|---------------|---------|---------|---------|---------|---------|---------|
|               | Mid-7am | 7am-6pm | 6pm-Mid | Mid-7am | 7am-6pm | 6pm-Mid |
| Residential   | 100%    | 55%     | 85%     | 100%    | 65%     | 75%     |
| Commercial    | 0%      | 100%    | 80%     | 0%      | 70%     | 60%     |
| Restaurant    | 50%     | 30%     | 70%     | 5%      | 70%     | 100%    |
| Hotel/Motel   | 100%    | 65%     | 90%     | 100%    | 65%     | 80%     |
| Movie Theater | 0%      | 10%     | 70%     | 5%      | 70%     | 100%    |
| Office        | 5%      | 100%    | 5%      | 0%      | 10%     | 10%     |
| Industrial    | 5%      | 80%     | 5%      | 0%      | 10%     | 10%     |

(c) In any case where the required parking spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by legal counsel, and filed with the application for a zoning approval.

## 1161.05 MODIFICATION OF NUMBER OF REQUIRED PARKING SPACES.

Whenever the parking requirements based on functions and uses, and application of the standards specified in Schedule 1161.03 can be shown by the applicant to result in an excessive number of parking spaces and that a lesser number of spaces is appropriate and consistent with these regulations, the Planning Commission may approve a reduction in required spaces.

### 1161.051 EXCEPTIONS TO REQUIRED ENCLOSED PRIVATE PARKING SPACES

Any application on a property with an existing residential building that will not be providing the requisite enclosed parking spaces as indicated in Schedule 1161.03 shall require review and approval by the Planning Commission based upon the regulations and criteria of this section. These exceptions shall not be applicable to new residential construction.

- (a) Exceptions. The required off-street parking spaces for single-family dwellings, two-family dwellings, and townhouses shall be enclosed in a detached or attached private parking garage, as indicated in Schedule 1161.03, unless one (1) or more of the following exceptions can be substantiated:
  - (i) The parcel is a legal, non-conforming lot that does not have the requisite minimum lot area or lot width to accommodate a Code-conforming private parking garage.
  - (ii) Special conditions exist specific to the lot that are not applicable generally to other lots in the same Zoning District that render a Code-conforming private parking garage impractical.
  - (iii) If the previously existing private parking garage on the lot was a single-car garage for single-family dwelling, the Zoning Administrator may approve an exception administratively.
  - (iv) If an existing private parking garage structure and associated remnant parking pavement are proposed to be removed and replaced with grass or landscaping, thereby increasing green or open space.
  - (v) If a substantial expansion or addition to the principal structure is proposed.
- (b) Landscape Plan Required. Any application that will not be providing the requisite enclosed private parking spaces shall include a Landscape Plan that addresses stormwater management and minimizes adverse impact on neighboring properties, subject to Chapter 1166 of the Zoning Code.
- (c) All other provisions ~~of City ordinances~~ the Codified Ordinances relating to zoning, demolition construction, use and maintenance of residential buildings shall apply, including, but not limited to, impervious surface coverage, yard setbacks, parking pad dimensions, driveway dimensions, parking requirements, and utilization of driveways for parking.

### 1161.055 PARKING MAXIMUMS.

The following vehicle parking space maximums are applicable to all surface parking lots for multiple~~multi~~-family, non-residential, and mixed-use development uses:

(a) Surface parking areas may not exceed one-hundred and twenty-five percent (125%) of the required minimum number of vehicle parking spaces. Parking spaces designated for car-share facilities are not counted toward the maximum number of parking spaces.

(b) For surface parking areas that require a minimum of thirty (30) or more spaces, when the minimum number of vehicle spaces required by Schedule 1161.03 is exceeded, the area used for additional spaces must be paved with a semi-pervious material, such as permeable pavers, porous asphalt, porous concrete, grass-crete or gravel-crete. 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.

(c) Existing surface parking areas that exceed the parking maximums must come into conformance with the maximum number of parking spaces when the following occurs:

(1) A new principal building is constructed on the site.

(2) Over fifty percent (50%) of the total area of an existing parking lot is rebuilt.

(d) When surface parking areas exceed the number of spaces permitted by this section and are required to come into conformance, the excess spaces must be converted into any combination of the following:

(1) The spaces are landscaped, as required by this Zoning ~~Ordinance~~Code.

(2) Subject to administrative review, existing excess spaces may be designated as car share spaces. If the excess spaces are to be used as car share spaces, the property owner must submit evidence of an arrangement with a car share program. If no longer used as car share spaces, those spaces must be converted into landscape, as required by this Zoning ~~Ordinance~~Code.

(3) Subject to administrative review, existing excess spaces may be converted to bicycle parking spaces. If no longer used as bicycle spaces, those spaces must be converted into landscape, as required by this Zoning ~~Ordinance~~Code.

#### 1161.058 LAND BANKED PARKING.

Land banking allows for designating a portion of land on a site that would be required for parking to be held and preserved as landscape, rather than constructed as parking. The Zoning Administrator may permit land banking of up to thirty percent (30%) of the required parking spaces, subject to the following:

(a) Evidence is provided by the applicant that supports the reduced parking needs.

(b) The area proposed for land banking of parking spaces must be an area suitable for parking at a future time.

(c) Landscaping of the land banked area must be in full compliance with this ~~Ordinance~~Zoning Code and, at a minimum, landscaped with turf or live groundcover.

(d) The land banked area cannot be used for any other use and must be part of the same zoning lot and all under the same ownership.

(e) As part of the site plan review process, the applicant must show the area to be banked on the site plan and marked as "Land Banked Future Parking."

(f) The Zoning Administrator, on the basis of increased parking demand for the use, may require the conversion of all or part of the land banked area to off-street parking spaces.

#### 1161.06 LOCATION OF REQUIRED PARKING SPACES.

In addition to specific requirements contained in each district regulation, the location of off-street parking facilities shall further be regulated according to the following provisions:

(a) The parking spaces required for residential buildings in a residential district shall be located on the same lot with the building or use served.

(b) The parking spaces required for any other building or use in a residential district and any use in a commercial district may be located on another permissible zoning lot within 300 feet of the building and two (2) or more owners of buildings may join together in providing the required parking spaces. Where the required parking spaces are not located on the same lot with the building or use served, the usage of the lot or tract upon which the parking spaces are provided shall be restricted by an instrument of record describing the premises for which the parking is provided and assuring the retention of such parking so long as required by this Zoning Code.

(c) No parking of a motor vehicle shall be permitted nor shall any person park a motor vehicle in a landscaped front, side or rear yard area. Whoever violates this section is subject to the penalty set forth in Section 303.99(a)(1) of the Traffic Code of the Codified Ordinances.

(d) No parking of a motor vehicle shall be permitted on any portion of a lot designated as an accessory structure such as a patio, porch or deck.

(e) New parking lots shall not be located in the front yard or along the principal frontage on corner lots.

#### 1161.065 CAR-SHARE FACILITIES.

(a) A car-share facility is a membership-based car-sharing service that provides automobile rental to members, billable by the hour or day. Car-sharing is not considered a motor vehicle rental establishment.

(b) Spaces within all surface parking lots and parking structures must be clearly designated as assigned parking spaces for car-share facilities.

(c) No space required for a use in the parking area may be used as a car-share space; car-share spaces are in addition to those required by a use, with the following exceptions:

(1) Parking spaces designated for car-share facilities are not counted toward the maximum number of parking spaces.

(2) A ten percent (10%) reduction in the total required parking is permitted where car-sharing spaces are provided in a ~~multiple~~ multi-family or mixed-use development.

#### 1161.07 OFF-STREET WAITING SPACES FOR DRIVE-THRU FACILITIES.

Establishments which by their nature create lines of customers waiting to be served within automobiles shall provide off-street waiting areas, on the same lot as the use, in addition to the required number of parking spaces specified in Schedule 1161.03, in accordance with the following requirements:

(a) Commercial establishments such as banks, drive-thru restaurants, automatic car wash facilities and other similar facilities with service windows or service entrances shall provide a

minimum of ten (10) waiting spaces, but not less than five (5) spaces per window or entrance when there are two (2) or more windows or entrances.

(b) Self-serve car wash facilities shall provide no fewer than two (2) waiting spaces per stall.

(c) Gasoline stations shall provide no fewer than two (2) waiting spaces per accessible side of a gasoline pump island.

(d) In any case, there shall not be within the public right of way vehicles waiting for service at such drive-in or drive-thru facilities.

#### 1161.08 PARKING OF JUNK MOTOR VEHICLES.

(a) The outdoor parking of a junk motor vehicle on a lot shall be prohibited except as provided below. However, such a junk motor vehicle may be stored in a private parking garage, provided that in a residential district no business shall be conducted in connection therewith while such vehicle is parked or stored inside of the building.

(b) The parking of a junk motor vehicle in connection with a conditional use in a commercial district may be permitted for a period not to exceed forty-eight (48) hours.

#### 1161.09 OFF-STREET LOADING SPACES REQUIRED.

Off-street loading spaces shall be provided and maintained on the same zoning lot with the building as necessary to meet the needs of the principal use. The location of off-street loading spaces shall be regulated according to the following:

(a) Streets, sidewalks, alleys or other public rights of way or other public property shall not be used for loading purposes nor shall vehicles be parked on such areas during loading and unloading.

(b) No part of any required yard, off-street parking area, or access drive thereto, shall be used for loading or unloading purposes.

#### 1161.10 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 1161.10(a): Joint Use Driveways and Cross-Access Easements)

(b) Joint use driveways and cross-access easements must incorporate the following:

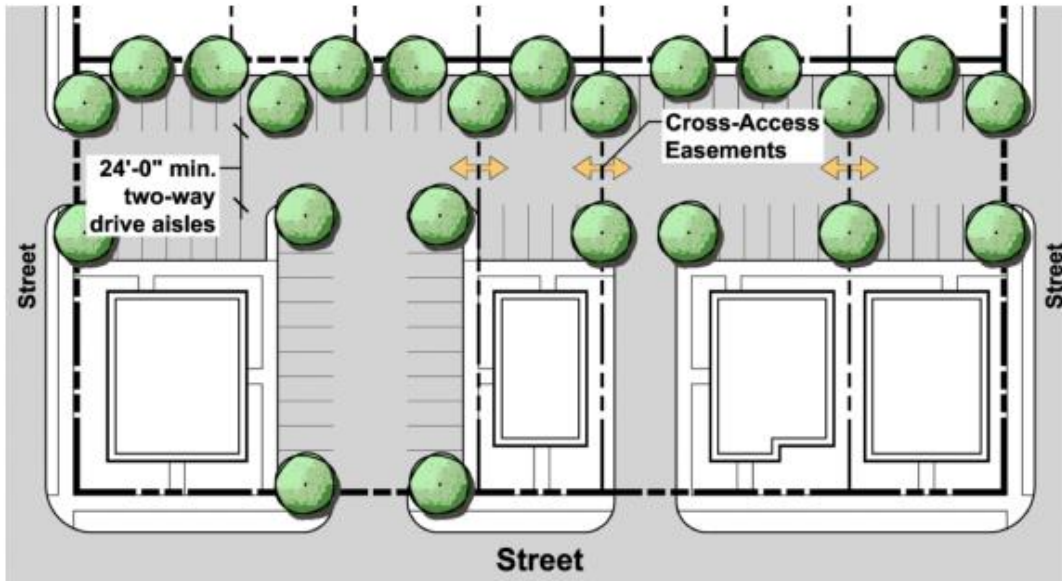
(1) A travel aisle and driveway width of twenty-four (24) feet to ensure two-way travel aisles to accommodate automobiles, service vehicles and loading vehicles.

(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 1161.10(a): JOINT USE DRIVEWAYS & CROSS-ACCESS EASEMENTS



#### 1161.105 SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL DRIVEWAYS.

(a) For single-family and two-family dwellings, a residential driveway that provides access to a detached private parking garage is limited to twelve (12) feet in width. A driveway apron, the width of the private parking garage, as measured from the garage walls, is permitted to extend for a distance (depth) of twenty (20) feet from the garage doors before tapering back to the maximum driveway width of twelve (12) feet. For attached garages located twenty-five (25) feet or less from the lot line, the driveway is permitted to be the width of the attached garage and no tapering is required on private property. However, the apron shall be a maximum of twelve (12) feet. (See Figure 1164.105(a)).

(b) For dwellings with a single-car attached private parking garage, the Zoning Administrator may approve the driveway width that provides access to the private parking garage and up to an additional nine (9) feet of width to provide for one (1) parking space that does not block the private parking garage. This width is permitted to extend for a distance of twenty (20) feet from the garage door before tapering back to the maximum driveway width of twelve (12) feet.

(c) Driveways must be located a minimum of three (3) feet from the side and rear lot line. However, a residential driveway may be shared by adjacent lots and constructed on the lot line. This shared driveway location is only allowed if agreed to by the owners of each lot.

(d) All single-family and two-family dwellings are permitted to construct driveways that consist of two (2) paved wheel strips, each of which is a minimum of eighteen (18) inches wide and a minimum of twenty (20) feet long. A permeable surface, such as turf, must be maintained between such wheel strips. (See Figure 1161.105(d): Paved Wheel Strips). All driveway aprons must comply with the construction and paving requirements of this Zoning Code.

(e) Residential driveways must be surfaced and maintained in accordance with Section 1161.11(d). Paving with semi-pervious materials, such as permeable pavers, porous asphalt, porous concrete, grass-crete or gravel-crete, is encouraged. A semi-pervious driveway is still subject to the coverage requirements of each individual yard. Gravel and wood chips are prohibited.

(f) For single-family and two-family dwellings, driveways may be used for accessory parking spaces up to two (2) motor vehicles, so long as such driveway can accommodate vehicles without the vehicles extending over sidewalks, the street, or landscaped areas.

FIGURE 1161.105(a): RESIDENTIAL DRIVEWAY WIDTH

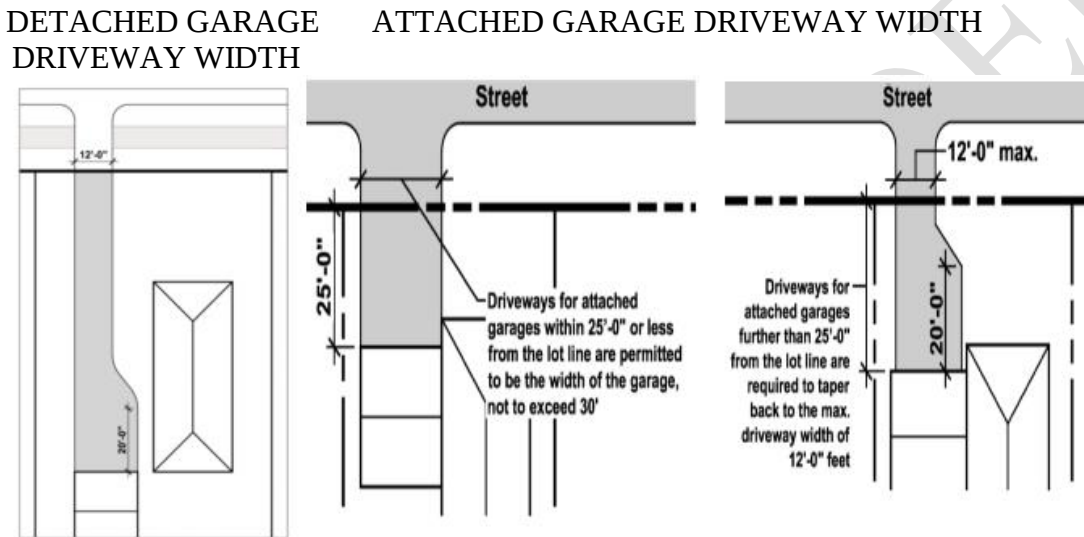


FIGURE 1161.105(c): PAVED WHEEL STRIPS



## 1161.107 COMPACT PARKING SPACES.

Compact spaces are permitted subject to the following:

- (a) A maximum of ten percent (10%) of the spaces in any parking facility may be designated and labeled as compact car spaces.
- (b) A compact car parking space must be designated with a sign.

## 1161.11 IMPROVEMENT AND MAINTENANCE STANDARDS.

All 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. Compact parking spaces measuring at least seven feet six inches (7' 6") by sixteen (16) feet are permitted as regulated in [Section 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).

(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 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. Unless a curb-stop and associated stormwater management is provided, A-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 SectionsSection 1166.06 and 1166.10.

(i) Signs. Signs shall be provided in accordance with Chapter 1163.

(j) Lighting. Wherever a parking lot, open parking deck, or open private parking 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, open parking deck, or private parking 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.

#### 1161.12 TRACTOR-TRAILER PARKING.

- (a) Outdoor parking of an unhitched pole trailer or semitrailer is prohibited.
- (b) Outdoor parking of an unhitched commercial tractor is prohibited.
- (c) Tractor-trailers shall not remain on any premises for more than twenty-four hours after being loaded or unloaded.
- (d) Tractor-trailers shall only be parked in designated loading areas.
- (e) Outdoor parking of any inoperable or unlicensed commercial tractor is prohibited.
- (f) For the purposes of this section, "commercial tractor", "pole trailer", "semitrailer" and "trailer" shall be defined in the same manner as set forth in Chapter 301, "Definitions" of the Traffic Code.

#### 1161.13 EXCEPTIONS TO OFF-STREET PARKING REQUIREMENTS IN COMMERCIAL DISTRICTS.

(a) In the City's commercial districts, parking needs are predominantly met by the existence of significant amounts of on- and off-street public parking and, in some areas, large private parking areas serving multiple uses. This reduces the need for individual uses to provide their own dedicated off-street parking, as does the fact that many patrons of uses in these commercial districts arrive on foot or by public transportation. Further, a large number of small parking lots would be disruptive in these areas, in which safe and pleasant conditions for pedestrians are important assets. On the commercial-district parcels described in subsection (b) below, the following exceptions to the off-street parking requirements set out in Chapter 1161 shall apply:

(1) New uses in existing buildings that would not result in a significant change of intensity relating to traffic and parking shall not be required to provide off-street parking.

(2) New uses in existing buildings proposed to expand the gross floor area by twenty-five percent (25%) or less that would not result in a significant change of intensity relating to traffic and parking shall not be required to provide off-street parking.

(b) The exceptions to the off-street parking requirements, as described in subsection (a) above, shall apply only to commercially zoned parcels.

## CHAPTER 1163 Sign Regulations

- 1163.01 Purpose.
- 1163.02 Application of sign regulations.
- 1163.03 Computations.
- 1163.04 Maximum sign areas permitted.
- 1163.05 Maximum height permitted for freestanding signs.
- 1163.06 Supplementary sign regulations.
- 1163.07 Projecting signs.
- 1163.08 Design and construction standards.
- 1163.09 Administrative procedures.
- 1163.10 Maintenance.
- 1163.11 Alteration and removal of nonconforming signs.

### CROSS REFERENCES

Sign definitions - see P. & Z. 1103.03(b)(92)  
Sign permits and fees - see BLDG. 1323.01  
Safety and location - see BLDG. 1323.02

### 1163.01 PURPOSE.

(a) The purposes of this ~~chapter~~ Chapter are to promote the general health, safety and welfare of the residents of the City by establishing sign regulations, as necessary, to ensure that signs are in harmony with the character of the associated use and surrounding area. A sign may be erected, placed, established, painted, created or maintained in Cleveland Heights only in conformance with the standards, procedures, exemptions and other requirements of this ~~chapter~~ Chapter.

(b) As more specifically set forth herein, the purposes of these sign regulations are to:

- (1) Promote and maintain attractive, high value residential districts;
- (2) Provide reasonable, yet appropriate, conditions for identifying businesses and commercial enterprises;
- (3) Control the size, location and design so that signs will be aesthetically harmonious with their surroundings;
- (4) Eliminate any conflict which would be hazardous between business or identification signs and traffic control signs and devices;
- (5) Provide review procedures which enable the City to comprehensively evaluate the appropriateness of the sign to the site, building and surroundings;
- (6) Assure that signs are located and designed to maintain a safe and orderly pedestrian and vehicular environment;
- (7) Prohibit all signs not expressly permitted by this Zoning Code.

## 1163.02 APPLICATION OF SIGN REGULATIONS.

(a) The regulations and standards contained in this ~~chapter~~Chapter shall apply to signs outside of the public right of way. A sign may only be erected, established, painted, created or maintained in Cleveland Heights in conformance with the standards, procedures, exemptions and other requirements of this ~~chapter~~Chapter.

(b) No signs shall be permitted in the public right of way, except for the following:

(1) Public signs erected by or on behalf of a governmental body, when approved by the City, to post legal notices, identify public property, convey public information, identify historic districts or sites, and direct or regulate pedestrian or vehicular traffic;

(2) Bus stop signs erected by a public transit company;

(3) Informational signs of a public utility regarding its poles, lines, pipes, or facilities; and

(4) Awning, marquee and projecting signs projecting over a public right of way in conformity with the conditions of Section 1163.08.

(c) Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign and any damages caused to public property.

## 1163.03 COMPUTATIONS.

The following principles shall control the computation of sign area and sign height.

(a) Determining Sign Area or Dimension.

(1) For a sign which is framed, outlined, painted and otherwise prepared and intended to provide a background for a sign display, the area shall include the entire portion within the outside dimensions of the background or frame.

(2) For a sign comprised of individual letters, figures, or elements on a wall or similar surface, or an irregularly shaped freestanding or projecting sign, the area of the sign shall encompass a regular geometric shape or a combination of regular geometric shapes which form, or approximate, the perimeter of all the elements in the display. When separate elements are organized to form a single sign but the elements are separated by open space, the area shall be calculated by determining the geometric form or combination of forms which comprise all the display area including the space between the elements.

(3) The sign area shall include the frame, but shall not include the pole or other necessary structural support unless such pole or structural support is illuminated or otherwise so designated to constitute a display surface or device.

(4) A freestanding sign shall have no more than two (2) display surfaces provided that the two (2) display surfaces are arranged back-to-back, and not more than twelve (12) inches from each other. Each display surface shall be considered a sign face.

(5) In the event there is a dispute in determining the sign area or any sign dimension, the Architectural Board of Review shall have the final responsibility for making such determination.

(b) Determining Sign Height. The height of a freestanding sign in a commercial district shall be measured from the grade at the nearest right-of-way line to the top of the highest element. The

height of a temporary freestanding sign in a residential district shall be measured from the grade at the base of the signpost to the top of the highest element.

(c) Determining Building Frontage. The length of the building which faces the principal street or the length of the wall of the building which contains the main entrance to the uses therein shall be considered the building frontage.

(1) In the case of an irregular wall surface, a straight line extended along such wall surface shall be used to measure the length.

(2) Only one (1) exterior wall of any business shall be considered its frontage.

(3) For multi-tenant buildings, the portion of a building which is owned or leased by a single tenant shall be considered a building unit.

(4) The length of a building unit is that portion of the building so occupied by a single activity and calculated in the same manner as the building frontage.

(d) Determining Window Area. The window area of a building shall be the total glass area of windows on the first floor of the wall of the building facing a public street, provided that for the purposes of these regulations, the height of windows on the first floor shall be that portion of the window within fifteen (15) feet of the grade. A window panel shall be the area of glass separated from another window panel by an opaque panel four (4) or more inches wide.

(e) Determining Allowable Identification Sign Area.

(1) The maximum area for identification signs in commercial and special districts and conditional uses, as specified in Sections 1163.04 and 1163.06, shall include the sum of the areas of the following signs except when exempt as specified in subsection (e)(2) hereof:

- A. Identification signs, whether awning, wall, window or marquee;
- B. Instructional signs;
- C. Nameplates; and
- D. Permanent window signs.

(2) The following signs are exempt from being included in the maximum allowable area for identification signs: Instructional signs which are clearly intended for instructional purposes and are no greater than ten (10) square feet.

(3) The following signs are permitted in addition to the gross allowable areas specified by Section 1163.04 and bonuses allowed by Section 1163.06 unless otherwise regulated in this Zoning Code:

- A. Building markers;
- B. Public purpose/safety signs;
- C. Construction sign;
- D. Directional signs.

#### 1163.04 MAXIMUM SIGN AREAS PERMITTED.

Signs as permitted in the respective zoning districts shall conform to the maximum area requirements in Schedule 1163.04 unless regulations are otherwise specified in this Zoning Code.

Schedule 1163.04  
**MAXIMUM SIGN AREA REGULATIONS**  
 (Maximum Areas in Square Feet)

|      | <i>Type of Sign</i>          | <i>Residential and Park Districts</i> |                                |                               | <i>Commercial and Special Districts</i> |                               |
|------|------------------------------|---------------------------------------|--------------------------------|-------------------------------|-----------------------------------------|-------------------------------|
|      |                              | <i>Single/<br/>Two Family</i>         | <i>Multiple<br/>Family (a)</i> | <i>Institutional<br/>Uses</i> | <i>Commercial<br/>Uses</i>              | <i>Institutional<br/>Uses</i> |
| (1)  | Nameplate(b)                 | 2                                     | 2                              | 2                             | 2                                       | 2                             |
| (2)  | Residential identification   | N.P.                                  | 12                             | N.A.                          | N.A.                                    | N.A.                          |
| (3)  | Institutional identification | N.P.                                  | N.P.                           | 24(c)                         | N.P.                                    | (d)                           |
| (4)  | Commercial identification    | N.P.                                  | N.P.                           | N.P.                          | (e)                                     | N.P.                          |
| (5)  | Instructional                | N.P.                                  | (f)                            | (f)                           | (f)                                     | (f)                           |
| (6)  | Public purpose/safety        | (k)                                   | (g)                            | (g)                           | (g)                                     | (g)                           |
| (7)  | Directional                  | N.P.                                  | 4(h)                           | 4(h)                          | 4(h)                                    | 4(h)                          |
| (8)  | Temporary                    | 12(i)                                 | 12(i)                          | 12(i)(e)                      | (j)                                     | (j)                           |
| (9)  | Construction                 | N.P.                                  | 12(l)                          | 12                            | 24                                      | 24                            |
| (10) | Permanent window sign        | N.P.                                  | N.P.                           | N.P.                          | (m)                                     | (m)                           |

**Notes to Schedule 1163.04:**

N.A. = Not Applicable.

N.P. = Not Permitted.

Notes to Schedule 1163.04:

(a) These standards shall also apply to multiple-family developments in commercial or special districts.

(b) One (1) per dwelling unit for a single-family or two-family dwelling, or address for a multiple-family dwelling, institution, or business.

(c) One (1) per institution. Maximum sign area permitted per face. Single faced and two-faced freestanding signs shall be permitted. See also Section 1163.06(b).

(d) The maximum permitted area for institutional identification signs for conditionally permitted institutional uses in a commercial or special district is one (1) square foot for each lineal foot of building frontage. Each face of a two-faced freestanding sign shall be counted toward the total. In no case shall the maximum permitted area exceed 150 square feet.

(e) The maximum permitted area for commercial identification signs in a commercial or special district is ten (10) square feet plus one (1) square foot for each lineal foot of building frontage over ten (10) feet. This maximum area applies to the sum of all types of identification signs (wall, window or awning), nameplates, instructional signs, and directional signs unless otherwise exempt pursuant to Section 1163.03(e). In no case shall the maximum permitted area exceed 150 square feet.

(f) Considered an identification sign unless exempt pursuant to Section 1163.03(e).

(g) Public purpose/safety signs shall be permitted as needed to achieve the intended public purpose.

(h) Maximum area of a directional sign shall be per sign face. There shall be no more than two (2) freestanding directional signs per access drive.

(i) Total aggregate sign area for each institutional use or residential zoning lot. The maximum permitted area for any individual sign is six (6) square feet. See also Section 1163.06(f).

(j) Shall comply with the regulations of Section 1163.06(e)(5) (temporary window signs) and Section 1163.06(f) (temporary signs).

(k) See Section 1163.06(a) (safety and security signs in residential districts).

(l) Permitted only in an MF-3 Multiple-Family District.

(m) Ten percent (10%) of the total window area. See also Section 1163.06(e)(5).

~~(n) In addition to the signage permitted hereinabove for each multiple family use, each dwelling unit in such a multiple family building may display up to four (4) square feet of noncommercial window signage.~~

~~(o) In addition to the signage permitted hereinabove for institutional uses, the occupant(s) of each room used for dwelling purposes in an institutional use may display up to four (4) square feet of noncommercial window signage.~~

## 1163.05 MAXIMUM HEIGHT PERMITTED FOR FREESTANDING SIGNS.

The maximum height of freestanding signs, when permitted, as specified in this ~~chapter~~Chapter, shall conform to the standards below.

|     | <i>Type of Sign</i>          | <i>Residential and Park Districts</i> |                                |                               | <i>Commercial and Special Districts</i> |                               |
|-----|------------------------------|---------------------------------------|--------------------------------|-------------------------------|-----------------------------------------|-------------------------------|
|     |                              | <i>Single/<br/>Two Family</i>         | <i>Multiple<br/>Family (a)</i> | <i>Institutional<br/>Uses</i> | <i>Commercial<br/>Uses</i>              | <i>Institutional<br/>Uses</i> |
| (1) | Residential identification   | N.P.                                  | 4 ft. (f)(g)(h)                | N.P.                          | N.A.                                    | N.A.                          |
| (2) | Institutional identification | N.P.                                  | N.P.                           | 6 ft.                         | N.P.                                    | 6 ft.                         |
| (3) | Commercial identification    | N.P.                                  | N.P.                           | N.P.                          | N.P. (b)                                | N.P.                          |
| (4) | Instructional                | N.P.                                  | (c)                            | (c)                           | (c)                                     | (c)                           |
| (5) | Public purpose/safety        | N.P.                                  | (c)                            | (c)                           | (c)                                     | (c)                           |
| (6) | Directional                  | N.P.                                  | 4 ft.                          | 4 ft.                         | 4 ft.                                   | 4 ft.                         |
| (7) | Construction                 | N.P.                                  | 6 ft. (d)                      | 6 ft.                         | 6 ft.                                   | 6 ft.                         |
| (8) | Temporary                    | 4 ft.                                 | 4 ft.                          | 4 ft. (e)                     | N.A.                                    | N.A.                          |

Notes:

N.A. = Not Applicable.

N.P. = Not Permitted.

- (a) These standards shall also apply to multiple-family developments in commercial or special districts.
- (b) Not permitted except as described in Section 1163.06(c) gasoline stations and (d) S-1 Mixed Use Districts.
- (c) No height limitations.
- (d) Permitted only in an MF-3 Multiple-Family District.
- (e) See Section 1163.06(f)(9) for regulations concerning special event signs.
- (f) Such freestanding signs shall be parallel to the street adjoining the yard upon which they are placed, and shall be set back at least 20 feet from the nearest edge of the sidewalk, unless the distance from the front building line to the nearest edge of the sidewalk is less than 23 feet, in which case the sign must be placed no more than three feet from the front building line.
- (g) Freestanding residential identification signs shall not be permitted for multiple-family buildings with fewer than four units.
- (h) The Architectural Board of Review shall determine that the design of the residential identification sign is contextually appropriate and harmonious in appearance with both the multiple-family dwelling it identifies and the surrounding neighborhood.

## 1163.06 SUPPLEMENTARY SIGN REGULATIONS.

The following sign regulations are in addition to the maximum sign area and height regulations set forth in Sections 1163.04 and 1163.05.

(a) **Safety/Security Signs in Residential Districts.** For residential dwelling units, the following shall be permitted in addition to the permitted nameplate.

(1) On the inside of a window, or on the glass portion of a door, or in the front yard of a dwelling, one (1) sign not more than 175 square inches in area, containing a brief statement directly relating to the physical safety and security of the occupants of the premises; examples of such statement being "Block Watch", "Beware of Dog", and "Protected by Electronic Security System", provided that no sign shall be placed within the minimum front yard provided for by the Zoning Code for the district in which the dwelling is located. No security sign that is placed within the front yard of a dwelling shall have a height, including the supporting stake or pole, that exceeds three (3) feet. A sign may not identify a particular security system by name and/or logo or

otherwise, or include any commercial message. The Architectural Board of Review shall promulgate and adopt standards relating to the color, design, material, size, shape and style of lettering of all signs.

(2) On the inside of a window or the glass portion of a door, a sign of not more than sixteen (16) square inches in area, containing a basic statement directly relating to the physical safety and security of the occupants of the premises; examples of such a statement being "Block Watch", "Beware of Dog", and "Protected by Electronic Security System". Only one (1) sign shall be affixed to each window or door. The signs authorized by this provision shall be permitted in addition to the single sign permitted by subsection (a)(1) hereof. A sign may not identify a particular security system by name and/or logo or otherwise or include any commercial message.

(b) Signs in a Park District. For each public park in a Park District, one (1) freestanding identification sign is permitted for each street frontage. Each sign shall not exceed the maximum area per sign face for institutional identification signs permitted in Schedule 1163.04. In addition, conditional uses in a Park District may have further identification signs subject to Planning Commission approval and the Architectural Board of Review.

(c) Freestanding Signs for Gasoline Stations. Freestanding commercial identification signs are permitted for gasoline stations in compliance with the following regulations:

(1) One (1) freestanding identification sign with a maximum area of thirty-six (36) square feet per sign face is permitted per zoning lot. The area of the freestanding sign shall be in addition to the maximum area permitted in Section 1163.04;

(2) The maximum height of a freestanding sign shall be sixteen (16) feet;

(3) No portion of any freestanding sign shall project into the public right-of-way.

(d) Freestanding Signs in an S-1 Mixed Use District. Freestanding signs identifying the occupant of individual premises shall not exceed thirty-six (36) square feet in area per sign face nor project more than eight (8) feet above the ground, and shall not be located nearer than eighty (80) feet to the boundary of the S-1 District, nor nearer than 150 feet to directly abutting property under separate ownership which is in the AA or A Districts. Not more than one (1) freestanding sign identifying the entire parcel development of the S-1 District shall be permitted for each 500 feet of frontage upon a public street bounding the parcel at the time the tract was transferred to an S-1 Mixed Use District, and such sign shall not exceed 150 square feet in area on each face.

(e) Additional Allowances for Commercial Identification Signs.

(1) Corner lots. Buildings located on corner lots may have an identification sign on each street side of the building provided the building wall area adjoining each street is computed separately for each allowable sign area.

(2) Rear entrances. There may be an additional sign not more than fifteen (15) square feet attached to the building at a public entrance not fronting on a street that opens from a parking lot or having access from a parking lot used by the public.

(3) Building identification for multiple-tenant commercial facilities. In addition to the permitted sign area, a site with more than one (1) tenant shall be permitted additional sign area of one-quarter (1/4) square foot for each linear foot of building frontage, not to exceed fifty (50) square feet. Such sign area shall be limited to the identification of the commercial building.

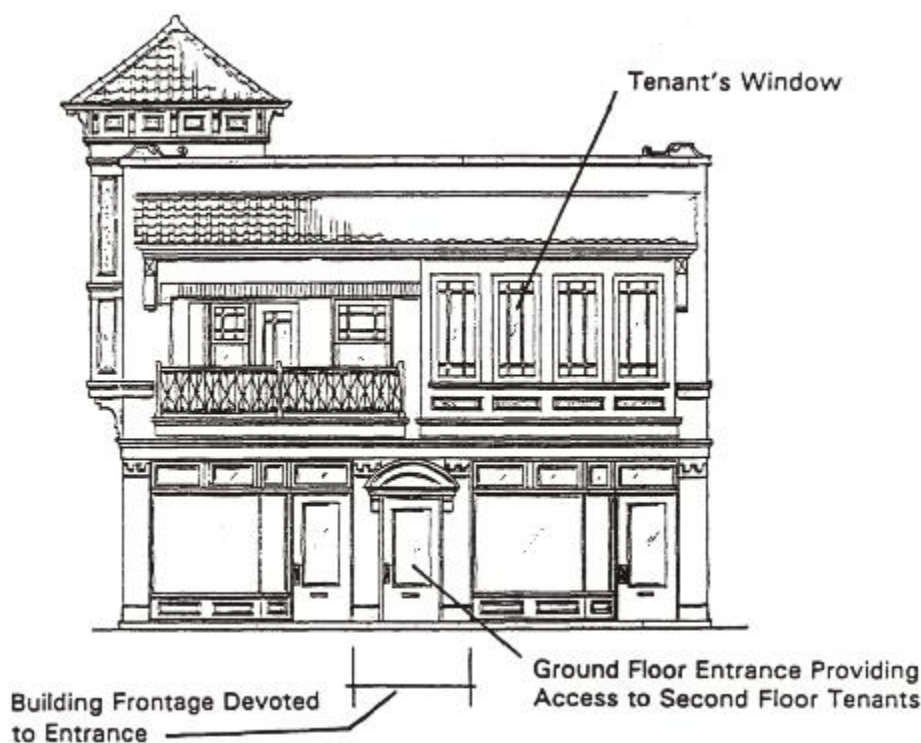
(4) Signs for businesses not on the ground floor.

A. Each ground floor entrance providing access to tenants located above or below the ground floor, or ground floor tenants which do not have frontage on a street or parking lot, shall be permitted one (1) square foot of sign area for each lineal foot of building frontage devoted to such entrance provided that at least ten (10) square feet shall be permitted in any case and the

maximum sign area shall be 150 square feet. Such sign shall be considered a commercial identification sign and shall comply with the regulations specified in Schedule 1163.04 for such signs. For the purposes of this section, ground floor entrance shall include that portion of the building frontage on the ground floor devoted to the lobbies or foyers or entrances providing access to tenants on other floors.

B. For a multi-story retail or office building, each tenant above the ground floor is permitted one (1) permanent sign to be placed in a window of the tenant's space, not to exceed ten percent (10%) of the window area. In no case shall the maximum permitted area exceed twenty (20) square feet. These signs may be considered in addition to the maximum allowable area for identification signs pursuant to Schedule 1163.04.

#### ILLUSTRATION OF SIGNS FOR BUSINESSES NOT ON THE GROUND FLOOR Section 1163.06(e)(4)



Permitted sign area at ground floor entrance = One (1) sq. ft. for each lineal foot of building frontage devoted to entrance

\* Each entrance permitted at least 10 sq. ft.

\* Maximum area = 150 sq. ft.

Permitted window sign = ~~10-Ten~~ percent (10%) of window area or 20 sq. ft. whichever is greater.

(5) Window signs. In addition to the allowable identification sign area, window signs for first floor tenants shall be permitted in compliance with the following:

A. Permanent window signs, which is any window sign displayed for more than sixty (60) days, shall have a maximum area no greater than ten percent (10%) of the total window area. See

subsection (b) below. Permanent window signs that exceed ten percent (10%) shall be calculated as part of the allowable identification sign area.

B. Window sign(s) may be aggregated onto one (1) window panel provided such sign does not cover more than thirty percent (30%) of the window panel on which it is affixed.

C. In total, temporary window signs and permanent window signs shall be no greater than twenty percent (20%) of the total window area, provided further that the sign(s) shall not cover more than thirty percent (30%) of any one (1) window panel.

D. No window sign for a first floor tenant shall be located or placed in a window at a height greater than fifteen (15) feet above grade.

E. Any sign placed inside a display window and which is visible from the exterior of the window shall be subject to the maximum area regulations set forth in subsection (5)C. hereof.

F. No sign shall be painted on a window and no window shall be otherwise painted unless approved by the Architectural Board of Review.

(6) Awning signs. A permitted identification sign may be placed on an awning, applied to the face of the awning, in compliance with the following:

A. In addition to the permitted sign area, address numerals may be located on an awning provided they do not exceed one and one-half (1.5) square feet in area.

B. Awnings may be back-lit.

C. All awning signs shall be subject to the review and approval of the Architectural Board of Review.

(7) Marquee signs. In addition to the allowable commercial identification sign area, a marquee sign (including permanent identification and changeable copy) may be permitted as a conditional use for an auditorium used for the regular showing of movies, concerts, plays and other similar productions in compliance with the following:

A. The size and shape of the marquee and the area of the marquee sign shall be determined by the Planning Commission during its review of the conditional use application.

B. The marquee sign shall be subject to the review and approval of the Architectural Board of Review.

C. Flashing or animated lights may be permitted as an integral part of a marquee sign with approval of both the Planning Commission and the Architectural Board of Review. Permission shall be granted only after a specific finding by the Planning Commission that the lights will not adversely impact residential properties or the general character of the commercial neighborhood in which the sign is located and a specific finding by the Architectural Board of Review that the lights will enhance the architectural qualities of the marquee and the building to which the marquee sign is attached. In the event flashing or animated lights are permitted, they may be activated or displayed only from 12:00 p.m. until 10:30 p.m. Sunday through Thursday and from 12:00 p.m. until Midnight on Friday and Saturday. The Mayor or designee may issue a special temporary permit for an extended or different period of time during which the flashing or animated lights may be activated for a special event.

D. These regulations shall apply to an auditorium which is a legal prior nonconforming use in a C-2 District or a permitted use in a C-3 District.

(f) Temporary Signs. Temporary signs shall be permitted in any district in compliance with the following:

(1) Subject to the provisions of this section, temporary signs shall be permitted for the following purposes:

A. To express an opinion on an election, political issue or other subject, but not to propose or promote a commercial transaction or product except as provided in subsections B. and C. hereinbelow.

B. To notify the public of the availability of the premises for sale, for rent or for viewing - e.g. - “for sale”, “for rent” or “open house”.

C. To advise the public of the location of a residential personal property sale (“garage” or “yard” sale).

(2) Signs permitted under subsections B. and C. are allowed only on the premises which are for sale or lease or upon which the residential personal property sale is occurring. A property owner may display no more than one (1) “for sale” sign, one (1) “for rent” sign, one (1) “open house” sign and one (1) “garage sale” or “yard sale” sign at any one (1) time. Such signs must meet all other provisions of this Code. The owner of a multiple-family apartment building may place a “for rent” notice on an approved residential identification sign or on a temporary sign, but not on both.

(3) Signs may be permitted inside windows, inside the glass portion of doors, and/or in yards. Window and door signs shall be limited to the first floor unless the dwelling unit or business at which they are being displayed is located entirely on the second floor or above.

(4) Yard signs must be supported by a solid structure, firmly anchored into the ground. Hanging signs shall not be permitted. Yard signs must be set back at least twenty (20) feet from the nearest edge of the sidewalk, unless the distance from the front building line to the nearest edge of the sidewalk is less than twenty-three (23) feet, in which case the sign shall be placed no more than three (3) feet from the front building line. All yard signs must be placed parallel to the street adjoining the yard upon which they are placed. On corner lots, yard signs shall not be placed in the portion of the front yard which would be covered by the corner side yard if the corner side yard were extended forward from the front building line to the front right-of-way line.

(5) No sign permitted by this section shall be illuminated in any manner or contain any blinking or flashing lights or moving parts.

(6) All temporary signs must be removed or replaced within forty-five (45) days. Except as provided herein below, any temporary signs related to a specific event (primary, general or special election, sporting event, sale or rental of house, etc.) shall be removed within five (5) business days after the event has concluded. All “yard sale” or “garage sale” signs shall be removed within twelve (12) hours after the sale is concluded. “Open house” signs shall be displayed only during the times the premises are actually open to the public for viewing. For the purposes of this subsection, the “sale” of a property shall be deemed to have “concluded” when title transfers or when the property is withdrawn from the market, whichever first occurs, and the “rental” of a property shall be deemed to be “concluded” when the owner/agent enters into an oral or written lease agreement with a tenant. A “for rent” sign shall not be placed on any property more than sixty (60) days prior to the expected vacancy date of a unit in the building.

(7) Religious and other holiday lights and decorations containing no commercial message are exempt from the above regulations and shall be permitted during the appropriate time of year.

(8) Freestanding temporary signs may be approved by the Planning Commission for a conditionally permitted use in a Park District.

(9) Freestanding temporary signs for institutional uses in a residential, commercial or special district for the purpose of announcing and identifying a special event may be approved by the Planning Commission. Such signs shall be displayed for a maximum of three (3) days. Subsequent approval of such temporary sign may be approved by the Zoning Administrator provided the size and placement of the sign are the same as previously approved.

(10) If, due to the topography, existing foliage, or other similar condition existing as to a particular property, conformance with the setback, size and height restrictions set forth in this ~~chapter~~ Chapter would impair the visibility of a temporary sign as observed from the street, then the Zoning Administrator may grant exceptions to the size and/or location regulations. In determining whether to grant an exception, the sole standard to be used by the Zoning Administrator is the visibility of the sign and no sign shall exceed the height, location or distance which is reasonably necessary to render the sign visible when observed from the public street. In no event shall the Zoning Administrator waive the maximum sign area.

(11) Freestanding temporary signs shall not be permitted in commercial districts.

(12) Temporary sponsorship signs at an event taking place at an athletic field and temporary sponsorship signage plans for all sport seasons and events taking place on an athletic field may be conditionally approved by the Planning Commission. Such signs or signage plans shall meet the following conditions:

- A. The sign(s) shall be displayed on a fence.
- B. The sign(s) shall identify a sponsor of the event.
- C. The sign(s) shall be placed so as to be directed toward the persons in attendance at the event.
- D. The sign(s) shall be no larger than 24 square feet.
- E. Approved signs may be erected and displayed for an entire sporting season or length of the event as determined by the Planning Commission.
- F. Sponsorship identification signs may be displayed on a scoreboard or backstop and may include the field name.
- G. Team identification signs no larger than 12 square feet may be displayed on dugouts.
- H. All sponsorship signage must be maintained in good condition.

(g) Construction Signs. A construction sign shall be permitted only in compliance with the following:

~~—(1) There shall be not more than one (1) construction sign per zoning lot.~~

(21) A construction sign for an institutional use in a residential district shall identify only the name of the organization, name of the building and street address, and shall be free of any commercial advertising.

~~—(3) A permit for a construction sign shall be issued and the sign shall be erected on the lot only during the period of time that the building project is under construction and while a valid building permit is in force. Such sign shall be removed within fourteen (14) days of the commencement of the intended use.~~

(42) A construction sign shall be designed in conformance with all applicable building codes and constructed with materials which are durable for the intended life of the sign as determined by the Building Commissioner.

~~—(5) Application for a construction sign may be submitted and reviewed simultaneously with the associated construction project. If an application for a construction sign is submitted separately, the application shall be reviewed and approved by the Architectural Board of Review.~~

(h) Sponsor Scoreboard Sign. A Sponsor Scoreboard Sign accessory to an athletic field may be approved by the Planning Commission. Such signs shall meet the following conditions:

- (1) The signage shall be an integral part of an athletic field scoreboard.
- (2) The signage shall face the persons in attendance at the field.
- (3) The sponsorship signage portion of the scoreboard shall not be internally lit.
- (4) The signage shall not cover more than twenty-five percent (25%) of the scoreboard area.

(5) The scoreboard shall be located on and be accessory to an athletic field actively used for athletic events.

(i) Any sign authorized by this ~~chapter~~ Chapter is permitted to contain a noncommercial message in lieu of other messages, provided that such sign is displayed by the property owner or tenant without compensation.

#### 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. 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 one (1) 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) 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 seven (7) 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) Signs having one (1) 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.

## 1163.08 DESIGN AND CONSTRUCTION STANDARDS.

In addition to assuring compliance with the numerical standards of these regulations, the Zoning Administrator and the Architectural Board of Review, when approving signs, shall consider the proposed general design, arrangement, texture, material, colors, lighting placement and the appropriateness of the proposed sign in relationship to other signs and the other structures both on the premises and in the surrounding areas, and only approve signs which are consistent with the intent, purposes, standards and criteria of the sign regulations. Specific standards for determining the appropriateness of the sign shall include, but not be limited, to the following conditions:

(a) The lettering shall be large enough to be easily read from the public street but not out of scale with the building, site or streetscape.

(b) The number of items (letters, symbols, shapes) shall be consistent with the amount of information which can be comprehended by the viewer, reflect simplicity, avoid visual clutter and improve legibility.

(c) The shape of the sign shall not create visual clutter.

(d) Signs shall have an appropriate contrast and be designed with a limited number of, and with the harmonious use of, colors. Signs, if seen in series, shall have a continuity of design with the style of sign generally consistent throughout the building or block. Continuity of design means uniformity of background colors or harmonious use of a limited range of complementary background colors.

(e) The size, style and location of the sign shall be appropriate to the activity of the site as prescribed elsewhere in these regulations.

(f) The sign shall complement the building and adjacent buildings by being designed and placed to enhance the architecture. The sign shall reflect the primary purpose of identifying the name and type of establishment.

(g) The sign should be consolidated into a minimum number of elements.

(h) Instructional signs shall contain the minimum information and the minimum area necessary to convey the message and instruct the viewer in the safe and efficient use of the facility.

(i) A sign should be constructed with a minimum of different types of material so as to provide a consistent overall appearance.

(j) No part of a sign shall project above the parapet line, except as may be permitted under the projecting sign terms of Section 1163.07.

(k) All signs in commercial and special districts may be illuminated provided that light sources to illuminate such signs shall be shielded from all adjacent residential buildings and streets, and shall not be of such brightness so as to cause glare hazardous to pedestrians or motorists, or as to cause reasonable objection from adjacent residential districts.

(l) No flashing or moving parts shall be permitted for any sign or advertising display within the City except when conditionally permitted as part of a marquee sign pursuant to Section 1163.06(e)(7).

(m) No paper posters shall be applied directly to the wall or building or pole or other support. Letters or pictures in the form of advertising that are printed or painted directly on the wall of a building are prohibited, except for window signs pursuant to this ~~chapter~~ Chapter and conditionally permitted murals.

(n) No sign or advertising device shall be permitted which, by color, location or design, resembles or conflicts with traffic control signs or devices.

(o) Pennants, banners, streamers, whirligig devices, bare strings of light bulbs, balloons, and other similar devices are prohibited except for banners and pennants when part of public information signs installed by the City pursuant to Section 1163.02(b).

(p) All signs shall be designed, constructed, and erected in a professional and workmanlike manner, in conformance with all applicable building codes, and with materials which are durable for the intended life of the sign.

(q) For any sign which projects above a public right of way, the sign owner shall obtain and maintain in force liability insurance for such sign in such form and in such amount as the Law Director may reasonably determine. Proof of such insurance shall be required prior to obtaining a permit.

(r) Freestanding signs shall be designed and located so as not to obstruct a driver's visibility entering or exiting a lot or to be a safety hazard to pedestrians or vehicles, and shall comply with the requirements set forth in Section 1165.03(e) for maintaining clear sight at an intersection.

#### 1163.09 ADMINISTRATIVE PROCEDURES.

(a) A permit shall not be required for the following signs when such signs are in full compliance with these sign regulations:

- (1) A safety/security sign in a residential district.
- (2) A nameplate sign in any district.
- (3) A temporary window sign.

(b) A permit is required to erect any sign not exempt in subsection (a) hereof.

(c) Approval from the Architectural Board of Review shall be required for the following signs:

- (1) Multiple-family and conditional uses in residential districts.
  - A. Residential or institutional identification signs;
  - B. Instructional signs that exceed ten (10) square feet or that face the street and are within twenty-five (25) feet of the public right of way.
- (2) Commercial districts and special districts.
  - A. Commercial identification signs;
  - B. Freestanding signs (when permitted);
  - C. Projecting signs;
  - D. Instructional signs that exceed ten (10) square feet or that face the street and are within twenty-five (25) feet of the public right of way;
  - E. Permanent window signs including any elements that are painted on the window.
- (d) The City shall review and approve all public signs erected in the public right of way by or on behalf of a governmental body.

#### 1163.10 MAINTENANCE.

(a) The property owner, owner of the sign, tenant, and agent are required to maintain the sign in a condition fit for the intended use and in good repair, and such person or persons have a continuing obligation to comply with all building code requirements.

(b) A sign in good repair shall be free of peeling or faded paint, shall not be stained, show uneven soiling or rust streaks; shall not have chipped, cracked, broken, bent letters, panels or

framing; shall not otherwise show deterioration; and shall comply with all other applicable maintenance standards of the City.

(c) If the sign is deemed by the Zoning Administrator to be not in good repair or in an unsafe condition, such sign shall be considered an unsafe building and structure and all City regulations applicable for the repair or removal of such sign shall apply.

(d) Whenever any sign, either conforming to these regulations, or nonconforming, is required to be removed for the purpose of repair, relettering or repainting, the same may be done without a permit, or any payment of fees, provided there is no alteration or enlargement to the structure or the mounting of the sign itself, and the sign is accessory to a legally permitted or nonconforming use.

(e) Signs which no longer serve the purpose for which they were intended, which have been abandoned or which are not maintained in accordance with this ~~chapter~~ Chapter and other regulations of the City are hereby declared to be a public nuisance, and shall be removed by the owner within thirty (30) days of the time such sign becomes obsolete, abandoned or not properly maintained or such sign will be removed by the City at the owner's expense.

#### 1163.11 ALTERATION AND REMOVAL OF NONCONFORMING SIGNS.

(a) Consistent with the purposes of this Zoning Code, every graphic or other sign in violation of any provision of this ~~chapter~~ Chapter shall only be removed, altered or replaced so as to conform with the provisions of this Code. Any sign which was in compliance with these regulations immediately prior to the effective date of this Code, but, on the effective date of this Code or any amendments thereto, is not in compliance with the regulations herein shall be deemed nonconforming.

(b) Nonconforming signs shall be removed and any subsequent modification or replacement (excluding routine maintenance pursuant to Section 1163.10) shall conform to all requirements of these regulations:

(1) When more than fifty percent (50%) of the value of the sign has been destroyed or been removed;

(2) When the use for which the nonconforming sign is accessory, is vacant for ninety (90) consecutive days;

(3) (EDITOR'S NOTE: Former subsection (b)(3) was repealed by Ordinance 27-2006, passed 5-15-06.)

(c) A nonconforming sign shall not be replaced, altered, modified or reconstructed, other than to comply with these regulations, except when the existing use changes its name as a result of new ownership, or for any other reason and when such replacement sign may be accomplished without any alteration or changes to the structure, framing, erection or location of the sign unless such changes conform to these regulations.

Any proposed replacement, alteration, modification or reconstruction of a nonconforming sign shall be approved by the Architectural Board of Review.

(d) The Planning Commission may permit certain nonconforming signs to continue when, because of unique design features or construction qualities, the Commission determines the sign to be architecturally or historically significant. The Planning Commission shall approve such continuation in accordance with the conditional use procedures set forth in Section 1115.08. The continuation of such sign must also be approved by the Architectural Board of Review.

## **CHAPTER 1165**

### **Additional Regulations Governing Uses**

- 1165.01 Minimum performance standards for structures and uses.
- 1165.02 Supplementary accessory use regulations.
- 1165.021 Garage or yard sales.
- 1165.03 Site and development criteria.
- 1165.04 Exception to height regulations.
- 1165.05 Sustainable regulations for large scale residential developments.
- 1165.06 Sustainability guidelines.
- 1165.07 Exterior lighting requirements.

#### **CROSS REFERENCES**

Determination of substantially similar use by Planning Commission - see P. & Z. 1111.06(b)(2),  
1115.10

Utility line location - see P. & Z. 1115.04

#### **1165.01 MINIMUM PERFORMANCE STANDARDS FOR STRUCTURES AND USES.**

Every structure shall be designed, arranged and situated on the site and in relationship to adjacent uses, every use of land or structure will be conducted, and every lot and every structure will be maintained in such a manner that:

- (a) Will not create a nuisance upon the premises;
- (b) Will avoid detrimental or blighting influences upon the neighborhood;
- (c) Will not, by means of noise, toxic gases, fumes, vapors, odors, radiation, light, heat, fire exposure, hazard, vibration or electrical interference, or by other means, unreasonably interfere with or impair the use or enjoyment of neighboring premises, including fluctuation in line voltage;
- (d) No lighting shall shine directly on or be a nuisance to occupants of adjacent property, nor impair safe movement of vehicles on any street or highway;
- (e) Will not be hazardous to the community on account of such things as the danger of fire or explosion even when conducted under adequate safeguards.

#### **1165.02 SUPPLEMENTARY ACCESSORY USE REGULATIONS.**

In addition to district regulations governing accessory uses, the following supplementary regulations set specific conditions for various accessory uses:

(a) **Use of Accessory Building.** No accessory building shall be constructed upon a lot until the construction of the principal building has been actually commenced, and no accessory building shall be used unless the principal building on the lot is also being used. However, nothing shall prevent the use by a contractor during building construction of a temporary construction shed or road wagon for the storage of tools, material and equipment.

(b) **Home Occupations Accessory to a Dwelling Unit in a Residential District.** A home occupation may be conducted in a dwelling unit provided that the following standards are maintained:

(1) There is no display that will indicate from the exterior that the dwelling unit is being utilized in part for any purpose other than that of a residential dwelling;

(2) There is 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;

(3) There is no more than one (1) person employed or engaged in the furtherance of the home occupation who is not a member of the immediate family residing on the premises;

(4) There is 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;

(5) There are and will be no exterior alterations made to the dwelling unit for the home occupation purposes which would change the appearance of the dwelling so as to indicate from the exterior that the building is used for any purpose other than that of a dwelling unit;

(6) There are 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;

(7) No home occupation shall be permitted in any portion of any dwelling unit 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;

(8) The home occupation shall be conducted wholly within the dwelling unit and no aspect of the home occupation shall be conducted in any accessory building except as may be conditionally permitted according to Chapters 1151 and 1153 or in any detached or attached private parking garage.

(b.1) Occasional Sales Incident to Home Occupations. Notwithstanding the provisions of subsection (b) hereinabove, the Zoning Administrator may issue a permit for an “occasional sale” to an artist or other craftsperson engaged in art as a home occupation to authorize said artist to sell artwork out of the home on the following terms and conditions:

(1) A permit for an “occasional sale” shall not be issued more than three times a year for the same premises, and shall be for a period not to exceed three days.

(2) The sale may occur only between the hours of 9:00 a.m. and 7:00 p.m.

(3) No merchandise may be sold at the sale other than individual works of art. At least twenty-five percent (25%) of the artwork offered for sale must have been produced on the premises upon which the sale is occurring.

(4) Subject to the provisions of ~~subsection~~ Section 1163.06(f), one (1) temporary sign is permitted to advertise the “occasional sale”. An “occasional sale” sign shall be categorized as a “garage sale” sign pursuant to Section 1163.06(f)(1)C.

(5) No person shall participate in the conduct of the sale other than the artists whose work is being sold and residents of the premises upon which the sale is occurring. In no event shall there be more than five persons engaged at any one (1) time in the conduct of the sale.

(6) In considering whether to grant an application for a permit for an “occasional sale” the Zoning Administrator shall consider the past history of sales on the same premises or by the same parties, the availability of off- street parking on the premises, the availability of on-street parking

in the neighborhood, the density of the neighborhood, the number of customers the sale is expected to draw, and similar factors. Any party aggrieved by the decision of the Zoning Administrator to grant or deny a permit may appeal the Administrator's decision to the Board of Zoning Appeals.

(c) **Parking Non-Passenger Vehicles in a Residential District.** The placing, storing or parking of trucks and other such commercial vehicles, including pickup trucks, vans and panel trucks, on a lot or on a public street in a residential district is prohibited. Exceptions to this prohibition are licensed passenger vehicles, or noncommercial motor vehicles; vehicles displaying license plates issued to a handicapped person and imprinted with the international wheelchair symbol; or vehicles displaying a valid parking card issued by the State of Ohio to handicapped persons and the following:

(1) Such vehicle may be so placed, parked and permitted to stand for a period during the delivery therefrom or the pickup of articles or materials to be used or consumed on the related premises.

(2) When such vehicles are used in connection with constructing, altering, repairing, maintaining or cleaning a building on such lot when the described work is in process.

(3) One (1) single rear-axle four-wheel vehicle described as a pickup truck, van or panel truck, and not exceeding three-quarter (3/4) ton capacity or its equivalent gross weight, may be stored or parked in a private parking garage with the garage doors closed on a residential premises provided all of the following conditions are observed:

A. There are no offensive odors emitted from the truck.

B. There is stored within the confines of the truck only such items as hand tools, spare parts and small amounts of supplies and/or other items of personalty. In no event is such vehicle to be used as a warehouse for the storage of substantial goods, supplies or other materials.

C. There are no animals, fish or fowl stored in the truck.

D. There are no foodstuffs or other organic materials stored in the truck which would create a condition that would attract, harbor or contain vermin, insects or rodents.

E. The storing of the truck in a private parking garage shall not cause the displacement of a passenger vehicle or vehicles in such manner as to result in a violation of other provisions of this Zoning Code.

F. There are no health or safety hazards caused in permitting the garaging of a truck.

G. The use and garaging of a truck shall not result in a public nuisance which is offensive to neighboring property owners or residents by reason of excessive noise, late hours of truck use, intensity of activity or other such reasons.

H. The truck shall be maintained, at all times, in good mechanical condition and exterior appearance.

I. No maintenance and repair work on the truck shall be done on the property, except of an emergency nature.

J. No such vehicle shall be used in conjunction with any "home occupation" not authorized by the terms of this Zoning Code.

K. An annual permit which shall be affixed to the vehicle in plain view shall be obtained from the Zoning Administrator or designated agent for the authority to garage a truck as described in this subsection (c) and payment of the applicable fee shall be required.

(4) Subsection (c)(3) hereof shall not be applicable to vehicles licensed as noncommercial vehicles, or to vehicles not exceeding three-quarter (3/4) ton capacity or its equivalent in gross weight, that are used exclusively for purposes other than engaging in business for profit, bearing no commercial signage, and that display either license plates issued to a handicapped person and

imprinted with the international wheelchair symbol, or a valid parking card issued by the State of Ohio to handicapped persons.

(d) Parking of Recreation Vehicles in a Residential District. The parking of recreation vehicles as an accessory use in a residential district is subject to the following:

(1) Except as otherwise provided in this section, boats, campers, trailers, and similar equipment owned and used by the occupants of the premises may be stored on such premises, provided such storage is not in the open but is in a private parking garage.

(2) Notwithstanding the provisions of subsection (d)(1) hereof, not more than one (1) open air parking space for a recreation vehicle used for recreational purposes by the occupants of the dwelling may be located in a rear yard provided that:

A. Such parking space shall be included in the accessory building area allowances otherwise prevailing for this site and shall not be in addition to such area allowance.

B. The recreation vehicle shall not have fixed connections to electricity, water, gas or sanitary sewer facilities and at no time shall the recreation vehicle be used for living or housekeeping purposes.

C. The recreational vehicle shall not be stored outside of a private parking garage unless adequate screening thereof has been established to the satisfaction of the Zoning Administrator. Adequate screening shall consist of building walls, fencing as permitted by this Zoning Code, or evergreen plantings in accordance with the Plantings List approved by the Planning Commission. In determining adequacy of screening, the Zoning Administrator shall consider the size of the lot in question, the proximity of buildings on adjacent property, the size of the recreational vehicle, the existing landscaping or screening on adjacent properties, and all other relevant considerations. At least five (5) days before the Zoning Administrator makes any determination as to the adequacy of the screening, he or she shall cause notices to be sent to the contiguous properties.

D. A recreation vehicle may be parked in a parking or driveway area anywhere on the premises for loading or unloading purposes for a period of not more than forty-eight (48) hours in any consecutive twenty-one (21) day period.

E. An annual permit shall be obtained from the Zoning Administrator or designated agent for the recreation vehicle open air parking space described in this section, and payment of the applicable fee shall be required.

(e) Access to Less Restrictive Uses. A private driveway or walk used for access to any use not permitted in the district shall in no case be permitted as an accessory use.

(f) Portable On-Demand Storage Structures. A portable on-demand storage structure may be utilized as a temporary structure when in compliance with the following standards:

(1) A portable on-demand storage structure may be located as a temporary structure on property for a period not exceeding ten (10) days in duration from the time of delivery to the time of removal;

(2) No more than two (2) portable on-demand storage structures may be located on any premises at any one (1) time;

(3) Portable on-demand storage structures shall not be located on any premises for more than ten (10) days during any given thirty (30) day calendar period and not more than three (3) times in any given twelve (12) month period;

(4) Portable on-demand storage structures shall be located only on a driveway or other private parking area and shall not be located in a front yard or corner-side yard unless there is no access to other yards;

(5) Portable on-demand storage structures shall be securely locked at all times other than during actual loading or unloading.

(g) Solar Panels.

(1) The installation and construction of a solar energy system is subject to the following development and design standards:

A. A solar energy system may be building-mounted or ground-mounted.

B. Solar panels must be placed so that concentrated solar radiation or glare is not directed onto nearby properties or roadways.

C. All power transmission lines from a ground-mounted solar energy system to any structure must be located underground.

D. Advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials, is prohibited. The manufacturer and equipment information, warning signs or ownership information is allowed on any equipment of the solar energy system.

E. A solar energy system connected to the utility grid shall provide written authorization from the local utility company acknowledging and approving such connection.

(2) Building-Mounted Systems.

A. A building-mounted system may be mounted on a principal building or accessory building in the following locations:

1. When mounted on a roof:

a. On a flat roof, solar panels are permitted when set back eight (8) feet from the front façade of the building unless otherwise approved by the Architectural Board of Review.

b. For other roof forms, solar panels are permitted on the rear and side roof but must be set back six (6) feet behind ridge line unless otherwise approved by the Architectural Board of Review.

c. Solar panels on the front or corner side roof are permitted with approval from the Architectural Board of Review.

2. When mounted on a façade:

a. Solar panels are permitted on side and rear building facades.

b. Solar panels on the front or corner side building facades are permitted with approval of the Architectural Board of Review.

B. The solar panel system is limited to the maximum building height of the zoning district for the building type (principal or accessory structure) or a maximum height of five (5) feet, whichever is less. Height is measured from the roof surface, on which the system is mounted, to the highest edge of the system.

C. Solar energy systems may project off a building facade as follows.

1. May project up to four (4) feet from a facade.

2. May project into a side or rear setback, but shall be no closer than five (5) feet to the side or rear property line.

D. In the case of a flat roof, solar panels must be set back six (6) feet from any building wall.

(3) Ground Mounted Systems.

A. A ground mounted system is permitted only in the rear yard and must be set back a minimum of five (5) feet from any lot line.

B. A ground mounted system shall not exceed the maximum building height for accessory buildings.

C. Single-family residential lots shall be permitted the larger of either one-hundred (100) square feet of panels or one (1) square foot of solar panels for every one hundred (100) square feet of lot.

(4) Solar Access Protection.

A. For the purpose of ensuring adequate access of solar energy collection devices to sunlight, any person may grant a solar access easement in accordance with Ohio Revised Code §5301.63 (Solar access easement requirements). Such easements must be in writing and subject to the same conveyance and recording requirements as other easements. Any instrument that grants a solar access easement must include all requirements required by Ohio law.

(h) Wind Turbines.

(1) General Requirements. Wind turbines are allowed as an accessory use in all zoning districts and are subject to the following standards:

A. Administrative review and approval of a proposed wind turbine installation is required.

B. Prior to installation of a wind turbine, the wind viability of a location must be tested and verified. A wind map of the location must be submitted with the proposed plan and a wind study conducted that shows the turbine placement and performance as a viable location.

C. The sound levels of the wind turbine shall not exceed fifty-five (55) decibels (dBA) in residential districts and sixty (60) decibels (dBA) in all other districts, as measured at the site property line. This does not include sound levels during short-term events, such as severe wind storms and utility outages.

D. Wind turbines shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than thirty (30) hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker must be addressed either through siting or mitigation measures.

E. Advertising, including signs, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials are prohibited. The manufacturer and equipment information, warning signs or ownership information is allowed on the wind turbine and equipment.

F. A wind turbine connected to the utility grid shall provide written authorization from the local utility company acknowledging and approving such connection.

G. The wind turbine must comply with all applicable Federal Aviation Administration (FAA) regulations and all state and local regulations.

(2) Building Mounted Wind Turbines. Wind turbines may be mounted on principal and accessory buildings, subject to the following:

A. The maximum height of any wind turbine mounted on a detached accessory structure is fifteen (15) feet above the maximum permitted height for such structure. The maximum height of any wind turbine mounted upon a principal structure is ten (10) feet above the height limit of the applicable zoning district.

B. The maximum height is calculated as the total height of the turbine system including the tower, and the maximum vertical height of the turbine's blades. Maximum height therefore is calculated measuring the length of a prop at maximum vertical rotation to the base of the tower.

C. No portion of exposed turbine blades may be within twenty (20) feet of the ground. Unexposed turbine blades may be within ten (10) feet of the ground. Blades and tail vane must be a minimum of ten (10) feet from utility lines in all wind directions.

(3) Ground-Mounted Systems.

A. The maximum height of any ground-mounted wind turbine (a tower) is the height limit of the applicable zoning district. Additional height may be granted as a special use if the tower needs additional height to exceed the tree canopy.

B. The maximum height of any ground-mounted wind energy system is measured from grade to the length of a prop at maximum vertical rotation.

C. No portion of exposed turbine blades may be within twenty (20) feet of the ground. Unexposed turbine blades may be within ten (10) feet of the ground. Blades and tail vane must be a minimum of ten (10) feet from utility lines in all wind directions.

D. Ground-mounted wind turbines may be located in the rear yard only. A ground-mounted tower must be set back from all lot lines equal to one-hundred ten percent (110%) of the height of the tower. Additional equipment outside of the tower, including guy wire anchors, must be ten (10) feet from any lot line.

E. To reduce the visual impacts of a tower, the following standards must be met:

1. The applicant must demonstrate that the wind turbine's visual impact will be minimized for surrounding neighbors and the community. This may include, but is not limited to, siting, wind generator design or appearance, buffering, and screening of ground-mounted electrical and control equipment.

2. The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.

3. Artificially lighting is prohibited unless such lighting is required by the Federal Aviation Administration (FAA).

4. All electrical wires associated with a ground-mounted wind turbine, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, must be located underground.

(i) Shared Renewable Energy Systems. Abutting properties may share a solar, wind or geothermal energy system, including permission to install equipment along all properties, as a conditionally permitted use. Such systems are subject to the standards for each of the individual systems. This shared renewable energy system is only allowed if agreed to by the owners of each lot; the agreement is recorded as a shared renewable energy easement on each plat of survey, including provisions for all property owners to access all equipment to maintain the system; and a conditional use permit is obtained. The easement must be submitted to the City and filed with the County.

#### 1165.021 GARAGE OR YARD SALES.

Occasional sale of personal items shall be permitted at a single-family or two-family home when in compliance with the following:

(a) No more than two garage or yard sales per calendar year may be conducted at any one (1) property.

(b) Each garage or yard sale may run for no more than three consecutive calendar days.

(c) Hours for such sales shall be no earlier than 8:00 a.m. and no later than 6:00 p.m.

(d) All signs shall comply with "Supplementary Sign Regulations" of Section 1163.06(f).

(e) Garage and yard sales under this section must be conducted by the owner(s) of the personal items to be sold.

## 1165.03 SITE AND DEVELOPMENT CRITERIA.

The following site and development criteria are established to promote the harmonious exercise of property rights without conflict.

(a) **Principal Buildings Per Lot.** Except for single-family and two-family residences, there may be more than one (1) principal building on a zoning lot provided that the required yards are maintained around the perimeter of the zoning lot.

(b) **Access to a Public Street.** No building shall be erected on a lot, or tract of land, which does not abut on at least one (1) public thoroughfare, or private road, built in accordance with public thoroughfare standards and specifications. In the case of a planned residential development, the entire tract shall be considered one (1) zoning lot. Any subdivision of land within the zoning lot for a PRD, at the election of the applicant, does not need to comply with the lot size, lot width or yard requirements for the district in which it is located.

(c) **Maintenance of a Vacant Lot.** A vacant or otherwise undeveloped lot shall be landscaped with grass, trees, shrubbery and/or other appropriate ground cover or landscaping material, which shall at all times be properly maintained.

(d) **Additional Requirements for Yards.** The following requirements for yards must be observed in all zoning districts:

(1) On lots fronting on two (2) nonintersecting streets, a front yard must be provided on both streets;

(2) Where a lot is occupied for a permitted use without any building or structure thereon, the front, side and rear yards required by this Zoning Code shall be provided and maintained between such use and the respective lot lines, except lots used for noncommercial gardens or public playgrounds.

(e) **Visibility at Intersections.** On every corner lot, and at the intersection of every driveway with a public or private street, there shall be no material impairment to visibility (whether by the location of structures including fences, landscaping or other means) between a height of three (3) feet and a height of eight (8) feet above the established grade, within the triangle formed by:

(1) The curb lines of two (2) intersecting streets, and a line drawn between two (2) points, one (1) on each such curb line, each twenty (20) feet from the point of intersection of such curb lines; or the triangle formed by the two (2) right-of-way lines and a line drawn between two (2) points, one (1) on each such right-of-way line, each ten (10) feet from the point of intersection of such right-of-way lines; whichever is less;

(2) The intersecting boundary of such driveway and the curblines of such street and a line drawn between two (2) points, one (1) on such driveway boundary and one (1) on such curblines of the street, each twenty (20) feet from their point of intersection; or the triangle formed by the intersecting boundary of such driveway and the right-of-way line, and a line drawn between two (2) points, one (1) on such driveway boundary and one (1) on such right-of-way line, each ten (10) feet from their point of intersection; whichever is less.

(f) **Projections into Required Yards.** The following may project into a required yard according to the following:

(1) Sills, belt courses, cornices and ornamental features may project one (1) foot into a required yard.

(2) Chimneys and flues may project into a required rear yard for a distance of not more than three and one-half (3-1/2) feet when placed so as to not obstruct light and ventilation.

(g) **Additional Lot Requirements.** The following additional lot requirements shall be observed:

(1) Every building shall be on one (1) lot only. Contiguous lots may be joined in accordance with the provisions of this Zoning Code.

(2) Yards, loading and parking space, or lot area required for one (1) building cannot be used for another building; nor can the size of a lot be reduced below the requirements of this Zoning Code;

(3) Unless subdivided, only one (1) single-family or two-family dwelling, whichever is a permitted use, shall be allowed on any parcel of land not subdivided previous to the passage of this Zoning Code.

(4) No parcel of land not already subdivided by a plat duly approved and filed for record in the office of the County Recorder, on or before the effective date of this Zoning Code, shall be divided into smaller parcels, except by a plat of subdivision thereof duly approved and filed for record in the office of the County Recorder. No subplot or block shown on a recorded plat of subdivision on file in the office of the County Recorder shall be divided, subdivided or added in whole or in part to any other parcel of land in the City, without the formal approval and consent of the Planning Commission.

#### 1165.04 EXCEPTION TO HEIGHT REGULATIONS.

Television and radio towers may be erected to a height of fifty (50) feet above grade where located separate from the building, or fifteen (15) feet above rooftop if mounted on the building. Satellite dish receiving antennas shall not be considered as being television or radio towers.

#### 1165.05 SUSTAINABLE REGULATIONS FOR LARGE SCALE RESIDENTIAL DEVELOPMENTS.

(a) Purpose. To provide flexibility in site design and development of land in order to encourage the preservation of the development area's environmental features (i.e., lakes, streams, wetlands, and other natural land features) and to encourage the maintenance of open space. The use of cluster design is strongly encouraged. These regulations shall apply to new construction residential development exceeding two (2) acres in any District.

(b) Cluster Design Requirements. Cluster design must meet the following standards:

(1) The overall development must comply with the density requirements of the zoning district but the individual lot areas for each building site may be reduced.

(2) Development will be permitted in configurations and locations which encourage the preservation of natural resources, including woodlands, water bodies and wetlands, and historical resources.

(3) Buildings or clusters of buildings must be separated by greenbelts or other natural features as required by Planning Commission. While such greenbelts may be accessible via bike paths or hiking trails, no development is permitted within these separation areas.

(c) Open Spaces Requirements.

(1) Thirty percent (30%) of the net area of the development site must be active or passive open space.

(2) There shall be a perimeter buffer yard of no less than 50 feet along the edge of the cluster design. No development is permitted in this perimeter buffer yard, which shall remain naturally landscaped. This perimeter buffer yard is included in the required percentage of open space.

(3) The following are counted toward the overall open space percentage required:

A. Natural water features, wetlands and conservation areas. No more than twenty-five percent (25%) of the required open space area may consist of water bodies, ponds, floodplains or wetlands.

B. A trail system connecting open space areas.

C. Recreation facilities such as swimming pools, tennis courts, playgrounds and skateparks.

D. Hiking trails and fitness courses.

E. Parks and playground.

F. Greenbelts and greenways.

G. Detention/retention areas accessible to occupants or the public via nature trails, boardwalks, and/or perimeter walkways, but only if they are designed as wetlands or natural water features and are landscaped with native vegetation.

H. Botanical gardens, greenhouses and community gardens.

(4) The following area shall not count toward the overall open space percentage required:

A. Yards on individual lots or yards that are reserved for the exclusive use of an individual property owner.

B. Streets, alleys or other public rights-of-way.

C. Vehicular drives, streets, and parking, loading and storage areas.

(5) A management plan must be prepared and submitted for all common open space. The management plan must be approved by the ~~Planning Director~~Zoning Administrator in a form approved by the Law Director.

(6) To the extent feasible, developers are encouraged to connect open space with existing or potential open space lands or adjoining parcels and local or regional recreational trails.

(d) General Requirements.

(1) Buildings shall be located to minimize negative impact on the natural scenic and cultural resources of the site, and conflicts between incompatible uses.

(2) Buildings must be sited to:

A. Minimize disturbance to woodlands, wetlands, water sheds, grasslands and mature trees;

B. Prevent impacts to water sources due to runoff through adequate on-site water management practices; and

C. Prevent encroachment on any rare plant communities, endangered species habitats or other environmental feature identified by other county, state or federal agencies.

(3) The Development shall comply with all other applicable provisions of the ~~City's ordinances~~Codified Ordinances including, but not limited to, the Landscaping ~~Requirements~~requirements contained in Chapter 1166, ~~Storm-Water~~Stormwater Management ~~Requirements~~requirements contained in Chapter 1335; and the Sustainability Guidelines contained in Section 1165.06.

(4) No habitable building shall be placed 300 feet from an oil or gas well. For purposes of this section, "habitable building" shall mean any building or structure capable of being inhabited or occupied in any manner by human beings.

## 1165.06 SUSTAINABILITY GUIDELINES.

The following design characteristics and amenities are provided as a non-exclusive guide of items to be considered for all development plans. Additional design characteristics and public benefits and amenities not listed may also be considered.

- (a) Historic preservation and adaptive reuse of existing structures.
- (b) The use of sustainable design and architecture, such as the use and/or incorporation of green roofs or white roofs, solar panels, wind turbines and other alternative energy efficient systems, and LEED (Leadership in Energy and Environmental Design) or LEED-equivalent structures.
- (c) Incorporation of passive solar building and site design, where the design of the structure and the layout of the lots within the development collect solar energy in the form of heat in the winter and minimize heat in the summer.
- (d) Where the development requires the demolition of existing structures, recycling and reuse of building materials from demolished structures.
- (e) Site design that incorporates public safety initiatives, such as strategies advocated by Transportation Demand Management, Crime Prevention Through Environmental Design (CPTED) and Safe Routes to School.
- (f) Preservation of natural features where the design of the site provides more usable and suitably located open space and natural amenities. The use of conservation easements is encouraged.
- (g) Innovative ~~storm-water~~stormwater management techniques that exceed the performance standards required by the ~~Ordinance-Zoning Code~~ and the ~~City Code~~Codified Ordinances, and reduce the amount of impervious surface on the site.
- (h) Additional public infrastructure improvements in addition to the minimum required by the planned development overlay, such as new or repaved streets, provision of bicycle paths, installation of gutters and sewers, new public transit stations, and traffic control devices to improve traffic flow.
- (i) Community amenities such as public art, places to congregate such as plazas, malls, gardens, outdoor seating, and pedestrian and transit facilities.
- (j) Additional open space and recreational amenities such as recreational open space and playgrounds, including athletic fields, dog parks, and natural water features and conservation areas above that required by the ~~Ordinance~~Zoning Code.
- (k) Provision of car or bicycle sharing facilities on-site.

## 1165.07 EXTERIOR LIGHTING REQUIREMENTS.

- (a) Light Trespass and Distraction.
  - (1) No exterior lighting may glare into, or upon, the surrounding area or any residential premises. In addition, no exterior lighting may be used in any manner that could interfere with the safe movement of motor vehicles on public streets. The light level must be no greater than one-half (0.5) footcandle at a residential property line and one (1) footcandle at any non- residential property line or public right-of-way line.
  - (2) Specifically, the following types of light trespass are prohibited:
    - A. Any light not designed for roadway illumination that produces direct or reflected glare that could disturb the operator of a motor vehicle.

B. Any light that may be confused with, or construed as, a traffic control device, except as authorized by state, federal or local government.

(b) Unshielded Lighting. The use of unshielded lighting, including incandescent light bulbs hung or strung on poles, wires, or any other type of support, are prohibited, except on a temporary basis in areas where approved carnivals, fairs, approved outdoor dining or similar activities are held and only when such activities are taking place.

(c) Light Pole and Building-Mounted Lighting Heights. The maximum height of light poles on private property, such as in off-street parking lots, is specified below. Maximum height is measured from grade at the base to the bottom of the luminaire. These standards do not apply to public right-of-way lighting.

(1) Non-Residential Uses.

A. Lights poles and building-mounted fixtures must be designed with fully shielded luminaires. Such poles or mounts are limited to a maximum of fifteen (15) feet in height.

B. Light poles for outdoor recreational facilities, including those that are part of an educational facility, are limited to a maximum of sixty (60) feet in height.

C. Lighting mounted on a non-residential structure is limited to a maximum height of fifteen (15) feet as measured from the first floor elevation.

(2) Residential Uses.

A. Light poles for single- and two-family dwellings, including any accessory structures or uses on site, are limited to a maximum of eight (8) feet in height.

B. Light poles for ~~multiple~~multi-family and townhouse dwellings, including any accessory structures or uses on site, are limited to a maximum of twelve (12) feet in height.

C. Under-soffit lighting for a residential dwelling may be mounted to a maximum height of fifteen (15) feet as measured from the first floor elevation.

## CHAPTER 1166

### Landscape Requirements

- 1166.01 Purpose.
- 1166.02 Landscape plan.
- 1166.03 Selection, installation and maintenance of plant materials.
- 1166.04 General landscape design standards.
- 1166.05 Landscape yards.
- 1166.06 Parking lot landscaping.
- 1166.07 Buffer yards.
- 1166.10 Screening requirements.
- 1166.11 Tree preservation.

#### CROSS REFERENCES

Commercial landscaping - see BUS. REG. Ch. 751

#### 1166.01 PURPOSE.

The landscape regulations established by this section are intended to:

- (a) Enhance the aesthetic appearance of developments throughout the City by providing standards related to the quality and functional aspects of landscaping.
- (b) Increase compatibility between abutting land uses and, between land uses and public rights-of-way by providing landscape screening or buffers.
- (c) Provide for the conservation of water through the efficient use of irrigation, appropriate mix of plant materials, recycling water elements, and regular maintenance of landscaped areas.
- (d) Protect public health, safety and welfare by preserving and enhancing the positive visual experience of the built environment, providing appropriate transition between different land uses, and enhancing pedestrian and vehicular traffic safety.
- (e) Reduce the urban heat island effect, enhance the local micro-climate and increase biodiversity.
- (f) Reduce stormwater runoff from existing and new residential properties.

#### 1166.02 LANDSCAPE PLAN.

(a) Landscape Plan Required. A landscape plan must be submitted and approved by the ~~Planning Director~~Zoning Administrator as part of any planned development or site plan, and must be approved prior to the issuance of a building permit or certificate of occupancy. Single-family dwellings, two-family dwellings and three-family dwellings do not require submittal of a landscape plan. The Zoning Administrator may also exempt non-residential uses which do not require any parking lot landscaping.

(b) Content of Landscape Plan. A landscape plan must contain the following information:

(1) The location and dimensions of all existing and proposed structures, property lines, easements, parking lots and drives, roadways and rights-of-way, sidewalks, signs, refuse disposal and recycling areas, bicycle paths and parking facilities, fences, electrical equipment, recreational facilities, drainage facilities, and other freestanding structures, as determined necessary by Zoning Administrator.

(2) The location, quantity, size, name (both botanical and common), indication of native species, and condition of existing plant materials and trees, and a description of all tree preservation measures.

(3) The location, quantity, size, name (both botanical and common) and condition of plant material and trees in the right-of-way, indicating plant material and trees to be retained and removed.

(4) The location, quantity, size and name (both botanical and common) and indication of native species of all proposed plant material including, but not limited to, shade, ornamental and evergreen trees, shrubs, groundcover, annuals/perennials and turf.

(5) The existing and proposed grading of the site indicating contours at one (1) foot intervals.

(6) Elevations of all proposed fences, walls, steps and fixed retaining walls (cast concrete, unitized walls) on the site.

(7) An on-site water management plan, including the pre-development runoff rate and the post-development runoff rate. The plan must include:

A. All pertinent calculations and specifications used in the design and construction of the detention area and other drainage improvements. Safeguards to prevent short-circuiting of detention system must be designed into the system. If underground systems are used, a monitoring and maintenance schedule may be required.

B. All storm drainage systems including existing and proposed drain lines, culverts, catch basins, headwalls, hydrants, manholes, and drainage swales.

(c) Minor Changes to Approved Landscape Plans. Minor changes to the landscape plan that do not result in a reduction in the net amount of plant material as specified on the approved landscape plan may be approved by the Zoning Administrator. Changes to the size and amount of plant materials of an approved landscape plan are not considered a minor change. Major changes must be approved by the ~~Planning Director~~Zoning Administrator.

#### 1166.03 SELECTION, INSTALLATION AND MAINTENANCE OF PLANT MATERIALS.

(a) Selection. All planting materials used must be of good quality and meet the "American Standard for Nursery Stock," latest edition, as published by the American Nursery and Landscape Association, hereafter referred to as ANLA, for sizes, grading, root spread, dimension of root ball, and quality. The use of native species is encouraged. Size and density of plant material, both at the time of planting and at maturity, are additional criteria to be considered when selecting plant material.

(b) Installation. All landscaping materials must be installed in accordance with the current planting procedures established by ANLA. Planting material should be grown in a climate similar to or more severe than that of Cleveland Heights, typical of its species in branch structure, free of cultural or mechanical injury, insect eggs or their larvae and plant diseases, and is accompanied by certification of inspection from authorities having jurisdiction over use and shipment. All plant material must be installed so that soil is of sufficient volume, composition and nutrient balance to sustain healthy growth.

(c) Native Plant Requirements and Prohibited Species. All landscape plans must incorporate at least thirty percent (30%) of native trees, shrubs and grasses into the required plant materials to provide habitat for local flora and fauna and reduce irrigation needs. No landscape plan may include species that are included on the list of prohibited species that is maintained by and on file with the ~~Planning Director~~Zoning Administrator and posted on the City's website.

(d) Drought Tolerant Plant and Water-Efficient Landscape Requirements. Plant selection should incorporate drought-tolerant species wherever possible and must be grouped by common water needs. Landscape areas having plants with similar water needs must be grouped together and irrigated by a dedicated irrigation controller station. All plants listed in the landscape plan must be classified and grouped by category of water use calculations. Water use calculations must be grouped as low, medium and high.

(e) Protection of Existing Vegetation. All construction projects are subject to Section 917.08 (Protecting Trees During Building Operations) requirements of the ~~City Code~~Codified Ordinances.

(f) Maintenance. All landscaping materials must be maintained in good condition, present a healthy, neat and orderly appearance, and kept free of weeds, refuse and debris. Fences, steps, retaining walls and similar landscaping elements must be maintained in good repair. The owner of the premises is responsible for the maintenance, repair and replacement of all landscape materials, fences, steps, retaining walls and similar landscaping elements, and refuse disposal areas. Irrigation systems, when provided, must be maintained in good operating condition to promote the health of the plant material and the conservation of water.

#### 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~~Zoning Administrator, 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~~ Schedule 1166.04(f)-:**

**SHRUB INSTALLATION SPECIFICATIONS**

| <b>SHRUB TYPE</b>    | <b>MINIMUM DIMENSION</b> |
|----------------------|--------------------------|
| 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.

## 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 plants such as grass, trees, ~~and~~ shrubs, and ground cover to be permanently protected from soil erosion.

(b) Required Front and Corner Side Yard Landscaping for ~~Multiple~~Multi-Family or Non-residential Uses. Where a ~~multiple~~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:

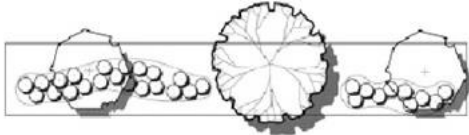
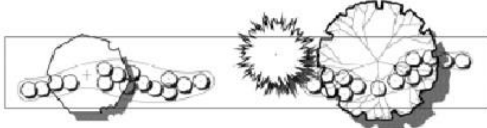
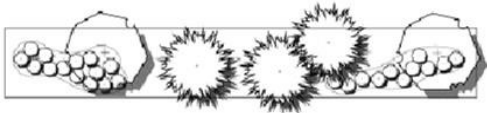
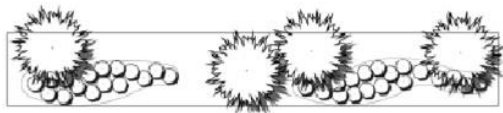
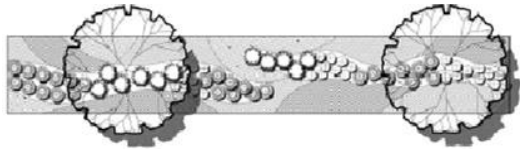
(1) Plantings may be spaced at various intervals and/or clustered based on specific site requirements or design scheme to be approved as part of the landscape plan. Examples are presented in Schedule 1166.05(b)(1).

(2) All plant materials, excluding trees, must be in the bedline. All plant materials in raised planters do not meet the requirements of this section.

(3) 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~~ Schedule 1166.05(b)(1).-:

#### FRONT & CORNER SIDE YARD LANDSCAPING PLANT UNIT OPTIONS

| PLANT UNIT OPTIONS  | QUANTITY & TYPE OF PLANTS                                          | ILLUSTRATION                                                                         |
|---------------------|--------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| STANDARD PLANT UNIT | 1 Shade Tree<br>2 Ornamental Tree<br>20 Shrubs                     |  |
| ALTERNATIVE UNIT A  | 1 Shade Tree<br>1 Ornamental Tree<br>1 Evergreen Tree<br>30 Shrubs |  |
| ALTERNATIVE UNIT B  | 2 Ornamental Trees<br>3 Evergreen Trees<br>25 Shrubs               |  |
| ALTERNATIVE UNIT C  | 4 Evergreen trees<br>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 Code, 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. 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) Unless a curb-stop and associated stormwater management is provided, All parking lot landscape areas must be protected from parked cars by curbs. When a curb is provided, Curb-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-minimum height of three-four (34) 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) Unless a curb-stop and associated stormwater management is provided, All-all perimeter parking lot landscaping areas must be protected with raised curb and gutter. When a curb is provided, Curb-curb inlets are required to allow water to infiltrate into the landscape areas as permitted by grading.

FIGURE 1166.06(b): PARKING LOT PERIMETER LANDSCAPE YARD

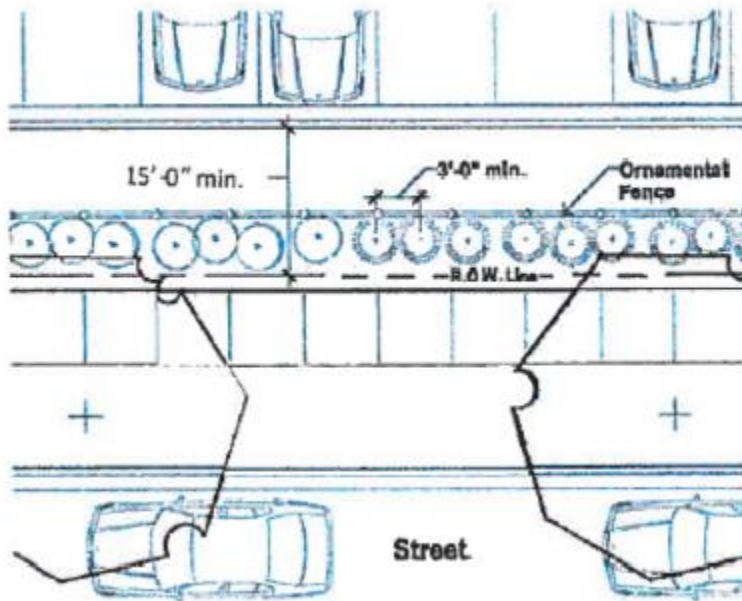


FIGURE 1166.06(b)(6): EXAMPLE OF CURB INLET



(c) Interior Parking Lot Landscaping.

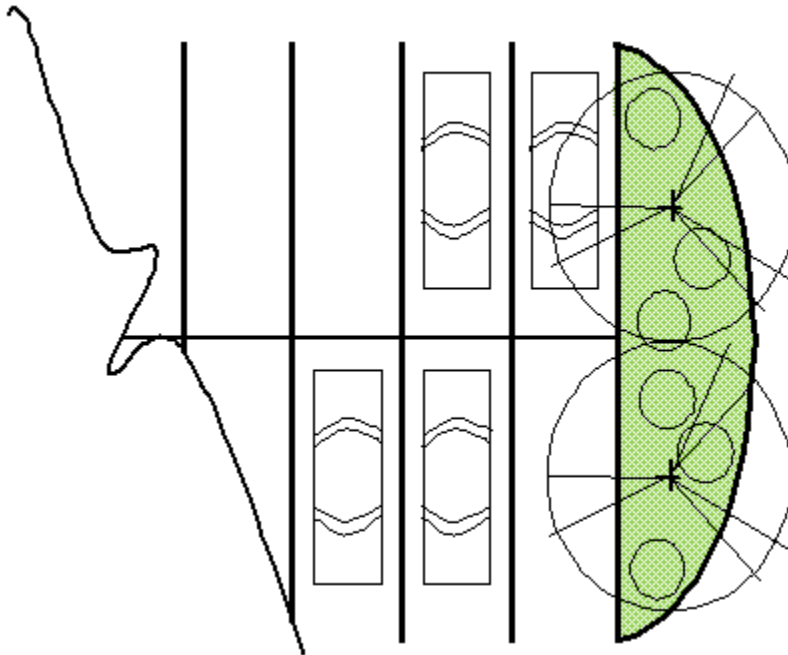
(1) For parking lots consisting of ten (10) or more spaces, interior parking lot landscaping is required.

(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).

FIGURE 1166.06 (c)(4): PARKING LOT DOUBLE ROW ISLAND



(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.

Buffer yards maintain an appropriate relationship between adjacent development by clarifying the delineation between properties and creating attractive and effective buffers between uses.

(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.

(b) The buffer yard 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 a minimum of three-four (34) 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 (1) 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. Loading berths shall be located and oriented so as not to be visible from the public street and adjacent properties, while still allowing access to the use served. In addition, loading berths shall be screened, 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.

#### 1166.11 TREE PRESERVATION.

The following are basic provisions for the preservation of trees within a site plan:

(a) Preservation of all trees with a diameter at breast height of over six (6) inches is required. Such trees may not be removed from a site, and must be maintained and protected during construction in accordance with the requirements of the [City Code Codified Ordinances](#). The size of the tree protection area during construction shall be a circle that meets the diameter of the drip line of the tree, or a diameter that is measured as one (1) foot in diameter for each one (1) inch of caliper, whichever is greater.

(b) Trees on the subject site plan property shall only be removed if approved by the Zoning Administrator and one (1) or more of the following situations apply:

(1) The tree poses a hazard. In order to verify that a hazard exists, the City may require a tree hazard assessment to be performed by a qualified arborist.

(2) The tree is planted too close to an existing structure, such that it is either damaging or has the clear potential to damage the structure.

(3) The roots of the tree are causing damage to sewer, plumbing or other infrastructure lines. Trees should not be removed simply because a sidewalk is raised or cracked, as the removal of the tree will not repair the damage.

(4) The tree contains structural problems (split trunk, split crotches, poor branch attachments), is damaged to the point that it cannot recover and grow properly or that it will grow in a misshapen or unsightly manner that could result in failure and fall.

(5) The tree is infested with an epidemic insect or disease where the recommended control is not applicable and removal is necessary to prevent transmission of the insect or disease to other trees. The City may require this condition to be verified by a qualified arborist.

(6) The tree is out of keeping in character or form with a proposed landscape plan or with an otherwise cohesive existing landscaping.

(7) The tree interferes with the growth and development of a more desirable tree.

(8) The Zoning Administrator determines that the removal of the tree is necessary to carry out construction in compliance with approved plans.

(c) A tree that is removed must be replaced with a tree of a comparable species and in a location that will grow to replace the removed tree without posing the hazards for which the tree was removed.

(d) The Zoning Administrator may allow trees to be replaced with other types of landscape if one (1) of the following conditions is met:

(1) The property includes other trees that provide sufficient shade so that additional trees are not necessary.

(2) If a replacement tree would be out of character or form in conjunction with an approved landscape plan.

(3) If in the opinion of the Zoning Administrator there is no suitable location on the property for a replacement tree.

(e) Clear-cutting of forests is prohibited.

(f) Large-scale projects, such as large-scale residential projects of more than ten (10) units, as well as larger mixed-use and commercial development projects, shall require approval of any tree preservation plan by the Planning Commission.

## CHAPTER 1167 Prohibited Uses

1167.01 Specifically prohibited uses.

### CROSS REFERENCES

Notice of violations - see P. & Z. 1117.07

Minimum performance standards - see P. & Z. 1165.01

### 1167.01 SPECIFICALLY PROHIBITED USES.

All uses not permitted by Sections 1115.10, 1121.02, 1123.02, 1131.02, 1133.02, 1143.02, 1145.02, and 1147.04 and uses that are specifically enumerated below, are prohibited on any land in the City.

- (a) Manufacturing or industrial operation of any kind other than as permitted by the provisions of this Zoning Code.
- (b) Junk yard.
- (c) Wrecking or dismantling of junk motor vehicles except within a private parking garage pursuant to Section 1161.08.
- (d) Pigeon loft.
- (e) Privately owned amusement park.
- (f) Placing or maintaining of tents, except for incidental residential purposes, vehicles or trailers intended for sheltering persons or animals, dining cars or other similar facilities.
- (g) Storing of explosives.
- (h) Wholesale produce market.
- (i) Wholesale produce salesroom.
- (j) Penal or correctional institution.
- (k) New cemetery or the extension of an existing cemetery, except as provided in Section 1121.04.
- (l) Refuse dump, other than one operated by the City or for clean earth or rock.
- (m) Any other use which in the determination of the ~~Board~~ Planning Commission is injurious, obnoxious or offensive by reason of emission of refuse water, odor, dust, fumes, vibration, smoke, gas or noise, or is dangerous to life or property.
- (n) Display, sale or service of food outside of a building; or the display or sale outside of a building of house furnishings, merchandise or vehicles, except when specifically permitted elsewhere in this Zoning Code.

## **CHAPTER 1169**

### **Sexually Oriented Businesses**

- 1169.01 Definitions.
- 1169.02 Sexually oriented business uses.
- 1169.03 Effect of partial invalidity.

#### **CROSS REFERENCES**

Obscenity and sex offenses - see GEN. OFF. Ch. 533  
Licensing of sexually oriented businesses - see BUS. REG. Ch. 755

#### **1169.01 DEFINITIONS.**

(a) “Adult arcade” means any place to which the public is permitted or invited where either or both:

(1) Motion picture machines, projectors, video or laser disc players, or other video image-producing devices are available, run via coin, token, or any form of consideration, to show images to five (5) or fewer persons at one (1) time; and

(2) Where the images shown and/or live entertainment presented is characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

(b) “Adult bookstore”, “adult novelty store” or “adult video store” means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, videodisks, CD-ROM disks, or video reproductions, slide or other visual representations that are characterized by the depiction of or description of “specified sexual activities” or “specified anatomical areas”; or

(2) Instruments, devices or paraphernalia, other than prophylactics, that are designed for use in connection with “specified sexual activities”.

(c) “Adult cabaret” means a nightclub, bar, restaurant or similar commercial establishment that regularly features:

(1) Persons who appear in a “state of nudity” or a “state of semi-nudity”; or

(2) Live entertainment characterized by the depiction or description of “specified anatomical areas” or by “specified sexual activities”; or

(3) Live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment; or

(4) Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

(d) “Adult motion picture theater” means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, videodisks, CD-ROM disks, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

(e) “Adult theater” means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a “state of nudity” or “semi-nudity” or

live performances which are characterized by the depiction or description of “specified anatomical areas”, “specified sexual activities” or live entertainment of an erotic nature, including exotic dancers, strippers, male or female impersonators, or similar entertainment.

(f) “Nude model studio” means any place where a person who appears in a “state of nudity” or “semi-nudity” or who displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons who pay money or any form of consideration.

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

(h) “Semi-nudity”, “state of semi-nudity” or “semi-nude” means exposing to view with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided that the areola is not exposed in whole or in part.

(i) “Sexual encounter center” means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

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

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is seminude.

(j) “Sexually oriented business” means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude model studio, or sexual encounter center.

(k) “Specified anatomical areas” means any of the following:

(1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(2) Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

(l) “Specified sexual activities” means any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy;

(3) Excretory functions as part of or in connection with any of the activities set forth in subsections (l)(1) or (2) above.

## 1169.02 SEXUALLY ORIENTED BUSINESS USES.

(a) Subject to the regulations of Chapter 755 of the Business Regulation Code, the General Offenses Code, other provisions of the ~~City~~-Zoning Code, and state law or regulation, a sexually oriented business may be located only in accordance with the following restrictions:

(1) A sexually oriented business may only be located as a conditional use in a C-3 ~~Zoning~~ District.

(2) No such business shall be located on any lot within 500 feet of any public library, private or public elementary or secondary school, or place of worship; and

(3) No such business shall be located on any lot within 1,000 feet of another sexually oriented business.

(b) For the purposes of subsection (a) hereof, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a place of worship, public library or public or private elementary or secondary school.

(c) For the purposes of subsection (a) hereof, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects from the closest exterior wall of the structure in which each business is located.

(d) A conditional use permit for a sexually oriented business shall not be rendered invalid by the subsequent location of a place of worship, public or private elementary or secondary school, public park or public library within 1,000 feet of the sexually oriented business.

(e) No person shall establish, operator or cause the establishment or operation of any sexually oriented business in violation of the provisions of this ~~chapter~~-Chapter and Part Seven, Business Regulation Code, and any other provisions of the Codified Ordinances and state statute or regulation.

(f) Nothing in this section shall be construed to prohibit or limit the display, sale or rental of descriptive, printed, film or video material or any live performance which, taken as a whole, contains serious literary, artistic, political, medical, educational or scientific value.

## 1169.03 EFFECT OF PARTIAL INVALIDITY.

If any section, subsection or clause of this ~~chapter~~-Chapter shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections or clauses shall not be affected.

## ***TITLE ELEVEN – Nonconformities***

Chap. 1171. Intent and General Regulations.

Chap. 1173. Nonconforming Uses.

Chap. 1175. Nonconforming Site Conditions.

RECOMMENDED

## **CHAPTER 1171**

### **Intent and General Regulations**

1171.01 Purpose.

1171.02 Existing use deemed conditional use; permit required for change.

1171.03 Completion of construction with existing building permit.

#### **CROSS REFERENCES**

Conditional use defined - see P. & Z. 1103.03(b)(24)

Nonconforming use defined - see P. & Z. 1103.03(b)(67)A.

Nonconforming signs - see P. & Z. 1163.11

#### **1171.01 PURPOSE.**

Within the districts established by this Zoning Code, or by amendments thereto which may later be adopted, lots, uses of land, buildings, and uses of buildings and land in combination exist which were lawful before this Code was passed or amended, but which are prohibited, regulated or restricted under the terms of this Code. The legitimate interest of those who lawfully established these nonconformities are herein recognized by providing for their continuance, subject to regulations limiting their completion, restoration, reconstruction, extension and substitution. Nevertheless, while it is the intent of this Code that such nonconformities be allowed to continue until removed, they should not be encouraged to survive. Accordingly, the completion, restoration, reconstruction, extension or substitution of nonconformities shall be subject to the regulations and conditions of this Title, as well as to any specific regulations or conditions governing nonconformities contained elsewhere in this Code.

#### **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.

#### **1171.03 COMPLETION OF CONSTRUCTION WITH EXISTING BUILDING PERMIT.**

Nothing herein contained shall require any change in the plans, construction or designated use of a building or accessory structure or use for which a building permit has been issued lawfully prior to the effective date of adoption or amendment of this Zoning Code for construction permitted at the time of such issuance, if the construction has been diligently started within six (6) months of the date of the permit and the entire building is completed according to such plans, as filed, within two (2) years from such date of passage.

## CHAPTER 1173 Nonconforming Uses

1173.01 Continuation of nonconforming uses.

1173.02 Termination of nonconforming uses.

### CROSS REFERENCES

Nonconforming use defined - see P. & Z. 1103.03(b)(67)A.

Expansion or extension of nonconforming use - see P. & Z. 1109.06(e)

Nonconforming signs - see P. & Z. 1163.11

### 1173.01 CONTINUATION OF NONCONFORMING USES.

A use of land or building or land and building in combination lawfully existing on the date of passage of this Zoning Code, or when any amendment to this Zoning Code becomes effective, may be continued and necessary maintenance and repairs made, so long as it remains otherwise lawful, subject to the following provisions:

(a) Alterations. No existing building devoted to a use not permitted by this Code in the district in which it is located shall be extended, reconstructed or structurally altered ~~to occupy a greater area of land than was occupied~~, nor by the addition of accessory uses which would not be permitted elsewhere in the same district, ~~except upon approval by the Board of Zoning Appeals~~.

(b) Restoration. Except as provided in Section 1173.02, nothing in this Zoning Code shall prevent the strengthening or restoration to a safe or sanitary condition of any part of a building declared unsafe or unsanitary by a public official acting in his authorized capacity. As required by this Zoning Code or ~~other City ordinances~~ the Codified Ordinances, a building permit for such activities shall be obtained.

(c) Change in Use. A nonconforming use shall be changed only to a conforming use. When a previously nonconforming use has been changed to a conforming use, such conforming use shall not thereafter be changed to a nonconforming use. A change in ownership or occupancy of the same use shall not in itself constitute a change of use.

(d) Existing Use Not Extended to Added Parcel. When any existing use is a nonconforming use and the parcel of land upon which such use exists is thereafter augmented by acquisition of adjoining land, such existing use shall not be extended to the after-acquired land.

### 1173.02 TERMINATION OF NONCONFORMING USES.

The right to maintain and operate a nonconforming use shall terminate immediately in the event one (1) or more of the following occurs:

(a) Discontinuance. Whenever a nonconforming use of land or building is voluntarily discontinued for a period of two (2) years or more, its use shall be changed to a conforming use. Intent to resume operation or use shall not affect this provision. Reuse of such land or building shall thereafter conform to all regulations for the district, and any nonconforming use shall not be resumed.

(b) Damage or Destruction. In the event that any building or structure devoted to a nonconforming use is destroyed by any means to the extent of more than sixty percent (60%) of its market value, it shall not be rebuilt, restored, or reoccupied for any use unless it conforms to all regulations of this Zoning Code.

(c) Nothing in this Zoning Code shall limit or deny the right or powers of the City at any time to abate or order the removal from the City of any use specifically prohibited by Chapter 1167.

RECOMMENDED

## **CHAPTER 1175**

### **Nonconforming Lots and Structures**

1175.01 Continued use of lot or structure.

1175.02 Nonconforming lots of record.

#### **CROSS REFERENCES**

Nonconforming site condition defined - see P. & Z. 1103.03(b)(67)B.

Nonconforming signs - see P. & Z. 1163.11

#### **1175.01 CONTINUED USE OF LOT OR STRUCTURE.**

If, at the effective date of this Code or future amendment, there exists a lawful use of a zoning lot and/or building which, under the terms of this Code as adopted or so amended, is a permitted principal use in the district in which it is located but which does not, under the terms of this Code as adopted or so amended, conform to the regulations of this Code with respect to lot width, lot area, off-street parking, yards, height, lot coverage, or other regulations, standards or requirements concerning such lot or structure, or such use thereof, such use of land and/or structure may be continued, except as otherwise specifically provided in this Code, so long as it remains otherwise lawful, subject to the following provisions:

(a) Alterations. A nonconforming building or structure, including access drives and parking areas, may be repaired, remodeled, reconstructed or structurally altered provided no such nonconforming building or site condition, except as provided in subsection (b) hereof, shall be structurally altered or extended in a way which increases its nonconformity.

(b) Additions. The construction of an addition, including a porch, deck, handicap ramp or steps, to a single-family or two-family home in an AA, A<sub>1</sub> or B District shall be permitted when such addition is within the minimum side yard required by the Zoning Code, but not closer to the side lot line than the existing residence, provided that the length of the wall of such addition, parallel to the side lot line is no greater than the length of the existing wall located within the required side yard.

(c) Reconstruction. Should such nonconforming building be destroyed or damaged by any means to an extent of more than sixty percent (60%) of the market value at the time of destruction or damage, it shall not be reconstructed except in conformity with all the provisions of this Code generally applicable to such structure in the district in which it is located.

(d) Change in Principal Use of Lot or Building. The use of such land and/or building may be changed to any other permitted principal use in the district in which it is located so long as no nonconformity is increased and so long as any special regulations, standards or requirements specified by this Code for such use are complied with.

(e) Change in Conditional Use. The use of such land and/or building whether an existing principal or conditional use or a change in ownership may be changed to a conditional use so long as no nonconformity is increased, however, as a condition of approval for a conditional use permit, the Planning Commission may require that a nonconforming building, structure or site condition be reduced in its level of nonconformity.

## 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~~ Code, 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.

## APPENDIX

### Zoning Map Changes

| <b>Ord. No.</b> | <b>Passage Date</b> | <b>Description</b>                                                                                                                                                                                                 |
|-----------------|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 121-1993        | 1-3-94              | Cain Park, Caledonia Park, Cumberland Park, Cumberland Park Extension, Denison Park, Euclid Heights Tot Lot, Forest Hills Park and Superior/School House Park from A Single-Family Residential to P Park District. |
| 124-1993        | 1-3-94              | Ambler Park, Rockefeller Park and Shaker Lakes Park from AA Single-Family Residential to P Park District.                                                                                                          |
| 111-1995        | 11-6-95             | Property at 2583-2589 Overlook Rd. from A Single-Family to MF-3 Multiple Family.                                                                                                                                   |
| 146-1995        | 1-16-96             | Property at 2465 Euclid Heights Blvd. from MF-1 Multiple Family Residential to A-Single Family Residential District.                                                                                               |
| 147-1995        | 12-18-95            | Property at corner of Euclid Heights Blvd. and Derbyshire Rd. from MF-1 Multiple Family Residential to P-Park District.                                                                                            |
| 38-1996         | 5-20-96             | Property on Lee Rd. between Redwood and E. Berkshire Rds. from C-1 Office to C-2 Local Retail District; property at 3219 E. Overlook Rd. from C-1 Office to A Single Family District.                              |
| 9-1999          | 4-19-99             | Various properties fronting on, or which abut other properties which front on Noble Rd. from Woodview Rd. NW to City limits from C-2 Local Retail to S-2 Mixed Use District.                                       |
| 50-1999         | 6-7-99              | Permanent parcels 685-28-003, 685-28-021, 685-28-023 and 685- 28-004 near SE corner of Cedar Rd. and Fairmount Blvd. zoned Planned Development Overlay District.                                                   |
| 120-2000        | 1-16-01             | Several land parcels near intersection of Euclid Heights Blvd. and Lee Rd. from C-2 Commercial, B Two-Family and A Single Family to MF-2 Multi-Family District.                                                    |
| 151-2000        | 1-16-01             | Several land parcels in area bounded by E. Overlook, Lee and Redwood Rds. from A Single Family to C-2 Local Retail District.                                                                                       |
| 47-2001         | 6-18-01             | Permanent Parcel 685-04-005 from A Single Family to MF-2 Multi-Family District.                                                                                                                                    |
| 158-2001        | 10-15-01            | Portions of Permanent Parcels 685-26-006 to 685-26-008 from C- 2 Retail to MF-1 Multi-Family District.                                                                                                             |
| 154-2004        | 12-20-04            | Various land parcels from present zoning to S-2 Mixed Use or C- 2X Multiple Use District.                                                                                                                          |
| 21-2005         | 4-18-05             | Establishes Planned Development Overlay District for Permanent Parcel 681-30-002 on Mayfield Rd.                                                                                                                   |

## **EXHIBIT B**

### **PROPOSED BUILDING CODE TEXT AMENDMENTS**

**As Recommended by the Planning Commission on December 14, 2022 as Part of its Annual Code Review**

RECOMMENDED

## PART THIRTEEN – BUILDING CODE

### TITLE THREE – Local Provisions

#### CHAPTER 1321 (FENCES)

##### 1321.01 PERMIT REQUIRED; FEE.

(a) No person shall construct any fence on a residential property without first obtaining a permit therefor from the ~~Zoning Administrator~~Building Commissioner and paying a fee of fifty dollars (\$50.00). No person shall construct any fence on a commercial property without first obtaining a permit therefor from the ~~Zoning Administrator~~Building Commissioner and paying a fee of eighty dollars (\$80.00).

(b) The permit fee shall be doubled in those cases where a person constructs or starts to construct a fence without first obtaining a permit.

#### CHAPTER 1341 (DEFINITIONS)

##### 1341.2301 RAIN BARREL

“Rain Barrel” means a container used to collect and store rainwater runoff, typically from roof tops via rain gutters. Rain barrels are installed to make use of rainwater for later use, usually for watering gardens. A rain barrel ~~or container~~ shall be covered at all times.

##### 1341.2302 RAIN GARDEN

“Rain Garden” means an area of land designed to capture storm water runoff from impervious areas such as roofs, driveways, walkways, parking lots, and compacted lawn areas, and allow it to infiltrate in to the water table.~~a planted depression that allows rainwater runoff from impervious areas like roofs, driveways, walkways, parking lots, and compacted lawn areas, to be captured and absorbed. A rain garden shall be planted with plants that have root systems that enhance infiltration, maintain, or even augment soil permeability, and provide moisture redistribution.~~

#### CHAPTER 1351 (BASIC STANDARDS FOR RESIDENTIAL OCCUPANCY)

##### 1351.25 MAINTENANCE OF ROOFS, GUTTERS, DOWNSPOUTS AND CHIMNEYS.

(a) All roofs of every dwelling structure shall be installed and maintained weathertight and shall be equipped with gutters and downspouts. Accessory buildings with less than 100 square feet of roofing area are not required to have gutters and downspouts. In cases of ~~existing~~ accessory buildings, if the roof area served by the specific downspout does not exceed 500 square feet, measured horizontally and if, in the opinion of the Building Commissioner, the drainage does not cause excessive erosion or water damage, or does not create a nuisance on public or private property, then downspouts need not be connected to the public storm sewer system. All roofs, gutters, downspouts and chimneys shall be maintained in a good state of repair.

(b) For purposes of this section, “weather-tight” and “in good repair” means that the roof, gutters and downspouts passed an inspection pursuant to subsection (d) hereof.

- (c) All chimneys of every dwelling structure shall be maintained structurally sound and in good repair. For purposes of this section, “structurally sound and in good repair” means free of deteriorated, loose or missing mortar and broken, missing or deteriorated bricks or other appropriate building materials, and that the seal to the home is weathertight.
- (d) For purposes of this section, “approved roofs, gutters, downspouts and chimneys” include, but are not limited to, the items contained in Appendix Schedule V of this Housing Code.
- (e) Any change in any of the systems named above of a dwelling or unit thereof may require that a permit be obtained from the Building Department, pursuant to the provisions of Section 1311.06 of the Building Code.
- (f) Downspouts shall either be connected to a public storm sewer or diverted into a rain barrel or rain garden.
- (1) ~~However, one or more downspouts may be diverted into a rain barrel.~~ Rain barrels ~~or containers~~ shall be covered at all times and incorporate a drainage system that directs any overflow into the public storm sewer or into a rain garden that can manage the flow of water on-site. Rain barrels are permitted in the rear, front, corner, and interior side yards. Rain barrels located in the front yard or corner side yard that are visible from the public street are subject to review and approval by the Architectural Board of Review.
  - (2) In-ground storm water management systems may include, but are not limited to, bioretention (rain gardens), infiltration trench (French drain), or pervious pavement. ~~One or more downspouts may be directed to a rain garden.~~
  - (3) The overflow must be directed away from the dwelling’s or building’s foundation; must not cause excessive erosion or water damage; and must not divert water onto the adjacent properties or public right of way.
  - (4) All rain gardens or rain barrels shall be designed and installed per current best practice recommendations by the Ohio Environmental Protection Agency (Ohio EPA) and the Cuyahoga Soil and Water Conservation District (Cuyahoga SWCD).



# CLEVELAND HEIGHTS

## **AGENDA (tentative) - CLEVELAND HEIGHTS CITY COUNCIL MEETING**

**January 17, 2023  
Regular Meeting  
7:30 p.m.**

**Cleveland Heights City Hall  
Council Chambers  
40 Severance Cir  
Cleveland Heights, Ohio**

- 1) Meeting called to order by Council President**
- 2) Roll Call of Council Members**
- 3) Excuse absent members**
- 4) Amendments to the Agenda (if necessary)**
- 5) Communications from the Mayor**
- 6) Report of the Clerk of Council**

Notify Council that notice has been received from the Ohio Division of Liquor Control advising that two applications have been made by the following:

- Daves Supermarket Inc. dba Daves Market, 1940 Lee Rd. Cleveland Heights, OH 44106 for a liquor agency contract, and for the transfer of a C2/C2X/D6/D8 liquor permit from York Lee Inc. dba Zagaras Marketplace, 1940 Lee Rd. Cleveland Heights, OH 44118 to Daves Supermarket Inc dba Daves Market, 1940 Lee Rd. Cleveland Heights, OH 44118.

**7) Public Comment - Agenda Items only**

(Note: Persons wishing to speak must register in advance. A 3-minute time limit applies. Council President reserves the right to reduce time limit based on the volume of business on the agenda. Comments unrelated to the agenda may be made after Committee Reports)

8) **LEGISLATION**

Note: The title for each piece of legislation contains a parenthetical reference to the Council Committee within which the subject matter of the legislation falls. Council Committees are abbreviated as follows: (AS)-Administrative Services; (COTW)-Committee of the Whole; (CRR)-Community Relations and Recreation; (F)-Finance; (HB)-Housing and Building; (MSES)-Municipal Services and Environmental Sustainability; (PD)-Planning and Development; (PSH)-Public Safety and Health. See Resolution 97-2022 for a list of Council Committee subject matter areas.

a. **First Readings – Consideration of Adoption Requested**

**RESOLUTION NO. 003-2023(CRR): First Reading.** A Resolution expressing the concern of the residents and City Council for delays in United States Postal Service (“USPS”) mail delivery in several Cleveland Heights neighborhoods over the past several months and further expressing the appreciation of the residents and City Council to our USPS postal carriers who are working long hours due to significant staffing shortages.

Introduced by Council Member Russell

Motion to Adopt/Second: \_\_\_\_\_/\_\_\_\_\_

Vote: \_\_\_\_\_  
For Against No. Reading

**RESOLUTION NO. 004-2023(PD): First Reading.** A Resolution authorizing the Mayor to execute an agreement with Friends of Mendelsohn, a non-profit corporation, for payment of funding to Naylor Wellman, LLC for historic preservation services related to the placement of Park Synagogue, 3300 Mayfield Road, Cleveland Heights on the National Registry of Historic Places and designation of such building as a National Landmark; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

Motion to Adopt/Second: \_\_\_\_\_/\_\_\_\_\_

Vote: \_\_\_\_\_  
For Against No. Reading

**RESOLUTION NO. 005-2023(MSES): First Reading.** A Resolution authorizing an agreement with Classic Ford of Madison for the purchase of four pick-up trucks with plows, three (3) for the Parks and Recreation Department and one (1) for the Department of Public Works; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

Motion to Adopt/Second: \_\_\_\_\_/\_\_\_\_\_

Vote:                      \_\_\_\_\_                      \_\_\_\_\_                      \_\_\_\_\_  
                                 For                                   Against                                   No. Reading

**b. First Reading Only**

**RESOLUTION NO. 006-2023(MSES): First Reading.** A Resolution authorizing the Mayor to enter into a fifth amendment to the agreement with Wade Trim, Inc. of Ohio, for professional engineering services relating to the City's Sanitary Sewer Overflow Control project and the EPA partial consent decree; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

**c. Second Readings**

**RESOLUTION NO. 002-2023(F): First Reading.** A Resolution authorizing the Mayor to execute an agreement with Schonhardt & Associates for the provision of assistance to the City's Finance Department in the preparation of the 2022-2024 Annual Comprehensive Finance Reports; providing compensation therefor; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Motion to Adopt/Second: \_\_\_\_\_/\_\_\_\_\_

Vote:                      \_\_\_\_\_                      \_\_\_\_\_                      \_\_\_\_\_  
                                 For                                   Against                                   No. Reading

**d. Consent Agenda**

**RESOLUTION NO. 007-2023(CRR): First Reading.** A Resolution proclaiming February, 2023 to be *American Heart Month*; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Council Member Russell

**RESOLUTION NO. 008-2030(CRR): First Reading.** A Resolution recognizing February 2023 as *Black History Month*; and declaring the necessity that this legislation become immediately effective as an emergency measure.

Introduced by Mayor Seren

Motion to suspend rules: \_\_\_\_\_/\_\_\_\_\_

Vote: \_\_\_\_\_  
For Against

Motion to Adopt/Second: \_\_\_\_\_/\_\_\_\_\_

Vote: \_\_\_\_\_  
For Against

**9) Committee Reports**

**10) Public Comment - General**

(Note: Persons wishing to speak must register in advance. A 3-minute time limit applies. Council President reserves the right to reduce time limit based on the volume of business on the agenda.)

**11) Old Business**

**12) New Business**

**13) Council Member Comments**

**(Note:** Council comments should directly relate to the business of the City of Cleveland Heights, rather than personal reflection or commentary. A maximum 3-minute time limit

applies, but the Council President may reduce time limit based on the volume of business on the agenda, the time of evening, or other similar factors.)

**14) Council President's Report**

**15) Adjournment**

**NEXT MEETING OF COUNCIL: MONDAY, FEBRUARY 6, 2023.**

Proposed 1/17/2023

RESOLUTION NO. 003-2023(CRR), *First Reading*

By Council Member Russell

A Resolution expressing the concern of the residents and City Council for delays in United States Postal Service (“USPS”) mail delivery in several Cleveland Heights neighborhoods over the past several months and further expressing the appreciation of the residents and City Council to our USPS postal carriers who are working long hours due to significant staffing shortages.

WHEREAS, residents in multiple Cleveland Heights neighborhoods including the Coventry, Taylor, Caledonia, Noble, and other neighborhoods in Cleveland Heights have shared with Council that their United States Postal Service (“USPS”) mail delivery has been delayed for 2 to 3 weeks in some cases; and

WHEREAS, this delay has had an especially detrimental impact on some residents who receive their personal and business bills and medication or other important documents in the mail through USPS; and

WHEREAS, many USPS postal carriers are working long hours into the night to alleviate the impact of USPS staffing shortage.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights Ohio, that:

SECTION 1. This Council requests that the United States Postal Service (“USPS”) and our federal elected officials in the United States Senate and House of Representatives intervene to address the staffing shortages impacting USPS mail delivery in the City of Cleveland Heights.

SECTION 2. This Council expresses their appreciation to our USPS postal carriers for working long hours and on occasion in dangerous conditions in order to meet the needs of our communities amidst unprecedented staffing shortage.

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

SECTION 4. Copies of this Resolution be memorialized in the minutes of Council and shall be forwarded to Postmaster General Louis DeJoy, Senator JD Vance, Senator Sherrod Brown, and Congresswoman Shontel Brown.

RESOLUTION NO. 003-2023(CRR)

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MELODY JOY HART  
President of the Council

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ADDIE BALESTER  
Clerk of Council

PASSED:

Presented to Mayor: \_\_\_\_\_

Approved: \_\_\_\_\_

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KAHLIL SEREN  
Mayor

Proposed: 1/17/2023

RESOLUTION NO. 004-2023(PD), *First Reading*

By Mayor Seren, President Hart, Vice President Cobb, and Council Member Mattox

A Resolution authorizing the Mayor to execute an agreement with Friends of Mendelsohn, a non-profit corporation, and/or Naylor Wellman, LLC for payment of funding to Naylor Wellman, LLC for historic preservation services related to the placement of Park Synagogue on the National Registry of Historic Places and designation of such property as a National Landmark; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, the owner of Park Synagogue, which was designed and constructed in 1945-1950 by world-renowned architect Eric Mendelsohn, are exploring options for redevelopment of the 28-acre site located at 3300 Mayfield Road, Cleveland Heights (the “Property”); and

WHEREAS, a non-profit corporation, Friends of Mendelsohn, has been created to spearhead redevelopment of the Property; and

WHEREAS, the Friends of Mendelsohn has retained an historic preservation consulting company, Naylor Wellman, LLC, to perform consulting work to have the Property placed on the National Registry of Historic Places and designated as a National Landmark in order to made the property eligible for historic tax credits and other federal, state and/or private grants; and

WHEREAS, the Property was certified a local Cleveland Heights Landmark in 1976 and recertified by the Landmark Commission on January 4, 2023; and

WHEREAS, the City has determined it would be in the best interests of the City and its residents to have the Property placed on the National Registry and designated as a National Landmark, preparatory to redevelopment, and is thus willing to contribute to the cost of the consulting work.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The Mayor be, and he is hereby authorized to enter into an agreement with Friends of Mendelsohn and/or Naylor Wellman, LLC to contribute funding in the sum of Forty-five Thousand Dollars (\$45,000.00) toward professional services to be provided by Naylor Wellman, LLC related to the placement of Park Synagogue Property on the National Registry of Historic Places and designation of the Property as a National Landmark.

SECTION 2. All documents and contracts necessary to effectuate the payment shall be approved as to form by the Director of Law.

RESOLUTION NO. 004-2023(PD)

SECTION 3. Notice of the passage of this Resolution 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. It is necessary that this Resolution become immediately effective as an emergency measure necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to meet application deadlines for tax credits. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

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MELODY JOY HART  
President of the Council

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ADDIE BALESTER  
Clerk of Council

PASSED:

Presented to Mayor: \_\_\_\_\_

Approved: \_\_\_\_\_

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KAHLIL SEREN  
Mayor

Proposed: 1/17/23

RESOLUTION NO. 005-2023(MSES), *First Reading*

By Mayor Seren

A Resolution authorizing an agreement with Classic Ford of Madison for the purchase of four pick-up trucks with plows, three (3) for the Parks and Recreation Department and one (1) for the Department of Public Works; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, it is necessary to purchase four new Ford F-250 pickup trucks with plow packages for the Department of Public Works; and

WHEREAS, the selected vehicles are available through Classic Ford of Madison for a cost below the price available through the Ohio Department of Administrative Services Cooperative Purchasing Program price; and

WHEREAS, Section 171.02(bb) of the Cleveland Heights Codified Ordinances authorizes the purchase or lease of goods and services without obtaining competitive bids where the price for such goods or services is less than the price that would be obtained through the Ohio Department of Administrative Services Cooperative Purchasing Program; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The Mayor be, and he is hereby, authorized to execute any and all agreements necessary for the purchase of three (3) 2023 Ford F-250 XL 4x4 pickup trucks with plow packages for the Parks and Recreation Department and one (1) 2023 Ford F-250 XL 4x4 pickup truck with plow package for the Department of Public Works, in accordance with the requirements set forth in Section 171.02(bb) of the Cleveland Heights Codified Ordinances. The purchase price for the four trucks with plow packages shall not exceed the total sum of Two Hundred Sixty-Eight Thousand Dollars (\$268,000.000).

SECTION 2. All agreements and related documents hereunder shall be approved as to form by the Director of Law.

SECTION 3. Notice of the passage of this Resolution 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.

RESOLUTION NO. 005-2023(MSES)

SECTION 4. It is necessary that this Resolution become immediately effective as an emergency measure necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to keep the streets of the City safe for vehicular travel. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

\_\_\_\_\_  
MELODY JOY HART  
President of the Council

\_\_\_\_\_  
ADDIE BALESTER  
Clerk of Council

PASSED:

Presented to Mayor: \_\_\_\_\_

Approved: \_\_\_\_\_

\_\_\_\_\_  
KAHLIL SEREN  
Mayor

Proposed: 1/17/2023

RESOLUTION NO. 006-2023(MSES)

By Mayor Seren

A Resolution authorizing the Mayor to enter into a fifth amendment to the agreement with Wade Trim, Inc. of Ohio, for professional engineering services relating to the City's Sanitary Sewer Overflow Control project and the EPA partial consent decree; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, the City required professional services of an engineering consultant concerning the City's Sanitary Sewer Overflow (SSO) Control project, and by Resolution No. 92-2015, authorized an agreement ("Agreement") with Wade Trim, Inc. of Ohio ("Wade Trim"), to provide professional engineering services relating to said project; and

WHEREAS, this Council, by Resolution No. 92-2016, authorized a first amendment to the Agreement to assist in the City's negotiations with the U.S. and Ohio Environmental Protection Agencies; and

WHEREAS, the City entered into a partial consent decree with the U.S. and Ohio Environmental Protection Agency that requires professional services of an engineering consultant on an ongoing basis; and

WHEREAS, this Council, by Resolutions No. 39-2018, 14-2019, and 112-2020 authorized second, third and fourth amendments to the Agreement for further professional engineering services related to the project and to support implementation of the EPA partial consent decree; and

WHEREAS, the City's ongoing work to implement the partial consent decree with the EPA requires further professional engineering services; and

WHEREAS, the Mayor has determined that the services of Wade Trim have well served the City's needs for professional engineering services in connection with the City's SSO Control project and the partial consent decree; and

WHEREAS, such professional engineering services are professional services for which no bidding is necessary.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The Mayor shall be and is hereby authorized to execute a fifth amendment to the Agreement with Wade Trim, Inc. of Ohio to provide professional engineering services relating to the City's SSO Control project and for the implementation of and compliance with the City's partial consent decree with the U.S. and Ohio Environmental Protection Agencies, and

RESOLUTION NO. 006-2023(MSES)

necessary related documents. The terms of the fifth amendment to the Agreement shall be substantially in accordance with the proposal attached hereto as Exhibit “A” and incorporated herein by reference. Compensation for the services detailed therein shall be paid for work actually

performed at the rates described therein and in no event shall exceed Two Million, Two Hundred Sixty-two Thousand, Four Hundred Sixty Dollars (\$2,262,460.00). All agreements and documents hereunder shall be approved as to form by the Director of Law.

SECTION 2. Notice of the passage of this Resolution 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 3. It is necessary that this Resolution become immediately effective as an emergency measure for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to timely meet partial consent decree requirements. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

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MELODY JOY HART  
President of Council

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ADDIE BALESTER  
Clerk of Council

PASSED: \_\_\_\_\_

Presented to Mayor: \_\_\_\_\_

Approved: \_\_\_\_\_

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KAHLIL SEREN  
Mayor



## Standard Professional Services Amendment

### Amendment No. 5 (two-year period)

To authorize additional services for a contract entitled Cleveland Heights SSO Control dated July 23, 2015 between  
The City of Cleveland Heights, , the Owner and Wade Trim of Ohio, the Professional (the "contract").

The Owner and the Professional, for mutual considerations hereinafter set forth, agree as follows:

- A. The Professional agrees to perform additional services for the Owner as follows:  
**Exhibit A** summarizes the proposed scope of services to support implementation of the Cleveland Heights Partial Consent Decree for control of Sanitary Sewer Overflows for years 2023 and 2024.
- B. Owner agrees to pay Professional as compensation for his services as follows:  
Compensation for the proposed scope of services is summarized in **Exhibits B1 and B2 – Compensation**. Said compensation shall not exceed \$2,262,460.
- C. It is mutually agreed by the Owner and the Professional that the schedule is modified as follows:  
The proposed scope is anticipated to be completed in calendar years 2023 and 2024, but may extend as needed to accommodate project needs.
- D. All of the terms and conditions of the Contract not inconsistent with this Amendment are reaffirmed and incorporated herein by reference.

Owner:  
The City of Cleveland Heights

By: \_\_\_\_\_  
(Print Name)

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Witness: \_\_\_\_\_

Professional:  
Wade Trim of Ohio

By: Tim Coleman  
(Print Name)

Title: Vice President

Date Signed: \_\_\_\_\_

Witness: \_\_\_\_\_

**Cleveland Heights Sanitary Sewer Overflow (SSO) Control – Amendment 5****EXHIBIT A – Two-year Scope of Services (2023 - 2024)****Continued Engineering and Field Support for Implementation of the Cleveland Heights Partial Consent Decree to Control Sanitary Sewer Overflows (SSOs)****1. OVERVIEW**

The City of Cleveland Heights submitted an Integrated Overflow Control Master Plan (IOCMP) to USEPA in May 2021 as required by its 2017 Partial Consent Decree (CD). Continuing actions and deliverables required in the Consent Decree also include the following:

- Sewer System annual inspections and cleaning, real-time flow monitoring, and field investigations
- Reviewing and responding to USEPA IOCMP report responses and other EPA reviews of previous submittals
- Annual reporting
- Implementation planning, program management and funding support, including American Rescue Plan Act (ARPA) funding, NEORSD MCIP<sup>1</sup> grant funding applications and coordination
- Part 2 CD negotiation

This scope of services describes engineering and field support services proposed to assist Cleveland Heights in the annual completion of the scoped activities for two years, including:

- Annual consent decree reporting (March 31)
- Annual real-time monitoring of at least 10 of the most active SSOs
- Oversight of field investigations, annual sewer cleaning, televising and condition assessment per the CD required Capacity, Management, Operation and Maintenance (CMOM) program
- Private property dyed water testing to confirm inflow/infiltration (I/I) contribution
- Quality reviews and tracking of field data collected
- Reviews, responses and negotiation with USEPA regarding Consent Decree reports and other submittals
- Funding support and engineering support for CD negotiations

Support for Consent Decree negotiations, report reviews, edits and responses to comments by USEPA are expected to occur during this two year amendment period. The detailed schedule

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<sup>1</sup> Northeast Ohio Regional Sewer District – Member Community Infrastructure Program

for this work is unknown due to uncertainty of EPA responses. The bulk of this work is covered in the first year budget, but this effort may also occur in 2024.

### **Proposed Subconsultants and Subcontractors**

Proposed subconsultants include the following firms for the respective work activities:

#### *Brown and Caldwell*

SSES support, including sewer system infiltration and inflow (I/I) testing and analysis, sewer system field investigations, condition assessment, and data analysis and management, contract with C&K Industrial to perform cleaning and sewer system closed circuit televising (CCTV)

#### *C&K Industrial Services*

Sewer cleaning, sewer system CCTV and support for other field inspection and investigations

#### *K.E. McCartney and Associates (KEM)*

Annual real-time flow monitoring

## **2. PROPOSED SCOPE**

### **A. Oversight and Management of CD/CMOM Activities**

#### ***A.1 Prepare/Submit Annual Report***

Cleveland Heights is required to submit an annual report by March 31 of each year to summarize progress and results of the consent decree activities as detailed in section VII, paragraph 43 of the consent decree. The Wade Trim team will provide information and assistance in developing a draft report for City review and submittal to EPA. The March 2023 report will be for 2022 activities and March 2024 report will be for 2023 activities. The team will assist in responding to EPA comments.

#### ***A.2 Oversee and Track Sewer Cleaning***

The Wade Trim team will oversee and track the required sewer cleaning program that may include cleaning crews from Cleveland Heights, C&K Industrial Services and Cuyahoga County Department of Public Works. The CD requires the following sewer cleaning program:

- Routine Sewer Cleaning – clean each sewer segment at least once every five years.
- Clean a minimum of 25 miles of sanitary sewers each calendar year.
- Maintain information on the nature and amount of material removed.
- Conduct high-frequency cleaning in hot-spot sewer segments determined to have recurring accumulation of fats, oils, grease and/or root (FROG) buildup.

**A.3 Inspection of Sewer System**

The Wade Trim team will oversee and track the required sewer inspection program that may include televising crews from Cleveland Heights, C&K Industrial Services and Cuyahoga County Department of Public Works. C&K Industrial Services contracted under Brown and Caldwell will provide sewer cleaning, CCTV inspection and NASSCO PACP/MACP<sup>2</sup> ratings to support tasks A.2 and A.3. It is assumed that heavy cleaning will be needed in ~ 20% of the area assigned. Approximately 72,000 LF will be assigned for precleaning and CCTV inspection per year under this two-year contract (144,000 LF total).

The CD requires the following sewer inspection program:

- Inspect entire sewer system including manholes on a 10-year cycle.
- Evaluate condition using NASSCO PACP/MACP<sup>3</sup> pipe/manhole condition rating system.
- Document condition.
- Inspect portions of the system where condition is determined to be grade 3 or worse on a 5-year cycle.
- Document inspection work completed in the Annual Report.

**B. Respond to USEPA Review of Submitted Documents**

The CD required submittal of several reports including the Phase 1 and Phase 2 Sewer System Evaluation Survey (SSES) reports, Capacity Assessment Report and the Integrated Overflow Control Master Plan. USEPA may provide review comments and/or questions regarding any of the reports submitted. The Wade Trim team will provide analysis and responses to address comments and will support Cleveland Heights in meetings with EPA with the objective to resolve questions and gain approval from EPA on the CD required submittals. The team will also prepare and submit updated reports to address EPA comments.

**C. Real-time Monitoring of Active SSOs**

The Wade Trim team will conduct electronic depth and velocity monitoring using digital, continuously-recording, real-time telemetered flow monitors at ten known SSO locations for a period of at least three months during the months from May to September in 2023 and 2024.

**D. Support for Negotiation of the Part 2 Consent Decree**

Upon EPA acceptance of the IOCMP, the Part 2 or Second Consent Decree is expected to be negotiated and executed to define and require the long-term plan for implementation of the IOCMP. The Wade Trim team will provide analysis and support to negotiate the Second Consent Decree.

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<sup>2</sup> National Association of Sewer Service Companies – Pipeline/Manhole Assessment Certification Program

### **E. Project Management and Engineering Support for Implementation of IOCMP and SSO Control Improvements**

Cleveland Heights has begun implementing SSO control capital improvement projects to take advantage of available ARPA funding that allows a relatively short schedule to encumber funds and complete projects. The Wade Trim team will continue providing support to plan and schedule the projects to optimize use of available ARPA funding and secure potential additional available grant funding via the NEORSO MCIP grant program. Separate design and construction engineering contracts will accompany the capital improvement projects.

#### ***Field Investigations***

Sewer system investigations and other engineering support may be needed to address critical field findings as may be encountered during sewer system cleaning and inspection. An allowance has been included to support investigations and definition of remedial measures to address critical sewer system condition and/or performance problems such as basement backups or unexpected SSOs.

### **3. Suggested Level of Effort and Compensation**

Wade Trim understands the City of Cleveland Heights would like to continue maximizing City staff involvement in the Consent Decree activities and will work to support Cleveland Heights in that objective. Attached **Exhibit B** summarizes a preliminary level of effort and budget suggested for our team for this two-year Amendment. We will work to maximize Cleveland Heights staff involvement to minimize effort by our team.

The Wade Trim team is positioned to provide additional field and/or office services to assist the City in delivering the required consent decree activities as requested by the City.

### **4. Schedule**

The activities described in this amendment scope are anticipated to be completed in calendar years 2023 and 2024 but may extend if needed. The WT team will not be responsible for delays caused by the City, its crews, or contractors that are hired by the City. Delays or time extensions or specific deadlines caused by others, including EPA may require additional compensation to complete the required work, and/or meet the future schedule that may be negotiated with EPA.



**WADE  
TRIM**

Prepared By M St. Pierre  
Date October 23, 2024  
Approved KVT

Project Amendment 5 Engrq support for CD Implementation - Year 1 of 2023 - 2024 period

File #

**Notes:**  
 IOCMP = Integrated Overflow Control Master Plan  
 IOCIP = IOCMP Member Community Infrastructure Program - competitive grant funding program to help communities correct sewer system problems - projects awarded grants are implemented as separate projects.  
 MCIP = NEORSO Member Community Infrastructure Program - competitive grant funding program to help communities correct sewer system problems - projects awarded grants are implemented as separate projects.



WADE  
TRIM

Estimating Method\*  
Average Salary Rate  $\overline{X}$   
Average Billing Rate  $\overline{X}$

Project Amendment 5 Engrs support for CD Implementation - Year 2 of 2023 - 2024 period

43

**Notes:**  
 IOCMP = Integrated Overflow Control Master Plan  
 MCP = NEORS Member Community Infrastructure Program - competitive grant funding program to help communities correct sewer system problems - projects awarded grants are implemented as separate projects.

Proposed: 1/03/23

RESOLUTION NO. 002-2023(F), *Second Reading*

By Mayor Seren

A Resolution authorizing the Mayor to execute an agreement with Schonhardt & Associates for the provision of assistance to the City's Finance Department in the preparation of the 2022-2024 Annual Comprehensive Finance Reports; providing compensation therefor; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, the City is required to prepare and submit to the Auditor of State Annual Comprehensive Financial Reports ("ACFR's"); and

WHEREAS, it is common for communities to retain outside resources to assist in the preparation of ACFR's to ensure the utilization of the most current and proposed governmental financial reporting requirements, and to permit City staff to prepare and file reports in a timely manner while maintaining other normal daily operations and duties; and

WHEREAS, after review of available options, the Director of Finance has recommended the retention of Schonhardt & Associates to provide such services; and

WHEREAS, such services are professional services for which no bidding is necessary, and the proposed fees are reasonable and competitive.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The Mayor be, and he is hereby, authorized to execute an agreement with Schonhardt & Associates ("Schonhardt") for technical accounting and management oversight services in accordance with the terms and conditions set forth in the proposal from Schonhardt dated December 9, 2022, a copy of which is on file with the Clerk of Council. The agreement shall be for assistance with the preparation of the 2022, 2023 and 2024 ACFR's, and shall provide for total fees and expenses in an amount not to exceed the sum of Sixty Thousand Dollars (\$60,000.00). The agreement shall contain such other terms as recommended by the Mayor and Director of Law, and shall be approved as to form by the Director of Law.

SECTION 2. Notice of the passage of this Resolution 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 3. It is necessary that this Resolution become immediately effective as an emergency measure necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to meet State deadlines. Wherefore, provided it receives the affirmative vote of five (5) or more of the members

RESOLUTION NO. 002-2023(F)

elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

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MELODY JOY HART  
President of the Council

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ADDIE BALESTER  
Clerk of Council

PASSED:

Presented to Mayor: \_\_\_\_\_

Approved: \_\_\_\_\_

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KAHLIL SEREN  
Mayor

Proposed: 1/17/2023

RESOLUTION NO. 007-2023(CRR), *First Reading*

By Council Member Russell

A Resolution proclaiming February, 2023 to be *American Heart Month*; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, cardiovascular disease is responsible for approximately one (1) in four (4) deaths in the United States and is the leading cause of death among both men and women; and

WHEREAS, the risk factors for cardiovascular disease include smoking, high blood pressure, high cholesterol, obesity, physical inactivity, diabetes, family history and age; and

WHEREAS, the research is clear that there are tools available to increase survival rates of cardiovascular disease, with the American Heart Association encouraging citizens to help save lives by calling 9-1-1 if symptoms occur, becoming trained in CPR, and supporting comprehensive automated external defibrillator (“AED”) programs in their communities; and

WHEREAS, the American Heart Association and numerous governmental entities are celebrating February, 2023 as American Heart Month and encouraging citizens to learn the warning signs of heart attack and stroke; and

WHEREAS, this Council joins with these entities to encourage residents to raise their awareness about heart disease in order to make healthy lifestyle choices to reduce their own risk and to recognize the warning signs and be able to assist other persons suffering cardiovascular symptoms.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. This Council hereby proclaims February, 2023 to be *American Heart Month* in the City of Cleveland Heights in order to promote education and awareness of cardiovascular disease with the goal of reducing cardiovascular deaths in this community and nationwide.

SECTION 2. Notice of the passage of this Resolution 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 3. It is necessary that this Resolution become immediately effective as an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to recognize *American Heart Month* on a timely basis. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this

RESOLUTION NO. 007-2023(CRR)

Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

\_\_\_\_\_  
MELODY JOY HART  
President of Council

\_\_\_\_\_  
ADDIE BALESTER  
Clerk of Council

PASSED:

Presented to Mayor: \_\_\_\_\_

Approved: \_\_\_\_\_

\_\_\_\_\_  
KAHLIL SEREN  
Mayor

Proposed: 1/17/2022

RESOLUTION NO. 008-2023(CRR), *First Reading*

By Mayor Seren

A Resolution recognizing February 2023 as *Black History Month*; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, the City of Cleveland Heights is rich in its diversity of cultures and races; and

WHEREAS, the residents of Cleveland Heights take great pride in the harmonious relationships that exist among and within the City's many diverse communities; and

WHEREAS, this Council recognizes the importance of sharing the rich cultural and spiritual heritage of each of the City's various ethnic groups in order to foster and encourage harmony and understanding among these groups; and

WHEREAS, the month of February is recognized as *Black History Month* by communities throughout the United States in order to learn about and honor the accomplishments and contributions of Black Americans to the United States, and the accomplishments and contributions of members of the African diaspora throughout the world.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The month of February 2023 is hereby designated *Black History Month* in the City of Cleveland Heights in recognition of the accomplishments and contributions of Black American citizens to this community and to our country, and the accomplishments and contributions of members of the African diaspora throughout the world. The City hereby reaffirms its commitment to maintain Cleveland Heights as a truly integrated community and to continue the tradition of appreciation and respect of our cultural diversity.

SECTION 2. Notice of the passage of this Resolution shall be given by publishing the title and abstract of contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 3. It is necessary that this Resolution become immediately effective as an emergency measure necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to recognize *Black History Month* in a timely fashion. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

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MELODY JOY HART  
President of Council

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ADDIE BALESTER  
Clerk of Council

PASSED:

Presented to Mayor: \_\_\_\_\_

Approved: \_\_\_\_\_

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KAHLIL SEREN  
Mayor