

# **Zoning Code**

## **City of Fairlawn Summit County, Ohio**

**February 21, 2011**

**DRAFT****PART TWELVE - PLANNING AND ZONING CODE**  
**Table of Contents**

## TITLE SIX - Zoning Code

- Chap. [1234.](#) General Provisions and Definitions.
- Chap. [1236.](#) Administration, Enforcement and Penalty.
- Chap. [1238.](#) Zoning Certificates and Certificates of Zoning Compliance.
- Chap. [1240.](#) Site Plan Review Procedures.
- Chap. [1241.](#) Procedures for Conditional Use and Similar Use Approval.
- Chap. [1242.](#) Board of Zoning and Building Appeals.
- Chap. [1244.](#) Procedures for Zoning Code Amendments.
- Chap. [1246.](#) Districts and Boundaries Generally; Zoning Map.
- Chap. [1248.](#) Provisions Applicable to All Districts.
- Chap. [1250.](#) Provisions Applicable to All “M” Districts.
- Chap. [1252.](#) M-1 Municipal District (Institutional).
- Chap. [1254.](#) M-2 Municipal District (Parks & Recreation).
- Chap. [1256.](#) M-3 Municipal District (Quasi-Public).
- Chap. [1258.](#) Provisions Applicable to All “R” Districts.
- Chap. [1260.](#) R-1 Single Family Residence District.
- Chap. [1262.](#) R-2 Single Family Residence District.
- Chap. [1264.](#) R-3 Single Family Residence District.
- Chap. [1266.](#) R-4 Two Family Residence District.
- Chap. [1268.](#) R-5 Limited Multiple Dwelling Residence District.
- Chap. [1270.](#) R-6 Planned Multiple Dwelling Residence District.

**DRAFT**

- Chap. [1272](#). OC-1/OC-2 Open Space/Conservation District.
- Chap. [1274](#). Provisions Applicable to All “B” Districts.
- Chap. [1276](#). B-1 Limited Business District.
- Chap. [1278](#). B-2 Retail Business District.
- Chap. [1280](#). B-3 Business District.
- Chap. [1282](#). RESERVED.
- Chap. [1283](#). B-4 Office Park/Research District.
- Chap. [1284](#). Off-Street Parking and Loading.
- Chap. [1285](#). Adult Use Regulations.
- Chap. [1286](#). Nonconforming Uses, Lots and Structures.
- Chap. [1287](#). Conditional Use Regulations.
- Chap. [1288](#). Exceptions and Modifications.
- Chap. [1290](#). RESERVED.
- Chap. [1292](#). Antennas.
- Chap. [1294](#). Swimming Pools.
- Chap. [1296](#). Landscaping and Screening Regulations.
- Chap. [1298](#). Sign Regulations.

# CHAPTER 1234

## General Provisions and Definitions

[1234.01](#) Title.

[1234.02](#) Purpose.

[1234.03](#) Public hearing; approval by Planning Commission; City Council.

[1234.04](#) Separability.

[1234.05](#) Interpretation; definitions.

### 1234.01 TITLE.

- (a) This Title Six shall be known and may be cited as “the Zoning Code of Fairlawn, Ohio,” or “the Zoning Code.”

### 1234.02 PURPOSE.

- (a) Council finds that it is necessary, in the interest of the promotion of the public health, safety, convenience, comfort, prosperity and general welfare, to enact an entire ordinance for zoning within the limits of the City, in order:
- (1) To regulate and promote the orderly development of the community;
  - (2) To restrict the location of buildings and other structures and premises to be used for trade, industry, residence or other specified uses;
  - (3) To regulate and limit the height of buildings and other structures erected or altered;
  - (4) To regulate the bulk and location of buildings and other structures erected or altered;
  - (5) To provide for the use and the percentage of lot occupancy, setback building lines and the area of yards, courts or other open spaces;
  - (6) To regulate the surface drainage and flow direction of storm waters;
  - (7) For the combination of all of the purposes herein described, to divide the City into districts as provided in [Chapter 1246](#) which districts are deemed and hereby determined to be best suited to carry out the said purposes for the orderly development of the City.

---

**DRAFT****1234.03 PUBLIC HEARING; APPROVAL BY PLANNING COMMISSION; CITY COUNCIL.**

- (a) Council further finds and hereby determines that this Zoning Code has been submitted to the Planning Commission of the City for approval, disapproval or suggestions and that the Commission has approved the same with the amendments and supplements noted in its report and has certified the plans so approved to Council and that a public hearing has been held thereon and that notice of such hearing was given in the manner provided by Law.

**1234.04 SEPARABILITY.**

- (a) This Zoning Code and the various sections, subsections and paragraphs hereof are hereby declared to be separable. If any section, subsection, paragraph, sentence or phase of this Zoning Code is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this Zoning Code shall not be affected thereby.

**1234.05 INTERPRETATION; DEFINITIONS.**

- (a) For the purpose of this Zoning Code, terms or words used herein shall be interpreted according to this Chapter. In the case of a discrepancy in meaning or implication between the text of this Code and any illustration or caption, the text shall control.
- (1) The word "shall" signifies a mandatory requirement, one that is not discretionary; the word "may" signifies a permissive or discretionary requirement; and the word "should" is a preferred requirement.
  - (2) Words used in the present tense include the future, the singular includes the plural and the plural and the singular; the word "building" includes the word "structure"; the word "used" includes arranged, designed, constructed, altered, unless the context otherwise requires.
  - (3) The words "the Commission" or "Planning Commission" shall mean the City of Fairlawn Planning Commission.
  - (4) The words "this Code" mean the Zoning Code of the City of Fairlawn, OH.
  - (5) "Council" means the City Council.
  - (6) "Such as" shall be construed as introducing a typical or illustrative enumeration of uses.
  - (7) "Regulation" means a rule, restriction or other mandatory provision intended to control, require or prohibit an act.

---

**DRAFT**

- (8) Whenever a number of days are specified, days shall mean calendar days unless specifically noted otherwise.
- (b) Words used in this Code are used in their ordinary English usage. The following definitions shall be used in the interpretation and construction of this Zoning Code.

**Accessory Structure:** A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal building, such as but not limited to fences, play structures, flagpoles, gazebos, etc. See also Structure.

**Accessory Use:** See Use, Accessory.

**Adult Care Facility:** A facility providing personal care services to adults (typically elderly). Such services may include assistance in daily living activities and self-administration of medicine, and preparation of special diets. There are two categories of adult care facilities licensed by the Ohio Department of Health:

- A. An adult family home (providing accommodations for 3 to 5 unrelated adults); and,
- B. An adult group home (providing accommodations for 6 to 16 unrelated adults).

**Alley:** A public or private way not more than twenty-four (24) feet wide affording only secondary means of access to a lot or abutting property.

**Arterial Roadway:** A major roadway or highway with limited, partial, or regulated access control and used as a direct link from one (1) major population node to another. Arterials primarily serve longer through trips at a moderate speed. They provide access to the major commercial and business areas and serve as a connection between the freeway system, collectors, and local roadways. In addition, arterials typically have average daily traffic (ADT) volumes of ten thousand (10,000) vehicles or greater. However, volume alone does not classify a roadway as an arterial, since the function of the roadway must also be taken into consideration.

**Assembly, Place of:** An establishment providing meeting space for social gatherings, including but not limited to wedding receptions, graduation parties and business or retirement functions. This term includes, but is not limited to, a banquet hall or rental hall.

**Auditorium:** A facility used to provide accommodations for public assembly.

---

**DRAFT**

**Automobile Service Station:** (See also Gasoline Station): A building, part of a building, structure or space which is used for the retail sale of lubricants, gas, and motor vehicle accessories, the routine maintenance and service of vehicles and the making of repairs to motor vehicles. Repairs described under VEHICLE REPAIR GARAGE shall not be permitted.

**Bank:** An establishment providing retail banking, credit and mortgage services. This term shall not include a currency exchange, a payday loan agency or a title loan agency.

**Bar or Tavern:** An occupancy that primarily serves alcoholic beverages.

**Basement:** A story whose floor is more than twelve (12) inches but not more than one-half (1/2) of its story height below the average level of the adjoining ground (as distinguished from a “cellar” which is a story when more than one-half (1/2) below such level). A basement, when used as a dwelling, shall be counted as a story for purposes of height measurement and as half-story for purposes of side yard determination. See also: Cellar.

**Berm:** A linear mound of earth used to shield or visually screen or buffer adjacent uses.

**Board of Appeals:** “Board of Appeals” and “Board” mean the Board of Zoning and Building Appeals of the City as created by this Zoning Code.

**Buffer or Buffer Yard:** A combination of physical space and vertical elements, such as plants, berms, fences, or walls, the purpose of which is to separate and screen incompatible land uses from each other.

**Building:** Any structure, which is permanently affixed to the land, having one or more floors and a roof supported by columns or walls, which is completely enclosed and is designed or intended for the shelter or protection of persons, animals, or property.

**Building, Accessory:** A subordinate building detached from, but located on the same lot as, the principal or main building, the use of which is incidental and accessory to the principal building or use and which is constructed subsequent to the principal building or main use of the land, such as but not limited to a detached garage, storage shed, etc.

**Building, Principal:** A building occupied by the principal use of the lot on which said building is located.

**Building Height:** The vertical distance measured from a point at the front entry level on the building, but not more than twelve (12) feet above the level of the lowest floor (cellar); and measured to the highest point of the parapet

---

**DRAFT**

above a flat roof; to the top deck line of a mansard roof; or the mean height level between eaves and ridge for gable, hip, or gambrel roofs.

**Building Line:** An imaginary linear extension of the building parallel or substantially parallel to the street right-of-way line defining the limits of the front yard, or in the case of a corner lot, the corner side yard.

**Car Wash:** A building or enclosed area that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices and/or which may employ hand labor.

**Cellar:** A story of the floor which has more than one-half (1/2) of its story height below the average contact ground level at the exterior walls of the building. A cellar shall be counted as a story, for the purpose of height regulations, only if used for dwelling purposes other than by a janitor or caretaker employed on the premises. See also Basement.

**Cemetery:** Land used or intended to be used for the burial of the human or animal dead, and which is dedicated for cemetery purposes. "Cemetery" includes mausoleums and mortuaries if operated in connection with, and within the boundaries of a cemetery. This term shall not include crematoriums.

**Compliance, Certificate of Zoning:** An official statement asserting that a given building, other structure or parcel of land is in compliance with the provisions of all existing codes, or is a lawfully existing non-conforming building or use and, hence, may be occupied and used lawfully for the purposes designated thereon.

**Cluster Development:** A design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, open space and preservation of environmentally sensitive areas.

**Collector Roadway:** Collector roadways are the second level of roadways in the hierarchy. Collectors serve as a connection between arterials and local roadways. They usually have lower speed limits than arterials and serve shorter trips. Collectors provide direct access to residential, commercial, and industrial areas and help to divert traffic from local roadways. Collector roadways must intersect an arterial roadway in at least one location. Collector roadways will normally contain a relatively large number of intersections with local roadways. Collector roadways may be cul-de-sacs if the primary function is to collect traffic from other local roadways, provided that the other requirements set out herein are satisfied. Collectors are further subclassified as residential collectors and general collectors.

---

**DRAFT**

- A. **General Collector:** These roadways are the highest order collector roadways. They may service residential and/or nonresidential areas. These collectors provide linkage between lower order and higher order roadways in the hierarchy. The location and interval of access drives may be designated by the Approving Authority when necessary due to existing or anticipated traffic problems. General Collectors typically have ADT volumes between three thousand (3,000) and ten thousand (10,000).
- B. **Residential Collector:** Residential collector roadways are the lowest order collector roadway. They have only residential lots fronting on the roadway. Residential collectors should be laid out to discourage through traffic, from outside the development, unless linkage between streets outside of the development is determined by the Approving Authority to be desirable. Residential Collectors typically have ADT volumes between one thousand (1,000) and seven thousand (7,000).
- C. **Commercial Recreation, Indoor:** A facility primarily used for the indoor conduct of, or participation in, recreational activities, and secondarily for the viewing of such activities. This term includes, but is not limited to, an indoor driving range, volleyball court, bowling alley, ice or roller skating rink, billiard hall, video game center, soccer field or basketball court. This term does not include a health club.

**Commercial Motor Vehicle:** Any self-propelled or towed vehicle used on public highways in intrastate or interstate commerce to transport passengers or property that meets any of the following specifications:

- A. The vehicle is a panel or box truck, meaning a truck with its cargo area completely enclosed, that has a gross vehicle weight rating or gross combination weight rating of 9,001 pounds or more.
- B. The vehicle is designed to be a medium duty or heavy duty tow truck.
- C. The vehicle is designed to transport sixteen (16) or more passengers, including the driver.
- D. Any other vehicle, not specified above, that has a gross vehicle weight rating or gross combination weight rating of 14,000 pounds or more.
- E. The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under the regulations issued by the United States secretary of transportation under the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as amended.

---

**DRAFT**

**Commercial Recreation, Outdoor:** A facility primarily used for the outdoor conduct of, or participation in, recreational activities, and secondarily for the viewing of such activities. Such a facility may include one or more structures. This term includes, but is not limited to, a mini-golf course/facility, tennis, basketball or volleyball court, soccer, baseball or football field, or amusement or water park. This term does not include a health club.

**Community Recreation Facilities:** A building or group of buildings, which may be operated by a public or nonprofit group or agency, used for recreational, social, educational, or cultural activities.

**Common Area/Property:** Any land area and/or facilities that is held in common ownership by the residents through a homeowners' association, community association or other legal entity, or which is held by the individual members of a condominium association as tenants-in-common.

**Conference Center:** A commercial facility used for trade shows, assemblies or meetings, including exhibition space. This term does not include banquet halls, clubs, lodges or other meeting facilities of private or nonprofit groups that are primarily used by group members.

**Congregate Care Facility:** A residential facility that provides for the needs of individuals who are elderly or handicapped. The facility shall consist of residential dwelling units or rooms designed specifically for the elderly or handicapped, and has common social, recreational, dining and/or food preparation facilities. The facility may be for independent living and/or may provide the residents with a wide range of personal and medical assistance including nursing care.

**Convents:** An establishment used by a living community of nuns, religious sisters, and/or the buildings utilized by such a community. This term shall not include a school. See also Monastery.

**Courtyard:** An open unoccupied and unobstructed space, surrounded or partially surrounded by buildings, and other than a designated yard, on the same lot with the building or group of buildings.

**Crematorium:** A facility that burns human and animal dead to ashes, only when it is associated with a funeral home.

**Cultural Institution:** An institution that displays or preserves objects of interest to the arts or sciences. This term includes, but is not limited to, a museum, art gallery, aquarium or planetarium.

**Day Care Facility:** An establishment in which the operator is provided with compensation in return for providing individuals with care for less than

---

**DRAFT**

twenty-four (24) hours at a time. This term includes, but is not limited to, a day nursery, nursery school, pre-school, adult day care center, or other supplemental care facility. This term does not include a family day care home.

- A. **Adult Day Care Center.** An adult day care center shall not include a convalescent home, hospital or any other full-time care facility.
- B. **Child Day Care Center.** Any place that provides day care or publicly funded day care to 13 or more children at one time; or any place that is not the residence of the licensee or administrator where child day care is provided to 7 to 12 children at one time.

**Density:** The number of dwelling units permitted per acre of land.

**Density, Gross:** The number of dwelling units permitted per acre of total land area.

**Developer:** Any individual, subdivider, firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under this Zoning Code to effect a development of land hereunder for himself or for another.

**Development:** Any building, construction, renovation, mining, extraction, grading, dredging, filling, excavation, or drilling activity or operation; any material change in the use or appearance of any structure or in the land itself; the division of land into parcels; any change in the intensity or use of land, such as an increase in the number of dwellings units in a structure or a change to a commercial or industrial use from a less intense use.

**District:** A portion of the territory of the City within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Zoning Code.

**Drive-thru Services:** Any portion of a building from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions. The term “drive-thru” shall also include “drive-up” and “drive-in” but shall not include Car Wash, Gasoline Station, and Automobile Service Station.

**Dwelling:** Any building or portion thereof designed or used exclusively as the residence or sleeping place of one (1) or more persons, but does not include a tent, cabin, trailer, trailercoach, boarding or rooming house, hotel, motel or other such accommodations used or intended for transient occupancy.

---

**DRAFT**

**Dwelling, Attached One-family:** Dwelling units that are structurally attached to one another, side by side, and erected as one building, each dwelling unit being separated from the adjoining unit or units by a party wall without openings extending from the basement floor to the roof and each such building being separated from any other building by space on all sides, and including such elements as separate ground floor entrances, services and attached garages.

**Dwelling, Cluster One-family Detached:** A dwelling unit which is designed and used exclusively by one family and separated from all other dwelling units by open area from ground to sky, which is grouped with other dwelling units on a site in an arrangement. The cluster dwelling does not need to be located on its own subdivided lot, but shall comply with the requirements for the applicable zoning district.

**Dwelling, Multi-Family:** A dwelling or group of dwellings on one (1) plot containing separate living units of three (3) or more families, but which may have joint service or facilities for both, not including joint cooking or eating facilities.

**Dwelling, One-Family Detached:** A building designed for or used exclusively for residence purposes by one (1) family.

**Dwelling, Two-Family:** A building designed for or used exclusively for residence purposes by two (2) families.

**Dwelling, Three-Family:** A detached house designed for and occupied exclusively as the residence of not more than three (3) families, each living as a single housekeeping unit.

**Dwelling Unit:** One (1) or more rooms providing complete living facilities for one (1) family, including equipment for cooking or provisions for the same and including a room or rooms for living, sleeping, eating and toilet facilities.

**Easement:** A right granted by the owner of land to other parties to use such land for a specific purpose, such as public utility lines or for access to other properties.

**Family:** An individual or two (2) or more persons, each related to the other by blood, marriage, or adoption, or foster children and not more than two (2) additional persons not related as set forth above, all living together as a single housekeeping unit and using common kitchen facilities.

**Family Day Care Home:** A residence used to provide childcare as detailed below:

---

**DRAFT**

- A. **Type A.** A permanent residence of the day care provider in which child day care or publicly funded day care is provided for 7 to 12 children at one time; or, a permanent residence of the day care provider in which child day care is provided for 4 to 12 children at one time if 4 or more of these children are under two years of age. Such facilities shall be licensed as mandated by Chapter 5104 of the ORC.
- B. **Type B.** A permanent residence of the day care provider in which child day care is provided for 1 to 6 children at one time. No more than 3 of these children shall be under two years of age at one time.

**Fence, Solid:** An artificially constructed vertical barrier of one (1) or more materials erected to enclose or visually screen areas of land.

**Floor Area, Dwelling Unit:** The sum of the gross horizontal area of a building devoted to the residential use measured from the exterior faces of the exterior walls or from the centerline of common walls separating two (2) dwelling units. It shall not include unfinished basements, attached garages, attics, terraces, breezeways, open porches, and covered steps.

**Foster child:** 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.

**Funeral Home:** A building or part thereof used for human funeral services. Where a funeral home is permitted, a funeral chapel shall also be permitted. A funeral home may include a mortuary. 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;
- D. The storage of funeral vehicles; and,
- E. A crematorium.

**Garage, Private:** A detached building or a portion of the principal building used primarily for the storage of self-propelled passenger vehicles, and in which no business, occupation or service for profit is in any way conducted

**Garage, Public:** A structure or portion thereof, where the storage, sale, hire, care, repair or refinishing of self-propelled vehicles or trailers are provided for a consideration. A structure or part thereof used only for storage or display of self-propelled vehicles, but not for transients, and at

---

**DRAFT**

which automobile fuels and oils are not sold and motor-driven vehicles are not equipped, repaired or hired, shall not be deemed to be a public garage.

**Gasoline Station:** (See also Automobile Service Station): An establishment where liquids used as motor fuels are stored and dispersed into the fuel tanks of motor vehicles by an attendant or by persons other than the station attendant and may include facilities available for the sale of other retail products.

**Golf Course:** A tract of land laid out with at least nine (9) holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse and shelters as accessory uses.

**Group Development:** Group Development or Zero Lot Line Development is a design technique which allows the positioning of a building(s) on a lot in such a manner that one (1) or more of the building sides rests directly on the lot line allowing for more usable side-yard space providing greater privacy.

**Health Club:** An establishment for the conduct of indoor sports and exercise activities, along with related locker and shower rooms, offices, and classrooms.

**Highest and Best Use:** An appraisal concept, usually a pro-forma comparison among several uses to determine which is most profitable and liable to produce the greatest net return in the foreseeable future. As it is economically oriented, the term has little validity in planning or zoning studies. Profitability is not guaranteed by zoning, nor is the loss of profitability considered a hardship.

**Home Occupation:** An occupation conducted within a dwelling, which is clearly incidental and secondary to the use of the building for dwelling purposes, and which is carried on by a person who resides in such dwelling.

**Hospital:** A facility which provides accommodations and continuous services for the sick and injured which may include pediatrics, obstetrical, medical, surgical, psychiatric or extended care.

**Hotel/Motel:** A building or portion thereof, or a group of buildings, which provides sleeping accommodations for transients on a daily or weekly basis, whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court or otherwise.

**House Trailer:** See Mobile Home (also house trailer) or Manufactured Home.

**Improvements:** The term means street pavement or resurfacing, curbs, gutters, sidewalks, water lines, sewer lines, storm drains, street lights, flood

---

**DRAFT**

control and drainage facilities, utility lines, landscaping, and other related matters normally associated with the development of raw land into building sites.

**Kennel:** An establishment, which is operated as a commercial enterprise, on which three (3) or more domesticated animals more than four (4) months of age are housed, groomed, bred, boarded, trained, or sold and which may offer provisions for minor medical treatment. A kennel shall not include any animals that are dangerous or a threat to the health and safety of the community as determined by the Planning Commission.

**Landscaped area:** An area that is permanently devoted to and maintained for the growing of trees, shrubs, grass or other plant material.

**Land-Use Plan:** The long-range Plan for the desirable use of land in the City as officially adopted and as amended from time to time. The purpose of such Plan is, among other things, to serve as a guide in the zoning of land to meet changing needs, in the subdividing and use of undeveloped land and in the acquisition of right-of-way or sites for public purposes such as streets, parking, schools and other public buildings.

**Loading Space:** Any space used for loading and unloading vehicles.

**Local Roadways:** Local roadways are the third and lowest order streets in the hierarchy. They provide for access to abutting properties and generally have low speed limits. Local roadways should be laid out to discourage through traffic and shall provide access to properties fronting on that roadway. Properties on local roadways may be commercial or residential in nature, but in general, different property types are not present on the same roadway. Local roadways for business and industrial developments shall connect with arterial, collector, or other local roadways for business properties so as to not generate large volumes of traffic on any residential street. Local roadways typically have ADT volumes of less than one thousand (1,000).

**Lot:** A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and an accessory building, or utilized for a principal use and uses accessory thereto, together with such open spaces and having access to or frontage on a public street as required by this Zoning Code.

**Lot Area:** The computed area contained within the lot lines.

**Lot, Corner:** A lot at the junction of the abutting on two (2) intersecting streets forming an interior angle of less than one hundred thirty-five (135) degrees.

---

**DRAFT**

**Lot Coverage:** That portion of a lot which is covered by a building or structure, parking or loading areas, driveway and sidewalk and other surfaces that are impermeable or substantially impervious to water.

**Lot, Depth:** The depth of a lot is the mean horizontal distance between the front and rear lot lines. Minimum depth is measured along the shortest side lot line.

**Lot, Interior:** A lot other than a corner lot.

**Lot Line, Front:** The line separating the lot from the street on which the lot fronts.

**Lot Line, Rear:** The lot line opposite and most distant from the front lot line.

**Lot Line, Side:** Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line; a side lot line separating a lot from another lot or lots is called an interior side lot line.

**Lot Lines:** The property lines bounding the lot.

**Lot Width:** The mean width of the lot measured at right angles to its depth, provided, however, that the minimum lot widths specified in the various districts shall be measured at the building line.

**Major Street Plan:** The official Major Street Plan of the City, as adopted, drawn composite with the Land Use Plan, establishing the location and official right-of-way widths of principal highways and streets in the City, together with an amendment thereto subsequently adopted.

**Mausoleums:** A building that contains places for the entombment of the dead above ground.

**Membership Clubs:** An incorporated or unincorporated association of persons organized for a common purpose to pursue common goals, interests, or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and by-laws.

**Mobile Home (also house trailer) or Manufactured Home:** A wheeled or non-wheeled structure whose width is determined by over-the-road transportation criteria, and which can be used singly or in multiples for permanent or protracted residence. (Does not include travel trailers, tent campers, travel coaches whose primary use is vacation oriented.)

---

**DRAFT**

**Monastery:** An establishment used by a living community of monks, brothers, and/or priests and/or the buildings utilized by such a community. This term shall not include a school. See also Convent.

**Mortuary:** See definition of Funeral Home.

**Municipal Buildings:** Any building or structure or portion thereof, used by a government agency for administrative or service purposes, but not including buildings devoted solely to the storage and maintenance of equipment and materials. “Municipal buildings” includes but is not limited to fire stations, police stations, government offices, public service buildings, other similar uses, and limited incarceration facilities.

**Municipal Park Buildings:** Buildings associated with municipal parks including, but not limited to, those used for storage, assembly, offices and sports related facilities.

**Night Clubs:** An establishment operated as a place of entertainment, which may also prepare and serve food and/or beverages for consumption on-site, that is characterized by any or all of the following as a principal use:

- A. Live, recorded, or televised entertainment, including but not limited to performance by magicians, musicians, or comedians;
- B. Dancing.

**Nonconformity:** A lot, use of land, building, site conditions, use of buildings, or use of buildings and land in combination lawfully existing at the time of enactment of this Zoning Code or its amendments, which do not conform to the current regulations of the district or zone in which it is situated or other regulations in this Zoning Code.

- A. **Nonconforming Building.** A building existing lawfully when this Zoning Code, or any amendment thereto, became effective, but which does not conform to the current regulations governing buildings and structures of the district in which it is located.
- B. **Nonconforming Lot.** A lot lawfully existing on the effective date of this Zoning Code or any amendment thereto, which on such effective date, does not conform to the current lot area, access, lot width, frontage, or other requirements of the district in which it is located.
- C. **Nonconforming Site Condition.** A site improvement that was legally established, but no longer conforms with the regulations in the Zoning Code.
- D. **Nonconforming Use.** Any building or land lawfully occupied by a use on the effective date of this Zoning Code or any amendment thereto,

---

**DRAFT**

which does not conform to the current use regulations of the district in which it is situated.

**Nursing Home:** See Congregate Care Facility.

**Office, Administrative/Business/Professional:** An establishment within which specific services are conducted with other businesses, individuals, organizations or corporate customers, generally on a contractual basis, and not involving the retail sales of merchandise on the premises for walk-in traffic from the street.

**Office, Medical/Dental:** Facilities which provide diagnoses, minor surgical care and outpatient care on a routine basis, but which do not provide overnight care or serve as a base for an ambulance service. Medical/dental facilities are operated by doctors, dentists, or similar practitioners licensed by the State of Ohio. Emergency treatment is not the dominant type of care provided at this facility. Health services includes establishments providing support to medical professionals and patients, such as medical and dental laboratories, blood banks, oxygen, and miscellaneous types of medical supplies and services.

**Open Space:** The portion of the open space in a development that is of sufficient size and shape to meet the minimum zoning requirements and on which further development is restricted.

**Outdoor Display/Sales:** Merchandise placed in an outdoor area that is open to the general public, when the merchandise on display is removed from its shipping packaging and is representative of merchandise that is available for purchase inside the building and/or is available for purchase by the general public directly from the display area.

**Outdoor Storage:** The storage of goods, materials, merchandise or vehicles in an area outside of a building or structure in the same place for more than twenty-four (24) hours, except for merchandise placed in an area for outdoor display.

**Outdoor Wood-Fired Boiler:** A fuel burning device which primarily uses wood as its fuel, which is not located inside structures or buildings occupied by humans, and is intended to heat spaces or liquids (generally water) by the distribution of the fluid heated by the boiler through pipes. Common uses include, but are not limited to: residential or commercial space heating; heating of hot water tanks; heating of water for swimming pools, hot tubs or whirlpool baths.

**Park:** A tract of land, designated and used by the public, for active and/or passive recreation.

---

**DRAFT**

**Park and Ride Facility:** A parking area for automobile drivers who then board vehicles, shuttles, or carpools from these locations.

**Parking Lot:** An outdoor paved area made up of marked parking spaces and associated access drives where motor vehicles may be stored for the purpose of temporary off-street parking. Also known as a parking area or parking facility.

**Parking Garage:** A building or structure consisting of more than one (1) level and used to store motor vehicles.

**Parking Space, Off-street:** An open or enclosed area, defined by painted lines, raised curbs or a combination thereof, outside the public street right-of-way that is used for the parking or temporary storage of registered and licensed motor vehicles

**Performance Guarantee:** A financial deposit to ensure that all improvements, facilities, or work required will be completed in conformance with the approved plan.

**Performance Standard:** A criterion, established in the interest of protecting the public health and safety, for the control of noise, odor, smoke, noxious gases and other objectionable or dangerous elements generated by and inherent in or incidental to land uses.

**Person and Responsible Person:** Shall mean an individual, partnership, corporation, limited liability company, limited liability partnership or officer, partner or member of a business entity, or fee owner of real property, lessor, lessee or agent, operator or manager or zoning or building permit applicant.

**Place of Worship:** A building or structure used for public worship. The word “church” includes the words “place of worship,” “house of worship,” “chapel,” “synagogue” and “temple” and their uses and activities that are customarily related.

**Plan, Plot.** A plan of a lot, drawn to scale, showing the actual measurements, the size and location of any existing structures or structures to be erected, the location of the lot in relation to abutting streets, and other such information.

**Plan, Site.** A plan prepared to scale accurately showing, with complete dimensions, the boundaries of the site, the location of buildings; landscaping; parking areas; access drives; signs; outdoor storage areas; and any other features that comprise a proposed development.

A. **Preliminary Site Plan:** Drawings and maps including all the elements set forth in this Zoning Code.

---

**DRAFT**

- B. **Final Site Plan:** Drawings and maps including all the elements set forth in this Zoning Code.

**Portable Storage Container:** A portable, weather-resistant receptacle designed and used for the storage or shipment of household goods, wares, building materials, or merchandise.

**Private Drive:** A privately owned roadway providing access for vehicles to a parking space, garage, dwelling or other structure.

**Project Boundary:** The boundary defining the tract(s) of land that is included in a proposed development to meet the minimum required project area required in this Code. The term “project boundary” shall also mean “development boundary”.

**Public Service Facility:** The erection, construction, alteration, operation, or maintenance of buildings, power plants or substations, water treatment plants or pumping stations, sewage disposal or pumping plants and other similar public service structures by a public utility, by a railroad, whether publicly or privately owned, or by a municipal or other government agency, including the furnishing of electrical, gas, rail transport, communication, public water, and sewerage services.

**Recreational Vehicle/Equipment:** A portable structure designed to be mounted on or drawn by a motor vehicle or trailer, or built on a chassis, and intended to be utilized for recreational and/or functional use. For the purpose of this code, recreational vehicle/equipment shall include a(n) utility trailer, open trailer, recreational vehicle, boat, boat trailer, pick-up truck camper, snowmobile, snowmobile trailer, folding tent trailer, or other camping and recreational equipment as determined by the Zoning Administrator and any trailer that may be used to convey such a vehicle or equipment.

**Residential Facility:** A facility licensed by the Ohio Department of Mental Health that provides room, board, personal care, supervision, habilitation services and mental health services, in a family setting, to one or more persons with mental illness or severe mental disabilities. There are three size categories of residential facilities:

- A. **Family home.** A residential facility that provides the services listed above for six (6) to eight (8) mentally retarded or developmentally disabled persons.
- B. **Foster family home.** A residential facility that provides the services listed above for five (5) or fewer mentally retarded or developmentally disabled persons.

---

**DRAFT**

- C. **Group home.** A residential facility that provides the services listed above for nine (9) to sixteen (16) mentally retarded or developmentally disabled persons.

**Restaurant Counter Service:** 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 such food, frozen desserts, or beverages by a restaurant employee at the same table or counter where the items were consumed.

**Restaurant, Outdoor Dining:** An establishment where food and drink are prepared inside the establishment and consumed outside the principal building in an area adjacent to the principal building.

**Restaurant, Sit Down:** A place located in a permanent building provided with space and accommodations such as tables, chairs, silverware, chinaware, and condiments, wherein the entire business activity, or substantially all of the business activity, consists of the sale of food and service to patrons seated at tables for consumption within the building. Such meaning excludes drug stores, confectionery stores, lunch stands, drive-in food and beverage operations and service stations.

**Retail Establishment:** An establishment engaged in the selling of goods or merchandise to the general public for personal or household consumption, and rendering services incidental to the sale of such products. Such an establishment is open to the general public during regular business hours and has display areas that are designed and laid out to attract the general public. In determining a use to be a retail use, the proportion of display area vs. storage area and the proportion of the building facade devoted to display windows may be considered. This term does not include any sexually oriented businesses, which are separately regulated in this Zoning Code in Chapter 1285, Adult Use Regulations.

**School, Public and Private:** Publicly or privately owned facilities providing full-time day instruction and training at the elementary, junior high, middle, and high school levels in accordance with the requirements of Ohio R.C. Chapter 3313, or facilities providing kindergarten or nursery school training and care whose annual sessions do not exceed the school sessions for full-time day schools and which are operated by a board of education or an established religious organization.

**School (public/private) College/University:** An educational institution authorized by the State of Ohio to award associates or higher degrees.

**School, Specialty/Personal Instruction:** A facility primarily teaching usable skills that prepare students for jobs within a specific trade or a facility

---

**DRAFT**

providing instruction on social and religious customs and activities, performing arts and/or sports. Such facilities may include beauty schools, dance instruction centers, cooking schools and martial arts studios. This term does not include health club.

**Service Establishment, Personal:** An establishment providing services that are of a recurring and personal nature to individuals. This term includes, but is not limited to, a barber shop, beauty salon, shoe repair shop, seamstress, tailor, and tanning salon. This term does not include a health club or repair shop for household items.

**Setback:** The required minimum horizontal distance between a lot line or the proposed thoroughfare line shown on the Major Streets Plan, whichever is more restrictive and a building, surface parking lot, outdoor storage, or structure as established by this Zoning Code.

**Setback Line:** A line established by this Zoning Code generally parallel with and measured from the lot line, defining the minimum distance a building, structure, parking area or outdoor storage area shall be located from the said lot or thoroughfare/right-of-way line, except as may be provided in this Zoning Code.

**Single Housekeeping Unit:** Single housekeeping unit means the common use and access to all living and eating areas, bathrooms, and food preparation and serving areas.

**Sports Facility:** A place designed and equipped primarily for observation of sports, leisure time activities and other customary and usual recreational activities. Such a facility is typified by temporal peaks in vehicle trip generation. This term includes, but is not limited to, a stadium, ballpark or arena. A sports facility does not include the facilities and equipment at a level of improvement normally associated with a municipal park.

**Standard, Performance:** See Performance Standard.

**Story:** That portion of a building between the surface of a floor and the floor or ceiling immediately above it, all of which is to be above ground level.

**Story, First:** The lowest story or the ground story of any building the floor of which is not more than twelve (12) inches below the average contact ground level at the exterior wall of the building. Any basement or cellar used for residence purposes, other than for a janitor or caretaker or his family, shall be deemed a first story.

**Story, Half:** A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four (4) feet above the floor of such story. However, any partial story used

---

**DRAFT**

for residence purposes, other than for a janitor or caretaker or his family, shall be deemed a full story.

**Street:** A dedicated public right-of-way fifty (50) feet or more in width which provides a public means of access to abutting property, or any such right-of-way more than twenty-four (24) feet and less than fifty (50) feet in width, provided it existed and was dedicated prior to April 1, 1961. The term “street” includes avenue, drive, circle, road, parkway, boulevard or any other similar term.

**Structural Alteration:** Any change in the structural members of a building, such as walls, columns, beams or girders.

**Structure:** Anything that is constructed on or under the ground or attached or connected to the ground, included but not limited to: buildings, barriers, bridges, bulkheads, bunkers, chimneys, fences, garages, outdoor seating facilities, platforms, decks, pools, poles, tanks, tents, towers, sheds, signs and walls; excluding trailers and other vehicles whether on wheels or other supports.

**Swimming Pool, Commercial:** A body of water in an artificial or semi-artificial receptacle or other container, whether located indoors or outdoors, used or intended to be used for public, semipublic or private swimming by adults or children, both adults and children, whether or not any charge or fee is imposed upon such adults or children, operated and maintained by any person, whether he is an owner, lessee, operator, licensee or consignor, exclusive of a family swimming pool, as defined herein, and includes all structures, appurtenances, equipment, appliances and other facilities appurtenant to and intended for the operation and maintenance of a swimming pool. All swimming pools operated and maintained in conjunction with or by clubs, multi-family developments, motels, hotels, and community associations are commercial swimming pools.

**Swimming Pool, Family:** A swimming pool, which is capable of holding water with a depth greater than forty-two (42) inches, used or intended to be used solely by the owner or lessee thereof and their family and by friends invited to use it without payment of any fee.

**Thoroughfare, Primary or Secondary:** An officially designated Federal, State, or County numbered highway or other road or street designated as a primary or secondary thoroughfare on the Major Street Plan.

**Trailer:** Any vehicle or structure constructed in such a manner as to permit occupancy thereof as sleeping quarters or for the conduct of any business, trade or occupation; or use as a selling or advertising device; or use for storage or conveyance of tools, equipment or machinery, and so designed

---

**DRAFT**

that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor power.

**Urgent Care Center:** A medical facility, outside of a hospital emergency department, where ambulatory patients can be treated on a walk-in basis, without an appointment, and receive immediate non-emergency care. The facility may be open twenty-four (24) hours a day.

**Use:** The purpose for which land or a building or structure is arranged, designed or intended, or for which either land or a building or structure is, or may be occupied or maintained.

- A. **Use, Accessory:** A use located on the same lot with the principal use of building or land, but incidental and subordinate to and constructed subsequent to the principal use of the building or land.
- B. **Use, Conditional:** A use permitted in a district, other than a principal use permitted by right, which is allowed only under certain conditions as set forth in Chapter 1287, Conditional Use Regulations, and which requires conditional use approval by the Planning Commission, in accordance with the standards and procedures set forth in Chapter 1241, Procedures for Conditional Use and Similar Use Approval.
- C. **Use, Permitted:** A use that is authorized by this Zoning Code as either a use permitted by right, a conditional use, or an accessory use.
- D. **Use Permitted by Right:** A permitted use that is approved administratively when it complies with the standards and requirements set forth in the Zoning Code, the approval of which does not require a public hearing.
- E. **Use, Principal:** The primary or main use or activity of a building or lot.
- F. **Use, Temporary:** A use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time and does not involve the construction or alteration of any permanent structure.

**Utility Services:** Underground or overhead gas, electrical, steam or water transmission or distribution systems or collection, communication, supply or disposal systems, including poles, wires, main drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, that have been erected, constructed, altered or maintained by public utility companies having the power of eminent domain or by municipal departments, used for local service lines and supplies necessary to the inhabitants of the City, but not for bulk storage or transmission for areas outside the City limits.

---

**DRAFT**

**Utility Substation/Distribution Facility, Indoor:** A facility contained entirely within a building, which performs either of the following functions:

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

**Utility Substation/Distribution Facility, Outdoor.** A facility, other than a transmission tower and not contained entirely within a building, which performs either of the following functions:

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

**Variance:** Permission to depart from the literal requirements of the Zoning Code typically determined by the Board of Zoning and Building Appeals.

**Vehicle Repair Garage:** An establishment providing repair services for motor vehicles, including the sale, installation and servicing of related equipment and parts, where all such work is performed within an enclosed building. This term includes, but is not limited to, the repair or servicing of transmissions, engines or upholstery including the rebuilding or reconditioning of motor vehicles, or parts thereof, including clutch, transmission, differential, axle, spring, and frame repairs; major overhauling or engines requiring the removal of the engine cylinder, head or crankcase pan; repairs to radiators requiring the removal thereof; or similar activities. This term includes, but is not limited to, an auto repair shop, wheel and brake shop, tire sales and installation, or upholstery shop. This term shall not include vehicle dismantling or salvage, tire re-treading or recapping, or motor vehicle body shop.

**Vehicular Use Area:** An area for storage of any and all types of vehicles whether such vehicles are self propelled or not, and an area including all land designed to be traversed by vehicles including, but not limited to, drive-in activities such as filling stations, grocery and dairy stores, banks, restaurants and the like.

**Yard:** An open space on the same lot with a principal building or structure extending between the lot line and the extreme front, rear or side wall of the principal building or structure.

---

**DRAFT**

**Yard, Corner Side:** On a corner lot, the yard between the principal building and the side lot line adjacent to the street and extending from the front yard to the rear lot line.

**Yard, Front:** The area across the full width of the lot between the front of the principal building and the front line of the lot.

**Yard, Rear:** The area across the full width of the lot between the rear of the principal building and the rear line of the lot.

**Yard, Side:** The area between the principal building and the side line of the lot extending from the front wall to the rear wall of the principal building.

**Zoning Administrator:** The individual designated to administer the Zoning Code of the City of Fairlawn, Ohio. A person designated by the Zoning Administrator may also perform duties of the Zoning Administrator.

**Zoning Certificate:** A document issued by the Zoning Administrator authorizing the construction or alteration of a building or structure and/or use of a lot or structure in accordance with this Zoning Code.

**Zoning Code:** Ordinance 1993-69, passed May 17, 1993, as amended, codified herein as Title Six of Part Twelve - the Planning and Zoning Code.

**Zoning Map:** An accurate map depicting the City of Fairlawn, Ohio, and indicating the boundaries of the zoning districts established by this Zoning Code. The Zoning Map may also be known as the Official Zoning Map.

# CHAPTER 1236

## Administration, Enforcement and Penalty

- [1236.01](#) Intent.
- [1236.02](#) General procedures.
- [1236.03](#) Violations.
- [1236.04](#) Equitable remedies.
- [1236.99](#) Penalty.

### 1236.01 INTENT.

- (a) Administrative procedures for administering, interpreting, and enforcing this Zoning Code are herein established in order to achieve among others, the following purposes:
  - (1) To provide for Code enforcement by mandating the review of all applications required by this Zoning Code;
  - (2) To provide supplementary administrative procedures in conformity with the objectives of this Zoning Code;
  - (3) To assure that in the construction of new buildings, alterations or change of use, all required provisions have been complied with by requiring a Certificate of Zoning Compliance before occupancy or use;
  - (4) To provide for the keeping of records of actions in regard to the enforcement of this Code;
  - (5) To provide measures in cases where there is noncompliance.
- (b) In administering this Code, the provisions shall be regarded as establishing minimum requirements and shall be used specifically to further the underlying purposes, objectives and intent set forth in the preamble to each chapter. Whenever this Zoning Code imposes greater restrictions than are imposed or required by further provisions of law or by other rules or regulations, the provisions of this Zoning Code shall govern.

---

**DRAFT****1236.02 GENERAL PROCEDURES.**

- (a) Administration. The administration of this Zoning Code is vested in the following officials, commissions and boards of the City of Fairlawn:
- (1) Planning Commission;
  - (2) Zoning Administrator;
  - (3) Board of Zoning and Building Appeals;
- (b) Implementation. The position of Zoning Administrator is hereby established in and for the City to administer and enforce this Zoning Code, including the receiving of applications, the inspection of premises and the issuing of certificates. The Zoning Administrator is hereby charged with the duty to inspect all development work at regular intervals and shall have authority to stop any work or construction that is in violation or contrary to any part of the approved final site plan. Such remedy shall be in addition to the penalty provided in Section 1236.99. The Zoning Administrator is hereby authorized to:
- (1) To issue zoning certificates as provided by this Zoning Code and keep a record of the same with a notation of any special conditions involved;
  - (2) Make inspections to assure compliance with this Zoning Code and to assure that the construction is in accordance with the plans and specifications presented and approved; and does not adversely affect the environment;
  - (3) To issue certificates of zoning compliance as provided by this Zoning Code and keep a record of the same;
  - (4) To review and act on sign applications, as provided for in Chapter 1298, Sign Regulations, according to the procedures, standards, and criteria stated in this Zoning Code;
  - (5) To accept, review for completeness, and respond to questions regarding applications upon which the Zoning Administrator is authorized by the provisions of this Zoning Code to review;
  - (6) To coordinate the City's administrative review of applications required by this Zoning Code;
  - (7) To hear and decide all other matters referred to and upon which the Zoning Administrator is required to pass by this Code;
  - (8) Accept the required fees on behalf of the City, maintain records thereof and make proper accounting therefore to the Finance Director.
- (c) Compliance. Compliance with the provisions of this Code shall be obtained by:

---

**DRAFT**

---

- (1) Applying for the issuance of a zoning certificate in accordance with the provisions of Chapter 1238, Zoning Certificate and Certificates of Zoning Compliance.
  - (2) Applying for a certificate of zoning compliance issued in accordance with the provisions of Chapter 1238, Zoning Certificate and Certificates of Zoning Compliance.
- (d) General Procedures: Whenever the Zoning Administrator determines that there has been a violation of any of the provisions of Title Six, Zoning Code, of the Codified Ordinances of the City of Fairlawn, the Zoning Administrator shall give notice of the violation to the person responsible therefor and order compliance, as herein provided. The notice and order shall:
- (1) Be put in writing on an appropriate form as the Zoning Administrator shall determine;
  - (2) Include a list of violations, refer to the sections and divisions violated and order remedial action which will effect compliance with the provisions of this Title;
  - (3) Specify a reasonable time within which to comply; and
  - (4) Be served on the responsible person personally, or by certified mail and regular mail to the person's residence, regular place of business or last known address. If the certified and regular mail is returned undelivered, a copy shall be posted in a conspicuous place in or on the person's residence, regular place of business, last known address, or the building affected.
- (e) Assessment Criteria. Whenever a person violates or fails to comply with any of the provisions of this Title, the Zoning Administrator shall have the authority to issue a stop work order and/or impose an administrative penalty. The Zoning Administrator shall consider:
- (1) The extent to which the person has benefited by the violation of this chapter;
  - (2) The degree of harm to the public health, safety, welfare and aesthetics as a result of the violation of this Title;
  - (3) The recidivism of the person, including previous notices and orders to comply and previous enforcement action;
  - (4) Good faith efforts of the person to remedy the violation of this title; and
  - (5) The duration of the violation after a notice and order to comply was served pursuant to this section.

---

**DRAFT**

- (f) Administrative Penalty: The imposition of an administrative penalty shall be accomplished only after a notice and order is provided to the responsible person. Notice of a decision imposing an administrative penalty shall:
- (1) Be put in writing on an appropriate form as the Zoning Administrator shall determine;
  - (2) State the basis for the administrative penalty, including the section of this Title that has been violated;
  - (3) Specify the date and manner by which the penalty must be paid; and
  - (4) Be served on the responsible person personally, or by certified mail and regular mail to the person's residence, regular place of business or last known address. If the certified and regular mail is returned undelivered, a copy shall be posted in a conspicuous place in or on the person's residence, regular place of business, last known address, or the dwelling affected.
- (g) Stop Work Order: The imposition of a stop work order shall be accomplished by posting the same at the location where the work was being performed. The stop work order shall:
- (1) Be put in writing on an appropriate form as the Zoning Administrator shall determine;
  - (2) State the basis for the stop work order, including the section of this Title that has been violated;
  - (3) All work on the area affected by the violation shall cease.
  - (4) Specify the manner by which the stop work order may be lifted; and
  - (5) Be served on the responsible person personally, or by regular mail to the person's residence, regular place of business, last known address, or shall be posted in a conspicuous place in or on the person's residence, regular place of business, last known address or the dwelling affected.
- (h) Citation: In addition to the administrative remedies and penalties provided in the chapter, the Zoning Administrator shall have the authority to cite the responsible person to the City of Fairlawn Mayor's Court. The Citation shall:
- (1) Be in writing;
  - (2) State the section of this Title that has been violated; and
  - (3) State the maximum fine that can be imposed is one hundred and fifty no/dollars (\$150.00).

---

**DRAFT**

- (i) Right of Appeal: Any order to comply with the Zoning Code issued by the Zoning Administrator may be appealed to the Board of Zoning and Building Appeals by any persons adversely affected by such order. The appeal shall be in writing and filed within twenty days (20) after the order is served.
- (j) Appeals from Zoning Administrator Decision: The Board of Zoning and Building Appeals shall have jurisdiction to hear all appeals pursuant to subsections (d) through (g) of this section, and this subsection (j). The decisions of the Board of Zoning and Building Appeals shall be made in strict conformance with the provisions of this Zoning Code.

**1236.03 VIOLATIONS.**

- (a) Any action that is performed in violation of this chapter shall be deemed a violation of this chapter and subject to any or all of the penalties thereof.

**1236.04 EQUITABLE REMEDIES.**

- (a) In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used or any land is or is proposed to be used in violation of any of the provisions of this Zoning Code, Council, the Director of Law, the Zoning Administrator, Building Commissioner or any adjacent or neighboring property owner who would be especially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus abatement or any other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintain or use.

**1236.99 PENALTY.**

- (a) Administrative Penalties. In addition to any criminal penalties that may be imposed pursuant to subsection (c) of this section, any person who violates or fails to comply with any of the provisions of this chapter shall be subject to the following administrative penalties in accordance with the criteria stated in Section [1236.02\(e\)](#) of this chapter:
  - (1) For a first offense, an administrative fine of up to one hundred fifty dollars (150.00).
  - (2) For a second offense, an administrative fine of up to two hundred fifty dollars (\$250.00).
  - (3) For a third offense, an administrative fine of up to five hundred dollars (\$500.00).
- (b) If a person fails, neglects or refuses to pay an administrative penalty within the time ordered pursuant to Section [1236.02\(f\)](#) of this chapter, then the Zoning Administrator shall so notify the Director of Finance. In addition to the

---

**DRAFT**

administrative penalty, an interest rate equal to the current rate of interest charged by the City on special assessments shall be imposed by the City for the life of the administrative penalty, and collected as provided in this section. The Director of Finance shall then certify the amount of the administrative penalty, including interest, to the County of Summit Fiscal Office. The County of Summit Fiscal Office shall enter the amount on the tax duplicate of the county as a special assessment against the person's real estate at issue.

- (c) Criminal Penalties. In addition to any administrative penalties that may be imposed pursuant to subsection (a) of this section, any person who violates or fails to comply with any of the provisions of this chapter shall be guilty of a minor misdemeanor and shall be fined not more than one hundred fifty dollars (\$150.00). A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

**DRAFT**

**CHAPTER 1238**  
**Zoning Certificates and Certificates of Zoning Compliance**

1238.01	Intent.	1238.04	Building Permits.
1238.02	Zoning Certificate Required.	1238.05	Certificate of Zoning Compliance
1238.03	Zoning Certificate for Single-family Detached Dwellings & Two & Three- Family Dwellings & Use Accessory Thereeto.		Required.
		1238.06	Zoning Fees.
		1238.07	Fee Waivers.

---

**1238.01 INTENT.**

- (a) The administrative provisions of this Chapter establish the procedures for reviewing and acting upon applications for zoning certificates and certificates of zoning compliance, in order to accomplish the purposes for which this Code is adopted and to assure that in the construction of new buildings, alterations or change of use, and change of occupancy, all required provisions have been complied with before occupancy.

**1238.02 ZONING CERTIFICATE REQUIRED.**

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

- (a) A zoning certificate shall be issued under the following circumstances:
- (1) Single-Family Detached & Two and Three-Family Dwellings and Uses Accessory Thereeto. An application for a single-family detached, two-family, and three-family dwellings or use accessory thereto has been reviewed and approved by the Zoning Administrator according to the procedures of this Chapter.
  - (2) All Other Permitted Uses. An application for any other permitted use not described in sub-section (a)(1) above, has been reviewed and approved by the Planning Commission or the Zoning Administrator according to the site plan review procedures set forth in Chapter 1240.
  - (3) Variance Requests. All applicable applications have been reviewed and approved according to the provisions of this Code, and a variance from a requirement of this Zoning Code has been reviewed and approved by the Board of Zoning and Building Appeals, according to the procedures set forth in Chapter 1242.

**DRAFT**

- (4) Similar Uses. An application for any use not specifically listed in this Zoning Code as a permitted or conditional use has been reviewed and approved according to the procedures set in Chapter 1241, Procedures for Conditional Use and Similar Use Approval. If the similar use is classified as a conditional use by the Planning Commission, an application for a conditional use shall be reviewed and approved, as required by this Zoning Code, prior to a zoning certificate being issued.
- (b) Applications for zoning certificates are available in the Office of the Zoning Administrator. A completed application form accompanied by all other applicable submission requirements shall be submitted to the Zoning Administrator.
- (c) Expiration of Zoning Certificate. Zoning certificates shall be valid for a period of one hundred-eighty (180) days, during which period a building permit shall be obtained, if one is required.
- (1) Construction shall begin under the authority of a building permit within six (6) months from the date of the issuance of such permit. Such timeframe may be extended up to six (6) months by the Zoning Administrator.
- (2) Construction of the project shall be completed within two (2) years, unless an extension has been applied for and granted by the Planning Commission.
- (3) If the time limitations provided in subsections (1) and (2) hereof have not been complied with and if, as a consequence the zoning certificate in question has been voided by the Zoning Administrator, the same shall be invalid and a reapplication for a re-issuance of a new zoning certificate shall be required to accomplish the purpose for which the original certificate was issued or applied for. The reapplication shall be accompanied by the appropriate fee.
- (d) No zoning certificate for excavation, construction, or reconstruction shall be issued unless the plans, specifications, and the intended use or occupancy conform to the provisions of this Zoning Code.

**1238.03**

**ZONING CERTIFICATE FOR SINGLE-FAMILY DETACHED DWELLINGS AND TWO & THREE-FAMILY DWELLINGS OR USE ACCESSORY THERETO.**

- (a) Submission of Applications. An application for the construction or alteration of a single-family detached dwelling, a two-family dwelling, a three-family dwelling or use accessory thereto shall include the items set forth below:

**DRAFT**

- (1) The completed application form, along with the application fee as established by the City.
  - (2) One copy of a general vicinity map.
  - (3) A plot plan showing the following. Such plans shall be legibly drawn to scale and shall be based on an accurate survey.
    - A. Zoning District;
    - B. Property boundary lines and the exact dimensions and area of the lot to be built upon or utilized;
    - C. Right-of-way of adjacent streets;
    - D. Location, dimensions, height, and bulk of all structures to be erected or altered;
    - E. The existing and intended use(s) of all land, buildings, and structures;
    - F. Dimensions of yards, setbacks, driveways, and parking areas;
    - G. Location and use of buildings and adjoining lots within 100 feet of all property lines;
    - H. Location and dimension of any easements and use of the easement;
    - I. Lot numbers of the concerned and abutting properties;
    - J. Each plan shall bear statements declaring that no part of the land involved in the application has been previously used to provide required setbacks or lot area for another structure;
    - K. Preliminary architectural plans for the proposed development or use showing exterior elevations and building floor plans, site construction materials, prepared and certified by a qualified Ohio design professional;
    - L. Each property owner or authorized agent shall be required to attest to the correctness of the statements and data furnished with the application; and,
    - M. Any other pertinent data as may be necessary to determine and provide for the enforcement of this Zoning Code.
- (b) Review for Completeness. The Zoning Administrator shall review each submitted application to determine compliance with the applicable submission requirements. If the application is deemed insufficient, the Zoning Administrator shall notify the applicant, within fourteen (14) days of receiving such application, of necessary changes or additional information needed. When

**DRAFT**

the application is deemed complete and the application fee has been paid, the Zoning Administrator shall officially accept the application for consideration of the action(s) requested on the date such determination is made.

- (c) Action by Zoning Administrator. The Zoning Administrator shall evaluate the application for compliance with the applicable Zoning Code provisions within thirty (30) days from the date it was determined to be complete. In evaluating the application, the Zoning Administrator may consult with any department, agency, public body, official, company, or individual necessary to determine whether the application complies with the regulations of this Zoning Code.
- (d) Following the Zoning Administrator's review, the Zoning Administrator shall either:
  - (1) Approve. The Zoning Administrator shall issue a zoning certificate upon finding that the building, structure or use, as proposed, complies with the provisions of this Zoning Code; or,
  - (2) Deny. If it is determined by the Zoning Administrator that the proposed building, structure or use would violate one or more provisions of this Zoning Code, then the zoning certificate shall not be issued. The Zoning Administrator shall state on the application the reason for the denial, including the regulation(s) which would be violated by the proposal, and shall transmit one (1) copy thereof to the applicant along with one (1) copy of the plot plan, signed, dated and noted as disapproved, retaining the original application for the City's permanent record.

**1238.04**

**BUILDING PERMITS.**

- (a) Excavation for building site improvements shall not be started, and buildings or structures, or parts thereof, shall not be erected, altered or moved, until a building permit has been applied for and issued by the appropriate authority.
- (b) Approval of Site Plans. Whenever such a plan has been submitted by the developer as required by this Zoning Code, the preliminary site plan and final site plan of the development area shall have been approved by the Planning Commission, and, if a variance is required, by the Board of Zoning and Buildings Appeals, as required by this Code, before a building permit may be issued by the appropriate authority.
- (c) Seeking a Building Permit. Applicants for building permits for multiple-family, "B" and "M" uses shall not seek a building permit from the appropriate authority until such authority has received a valid, Zoning Certificate from the City of Fairlawn, OH.

**DRAFT**

**1238.05 CERTIFICATE OF ZONING COMPLIANCE REQUIRED.**

No land, new building, or structure shall be occupied or used, in whole or in part, and no change in the use or occupancy of an existing building or structure, or any part thereof, shall be permitted, until a Certificate of Zoning Compliance has been applied for and issued by the Zoning Administrator. A Certificate of Zoning Compliance shall also be required prior to the use or occupancy of any building or land, if Section 1238.02, Zoning Certificate Required, requires said land or building to apply for and receive a Zoning Certificate.

- (a) Certificate of Zoning Compliance shall be applied for and issued as follows:
  - (1) Occupancy of a Building. A Certificate of Zoning Compliance shall be required before a building that has been constructed, or an existing building that has been altered, moved, changed in use, changed in tenancy, or changed as to off-street parking or loading requirements may be occupied. A Certificate of Zoning Compliance shall only be issued after the completion of the erection or alteration, or change in use of the building and the building is found, upon inspection, to conform with the provisions of this Zoning Code and any other applicable City regulations, policies, and specifications.
  - (2) Occupancy of Land. A Certificate of Zoning Compliance shall be required before occupancy of the land or where use of the land has been changed to a use different from the prior use. A Certificate of Zoning Compliance shall be issued when it is determined, upon inspection, that the use conforms with the provisions of this Zoning Code.
  - (3) Change in Use of Nonconforming Building or Use. A Certificate of Zoning Compliance shall be required whenever a nonconforming building, structure, or land is changed to another nonconforming use, and shall not be issued until the Board of Zoning and Building Appeals has approved the change in accordance with the provisions of Chapter 1286, Nonconforming Uses, Lots, and Structures.
- (b) An application for Certificate of Zoning Compliance shall include, in addition to the plans required for the Zoning Certificate, accurate information as to the size, location, drawings and description of the lot, the dimensions of yards, setbacks, and the use of land.
- (c) The use and/or development of a building or land shall be inspected by the Zoning Administrator upon application for a Certificate of Zoning Compliance, by the owner or his agent, to determine whether such use conforms to all provisions of this Zoning Code, or if it is a lawfully existing nonconforming use.

**DRAFT**

(d) Action by Zoning Administrator. The Zoning Administrator shall evaluate the application and approve or deny it within fourteen (14) days from the date the completed application was submitted. In evaluating the application, the Zoning Administrator may consult with any department, agency, public body, official, company, or individual necessary to determine whether the application complies with the regulations of this Zoning Code. Following the Zoning Administrator review:

(1) Approve. The Zoning Administrator shall issue a Certificate Zoning of Compliance upon finding that the building, structure or use, as proposed, complies with the provisions of this Zoning Code, if the performance guarantees have been provided, as applicable.

(2) Denial. If it is determined by the Zoning Administrator that the proposed building, structure or use would violate one or more provisions of this Zoning Code, then the Certificate of Zoning Compliance shall not be issued. Upon disapproval of any application, the Zoning Administrator shall notify the applicant in writing of the reasons for disapproval.

(3) Temporary Certificate of Zoning Compliance. When unforeseen events prevent the timely completion of a building, site improvements, or a structure pursuant to the requirements of the Planning Commission and this Code, the Zoning Administrator may issue a Temporary Certificate of Zoning Compliance for a period not to exceed sixty (60) days upon the following conditions:

A. The Zoning Administrator shall first inspect the building or structure and document the items that remain unfinished;

B. The Zoning Administrator shall estimate the cost of completion;

C. The owner of the building or structure and the owner of the real property shall post a cash, surety bond, or other performance guarantee with the City of Fairlawn in an amount equal to the estimate plus ten percent (10%) but not less than fifty thousand dollars (\$50,000.00);

D. The owner of the building or structure and owner of the real property shall sign an agreement with the City of Fairlawn agreeing to forfeit the cash, surety bond, or other performance guarantee to the City if the documented items remain unfinished at the conclusion of the agreed time period and to pay a fine of one hundred dollars (\$100.00) per day for each day the documented items remain unfinished beyond the agreed upon time period and such other conditions the Zoning Administrator believes to be in the best interest of the City;

**DRAFT**

E. The City of Fairlawn Finance Director shall certify any portion of the fine that remains unpaid, including interest, to the County of Summit Fiscal Office to be entered onto the tax duplicate of the county as a special assessment against the real estate at issue.

- (e) Certification. The Certificate of Zoning Compliance shall document that the building, site and/or proposed use of land or building conforms to the provisions of this Zoning Code.
- (f) Records. A record of all applications and certificates issued shall be kept on file in the office of the Zoning Administrator, and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building or land affected.

**1238.06 ZONING FEES.**

- (a) Fees to reasonably cover the costs associated with administering this Zoning Code will be established by City Council.
- (b) The Zoning Administrator is hereby authorized to collect such fee as is appropriate prior to processing any application or issuing any certificate, for which fees are required, and shall make a proper accounting thereof to the Director of Finance.

**1238.07 FEE WAIVERS.**

- (a) Waivers. All requirements for fees shall be waived in the case of any application or appeal by or on behalf of the City of Fairlawn, the County of Summit, the State of Ohio, the Copley-Fairlawn City School District, the United States of America or any agency of such governmental or educational entities.

**DRAFT**

**CHAPTER 1240  
Site Plan Review Procedures**

1240.01	Intent.	1240.09	Request for Additional Information.
1240.02	Site Plan Review Required.	1240.10	Simultaneous Plat Approval.
1240.03	Site Plan Process.	1240.11	Action by Planning Commission.
1240.04	Site Plan Review Procedures.	1240.12	Significance of an Approved Plan; Plan Revisions.
1240.05	Minor Alterations Approved by Zoning Administrator.	1240.13	Expiration of Site Plan Approval.
1240.06	Plan Submission Requirements.	1240.14	Equivalency Provision.
1240.07	Criteria for Reviewing Preliminary Site Plans.	1240.15	Appeals of Planning Commission Decisions.
1240.08	Criteria for Reviewing Final Site Plans.	1240.16	Approval of Site Plan Requiring Variances.

---

**1240.01 INTENT.**

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

**1240.02 SITE PLAN REVIEW REQUIRED.**

Review of a preliminary site plan and a final site plan shall be conducted in compliance with the following:

- (a) Site Plan Review Required. A site plan that indicates, among other things, the exact location of buildings, accessory structures/buildings, landscaping, parking areas, access drives, signs, and outdoor storage areas shall be required for the following:
- (1) Open Space/Conservation and multi-family developments, excluding three-family dwellings;
  - (2) New construction of all permitted uses in the "M" and "B" Districts;
  - (3) New construction of all conditional uses; and,
  - (4) Any existing or previously approved development meeting the criteria of sub-sections (1) through (3) above that proposes to alter, reconstruct, or otherwise modify a use or site including expanding the floor area of the permitted use; increasing the number of dwelling units in a multi-family development; or changing the use which requires an increase in the amount of parking or a change in the site's circulation.

**DRAFT**

(b) Exceptions.

- (1) A change of occupancy in an existing structure, or in a previously approved final site plan, when there is no change in the bulk of the structure, and no change in the parking required and no change in use, shall be exempt from the site plan review procedures.
- (2) Individually developed one-family detached dwelling units and individually developed two and three-family dwellings shall not be subject to site plan review. However, these uses shall seek and receive approval for a Zoning Certificate as specified in Chapter 1238, Zoning Certificates and Certificates of Zoning Compliance.

**1240.03 SITE PLAN PROCESS.**

Site plan reviews should proceed and generally move in phases to include:

- (a) Preliminary site plan reviewed by the Planning Commission. The preliminary site plan phase may be omitted when, in the opinion of the Planning Commission, the project is too minor to warrant preliminary site plan review; and,
- (b) Final site plan reviewed by the Planning Commission.

If an application requires a variance, see Section 1240.16.

**1240.04 SITE PLAN REVIEW PROCEDURES.**

Site plans, including preliminary and final, shall be reviewed and distributed according to the following procedures:

- (a) Review for Completeness. Within ten (10) days after receiving an application, the Zoning Administrator shall review the submitted application for completeness and compliance with the applicable submission requirements. If the application is deemed insufficient, the Zoning Administrator shall notify the applicant of the necessary changes or additional information needed. When the application is deemed complete and the application fee has been paid, the Zoning Administrator shall officially accept the application for consideration of the action(s) requested on the date such determination is made and place it on the Planning Commission's agenda or declare the application a Minor Alteration, as permitted by Section 1240.05, if applicable.
- (b) Distribution of Plans. When the Zoning Administrator determines that the application for preliminary or final plans are complete, the Zoning Administrator shall forward the application to the appropriate City departments and professional consultants for review and comment.
- (c) Transmission to the Planning Commission. For preliminary and final site plan reviews, the Zoning Administrator shall distribute the application for site plan review and any reports prepared by the individuals in sub-section (b) above to the

**DRAFT**

Planning Commission, prior to the time of the Commission's review at their next regularly scheduled meeting.

**1240.05 MINOR ALTERATIONS APPROVED BY ZONING ADMINISTRATOR.**

When a minor alteration is proposed to an existing building, structure or site arrangement on a zoning lot otherwise subject to site plan review pursuant to Section 1240.02, the Zoning Administrator may approve the application as specified in this Section.

- (a) For the purposes of this Section, a minor alteration shall include:
  - (1) Small, incidental alterations of existing off-street surface parking lots;
  - (2) Small, incidental construction of accessory structures;
  - (3) Incidental additions or alterations to principal buildings on large zoning lots; and,
  - (4) Minor design modifications that will have no discernible impact on neighboring properties, the public, or those intended to occupy or use the proposed development.
- (b) The Zoning Administrator shall review the proposal to determine that the proposal is not contrary to and complies with all applicable regulations in this Zoning Code and will not result in any material adverse impact to the site or surrounding areas.
- (c) After reviewing the application, the Zoning Administrator shall:
  - (1) Approve the site plan as submitted; or,
  - (2) Deny the site plan when the application does not demonstrate that the required standards have been met.

**1240.06 PLAN SUBMISSION REQUIREMENTS.**

- (a) Preliminary Site Plan. An application for preliminary site plan review shall include a plan for the entire area of the proposed project and shall be submitted to the Zoning Administrator. The preliminary site plan shall be drawn to an appropriate scale and shall include:
  - (1) The completed application form, along with the application fee.
  - (2) The location of all existing structures and access points.
  - (3) The general location of existing buildings, parking areas and access drives on parcels within 200 feet of the site;

**DRAFT**

- (4) The general location of all proposed construction including buildings, structures, accessory buildings and structures, solar and wind energy facilities, parking areas, and access points;
  - (5) The location of existing and proposed topography, major vegetation features, and wooded areas;
  - (6) The general layout of the proposed internal road system, indicating the proposed vehicular right-of-way of all proposed public streets and pedestrian circulation;
  - (7) The general location of common open space; and,
  - (8) A summary table showing total acres of the proposed development, the number of acres devoted to each type of land use including streets and open space, and the number of proposed dwelling units by type.
- (b) Minor and Final Site Plan. An application for final/minor site plan review shall be required for each phase of development. The application shall include the maps, plans, designs, and supplementary documents itemized below and shall be submitted to the Zoning Administrator. The final/minor site plan shall be drawn to an appropriate scale and shall include:
- (1) Written Statement
    - A. A statement of the location of the property;
    - B. The present zoning of the property;
    - C. Name and address of the owner of the property;
    - D. Name and address of the applicant;
    - E. The relationship of the applicant to the property owner, if any;
    - F. A short statement reciting why the intended use would benefit the overall good planning for the City of Fairlawn;
  - (2) Final Site Plan
    - A. The type of proposed building and its location on the site;
    - B. Exterior dimensions of the proposed building;
    - C. Dimensions of all setbacks, parking areas, drives and walkways;
    - D. Description of the site, with topographical maps showing existing and generally proposed grading contours, including integration into and

**DRAFT**

topography on adjacent lands, all existing buildings, wooded areas and trees of substantial size, land within any flood plain district, the planned building usage, lot numbers and subdivision of plats;

- E. Statement of usable (rentable) floor space in square feet for office or professional buildings;
  - F. Statement of seating capacity for restaurants, bars and taverns, funeral homes, and theaters, etc.;
  - G. Statement and depiction of off-street parking for the proposed building indicating the number of spaces for the physically challenged (handicapped) and regular spaces provided;
  - H. Storm and sanitary sewer ties;
  - I. Surface drainage flow;
  - J. Underground wiring;
  - K. Outside lighting;
  - L. Mechanical equipment including, but not limited to, heating and air conditioning, wind and solar energy facilities whether such facilities are proposed on the roof of the building or elsewhere on the site, and the appropriate screening therefor;
  - M. Screened trash receptacles, if outside building;
  - N. Sidewalks; and,
  - O. Landscaping plan.
- (3) Building Plans. Complete building plans, including electrical and mechanical preliminary floor plan.
- (4) Architectural Drawings. Detailed architectural drawings for all proposed principal and accessory buildings including floor plans and elevations of the front, rear and two (2) sides of the building, together with additional views or cross sections, as necessary, to completely depict the exterior appearance of the structure.
- A. All elevations shall be drawn to the same scale, and be drawn at a reasonable scale to enable the architect and Planning Commission to adequately review the information submitted.
  - B. Each elevation shall show the accurate location of windows, doors, portals and other architectural features and all materials and finishes.

**DRAFT**

- C. Samples of colors and building materials, colored renderings, and photographs of the site shall accompany the elevations as necessary to convey the appearance of the structure.
- D. Drawings may be submitted via CD-Rom on a disk compatible with the City's systems. Paper drawings may be submitted provided that the sheet size does not exceed thirty-six (36)" x forty-two (42)".
- (5) Materials, design and location of all sidewalks, fences, light poles, trash receptacles, benches and other similar amenities.
- (6) The layout and design of any outdoor plazas, including the location of any landscaping and lighting features and a list of amenities such as chairs, tables and other similar features planned to be used in the outdoor plaza.
- (7) The location of any appurtenant and/or accessory structures and a general description of any plans to screen such structures including materials to be used.
- (c) Number of Copies to be Submitted. With respect to all plans, plats and other documents required in this Section, the applicant shall submit the number of copies as determined by the Zoning Administrator.
- (d) Waiver of Submittal Requirements. The Zoning Administrator may waive any of the submittal requirements in this Section if, in his or her opinion, and based on recognized planning or engineering principles and in an effort to achieve the goals of this Zoning Code, they are unnecessary to determine compliance with appropriate codes and ordinances. Such waiver shall not be construed to authorize the reduction or waiver of any of the zoning standards, regulations, or other requirements of the Zoning Code.

When the application is required by this Code to be submitted to the Planning Commission, the Zoning Administrator shall report such omissions or waivers, and their reasons therefore, to the Planning Commission and the Commission, by the affirmative vote of all members of the Commission in attendance at the meeting at which such omissions or waivers are considered, may approve such omissions or waivers. If the Planning Commission does not so approve, then the applicant shall supplement the plans as directed by the Planning Commission.

**1240.07 CRITERIA FOR REVIEWING OF PRELIMINARY SITE PLANS.**

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

- (a) The plan is consistent with the Comprehensive Plan, when applicable;

**DRAFT**

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

**1240.08 CRITERIA FOR REVIEWING FINAL SITE PLANS.**

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

- (a) The plan is consistent with any plan for the orderly development of the City and, when applicable, conforms in all respects to the approved or provisionally approved preliminary site plan and the regulations of this Zoning Code;
- (b) The appropriate use and value of property within and adjacent to the area will be safeguarded;
- (c) The development will result in a harmonious grouping of buildings within the proposed development and in relationship to existing and proposed uses on adjacent property;
- (d) Adequate provision is made for safe and efficient pedestrian and vehicular circulation within the site and to adjacent property;
- (e) The development will have adequate public service, parking; and open spaces;
- (f) The development will preserve and be sensitive to the natural characteristics of the site in a manner that complies with the applicable regulations set forth in this Zoning Code;
- (g) The development will provide adequate lighting for safe and convenient use of the streets, walkways, driveways, and parking areas;
- (h) Points of ingress/egress to the development shall be controlled and designed in such manner as to minimize conflicts with adjacent properties and developments;
- (i) Adequate provision is made for emergency vehicle access and circulation. Adequate provision is made for fire hydrants and fire fighting water supply;

**DRAFT**

- (j) Site lighting is designed to minimize direct light, glare, and excessive glow, which unreasonably interferes with the use and enjoyment of adjacent property;
- (k) The landscape plan will adequately:
  - (1) Enhance the principal building and site;
  - (2) Maintain existing trees to the extent possible;
  - (3) Buffer adjacent incompatible uses;
  - (4) Break up large expanses of pavement with natural material; and,
  - (5) Provide appropriate plant materials considering the ultimate mature size and shape of plants relative to the buildings and site, and the climate of the area, including typical weather conditions.
- (l) Adequate provision is made for storm drainage within and through the site so as to maintain, as far as practicable, usual and normal swales, water courses and drainage areas, and shall comply with the applicable regulations in this Zoning Code, and any other design criteria established by the City or any other governmental entity which may have jurisdiction over such matters; and,
- (m) If the project is to be carried out in progressive stages, each phase shall be so planned that the foregoing criteria are complied with at the completion of each phase.

**1240.09 REQUEST FOR ADDITIONAL INFORMATION.**

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

**1240.10 SIMULTANEOUS PLAT APPROVAL.**

- (a) If the proposed development includes the subdivision of land, the development shall be subject to the requirements of the Subdivision Regulations in accordance with Title Four of Part Twelve of the City's Codified Ordinances. Final site plan approval and subdivision plat approval may proceed simultaneously at the discretion of the Planning Commission.

**1240.11 ACTION BY PLANNING COMMISSION.**

- (a) The Planning Commission shall review the site plan according to the applicable criteria in Section 1240.07 and Section 1240.08.
- (b) Following its review, for a preliminary or final site plan, the Planning Commission shall:

**DRAFT**

- (1) Approve the site plan as submitted; or
  - (2) Approve the plan subject to specific conditions not included in the plan as submitted, such as, but not limited to, improvements in the setback layout, open space arrangement, on-site control of access to streets, or such features as fences, walls and plantings to further protect and improve the proposed and surrounding developments; or
  - (3) Deny the site plan when the application does not demonstrate that the required standards have been met.
- (c) For a preliminary or final site plan, the Planning Commission may also postpone the site plan for the next scheduled Planning Commission meeting, demonstrating to the applicant an acceptable alternative plan.
- (d) The City shall, by registered or certified mail, promptly furnish the applicant with its written report on the preliminary site plan or its decision on the final site plan.
- (e) Failure of the Planning Commission to Act. Any matter so referred to the Planning Commission shall be acted upon by it within three (3) regularly scheduled meetings including the date of its introduction before the Commission unless a longer time be allowed by Council. If the Planning Commission shall fail to act within the time allotted, it shall be deemed to have approved such matter.
- (f) Re-application after Denial. The Zoning Administrator shall accept no re-application for a site plan unless the re-application is based on a revised application that addresses the justification for the denial of the initial application. A re-application shall comply with all the requirements of this Chapter, including payment of the required fee.
- (g) Issuance of Zoning Certificate. If the final site plan is approved or approved with conditions, Zoning Administrator shall issue a Zoning Certificate pursuant to Chapter 1238, Zoning Certificates and Certificates of Zoning Compliance. However, the Zoning Certificate shall not be issued until:
- (1) At the Zoning Administrator's discretion, there shall be executed by the owner or applicant an agreement to construct required physical improvements located within the public rights-of-way or easements or connected to any public facility; and the applicant shall execute and deliver to the City a performance guarantee approved by the City Engineer in the amount of the estimated cost of the required physical improvements as determined by the City Engineer. The agreement and the performance guarantee shall provide for completion of all work within a time specified to be determined by the City Engineer or before occupancy is allowed in any structure, whichever shall occur first.
  - (2) The approval of the final site plan or the installation of improvements as required by this Zoning Code shall not obligate the City to accept improvements for maintenance, repair or operation. Acceptance shall be

**DRAFT**

subject to local or state regulations where applicable, concerning the acceptance of each type of improvement.

- (h) Applications for Building Permits. Reports of approval from the Planning Commission and, if a variance is required, from the Board of Zoning and Building Appeals as well as a Zoning Certificate shall be submitted to the authority having jurisdiction with complete construction plans of the proposed building for issuance of a Building Permit.

**1240.12 SIGNIFICANCE OF AN APPROVED PLAN; PLAN REVISIONS.**

- (a) An approved final site plan shall become for the proposed development a binding commitment of the specific elements approved for development. The approved final site plan may be transferred to another person, corporation, or group of individuals or corporations. A request for such a transfer or change of ownership shall be presented to the Zoning Administrator and granted only if the new ownership entity satisfies the administrative, financial, legal and all other performance guarantees approved with the original, final site plan.
- (b) All construction and development under any building permit shall be in accordance with the approved, final site plan. Any departure from such plan shall be cause for revocation of the Zoning Certificate and the property owner or other responsible parties are subject to penalties as prescribed by this Zoning Code.
- (c) Modification after Approval.
  - (1) Changes in an approved preliminary or final site plan shall be resubmitted for approval in accordance with this Chapter.
  - (2) Approval by the Planning Commission of a modification or amendment to a previously approved final site plan under the terms and provisions of this Chapter shall not extend or alter the time limitation established by Section **1240.13**, which time shall continue to be measured from the date of approval of the original, final site plan

**1240.13 EXPIRATION OF SITE PLAN APPROVAL.**

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

- (a) Preliminary Site Plan. If, at the end of that time, a final site plan has not been submitted to the Zoning Administrator, then approval of the preliminary site plan shall expire and shall be of no effect unless resubmitted and re-approved in accordance with this Chapter.
- (b) Final Site Plan. If, at the end of that time, construction of the development has not begun, then approval of such final site plan shall expire and shall be of no effect unless resubmitted and re-approved in accordance with the procedures set forth in

**DRAFT**

this Chapter. Construction is deemed to have begun when all necessary excavation and piers or footings of one or more principal buildings included in the plan have been completed.

**1240.14 EQUIVALENCY PROVISION.**

In reviewing an application, the Planning Commission may find that a final site plan either adheres or is equivalent to the requirements in certain portions of this Zoning Code. The Planning Commission may make findings of equivalency with regard to the requirements in Chapter 1284, Off-Street Parking and Loading and Chapter 1296, Landscaping and Screening Regulations as well as the minimum green space requirements of this Zoning Code.

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

**DRAFT**

**1240.15 APPEALS OF PLANNING COMMISSION DECISIONS.**

- (a) Decisions by the Planning Commission granting or denying approval of final site plans shall be final. Final administrative actions of the Planning Commission may be subject to judicial review in accordance with Ohio Revised Code Chapter 2506, if otherwise provided by law.

**1240.16 APPROVAL OF SITE PLAN REQUIRING VARIANCES.**

- (a) When development proposals do not fully meet **the** requirements of the Zoning Code, the plan may be submitted to the Board of Zoning and Building Appeals in application for granting of a variance, as provided for in Chapter 1242.
- (b) When the development application requires approval of both a site plan and a variance, the applicant may decide which approval, site plan or variance, may be sought first.

# CHAPTER 1241

## Procedures for Conditional Use and Similar Use Approval

- [1241.01](#) Purposes.
- [1241.02](#) Pre-application meeting encouraged.
- [1241.03](#) Submission of application for conditional use.
- [1241.04](#) Conditional use application procedures.
- [1241.05](#) Review of conditional use application.
- [1241.06](#) Public hearing and notice by Planning Commission for conditional uses.
- [1241.07](#) Action by Planning Commission on conditional uses.
- [1241.08](#) Terms and duration of conditional use approval.
- [1241.09](#) Re-application for conditional use approval.
- [1241.10](#) Similar uses.

### **1241.01 PURPOSES.**

- (a) The purpose of this Chapter is to establish procedures for reviewing applications for conditional and similar uses. These procedures are necessary because some uses, as set forth in the district regulations are classified as conditional uses and other uses may be considered as similar uses, thereby requiring review processes utilizing the criteria outlined in this Chapter and the standards and criteria for conditional uses in [Chapter 1287](#).

### **1241.02 PRE-APPLICATION MEETING ENCOURAGED FOR CONDITIONAL USES.**

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

---

**DRAFT****1241.03 SUBMISSION OF APPLICATION FOR CONDITIONAL USE.**

The owner or agent thereof, of property for which such conditional use is proposed shall file with the Zoning Administrator:

- (a) A completed application form along with the application fee,
- (b) A list of all property owners and mailing addresses adjacent to any part of the property on which the conditional use is proposed, including their addresses and permanent parcel number and lot numbers, as shown on the current tax duplicate in the Office of the Summit County Treasurer.
- (c) A site plan and associated documents as required by the applicable sections in [Chapter 1240](#).

**1241.04 CONDITIONAL USE APPLICATION PROCEDURES.**

- (a) Review for Completeness. Upon receipt of an application for a conditional use, the Zoning Administrator shall review the submitted application for completeness and compliance with the applicable submission requirements. If the application is deemed incomplete or otherwise not in compliance with the submittal requirements, the Zoning Administrator shall notify the applicant of the necessary changes or additional information needed. When the application is deemed complete and the application fee has been paid, the Zoning Administrator shall officially accept the application for consideration and place it on the Planning Commission's agenda.
- (b) Distribution of Plans. When the Zoning Administrator determines that the application is complete, the Zoning Administrator shall forward the application to appropriate City departments and professional consultants for review and comment.

**1241.05 REVIEW OF CONDITIONAL USE APPLICATION.**

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

- (a) The Planning Commission shall review the application to determine if the establishment and operation of the proposed use complies with the general criteria established for all conditional uses and the specific requirements established for that particular use, as set forth in [Chapter 1287](#), Conditional Use Regulations, of this Zoning Code; and
- (b) The Planning Commission may require the applicant to submit such additional information as deemed necessary including the carrying out of special studies and the provisions of expert advice.

---

**DRAFT****1241.06 PUBLIC HEARING AND NOTICE BY PLANNING COMMISSION FOR CONDITIONAL USES.**

- (a) Prior to action being taken on a conditional use application, the Planning Commission shall hold a public hearing thereon and shall give ten (10) days notice of such public hearing indicating the time and place thereof, and the nature of the proposed conditional use application, by first class mail to the applicant and to the property adjacent to the property on which the use is proposed. Failure of delivery of such notice shall not invalidate action taken on such application. Further ten (10) day notice shall be given in one (1) or more newspapers of general circulation in the city. The Commission may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required.

**1241.07 ACTION BY PLANNING COMMISSION ON CONDITIONAL USES.**

- (a) Required Action. Upon review of a conditional use application, the Planning Commission shall take one (1) of the following actions:
- (1) If the proposed conditional use is determined by the Planning Commission to be appropriate and in conformance with the review criteria outlined in [Chapter 1287](#), the Planning Commission shall approve the conditional use. As part of the approval, the Planning Commission may prescribe reasonable requirements or conditions on the proposed use to ensure that the development conforms to the intent and purposes of [Chapter 1287](#). The Planning Commission may approve the application for a conditional use and subsequently approve the final site plan.
  - (2) The Planning Commission shall deny the application if the Planning Commission concludes that, if completed as proposed, the development will not be in compliance with the requirements of this Zoning Code.
- (b) Failure of the Planning Commission to Act. If the Planning Commission fails to act within three (3) regularly scheduled meetings from the date that the application was deemed complete, or an extended period as may be agreed upon, then the application shall be deemed to have been approved.

**1241.08 TERMS AND DURATION OF CONDITIONAL USE APPROVAL.**

- (a) Terms. Approval of a conditional use, pursuant to this Chapter, shall be valid only for the use and the operation of such use as specified by the Planning Commission. The breach of any condition, safeguard, or requirement shall constitute a violation of this Zoning Code. Approval shall automatically be void if, for any reason, the conditional use shall cease for more than one (1) year.
- (b) Duration. The conditional use approval shall expire one (1) year from the date of enactment, unless:

---

**DRAFT**

- (1) Substantial progress in the establishment of the use is accomplished; or
  - (2) As otherwise specifically approved by the Planning Commission.
- (c) Conditional Use Changes. Except as noted throughout the Code, all exterior alterations and additions to existing uses that became conditional uses, by the adoption of [Chapter 1241](#), amendments thereto, or other Zoning Code amendments shall be reviewed and approved by the Planning Commission. Also, any interior alteration to an existing non-residential conditional use that requires additional parking spaces to be provided shall be submitted to the Planning Commission for review and approval.

**1241.09 RE-APPLICATION FOR A CONDITIONAL USE APPROVAL.**

- (a) The Zoning Administrator shall not accept any re-application for a conditional use unless the re-application is based on a revised application that addresses the grounds for the denial of the prior application or the applicant can demonstrate that there are changes in circumstances materially relating to the property. A re-application shall comply with all the requirements of this Chapter, including payment of the required fee.

**1241.10 SIMILAR USES.**

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

- (a) Determination. A proposed use may be permitted as a similar use when the Planning Commission determines that such proposed use is in compliance with the following provisions:
- (1) The proposed use is not explicitly prohibited in any other district or the Zoning Code;
  - (2) The proposed use is not listed as a permitted building or use in any other district;
  - (3) The proposed use conforms to and is consistent with the purpose statement of the proposed district more appropriately than in any other district;
  - (4) The proposed use is of the same general character as the permitted uses in the district to which it is proposed or is similar to a specific use permitted in that district.

---

**DRAFT**

- (b) Assignment to Districts. If the Planning Commission approves the proposed similar use, then such similar use shall be added to those districts that allow the principal or conditional use that is most similar, as determined by the Planning Commission.

# CHAPTER 1242

## Board of Zoning and Building Appeals

- [1242.01](#) Intent.
- [1242.02](#) Membership; terms of office.
- [1242.03](#) Officers; powers and duties.
- [1242.04](#) Meetings and rules.
- [1242.05](#) Procedure on appeals and applications.
- [1242.06](#) Reserved.
- [1242.07](#) Reasons for granting variances related to area.
- [1242.08](#) Lapse of variances.
- [1242.09](#) Reapplication to the Board of Zoning and Building Appeals after disapproval.
- [1242.10](#) Interpretation of Zoning Map.
- [1242.11](#) Reapplication for change of variance.

### 1242.01 INTENT.

A Board of Zoning and Building Appeals is hereby established as provided in Article XI of the City Charter, to assist in the administration of this Zoning Code, particularly to decide and interpret provisions which require impartial adjustments of conflicting interests and to grant variances where the strict letter of this Code causes practical difficulties as defined by the variance standards set forth herein. Such a Board is herein established to achieve among others, the following purposes:

- (a) To provide a method for alleviating practical difficulties by allowing a reasonable use for individual parcels of property which, because of unusual or unique circumstances, may be denied a reasonable use by a literal application of the terms of this Code;
- (b) To review or appeal any order, requirement, decision or determination made by the Zoning Administrator;
- (c) To provide an administrative board, independent from all other Municipal boards or commissions, to act only pursuant to and in accordance with the standards

---

**DRAFT**

established by the legislative body to hear and decide appeals which are to be tried over again from the beginning (de novo);

- (d) To provide that decisions and the granting of variances will sustain the constitutionality of the Code;
- (e) To interpret the Zoning Map.

**1242.02 MEMBERSHIP; TERMS OF OFFICE.**

- (a) The Board of Zoning and Building Appeals shall consist of five (5) regular members and one (1) alternate member appointed by the Mayor with the approval of a majority of members elected to Council. Members of the Board shall serve a five (5)-year term without compensation.

**1242.03 OFFICERS; POWERS AND DUTIES.**

- (a) The Board of Zoning and Building Appeals shall elect from among its members a Chairman, a Vice-Chairman and Secretary. The Board shall adopt rules and regulations consistent with this Zoning Code as may be necessary to carry into effect the duties, powers and responsibilities conferred herein. The powers, duties and responsibilities of the Board shall be:
  - (1) 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 or another administrative official in the administration or enforcement of this Zoning Code, unless otherwise provided in this Zoning Code;
  - (2) To permit variations from this Zoning Code in individual cases as may be required to afford justice and avoid practical difficulty to property owners in accordance with standards established by ordinance of Council and/or this Zoning Code;
  - (3) To permit alterations, reconstruction, and substitutions when a building contains a nonconforming use in conformance with the provisions of this Code;
  - (4) To resolve any disputes with respect to the precise location of a zoning district boundary; and,
  - (5) To hear and decide all other matters referred to and upon which it is required to pass by this Code.

---

**DRAFT****1242.04 MEETINGS AND RULES.**

- (a) Meetings of the Board shall be held at the call of the Chairman, and at such other times as the Board may determine. The Chairman or, in his absence, the Vice-Chairman, may administer oaths and the Board shall be open to the public.
- (b) Three (3) members of the Board shall constitute a quorum. The Board shall act by resolution, and the concurring vote of three (3) members of the Board shall be necessary to reverse any order or determination of the Zoning Administrator or to decide in favor of an applicant in any matter of which the Board has original jurisdiction or to grant any variance from the requirements stipulated in this Zoning Code.
- (c) After proper application has been made, the Board shall make appropriate investigations. The Board may call upon other municipal departments for assistance in the performance of its duties, and it shall be the duty of such departments to render such assistance to the Board as may reasonably be required.
- (d) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Administrator and shall be a public record.
- (e) It shall be the responsibility of the Board Chairman, or Vice-Chairman to elicit the position of the administration pertaining to any application regarding new construction of a residence, or, new construction or an addition to a structure other than a residence, in the course of the Board's review and prior to making a final decision thereon.

**1242.05 PROCEDURE ON APPEALS AND APPLICATIONS.**

- (a) Appeals. An appeal to the Board of Zoning and Building Appeals may be taken by any person aggrieved or by any officer of the City affected by any decision of the Zoning Administrator. Such appeal shall be taken within twenty (20) days after the decision, by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- (b) Application. An application in cases in which the Board has original jurisdiction under the provisions of this Zoning Code, may be taken by any property owner, including a tenant (upon prior written approval of property owner), or by a governmental officer, department, board or bureau. Such application shall be filed with an original and five (5) copies thereof with the Zoning Administrator who shall transmit the same to the Board.

---

**DRAFT**

- (c) Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after notice of the appeal has been filed with him, that by reasons of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by an order which may, on due cause shown, be granted by the Board on application after notice to the Zoning Administrator, or by judicial proceedings.
- (d) Hearings. The Board of Zoning and Building Appeals shall fix a reasonable time for the public hearing of the appeal or application, not later than forty-five (45) days from the date the appeal or application is filed with the Board, give at least ten (10) days notice in writing to the parties in interest, as provided in Section [11.05](#) of the City Charter, and decide the appeal or application within thirty (30) days after the final hearing thereon. At the hearing, the applicant or any party in interest may appear in person or by an Attorney at Law.
- (e) Decisions. Upon request by the applicant, a certified copy of the Board's decision shall be transmitted to the applicant or appellant and to the Zoning Administrator. Such decision shall be binding upon the Zoning Administrator and observed by him and he shall incorporate the terms and conditions of the same in the zoning certificate issued to the applicant or appellant whenever an approval is authorized by the Board. A decision of the Board shall not become final until the expiration of five (5) days from the date such decision is made, unless the Board finds that the immediate taking effect of such decision is necessary for the preservation of property or personal rights and so certifies on the record.

**1242.06 RESERVED.****1242.07 REASONS FOR GRANTING VARIANCES RELATED TO AREA.**

- (a) The Board of Zoning Appeals shall have the power, in specific cases where variances are requested related to area to evaluate the request using practical difficulties standards instead of establishing unnecessary hardship in order that the public health, safety, morals and general welfare may be safeguarded and substantial justice done.
- (b) The following seven (7) practical difficulties standards must be considered in the totality of circumstances when evaluating an area variance:
  - (1) Whether the property will yield a reasonable return or whether any beneficial use can be made without the variance.
  - (2) Whether the variance is substantial.
  - (3) Whether the essential character of the neighborhood would be substantially altered or whether the adjoining properties would suffer a substantial detriment if the variance were granted.

---

**DRAFT**

- (4) Whether the variance adversely impacts the delivery of governmental services (water, sewer, solid waste).
- (5) Whether the property was purchased with the owner's knowledge of the zoning restrictions.
- (6) Whether the owner's predicament can be feasibly obviated through some other method.
- (7) Whether the spirit and intent behind the zoning code would be observed and substantial justice done by granting a variance.

**1242.08 LAPSE OF VARIANCES.**

- (a) Variances shall expire one (1) year from the date of their enactment, unless prior thereto, the applicant commences actual construction in accordance with the granted variance or an extension of time has been granted by the Board of Zoning and Building Appeals. There shall be no modification of variances except by further consideration of the Board. Once the time limit pursuant to this Section has expired, a request for a variance shall be considered to be a new application for a variance and shall meet all requirements for application and review pursuant to this Chapter.

**1242.09 REAPPLICATION TO THE BOARD OF ZONING AND BUILDING APPEALS AFTER DISAPPROVAL.**

- (a) Once an appeal for a variance has been denied by the Board of Zoning Appeals, the Board shall not reconsider the same appeal or a substantially similar appeal involving the same property if resubmitted within six (6) months after the date of decision. Only if the underlying conditions for the variance request have substantially changed, shall the Board of Zoning and Building Appeals consider another appeal during this period.

**1242.10 INTERPRETATION OF ZONING MAP.**

- (a) Generally. The Board of Zoning and Building Appeals shall have the power to hear and decide, in accordance with the provisions of this Zoning Code, interpretations of the Zoning Map. In considering an interpretation of the Zoning Map, the Board shall give due regard to the nature and condition of all adjacent uses and structures.

**1242.11 REAPPLICATION FOR CHANGE OF VARIANCE.**

- (a) A change of variance shall be heard as an entirely new application, and shall be based on changes in circumstances which were the basis for the initial variance.

# CHAPTER 1244

## Procedures for Zoning Code Amendments

- [1244.01](#) Intent.
- [1244.02](#) Initiation of amendments and supplements.
- [1244.03](#) Applications.
- [1244.04](#) Council and Planning Commission action.
- [1244.05](#) Incorporation of change.

### 1244.01 INTENT.

- (a) Procedures for amending this Zoning Code are herein established in order to achieve the following purposes:
  - (1) To provide means of changing the regulations stipulated in this Code;
  - (2) To provide for changes in the zoning designation of properties;
  - (3) To assure for public review of proposed code changes.

### 1244.02 INITIATION OF AMENDMENTS AND SUPPLEMENTS.

- (a) Amendments to this Zoning Code may be initiated by: 1) motion of the Planning Commission; 2) the adoption of a resolution therefore by Council, or 3) by the filing of an application therefore with the Planning Commission by one (1) or more of the owners or lessees of the property (with written consent of the property owner) within the area proposed to be changed or effected by the proposed amendment 4) by the Mayor. Council shall, upon the adoption of such resolution, certify it to the Planning Commission.

### 1244.03 APPLICATIONS.

- (a) Submission. Application for amendments to this Zoning Code shall be submitted to the Planning Commission upon such forms as may be prescribed by the Commission and shall be accompanied by such maps, data and information as may be prescribed for that purpose by the Commission, so as to assure the fullest practicable presentation of facts for the permanent record. Each such application shall be verified by an Affidavit signed by at least one (1) of the owners or lessees of property (with written consent of the property owner) within the area proposed to be changed

---

**DRAFT**

or effected, attesting to the truth and correctness of all facts and information presented with the application.

- (b) Names and Addresses of Property Owners. Any persons desiring an amendment to this Zoning Code shall file with the application for such change a statement giving the names of all owners of property within the City of Fairlawn, contiguous to, and across the street from the area proposed to be reclassified or redistricted and the addresses of such owners appearing on the current tax roll.
- (c) Fee. Each application shall be accompanied by a check, payable to the City of Fairlawn, or a cash payment, sufficient in amount to cover the cost of publishing and/or posting and mailing the notice of the hearing or hearings. Such fee shall be determined from time to time by Council, upon the recommendation of the Planning Commission.

**1244.04 COUNCIL AND PLANNING COMMISSION ACTION.**

- (a) Action by the Planning Commission. The Planning Commission shall act on any matter before it within three (3) regularly scheduled meetings including the date of its introduction before the Commission, unless a longer time is allowed by Council, and shall submit all recommendations together with the Commission's minutes, including the legal description and map pertaining thereto, to Council for action. A proponent of Planning Commission action may waive, in writing, further proceedings before Council.
- (b) Public Hearing by Council. Before an ordinance for any such proposed zoning amendment may be passed, Council shall hold a public hearing thereon and shall give thirty (30) days notice of the time and place thereof in the manner established in Section [4.08](#) of the City Charter and shall give additional notice as provided in Section [10.04](#) of the City Charter.
- (c) Public Examination of Documents. During the thirty (30)-day period following the publication of notice of the public hearing, the text or a copy of the text of such amendment, together with maps or plans or copies thereof forming part of or referred to in such amendment and the maps, plans and reports submitted by the Planning Commission, shall be on file, for public examination, in the office of the Clerk of Council.
- (d) Action by Council. Within thirty (30) days after the public hearing, Council shall take action by placing on its first reading an ordinance properly covering such amendment. Final action by Council on such ordinance shall be taken after a public hearing, and after its third and final reading but not later than ninety (90) days after its first reading. The ordinance which follows the recommendation of the Planning Commission shall be enacted by not less than the affirmative vote of four (4) or more members of Council. Any ordinance which differs from or departs from the recommendation submitted by the Planning Commission shall not take effect unless it is enacted by not less than the affirmative vote of five (5) or more members of

---

**DRAFT**

Council. At the hearing, the applicant or any party in interest may appear in person or by an attorney at law.

**1244.05 INCORPORATION OF CHANGE.**

- (a) Zoning Map Amendments. When an amendment to this Zoning Code, changing the zoning of any area, becomes effective, it shall be the duty of the Zoning Administrator to cause such change to be entered on the Zoning Map on file in the office of the Clerk of Council.
- (b) Effective Date. An amendment adopted by Council shall become effective under the provisions of Section 4.08 of the City Charter.

# CHAPTER 1246

## Districts and Boundaries Generally; Zoning Map

[1246.01](#) Division into districts.

[1246.02](#) Boundaries; Zoning Map.

[1246.03](#) Interpretation of Zoning Map.

### 1246.01 DIVISION INTO DISTRICTS.

- (a) For the purpose of this Zoning Code, the following classes of zoning districts are hereby established:

#### Public Facilities “M” Districts

M-1 Municipal Districts (Institutional)

M-2 Municipal Districts (Parks & Recreation)

M-3 Municipal Districts (Quasi-Public)

#### Residential “R” Districts

R-1 Single-Family Residence District

R-2 Single-Family Residence District

R-3 Single-Family Residence District

R-4 Two-Family Residence District

R-5a Limited Multiple-Family Residence District

R-5b Limited Multiple-Family Residence District

R-6 Planned Multiple-Family Residence District

OC-1/OC-2 Open Space/Conservation District

---

**DRAFT****Business “B” Districts**

- B-1 Limited Business District
- B-2 Retail Business District
- B-3 General Business District
- B-4 Office Park/Research District

**1246.02 BOUNDARIES; ZONING MAP.**

- (a) Boundaries Established. The boundaries of the districts established in Section [1246.01](#) are hereby established as shown on a map entitled “Zoning Map, City of Fairlawn 1961” which is on file at the City Hall, attached to original Ordinance 1961-19, passed April 1, 1961 as amended from time to time, and hereby made a part of this Zoning Code.
- (b) Boundary Lines of the Districts. Boundary lines of the districts established by this Zoning Code on the Zoning Map approved in conjunction herewith are intended to follow lot lines, the center lines of streets or alleys, the center lines of streets or alleys projected or the corporate limit lines, all as they exist on April 1, 1961. Where a district boundary line does not clearly coincide with lot lines, it shall be determined by scaling. Questions concerning the exact location of district boundary lines shall be determined by the Board of Zoning and Building Appeals in accordance with rules and regulations which it may adopt.

**1246.03 INTERPRETATION OF ZONING MAP.**

- (a) Where the street or lot layout actually on the ground, or as recorded, differs from the street and lot lines as shown on the Zoning Map, the Board after notice to the owners of the property and after a public hearing, shall interpret the map in such a way as to carry out the intent and purpose of this Zoning Code. In case of any question as to the location of any boundary line between zoning districts, a request for interpretation of the Zoning Map may be made to the Board and a determination shall be made by the Board.

# CHAPTER 1248

## Provisions Applicable to All Districts

- [1248.01](#) Intent.
- [1248.02](#) Performance standards.
- [1248.03](#) Existing uses and performance standards.
- [1248.04](#) Prohibited uses.
- [1248.05](#) Conformity to regulations.
- [1248.06](#) Essential services.
- [1248.07](#) Pending applications for building permits.

### **1248.01 INTENT.**

- (a) Requirements for land subdivision and construction of structures in all districts are herein established in order to provide conformity with the basic provisions of the Zoning Code.

### **1248.02 PERFORMANCE STANDARDS.**

- (a) Dangerous or Objectionable Elements. No land or structure in any district shall be used or occupied in any manner so as to create or adversely affect the adjoining premises or surrounding area, by impacting with elements referred to herein as “elements dangerous or objectionable to the general health and welfare,” including any dangerous, injurious, noxious, or otherwise objectionable, artificial illumination, fire, gases, explosive or other hazard; noise, vibration, smoke, dust, odor, cinders, fumes or other form of air pollution; heat, cold, dampness, electrical or radioactive disturbance, condition or element; garbage, rubbish or waste. However, any use permitted by this Zoning Code may be established and maintained if it conforms to the provisions of this section.
- (b) Incineration Facilities. No incineration facilities shall be allowed.
- (c) Storage of Garbage. No garbage, rubbish, waste matter or empty containers, shall be permitted outside of buildings unless they are within an authorized trash enclosure.

**DRAFT**

**1248.03 EXISTING USES AND PERFORMANCE STANDARDS.**

- (a) Whenever it is alleged that a use of land or a structure creates or is likely to create or otherwise produce dangerous or objectionable elements, the Zoning Administrator shall make a preliminary investigation of the matter and, if concurring with the allegation, may employ a competent specialist or testing laboratory for the purpose of determining the nature and extent of such dangerous or objectionable elements and practical means of remedying such condition.
- (b) Upon receipt of the findings and recommendations of any such specialist or laboratory, the Zoning Administrator may approve, partially approve or disapprove the measure recommended therein and, if approving or partially approving, proceed with the enforcement of such measures.
- (c) The City shall bear the cost of the various tests, consultations or other investigations which are required herein, provided that the owner of the property under investigation shall reimburse the City for all such expenses in the event that operation or use of such property is found to be in violation of the provisions of this Code by the Zoning Administrator or, if contested, by the Board of Zoning and Building Appeals or a court of competent jurisdiction. Such reimbursement shall be made within thirty (30) days from the date of the final Zoning Administrator or Board of Zoning and Building Appeals ruling or court judgment.

**1248.04 PROHIBITED USES.**

- (a) No mobile home shall be parked in any zoning district.
- (b) No cabin, cabin court or camp shall be permitted in any zoning district.
- (c) No outdoor wood-fired boiler shall be permitted in any zoning district.

**1248.05 CONFORMITY TO REGULATIONS.**

- (a) No person shall locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or land in violation of any of the provisions of this Zoning Code.
  - (1) Street Frontage. Every lot shall abut on a dedicated street or shall have an exclusive, unobstructed private easement of access or right-of-way that meets the frontage requirements for the zoning districts in which it is located.
  - (2) Use. No building, structure or other premises shall be used or occupied except in conformity with the regulations herein specified for the district in which it is located.
  - (3) Building Size. No building, structure or premises shall be erected, raised, moved, placed, reconstructed, extended, enlarged or altered so as to produce greater heights, smaller setbacks or less unoccupied area than designated for the district in which it is located.

**DRAFT**

**1248.06 ESSENTIAL SERVICES.**

- (a) Essential services, as defined below, shall be permitted as authorized and regulated by law or ordinance of the City, the intent of this section being to exempt such essential services from the application of this Zoning Code, provided that such services are essential to residents of the City and are owned and operated by the City.
- (b) Essential services are defined as those services furnished by public utilities or municipal or other governmental agencies, such as gas, electrical power, water and the like, as are necessary for the furnishing of services to the community, but not including power transmission tower lines, coal conveyor belt lines and other similar uses not primarily serving the local community.

**1248.07 PENDING APPLICATIONS FOR BUILDING PERMITS.**

- (a) Nothing contained in this Zoning Code shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure or part thereof, for which official approval and the required building permit have been granted before the effective date of this Zoning Code or amendments thereto. Any such construction must have been started prior to the effective date of this Zoning Code or amendments thereto, and construction thereof carried on in a normal manner within the subsequent six (6)-month period and not discontinued until completion.

# **CHAPTER 1250**

## **Provisions Applicable to All “M” Districts**

- [1250.01](#) Intent.
- [1250.02](#) Use regulations.
- [1250.03](#) Area requirements.
- [1250.04](#) Setback requirements.
- [1250.05](#) Height requirements.
- [1250.06](#) Lighting.
- [1250.07](#) Signs.
- [1250.08](#) Approval and design standards.
- [1250.09](#) Site plans.
- [1250.10](#) Parking setbacks.
- 1250.11 Setbacks; Reduction or use by another building.

### **1250.01 INTENT.**

- (a) Public facilities (“**M**” **Districts**), as used throughout this Zoning Code, means facilities classified as principal and accessory buildings and uses in the schedule set forth in Section [1250.02](#). Public Facilities Districts and regulations are established in order to achieve, among others, the following purposes:
  - (1) To provide proper zoning classification for governmental, civic, welfare, recreational and quasi-public facilities in proper locations and extent so as to promote the general safety, convenience, comfort and welfare;
  - (2) To protect such public and semi-public facilities and institutions from the encroachment of certain other uses and to make such uses compatible with adjoining residential uses;
  - (3) To provide an environment for the proper functioning of public facilities in relation to the plans for community facilities.

**DRAFT**

**1250.02 USE REGULATIONS.**

- (a) Buildings and land shall be used and buildings shall be designed, erected, altered, moved or maintained in a Public Facilities District only for uses set forth in the following schedule:
  - (1) Uses permitted by right. A use listed in [Schedule 1250.02](#) shall be permitted by right as a principal use in a district when denoted by the letter "P" provided that all requirements of other city ordinances and this Zoning Code have been met;
  - (2) Conditional uses. A use listed in [Schedule 1250.02](#) shall be permitted as a conditional use in a district when denoted by the letter "C" provided the Planning Commission first makes the determination that the requirements of [Chapter 1287](#) have been met according to the procedures set forth in [Chapter 1241](#).
  - (3) Accessory uses. A use listed in [Schedule 1250.02](#) shall be permitted as an accessory use in a district when denoted by the letter "A" provided that the requirements of all other City ordinances and this Zoning Code have been met.

<b>Schedule 1250.02 Permitted Uses, Municipal Districts</b>			
	M-1 Municipal District (Institutional)	M-2 Municipal District (Parks & Recreation)	M-3 Municipal District (Quasi- Public)
<b>Recreational Uses</b>			
1 Parks, recreational fields and playgrounds, pools and public gardens		P	
2 Golf courses		C	
3 Municipal Park Buildings		P	
4 Sports Facility			C
<b>Governmental Uses</b>			
1 Municipal Buildings	P		
<b>Educational Uses</b>			
1 Public and private schools	P		P
2 Libraries	P		P
3 School, (public/private) college/university including dormitories, fraternity or sorority houses			C

**DRAFT**

<b>Schedule 1250.02 Permitted Uses, Municipal Districts</b>			
	M-1 Municipal District (Institutional)	M-2 Municipal District (Parks & Recreation)	M-3 Municipal District (Quasi- Public)
<b>Community Facilities</b>			
1 Cultural Institutions			C
2 Places of Assembly including auditoriums, assembly halls, conference centers, membership clubs, community recreation facilities			C
3 Cemeteries including mausoleums			C
4 Day care facilities, adult and/or children			C
5 Places of Worship, including convents and monasteries			P
<b>Residential Facilities</b>			
1 Hospitals			C
2 Congregate care facilities			C
<b>Accessory Buildings and Uses</b>			
1 Public parking areas	A	A	A
2 Heating and Air conditioning equipment—including generators, solar and wind energy facilities and their enclosures	A	A	A
3 Maintenance facilities	A	A	A
4 Signs	A	A	A
5 Portable Storage Container	C	C	C
<b>P = Use permitted by right; C = Conditional use; A = Accessory use; Blank cell = Use not permitted in district</b>			

**1250.03 AREA REQUIREMENTS.**

- (a) The area or parcel of land for a use permitted by right in [Schedule 1250.02](#) shall be not less than required to provide a site adequate for the principal and accessory buildings, off-street parking and other accessory uses, and yard, setback, and open spaces to accommodate the facility and maintain the character of the neighborhood. The land area for a Conditional Use pursuant to [Schedule 1250.02](#) is established in [Chapter 1287](#).

**1250.04 SETBACK REQUIREMENTS.**

(a) Front Setbacks. The front setback for uses permitted by right shall not be less than the highest required front setback for any adjacent use district. The front setbacks for conditional uses are established in [Chapter 1287](#).

(b) Side and Rear Setbacks. The side and rear setback for uses permitted by right shall not be less than the required in [Schedule 1250.04](#). The side and rear setbacks for conditional uses are established in [Chapter 1287](#).

<b>Schedule 1250.04 Side and Rear Setbacks</b>	
	<b>Minimum Side and Rear Yard Setback</b>
<b>Recreational Uses</b>	
Parks, recreational fields and playgrounds, pools and public gardens	50
Municipal Park Buildings	75
<b>Governmental Uses</b>	
Municipal Buildings	50
<b>Educational Uses</b>	
Public and private schools	75
Libraries	75
<b>Community Facilities</b>	
Places of Worship including convents and monasteries	50

**1250.05 HEIGHT REQUIREMENTS.**

- (a) In the M-1, M-2, and M-3 Districts, buildings and structures shall not exceed a height of thirty-six (36) feet, except as provided for in sub-section [1250.05\(b\)](#).

**DRAFT**

- (b) Chimneys, spires, cupolas, domes, towers, flagpoles, water tanks, radio or television antenna, monuments and other mechanical appurtenances located upon or constituted as an integral part of a principal building shall not exceed a height of one hundred (100) feet above the finished grade.

**1250.06 LIGHTING.**

- (a) Flood and security lighting or other lighting of playfields, buildings, bulletin boards and parking areas shall be located and designed so as to shield the light source from adjoining residences.

**1250.07 SIGNS.**

- (a) Signs in Public Facilities Districts shall be designed, erected, altered, moved and maintained, in whole or in part, in accordance with the regulations set forth in Chapter 1298.

**1250.08 APPROVAL AND DESIGN STANDARDS.**

- (a) Criteria for reviewing a site plan for a public facility shall be:
  - (1) That the proposed building or use shall be located properly in relation to the criteria of this chapter and this Zoning Code.
  - (2) That the proposed public facility building and use shall be located on major arterial roadway so as to generate a minimum of traffic on local streets. Elementary schools and City of Fairlawn Parks may, however, be located on local streets.
  - (3) That the location, design and operation of such principal and accessory public facility building and use shall not adversely affect the surrounding residential neighborhood.
- (b) In addition to the above requirements, appropriate conditions applying to the particular situation may also be specified in the approval.

**1250.09 SITE PLANS.**

- (a) All uses in the “M” Districts shall be permitted only after site plans have been reviewed and approved according to the procedures set forth in Chapter 1240, Site Plan Review Procedures.

**1250.10 PARKING SETBACKS.**

- (a) Schedule 1250.10 Minimum Parking Setbacks. In the “M” Districts, off-street parking shall be located in compliance with the minimum setbacks, measured from the street right-of-way or property line, as specified below unless otherwise noted in this Zoning Code.

<b>Schedule 1250.10 Minimum Parking Setbacks</b>	
	<b>M-1, M-2, M-3 Districts</b>
<b>(1) Minimum Setback from Street Right-of-Way</b>	(a)
<b>(2) Setback from Side and Rear Lot line</b> abutting nonresidential district	10 feet
<b>(3) Setback from Side and Rear Lot line</b> abutting residential district	20 feet <sup>(b)</sup>
<sup>(a)</sup> As further regulated by Section 1250.10 (b)	
<sup>(b)</sup> As further regulated by Section 1250.10 (c)	

- (b) Parking Adjacent to Street ROW. Parking shall be located behind the front building line. The Planning Commission may grant an exception to this requirement where necessary due to the shallow depth of the parcel, the location of mature trees or other significant environmental features, the location of existing buildings/structures, the proximity of residential uses, or other similar circumstances.
- (c) Exception to Parking Setback Abutting Residential. The Planning Commission may grant an exception to this requirement where necessary due to the shallow depth of the parcel, the location of mature trees or other significant environmental features, the location of existing buildings/structures, the proximity of residential uses, or other similar circumstances.
- (d) The area within the parking setback shall be landscaped in accordance with Chapter 1296, Landscaping and Screening Regulations.

**DRAFT**

**1250.11 SETBACKS; REDUCTION OR USE BY ANOTHER BUILDING.**

- (a) No lot, yard, setback, court, parking area or other space shall be so reduced in area or dimensions as to make any such area or dimensions less than the minimum required by this Zoning Code; if already less than the minimum required, it shall not be further reduced. No required open space or setback provided about any building or structure shall be included as a part of any open space or setback required for another building or structure.

## CHAPTER 1252

### M-1 Municipal District (Institutional)

[1252.01](#) M-1 Use regulations.

[1252.02](#) General requirements.

[1252.03](#) Height requirements.

[1252.04](#) Area, width and setback requirements.

#### 1252.01 M-1 USE REGULATIONS.

- (a) In M-1 Municipal Districts, unless otherwise provided in this Zoning Code, no building or premises shall be used, arranged, or intended to be designed to be used except for the uses in Schedule [1250.02](#).

#### 1252.02 GENERAL REQUIREMENTS.

- (a) No structure or premises shall be erected, occupied or used until application is made to the Planning Commission for approval of such structure or use. The Commission shall review such plans according to the procedures in [Chapter 1240](#).
- (b) Off-street parking shall be provided in accordance with [Chapter 1284](#).
- (c) All of the provisions of Chapter **1250** are fully applicable to all structures, premises and uses in an M-1 Municipal District.

#### 1252.03 HEIGHT REQUIREMENTS.

- (a) No structure or building shall exceed thirty-six (36) feet in height, except as provided in Section [1250.05](#) and [Chapter 1292](#).

#### 1252.04 AREA, WIDTH AND SETBACK REQUIREMENTS.

- (a) Area, width and setback requirements shall conform to the district requirements in Sections [1250.03](#) and [1250.04](#).

# CHAPTER 1254

## M-2 Municipal District (Parks & Recreation)

- [1254.01](#) M-2 Use regulations.
- [1254.02](#) General requirements.
- [1254.03](#) Height requirements.
- [1254.04](#) Area, width and setback requirements.
- [1254.05](#) Park and Recreation Board authorization.

### 1254.01 M-2 USE REGULATIONS.

- (a) In M-2 Municipal Districts, unless otherwise provided in this Zoning Code, no building or premises shall be used, arranged, or intended to be designed to be used except for the uses in [Schedule 1250.02](#).

### 1254.02 GENERAL REQUIREMENTS.

- (a) No structure or premises shall be erected, occupied or used until application is made to the Planning Commission for approval of such structure or use. The Commission shall review such plans according to the procedures in [Chapter 1240](#).
- (b) Off-street parking shall be provided in accordance with [Chapter 1284](#).
- (c) All of the provisions of Chapter **1250** are fully applicable to all structures, premises and uses in an M-2 Municipal District.

### 1254.03 HEIGHT REQUIREMENTS.

- (a) No structure or building shall exceed thirty-six (36) feet in height, except as provided in Section [1250.05](#) and [Chapter 1292](#).

### 1254.04 AREA, WIDTH AND SETBACK REQUIREMENTS.

- (a) Area, width and setback requirements shall conform to the district requirements in Sections [1250.03](#) and [1250.04](#).

### 1254.05 PARK AND RECREATION BOARD AUTHORIZATION.

- (a) No Ordinance authorizing the construction of a Municipal Park Building or improvement shall be enacted without the affirmative recommendation of the Park and Recreation Board subject however to the following: Final action by Council on

**DRAFT**

such ordinance shall be taken after a public hearing. An ordinance which follows the recommendation of the Park and Recreation Board shall be enacted by not less than the affirmative vote of four (4) or more members of Council. An ordinance which differs from or departs from the recommendation submitted by the Park and Recreation Board shall not take effect unless it is enacted by not less than the affirmative vote of five (5) or more members of Council.

# CHAPTER 1256

## M-3 Municipal District (Quasi-Public)

- [1256.01](#) M-3 Use regulations.
- [1256.02](#) General requirements.
- [1256.03](#) Height requirements.
- [1256.04](#) Area, width and setback requirements.

### 1256.01 M-3 USE REGULATIONS.

- (a) In M-3 Municipal Districts, unless otherwise provided in this Zoning Code, no building or premises shall be used, arranged, or intended to be designed to be used except for the uses in [Schedule 1250.02](#).

### 1256.02 GENERAL REQUIREMENTS.

- (a) No structure or premises shall be erected, occupied or used until application is made to the Planning Commission for approval of such structure or use. The Commission shall review such plans according to the procedures in [Chapter 1240](#).
- (b) Off-street parking shall be provided in accordance with [Chapter 1284](#).
- (c) All of the provisions of Chapter **1250** are fully applicable to all structures, premises and uses in an M-3 Municipal District.

### 1256.03 HEIGHT REQUIREMENTS.

- (a) No structure or building shall exceed thirty-six (36) feet in height, except as provided in Section [1250.05](#) and [Chapter 1292](#).

### 1256.04 AREA, WIDTH AND SETBACK REQUIREMENTS.

- (a) Area, width and setback requirements shall conform to the district requirements in Sections [1250.03](#) and [1250.04](#).

# CHAPTER 1258

## Provisions Applicable to All “R” Districts

- [1258.01](#) Intent.
- [1258.02](#) Use regulations for single & two-family residence districts
- [1258.03](#) Accessory buildings in Residence Districts.
- [1258.04](#) Home offices.
- [1258.05](#) Street access required.
- [1258.06](#) Setbacks; reduction or use by another building.
- [1258.07](#) Yard and setback requirements.
- [1258.08](#) Projections into setbacks.
- [1258.09](#) Frontage.
- [1258.10](#) Water and sanitary sewers required.
- [1258.11](#) Substandard residential lots.
- [1258.12](#) Recreational vehicles/equipment.
- [1258.13](#) Use of gravel, pebbles, etc., prohibited.
- [1258.14](#) Solar energy facilities.
- [1258.15](#) Portable storage containers.
- [1258.16](#) Parking of commercial motor vehicles.
- [1258.17](#) Play Structures.
- [1258.18](#) Compliance.

**DRAFT**

**1258.01 INTENT.**

- (a) Residential districts and their regulations are established in order to achieve, among others, the following purposes:
  - (1) To regulate the bulk and location of building in relation to the land in order to obtain proper light, air, privacy and usable open spaces on each zoning lot appropriate for the district;
  - (2) To regulate the density and distribution of population in accordance with the objectives of the residential plan to avoid congestion and to maintain adequate services;
  - (3) To provide protection from noxious fumes, odors, dust, excessive noise, invasion of abnormal vehicular traffic and other objectionable influences; and,
  - (4) To protect the desirable characteristics of existing residential development, the promotion of stability, the most desirable and beneficial use of the land and bringing about the eventual conformity with the adopted or officially accepted plans of the City.

**1258.02 USE REGULATIONS FOR SINGLE & TWO-FAMILY RESIDENCE DISTRICTS.**

Buildings and land shall be used and buildings shall be designed, erected, and altered, moved, or maintained in a Single or Two Family Residence District only for the uses set forth in Schedule **1258.02**.

- (a) Uses Permitted By Right. A use listed in Schedule **1258.02** shall be permitted by right as a principal use in a district when denoted by the letter “P” provided that all requirements of other city ordinances and this Zoning Code have been met;
- (b) Conditional Uses. A use listed in Schedule **1258.02** shall be permitted as a conditional use in a district when denoted by the letter “C”, provided the Planning Commission first makes the determination that the requirements of Chapter **1287** have been met according to the procedures set forth in Chapter **1241**.
- (c) Accessory Uses. A use listed in Schedule **1258.02** shall be permitted as an accessory use in a district when denoted by the letter “A” provided that the requirements of all other City ordinances and this Zoning Code have been met.
- (d) Schedule **1258.02** Permitted Uses for Single and Two-Family Residence Districts.

**DRAFT**

<b>Schedule 1258.02 Permitted Uses for One and Two-Family Residence Districts</b>				
	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>
	<b>Single-Family Residence District</b>	<b>Single-Family Residence District</b>	<b>Single-Family Residence District</b>	<b>Two-Family Residence District</b>
<b>(1) Residential</b>				
A. One-family dwelling, detached	P	P	P	P
B. Two-family dwelling				p(c)
C. Family day care home for 1-6 children (Type B)	P	P	P	P
<b>(2) Group Residential</b>				
A. Adult care facility for 3-5 persons (Adult family home)	P	P	P	P
B. Adult care facility for 6-16 persons (Adult group home)	C	C	C	C
C. Residential facility for 5 or fewer persons (Foster family home)	P	P	P	P
D. Residential facility for 6-8 persons (Family home)	P	P	P	P
E. Residential facility for 9-16 persons (Group home)	C	C	C	C
<b>(3) Other Uses</b>				
A. Public service facility	C	C	C	C
<b>(4) Accessory Uses</b>				
A. Detached accessory buildings, including garages <sup>(a)</sup>	A	A	A	A
B. Fences, walls <sup>(d)</sup>	A	A	A	A
C. Home occupation <sup>(b)</sup>	A	A	A	A
D. Other accessory structures	A	A	A	A
E. Private swimming pools <sup>(e)</sup>	A	A	A	A
<p><b>Notes to Schedule 1258.02:</b></p> <p><sup>(a)</sup> See Section 1258.03, Accessory Buildings in Residence Districts.</p> <p><sup>(b)</sup> As further regulated by Section 1258.04, Home Offices.</p> <p><sup>(c)</sup> Units shall only be constructed side-by-side. One dwelling unit on top of another dwelling unit shall be prohibited.</p> <p><sup>(d)</sup> As further regulated by Section 1258.08 (b), Fences.</p> <p><sup>(e)</sup> As further regulated by Chapter 1294, Swimming Pools.</p> <p>P = Use permitted by right; C = Conditional use; A = Accessory use; Blank cell = Use not permitted in district</p>				

**1258.03 ACCESSORY BUILDINGS IN RESIDENCE DISTRICTS.**

- (a) In addition to one (1) private, detached garage, a second accessory storage or utility building may be erected in a rear yard, and it shall not be larger than one hundred eighty (180) square feet. Excepting gazebos, an accessory building shall not exceed eleven (11) feet in height unless a greater height is authorized by the Board of Zoning and Building Appeals. Such building shall be at least six (6) feet from all lot lines of adjoining lots which are in any "R" District and at least six (6) feet from alley lines and from any other building or structure on the same lot. On a corner lot abutting in the rear either directly or across an alley, the side lot line of another lot in an "R" District, any accessory building within twenty-five (25) feet of the rear lot line shall be distant from the side street lot line not less than one-half (1/2) the required front setback on the side street.
- (b) An accessory building may be erected as an integral part of the principal building or, if it is at least ten (10) feet from the same, may be connected thereto by a breezeway or similar structure, provided that all setback and court requirements of this Zoning Code for a principal building are complied with.
- (c) In all "R" Districts, the minimum setbacks for private, detached garages shall be the setbacks required of the principal structure.
- (d) The maximum height for a gazebo shall be twelve and a half (12-1/2) feet from its base to the highest point of its roof and shall be measured from the average adjacent ground elevation or from the floor of the deck upon which it is built.

**1258.04 HOME OFFICES.**

- (a) The purpose of this section is to set forth regulations, which control the establishment and operation of home occupations. The intent of these regulations is to control the nonresidential use of a residential dwelling unit so that the nonresidential use is limited to an accessory use and shall not in any way adversely affect the uses permitted in the residential district of which they are a part. Compliance with these regulations should result in all home occupations being located and conducted in such a manner that their existence is not detectable in any manner from the outside of the dwelling unit.
- (b) A home occupation is permitted in residential districts as an accessory use provided:
  - (1) No wholesale or retail business shall be permitted unless it is conducted entirely by mail, telephone, or electronically and does not involve the receipt, delivery, or sale of merchandise on or from the premises.
  - (2) The residential character of the dwelling exterior and lot shall not be changed;
  - (3) No equipment or process shall be permitted or used in such home occupation that creates a nuisance by reason of generating any noise,

**DRAFT**

vibration, glare, fumes, odors, electrical interference or which is determined unsafe;

- (4) No window displays or signs shall be used to advertise any activity;
- (5) The home occupation space including storage shall not exceed fifteen percent (15%) of the dwelling unit floor area;
- (6) The home occupation shall be conducted only by occupants of the dwelling unit;
- (7) There shall be no outside storage of materials, goods, supplies, equipment, or other apparatus related to the operation of a home occupation;
- (8) The business activity, including the storage of equipment, supplies or any apparatus used in the home occupation shall be conducted entirely within the principal dwelling unit and no use of a private garage or an accessory building shall be permitted, except that storage of equipment and supplies may be conducted in a private garage to the extent that at all times the number of vehicles for which the private garage was designed to accommodate shall be able to be parked in such garage;
- (9) The number of automobiles, trucks and other motor vehicles attracted to the premise shall not be greater than that which is normally associated with the residential use including normal fluctuations in the level of residential activities. Client and customer traffic shall be limited to the hours between 8:00 a.m. and 8:00 p.m.; and,
- (10) Delivery vehicles used to deliver goods to the home occupation shall be limited to passenger vehicles, mail carriers, and express carriers, such as UPS and Federal Express. Deliveries shall only be permitted between 8:00 a.m. and 8:00 p.m.

**1258.05 STREET ACCESS REQUIRED.**

- (a) Every lot shall abut on a street or shall have an exclusive, unobstructed private easement of access or right-of-way at least fifty (50) feet in width to a public street for one (1) one-family detached dwelling and at least fifty (50) feet in width for two (2) or more one, two-family or multi-family dwellings, except as noted in the R-6 Multiple Residence District.

**1258.06 SETBACKS; REDUCTION OR USE BY ANOTHER BUILDING.**

- (a) No lot, yard, setback, court, parking area or other space shall be so reduced in area or dimensions as to make any such area or dimensions less than the minimum required by this Zoning Code; if already less than the minimum required, it shall not be further reduced. No required open space or setback provided about any building

**DRAFT**

or structure shall be included as a part of any open space or setback required for another building or structure.

**1258.07 YARD AND SETBACK REQUIREMENTS.**

- (a) Double Frontage Lots. Buildings on lots having frontage on two (2) non-intersecting streets need not have a rear yard, if any equivalent open space is provided on the lot. However, the applicable front setback shall be provided on both streets.
- (b) Yards Abutting Alleys. In computing the depth of a rear setback or the width of a side setback, where the rear or side yard abuts an alley, one-half (1/2) of the width of the alley may be included as a portion of the required rear or side setback, as the case may be provided that no building, where a side or rear setback is required, shall be closer than three (3) feet to a side alley lot line or ten (10) feet to a rear alley lot line.
- (c) Front Setback Modifications. In any single-family "R" District, where the average depth of at least two (2) existing front setbacks on lots immediately adjoining (or, if not immediately adjoining, within one hundred (100) feet of the lot in question and within the same block-front) is less or greater than the minimum front setback prescribed elsewhere in this Zoning Code, the required setback of such lot shall be modified. In such case, the setback shall not be less than the average depth of such existing front setbacks on the two (2) lots immediately adjoining (or, if not immediately adjoining, within one hundred (100) feet or, in the case of a corner lot, the depth of the front setback on the lot immediately adjoining) provided, however, that the front setback on any lot shall be at least thirty-five (35) feet and need not exceed one hundred (100) feet.
- (d) Side Setback Modifications.
  - (1) Side setback may be varied where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular. In such a case, the average width of the side setback shall not be less than the otherwise required minimum side setback, provided, however, that such side setback shall not be narrower at any point than one-half (1/2) the otherwise required minimum side setback or narrower than ten (10) feet in any case.
  - (2) Side setbacks may be reduced by three (3) inches from the otherwise required minimum of each side setback for each foot by which a lot of record on March 1, 1961, is narrower than the lot width specified for the district in which the lot is located, where the building to be erected thereon is not higher than one and one-half (1-1/2) stories, provided, however, that no side setback shall be less than ten (10) feet in any "R" District, except as noted for "R-6" Multiple Residence District.
- (e) Rear Setback Modifications. Rear setbacks in an "R" District may be reduced by six (6) inches from the required minimum for each foot by which a lot, on March 1, 1961, was less than one hundred fifty (150) feet deep in an R-1 Residence District

**DRAFT**

and one hundred twenty (120) feet deep in an R-2 or R-3 Residence District (as of March 1, 1961), provided, however, that no rear setback shall be less than forty (40) feet in depth.

**1258.08 PROJECTIONS INTO SETBACKS.**

- (a) Certain architectural features may project into required setbacks or courts as follows:
- (1) Front yards, side street, side yards and rear yards. Into any required front, corner side or rear setback, cornices, canopies, eaves or other architectural features may project a distance not exceeding two (2) feet, six (6) inches. Fire escapes may project a distance not exceeding four (4) feet, six (6) inches. An uncovered stair or ramp and a necessary landing may project a distance not to exceed six (6) feet, provided that such stair or ramp and landing shall not extend above the entrance floor of the building, except for a railing not exceeding three (3) feet in height. Bay windows, balconies and chimneys may project a distance not exceeding three (3) feet, provided that such features do not occupy, in the aggregate, more than one-third (1/3) of the length of the building wall on which they are located.
  - (2) Interior side yards. The features referred to in subparagraph (1) hereof may project into any required side setback adjoining any interior side lot line as specified therein, but shall be at least five (5) feet from the side lot line in any case.
- (b) Fences. Fences, walls and various types of landscaping may be located in required setbacks as follows:
- (1) Three (3) feet high. If not exceeding at any point three (3) feet in height above the elevation of the surface of the ground at such point, fences, walls and other types of landscaping may be located in any yard.
  - (2) Six (6) feet high (or less). If fences, walls or hedges exceed three (3) feet but do not exceed at any point six (6) feet in height above the elevation of the surface of the ground at such point, they may be located in any required rear or side setback, provided that on a corner lot, abutting in the rear the side lot line of another lot in an "R" District, no such fence, wall or hedge shall be constructed or placed along the common lot closer to the side lot line than the depth of the front yard of the lot fronting the side street.
  - (3) Maximum height. No fence shall exceed six (6) feet in any "R" District.
  - (4) Wooden or solid fence orientation. All wooden or solid-type fences shall be erected so that any posts and supports thereof face inward toward the residence of the property upon which the fence is constructed, that is, that the solid wood surface or other solid surface shall face outward away from the premises upon which the fence is erected.

**1258.09 FRONTAGE.**

- (a) In addition to other area, width and setback requirements of this Zoning Code, a minimum frontage of ninety-five (95) feet upon a dedicated street in the City is hereby required, except for lots on cul-de-sacs which will have a minimum frontage of fifty (50) feet, and R-4 districts which shall have eighty-five (85) feet frontage, or unless otherwise specified.

**1258.10 WATER AND SANITARY SEWERS REQUIRED.**

- (a) Any district, where neither public water supply nor a public sanitary sewer is accessible, shall be withheld from development, unless the required improvements relating to the installation of public water supply and public sanitary sewers, as set forth in the subdivision regulations, are fully complied with.

**1258.11 SUBSTANDARD RESIDENTIAL LOTS.**

- (a) Residential lots which were subdivided and platted and were Lots-of-Record prior to the adoption of this Code, and which do not meet the minimum requirements for single-family residential development as established in this Zoning Code shall be deemed substandard or nonconforming.
- (b) The development criteria for substandard or nonconforming, undeveloped lots shall be derived from existing conditions, using the averages of the two (2) nearest developed adjacent lots. The following criteria will be determined in this manner:
  - (1) Minimum front setback
  - (2) Minimum side setback
  - (3) Minimum rear setback
  - (4) Minimum ground floor building area
- (c) Minimum square footage as applicable to the zoning classification under which it was platted.

R-1 1,200 SF\*

R-2 1,200 SF\*; 1,500 SF (over one (1) story)\*

\*Exclusive of basement, porches, breezeways, garages, attics, terraces and accessory enclosures. Buildings without basements shall have a utility room provided of two hundred (200) square feet (minimum) in addition to the livable floor area requirement.

R-3 1,200 SF (one (1) story)\*\*; 1,400 SF (over one (1) story)\*\*

**DRAFT**

\*\*Exclusive of basement, porches, breezeways, garages, attics, terraces and accessory enclosures. Buildings without basements shall have a utility room provided of one hundred fifty (150) square feet (minimum) in addition to the livable floor area requirement.

- (d) Accessory buildings and uses shall be the same as allowed for R-1 Residential Districts as provided for in Section 1258.03.
- (e) Additions to existing structures on substandard or nonconforming residential lots shall be permitted, provided that the following setback restrictions be observed as stated below:

*	Minimum Front Setback	Minimum Side Setback	Minimum Combined Side Setback	Minimum Rear Setback
R-1	60	15	40	50
R-2	50	10	25	50
F-3	50	10	20	50
R-4	50	10	25	40
F-5	50	10	30	40
R-5a	50	10	35	40
R-5b	50	15	35	40
R-6	As approved by the Planning Commission			
*Previous zoning designations				

**1258.12 RECREATIONAL VEHICLES/EQUIPMENT.**

Recreational vehicles/equipment shall be permitted in Residential Districts provided they comply with the regulations set forth below:

- (a) Recreational vehicles/equipment shall not be connected to electricity, water, gas, or sanitary sewer facilities, and at no time shall recreational vehicles/equipment be used for living or housekeeping purposes.
- (b) Notwithstanding the provisions of this subsection, recreational vehicles/equipment may be parked anywhere on the premises for loading or unloading purposes for a period of not more than forty-eight (48) hours.
- (c) If the recreational vehicle/equipment is parked or stored outside, it shall be parked on an impervious surface, such as asphalt or concrete. The area surrounding the

**DRAFT**

parked or stored recreational equipment shall be maintained pursuant to all applicable City ordinances, codes, standards and regulations.

- (d) All recreational vehicles/equipment shall be kept operable and in good repair and carry a current license and registration.

**1258.13 USE OF GRAVEL, PEBBLES, ETC., PROHIBITED.**

- (a) Stones, pebbles, gravel or any other loose material, excluding mulch, shall not be placed in any yard that is bounded by a public street, except as a decorating accent.
- (b) The only material permitted to be placed within a public right-of-way shall be grass between the curb line and the right-of-way line on an improved street or within the area of the pavement edge and the right-of-way line on an unimproved street excepting any different material that may be placed in the restricted areas by the City for Municipal purposes.
- (c) No parking or standing of any motor vehicle shall be permitted on the unimproved areas of the right-of-way along a public street.

**1258.14 SOLAR ENERGY FACILITIES.**

- (a) Solar panels are a use permitted by right on the roof of any residential building when the panel or panels, at any point, are not more than two (2) feet from the roof line and the total area of the panels does not comprise more than thirty-five (35%) percent of a single roof surface. For the purposes of this section the single roof surface shall include the area of appurtenant structures or other elements, such as dormers.
- (b) Solar panels may be considered as a Conditional Use, and subject to the review procedures in Chapter 1241, when the size of the panel, or panels, are greater than the requisite roof percentage or is installed so it extends farther from the roof than the permitted standard in subsection (a), above. In reviewing such proposed Conditional Use, the Planning Commission shall consider:
  - (1) Whether or not there are alternative locations in compliance with subsection (a) and that all these alternatives have been adequately evaluated.
  - (2) Whether the proposed panel(s) and their location(s) are designed to minimize any adverse impacts to the neighborhood.
  - (3) Whether the mass of a free-standing structure is the minimum necessary to serve the property.

**1258.15 PORTABLE STORAGE CONTAINERS.**

- (a) One (1) portable storage container, which is designed for the temporary storage of household goods, furnishings, and building materials, may be placed on an

**DRAFT**

impervious off-street surface on private property within any “R” district for a period not to exceed ten (10) consecutive days and for not more than two (2) times a calendar year. This time limitation may be extended at the sole discretion of the Zoning Administrator, if extraordinary circumstances are present that warrant an extension of time.

**1258.16 PARKING OF COMMERCIAL MOTOR VEHICLES.**

- (a) The overnight parking or the outdoor storage of commercial motor vehicles (that exceed the limits as defined in Section 1234.05) is prohibited.

**1258.17 PLAY STRUCTURE.**

- (a) Play Structures. A play structure shall be considered a permitted accessory structure and shall be subject to the following regulations:
  - (1) No play structure shall be erected in any yard other than a side or rear yard.
  - (2) The maximum height for such equipment shall be twelve and a half (12-1/2) feet from its base to the highest point of its roof and shall be measured from the average adjacent ground elevation or from the floor of the deck upon which it is built.
  - (3) The total surface area of all built-in, horizontal surfaces that are an integral part of the structure (platform area including any covered area and any elevated platforms) shall not exceed one hundred (100) square feet. For the purposes of this sub-section, slides, swings and similar play equipment shall not be included in the calculation for total surface area.
  - (4) When the total surface area of all built-in, horizontal surfaces of a play structure exceeds fifty (50) square feet and the height of the structure is greater than six (6) feet, such play structure shall be located at least six (6) feet from the property line. On a corner lot abutting in the rear either directly or across an alley, the side lot line of another lot in an “R” District, such play structure within twenty-five (25) feet of the rear lot line shall be distant from the side street lot line not less than one-half (1/2) the required front setback on the side street.

**1258.18 COMPLIANCE.**

- (a) All of the provisions of the Chapter 1258 are fully applicable to all buildings, structures, premises and uses in the R-1, R-2, R-3, R-4, and R-5 Districts.

# CHAPTER 1260

## R-1 Single Family Residence District

[1260.01](#) R-1 Use regulations.

[1260.02](#) Reserved.

[1260.03](#) Maximum allowable density.

[1260.04](#) Height requirements.

[1260.05](#) Floor area requirements for dwelling units.

[1260.06](#) Area, width and setback requirements.

[1260.07](#) Lot coverage.

### 1260.01 R-1 USE REGULATIONS.

- (a) In R-1 Single Family Residence District, unless otherwise provided in this Zoning Code, no building or premises shall be used, arranged, or intended to be designed to be used except for the uses in Schedule [1258.02](#).

### 1260.02 RESERVED.

### 1260.03 MAXIMUM ALLOWABLE DENSITY.

The gross density shall not exceed the number of dwelling units resulting from the minimum lot area as specified in sub-section [1260.06](#). The maximum number of dwelling units permitted for a particular site shall be calculated by:

- (a) Deducting any public right-of-way within the project boundary existing at the time the site plan is submitted; and,
- (b) Dividing the result of subsection (a) by the minimum lot area specified in sub-section [1260.06](#).

### 1260.04 HEIGHT REQUIREMENTS.

- (a) No structure shall exceed two and one-half (2-1/2) stories or thirty-five (35) feet in height, except as provided in Section [1288.02](#).

**DRAFT**

**1260.05 FLOOR AREA REQUIREMENTS FOR DWELLING UNITS.**

- (a) One-story dwelling shall have a minimum ground floor area of one thousand eight hundred (1,800) square feet of potential living area, exclusive of basement, porches, breezeways, garage, attics, terraces and accessory enclosures.
- (b) Dwelling of more than one (1) story shall have a minimum ground floor area of one thousand (1,000) square feet of potential living area and a total potential living area of not less than two thousand (2,000) square feet, exclusive of basement, porches, breezeways, attics, terraces, garages, or other outside accessory enclosures.

**1260.06 AREA, WIDTH AND SETBACK REQUIREMENTS.**

- (a) Except as provided for in this Zoning Code, no building or use shall hereinafter be erected, established or altered except in conformity with the limitations and requirements specified below:
  - (1) Minimum lot area: thirty thousand (30,000) square feet;
  - (2) Minimum lot width, one hundred ten (110) feet;
  - (3) Minimum front setback, sixty (60) feet;
  - (4) Minimum side setback, fifteen (15) feet;
  - (5) Minimum combined side setback width, forty (40) feet;
  - (6) Minimum rear setback, fifty (50) feet;
  - (7) Corner side setback - all corner lots shall provide a front setback from the side street lot line. Corner lots shall have frontage on two (2) streets.

**1260.07 LOT COVERAGE.**

- (a) Maximum lot coverage in the front yard shall be two thousand (2000) square feet.

# CHAPTER 1262

## R-2 Single Family Residence District

[1262.01](#) R-2 Use regulations.

[1262.02](#) Maximum allowable density.

[1262.03](#) Height requirements.

[1262.04](#) Floor Area requirements for dwelling units.

[1262.05](#) Area, width and setback requirements.

[1262.06](#) Lot coverage.

### 1262.01 R-2 USE REGULATIONS.

- (a) In R-2 Single Family Residence District, unless otherwise provided in this Zoning Code, no building or premises shall be used, arranged, or intended to be designed to be used except for the uses in Schedule [1258.02](#).

### 1262.02 MAXIMUM ALLOWABLE DENSITY.

The gross density shall not exceed the number of dwelling units resulting from the minimum lot area as specified in sub-section [1262.05](#). The maximum number of dwelling units permitted for a particular site shall be calculated by:

- (a) Deducting any public right-of-way within the project boundary existing at the time the site plan is submitted; and,
- (b) Dividing the result of subsection (a) by the minimum lot area specified in sub-section [1262.05](#).

### 1262.03 HEIGHT REQUIREMENTS.

- (a) No structure shall exceed two and one-half (2-1/2) stories or thirty-five (35) feet in height, except as provided in Section [1288.02](#).

### 1262.04 FLOOR AREA REQUIREMENTS FOR DWELLING UNITS.

- (a) One (1)-story dwelling shall have a minimum ground floor area of one thousand six hundred (1,600) square feet of potential living area, exclusive of basement, porches, breezeways, garages, attics, terraces and accessory enclosures.

**DRAFT**

- (b) Dwelling of more than one (1) story shall have a minimum ground floor area of one thousand (1,000) square feet of potential living area and a total potential living area of not less than two thousand (2,000) square feet, exclusive of basement, porches, breezeways, attics, terraces, garages or other outside accessory enclosures.
- (c) In the case of a dwelling without a basement, a utility room shall be provided and shall have a minimum of one hundred (100) square feet of floor area. This space shall be in addition to the dwelling unit floor area required.

**1262.05 AREA, WIDTH AND SETBACK REQUIREMENTS.**

- (a) Except as provided for in this Zoning Code, no building or use shall hereafter be erected, established or altered except in conformity with the limitations and requirements specified below:
  - (1) Minimum lot area: twenty thousand (20,000) square feet;
  - (2) Minimum lot width, one hundred (100) feet;
  - (3) Minimum front setback, fifty (50) feet;
  - (4) Minimum side setback, ten (10) feet;
  - (5) Minimum combined side setback, twenty-five (25);
  - (6) Minimum rear setback, forty (40) feet;
  - (7) Corner side setback- all corner lots shall provide a front setback from the side street lot line. Corner lots shall have frontage on two (2) streets.

**1262.06 LOT COVERAGE.**

- (a) Maximum lot coverage in the front yard shall be two thousand (2000) square feet.

# CHAPTER 1264

## R-3 Single Family Residence District

[1264.01](#) R-3 Use regulations.

[1264.02](#) Maximum allowable density.

[1264.03](#) Height requirements.

[1264.04](#) Floor area requirements for dwelling units.

[1264.05](#) Area, width and setback requirements.

[1264.06](#) Lot coverage.

### 1264.01 R-3 USE REGULATIONS.

- (a) In R-3 Single Family Residence District, unless otherwise provided in this Zoning Code, no building or premises shall be used, arranged, or intended to be designed to be used except for the uses in Schedule [1258.02](#).

### 1264.02 MAXIMUM ALLOWABLE DENSITY.

The gross density shall not exceed the number of dwelling units resulting from the minimum lot area as specified in sub-section [1264.05](#). The maximum number of dwelling units permitted for a particular site shall be calculated by:

- (a) Deducting any public right-of-way within the project boundary existing at the time the site plan is submitted; and,
- (b) Dividing the result of subsection (a) by the minimum lot area specified in sub-section [1264.05](#).

### 1264.03 HEIGHT REQUIREMENTS.

- (a) No structure shall exceed two and one-half (2-1/2) stories or thirty-five (35) feet in height, except as provided in Section [1288.02](#).

### 1264.04 FLOOR AREA REQUIREMENTS FOR DWELLING UNITS.

- (a) One (1)-story dwelling shall have a minimum ground floor area of one thousand five hundred (1,500) square feet of potential living area, exclusive of basement, porches, breezeways, garages, attics, terraces and accessory enclosures.

**DRAFT**

- (b) Dwelling of more than one story shall have a minimum ground floor area of one thousand (1,000) square feet of potential living area and a total potential living area of not less than one thousand eight hundred (1,800) square feet, exclusive of basement, porches, breezeways, attics, terraces, garages or other outside accessory enclosures.
- (c) In the case of a dwelling without a basement, a utility room shall be provided and shall have a minimum of one hundred (100) square feet of floor area. This space shall be in addition to the livable floor area required.

**1264.05 AREA, WIDTH AND SETBACK REQUIREMENTS.**

- (a) Except as provided for in this Zoning Code, no building or use shall hereinafter be erected, established or altered except in conforming with the limitations and requirements specified below:
  - (1) Minimum lot area: fourteen thousand (14,000) square feet;
  - (2) Minimum lot width, ninety-five (95) feet;
  - (3) Minimum front setback, fifty (50) feet;
  - (4) Minimum side setback, ten (10) feet;
  - (5) Minimum combined side setback, twenty (20) feet;
  - (6) Minimum rear setback, forty (40) feet;
  - (7) Corner side setback - all corner lots shall provide front setback from the side street lot line. Corner lots shall have frontage on two (2) streets.

**1264.06 LOT COVERAGE.**

- (a) Maximum lot coverage in the front yard shall be two thousand (2,000) square feet.

# CHAPTER 1266

## R-4 Two Family Residence District

- [1266.01](#) R-4 Use regulations.
- [1266.02](#) Maximum allowable density.
- [1266.03](#) Height requirements.
- [1266.04](#) Floor area requirements for dwelling units.
- [1266.05](#) Area, width and setback requirements.
- [1266.06](#) Lot coverage.

### 1266.01 R-4 USE REGULATIONS.

In R-4 Two Family Residence District, unless otherwise provided in this Zoning Code, no building or premises shall be used, arranged, or intended to be designed to be used except for the uses in Schedule [1258.02](#).

### 1266.02 MAXIMUM ALLOWABLE DENSITY.

The gross density shall not exceed the number of dwelling units resulting from the minimum lot area as specified in sub-section [1266.05](#). The maximum number of dwelling units permitted for a particular site shall be calculated by:

- (a) Deducting any public right-of-way within the project boundary existing at the time the site plan is submitted; and,
- (b) Dividing the result of subsection (a) by the minimum lot area specified in sub-section [1266.05](#).

### 1266.03 HEIGHT REQUIREMENTS.

- (a) No structure shall exceed two and one-half (2-1/2) stories or thirty-five (35) feet in height, except as provided in Section [1288.02](#).

### 1266.04 FLOOR AREA REQUIREMENTS FOR DWELLING UNITS.

- (a) A two-family dwelling shall have a minimum ground floor area of one thousand (1,000) square feet of potential living area per dwelling unit, exclusive of basement, porches, breezeways, garages, attics, terraces and accessory enclosures.

**DRAFT**

- (b) No Basement. In the case of a two-family dwelling without a basement, a utility room shall be provided, and shall have a minimum of one hundred (100) square feet of floor area for each dwelling unit. This space shall be in addition to the livable floor area required.

**1266.05 AREA, WIDTH AND SETBACK REQUIREMENTS.**

- (a) Except as provided for in this Zoning Code, no building or use shall hereafter be erected, established or altered except in conformity with the limitations and requirements specified in Schedule 1266.05, which standard shall be applicable on a per building basis unless otherwise specified:

<b>Schedule 1266.05 Area, Width and Setback Requirements</b>						
<b>Two-Family Dwellings (where permitted)</b>	<b>Minimum Lot Area<sup>(a)</sup> (S.F.)</b>	<b>Minimum Lot Width (Ft.)</b>	<b>Minimum Front Setback (Ft.)</b>	<b>Minimum Side Setback (Ft.)</b>	<b>Minimum Combined Side Setback (Ft.)</b>	<b>Minimum Rear Setback (Ft.)</b>
R-4	14,000	95	50	10	25	40
<sup>(a)</sup> Minimum lot area shall be calculated on a per dwelling unit basis.						

- (b) Exception: Where lots abut and back onto a railroad right-of-way, the required lot widths as specified above may be reduced by ten (10) feet, provided the lot measures at least two hundred fifty (250) feet in depth, so as to increase the rear yard and allow space for screen planting or some other protective buffer treatment.
- (c) One-family detached dwellings, on individual lots, shall comply with the applicable regulations in the R-3, Single-Family Residence District.

**1266.06 LOT COVERAGE.**

- (a) Maximum lot coverage in the front yard shall be two thousand (2,000) square feet.

# CHAPTER 1268

## R-5 Limited Multiple Dwelling Residence District

- [1268.01](#) R-5 Use regulations.
- [1268.02](#) Height requirements.
- [1268.03](#) Floor area requirements for dwelling units.
- [1268.04](#) Area, width and setback requirements.
- [1268.05](#) Permitted density (maximum).

### 1268.01 R-5 USE REGULATIONS.

Buildings and land shall be used and buildings shall be designed, erected, and altered, moved, or maintained in a Single or Two Family Residence District only for the uses set forth in Schedule [1268.01](#).

- (a) Uses Permitted By Right. A use listed in Schedule [1268.01](#) shall be permitted by right as a principal use in a district when denoted by the letter “P” provided that all requirements of other city ordinances and this Zoning Code have been met;
- (b) Conditional Uses. A use listed in Schedule [1268.01](#) shall be permitted as a conditional use in a district when denoted by the letter “C”, provided the Planning Commission first makes the determination that the requirements of Chapter [1287](#) have been met according to the procedures set forth in Chapter [1241](#).
- (c) Accessory Uses. A use listed in Schedule [1268.01](#) shall be permitted as an accessory use in a district when denoted by the letter “A” provided that the requirements of all other City ordinances and this Zoning Code have been met.
- (d) Schedule [1268.01](#) Permitted Uses for Limited Multiple Dwelling Residence District.

**DRAFT**

<b>Schedule 1268.01</b>	
<b>Permitted Uses for Limited Multiple Dwelling Residence District</b>	
	<b>R-5a/R-5b</b>
	<b>Limited Multiple Dwelling Residence District</b>
<b>(1) Residential</b>	
A. One-family detached dwellings	p <sup>(a)</sup>
B. Two-family dwelling	p <sup>(b)</sup>
C. Multi-family dwellings up to <del>6</del> <b>9</b> dwelling units per acre	P
D. Multi-family dwellings up to 12 dwelling units per acre	P
<b>(2) Group Residential</b>	
A. Adult care facility for 3-5 persons (Adult family home)	P
B. Adult care facility for 6-16 persons (Adult group home)	C
C. Residential facility for 5 or fewer persons (Foster family home)	P
D. Residential facility for 6-8 persons (Family home)	P
E. Residential facility for 9-16 persons (Group home)	C
<b>(3) Other Uses</b>	
1. Public service facility	C
P = Use permitted by right; C = Conditional use; A = Accessory use;	
<p><u>Notes to Schedule 1268.01:</u></p> <p><sup>(a)</sup> One-family detached dwellings, on individual lots, shall comply with the applicable regulations in Chapters 1258 and 1264.</p> <p><sup>(b)</sup> Two-family dwellings, on individual lots, shall comply with the applicable regulations in Chapters 1258 and 1266.</p>	

**DRAFT**

**1268.02 HEIGHT REQUIREMENTS.**

- (a) Height shall not exceed two and one-half (2-1/2) stories or thirty-five (35) feet in height, except as provided in Section 1288.02, and that R-5a, R-5b buildings shall have a front setback of one (1) additional foot for each two (2) feet the building exceeds a height of thirty (30) feet.

**1268.03 FLOOR AREA REQUIREMENTS FOR DWELLING UNITS.**

- (a) In R-5a and R-5b Residence District multi-family dwellings, each one bedroom dwelling unit shall have a minimum dwelling unit floor area of eight hundred fifty (850) square feet, and each two bedroom dwelling unit shall have a minimum dwelling unit floor area of one thousand (1000) square feet. Any additional bedrooms shall be a minimum of one hundred fifty (150) square feet in area.
- (b) In the case of a dwelling without a basement, a utility room shall be provided and shall have a minimum of seventy-five (75) square feet of floor area for each dwelling unit. This space shall be in addition to the dwelling unit floor area required.

**1268.04 AREA, WIDTH AND SETBACK REQUIREMENTS.**

- (a) Except as provided in Chapter 1288, no building or use shall hereafter be erected, established or altered except in conformity with the limitations and requirements specified in the following Schedule 1268.04.

Schedule 1268.04 Lot Width and Setback Requirements					
Multifamily Dwellings (where permitted)	Minimum Lot Width (ft.)	Minimum Front Setback (ft.)	Least Side Setback Width (ft.)	Minimum Combined Side Setback (ft.)	Minimum Rear Setback (ft.)
R-5a District	125	50	15	35	40
R-5b District	125	50	15	35	40

- (b) Exception. Where lots abut and back onto a railroad right-of-way, the required lot widths as specified above may be reduced by ten (10) feet, provided the lot measures at least two hundred fifty (250) feet in depth, so as to increase the rear yard and allow space for screen planting or some other protective buffer treatment.

**1268.05 PERMITTED DENSITY (MAXIMUM).**

- (a) R-5a - nine (9) dwelling units per acre.
- (b) R-5b - twelve (12) dwelling units per acre.

---

**DRAFT**

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

# CHAPTER 1270

## R-6 Planned Multiple Dwelling Residence District

- [1270.01](#) Intent.
- [1270.02](#) R-6 Use regulations; compliance required.
- [1270.03](#) Preliminary site plan.
- [1270.04](#) Final site plan.
- [1270.05](#) Requirements and standards.
- [1270.06](#) Setback and height requirements.
- [1270.07](#) Access, vehicular circulation and parking.
- [1270.08](#) Authority of Zoning Administrator.
- [1270.09](#) Surety bond required.
- [1270.10](#) Compliance.

### 1270.01 INTENT.

- (a) In order to encourage greater attractiveness, flexibility and utilization of space and to obtain a more desirable environment than may be possible through the strict application of minimum requirements of individual districts, the R-6 Planned Multiple Dwelling Residential District allows for the development, singularly or in combination, of one-family detached or attached housing, (e.g., townhouses, groups, clusters, or zero-lot line development), in accordance with the regulations of this section on land zoned R-6, in order to permit the flexible spacing of lots and buildings and to encourage:
  - (1) The creation of functional and compatible residential areas;
  - (2) The provision of readily available recreation areas and expanded open spaces;
  - (3) The conservation of open space, the natural site amenities and the landscape; and,
  - (4) The safe separation of pedestrian and vehicular circulation.

**1270.02 R-6 USE REGULATIONS; COMPLIANCE REQUIRED.**

- (a) No building or premises in a planned Multiple Dwelling Residence District shall be erected which is intended, arranged or designed to be used except as provided and regulated in this chapter.
- (b) The R-6 Planned Multiple Dwelling Residential District permits, singularly or in combination, one-family detached or attached housing (e.g., townhouses, groups, clusters, or zero-lot line development).
- (c) The development proposed shall meet all applicable subdivision regulations of the City of Fairlawn.
- (d) The developer shall form a Homeowners Association or Condominium Association for the proposed development, to ensure maintenance of common areas and open space in conformance with Section 1272.09, Homeowners Associations.

**1270.03 PRELIMINARY SITE PLAN.**

- (a) The owner or developer of a proposed development in a Planned Multiple Dwelling Residence District shall submit a preliminary site plan to the Planning Commission who shall review and act on such preliminary site plan in accordance with the procedures in Chapter 1240. The preliminary site plan shall consist-of the items in sub-section 1240.06 (a) and the following:
  - (1) A site plan - indicating layout of all sublots and structures, easements and private access drives;
  - (2) Elevation drawings;
  - (3) Planned provisions for storm drainage, sanitary sewers, utility services and facilities - on a copy of the site plan;
  - (4) Areawide traffic patterns, showing the proposed streets and drives and their relation to adjacent streets and arteries;
  - (5) A concept landscape plan - showing overall concepts for street trees, screening, buffering with material types (deciduous or evergreen) and a more detailed concept landscape plan for all types of structures proposed;
  - (6) A construction progress and completion plan.
- (b) The developer shall deposit cash or security bonds with the Director of Finance for the sum of one hundred dollars (\$100.00) per unit but not less than five thousand dollars (\$5,000.00) to be used for the necessary planning and consulting services at the time of submission of the preliminary site plan to the Planning Commission. Any unused portion of these funds on deposit shall be returned to the developer upon completion of the project together with documentation of how consulting monies

**DRAFT**

were used. The Planning Commission shall have the authority, in its description, to require the developer to pay additional sums, for, but not limited to, consultation, engineering review, testing and inspections, should the initial sum be insufficient.

- (c) The Planning Commission, upon submission of such preliminary site plan, shall investigate and ascertain that such site plan is consistent with the criteria for evaluating preliminary site plans in Section 1240.07 as well as the following:
  - (1) The preliminary site plan protects the health, safety, morals, welfare and property value of adjoining property and districts by observance of the restrictions of such adjoining areas;
  - (2) Proposed drainage, sewage, utility and service facilities are of a size that will not overtax the capacities of present facilities;
  - (3) The proposed traffic pattern will not cause congestion in the neighboring streets or area arterial traffic routes or that traffic noise or lights will not create a nuisance to existing or proposed development;
  - (4) For existing developments, any conditions of approval, which may have been required at the time the development was originally or subsequently reviewed and approved, shall be considered.

**1270.04 FINAL SITE PLAN.**

- (a) Upon approval of the preliminary site plan by the Planning Commission, the proponent shall prepare and submit a final site plan which shall incorporate the changes and modifications requested by the Planning Commission. The number of copies to be submitted shall be determined by the Zoning Administrator.
- (b) For existing developments, the Planning Commission, when reviewing the final site plan, shall consider any conditions of approval which may have been required at the time the development was originally or subsequently reviewed and approved.
- (c) Such final site plan shall be prepared and reviewed in accordance with Chapter 1240, Site Plan Review Procedures. Amendments to approved final site plans shall be considered according to the procedures for modifying approved site plans in Section 1240.12 (c), Modifications after Approval.

**1270.05 REQUIREMENTS AND STANDARDS.**

- (a) The minimum site area for a Planned Multiple Dwelling Residence Development shall be ten (10) acres. The Planning Commission may however allow areas as small as four (4) acres if it determines that the intent of this district can be adequately met.
- (b) The minimum main floor area of any dwelling unit shall be as follows:

**DRAFT**

- (1) One-family detached dwelling - one thousand five hundred (1,500) square feet
- (2) One-family attached dwelling - eight hundred fifty (850) square feet
- (c) Where no basements are provided, an additional utility room space shall be added to (b) above for each unit, as follows:
  - (1) One-family detached dwelling - one hundred fifty (150) square feet
  - (2) One-family attached dwelling - seventy-five (75) square feet
- (d) Maximum development density. The residential density of the entire development area shall not exceed six (6) dwelling units per total (gross) acre.
- (e) Composition. On development parcels of ten (10) acres or more, each development should exhibit a blend of various housing types, attached and detached. The composition of unit types on parcels under ten (10) acres, shall be as determined by the Planning Commission when reviewing the preliminary site plan.
- (f) Required Open Space. In any R-6 District, the total open space area shall be not less than twenty (20%) percent of the gross acreage of the entire development area.
- (g) Building Arrangement. The design criteria set forth in this section are intended to provide considerable latitude and freedom to encourage variety in the arrangement of the bulk and shape of buildings, open space and landscape features. The dwelling units may be arranged in various groups, courts, or sequences with open spaces organized and related to dwellings so as to provide privacy as well as usefulness, and to provide a unified composition of buildings and space. Although latitude in design is provided and encouraged, the following minimum design conditions shall be met.
  - (1) Where one-family detached dwellings are used - not more than eight (8) single family dwellings may be contiguous in a group or cluster. Groups shall be separated by open space.
  - (2) Lot Requirements. Dwelling units are not required to be on lots. However, when lots for standard detached one-family dwellings or subdivision lots for cluster one-family detached dwellings are included, such lots or sub lots shall be of sufficient size and shape to accommodate dwelling units in compliance with the requirements of this Chapter.

**1270.06 SETBACK AND HEIGHT REQUIREMENTS.**

- (a) Front Setbacks. Where clusters of attached or detached dwellings are used, buildings shall be set back not less than twenty-five (25) feet from any open space area; and not less than forty (40) feet from any street.
- (b) Rear Setbacks. Not less than twenty-five (25) feet.

**DRAFT**

- (c) Minimum Yard Area. One-family detached dwellings shall have a minimum yard area of nine thousand (9,000) square feet, with a forty (40) foot minimum setback from any street.
- (d) Separation. Separation of clusters of attached one-family dwellings shall be determined by the Planning Commission when reviewing the preliminary site plan, but in no case shall they be closer than 60 feet. No less than twenty (20) feet separation shall be provided between detached dwellings in a cluster, and between dwellings and detached garages.
- (e) Side Setback. The minimum side setback for one-family detached dwellings shall be eight (8) feet with a total side setback requirement of not less than eighteen (18) feet.
- (f) Adjacent Garages. In a group or cluster development, two (2) adjacent garages may be attached to a common party wall at the lot line.
- (g) Height. The height of any dwelling in a R-6 District shall not exceed two and one-half (2-1/2) stories. The Planning Commission, when reviewing the preliminary site plan, may allow a height of three (3) stories where topographic conditions warrant it.

**1270.07 ACCESS, VEHICULAR CIRCULATION AND PARKING.**

- (a) Each group within an R-6 group or cluster development shall have direct access to a dedicated street. However, individual dwelling units within the group need not so abut, provided that:
  - (1) Each dwelling unit is accessible on a fifty (50) foot wide unobstructed private easement for access, right-of-way or utilities, by means of a private access drive, for service and emergency vehicles in a manner acceptable to the City Engineer and Fire Chief.
  - (2) The method of construction, and construction materials, City of Fairlawn standards, and plans are approved by the City Engineer.
  - (3) The location, design and construction of all utilities on private or common land is approved by the City Engineer, and easements provided to the City as required.
  - (4) The preservation and maintenance of all private drives and utilities on private land is assured by compliance with the requirements of Ohio R.C. Chapter 5311, a Declaration of Condominium Ownership, and compliance with Section 1272.09 when applicable, including drawings and by-laws, as approved by the Law Director.
  - (5) If the conditions set forth in subsections (1) through (4) hereof cannot be met, then all dwelling units shall front on a dedicated right-of-way constructed in accordance with City subdivision regulations and all utilities

**DRAFT**

shall utilize these rights-of-way unless other dedicated easements are provided.

- (6) Parking. Parking shall comply with the applicable sections of Chapter 1284 Off-Street Parking and Loading, except that parking in an R-6 Development District shall include two (2) enclosed parking spaces of not less than four hundred forty (440) square feet and two (2) open parking spaces for each dwelling unit. Parking spaces shall be provided outside the dedicated street right-of-way and off private access drives.
- (7) Guest Parking. Guest parking shall be provided on the basis of one (1) space per every two (2) dwellings in a group or cluster. Additional guest parking may be required by the Planning Commission, when reviewing the preliminary site plan, if it determines that such additional parking is necessary to adequately serve the needs of the dwellings.
- (8) Sidewalks. A four (4) foot sidewalk shall be located on one (1) side of all streets, designed with curb ramps for the physically challenged at all street intersections.

**1270.08 AUTHORITY OF ZONING ADMINISTRATOR ~~INSPECTOR~~.**

- (a) The Zoning Administrator is hereby charged with the duty to inspect all development work at regular intervals and he shall have authority to stop any work or construction that is in violation or contrary to any part of the final site plan. The contractor shall be required to do remedial work on all construction found to be in violation of the approved plan, or in violation of other State and local codes that apply.

**1270.09 SURETY BOND REQUIRED.**

- (a) Every developer shall post cash or a surety bond or other performance guarantee with the Finance Director, on all underground work (sewers, water and necessary utilities), all sitework and street construction equal to one hundred ten percent (110%) of the estimated costs as determined by the City Engineer and a similar bond equal to the landscaper's estimate approved by the Zoning Administrator for all landscaping. Landscaping shall consist of planting trees, shrubbery, screening, fencing, walks, walk lighting and all other site elements including outdoor recreation facilities as proposed and as approved by the Planning Commission.
- (b) Every developer shall post cash or a surety bond with the Director of Finance, for the maintenance of the developments sewers, water, storm water control, and street improvements for a three (3) year period from the date of final acceptance by the Director of Public Service in the amount of one hundred (100%) percent of the replacement cost as estimated by the City Engineer. ([1230.11](#))

**1270.10 COMPLIANCE.**

- (a) When the site has been inspected and found in compliance with all of the requirements and conditions of the approved final site plans and specifications, the performance bond or guarantee may be released.

**DRAFT**

**CHAPTER 1272  
Open Space/Conservation District**

1272.01	Intent.	1272.08	Street & Improvement Requirements.
1272.02	Conformity to Standards.	1272.09	Homeowners Associations.
1272.03	Reserved.	1272.10	Phased Development.
1272.04	Permitted Land Uses.	1272.11	Procedures.
1272.05	Density.	1272.12	Site Plan Review Criteria.
1272.06	Open Space Requirements		
1272.07	Development Standards.		

**1272.01 INTENT.**

The Open Space/Conservation Districts (OC-1, OC-2) are established to encourage and accommodate creative and imaginative Open Space/Conservation Developments that provide for cluster housing and the preservation of open space and natural features in a unified project. In compliance with the following regulations, it is intended that Open Space/Conservation Developments will utilize innovations in the technology of land development that are in the best interests of the City. These regulations are designed to achieve, among others, the following objectives:

- (a) To allow creativity, variety, and flexibility in design as necessary to implement the goals and objectives set forth in this Chapter.
- (b) To promote economical and efficient use of land and public services through unified development, especially in areas which contain significant environmental features.
- (c) To preserve, to the greatest extent possible, the existing landscape features and amenities, and to utilize such features in a harmonious fashion.
- (d) To permit the flexible spacing of lots and buildings in order to encourage the preservation of the natural features of the site and the provision of recreation areas and green spaces as well as the creation of functional and interesting residential areas.
- (e) To ensure that the proposed Open Space/Conservation Development occurs in a unified manner in accordance with a site plan prepared by the property owner.

**1272.02 CONFORMITY TO STANDARDS.**

- (a) Because of the special characteristics related to Open Space/Conservation Development, specific provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this Chapter and those of other Chapters of this Zoning Code, the provisions set forth in this Chapter shall prevail. Any existing provisions that are not

**DRAFT**

covered by this Chapter shall be governed by the respective provisions found elsewhere in this Zoning Code.

**1272.03 RESERVED.**

**1272.04 PERMITTED LAND USES.**

- (a) The dwelling types that are permitted by right within an Open Space/Conservation District are listed in Schedule 1272.04.

<b>Schedule 1272.04 Permitted Dwelling Types</b>	
	<b>OC-1/OC-2</b>
(a) One-family dwelling, detached	P
(b) Cluster One-family detached dwelling	P
(c) Two-family dwelling	P
(d) One-family attached dwelling; with not more than 4 units attached	P
(e) Accessory Uses, such as community buildings and recreational facilities, detached accessory buildings	P
P = Use permitted by right	

**1272.05 DENSITY.**

An Open Space/Conservation Development shall not exceed the densities as set forth in this Section.

- (a) Maximum Density. Except as provided for in sub-section (c) below, the gross density in an Open Space/Conservation Development shall not exceed the maximum number of dwelling units per acre set forth in Schedule 1272.05 for the district in which the Open Space/Conservation Development is located. The maximum number of dwelling units permitted for a particular site shall be calculated by:
  - (1) Deducting any public right-of-way within the project boundary existing at the time the site plan is submitted; and,
  - (2) Multiplying the result of subsection (1) by the maximum number of dwelling units set forth in Schedule 1272.05.
- (b) Maximum Number of Units on Any One Acre. The number of units permitted on any one acre of the site shall not exceed the units set forth in Schedule 1272.05. An imaginary square, approximately 209 feet by 209 feet, shall be used to determine the maximum number of units on any one (1) acre of the site.

**DRAFT**

<b>Schedule 1272.05 Density Regulations</b>		
	OC-1	OC-2
(a)	Maximum dwelling units per acre	1.7
(b)	Maximum net density on any one acre	4 <sup>(a)</sup>
<p><sup>(a)</sup> If a density bonus is granted pursuant to Section 1272.05 (c), the maximum net density on any one acre may be increased as approved by the Planning Commission.</p>		

- (c) Density Bonus. The Planning Commission may permit a density bonus to increase the maximum density set forth in Schedule 1272.05. The maximum dwelling units per acre shall not exceed twenty-five percent (25%) of the permitted maximum given in Schedule 1275.05. Such density bonus may be permitted under the following circumstances:
- (1) Protection of the ecologically highest quality natural areas such as those identified in the Fairlawn Comprehensive Plan Update: Cleveland-Massillon Road Area;
  - (2) Provision of storm water management techniques that maintain or enhance existing storm water management patterns, especially those identified in the Fairlawn Comprehensive Plan Update: Cleveland-Massillon Road Area;
  - (3) Restoration of natural resources to further buffer dwellings units from higher intensity development, such as discussed in the Fairlawn Comprehensive Plan Update: Cleveland-Massillon Road Area, and provision of greater buffers from the project boundary than required by this Chapter; or,
  - (4) Provision of greater amounts of open space than required by this Chapter to further the City’s goals of creating conservation development in those areas identified with an Open Space/Conservation use designation in the Fairlawn Comprehensive Plan Update: Cleveland-Massillon Road Area.

**1272.06 OPEN SPACE REQUIREMENTS.**

A portion of the area in an Open Space/Conservation Development shall be devoted to open space.

- (a) General Standards. The open space shall comply with the following regulations:
- (1) The minimum open space required shall be fifty percent (50%) of the entire project area in OC-1 District and thirty-five percent (35%) in the OC-2 District.
  - (2) Open space shall be aggregated areas but shall not include the following:
    - A. Public rights-of-way and parking areas;

**DRAFT**

- B. Land fragments between two or more buildings, land fragments between buildings and parking areas, and any other land within fifteen (15) feet of all buildings and structures; and,
  - C. Required yards, setbacks, or spacing between project boundaries and buildings or parking areas, unless the required setback is contiguous to and part of a larger area of open space.
- (3) To the extent possible, open space areas shall be interconnected within the development and to adjacent parcels, and shall be accessible to residents of the Open Space/Conservation Development.
- (4) Open space shall be designed and located to preserve significant natural features to the maximum extent possible. The following priorities should be considered when determining the land for open space designation:
- A. Wetlands, floodplains, lakes and ponds, and other water resources. The site plan should avoid alteration of or construction within natural drainage ways, and shall utilize low impact storm water management techniques such as grassy swales to the extent possible.
    - 1. Wetlands Protection. Wetlands that are required by the Army Corps of Engineers or the Ohio EPA to be retained shall be protected by the following:
      - a. A buffer area having a width not less than twenty-five (25) feet measured from the edge of the designated wetland. The area within this buffer shall not be disturbed and shall be retained in its natural state.
      - b. A minimum building and pavement setback of thirty-five (35) feet, measured from the edge of the designated wetland.
    - 2. Floodplain Protection. A minimum building and pavement setback of twenty-five (25) feet from a designated floodplain.
  - B. Woodlands, orchards, prime farmlands, meadows, and other vegetation. The design and layout of the development shall conserve and incorporate these areas to the maximum extent possible, especially those containing significant wildlife habitats.
  - C. Scenic visual areas with respect to tree lines, unique vegetation, wildlife habitat, and other natural features. To the maximum extent possible, structures shall be located to ensure that scenic views and vistas are unblocked or uninterrupted, particularly as seen from existing and proposed public thoroughfares.

**DRAFT**

- (5) When approved by the City, a portion of the open space may be used as retention basins, provided they are designed, arranged and landscaped in a manner consistent with the requirements for open space areas.
  - (6) The open space established shall be:
    - A. Dedicated to a homeowners association or similar legal entity that shall have title to the land to be retained as open space;
    - B. Given to a land trust or other conservation organization recognized by the City; or,
    - C. Offered to the City for public open space. The City shall have the right to not accept any land area offered to the City. In the event of such refusal, the conditions of A. or B. above, shall apply. Any land area that is accepted by the City for dedication as public open space shall also continue to be counted toward the requirement for open space.
  - (7) The legal documents relating to the ownership, management, public easements if any, and maintenance of such open space shall be reviewed and approved by the City's Law Director. The Law Director shall indicate such approval prior to the final site plan being approved.
- (b) Recreation Allowances. With the exception of extremely environmentally sensitive areas, passive recreation shall be permitted in open space for the enjoyment of the residents of the proposed development and/or the public. Active recreation shall be limited to no more than five percent (5%) of the open space. Recreational facilities proposed to be constructed in dedicated open space shall be clearly shown on the site plans.
- (c) Prohibition of Further Development of Open Space. The open space, required by Section **1272.06**, shall be prohibited from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the City's Law Director and duly recorded in the Office of the Recorder of Summit County.

**1272.07 DEVELOPMENT STANDARDS.**

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

- (a) Minimum Setbacks from Project Boundaries and Streets: All buildings, structures and parking areas shall comply with the minimum setbacks set forth in Schedule **1272.07**.
- (b) Minimum Separation Between Buildings: In order to ensure reasonable privacy and separation, individual buildings including terraces, decks, patios and similar features shall be separated by the minimum spacing set forth in Schedule **1272.07**.

**DRAFT**

- (b) Height Requirements. No principal building shall exceed two and one-half (2-1/2) stories or thirty-five (35) feet in height, except as provided in Section 1288.02. Accessory buildings shall not exceed eleven (11) feet in height
- (c) Lot Requirements: Dwelling units are not required to be on lots. However, when lots for standard detached one-family dwellings or subdivision lots for cluster one-family detached dwellings are included as part of a Open Space/Conservation Development, such lots or sub lots shall be of sufficient size and shape to accommodate dwelling units in compliance with the spacing requirements of this Section.
- (d) Required Buffer: A buffer area with a minimum width of thirty-five (35) feet from an existing public street right-of-way and from a perimeter side or rear property line is required. The buffer area shall be landscaped as required by Section 1296.06 (g) in order to provide adequate landscaping between the proposed development and adjacent areas.
- (e) Utilities: Underground utilities, including telephone and electrical systems, are required within the limits of a Open Space/Conservation Development. Appurtenances to these systems that can be effectively screened may be exempted from this requirement if the City finds that such exemption will not violate the intent or character of the proposed Open Space/Conservation Development.
- (f) Sewage Disposal: Development shall be served by public sewage disposal structures.
- (g) Additional Standards: Additional development requirements, whether standards or criteria, formulated to achieve the objectives of the Open Space/Conservation Development may be established at the time a Open Space/Conservation Development site plan is reviewed. Any such development requirements adopted with such plan shall become binding land use requirements for the development.
- (h) Waivers: In the event the City, determines that certain standards set forth in this Chapter do not or should not apply specifically to the circumstances of a particular project and an alternative method of achieving the objectives of the numerical standard is equal to or better than the strict application of the specified standard, the Planning Commission may relax such standard to the extent deemed just and proper, provided that the granting of such relief shall be without detriment to the health and safety of the community and without detriment to or impairment of the intent of this Chapter. However, if the Planning Commission permits the required open space to be located on individual, subdivided lots, a deed restriction or other legal mechanism should be utilized to insure that the required open space remains in the state shown on the approved final site plan.

**DRAFT**

(i) Schedule 1272.07 Development Standards:

<b>Schedule 1272.07 Development Standards</b>	
	<b>OC-1/OC-2</b>
<b>(a) Minimum Setbacks</b>	
(1) Building	
° Existing street right-of-way	75 ft./30 ft.
° Internal street <sup>(a)</sup>	30 ft.
° Setback from project boundary, other than a public street <sup>(c)</sup>	50 ft.
(2) Parking <sup>(b)</sup>	
° Existing street right-of-way	30 ft.
° Setback from project boundary, other than a public street <sup>(c)</sup>	35 ft.
<b>(b) Minimum Spacing Between Buildings</b>	15 ft. <sup>(d)</sup>
<p><sup>(a)</sup> If the internal street is public, the setback is measured from the right-of-way. If it is private, the setback is measured from the edge of the pavement of the street.</p> <p><sup>(b)</sup> Parking shall be provided in accordance with the requirements of Chapter 1284.</p> <p><sup>(c)</sup> The project boundary line shall include all lot lines that divide the tract of land developed for Open Space/Conservation Development from adjacent lots not included in the development.</p> <p><sup>(d)</sup> Projections, other than those specified in sub-section 1272.07 (b), shall comply with sub-section 1258.08(a)(1).</p>	

**1272.08 STREET & IMPROVEMENT REQUIREMENTS.**

- (a) Each lot and building envelope within an Open Space/Conservation Development shall have sufficient access to ensure safe and efficient traffic flow and reasonable ingress and egress as determined by the Planning Commission. All improvements required for a subdivision shall be constructed or provided in accordance with the applicable standards set forth for streets in Chapter 1228, Design Standards.

**1272.09 HOMEOWNERS ASSOCIATIONS.**

Homeowners associations, community associations, or similar legal entities that are responsible for the maintenance and control of common areas including recreational facilities, open space, private streets, and buffer areas, shall be established in such a manner that complies with the

**DRAFT**

following regulations. The City's Law Director shall determine that, based on documents submitted with the site plan, the association's or agency's bylaws or code of regulations specify the following requirements:

- (a) Membership in the Association shall be mandatory for all purchasers and/or owners of lots in the development or units in a condominium;
- (b) The Association shall be responsible for maintenance, control, and insurance of open space and all common areas, including any applicable easements and private streets;
- (c) The Association shall have the power to impose assessments on members for the maintenance, control and insurance of open space and common areas, and have the power to place liens against individual properties for failure to pay assessments;
- (d) The conditions and timing of transfer of control from the developer to the unit or lot owners shall be specified;
- (e) The Association shall not authorize its dissolution or the sale, transfer or other disposal of any common area, including required open space, without (i) an affirmative vote of seventy-five (75) percent of its members, (ii) having established a successor entity to take over said property; and (iii) the approval of the City Council.
- (f) The Association shall convey to the City and other appropriate governmental bodies, after proper notice, the right to enter to any common area for emergency purposes or in the event of nonperformance of maintenance or improvements affecting the public health, safety, and welfare. Such governments shall have the right, after proper notice, to make improvements and perform maintenance functions. In addition, the City shall have the right to proceed against the Association for reimbursements of said costs, including the right to file liens against individual condominium units, houses, dwelling, and vacant building lots.
- (g) A certified copy of all covenants and restrictions, as recorded with the Summit County Fiscal Office, shall be submitted to the Zoning Administrator.

**1272.10 PHASED DEVELOPMENT.**

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

**1272.11 PROCEDURES.**

The Planning Commission shall review and approve site plans for a proposed Open Space/Conservation Development according to the procedures set forth in Chapter 1240, Site Plan Review Procedures.

**DRAFT**

- (a) Submission of Preliminary Site Plan. The applicant shall submit a Preliminary Site Plan application to the Zoning Administrator. The application shall include documentation illustrating compliance with the standards and criteria set forth in this Chapter. The application and documentation shall include the submission requirements in Chapter 1240 as well as the following:
- (1) Identification of existing site characteristics, including a general depiction of:
    - A. Boundaries of the area proposed for development, dimensions and total acreage;
    - B. Location of wetlands (and potential wetlands), the floodway boundary and floodway elevation as delineated by the Federal Emergency Management Agency, rivers and streams and their related river or stream bank, ponds, and water courses;
    - C. Locations of all wooded areas, tree lines, hedgerows, and specimen trees;
    - D. Delineation of existing drainage patterns on the property, existing wells and well sites; and,
    - E. Description of significant existing vegetation by type of species, health, quality, etc.
  - (2) The preliminary site plan shall include:
    - A. A preliminary layout of all dwelling units, including the building envelope;
    - B. The location of any proposed recreational facilities;
    - C. Natural features to be conserved and any required buffer areas; and,
    - D. Natural features to be altered or impacted by the development and areas where new landscaping will be installed, etc.
  - (3) An outline of the method/structure to perpetually preserve the required open space which indicates, as applicable:
    - A. The structure of the association;
    - B. Membership requirements;
    - C. Financial responsibilities; and,
    - D. Any entity having responsibilities related to the preservation of the required open space.
  - (4) A description of the project phasing, if any, including the phased construction of open space improvements.

**DRAFT**

- (b) Significance of Approved Plan. Approval of the preliminary site plan shall:
- (1) Establish the development framework for the project, including the general location of open space, development areas, densities, unit types, recreational facilities, if any, and street alignments.
  - (2) Be the basis for the application to proceed with detailed planning and engineering in reliance on the approved preliminary site plan.
  - (3) Provide the benchmark for the City to consider and approve amendments to the preliminary site plan when the City determines that the amended plan is equal to or better than the approved preliminary site plan.
  - (4) Authorize the applicant to apply for all other required regulatory approvals for the project or subsequent phases thereof.
- (c) Final Site Plan. Prior to receiving a Zoning Certificate, the final site plan must be approved by the Planning Commission according to the procedures in Chapter 1240, Site Plan Review Procedures. Such final site plan may be approved for a phase of the project, or the final site plan may include the entire project.
- (1) Submission Requirements. In addition to the requirements in Chapter 1240 the final site plan shall include:
    - A. A site plan indicating:
      - i. Dimensions of building spacing including all lots and the maximum parameters, or building envelopes that indicate where buildings and accessory structures such as but not limited to decks and patios will be located, and shall demonstrate that such building location will be in compliance with the spacing requirements of this Chapter; and,
      - ii. Designated open space areas and a description of proposed open space improvements.
    - B. Conditions imposed by other regulatory agencies.
  - (2) Review by the City's Law Director. The City's Law Director shall review the Declaration, Articles of Incorporation and Code of Regulations for a Homeowners' Association, and any other final covenants and restrictions and maintenance agreements to be imposed upon the Open Space/Conservation Development. A written opinion shall be provided to the Planning Commission verifying that the submitted documents demonstrate full compliance with the requirements for Owners' Associations in this Chapter.

**1272.12 SITE PLAN REVIEW CRITERIA.**

In addition to complying with the standards in this Chapter, the Planning Commission shall only approve a preliminary or final site plan when it is determined to be in compliance with the applicable criteria in Chapter 1240, Site Plan Review Procedures, and the following criteria:

**DRAFT**

- (a) Each phase of the development can exist as an independent unit capable of creating an environment of sustained desirability and stability should remaining phases not be completed or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have beneficial effect which could not be achieved under standard district regulations.
- (b) The development will preserve and be sensitive to the natural characteristics of the site in a manner that complies with the applicable regulations set forth in this Zoning Code and the policies in the Comprehensive Plan Update, when applicable.
- (c) The development will be designed so that the area surrounding said development can be developed in coordination and substantial compatibility with the proposed development.
- (d) Maximum possible privacy for adjacent residential properties shall be provided through good design, the use of the building materials, and preservation of natural features and supplemental landscaping according to the requirements set forth in this Zoning Code.
- (e) Adequate provisions are made in the final covenants and restrictions to be imposed upon the development relating to the following:
  - (1) The use and development of accessory buildings and uses associated with individual dwellings.
  - (2) The maintenance of the land, including any common areas, private streets, and sidewalks.
- (f) On-site circulation shall be designed to provide for adequate fire and police protection, and safe and efficient pedestrian and vehicular circulation.
- (g) Adequate provision is made for storm drainage and sediment control in compliance with applicable City provisions.
- (h) The proposed development complies with all other applicable provisions of this Zoning Code.

# CHAPTER 1274

## Provisions Applicable to All “B” Districts

- [1274.01](#) Intent.
- [1274.02](#) Use regulations.
- [1274.03](#) Height exceptions.
- [1274.04](#) Setbacks; reduction or use by another building.
- [1274.05](#) Reserved.
- [1274.06](#) Reserved.
- [1274.07](#) Reserved.
- [1274.08](#) Site plans.
- [1274.09](#) Compliance with sanitary regulations required.
- [1274.10](#) Signs.
- [1274.11](#) Exterior display or sale of products.
- [1274.12](#) Reserved.
- [1274.13](#) Parking setbacks.

### **1274.01 INTENT.**

- (a) Limited business, retail business, general business and office park/research districts and their regulations are established herein in order to achieve, among others, the following purposes:
  - (1) To provide appropriate and convenient locations, for zoning districts of sufficient size for the exchange of goods and services and other business activities;
  - (2) To provide limited business districts to serve the need for office and quasi-public uses which do not attract large volumes of traffic;

---

**DRAFT**

- (3) To provide retail business districts which may require larger land area, and which may be open in evenings and generate large volumes of traffic while serving the need for shopping and convenience goods and services of the entire community;
- (4) To provide general business districts in proximity to the intersection of major arterial streets and freeway interchanges to serve the personal needs of motorists, and to provide facilities for the serving of vehicles;
- (5) To establish criteria and procedures for planned business areas so they may be coordinated with surrounding developments;
- (6) To protect adjacent residential neighborhoods by regulating the types and spacing of business uses, particularly at the common boundaries, which would create hazards, noise, odors or other or other objectionable influences;
- (7) To promote the most desirable land use and traffic patterns in accordance with the objectives and the comprehensive plan.

**1274.02 USE REGULATIONS.**

Buildings and land shall be used and buildings shall be designed, erected, and altered, moved, or maintained in Business Districts only for the uses set forth in [Schedule 1274.02](#).

- (a) Uses Permitted By Right. A use listed in [Schedule 1274.02](#) shall be permitted by right as a principal use in a district when denoted by the letter “P” provided that all requirements of other city ordinances and this Zoning Code have been met;
- (b) Conditional Uses. A use listed in [Schedule 1274.02](#) shall be permitted as a conditional use in a district when denoted by the letter “C”, provided the Planning Commission first makes the determination that the requirements of [Chapter 1287](#) have been met according to the procedures set forth in [Chapter 1241](#);
- (c) Accessory Uses. A use listed in [Schedule 1274.02](#) shall be permitted as an accessory use in a district when denoted by the letter “A” provided that the requirements of all other City ordinances and this Zoning Code have been met.

**DRAFT****Schedule 1274.02 - Business Districts**

	B-4 Office Park/ Research District	B-1 Limited Business District	B-2 Retail Business District	B-3 Business District
<b>Office and Professional Services</b>				
1 Office, Administrative/ Business/Professional	P	P	P	P
2 Offices, Medical/Dental	P	P	P	P
3 Urgent Care		C	C	C
4 Banks	A <sup>(b)</sup>	C	P	P
5 Hospitals		C		
6 Laboratories - research and testing	P	P		
7 Schools, Specialty/ Personal Instruction	C	C	C	C
<b>Retail and Services</b>				
1 Retail establishments			P	P
2 Service establishments - Personal	A <sup>(a)</sup>	A	P	P
3 Restaurants - sit down	A <sup>(b)</sup>		C	P
4 Restaurants - counter service	A <sup>(b)</sup>	A	C	P
5 Night Club			C	C
6 Funeral homes, mortuaries			C	P
7 Health Club	A	C	P	P
8 Drive-thru services		C	C	C
9 Outdoor display (such as landscaping materials and cemetery monuments)			A	A
10 Outdoor Storage			C	C
11 Kennels				C
12 Day Care Facility, adult	C		P	p

**DRAFT**

	B-4 Office Park/ Research District	B-1 Limited Business District	B-2 Retail Business District	B-3 Business District
and/or children				
<b>Lodging</b>				
1 Hotels and motels			C	C
<b>Automotive/Transportation</b>				
1 Automobile sales and service				P
2 Vehicle Repair Garage			C	C
3 Automobile Service Station			C	C
4 Car wash			C	C
5 Park and Ride Facility			C	C
6 Gasoline Station			C	C
<b>Entertainment/Recreation</b>				
1 Commercial recreation, Indoors			C	C
2 Commercial Recreation, Outdoors			C	C
3 Membership Clubs			C	C
<b>Community Facilities/Other</b>				
1 Cultural Institutions	C	C	C	C
2 Utility substation/distribution facility, indoor & outdoor	C	C	C	C
<b>Accessory Uses</b>				
1 Storage	A	A	A	A
2 Signs	A	A	A	A
3 Off-street parking	A	A	A	A
4 Loading	A	A	A	A
5 Parking garages	A		C	

**DRAFT**

	B-4 Office Park/ Research District	B-1 Limited Business District	B-2 Retail Business District	B-3 Business District
6 Cafeterias and lunch rooms	A			
7 Backup generators	A	A	A	A
8 Outdoor display	A	A	A	A
9 Supporting services <sup>(a)</sup>	A			
10 Portable Storage Container			C	C
<sup>(a)</sup> As further regulated by Sub-section 1283.02 (b)(5) <sup>(b)</sup> As further regulated by Sub-section 1283.02 (b)(6)  <b>P = Use permitted by right; C = Conditional use; A = Accessory use; Blank cell = Use not permitted in district</b>				

**1274.03 HEIGHT EXCEPTIONS.**

- (a) In B-1, B-2, and B-3 Districts, the height of the building may be increased to a total of fifty (50) feet, subject to the approval of the Chief of the Division of Fire and Emergency Rescue Services, and the Planning Commission.
- (b) The Chief of the Division of Fire and Emergency Rescue Service shall base such approval on a finding that the following conditions have been met:
  - (1) The standpipes have been or will be installed on each floor pursuant to OBC and OFC specifications;
  - (2) That fire hydrants have been or will be installed to meet the required fire flow established by Insurance Service Offices (ISO);
  - (3) The access to the building and clearance to canopies and other overhead structures shall be as specified by the Fire Chief.
- (c) The Planning Commission shall base their approval on a finding that:
  - (1) The increased height limitations are in conformity with the general plan of the City.
  - (2) The increased height is compatible with surrounding uses.
  - (3) The applicant will provide adequate screening and landscaping so as to provide an aesthetically acceptable appearance.

---

**DRAFT**

- (4) The applicant will provide a detailed plan for the facade and put forth a construction proposal that will provide as much light and air as possible to the neighborhood property owner.
- (5) Other considerations and provisions that **the Planning commission** deems appropriate for the public safety, welfare and health have been or will be complied with.

**1274.04 SETBACKS; REDUCTION OR USE BY ANOTHER BUILDING.**

- (a) No lot, yard, **setback**, court, parking area or other open space shall be so reduced in area or dimensions as to make any such area or dimensions less than the minimum required by this Zoning Code; if already less than the minimum required it shall not be further reduced. No required open space or setback provided about any building or structure shall be included as a part of any open space or setback required for another building or structure.

**1274.05 RESERVED.****1274.06 RESERVED.****1274.07 RESERVED.****1274.08 SITE PLANS.**

- (a) All uses in the “B” Districts shall be permitted only after site plans have been reviewed and approved according to the procedures set forth in Chapter **1240**, Site Plan Review Procedures.

**1274.09 COMPLIANCE WITH SANITARY REGULATIONS REQUIRED.**

- (a) Sanitary regulations prescribed by law shall be complied with.

**1274.10 SIGNS.**

- (a) Signs in all “B” districts shall be designed, erected and maintained, in whole or in part, in accordance with the regulations as set forth in Chapter **1298**.

**1274.11 EXTERIOR DISPLAY OR SALE OF PRODUCTS.**

- (a) The exterior display or sale of products shall be limited to the B-2 and B-3 Districts and to the locations that comply with the following requirements:
  - (1) All displays shall be displayed so as not to create a safety hazard to the general public;

**DRAFT**

- (2) Every display area shall contain a walking area that is a minimum of five (5) feet wide in unobstructed width;
- (3) Only the business owner of the abutting interior business may place displays on the exterior;
- (4) Display areas shall be arranged so that it shall not be necessary for customers or persons to walk in vehicle driving areas in order to inspect the goods or pass the displays;
- (5) Parking lots, and landscape areas, and parking setbacks shall not be used for exterior displays or sale of products.
- (6) Any proposed exterior display or sale of products shall be approved pursuant to the Site Plan Review Procedures in accordance with Chapter 1240.

**1274.12 RESERVED.**

**1274.13 PARKING SETBACKS.**

- (a) Schedule 1274.13 Minimum Parking Setbacks. In the B-1, B-2, and B-3 Districts, off-street parking shall be located in compliance with the minimum setbacks, measured from the street right-of-way or property line, as specified below unless otherwise noted in this Zoning Code.

<b>Schedule 1274.13 Minimum Parking Setbacks</b>	
	<b>B-1, B-2, B-3 Districts</b>
<b>(1) Minimum Setback from Street ROW</b>	25 feet
<b>(2) Setback from Side and Rear Lot line abutting nonresidential dist.</b>	10 feet
<b>(3) Setback from Side and Rear Lot line abutting residential dist.</b>	20 feet <sup>(a)</sup>
<sup>(a)</sup> As further regulated by Section 1274.13 (b)	

- (b) Exception to Parking Setback Abutting Residential. The Planning Commission may grant an exception to this requirement where necessary due to the shallow depth of the parcel, the location of mature trees or other significant environmental features, the location of existing buildings/structures, the proximity of residential uses, or other similar circumstances.

---

**DRAFT**

- (c) The area within the parking setback shall be landscaped in accordance with Chapter 1296, Landscaping and Screening Regulations.

# CHAPTER 1276

## B-1 Limited Business District

[1276.01](#) B-1 Use regulations.

[1276.02](#) General requirements.

[1276.03](#) Height requirements.

[1276.04](#) Area, width and setback requirements.

### 1276.01 B-1 USE REGULATIONS.

- (a) In a B-1 Limited Business District, no building or premise, unless otherwise provided in this Zoning Code, shall be used, arranged, or intended to be used except for the uses in [Schedule 1274.02](#).

### 1276.02 GENERAL REQUIREMENTS.

- (a) All of the provisions of Chapter [1274](#), are fully applicable to all structures, premises and uses in a B-1 Limited Business District.
- (b) No structure or premises shall be erected, occupied or used until application is made to the Planning Commission for approval of such structure or use. The Commission shall review such plans according to the procedures in [Chapter 1240](#).
- (c) Off-street parking shall be provided in accordance with [Chapter 1284](#)

### 1276.03 HEIGHT REQUIREMENTS.

- (a) No structure or building shall exceed thirty-six (36) feet in height, except as provided in Section [1274.03](#).

### 1276.04 AREA, WIDTH AND SETBACK REQUIREMENTS.

- (a) Area, width and setback requirements, shall be as specified in this Chapter, except as provided for in Chapters [1274](#) and [1288](#).
- (b) Minimum lot width – 150 feet.
- (c) Minimum front setback shall be twenty-five (25) feet, except that where a B-1 District adjoins an “R” District, the minimum front setback in such B-1 District within one hundred (100) feet of such “R” District (measured along the street on

---

**DRAFT**

which such districts join and front) shall be same as that required in such adjoining “R” District.

- (d) There shall be a minimum side setback of six (6) feet required, except where the B-1 District adjoins an “R” District or a lot used as a residence, in which case the requirement shall be the same as for the “R” District or residence.
- (e) The minimum rear setback shall be forty (40) feet.

# CHAPTER 1278

## B-2 Retail Business District

[1278.01](#) B-2 Use regulations.

[1278.02](#) General requirements.

[1278.03](#) Height requirements.

[1278.04](#) Area, width and setback requirements.

### 1278.01 B-2 USE REGULATIONS.

- (a) In a B-2 Retail Business District, no building or premise, unless otherwise provided in this Zoning Code, shall be used, arranged, or intended to be used except for the uses in [Schedule 1274.02](#).

### 1278.02 GENERAL REQUIREMENTS.

- (a) All of the provisions of Chapter [1274](#) are fully applicable to all structures, premises and uses in a B-2 Retail Business District.

### 1278.03 HEIGHT REQUIREMENTS.

- (a) No structure shall exceed thirty-six (36) feet in height, except as provided in Section [1274.03](#).

### 1278.04 AREA, WIDTH AND SETBACK REQUIREMENTS.

- (a) Area, width and setback requirements shall be as specified in this Chapter, except as provided for in Chapters [1274](#) and [1288](#).
- (b) Minimum Lot Width – 150 feet.
- (c) Minimum front setback shall be twenty-five (25) feet, except that where a B-2 District adjoins an “R” District, the minimum front setback in such B-2 District within one hundred (100) feet of such “R” District (measured along the street on which such districts join and front) shall be same as that required in such adjoining “R” District.
- (d) There shall be a minimum side setback of six (6) feet required, except where the B-2 District adjoins an “R” District or a lot used as a residence, in which case the requirement shall be the same as for the “R” District or residence.
- (e) The minimum rear setback shall be forty (40) feet.

# CHAPTER 1280

## B-3 Business District

- [1280.01](#) B-3 Use regulations.
- [1280.02](#) General requirements.
- [1280.03](#) Height requirements.
- [1280.04](#) Area, width and setback requirements.

### 1280.01 B-3 USE REGULATIONS.

- (a) In a B-3 General Business District, no building or premise, unless otherwise provided in this Zoning Code, shall be used, arranged, or intended to be used except for the uses in Schedule [1274.02](#).

### 1280.02 GENERAL REQUIREMENTS.

- (a) All of the provisions of [Chapter 1274](#), are fully applicable to all structures, premises and uses in a B-3 General Business District.

### 1280.03 HEIGHT REQUIREMENTS.

- (a) No structure shall exceed thirty-six (36) feet in height, except as provided in Section [1274.03](#).

### 1280.04 AREA, WIDTH AND SETBACK REQUIREMENTS.

- (a) Area, width, and setback requirements shall be as specified in this Chapter, except as provided for in Chapters [1274](#) and [1288](#).
- (b) Minimum Lot Width – 150 feet.
- (c) Minimum front setback shall be twenty-five (25) feet, except that where a B-3 District adjoins an “R” District, the minimum front setback in such B-3 District within one hundred (100) feet of such “R” District (measured along the street on which such districts join and front) shall be same as that required in such adjoining “R” District.
- (d) There shall be a minimum side setback of six (6) feet for landscaping and at least one (1) twelve (12) foot paved access to the rear yard for fire access in addition to the

**DRAFT**

above. Where the B-3 District adjoins an “M” or an “R” District or a lot used as a residence, the requirement shall be the same as for the adjoining district or residence.

- (e) The minimum rear setback shall be forty (40) feet.

# **CHAPTER 1282 – RESERVED**

# CHAPTER 1283

## B-4 Office Park/Research District

- [1283.01](#) Intent.
- [1283.02](#) B-4 Use regulations.
- [1283.03](#) Lot area, width and coverage requirements.
- [1283.04](#) Setback requirements.
- [1283.05](#) Supplementary setback requirements.
- [1283.06](#) Height requirements.
- [1283.07](#) Required landscaping and buffering.
- [1283.08](#) Reserved.
- [1283.09](#) Design plans.
- [1283.10](#) Supplemental design criteria.

### 1283.01 INTENT.

- (a) The B-4 Office Park/Research District and its regulations are established herein in order to achieve, among other, the following purposes:
  - (1) To encourage the logical development of land for office uses in accordance with the objectives in the Comprehensive Plan.
  - (2) To provide Office Park/Research Districts in appropriate and convenient locations to meet the needs of the City's expected future economy for research facilities and office uses.
  - (3) To protect residential neighborhoods adjacent to office uses by controlling the use, spacing, intensity, height and overall development of office sites.
  - (4) To ensure the highest quality of development which protects existing development from incompatible building and site designs and thereby maximizes the long-term marketability of the undeveloped sites in this district.

---

**DRAFT****1283.02 B-4 USE REGULATIONS.**

- (a) No building and land shall be used, or building designed, erected, altered, moved or maintained, in whole or in part, in an Office Park/Research District, except for the uses set forth in [Schedule 1274.02](#) and the following regulations:
- (b) Accessory Uses Permitted.
- (1) Incidental storage of materials within entirely enclosed building(s), when such materials are clearly accessory to the principal use.
  - (2) Signs as regulated by Chapter 1298.
  - (3) Off-street parking as required and set forth in [Chapter 1284](#) of this Zoning Code.
  - (4) Loading facilities as set forth in [Chapter 1284](#) of this Zoning Code;
  - (5) Supporting services in compliance with the following:
    - A. Limited to the sale of products or services that are intended to primarily meet the needs of the employees or patrons of the office uses. These are limited to: coffee shops and the sale of sundries (i.e., newspapers, magazines, candy, snacks).
    - B. Permitted only in an office building that has a minimum of twenty thousand (20,000) gross square feet.
    - C. Shall not exceed one thousand (1,000) square feet of floor area in any building.
    - D. Customer entrance must be through the public entrances to the office building, and shall not be provided through separate exterior building entrances.
    - E. Wholesale sales are not permitted directly from the premises.
    - F. No exterior signs advertising the supporting services are permitted.
  - (6) Restaurants and banks in compliance with the following:
    - A. Permitted only in an office building that has a minimum of forty thousand (40,000) gross square feet.
    - B. Only one (1) restaurant and one (1) bank shall be permitted per building.

**DRAFT**

- C. The combined area of the bank and the restaurant shall not exceed ten percent (10%) of the total floor area of the building and shall not exceed thirty-five percent (35%) of the first floor of a building.
- D. Customer entrance shall be through the public entrances to the office building, and shall not be provided through separate exterior building entrances.
- E. Wholesale sales are not permitted directly from the premises.
- F. The nearest portion of any building with a restaurant shall be at least four hundred (400) feet from a Residential District boundary.
- G. Outdoor seating associated with a restaurant shall not exceed twenty-five percent (25%) of the indoor seating capacity of the restaurant.
- H. Exterior signs shall only be permitted when in compliance with Chapter 1298.

**1283.03 LOT AREA, WIDTH AND COVERAGE REQUIREMENTS.**

- (a) In the Office Park/Research District, all buildings and land shall abut a street for the required width. The minimum lot area and width and maximum lot coverage for each office, research, and production operation shall be in accordance with the following Schedule 1283.03:

<b>Schedule 1283.03</b>			
<b>Lot Area, Width and Coverage Requirements</b>			
Use	Minimum Lot Area	Minimum Lot Width	Minimum Green Space
Offices	2 acres	75 feet	30%
Laboratories	2 acres	75 feet	30%

- (b) For buildings newly constructed, the following provisions shall apply:
  - (1) Green space is the portion of the site that is not devoted to buildings, parking, access, loading or any other paved or hard surface, including sidewalks. Green space may include retention or detention areas, Leeds Certified Vegetative Green Roofs not to exceed ten percent (10%) of required green space, conservation easements, wetlands or any other water surface.
  - (2) Buildings shall have a minimum ratio of ten thousand (10,000) square feet of floor area, excluding parking decks, basement and cellar floor area, per acre of developable land.

**DRAFT**

A. “Developable land” means all land not encumbered by a conservation easement, riparian corridors, and wetlands as defined by the Army Corp of Engineers.

**1283.04 SETBACK REQUIREMENTS.**

(a) Setbacks shall be provided for every principal and accessory building in an Office Park/Research District in accordance with the following Schedule 1283.04 and this Chapter:

<b>Schedule 1283.04 Setback Requirements</b>					
Use	Setback from Street R-O-W Line	Setback from Side Lot Line when Lot Adjoins		Setback from Rear Lot Line when Lot Adjoins	
Residential District	Nonresidential District	Residential District	Nonresidential District		
Main or Accessory Building	50 ft. (1)	100 ft. (2)	25 ft.	100 ft. (2)	25 ft.
Parking (4)	30 ft. (1)	40 ft.	10 ft.	40 ft.	10 ft.
Loading	Not allowed in front yard	(3)	25 ft.	(3)	25 ft.

(1) Along 1-77 the minimum setbacks for buildings and parking shall be ten (10) feet.  
 (2) See also Section [1283.06](#) Height Regulations.  
 (3) Not allowed on the side of a building facing a Residential District when such building face is within one hundred ninety-five (195) feet of a Residential District.  
 (4) A maximum of fifteen percent (15%) of the off-street parking provided shall be permitted between the front of the building and the street.

**1283.05 SUPPLEMENTARY SETBACK REQUIREMENTS.**

- (a) Front Setback. Front setbacks shall be not less than that established in the above schedule unless shown otherwise on the Zoning Map. If a portion of the front yard is used for parking in accordance with the above schedule, a poured concrete curb or precast concrete barrier shall be erected or installed along the parking area line not less than the distance set forth above from the front property lines.
- (b) Side and Rear Setback. Side and rear setbacks, where adjoining a Residential District, shall be provided as set forth in the above schedule and shall apply to all buildings, structures and parking and open yard uses.

**DRAFT**

- (c) Side Setback on Corner Lot. Whenever a building is located on a corner lot, the width of the side setback on the side street shall be not less than fifty (50) feet. The parking setback from the side street shall be not less than thirty (30) feet.
- (d) Location of Drives. No direct access shall be permitted onto Cleveland-Massillon Road or Ridgewood Road except for lots that have no other street access.
- (e) Sidewalks. In any Office Park/Research District, pedestrian walking paths shall be reasonably provided between principal buildings, from principal building to accessory uses, and from principal buildings to the edge of the property, in order to create a continuous pedestrian system throughout the Office Park/Research District, and to other adjacent and nearby facilities that reasonably expect pedestrian access. Paths shall be hard surfaced and not less than five (5) feet in width.

**1283.06 HEIGHT REQUIREMENTS.**

- (a) Principal buildings shall have a maximum height of four (4) floors provided that no part of the building including the roof exceeds sixty-five (65) feet. It is further required that the height of any principal building in any Office Park/Research District that is located between one hundred (100) feet and one hundred ninety-five (195) feet of property in a Residential District, which is either vacant or used for residential purposes, shall have a building height no greater than one-third (1/3) the width of that yard which adjoins such Residential District.
- (b) Mechanical space for building equipment placed on the building roof may be allowed above the maximum height specified, provided such mechanical space and screening complies with the following:
  - (1) Does not exceed fifteen (15) feet in height;
  - (2) Complies also with subsection [1283.10\(a\)\(1\)F](#);
  - (3) Is adequately screened from view; and
  - (4) Are approved by the Planning Commission.

**1283.07 REQUIRED LANDSCAPING AND BUFFERING.**

Landscaping, screening, and buffering shall be provided in accordance with the provisions set forth in Chapter [1296](#), Landscaping and Screening Regulations, and the following:

- (a) Front Yard Parking. If a portion of the front yard is used for parking, a four (4)-foot high berm shall be constructed in the yard between the parking area and the street line, and it shall be attractively landscaped and maintained.
- (b) Screening of Accessory Uses. Accessory uses in any Office Park/Research District shall be screened according to the following standards:

---

**DRAFT**

- (1) Dumpsters. Trash and/or garbage collection and service areas shall be enclosed on all sides by a solid wall and a solid gate at least 1 foot-higher than the highest refuse container in the collection area if such area is not within an enclosed building or structure, but in no case shall the wall be less than six (6) feet in height. Such solid wall shall be situated so as to screen the view of the collection area from adjacent roads and properties. Such wall shall be constructed of brick, decorative concrete, split face block, or stone and should be the same as or similar to those utilized on the principal building(s). These enclosures are to be located at least five (5) feet from the property line, unless otherwise specifically regulated in this Code. Supplemental plant materials shall be provided at a minimum height of five (5) feet to effectively screen fifty percent (50%) of the wall.
- (2) Loading and Service Areas. Each loading area shall be screened along any perimeter that faces a street right-of-way or adjoining property according to the screening requirements of subsection **1296.06 (g)(1)**.
- (c) Landscaping When Lot Abuts Cleveland-Massillon Rd. or Ridgewood Rd.
  - (1) Earth mounds shall be installed along these roads to give a consistent appearance and shall not be less than four (4) feet in height.
  - (2) Screening plantings shall be installed to supplement these mounds.
  - (3) Any combination of the above shall be acceptable provided the total height is nine (9) feet.

**1283.08 RESERVED.****1283.09 DESIGN PLANS.**

- (a) In order to carry out the intent and purpose of this chapter, the Planning Commission shall review site plans that have been prepared for specific areas in the B-4 District. Plans submitted for review shall include the Plan Submission Requirements in Chapter **1240**. Such site plans shall be developed in accordance with the criteria set forth in this chapter and in any other applicable provisions of this Zoning Code.
- (b) Such plans may designate locations for temporary streets or access ways for a limited period until streets or access ways will be constructed at locations to comply with the traffic control requirements of this Zoning Code and the City's Code of Ordinances. After such plans are duly approved by the Planning Commission and Council, they shall be construed as being a part of this Zoning Code and compliance therewith is required unless modifications are subsequently approved by the Planning Commission and Council.

---

**DRAFT****1283.10 SUPPLEMENTAL DESIGN CRITERIA.**

- (a) The purpose of this section is to ensure quality development in the B-4 Office Park/ Research District in order to achieve the intent of this Chapter as set forth in Section [1283.01](#). To achieve this end, the building design and site design shall be subject to the site plan review process in accordance with [Chapter 1240](#) of this Zoning Code. In reviewing such applications the Planning Commission shall determine that the applicant has complied with following design criteria:

(1) Building Considerations.

- A. Design. Except for all-glass buildings, large expanses of blank walls shall be avoided. Blank walls are generally characterized by the use of a single wall material and/or all elements of the wall being on the same plane. Blank walls may be avoided by use of, but not limited to, the following:

1. Using windows and architectural details for emphasis.
2. Breaks and fluctuations in the overall rhythm of a building, which are used to draw attention to important areas such as the entry, or simply to relieve the monotony or uniformity of an otherwise blank facade.
3. Using multiple and contrasting building materials. However, the number of materials used should be kept to a minimum so as not to compete for attention and create a visually confusing building design.
4. Recessing windows slightly or expressing the building's structure to allow sunlight and shade to create a more three (3)-dimensional appearance.

B. Materials.

1. Materials shall be used that contribute to the character of the area. Examples of such contributing materials include:
  - a. Glass - mirrored, transparent and/or reflective;
  - b. Brick, not less than three (3) inches thick;
  - c. Stone and other natural material; and
  - d. Veneers of suitable materials not less than three (3) inches thick; and Marble and similar materials shall be not less than one and one-half (1-1/2) inches thick;
  - e. Exposed concrete (poured in place or precast) or steel when used and designed to convey the structure of the building.
2. Conversely, the following materials are not consistent with the intended character of the B-4 district and are considered inappropriate for use:

---

**DRAFT**

- a. Stucco/insulation systems or similar materials unless such materials are utilized as an accent with belt courses, joints, contrasting materials, exposed structural elements, or similar design features and only comprise a small percentage of the building surfaces;
  - b. Unfinished and industrial type materials such as exterior insulated finishes and standing seam or ribbed metal siding unless such materials are part of a roof structure or architectural feature and the use of the materials is otherwise consistent with the overall quality and character of the building design;
  - c. Concrete masonry block whether painted or unpainted, except that decorative concrete masonry units four (4) scores or more may be used in the same locations as in B.1. above; and
  - d. Exposed concrete (poured in place or precast) or steel except when these materials are part of the buildings structure pursuant to **B.1.e** above.
3. The design and materials on the sides and rear of the proposed building should be substantially consistent in the quality of materials and design given to the main or street frontage.
  4. Materials should be selected and used in combination with other materials to reasonably assure that rusting, soiling, staining, streaking or similar types of discoloration or deterioration does not occur.
- C. Colors. Bright or primary colors and other colors that are in stark contrast to other buildings in the area should be avoided as the principal building color.
- D. Additions. The design, colors and materials used for additions to buildings should be guided by the existing work to which it is attached or associated.
- E. Parking Structures. The design and materials of parking structures should be similar to and complement those of the principal building.
- F. Appurtenant and Accessory Structures. Mechanical equipment and other similar appurtenant or accessory structures shall be located to minimize the impact on the building and the community.
1. Air-conditioning units, condenser elements, antennas, and other mechanical equipment shall not be located on the front of the building.
  2. Mechanical equipment on the ground shall be screened in accordance with subsection **1296.07(b)**, or housed in a structure that is constructed with materials that are similar to and compatible with the

---

**DRAFT**

- materials used on the principal building as approved by the Planning Commission.
3. Mechanical equipment attached to the side or placed on the roof of a building, including heating vents, shall be kept as low as possible and shall be screened with materials that are similar to and compatible with the background. When placed on the roof of the building the mechanical equipment should be a minimum of twenty (20) feet from the edge of the roof.
- (2) Site Design. To create a unified development area, a single consistent material or a complementary pattern of materials should be used for all walkways and pedestrian paths. Likewise, similar styles of street furniture, light poles and other site amenities should be used throughout the district.
- A. Access. When feasible, shared driveways serving multiple buildings are encouraged to limit the number of curb cuts and provide greater areas for street landscaping and shared signage.
  - B. Walkways and Pedestrian Paths. Walkways and pedestrian paths, which are required pursuant to Section [1283.05\(e\)](#) shall also comply with the following:
    1. Paths shall be separated from vehicular ways.
    2. Whenever a walkway or pedestrian path intersects with or crosses through a parking lot, the walking path should be delineated with stripes, painting or contrasting materials to differentiate the walking path from the parking lot.
    3. Paths shall be constructed with high quality materials such as concrete, brick, or stamped concrete. However, when the path is proposed as an informal walkway, either extending in and around the natural areas on the site and/or connecting with any adjacent natural or recreation areas, the Planning Commission may approve a gravel or similar soft surface path when constructed to the City's specifications.
  - C. Outdoor Plazas.
    1. Such areas should include amenities such as chairs, tables, benches, fountains, decorative walls and light poles.
    2. Such areas should be lit in the evening. Lighting should be kept at a low level and should not disturb adjacent residential properties.
    3. The use of landscaping in connection with an outdoor plaza is encouraged. Such landscaping may be located along the perimeter of the plaza to create the illusion of a more intimate setting.

---

**DRAFT****D. Street Furniture, Lighting and Other Similar Amenities.**

1. Benches, landscaping, trash receptacles and other similar amenities should be located near walkways.
2. Lighting should be located near all walkways and pedestrian paths. Lighting should be provided with decorative fixtures, kept at a low level and designed and located so as not to disturb adjacent residential properties.
3. Light poles should not be more than fourteen (14) feet in height.

**E. Dumpsters.**

1. Dumpsters should be located in the side or rear yard and away from adjacent residential areas and public roads.
2. Dumpsters shall be screened in accordance with this Zoning Code.

**F. Fences and Screening Walls. Materials and colors of fences and screening walls should be consistent with its associated building's architectural design.**

**DRAFT****CHAPTER 1284  
Off-Street Parking and Loading**

1284.01 Intent.	1284.10 Off-Street Waiting Spaces for Drive-Thru Facilities.
1284.02 Parking Facilities Required.	1284.11 Parking Design Standards.
1284.03 Units of Measure.	1284.12 Loading spaces.
1284.04 Off-Street Parking Standards.	1284.13 Regulations for Access Drives.
1284.05 Parking Spaces for Persons with Disabilities.	1284.14 Improvement and Maintenance Standards.
1284.06 Location of Required Parking Spaces.	1284.15 Parking Area Landscaping and Screening.
1284.07 Allowance for Off-Site Parking.	1284.16 Nonconforming Parking Facilities.
1284.08 Allowance for Shared Parking.	1284.17 Approval of Parking Facilities.
1284.09 Deferred Construction of Required Spaces.	

---

**1284.01 INTENT.**

- (a) Off-street parking regulations are established in order to achieve, among other things, the following purposes:
- (1) To protect adjoining residential neighborhoods from excessive non-residential on-street parking;
  - (2) To relieve congestion so that streets can be fully utilized for the movement of vehicular traffic;
  - (3) To promote the general convenience, safety, welfare and prosperity of commercial developments;
  - (4) To lessen vehicular movement in the vicinity of intensive pedestrian traffic to promote safety and convenience;
  - (5) To provide regulations and standards for the development of accessory off-street parking facilities in accordance with the policies and objectives of the City of Fairlawn;
  - (6) To provide off-street parking and stacking facilities in proportion to the need created by each use; and,
  - (7) To provide for accommodation of vehicles in a functionally and aesthetically satisfactory manner and to minimize external effects on adjacent land uses.

---

**DRAFT****1284.02      PARKING FACILITIES REQUIRED.**

- (a) Off-street parking facilities shall be provided as a condition precedent to the occupancy or use of any building, structure, or land. Every business in a Business (B) District shall provide driveway and parking space sufficient in area and design to assure that all parking, stopping or temporary storage of vehicles generated by such business will be confined within the lot lines of the premises, except as provided for in this Chapter. Facilities shall be provided for the entire building or use in accordance with the regulations contained in this Chapter whenever:
- (1) A building is constructed or a new use is established;
  - (2) An existing building is altered and/or there is an increase in the number of dwelling units, seating capacity, the floor area of a building, or employees; or
  - (3) The use of an existing building is changed to a use that requires more off-street parking

**1284.03      UNITS OF MEASURE.**

- (a) In computing the number of parking spaces required by this Code, the following criteria shall apply.
- (1) Floor Area. 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, unless specifically noted otherwise.
  - (2) Seats. Where seating capacity is the standard for determining parking space requirements, the capacity shall mean the number of seating units installed or indicated, or one seat for each 24 lineal inches of benches or pews, or when fixed seats are not indicated, the capacity shall be determined as specified in the Ohio Building Code.
  - (3) Employees. Where the number of employees are the standard for determining parking space requirements, the number of employees shall mean the sum of the maximum number of employees on any two (2) successive shifts.
  - (4) Fractional numbers. Where the computation results in a fractional unit, fractional numbers shall be increased to the next whole number.
  - (5) Parking for Mixed Uses. The parking spaces required for mixed uses shall be the sum of the parking required for each use considered separately, except as otherwise provided for in this Chapter.

**DRAFT**

- (6) Parking Requirements for Uses Not Specified. For specific buildings or uses not listed in Schedule 1284.04, the Planning Commission shall apply the unit of measurement set forth in the below schedule which is deemed to be most similar to the proposed building use.

**1284.04 OFF-STREET PARKING STANDARDS.**

- (a) The number of off-street parking spaces for each facility or use shall be determined by application of the standards set forth in Schedule 1284.04, except as otherwise provided for in this Zoning Code.

<b>Schedule 1284.04 Required off-Street Parking Spaces</b>	
<b><u>Community/Educational Facilities</u></b>	<b><u>Minimum Parking Requirement</u></b> <sup>(a) (c)</sup>
1. <b>Place of worship, including convents and monasteries</b>	One space for every six (6) seats in the portion of the building to be used for assembly use plus one space for every three hundred (300) square feet of a multipurpose room in a place of worship
2. <b>College, universities</b>	One space per three hundred (300) square feet of floor area
3. <b>Library, cultural institution or similar use</b>	One space per three hundred (300) square feet of floor area
4. <b>Kindergarten, child or adult day care center</b>	2 spaces per classroom but not less than 6 spaces for the building
5. <b>Elementary and junior high schools</b>	2 spaces per class room plus 1 space for every 4 seats in the largest auditorium or assembly room
6. <b>High School</b>	1 space for every teacher, employee and administrator, plus 1 space per 7 students, plus 1 space for every 4 seats in the largest auditorium or sports arena
7. <b>School, specialty/personal instruction</b>	1 space for every instructor, employee and administrator, plus 1 space for every 2 students
8. <b>Municipal buildings</b>	One space per three hundred (300) square feet of floor area
<b><u>Residential Uses</u></b>	
1. <b>One-family detached dwelling</b>	One (1) enclosed space per dwelling unit plus two (2) open spaces
2. <b>Two-family dwelling</b>	One (1) enclosed space per each dwelling unit plus two (2) open spaces

**DRAFT**

<b>Schedule 1284.04 Required off-Street Parking Spaces</b>	
3. <b>Three-family dwelling</b>	One (1) enclosed space per each dwelling unit plus one (1) open space per each dwelling unit
4. <b>One-family attached dwelling; cluster one-family detached dwelling</b>	2 spaces per dwelling unit at least 1 enclosed in a garage, plus guest parking at the rate of 1 space for every 4 dwelling units
5. <b>Multi-family dwelling</b>	Two (2) spaces for each dwelling unit, plus guest parking at the rate of one (1) additional space for each four (4) units
6. <b>Residential Uses in the R-6 District</b>	See Chapter <b>1270</b>
7. <b>Adult care facility and residential facility</b>	1 space per 2 beds
8. <b>Congregate care facility/Nursing home</b>	1 space per 2 beds
<b><u>Office, Professional Services</u></b>	
1. <b>Office, administrative/business/professional (excluding medical and dental)</b>	One (1) space for every three hundred (300) square feet of floor area
2. <b>Banks, financial institutions</b>	One (1) space for every three hundred (300) square feet of floor area
3. <b>Medical/dental/health services and/or clinics, including urgent care clinic</b>	4 spaces per 1000 square feet of floor area
4. <b>Hospital</b>	1 space for every 2 beds, plus 1 space for every 3 employees
5. <b>Laboratories – research and testing</b>	1 space per 400 square feet of floor area
<b><u>Retail/Personal Uses</u></b>	
1. <b>Retail Business or personal service establishment (except as otherwise specified below)</b>	One space for every 250 square feet of floor area
2. <b>Hotels and Motels</b>	One (1) space for each guest sleeping room plus one (1) space for every two (2) employees
3. <b>Restaurants</b>	
- <b>Restaurant (including bars/taverns) – Sit-down</b>	- 10 spaces per 1000 square feet of floor area plus 1 space for each delivery vehicle

**DRAFT**

<b>Schedule 1284.04 Required off-Street Parking Spaces</b>	
<b>- Restaurants – counter service when located in a shopping center <sup>(b)</sup></b>	- 10 spaces, or 1 space per 50 square feet of floor area, whichever is greater, plus 1 space for each delivery vehicle
<b>- Restaurants – counter service when located as the only use in a free-standing building</b>	- 20 spaces, or 1 space per 50 square feet of floor area, whichever is greater, plus 1 space for each delivery vehicle
<b>4. Funeral Homes, Mortuaries</b>	One (1) space for each fifty (50) square feet of floor area of sitting or service rooms, plus one (1) space for each vehicle maintained on the premises
<b>5. Beauty salons and barber shops</b>	2 spaces per beauty or barber chair
<b>6. Kennel</b>	1 space per 1000 square feet of floor area
<b>7. Nightclub</b>	1 space per 3 seats, plus 1 space for every 2 employees
<b><u>Automotive Uses</u></b>	
<b>1. Vehicle repair garages; service stations with or without convenience store</b>	Two (2) spaces for each service bay, plus 1 space for every employee, but never less than 5 spaces
<b>2. Car washes</b>	Two (2) spaces per wash bay
<b>3. Automobile sales and service</b>	One (1) space for each four hundred (400) square feet of floor area of sales room plus one (1) space for each auto service stall in the service room and 1 space per employee
<b>4. Gasoline station/pumps</b>	Two (2) spaces per pump + other use requirements
<b><u>Entertainment-Recreation</u></b>	
<b>1. Theaters, sports facility</b>	One (1) space for each four (4) seats
<b>2. Places of assembly including auditoriums, assembly halls, conference centers, membership clubs, community recreation facilities</b>	One (1) space for every six (6) seats
<b>3. Commercial recreation, indoor</b>	4 spaces per 1000 square feet of floor area

**DRAFT**

<b>Schedule 1284.04 Required off-Street Parking Spaces</b>	
<b>4. Commercial recreation, outdoor</b>	1 space per 1000 square feet of recreation area
<b>5. Health club</b>	1 space per 250 square feet of exercise area, including locker and equipment rooms
<b>6. Golf course (9 holes or more)</b>	8 spaces per green
<b>7. Swimming pools, public or private (not associated with residences)</b>	1 space for every 5 persons, based on pool capacity
<b>8. Municipal Park Buildings</b>	Based on use requirements within the building
<b>9. Parks, recreational fields/playground</b>	5 spaces per acre + other use requirements
<p>(a) A minimum of five (5) spaces is required for each facility other than a one-family detached, one-family attached, two or three-family dwelling.</p> <p>(b) For the purposes of this Section, a shopping center shall include one or more multi-tenant building(s) and/or group of buildings where the required parking spaces are provided in a shared parking lot.</p> <p>(c) Buildings having flexible floor arrangements for various business and ancillary uses, which will not be used for assembly (auditorium), shall be treated Office, administrative/business/professional for calculating parking requirements.</p>	

(b) Parking Requirement Reductions. The Planning Commission may approve a site plan with fewer parking spaces than required by Schedule 1284.04 according to the findings of a parking assessment when submitted according to the regulations of this sub-section.

(1) A parking assessment shall be submitted with the site plan for all proposed uses according to the site plan review procedures set forth in Chapter 1240.

(2) The goal of this parking assessment is to document the applicant’s request to provide fewer parking spaces than required in Section 1284.04. In reviewing the parking assessment, the Planning Commission may approve a fewer number of parking spaces, provided that the parking proposed shall satisfy the parking demands of the use without placing excess burden on other available parking facilities or in surrounding areas of the City.

(3) The parking assessment shall include a description of the use and its anticipated relationship to, and impact on the surrounding community. At a minimum, the assessment shall include the following:

A. The nature of the proposed uses, activities and events that will be accommodated.

**DRAFT**

- B. The maximum design capacity of the facility.
- C. The anticipated pattern of use, including peak hours.
- D. The estimated traffic generation and parking demand, including the estimated number of parking spaces required at peak capacity.
- E. The number of parking spaces required according to Schedule **1284.04** compared to the number of spaces proposed.
- F. How the available spaces meet the needs of the proposed use.
- G. Suggested parking management solutions to address any anticipated discrepancy between the number of parking spaces available and anticipated parking demand.

**1284.05 PARKING SPACES FOR PERSONS WITH DISABILITIES**

- (a) In accordance with the Americans with Disabilities Act (ADA) as amended, all new construction and alterations to places of public accommodation and commercial facilities shall provide parking spaces that are designed and constructed to be readily accessible to persons with disabilities.

**1284.06 LOCATION OF REQUIRED PARKING SPACES**

- (a) 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:
  - (1) The parking spaces required for residential buildings in a Residential District shall be located on the same zoning lot with the building or use served.
  - (2) Required guest parking in a multi-family, cluster one-family detached dwelling, or a one-family attached development, shall be equally distributed throughout the development.
  - (3) Areas Computed as parking Spaces for Residential Uses. Areas that may be computed as open or enclosed off-street parking spaces include any private garage, carport or other area available for parking, other than a street.
  - (4) Off-street parking spaces for non-residential uses shall be located on the same lot as the structure or use unless off-site parking is provided pursuant to Section **1284.07**, Allowance for Off-site Parking.

**DRAFT**

- (5) All required off-street parking spaces shall have direct access to an aisle or driveway without the need to move any other vehicle, except as otherwise specifically permitted in this Chapter.
- (6) Parking in Designated Areas Only. Any vehicle customarily or seasonally parked on any lot shall be so parked only in parking areas specifically constructed for such purposes, and shall not be parked on tree lawns, sidewalks, lawns or other areas required by this Code to be landscaped. No parking of a vehicle shall be permitted on any portion of a lot designated as an accessory structure such as a patio, porch, or deck

**1284.07 ALLOWANCE FOR OFF-SITE PARKING.**

- (a) All off-site parking spaces shall be located on the same lot as the structure or use, except when parking spaces are provided in compliance with all the requirements of this Section.
  - (1) The use shall supply at least fifty percent (50%) of its required spaces on-site. The Planning Commission may grant an exception to this requirement under the following criteria:
    - A. Proximity of the proposed parking area to the use served;
    - B. Ease and safety of access between the proposed parking area and the use served;
    - C. The use to be served by the off-site parking; and,
    - D. The hours of operation of the use to be served by the off-site parking.
  - (2) Off-site parking spaces shall be within three hundred (300) feet walking distance, measured along the route of public access to the property, of a building entrance or use. If the pedestrian access is to cross an arterial street, appropriate safety measures shall be present to help the pedestrian cross the street. In any event, safe and convenient pedestrian access, such as a sidewalk or path, shall exist or be provided from the structure or use to the parking lot.
  - (3) Contiguous lots providing off-street parking for more than one use shall provide sufficient spaces to comply with the combined total parking requirements for all uses except when the allowance for shared parking is granted in compliance with Section **1284.08**, Allowance for Shared Parking.
  - (4) The off-site lot may be located in a different zoning district than the structure or use it serves if a parking facility is permitted in the different zoning district.

**DRAFT**

- (5) The lot used for an off-site parking facility shall be owned by or leased for at least a 20-year term or through a permanent easement by the owner of the use being served. The Zoning Administrator and the Law Director shall approve such lease or easement. If the term of the use is limited by a conditional use approval, then the term of the lease agreement may be limited accordingly. At the expiration of the term of a lease, the owner shall replace the off-site parking or end the use that required the parking.
- (6) No changes shall be made to the off-site parking lot that would reduce the parking provided for the use, unless other arrangements to provide parking are made by the owner of the use. Those arrangements shall be approved by the Zoning Administrator prior to any changes taking place.
- (7) Any required handicapped parking or loading spaces for a use shall be located on-site.
- (8) An existing nonconforming parking lot to be used under this Section as off-site parking shall be landscaped, paved and striped according to the standards of this Chapter and this Zoning Code.

**1284.08 ALLOWANCE FOR SHARED PARKING.**

Two or more uses may share parking facilities without providing the minimum number of on-site required spaces for each use, when parking spaces are provided in compliance with all the requirements of this Section.

- (a) The minimum required number of parking spaces for the combined uses may be reduced by twenty percent (20%) for shared parking when hours of operation overlap. Residential uses shall not be allowed to share parking facilities.
- (b) The shared use of required parking spaces shall be permitted for uses that are not normally open, used or operated during the same hours, provided that no more than fifty percent (50%) of the required parking spaces are shared.
- (c) The parking facility to be shared shall be owned by the owner of one of the uses or leased for at least a 20-year term or through a permanent easement by the owner of the uses being served. Such lease or easement shall be approved by the Zoning Administrator and the Law Director.
- (d) No changes shall be made to the shared parking facility that would reduce the parking provided for the uses, unless the owner of one of the uses makes other arrangements to provide parking. No such changes shall be made without Zoning Administrator approval prior to any changes taking place.
- (e) Parking spaces to be shared shall not be reserved for a specific person, individual, or use on a twenty-four-hour basis.

**DRAFT**

- (f) Handicap parking spaces shall not be shared, unless the uses that are to share the spaces are adjacent to the handicap spaces and no inconvenience to the users of such spaces would be created.
- (g) Loading spaces, when provided, shall not be shared.
- (h) Any proposed change in the use of a structure that shares a parking facility will require proof to the Zoning Administrator that adequate parking is available.
- (i) Parking facilities to be shared shall be located on the same lot or lots as the use for which the parking spaces are intended, except when the parking facility complies with all the requirements of Section 1284.07, Allowance for Off-site Parking.

**1284.09 DEFERRED CONSTRUCTION OF REQUIRED SPACES.**

If the number of parking spaces required in Section 1284.04 is substantially larger than the number anticipated by the applicant and the applicant provides sufficient evidence that supports the reduced parking needs, a site plan may be approved with a lesser number of parking spaces provided:

- (a) The total number of spaces initially provided shall not be less than seventy percent (70%) of the spaces required by the Schedule 1284.04.
- (b) Suitable area(s) must be reserved for the construction of the balance of the total number of spaces otherwise required by the Schedule and shall be illustrated on the site plan in locations and with landscaping in full compliance with this Code.
- (c) That Planning Commission, upon reevaluation of the project's parking needs, may at any time direct that some or all of the land-banked spaces be constructed.
- (d) Any additional parking shall be provided according to the approved site plan and only after approval of the construction plans by the City Engineer.

**1284.10 OFF-STREET WAITING SPACES FOR DRIVE-THRU FACILITIES.**

- (a) All uses that provide a drive up or drive-thru service wherein customers stop or wait in line in motor vehicles for service shall provide queuing space arranged on the premises in single or multiple lanes pursuant to the following:
  - (1) Food service and sales, vehicle washes, or similar uses 150 lineal feet,
  - (2) Pharmacies, dry cleaning, and similar low volume services – one hundred (100) lineal feet,

**DRAFT**

- (3) Drive through financial services, including automatic teller machines – 150 lineal feet.
- (b) Reduction in Queuing Area. A shorter queuing area may be approved by the Planning Commission upon the agreement of the applicant to provide additional area if customers begin to stack on public streets or interfere with traffic flow.
- (c) Vehicles Prohibited within the Public Right-of-Way. In any case, vehicles shall not be permitted to wait within the public right-of-way for service at such drive up or drive-thru facilities nor shall traffic hazards or nuisances be created.
- (d) Access. No waiting/queuing spaces for a drive up or drive-thru service shall be permitted which would obstruct access into or out of any off-street parking space on the property.
- (e) Location of Drive up or Drive-thru Services. Drive up and drive-thru lanes, queuing spaces, speakers, & order windows shall not be located in the required front, side, or rear setbacks including the required setback adjacent to street rights-of-way.

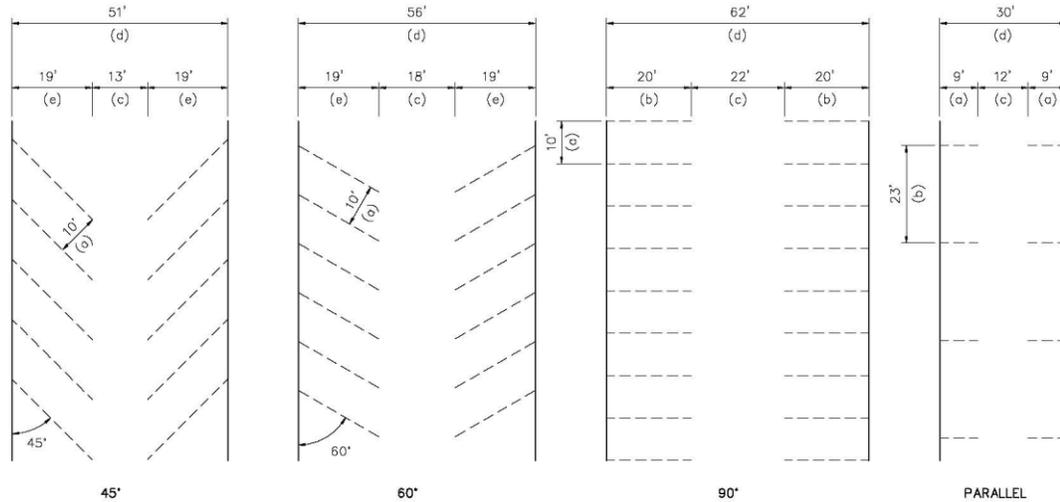
**1284.11 PARKING DESIGN STANDARDS.**

- (a) Off-street parking areas shall be designed and constructed in accordance with the following minimum dimensions set forth in Schedule 1284.11, Parking Design Standards, based on the angle of the spaces. Figure 1284.11 illustrates the requirements for each angle scenario.

<b>Schedule 1284.11 Parking Design Standards</b>				
	<b>45°</b>	<b>60°</b>	<b>90°</b>	<b>PARALLEL</b>
(a) Width of Parking Space	13 ft	10 ft	10 ft	9 ft
(b) Length of Parking Space	--	--	20 ft	23 ft
(c) Width of Circulation Aisle <sup>(1)</sup>	13 ft	18 ft	22 ft	12 ft
(d) Width of Double-Loaded Parking Module when Spaces Interlock	51 ft	56 ft	62 ft	30 ft
(e) Length of Aisle to Curb	19 ft	19 ft	--	--
<u>Notes to Schedule 1284.11:</u>				
<sup>(1)</sup> Circulation aisles having a width less than 22 feet shall be one-way aisles.				

**DRAFT**

**Figure 1284.11  
Illustration of Parking Design Standards**



**Notes to Figure 1284.11:**

- (a) Width of parking space.
- (b) Length of parking space.
- (c) Width of circulation aisle.
- (d) Double-loaded parking module.
- (e) Length of aisle to curb.

**1284.12 LOADING SPACES.**

Off-street loading spaces shall not be required, but if necessary, shall comply with the following:

- (a) All loading spaces shall be located on the same lot as the use served and no part of any required setback, off-street parking area, or access drive thereto, shall be used for loading or unloading purposes.
- (b) Access to truck loading and unloading space shall be provided directly from a public street or alley or from a right-of-way that will not interfere with public convenience and that will permit the orderly and safe movement of trucks.
- (c) 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.
- (d) Off-street loading spaces shall not be used for repair or servicing of vehicles.

**1284.13 REGULATIONS FOR ACCESS DRIVES.**

The location and number of entrance and exit access drives to accessory parking spaces shall be in accordance with the following:

**DRAFT**

- (a) Ingress and Egress. Entrances to parking spaces shall be only from an adjoining public street or alley or from a permanent private, access easement. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for vehicles.
- (b) Location. The location and width of entrance and exit access drives to parking facilities shall be planned to interfere as little as possible with the use of nearby property and with pedestrian and vehicular traffic on the nearest streets.
- (c) Interconnected Drives. The Planning Commission may require parking areas serving adjacent business establishments to be interconnected by drives and designed to provide the maximum safety and convenience.

**1284.14 IMPROVEMENT AND MAINTENANCE STANDARDS.**

All driveways, parking areas, waiting areas, queuing areas, loading/unloading areas shall be constructed in accordance with standards established by the City Engineer and the following:

- (a) Paving Specifications. Parking areas shall be improved with asphaltic or concrete binder or other durable and dustless pavement or surface approved by the City Engineer and the Planning Commission.
- (b) Grading and Drainage. Parking areas shall be so graded and drained as to dispose of all surface water accumulation within the area. The design of the parking lots that reduce the surface runoff is encouraged, and the City Engineer shall have the authority to approve alternate surface treatments or grading.
- (c) Illumination. All lighting used to illuminate parking areas shall be so arranged as to direct the light away from adjoining premises or streets, and no open light sources, such as stringing of light bulbs, shall be permitted.
- (d) Marking. Any off-street parking area for five (5) or more parking spaces and all queuing spaces shall indicate the location of each parking or queuing space, the location of spaces for persons with disabilities, and the location and direction or movement along the aisles and access drives providing access thereto by painting upon the surface, by raised directional signs, or by markers or other similar measures placed in the surface.
- (e) Signs. Signs may be provided only in accordance with Chapter 1298, Sign Regulations.
- (f) Maintenance. All parking areas, queuing spaces, and loading spaces shall be maintained in a manner to keep it as free as practicable from rubbish, paper and other loose particles, and snow and ice shall be promptly removed by the operator. All adjacent sidewalks shall be kept free from dirt, ice, sleet and snow and in a safe condition for use by pedestrians. All signs, markers or any other methods used to indicate direction of traffic movement and location of parking

---

**DRAFT**

and/or loading spaces shall be maintained in a neat and legible condition. Any walls, trees and shrubbery, as well as surfacing of the parking lot, shall be maintained in good condition throughout its use for parking purposes.

**1284.15 PARKING AREA LANDSCAPING AND SCREENING.**

- (a) Parking areas shall be landscaped, screened and buffered in conformance with the regulations set forth in Chapter 1296, Landscaping and Screening Regulations.

**1284.16 NONCONFORMING PARKING FACILITIES.**

- (a) A building or use existing lawfully at the time of this Zoning Code, or an amendment thereto, became or becomes effective, but which does not comply with the off-street parking regulations for the use may continue without such parking facilities. In the event an existing building is altered or a use is changed or substituted, in accordance with the regulations in Chapter 1286, Nonconforming Uses, Lots, and Structures, then additional off-street parking spaces shall be provided in compliance with this Chapter 1284, if this Code requires such additional parking spaces as a result of the proposed changes.

**1284.17 APPROVAL OF PARKING FACILITIES.**

- (a) All facilities governed by the regulations in this Chapter shall comply with the approval processes in Chapters 1238 and 1240.
- (b) The City Engineer shall review and approve all requests for access to public rights-of-way prior to construction. All improvements, curb cuts, and approaches in the public right-of-way shall be constructed pursuant to this Chapter and all applicable municipal regulations.

# CHAPTER 1285

## Adult Use Regulations

[1285.01](#) Purpose and findings.

[1285.02](#) Definitions.

[1285.03](#) Sexually oriented businesses.

[1285.04](#) Location of sexually oriented businesses.

[1285.05](#) Additional regulations concerning lot, setback, height, parking, building and site design standards, site plan requirements.

[1285.06](#) Sign regulations for sexually oriented businesses.

[1285.07](#) Severability.

### 1285.01 PURPOSE AND FINDINGS.

- (a) Purpose. It is the purpose of this Chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this Chapter do not have the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Further, it is not the intent of this Chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene material.
- (b) Findings. The City Council has received substantial evidence concerning the association of negative secondary effects with sexually oriented businesses in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), and on studies in other communities including, but not limited to, Phoenix, Arizona; Tucson, Arizona; Los Angeles, California; Whittier, California; Indianapolis, Indiana; Minneapolis, Minnesota; St. Paul, Minnesota; New York, New York; Cleveland, Ohio; Oklahoma City, Oklahoma; Amarillo, Texas; Austin, Texas; Beaumont, Texas; Houston, Texas; and Seattle, Washington.

---

**DRAFT****1285.02 DEFINITIONS.**

- (a) **Adult Arcade:** Any place to which the public is permitted or invited where either or both (i) motion picture machines, projectors, video or laser disc players, or (ii) other video or 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 time; and where the images shown and/or live entertainment presented are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”
- (b) **Adult Bookstore, Adult Novelty Store or Adult Video Store:** A commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; or
  - (2) Instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities.”
- (c) **Adult Cabaret:** A nightclub, bar, restaurant, or similar commercial establishment which regularly features:
- (1) Persons who appear in a “state of nudity” or “state of semi-nudity”; or
  - (2) Live performances which are characterized by the exposure 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, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”
- (d) **Adult Motion Picture Theater:** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas” and that take place outside the context of some larger form of expression.
- (e) **Adult Theater:** 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

---

**DRAFT**

similar entertainment and which for each of the previously mentioned categories, take place outside the context of some larger form of expression.

- (f) **Covering**: Any clothing or wearing apparel, including pasties, but does not include any substance that can be washed off the skin, such as paint or make-up, or any substance designed to simulate the appearance of the anatomical area beneath it.
- (g) **Establishment** means and includes any of the following:
- (1) The opening or commencement of any sexually oriented business as a new business;
  - (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
  - (3) The additions of any sexually oriented business to any other existing sexually oriented business; or
  - (4) The relocation of any sexually oriented business.
- (h) **Nude Model Studio**: Any place where a person who appears nude or semi-nude or who displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. “Nude Model Studio” shall not include:
- (1) A proprietary school licensed by the State of Ohio, or a college, junior college or university supported entirely or in part by public taxation.
  - (2) A private college or university that offers educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
  - (3) An establishment holding classes in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and where no more than one (1) semi-nude model is on the premises at any one (1) time.
- (i) **Nudity or a State of Nudity or Nude**: 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.

---

**DRAFT**

- (j) **Person:** An individual, proprietorship, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.
- (k) **Semi-nudity or Semi-nude Condition or Semi-nude:** 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.
- (l) **Sexual Encounter Center:** A business or commercial enterprise that, as one (1) 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 (1) or more of the persons is semi-nude.
- (m) **Sexually Oriented Business:** 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.
- (n) **Specified Anatomical Areas** means:
- (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.
- (o) **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; or
  - (3) Excretory functions as part of or in connection with any of the activities set forth in (1) and (2) above.
- (p) **Substantial Enlargement** of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%).

---

**DRAFT****1285.03 SEXUALLY ORIENTED BUSINESSES.**

- (a) Sexually oriented businesses are classified as follows:
- (1) Adult arcades;
  - (2) Adult bookstores, adult novelty stores, or adult video stores;
  - (3) Adult cabarets;
  - (4) Adult motion picture theaters;
  - (5) Adult theaters;
  - (6) Nude model studios;
  - (7) Sexual encounter centers; and,
  - (8) Any combination of classifications set forth in paragraphs (1) through (7) above.

**1285.04 LOCATION OF SEXUALLY ORIENTED BUSINESSES.**

- (a) Sexually oriented businesses are permitted in the B-2 District if the Planning Commission determines that the provisions in subsections (b) through (d) below, and the other applicable standards in this Chapter and this Zoning Code have been satisfied.
- (b) No sexually oriented business may be established within one thousand (1,000) feet of:
- (1) A church, synagogue, mosque, temple or other building which is used primarily for religious worship and related religious activities;
  - (2) A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
  - (3) A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the City which is under the control, operation, or management of the City park and recreation authorities or which is operated or managed by the Summit Metro Parks or any other park authority.

---

**DRAFT**

- (4) A boundary of a residential district as defined in the Zoning Code.
  - (5) A structure that constitutes a lawful non-conforming residential use as defined in the Zoning Code.
  - (6) Of any other sexually oriented business.
- (c) Not more than one (1) sexually oriented business shall be established or operated in the same building, structure, or portion thereof, and the floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business shall not be increased.
- (d) For the purpose of sub-section (b) of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in sub-section (b).

**1285.05 ADDITIONAL REGULATIONS CONCERNING LOT, SETBACK, HEIGHT, PARKING, BUILDING AND SITE DESIGN STANDARDS, AND SITE PLAN REQUIREMENTS.**

- (a) Lot, setback, and height requirements for sexually oriented businesses are those specified for B-2 Retail Business District in [Chapter 1278](#) of this Code. Parking setbacks are those specified for the B-2 District in [Chapter 1274](#).
- (b) Parking requirements for a sexually oriented business are governed by the provisions for retail business and other applicable provisions contained in [Chapter 1284](#) of this Code.
- (c) Review and approval procedures for a site plan for a sexually oriented business shall be in accordance with the procedures specified in [Chapter 1240](#).
- (d) No merchandise or pictures of the products or entertainment on the premises of a sexually oriented business shall be displayed in window areas or any area where they can be viewed from the sidewalk or street in front of the building or from the exterior of the building.

**1285.06 SIGN REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES.**

- (a) All signs for a sexually oriented business shall be limited to “wall signs” as defined in [Chapter 1298](#) of this Code and shall be in conformance with all other applicable regulations in [Chapter 1298](#).
- (b) Storefront windows shall be opaquely shaded to a height of four (4) feet above the ground and thereafter shall be clear glass, free of tint and without any covering to permit full visibility from the outside. No signs shall be placed in any window. A one

---

**DRAFT**

(1)-square-foot sign may be placed on the door to state hours of operation and admittance to adults only.

**1285.07 SEVERABILITY.**

- (a) If any section, subsection, or clause of this Chapter shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

**DRAFT**

**CHAPTER 1286**  
**Nonconforming Uses, Lots and Structures**

1286.01	Intent.	1286.07	Nonconforming Parking Facilities.
1286.02	Lawful Nonconformance.	1286.08	Nonconforming Site Conditions
1286.03	Nonconforming Uses of Buildings Structures or Land.		Existing at Time of Site Plan Review.
1286.04	Nonconforming Buildings and Structures.	1286.09	Existing Use Deemed Condition Use; Application Required for Change.
1286.05	Nonconforming Lots.	1286.10	Restoration.
1286.06	Nonconforming Signs.		

**1286.01 INTENT.**

The purpose of this Chapter is to recognize the existence of uses, buildings, lots and structures that lawfully existed at the time of this Zoning Code's enactment, or amendment thereto, but which now do not conform with one or more of the regulations contained in this Zoning Code. Nonconforming uses of structures and/or land are considered by this Code to be incompatible with the provisions applicable in the district in which such uses are located. In addition, it is recognized that there are lots, buildings, parking lots, signs, and other structures that do not conform to the zoning regulations in this Code. Regulations for the continuance, maintenance, repair, restoring, moving and discontinuance of nonconforming uses, nonconforming buildings/structures, and nonconforming lots are established in order to achieve the following purposes:

- (a) To permit the continuance but control of nonconforming uses so as to minimize any adverse effects the uses might have on the adjoining properties and development;
- (b) To continue the maintenance and repair of nonconforming uses;
- (c) To restrict the rebuilding of nonconforming uses, if substantially destroyed;
- (d) To require conformity if a nonconforming use is discontinued, to bring about eventual conformity of all uses in accordance with the objectives of the City;
- (e) To establish regulations for the development of sites containing nonconforming site conditions;
- (f) To establish regulations for the development of nonconforming lots; and,
- (g) To establish regulations for the use, restoration, reconstruction, and expansion of structures that do not conform to the standards set forth in this Zoning Code.

**1286.02 LAWFUL NONCONFORMANCE.**

The provisions of this Chapter shall apply to any building, structure, land, site condition, or other use hereafter becoming nonconforming as a result of the adoption of

**DRAFT**

this Zoning Code as well as amendments made to this Zoning Code or the Official Zoning Map.

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

**1286.03 NONCONFORMING USES OF BUILDINGS, STRUCTURES, OR LAND.**

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

- (a) Change or Substitution to Another Nonconforming Use. A nonconforming use of a building, structure or land shall not be changed or substituted to another nonconforming use unless:
  - (1) The Board of Zoning and Building Appeals finds that the use proposed is equally appropriate or more appropriate to the district than the existing nonconforming use, and that the use proposed is in less conflict with the character of uses permitted in the applicable zoning district than the existing nonconforming use. In permitting such change, the Board of Zoning and Building Appeals may prescribe appropriate conditions and safeguards in accordance with other provisions of this Zoning Code and when made a part of the terms under which the change is granted.
    - A. Whenever a nonconforming use is changed to a less intensive use, such use shall not thereafter be changed to a more intensive nonconforming use.
    - B. Whenever a nonconforming use is changed to a use permitted in the district in which the lot is located, it shall cease to be

**DRAFT**

considered a nonconforming use. Upon such compliance, no nonconforming use shall be made, resumed or reinstated.

C. Violation of any conditions and/or safeguards prescribed shall be deemed a violation of this Zoning Code.

(2) An application is filed with the Board of Zoning and Building Appeals and such application includes payment of the fee established by the City.

(b) Land Occupied by Nonconforming Use.

(a) Expansion of Nonconforming Use of Land. A nonconforming use of land shall not be physically enlarged, increased, nor extended to occupy a greater area of land than was occupied by the use at the time it became nonconforming, unless otherwise specified.

(b) Relocation of Nonconforming Use of Land. A nonconforming use of land shall not be moved in whole or in part to any portion of the lot or parcel other than those portions occupied by the use at the time it became nonconforming.

(c) Structures Occupied by Nonconforming Use.

(1) Extension of Nonconforming Use within Building. A nonconforming use of an existing structure may be extended throughout any parts of a building that were manifestly arranged or designed for such use at the time of adoption or amendment to this Zoning Code. However, no such use shall be extended to occupy any land outside such building not previously occupied by such nonconforming use.

(2) Expansion of Building(s). No such building shall be enlarged, altered, or expanded to increase the nonconforming use, and no additional structures shall be constructed in connection with such nonconforming use unless the Board of Zoning and Building Appeals determines that the proposed changes, additions and/or improvements shall upgrade the activity and make the resulting development more compatible to the district for which it is zoned and more compatible with the adjacent uses. In making this determination, the Board of Zoning and Building Appeals shall consider the following:

A. Hours of operation;

B. Volume and type of sales;

C. Type of processing activity;

**DRAFT**

- D. Nature and location of storage;
  - E. Traffic generation by volume, type, and characteristics;
  - F. Parking and loading characteristics; and,
  - G. Noise, smoke, odor, glare, vibration, radiation, and fumes.
- (3) Reconstruction of a Building Occupied by a Nonconforming Use. Except as provided for in (5) below, no building or structure occupied by a nonconforming use shall be reconstructed except when the use is changed to a use permitted in the district in which it is located, or upon prior approval of the Board of Zoning and Building Appeals and the Board determines that the proposed improvements shall upgrade the activity and make the resulting development more compatible to the district for which it is zoned and more compatible to the adjacent uses.
- (4) Damage or Destruction. Any building or structure containing a nonconforming use, which has been damaged by fire, flood, explosion, earthquake, war, riot or other act of God, may be reconstructed and used as before if such reconstruction is done within twelve (12) months of such calamity, unless damaged for more than fifty percent (50%) of its fair market value, as determined by the Board of Zoning and Building Appeals at the time of such damage. If damage is more than fifty percent (50%), the Board shall have the right to permit or refuse continuance of the nonconforming use on the basis of its degree of nuisance to the surrounding areas.
- (d) Discontinuance of Use. Whenever a nonconforming use of a building, part of a building, lot or part of a lot is discontinued for six (6) months, such discontinuance shall constitute voluntary abandonment of such use and any subsequent use of the building, part of a building, lot or part of a lot shall conform to the use regulations specified by this Code for the district in which such land is located.

**1286.04****NONCONFORMING BUILDINGS & STRUCTURES.**

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

- (a) Enlargement, Repair, and Alterations. A nonconforming building or structure may be enlarged, maintained, repaired, or structurally altered provided the additions are made to conform to all the regulations of the district in which it is located. However, no such enlargement, maintenance, repair, or structural alteration shall either create any additional nonconformity or increase the degree of the existing nonconformity of all or

**DRAFT**

any part of such building or structure with respect to the regulations in this Zoning Code.

- (b) Moving. No building or structure which is nonconforming under this Zoning Code shall be moved in whole or in part to any other location on the same or any other lot unless the entire building or structure shall thereafter conform to the regulations of the district in which it is located after being moved.
- (c) Restoration of Damaged Building or Structure. If a nonconforming building or structure is damaged or destroyed by any means, those portions so destroyed or damaged may be restored to the original footprint and floor area of the building or structure, provided the reconstruction is begun within six (6) months of the damage or destruction. Any restoration that exceeds the original footprint and/or floor area shall comply with sub-section **1286.04 (a)**, Enlargement, Repair, and Alterations.
- (d) Change in Principal Use of Building. The principal use of a nonconforming building may be changed to any other use permitted in the district in which it is located so long as the new use complies with all regulations of this Zoning Code specified for such use, except the regulations to which the building did not conform prior to the change in use.
- (e) Variances from district regulations on area, lot coverage, lot width, height, setbacks, location on the lot may be granted by the Board of Zoning and Building Appeals where necessary and where such appeal for a variance meets the requirements of an area variance.

**1286.05 NONCONFORMING LOTS.**

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

- (a) Existing Buildings on Nonconforming Lots of Record.
  - (1) Existing Building on a Non-residential Nonconforming Lot. If a nonconforming lot is occupied by a building, such building shall be maintained and may be repaired, modernized or altered, provided that the building shall not be enlarged in floor area unless the enlarged section(s) complies with all regulations of this Zoning Code, except the lot area and lot width regulations of the district in which the lot is located.
  - (2) Existing Dwelling on a Residential Nonconforming Lot. If the lot is occupied by a dwelling, such dwelling shall be maintained and may be repaired, modernized or altered, provided that the building shall not be enlarged in floor area except in conformance with Section **1258.11**, Substandard Residential Lots.

**DRAFT**

- (b) Vacant Nonconforming Lot(s) of Record.
- (1) Nonconforming Lot(s) of Record in a Residential District. A nonconforming lot in a Single-family, Two-family, or Multi-family Residential District that is in separate ownership and not of continuous frontage with other lots in the same ownership shall be permitted to be developed as a site for a one-family detached dwelling and customary accessory buildings in conformance with Section 1258.11, Substandard Residential Lots.
- (2) Vacant Nonconforming Lot in a Non-residential District. A vacant nonconforming lot in a non-residential district may be used for any use permitted in the district in which it is located when the development of such lot meets all development requirements of the district in which it is located, including the maximum lot coverage and minimum setback requirements, except for the minimum lot area and lot width requirements, except that no use that requires a greater lot size than the established minimum lot size for a particular district shall be permitted on a nonconforming lot. Review and approval of development on such lots of record shall be conducted according to the site plan review requirements set forth in Chapter 1240.

**1286.06****NONCONFORMING SIGNS.**

- (a) A sign, lawfully existing at the time this Zoning Code, or any amendment thereto, became or becomes effective, but which does not comply with the sign regulations of the district in which it is located is a nonconforming sign. Nonconforming signs shall comply with the regulations set forth in Chapter 1298, Sign Regulations.
- (b) In addition, nothing in this Zoning Code shall prevent the temporary removal of an established sign for the purpose of cleaning, repainting and/or repair, as long as such restoration returns the condition of the sign to the same size and with similar wording that it contained prior to the restoration.

**1286.07****NONCONFORMING PARKING FACILITIES.**

- (a) For a building or use existing lawfully at the time of this Zoning Code, or an amendment thereto, became or becomes effective, but which does not comply with the off-street parking regulations, see Chapter 1284, Off-street Parking Regulations.

**1286.08****NONCONFORMING SITE CONDITIONS EXISTING AT TIME OF SITE PLAN REVIEW.**

- (a) If a nonconforming site condition(s) exists when a revised site plan is required pursuant to Chapter 1240, then such site condition(s) shall be brought into compliance with district regulations, unless the Planning Commission determines that such conformance cannot be reasonably achieved because of

---

**DRAFT**

existing site conditions. Existing site conditions include, but are not limited to, the existing lot configuration and patterns of surrounding development; inability of the applicant to acquire additional property; location of the existing structures on the site in question; the location of parking and access on the site in question, and the location of utilities both on and off-site. In such case, the Planning Commission shall approve a site plan that reduces the existing nonconforming site condition(s) to the maximum extent practicable.

**1286.09****EXISTING USE DEEMED CONDITIONAL USE;  
APPLICATION REQUIRED FOR CHANGE.**

- (a) Any lawfully existing use that, at the time of its establishment, was not classified as a conditional use, but which now, because of the passage of this Zoning Code, or amendment thereto, is listed as a conditional use in the district in which it is located, shall be deemed without further action to be a conditional use. Any change, modification, enlargement or alteration of such use, site development conditions or signs, or change in operations shall only be permitted upon review and approval according to the procedures for conditional uses set forth in Chapters [1241](#) and [1287](#).

**1286.10****RESTORATION.**

- (a) Nothing in this Chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the Building Commissioner and/or the Zoning Administrator.

---

**DRAFT****CHAPTER 1287**  
**Conditional Use Regulations**

- 1287.01 Purpose.  
1287.02 General Criteria for All Conditional Uses.  
1287.03 Specific Conditions for Conditional Uses.  
1287.04 Conditional Uses in Municipal Districts and Residential Districts.  
1287.05 Conditional Uses in Business Districts.  
1287.06 Supplemental Regulations for Certain Uses.
- 

**1287.01 PURPOSE.**

- (a) Conditional uses are a classification of uses that are determined to generally be compatible in the zoning district in which they are listed as a conditional use. However, this category of uses is so classified because of the need to adequately monitor the proposed use in order to ensure that the use and its operational aspects are indeed appropriate in the specific location in which the use is proposed. Such monitoring is necessary because the external impacts of a particular use are either sufficiently varied or indeterminable in advance, making it possible that, without the Planning Commission's review, a particular use could be inappropriate in certain locations within the district.
- (b) These regulations are intended to ensure that conditional uses are reviewed in a reasonable and equitable manner, while safeguarding the property rights of all individuals and the health, safety, and general welfare of the community. Toward these ends, it is recognized that this Zoning Code should provide for more detailed evaluation of each use listed as a conditional use in a specific district with respect to such considerations as location, design, size, method(s) of operation, intensity of use, requirements for public facilities, and traffic generation. In considering a proposed conditional use, the Planning Commission may assign reasonable conditions to ensure that the proposed development is appropriate in the location in which it is proposed. Accordingly, conditional use applications shall conform to the requirements of this Chapter and the procedures and requirements of Chapter 1241, Procedures for Conditional Use and Similar Use Approval.

**1287.02 GENERAL CRITERIA FOR ALL CONDITIONAL USES.**

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

---

**DRAFT**

- (a) The conditional use will be designed, constructed, operated and maintained so as to be harmonious and appropriate with the prevailing, existing, or intended character of the general vicinity;
- (b) The establishment, maintenance, or operation of the conditional use will not endanger the public health, safety, or general welfare;
- (c) The establishment of the conditional use in the proposed location will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district; and,
- (d) The conditional use will be minimally impacted in the future by surrounding uses permitted by right that may be incompatible with the proposed conditional use.

When evaluating applications utilizing the above criteria, the Planning Commission shall judge the appropriateness of the proposed conditional use based upon its anticipated impacts given the scope of the proposed use on the subject site understanding that the City has already accepted impacts normally associated with such conditional use when the use was included as a conditional use in the zoning district.

An approval of a conditional use pursuant to the procedures in Chapter 1241 shall only apply to the specific use and the site plan and specific conditions related to the use and its approval. Any change in the use (excluding changes in the name or business mergers that do not effect occupancy), modifications, or expansion that are inconsistent with the approval are not permitted without a reapplication and approval of the revised use or modifications pursuant to Chapter 1241.

### **1287.03            SPECIFIC CONDITIONS FOR CONDITIONAL USES.**

In addition to the general criteria established in Section 1287.02, the following specific conditions shall apply.

- (a) Supplementary Conditions and Safeguards. Nothing in these regulations shall prohibit the Planning Commission from prescribing reasonable supplementary conditions and safeguards in addition to the requirements in this Chapter in order to ensure compliance with the criteria set forth in Section 1287.02, General Criteria for all Conditional Uses.
- (b) Conformance with District Regulations. A conditional use shall conform to the regulations of the district in which it is located and to other requirements of this Zoning Code, as well as satisfy the conditions, standards, and requirements of this Chapter. Whenever there is a difference between the provisions of the conditional use regulations and the district regulations, the provisions of this Chapter shall prevail, unless clearly indicated differently in these regulations.
- (c) Overall Development Standards.
  - (1) No lighting shall constitute a nuisance and in no way shall impair safe movement of traffic on any street or highway.

---

**DRAFT**

- (2) Floodlights, loudspeakers or similar devices shall not be constructed or used in any manner that will cause hazards or annoyance to the public generally or to the occupants of adjacent property.
- (3) Exterior lighting with respect to the number of fixtures, height of the fixtures from the ground, light intensity, and light trespass on adjacent properties or a public right-of-way shall be compatible with the surrounding neighborhood.
- (4) The conditional use will be designed and constructed so that all access drives, access points to public streets, driveways, parking and service areas shall be in compliance with the regulations set forth in City of Fairlawn, Ohio Code of Ordinances.
- (5) The conditional use shall be designed to minimize potential adverse impacts on traffic congestion. The Planning Commission may require traffic studies, if necessary, at the developer's cost to ensure compliance with this condition.
- (6) Landscaping, mounds and fencing shall be incorporated into the site plan for a conditional use in a manner and at an intensity, as prescribed by the Planning Commission, to minimize any potential adverse impacts the proposed use may have.
- (7) The proposed use shall not generate excessive noise beyond the premises. In order to minimize any negative effects from the above referenced noise, the Planning Commission may require additional noise reduction measures to assure that the level of noise is no more than the prevailing noise levels of permitted uses in the District.
- (8) All access drives shall be located as far as practicable from an existing intersection in order to maximize traffic safety and minimize congestion and constricted turning movements and minimize the impact on the surrounding areas.
- (9) Greater setbacks than the minimums prescribed in this Chapter may be imposed by the Planning Commission when the scale of any wall, because of its excessive length or height, at the minimum setback line could adversely impact adjacent properties.
- (10) The location, dimensions, and design concept of any proposed signage should be provided at the time of the conditional use application.
- (11) All activities, programs, and other events shall be directly related to the approved conditional use and shall be adequately monitored by the occupant or operator so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents, or to the community in general.

**DRAFT****1287.04      CONDITIONAL USES IN MUNICIPAL DISTRICTS AND RESIDENTIAL DISTRICTS.**

Schedule 1287.04 sets forth regulations governing minimum lot area, minimum lot width and minimum setback requirements for principal and accessory buildings and parking areas for conditional uses in the Municipal Districts and Residential Districts. Supplemental requirements pertaining to such uses are set forth in Section 1287.06, and the specific sub-sections are referenced in Schedule 1287.04 below.

<b>Schedule 1287.04 Regulations for Conditional Uses In Municipal Districts and Residential Districts</b>								
Conditional use	Conditional Use in District	Minimum Lot Regulations		Minimum Building Setbacks <sup>(3)</sup>		Minimum Parking Setbacks		Also See Section:
		Area	Width	Front	Side/Rear	Front	Side/Rear	
1. Places of Assembly including: Auditoriums, assembly halls, conference centers, membership clubs, community recreation facilities	M-3	1 acre	150 ft.	(2)	50 ft.	(1)	(1)	1287.06(a)
2. Cemetery including mausoleums	M-3	5 acres	200 ft	(2)	30ft <sup>(5)</sup>	(1)	(1)	1287.06(c)
3. Congregate care facilities	M-3	1.5 acres	150 ft.	(2)	30ft	(1)	(1)	1287.06(f)
4. Golf course	M-2	75 acres	400 ft.	(2)	75 ft.	(1)	(1)	1287.06(l)
5. Hospitals	M-3	3 acres	400 ft.	(2)	50 ft.	(1)	(1)	1287.06(n)
6. Cultural Institution	M-3	1 acre	125 ft.	(2)	30ft	(1)	(1)	1287.06(g)
7. Day care facility, adult and/or child	M-3	30,000 sq. ft.	125 ft.	(2)	30ft	(1)	(1)	1287.06(h)
8. School, (public/private) college/university including dormitories, fraternity or sorority houses <sup>(4)</sup>	M-3	10 acres	300 ft.	(2)	75 ft.	(1)	(1)	1287.06(u)
9. Sports facility	M-3	5 acres	300 ft.	(2)	75 ft.	(1)	(1)	1287.06(v)
10. Portable Storage Container	M-1, M-2, M-3	(1)	(1)	(2)	15 ft.	NA	NA	1287.06(cc)

**DRAFT**

<b>Schedule 1287.04 Regulations for Conditional Uses In Municipal Districts and Residential Districts</b>								
Conditional use	Conditional Use in District	Minimum Lot Regulations		Minimum Building Setbacks <sup>(3)</sup>		Minimum Parking Setbacks		Also See Section:
		Area	Width	Front	Side/Rear	Front	Side/Rear	
11. Adult care facility for six (6) to sixteen (16) persons	R-1, R-2, R-3, R-4, R-5	(6)	(6)	(6)	(6)	(7)	10 ft.	1287.06(aa)
11. Residential facility for 9-16 persons	R-1, R-2, R-3, R-4, R-5	(6)	(6)	(6)	(6)	(7)	10 ft.	1287.06(aa)
12. Public service facility	R-1, R-2, R-3, R-4, R-5	2 acres	(6)	(6)	(6)	(7)	15 ft.	1287.06(bb)

**Notes to Schedule 1287.04:**

- (1) Uses shall comply with the regulations in Chapter 1250.
- (2) The front setback for principal buildings shall not be less than the required front setback for any adjacent use district or 50 feet, whichever is greater.
- (3) Uses shall comply with the standards in this table or the corresponding district standard whichever is greater.
- (4) The regulations in this Chapter shall not apply to for-profit colleges or universities that solely have facilities and activities that are similar to office tenants.
- (5) Unless regulated in sub-section 1287.06(c), gravesites and mausoleums shall be located 30 ft from any side or rear property lines.
- (6) Uses shall comply with the standards in the district in which the conditional use is located.
- (7) Parking spaces, for more than 2 vehicles, shall be located behind the front building line.

NP = Not Permitted  
NA = Not Applicable

**List of Districts:**

- M-1 Municipal District (Institutional)
- M-2 Municipal District (Parks & Recreation)
- M-3 Municipal District (Quasi-Public)
  
- R-1 Single-Family Residence District
- R-2 Single-Family Residence District
- R-3 Single-Family Residence District
- R-4 Two-Family Residence District
- R-5 Limited Multiple-Family Residence District

**DRAFT****1287.05      CONDITIONAL USES IN BUSINESS DISTRICTS.**

Schedule **1287.05** sets forth regulations governing minimum lot area and minimum lot width requirements for conditional uses in a commercial district. Supplemental requirements pertaining to such uses are set forth in Section **1287.06**, and the specific subsections are referenced in Schedule **1287.05**, below.

<b>Schedule 1287.05 Regulations For Conditional Uses In Business Districts</b>				
<b>Conditional Use</b>	<b>Conditional Use in District</b>	<b>Minimum Lot Regulations<sup>(1)</sup></b>		<b>Also See Section:</b>
		<b>Area</b>	<b>Width</b>	
1. Automobile service station	B-2, B-3	1 acre	125 ft	1287.06(k)
2. Banks	B-1	30,000 sq. ft.	125 ft	1287.06(z)
3. Car wash	B-2, B-3	1 acre	125 ft.	1287.06(b)
4. Commercial recreation facility, Indoors	B-2, B-3	1 acre	150 ft.	1287.06(d)
5. Commercial recreation facility, Outdoors	B-2, B-3	2 acres	200 ft.	1287.06(e)
6. Membership Clubs	B-2, B-3	1 acre	150 ft.	1287.06(a)
7. Day care facility, child and/or adult	B-4	(2)	(2)	1287.06(h)
8. Drive-thru services	B-1,B-2, B-3	1 acre (3)	125 ft	1287.06(i)
9. Funeral homes, mortuaries	B-2	(2)	(2)	1287.06(j)
10. Gasoline station	B-2, B-3	1 acre	125 ft	1287.06(k)
11. Hospital	B-1	2 acres	200 ft	1287.06(n)
12. Hotels and motels	B-2, B-3	2 acres	125 ft	1287.06(o)
13. Kennels	B-3	2 acres	200 ft	1287.06(p)
14. Night clubs	B-2, B-3	1 acre	125 ft	1287.06(q)

**DRAFT**

<b>Schedule 1287.05 Regulations For Conditional Uses In Business Districts</b>				
<b>Conditional Use</b>	<b>Conditional Use in District</b>	<b>Minimum Lot Regulations<sup>(1)</sup></b>		<b>Also See Section:</b>
		<b>Area</b>	<b>Width</b>	
15. Outdoor storage	B-2, B-3	(2)	(2)	1287.06(r)
16. Park and ride facility	B-2, B-3	1 acre	125 ft.	1287.06 (x)
17. Parking garages	B-2	2 acres	200 ft.	1287.06(s)
18. Health Club	B-1	1 acre	125 ft.	1287.06(m)
19. Cultural Institutions	B-1, B-2, B-3, B-4,	1 acre	125 ft.	1287.06(g)
20. Restaurants-sit down	B-2	(2)	(2)	1287.06(t)
21. Restaurants-counter service	B-2	(2)	(2)	1287.06(t)
22. School, specialty/personal instruction	B-4, B-1, B-2, B-3	30,000 sq. ft. (4)	125 ft.	1287.06(m)
23. Urgent care center	B-1, B-2, B-3	1 acre	125 ft	1287.06(w)
24. Utility substation/distribution facility, indoor/outdoor	B-4, B-1, B-2, B-3	(2)	(2)	1287.06(y)
25. Vehicle repair garage	B-2, B-3	2 acres	200 ft	1287.06(k)
26. Portable Storage Container	B-2, B-3	(2)	(2)	1287.06(cc)
<b>Notes to Schedule 1287.05:</b>				
(1) Uses shall comply with the standards in this table or the corresponding district standard whichever is greater.				
(2) Shall comply with the regulations for the district in which the conditional use is located.				
(3) The minimum of one (1) acre also includes the facility that provides the drive-thru service.				
(4) The minimum areas do not apply if the facility is proposed on a site with multiple businesses.				
<b>List of Districts:</b>				
B-1 Limited Business District				
B-2 Retail Business District				
B-3 Business District				
B-4 Office Park/Research District				

---

**DRAFT****1287.06 SUPPLEMENTAL REGULATIONS FOR CERTAIN USES.**

The following are specific conditions, standards and regulations for certain conditional uses and are in addition to the criteria and standards set forth in Sections 1287.04 through 1287.05.

**(a) Places of Assembly including: auditoriums, assembly halls, conference centers, membership clubs, community recreation facilities:**

- (1) When adjacent to any boundary line of a Single or Two Family Residence District, the minimum side and rear setback for principal and accessory buildings shall be seventy-five (75) feet.
- (2) All activities, programs and other events shall be directly related to the conditional use so granted.
- (3) Applicants must clearly demonstrate that the use will maximize compatibility with the neighborhood, particularly with regard to traffic circulation, parking, and appearance.
- (4) Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
- (5) The building shall be located on the site so its scale and massing will be compatible with the surrounding neighborhood.
- (6) Such uses should be located on an arterial roadway or collector roadway or have direct access to an arterial roadway or collector roadway to minimize impacts on local streets and residential neighborhoods.
- (7) When adjacent to any boundary line of a Single or Two Family Residence District, a buffer yard, with a minimum width of fifty (50) feet (Except Membership Clubs, see #8 below) shall be planted with large and small evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet. The small evergreen trees shall be at least four (4) feet in height when planted and permitted to grow to a minimum of six (6) feet. Plantings shall be measured from the highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.
- (8) Membership Clubs. For membership clubs, when adjacent to any boundary line of a Single or Two Family Residence District, a thirty (30) foot buffer yard shall be provided. It shall be planted with large evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten

---

**DRAFT**

(10) feet, measured from highest finished grade of the buffer yard. The evergreen shrubs shall be at least three (3) feet in height when planted measured from highest finished grade of the buffer yard. Plantings shall be measured from the highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.

**(b) Car wash:**

- (1) Such facilities shall be located on an arterial roadway or collector roadway in an area least disruptive to pedestrian and vehicular traffic.
- (2) Any proposed loudspeaker system shall be approved as part of the conditional use application.
- (3) Alleys or driveways abutting residentially zoned parcels shall not be used for the circulation of customer traffic, including queuing.
- (4) Queuing spaces shall be provided as required by Section 1284.10.
- (5) The Planning Commission may limit the hours of operation to ensure that the proposed use is compatible with the surrounding uses.

**(c) Cemetery:**

- (1) Interior drives shall be installed, including the required pavement, as development progresses and as indicated on the final site plans approved by the Planning Commission.
- (2) Sufficient parking spaces shall be provided throughout the cemetery so as not to hinder traffic flow.
- (3) No gravesite shall be located within fifty (50) feet of a public street right-of-way or residential property line.
- (4) No mausoleum shall be located within 100 feet of a public street right-of-way or residential zoning district boundary line.

**(d) Commercial recreation facility, indoors:**

- (1) Buildings in which dance floor/entertainment is provided shall be located a minimum of 100 feet from a residential zoning district boundary line.
- (2) The Planning Commission may limit the hours of operation to ensure that the proposed use is compatible with the surrounding uses.

---

**DRAFT**

- (3) Only retail uses that are customary accessory and incidental to the principal use shall be permitted and include such uses as refreshment stands, souvenir stands, concession stands, and an office.
  - (4) Such uses should be located on an arterial roadway or collector roadway or have direct access to an arterial roadway or collector roadway to minimize impacts on local streets and residential neighborhoods.
  - (5) When adjacent to any boundary line of a Single or Two Family Residence District, a buffer yard, with a minimum width of fifty (50) feet, shall be planted with large and small evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet. The small evergreen trees shall be at least four (4) feet in height when planted and permitted to grow to a minimum of six (6) feet. Plantings shall be measured from the highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.
  - (6) All activities, except parking and signage, shall take place inside the facility.
- (e) **Commercial recreation facility, outdoors:**
- (1) The Planning Commission may require active recreation areas to be enclosed by a fence having a minimum height of five (5) feet.
  - (2) The proposed use shall not generate excessive noise, odor, dust or smoke beyond the premises. In order to minimize any effects of the above, the Planning Commission may require all applicable surface areas to be paved, and impose additional noise reduction measures, including mounding, landscaping and sound barriers, to ensure that the level of noise is less than or the same as the prevailing noise levels of permitted uses in the District or in the surrounding area.
  - (3) Rifle ranges, skeet shooting ranges, pistol ranges, and other activities involving the use of firearms shall not be permitted.
  - (4) All activities, programs and other events shall be directly related to the conditional use so granted, and shall be adequately and properly supervised so as to minimize any hazardous conditions and to assure against any disturbance or nuisance to surrounding properties, residents or to the community in general.
  - (5) An adequate number of public restrooms shall be provided and maintained.

---

**DRAFT**

- (6) The Planning Commission may limit the hours of operation to ensure that the proposed use is compatible with the surrounding uses.
  - (7) Only retail uses that are customary accessory and incidental to the principal use shall be permitted and include such uses as refreshment stands, souvenir stands, concession stands, and an office.
  - (8) When adjacent to any boundary line of a Single or Two Family Residence District, a buffer yard, with a minimum width of fifty (50) feet, shall be planted with large and small evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet. The small evergreen trees shall be at least four (4) feet in height when planted and permitted to grow to a minimum of six (6) feet. Plantings shall be measured from the highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.
  - (9) Such use shall be located on an arterial roadway or collector roadway.
  - (10) Swimming pools shall comply with the following additional requirements:
    - A. Pools shall be adequately fenced to prohibit unauthorized access to the facility.
    - B. Pools and their enclosures shall comply with the building setback requirements set forth in the B-2 District.
    - C. The enclosure required in sub-section A. above shall be kept locked at all times the pool is not in use.
    - D. The Planning Commission may limit the maximum lot coverage of related buildings and lounging/deck areas.
- (f) **Congregate care facility:**
- (1) A congregate care facility may include one or more of the following types of residential facilities: independent living, assisted living, or nursing care that include congregate dining, living and or medical facilities.
  - (2) When adjacent to any boundary line of a Single or Two Family Residence District, the minimum side and rear setback for principal and accessory buildings shall be fifty (50) feet.
  - (3) When adjacent to any boundary line of a Single or Two Family Residence District, a thirty (30) foot buffer yard shall be provided. It shall be planted with large evergreen trees and one row of evergreen shrubs. The large

---

**DRAFT**

evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet, measured from highest finished grade of the buffer yard. The evergreen shrubs shall be at least three (3) feet in height when planted, measured from highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.

- (4) Such uses should be located on an arterial roadway or collector roadway or have direct access to an arterial roadway or collector roadway to minimize impacts on local streets and residential neighborhoods.
- (5) The site plan shall indicate the emergency entrances and exits so that vehicular access to them is adequately provided.
- (6) Exterior lighting shall be compatible with the surrounding neighborhood.

**(g) Cultural institution:**

- (1) When adjacent to any boundary line of a Single or Two Family Residence District, the minimum side and rear setback for principal and accessory buildings shall be fifty (50) feet.
- (2) Applicants must clearly demonstrate that the use will be compatible with the surrounding land uses and the surrounding built environment, particularly with respect to traffic circulation, parking and appearance.
- (3) Such uses should be located on an arterial roadway or collector roadway or have direct access to an arterial roadway or collector roadway to minimize impacts on local streets and residential neighborhoods.
- (4) When adjacent to any boundary line of a Single or Two Family Residence District, a thirty (30) foot buffer yard shall be provided. It shall be planted with large evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet, measured from highest finished grade of the buffer yard. The evergreen shrubs shall be at least three (3) feet in height when planted measured from highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.

---

**DRAFT****(h) Day care facility, child or adult:**

- (1) When adjacent to any boundary line of a Single or Two Family Residence District, the minimum side and rear setback for principal and accessory buildings shall be fifty (50) feet.
- (2) For the protection of children and adults enrolled in the day care center, a fence or wall having a height of at least five (5) feet shall enclose all outdoor activity areas. An entry gate shall be securely fastened.
- (3) A drop-off/pick-up location that will not impede traffic on or off the site shall be clearly identified on the plans and arranged to ensure the safety of the children and adults.
- (4) The location and design of the facility shall provide for the protection of the children and adults from the traffic, noise, and other hazards of the area.
- (5) The outdoor activity area for a children's day care center shall not be located closer than fifty (50) feet to any adjacent boundary line of a Residential District.
- (6) In the B-4 District, such establishments shall be permitted only:
  - A. When part of a multi-establishment building; or,
  - B. When such an establishment is the principal use in a building, it shall only be permitted when part of a multi-building development whose principal uses are permitted by right in the B-4 District.

**(i) Drive-thru services:**

- (1) Sites for such facilities shall be located on an arterial roadway or collector roadway.
- (2) Access drives for drive-thru facilities should be located on an arterial roadway or collector roadway in an area least disruptive to pedestrian and vehicular traffic. If an access drive is located on a local roadway, it should be sited so as to minimize negative impacts on adjacent residential uses.
- (3) Any proposed loudspeaker system shall be approved as part of the site plan.
- (4) Queuing spaces shall be provided as required by Section 1284.10.
- (5) Driveways and areas for queuing shall not be located within 50 feet of residentially zoned areas.
- (6) When adjacent to any boundary line of a Single or Two Family Residence District, a thirty (30) foot buffer yard shall be provided. It shall be planted

---

**DRAFT**

with large evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet, measured from highest finished grade of the buffer yard. The evergreen shrubs shall be at least three (3) feet in height when planted measured from highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.

- (7) The Planning Commission may limit the hours of operation to ensure that the proposed use is compatible with the surrounding uses.

**(j) Funeral Homes, mortuaries:**

- (1) All activity shall be conducted inside the buildings only, with the exception of the vehicle stacking for funeral processions.
- (2) No vehicle stacking shall be permitted in a public street right-of-way.
- (3) Cremation services as part of a funeral home when complying with the following:
  - A. Such use shall be located on an arterial roadway or higher street classification.
  - B. Such uses shall obtain all required permits and approvals from the State of Ohio and/or any other applicable permitting authority. All documentation submitted to these authorizes, to obtain approval, shall also be submitted as part of the application for a conditional use.
  - C. The structure housing the crematorium shall be setback a minimum of 300 feet from any property line that is adjacent to a residential zoning district boundary line, a residential use, a school, or a park.
  - D. No outdoor activities or outdoor storage shall be permitted.
  - E. Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
- (4) Areas for the stacking of funeral processions shall not be located within 50 feet of residentially zoned areas.
- (5) When adjacent to any boundary line of a Single or Two Family Residence District, a thirty (30) foot buffer yard shall be provided. It shall be planted with large evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet, measured from highest

---

**DRAFT**

finished grade of the buffer yard. The evergreen shrubs shall be at least three (3) feet in height when planted measured from highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.

**(k) Gasoline Stations; Automobile Service Stations; and Vehicle Repair Garage:**

- (1) The minimum setback for pump islands adjacent to a public right-of-way shall be twenty-five (25) feet, except adjacent to an “R” District. The minimum front setback for such facility within one hundred (100) feet of such “R” District (measured along the street on which such districts join and front) shall be same as that required in such adjoining “R” District. The minimum side and rear setback shall be forty (40) feet.
- (2) The proposed use shall not generate excessive noise, odor, dust or smoke beyond the premises. In order to minimize any effects of the above, the Planning Commission may require all applicable surface areas to be paved, and impose additional noise reduction measures, including mounding, landscaping and sound barriers, to ensure that the level of noise is less than or the same as the prevailing noise levels of permitted uses in surrounding area.
- (3) No inoperative motor vehicles, equipment, or parts shall be permitted to remain outside on the property.
- (4) Except while being serviced at a pump island, no vehicle shall be parked between the fuel pumps and property line adjacent to a public right-of-way unless off-street parking spaces have been clearly identified and approved.
- (5) Such facilities shall be located on an arterial roadway or collector roadway in an area least disruptive to pedestrian and vehicular traffic;
- (6) Any proposed loudspeaker system shall be approved as part of the site plan;
- (7) Queuing spaces shall be provided as required by Section 1284.10, when applicable;
- (8) When located on a corner lot, the facility shall have not less than 150 feet frontage on each of the two intersecting streets. The location of access drives shall be placed as far as possible from the intersection; and shall be limited to no more than one (1) access drive per street frontage. When the street frontage is greater than 150 feet additional driveways may be considered when it is determined by the Planning Commission that such additional driveways will not impede traffic flow or unreasonably compromise safety.

---

**DRAFT**

- (9) Vehicle parking areas, vehicle storage areas, maneuvering lanes and access ways to public streets shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site.
  - (10) When adjacent to any boundary line of a Residential District, a buffer yard, with a minimum width of fifty (50) feet, shall be planted with large and small evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet. The small evergreen trees shall be at least four (4) feet in height when planted and permitted to grow to a minimum of six (6) feet. Plantings shall be measured from the highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.
  - (11) Gasoline Station. The only automobile related services permitted to be performed at a gasoline station shall be the dispensing of fuel, oil, air, and windshield wiper fluid and other common vehicular liquids and lubricants.
  - (12) Automobile Service Station. Automobile service stations shall not provide services to vehicles that exceed one and one-half tons in capacity. All activities, except those required to be performed at a fuel pump, air dispenser or self-serve automobile vacuum, shall be conducted entirely within a building or garage.
  - (13) Automotive Service Stations and Gas Station. A car wash establishment may be combined with a gasoline station or an automobile service station provided that the lot size for the combined uses is a minimum of 50,000 square feet.
  - (14) Automotive Service Stations and Vehicle Repair Garage. No oil draining pit or visible appliance for any such purpose, other than filling caps, shall be located within ten (10) feet of any street right-of-way or within twenty-five (25) feet of any residential zoning district boundary line, except where such appliance or pit is within a building.
- (I) **Golf courses:**
- (1) The proposed use shall not generate excessive noise, odor, or dust beyond the premises. In order to minimize any effects of the above, the Planning Commission may require all applicable surface areas to be paved, and impose additional noise reduction measures, including mounding, landscaping and sound barriers, to ensure that the level of noise is less than or the same as the prevailing noise levels of permitted uses in surrounding area.

---

**DRAFT**

- (2) Vehicular approaches to the property shall be designed so as not to create an interference with traffic on surrounding public streets or roads.
- (3) Golf courses, including tees, fairways, greens and golf driving ranges shall be designed and landscaped in such a manner as to reasonably prevent a misfired ball from landing out of the golf course.
- (4) Only retail uses that are customary accessory and incidental to the principal use shall be permitted.
- (5) When related activities such as clubhouse, pool, maintenance building and storage areas, parking lots, etc. are adjacent to any boundary line of a Residential District, a buffer yard, with a minimum width of fifty (50) feet, shall be planted with large and small evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet. The small evergreen trees shall be at least four (4) feet in height when planted and permitted to grow to a minimum of six (6) feet. Plantings shall be measured from the highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.

**(m) Health clubs & School, specialty/personal instruction:**

- (1) All activities shall take place in a fully enclosed sound-resistant building, with closed windows and door entrances that provide a reasonable sound lock.
- (2) The proposed use shall not generate excessive noise beyond the premises. In order to minimize any effects of the above, the Planning Commission may impose additional noise reduction measures, including mounding, landscaping and sound barriers, to ensure that the level of noise is less than or the same as the prevailing noise levels of permitted uses in the District and the surrounding area.

**(n) Hospitals:**

- (1) Such use shall be located on an arterial roadway or collector roadway.
- (2) When adjacent to any boundary line of a Single or Two Family Residence District, the minimum side and rear setback shall be seventy-five (75) feet.
- (3) Outdoor storage of ambulances and other vehicles used in the operation of the principal use may be permitted provided such storage areas are located in the side or rear yard in off-street parking areas. The areas devoted to

---

**DRAFT**

the outdoor storage of such vehicles shall be enclosed with a fence having a minimum height of six (6) feet.

- (4) Applicants must clearly demonstrate that the use will be compatible with the surrounding land uses, particularly with regard to traffic circulation, parking, noise, and appearance.
- (5) Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood. No more than two (2) curb cuts shall be allowed per street frontage. Factors including the number of existing curb cuts in the area, the potential for increased traffic hazards and congestion, and the number of travel lanes of the street that serves the development shall be used to determine the actual number of curb cuts permitted.
- (6) The scale and massing of the buildings and their setbacks should be compatible with the surrounding built environment.
- (7) Loading and emergency entrance areas shall be sited in such a way so as to minimize the impact on the surrounding land uses.
- (8) A traffic analysis may be required from the applicant as part of its application for a conditional use. Such analysis may include, but not be limited to, existing background traffic volumes, the proposed traffic flows and volumes, sight visibility for emerging vehicles, and other public safety factors as may be required.
- (9) When adjacent to any boundary line of a Single or Two Family Residence District, a buffer yard, with a minimum width of fifty (50) feet, shall be planted with large and small evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet. The small evergreen trees shall be at least four (4) feet in height when planted and permitted to grow to a minimum of six (6) feet. Plantings shall be measured from the highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.

(o) **Hotels and motels:**

- (1) When adjacent to any boundary line of a Single or Two Family Residence District, a buffer yard, with a minimum width of fifty (50) feet, shall be planted with large and small evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when

---

**DRAFT**

planted and allowed to grow to a minimum of ten (10) feet. The small evergreen trees shall be at least four (4) feet in height when planted and permitted to grow to a minimum of six (6) feet. Plantings shall be measured from the highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.

- (2) The lot to be developed shall contain not less than 1,000 square feet of lot per sleeping unit. The maximum lot coverage of the building shall be sixty percent (60%).
- (3) Such uses should be located on an arterial roadway or have direct access to an arterial roadway to minimize impacts on local streets and residential neighborhoods.
- (4) All buildings shall comply with the setback requirements in the applicable zoning district except that the side setback shall be twenty (20) feet.

**(p) Kenel:**

- (1) Outdoor areas devoted to kennels and/or runs shall:
  - A. Be located in the rear yard;
  - B. Have a minimum rear and side setback of thirty (30) feet.
  - C. Have a minimum setback of 200 feet from any residential zoning district boundary line;
  - D. Be a maximum of twenty-five percent (25%) of the gross floor area of the principal building;
- (2) Odor and noise shall be adequately controlled to ensure that animals do not create a nuisance.
- (3) The range of animals to be housed and cared for at the kennel shall be identified at the time of the application and the Planning Commission shall exclude any animals that are determined by the Commission to be non-domestic animals that could be potentially dangerous and harmful to the health and safety of the community.
- (4) Facility shall be operated in accordance with all applicable State of Ohio and Summit County Health Code regulations.
- (5) When adjacent to any boundary line of a Single or Two Family Residence District, a buffer yard, with a minimum width of fifty (50) feet, shall be

---

**DRAFT**

planted with large and small evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet. The small evergreen trees shall be at least four (4) feet in height when planted and permitted to grow to a minimum of six (6) feet. Plantings shall be measured from the highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.

**(q) Night Clubs:**

- (1) All activities, except parking and signage, shall take place inside the facility. No retail sales or similar activities shall take place outside of the principal building.
- (2) When adjacent to any boundary line of a Single or Two Family Residence District, a buffer yard, with a minimum width of fifty (50) feet, shall be planted with large and small evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet. The small evergreen trees shall be at least four (4) feet in height when planted and permitted to grow to a minimum of six (6) feet. Plantings shall be measured from the highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.
- (3) Applicants must clearly demonstrate that the use will be compatible with the surrounding land uses and the surrounding built environment, particularly with regard to traffic circulation, parking and appearance.
- (4) Points of ingress and egress to the site shall be minimized and placed in such a way as to maximum safety, maximize efficient traffic circulation, and minimize the impact on the surrounding area.
- (5) The proposed use shall not generate excessive noise beyond the premises. In order to minimize any effects of the above, the Planning Commission may impose additional noise reduction measures, including mounding, landscaping and sound barriers, to ensure that the level of noise is less than or the same as the prevailing noise levels of permitted uses in the District and the surrounding areas.

---

**DRAFT**

- (6) Such uses should be located on an arterial roadway or have direct access to an arterial roadway to minimize impacts on local streets and residential neighborhoods.
- (r) **Outdoor Storage:** The outdoor storage of goods and general materials shall be an accessory use associated with a permitted use in those zoning districts where permitted and shall comply with the following:
- (1) Outdoor storage of materials shall include the storage of goods, materials, or products associated with the principal or main use. The storage of radioactive, toxic, or otherwise hazardous materials shall not be permitted.
  - (2) Outdoor storage shall be enclosed with a solid fence or wall, including solid gates. The wall or fence shall have a height tall enough to conceal all operations and materials therein from the view of any observer standing at the grade level of an abutting lot or a public street, but screening shall be a minimum of six (6) feet in height placed adjacent to the storage areas. The solid wall or fence and the associated gates shall be maintained in good condition. No barbed or razor wire shall be permitted.
  - (3) All materials shall be stored in such a fashion as to be accessible to fire-fighting equipment at all times.
  - (4) Areas devoted to outdoor storage shall be located in a rear yard so that it is behind the principal building and have minimum visibility from any public street, unless the storage is located on a corner lot. The enclosed area shall be setback fifteen (15) feet from any property boundary that abuts a One-family Residential District and in no case shall the side and rear setback of the enclosed area be less than fifteen (15) feet. On corner and through lots, the enclosed area shall be setback fifteen (15) feet from any street right-of-way.
  - (5) Any proposed outdoor storage areas shall be approved as part of a site plan.
- (s) **Parking Garages:**
- (1) The minimum side and rear setback shall be forty (40) feet.
  - (2) Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation and appearance. The Planning Commission may limit the hours of operation to ensure that the proposed use is compatible with the surrounding uses.
  - (3) The building shall be designed and constructed with materials to be compatible with surrounding development. Considerations include design elements that break up long, monotonous building walls and any other

---

**DRAFT**

design elements that are compatible with the desired character of the District and the surrounding environment.

- (4) The design and layout of the street side of the site shall provide a varied and interesting facade. The ground floor shall be differentiated from the upper floors by stepping back the upper floors; changing materials between the ground and upper floors; and/or including a continuous cornice line or pedestrian weather protection elements, such as awnings. Facades shall be varied using one or more of the following methods: varying the arrangement, proportioning, or design of façade openings; incorporating changes in architectural materials, including texture or color; or projecting or recessing portions or elements of the façade.
  - (5) The landscaping on the site shall provide an appropriate transition to residential districts, separates and buffers the building from uses in abutting districts, and provides visual relief from stark, linear building walls.
  - (6) When adjacent to any boundary line of a Single or Two Family Residence District, a thirty (30) foot buffer yard shall be provided. It shall be planted with large evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet, measured from highest finished grade of the buffer yard. The evergreen shrubs shall be at least three (3) feet in height when planted, measured from highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.
  - (7) Such facilities shall be located on an arterial roadway or have direct access to such arterial roadway and in an area least disruptive to pedestrian and vehicular traffic.
- (f) **Restaurants-counter service & sit down:** Such establishments shall be permitted only when:
- (1) Part of a multi-establishment building, in which the majority of the uses are permitted by right in the B-2 District;
  - (2) When such an establishment is the principal or main use in a building, it shall only be permitted when part of a multi-building development whose principal or main uses are permitted by right in the B-2 District; or,
  - (3) When located on a parcel as the only business, the restaurant shall be on a minimum lot of one and one-half (1 ½) acres with a minimum lot width of one hundred fifty (150) feet and the Planning Commission shall determine that:

---

**DRAFT**

- A. Any outdoor dining is in a location and with appropriate screening to minimize disturbances (such as noise, light, and visual considerations) to adjacent or nearby properties; and
- B. Drive-thru services are in compliance with the requirements of subsection (i) of this Section 1287.06.

**(u) School, (public/private) college/university including dormitories, fraternity or sorority houses:**

- (1) When adjacent to any boundary line of a Single or Two Family Residence District, the minimum side and rear setback for principal and accessory buildings shall be seventy-five (75) feet.
- (2) Applicants must clearly demonstrate that the use will be compatible with the surrounding land uses and the surrounding built environment, particularly with regarding to traffic circulation, parking and the scale, massing, and appearance of the buildings:
  - A. The building and roof shall be designed to be compatible with surrounding development. Considerations include design elements that break up long, monotonous building or rooflines and any other design elements that are compatible with the desired character of the District or the surrounding area.
  - B. The design and layout of the street side of the site shall provide a varied and interesting facade. Considerations include the use of setbacks, building placement, roof design, variations in materials and building walls as well as other structural elements.
- (3) Points of ingress and egress to the site shall be minimized and placed in such a way as to maximum safety, maximize efficient traffic circulation, and minimize the impact on the surrounding area.
- (4) The landscaping on the site shall provide appropriate transition from commercial to residential districts; separates and buffers the buildings from other uses especially abutting residential districts; and provides visual relief from stark, linear building walls.
- (5) When adjacent to any boundary line of a Single or Two Family Residence District, a buffer yard, with a minimum width of fifty (50) feet, shall be planted with large and small evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet. The small evergreen trees shall be at least four (4) feet in height when planted and permitted to grow to a minimum of six (6) feet. The Planning Commission has the discretion to modify these planting standards, including requiring or

---

**DRAFT**

permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.

**(v) Sports facility:**

- (1) The facility shall not be located adjacent to a residential zoning district.
- (2) Applicants must clearly demonstrate that the use will be compatible with the surrounding land uses and the surrounding built environment, particularly with regarding to traffic circulation, parking and appearance.
- (3) Points of ingress and egress to the site shall be minimized and placed in such a way as to maximum safety, maximize efficient traffic circulation, and minimize the impact on the surrounding area.
- (4) Facades, which are visible from a public street, shall vary the façade utilizing one or more of the following methods: varying the arrangement, proportioning, or design of façade openings; incorporating changes in architectural materials, including texture or color; or projecting or recessing portions or elements of the façade.
- (5) Depending upon the characteristics of the surrounding land uses, the Planning Commission may limit the types of activities permitted; the location of exterior light fixtures; and the location, type, and size of signage; and require additional landscaping beyond the requirements in this subsection.
- (6) All activities, except parking and signage, shall take place inside the facility. No retail sales or similar activities shall take place outside of the principal building.
- (7) When adjacent to any boundary line of a Single or Two Family Residence District, a buffer yard, with a minimum width of fifty (50) feet, shall be planted with large and small evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet. The small evergreen trees shall be at least four (4) feet in height when planted and permitted to grow to a minimum of six (6) feet. Plantings shall be measured from the highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.
- (8) Such use shall be located on an arterial roadway or collector roadway.

---

**DRAFT****(w) Urgent care center:**

- (1) The Planning Commission may limit the hours of operation to ensure that the proposed use is compatible with the surrounding uses.
- (2) All activities, except parking and signage, shall take place inside the facility.
- (3) Applicants must clearly demonstrate that the use will be compatible with the surrounding land uses and the surrounding built environment, particularly with regarding to traffic circulation, parking and appearance.
- (4) Points of ingress and egress to the site shall be minimized and placed in such a way as to maximum safety, maximize efficient traffic circulation, and minimize the impact on the surrounding area.
- (5) When adjacent to any boundary line of a Single or Two Family Residence District, a thirty (30) foot buffer yard shall be provided. It shall be planted with large evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet, measured from highest finished grade of the buffer yard. The evergreen shrubs shall be at least three (3) feet in height when planted measured from highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.

**(x) Park and ride facility:**

- (1) The park and ride facility shall be used solely for the parking of passenger vehicles and shall not be used for repair work, vehicle servicing, loading of any kind, or the erection of advertising signs of any kind on the lot. The restricted parking lot shall not be used for the parking of commercial motor vehicles.
- (2) The parking lot shall be closed between 1:00 AM to 5:00 AM, unless otherwise modified by the Planning Commission.
- (3) Points of ingress and egress to the site shall be minimized and placed in such a way as to maximum safety, maximize efficient traffic circulation, and minimize the impact on the surrounding area.
- (4) When adjacent to any boundary line of a Single or Two Family Residence District, a thirty (30) foot buffer yard shall be provided. It shall be planted with large evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and

---

**DRAFT**

allowed to grow to a minimum of ten (10) feet, measured from highest finished grade of the buffer yard. The evergreen shrubs shall be at least three (3) feet in height when planted measured from highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.

**(y) Utility substation/distribution facility, indoor and outdoor.**

- (1) Public utility structures, including substations, shall be permitted as a conditional use only when the distribution of service is essential to the immediate neighborhood or when topological features restrict the location of such facility.
- (2) Natural or man-made barriers shall be provided to lessen any intrusion into a residential area.
- (3) Storage of materials shall be within a completely enclosed building.
- (4) Substations, as measured from the outermost edge of the facility, shall be located a minimum of fifty (50) feet from any residential zoning district boundary line.
- (5) Security measures shall be provided as required by federal and state authorities.

**(z) Banks.**

- (1) When adjacent to any boundary line of a Single or Two Family Residence District, a buffer yard, with a minimum width of fifty (50) feet, shall be planted with large and small evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet. The small evergreen trees shall be at least four (4) feet in height when planted and permitted to grow to a minimum of six (6) feet. Plantings shall be measured from the highest finished grade of the buffer yard. The Planning Commission has the discretion to modify these planting standards, including requiring or permitting the addition of fences, in order to assure that any potential impacts on adjacent and nearby residential properties are minimized.
- (2) Sites for such facilities shall be located on an arterial roadway or collector roadway.
- (3) Access drives and associated parking lots should be located on or adjacent to an arterial roadway or collector roadway in an area least disruptive to

---

**DRAFT**

pedestrian and vehicular traffic. If an access drive or parking lot is located on or adjacent to a local roadway, it should be sited so as to minimize negative impacts on adjacent residential uses.

- (4) When adjacent to any boundary line of a Single or Two Family Residence District, the minimum side and rear setback for principal and accessory buildings shall be fifty (50) feet.
- (5) To minimize negative impacts on adjacent residential uses, the principal building and its main pedestrian entrance shall be oriented toward the arterial roadway or the collector roadway and away from residential uses.

(aa) **Adult care facility for six (6) to sixteen (16) persons & Residential facility for 9-16 persons**

- (1) All activities, programs and other events shall be directly related to the conditional use applied for and as it is granted, and any changes from the approved conditional use shall be reviewed and approved by the Planning Commission according to the procedures in Chapter 1241. All activities, programs and other events shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents, or to the community in general.
- (2) The architectural design and site layout of the facility and the height of any walls, screens, or fences connected with any said facility shall be compatible with adjoining land uses and the residential character of the neighborhood.
- (3) The applicant shall demonstrate that adequate qualified supervision will exist in the home on a 24-hour per day basis.
- (4) The applicant shall comply with the applicable parking regulations of the Zoning Code and shall make adequate provision for on-site parking of vehicles used by visitors and the home supervisors. The use of alternative pavements such as brick pavers or porous pavement is encouraged to retain the residential character in these Districts. Parking for visitors and employees shall be located behind the front building line, except as provided in Schedule 1287.04. An exception to this requirement may be granted due to the shallow depth of the parcel, the location of mature trees, or other similar factors
- (5) The facility shall meet local fire safety and building code requirements for the proposed use and level of occupancy.
- (6) Evidence shall be presented that the proposed facility meets the certification, licensing or approval requirements of the appropriate state agency. Failure to maintain such license, certification or other approval

---

**DRAFT**

requirements shall result in immediate revocation of the facility's conditional use approval.

- (7) In considering whether to grant the conditional use, the Planning Commission shall take into consideration the proximity and location of other such facilities within the neighborhood so as not to change the character of the area, create undue congestion in the public ways, or otherwise adversely impact upon a given area with such use, but in no event shall an adult care facility be closer than 1,000 feet from where an adult care or residential facility is located. Separation distances are measured from property line to property line by the shortest distance.

**(bb) Public service facility.**

- (1) Facilities shall be limited to structures that are essential for the distribution of services to the local area.
- (2) There shall be no outdoor storage of general materials.
- (3) Outdoor storage of fleet vehicles used in the operation of the facility may be permitted provided such storage areas are located in the side or rear yard on a paved surface and are screened in accordance with Chapter 1296, Landscaping and Screening Regulations.

**(cc) Portable Storage Container.**

- (1) All portable storage containers shall be in a condition free from rust, peeling paint and other forms of deterioration.
- (2) All portable storage containers shall be located on private property on a paved surface or driveway.
- (3) The placement of portable storage containers shall not impede on and off site traffic movements.
- (4) The Planning Commission may require the screening of portable storage containers if such containers are located adjacent to "R" Districts or if the containers would otherwise detract from the site.
- (5) Portable storage containers shall not be located in required parking spaces, unless the Planning Commission finds that such placement shall not negatively impact on-site parking conditions.

# CHAPTER 1288

## Exceptions and Modifications

[1288.01](#) Reserved.

[1288.02](#) Height exceptions.

[1288.03](#) Lot area and width exceptions.

[1288.04](#) Setback when lot abuts two nonintersecting streets.

### 1288.01 RESERVED.

### 1288.02 HEIGHT EXCEPTIONS.

- (a) The height limitations stipulated elsewhere in this Zoning Code shall not apply to the following, except as provided for in sub-section [1250.05 \(b\)](#):
- (1) Ancillary structures or features such as: church spires, belfries, cupolas, domes, monuments, water towers, fire and hose towers, observation towers, chimneys, smokestacks, flag poles, elevator penthouses, mechanical equipment including solar and wind energy facilities; radio, television, microwave or television tower or mast shall not extend more than ten (10) feet above the primary structure; and parapet walls shall not extend more than four (4) feet above the limiting height of the building.
  - (2) Dish and whip antennas of all kinds and regulated in [Chapter 1292](#).

### 1288.03 LOT AREA AND WIDTH EXCEPTIONS.

- (a) Lots created after the effective date of this Zoning Code shall be increased in area in order to obtain greater depth when:
- (1) A lot abuts a major street in order to obtain a greater depth of front yard;
  - (2) A lot abuts a railroad, or other incompatible use in order to obtain a greater rear yard;
  - (3) A lot is located along an open ditch or, in the opinion of the Zoning Administrator, is land subject to flooding;
  - (4) The width and area of corner lots shall be increased in order to obtain the setback required and as set forth in Section [1258.07](#).

---

**DRAFT****1288.04 SETBACK WHEN LOT ABUTS TWO NONINTERSECTING STREETS.**

- (a) Building on lots, in non-residential districts, having frontage on two (2) nonintersecting streets need not provide a rear setback, if any equivalent open space is provided on the lot in lieu of such required rear setback. However, applicable front setbacks shall be provided on both streets.

---

DRAFT

# **CHAPTER 1290**

## **Reserved**

# CHAPTER 1292

## Antennas

- [1292.01](#) Dish antenna defined.
- [1292.02](#) Whip antenna defined.
- [1292.03](#) Approval required.
- [1292.04](#) Application, approval; plans and specifications.
- [1292.05](#) Ground-mounted dish antenna stations.
- [1292.06](#) Roof-mounted dish antenna stations.
- [1292.07](#) Portable dish antenna stations.
- [1292.08](#) Roof-mounted whip antenna.
- [1292.09](#) Violations.

### **1292.01 DISH ANTENNA DEFINED.**

- (a) For purposes of this chapter, “dish antenna” means any antenna or receiver earth station designed, constructed or modified to bring in or receive satellite television signals with its longest dimension greater than thirty six (36) inches.

### **1292.02 WHIP ANTENNA DEFINED.**

- (a) For the purpose of this chapter, “whip antenna” means any single or multiple whip or rod antennas supported by a base, on or attached to a building used for local mobile communications.

### **1292.03 APPROVAL REQUIRED.**

- (a) No person shall erect a dish or whip antenna in the City without first obtaining an approval therefore in accordance with this chapter.

### **1292.04 APPLICATION, APPROVAL; PLANS AND SPECIFICATIONS.**

- (a) The owner, part owner, lessee or occupant of any lot, premises or parcel of land in the City who desires to construct or erect a dish or whip antenna at any location in the City shall apply to the Zoning Administrator for approval.
- (b) The Zoning Administrator shall approve if:

---

**DRAFT**

- (1) The applicant submits a written application upon forms furnished by the City with a plot plan of the lot, premises or parcel attached thereto, showing the exact location of the proposed dish or whip antenna. The applicant shall also submit a description of the kind of dish or whip antenna and plans and specifications showing elevations, where the dish or whip antenna is to be erected, and the antenna itself, with sufficient details to show the method of assembly and construction. The plans and specifications shall give the address of the work, the name and address of the owner of the property and the name and address of the person who prepared the plans and specifications. Each application shall indicate the owner of the premises, the occupant of the premises and the contractor or other person to be permitted to construct or erect the proposed dish or whip antenna.
- (2) The applicant meets all of the requirements of this chapter.

**1292.05 GROUND-MOUNTED DISH ANTENNA STATIONS.**

- (a) Ground-mounted stations or antennas shall be considered accessory structures and shall comply with the following conditions and requirements:
  - (1) Such stations or antennas shall be located in the rear yard and behind the principal dwelling or structure located on the lot.
  - (2) Such stations or antennas shall be so located that, however turned or otherwise used, all parts of the station or antenna will be set back at least ten (10) feet from the inner side yard lines, and shall be set back from the rear lot line not less than ten (10) feet or one-half (1/2) the depth of the rear yard, whichever is greater.
  - (3) The plans submitted in accordance with this chapter shall specify appropriate landscaping, so as to reasonably conceal the dish from view, and the same shall not be installed before approval by the Zoning Administrator.
  - (4) Such stations or antennas shall reasonably blend with the surrounding landscape.
  - (5) Such stations or antennas shall not be linked to receivers which are not located on the same lot as the station or antenna.
  - (6) The diameter of any ground-mounted dish station or antenna shall not exceed twelve (12) feet.
  - (7) The height of any ground-mounted dish station or antenna shall not exceed fifteen (15) feet from the natural grade level.

---

**DRAFT****1292.06 ROOF-MOUNTED DISH ANTENNA STATIONS.**

- (a) Roof-mounted stations or antennas shall be considered accessory structures and shall comply with the following conditions and requirements:
  - (1) Such a station or antenna shall be mounted directly on the flat roof (no slopes) of a primary or accessory structure and shall not be mounted on an appurtenance, such as a chimney, tower or spire.
  - (2) The diameter of any dish station or antenna mounted upon the roof of a primary accessory structure shall not exceed six (6) feet.
  - (3) Such a station or antenna shall not exceed a height greater than eight (8) feet above the roof on which it is mounted. The height shall be measured vertically from the point at which such station or antenna is mounted on the roof.
  - (4) Such a station or antenna shall reasonably blend with the surrounding landscape and shall be properly screened as determined by the Zoning Administrator.
  - (5) A building permit and a zoning certificate issued by the Zoning Administrator shall be required for such a station or antenna.
  - (6) Such a station or antenna shall be permitted on commercial buildings only.
  - (7) There shall be a required setback from the parapet wall. The setback formula shall be determined by the Zoning Administrator.
  - (8) The installation of such a station or antenna shall be inspected by the Zoning Administrator and the authority having jurisdiction.

**1292.07 PORTABLE DISH ANTENNA STATIONS.**

- (a) No portable dish station or antenna of any make and/or variety shall be used in the Municipality, except as otherwise authorized by the Zoning Administrator.

**1292.08 ROOF-MOUNTED WHIP ANTENNA.**

- (a) “Whip” type or collinear antennas for land-based mobile broadcasting and receiving business communications, shall be allowed provided that the antennas are accessory to the principal use of tenants or occupants of the same building who lease or use not less than four hundred (400) square feet of space in the building, and subject to the following conditions:
  - (1) An antenna and its support structure are permitted only on a roof and shall not be attached to the exterior facing of the building or the coping wall.

---

**DRAFT**

- (2) An antenna shall not be closer than fifty (50) feet from another antenna, and there shall be not more than one (1) antenna for each two thousand five hundred (2,500) square feet of roof area of the building.
- (3) An antenna shall not be higher than twenty-eight (28) feet above the roof of a building in a B-4 District and not higher than twenty (20) feet above the roof in other business districts, including the supporting structure, but an antenna shall not be located on an accessory building.
- (4) An antenna and the antenna structure shall be not closer than ten (10) feet from the coping wall or exterior wall facing and shall be designed to withstand winds of one hundred twenty-five (125) miles per hour.
- (5) The support of an antenna shall not be higher than four (4) feet above the roof and the diameter of the antenna shall not exceed two (2) inches, excluding any ground plane radials (supports). No person shall install or maintain an antenna for receiving and broadcasting without first having obtained approval from the Zoning Administrator.

**1292.09 VIOLATIONS.**

- (a) The owner of any lot or parcel where the construction or erection of a dish or whip antenna or similar structure, in violation of any of the provisions of this chapter occurs, and any architect, builder, contractor or occupant who assists in the commission of any such violation, and any person who violates or fails to comply with any of the provisions of this chapter, shall, for each violation or noncompliance, be punished as provided by Section [1236.99](#). A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

# CHAPTER 1294

## Swimming Pools

- [1294.01](#) Pool defined.
- [1294.02](#) Reserved.
- [1294.03](#) Regulations for commercial swimming pools.
- [1294.04](#) Certificate required for family swimming pools.
- [1294.05](#) Submission of plans.
- [1294.06](#) Location of family swimming pools.
- [1294.07](#) Lighting; sanitation; nuisances.
- [1294.08](#) Compliance with Building Code.
- [1294.09](#) Restriction on first use.
- [1294.10](#) Inspection.

### **1294.01 POOL DEFINED.**

- (a) As used in this chapter “family swimming pool” and “commercial swimming pool” shall have the meaning set forth in Chapter [1234](#), General Provisions and Definitions.
- (b) As used in this Zoning Code, a family swimming pool is hereby declared to be an accessory use in residentially zoned use districts.

### **1294.02 RESERVED.**

### **1294.03 REGULATIONS FOR COMMERCIAL SWIMMING POOL.**

- (a) No commercial swimming pool shall be erected, constructed or maintained except in accordance with the following regulations:
  - (1) A complete site plan showing all pertinent dimensions together with all elevations and specifications shall be submitted to the Planning Commission, together with an application for such use as required by Chapter [1240](#), Site Plan Review Procedures.

---

**DRAFT**

- (2) Adequate fencing around the pool shall be provided as required by the Ohio Building Code.

**1294.04 CERTIFICATE REQUIRED FOR FAMILY SWIMMING POOLS.**

- (a) No family swimming pool shall be constructed, installed, enlarged, or used until a zoning certificate and a certificate of zoning compliance are first obtained from the Zoning Administrator.

**1294.05 SUBMISSION OF PLANS.**

- (a) Every applicant for a zoning certificate under Section [1294.04](#) shall submit to the Zoning Administrator, as part of the application, detailed plans that accurately show each item required by this chapter as well as those applicable items required in Chapter [1238](#), Zoning Certificate and Certificates of Zoning Compliance.

**1294.06 LOCATION OF FAMILY SWIMMING POOLS.**

- (a) No family swimming pool or part thereof shall be located nearer than ten (10) feet to the sides or rear line of the lot or parcel upon which it is situated, or nearer to any street on which such lot or parcel abuts than a distance ten (10) feet greater than the building setback line as fixed by this Zoning Code.
- (b) The area of the family swimming pool proper, exclusive of decks, walks and other appurtenances shall not exceed fifteen percent (15%) of the area of the lot or parcel on which it is situated.
- (c) Pumps, filters and pool water disinfection equipment installations shall be located at a distance not less than ten (10) feet from any side or rear property line.
- (d) No outdoor, family swimming pool or part thereof shall be installed within a front yard.
- (e) Enclosures of family swimming pools shall be in compliance with the Ohio Residential Code and with the International Code Council's Chapter 41 and Appendix G.

**1294.07 LIGHTING; SANITATION; NUISANCES.**

All family and commercial swimming pools shall comply with the following:

- (a) All lights used for illuminating family pools or the surrounding areas shall be so designed, located and installed as to confine the direct beams to the lot or parcel on which the pool is located, and so as not to constitute a nuisance or undue annoyance to occupants of abutting property.

---

**DRAFT**

- (b) No person shall make, continue or cause to be made or continued at any pool, any loud, unnecessary or unusual noise or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others.
- (c) Every swimming pool shall be maintained in a clean and sanitary condition and all equipment shall be maintained in a satisfactory operating condition.
- (d) No swimming pool shall be used, kept, maintained or operated in the City if such use, keeping, maintaining or operating shall occasion a resultant nuisance or create a health detriment.

**1294.08 COMPLIANCE WITH BUILDING CODE.**

Family and commercial swimming pools shall comply with the following, as applicable:

- (a) Part Fourteen, the Building Code, of these Codified Ordinances shall be complied with prior to the commencement of any construction on a swimming pool.
- (b) Each applicant for a building permit for a swimming pool shall be responsible for the payment of all inspection fees charged by any agency designed by the City.
- (c) Each applicant for a building permit for a swimming pool shall submit detailed plans that accurately show dimensions and construction of the pool and all appurtenances and amenities thereto. No building permit shall be issued unless the plans comply fully with the applicable provisions of the Building Code, the Electrical Code, the Plumbing Code and pertinent rules and regulations of the Summit County Health Department lawfully adopted, enacted or in force at the time of the application for such permit.
- (d) In no event shall any current-carrying electrical conductor cross a swimming pool above ground, on the ground or underground, or within fifteen (15) feet of such pool, except only for underwater lights which shall conform to the applicable provisions of the Electrical Code.
- (e) Pools shall be equipped with facilities for complete emptying of the pool and discharge of pool water into a storm sewer at a rate not exceeding two hundred fifty (250) gallons per minute. Water drained from a pool shall not be discharged directly into a storm sewer without prior approval from the Director of Public Service and the Summit County Health Department. Water shall not be drained from a pool during periods of rain or within twenty-four (24) hours after a period of rain.
- (f) Construction must start within ninety (90) days after obtaining of permits and be finished within one hundred eighty (180) days after beginning of construction or all permits shall be canceled.

**1294.09 RESTRICTION ON FIRST USE.**

- (a) No family or commercial swimming pool shall be used until a final inspection and approval is obtained from the Building Commissioner, the Summit County Health Department and the designated electrical and plumbing inspection agency.

**1294.10 INSPECTION.**

- (a) The Building Commissioner and the Summit County Health Department shall have the right to inspect any family or commercial swimming pool at any reasonable hour to ascertain compliance with the provisions of this chapter.

**DRAFT**

**CHAPTER 1296  
Landscaping and Screening Regulations**

1296.01	Intent.	1296.07	Screening of Accessory Uses.
1296.02	Scope of Application.	1296.08	General Requirements.
1296.03	Definitions.	1296.09	Approval Process for Required
1296.04	Landscaping along Street Frontage.		Landscaping, Fences and Walls.
1296.05	Screening and Landscaping of Parking Lots.	1296.10	Flexibility.
1296.06	Buffering and Screening between Districts and Uses.		

---

**1296.01 INTENT.**

The preservation of existing trees and vegetation, as well as the planting of new trees and vegetation, can significantly add to the quality of the physical environment in the City of Fairlawn. The regulations contained below are designed to provide for the health, safety, and welfare of the residents of the City by:

- (a) Promoting the proper utilization of landscaping and screening as a buffer between certain land uses to minimize the possibility of nuisances including potential noise, glare, and the visual clutter associated with parking areas;
- (b) Providing interruption of large expanses of vehicular use areas and reduction of reflected heat and glare through the implementation of interior and perimeter vehicular use area landscaping.
- (c) Improving the appearance of off-street parking areas and vehicular use areas and properties abutting public rights-of-way;
- (d) Providing areas of permeable surfaces in order to:
  - (1) Allow the infiltration of surface water into groundwater resources;
  - (2) Reduce the quantity of storm water discharge, which helps to reduce the hazards of flooding and aids in the control of erosion and storm water runoff;
  - (3) Preserve air quality through the preservation and replacement of trees and significant vegetation removed in the course of development; and,
  - (4) Improve the quality of storm water discharge.
- (e) Establishing minimum standards for the consistent appearance of plant material in the community landscape.

**DRAFT**

- (f) Providing physiologically, psychologically, sociologically, and aesthetically necessary counterpoints to the man-made environment; and,
- (g) Protecting, preserving, and promoting the aesthetic character valued by the residents of the City of Fairlawn.

**1296.02 SCOPE OF APPLICATION: COMPLIANCE NECESSARY FOR DEVELOPMENT PLAN APPROVAL.**

- (a) The provisions of this Chapter shall apply to:
  - (1) All new development on vacant land that requires the submission of a site plan and issuance of a Zoning Certificate or building permit. The required landscaping shall be so indicated on plans submitted as part of the application.
  - (2) The entire site of existing development when substantial expansion or alteration is conducted and one of the following criteria exists. An alteration or expansion of an existing property is substantial when:
    - A. The expansion of an existing building exceeds twenty-five percent (25%) of the gross floor area of the existing building;
    - B. The expansion of the vehicular use area exceeds twenty-five percent (25%) of the total existing vehicular use area; or,
    - C. The land area of the development site is increased by twenty percent (20%) or more.
  - (3) The portion of a developed site devoted to the expansion or alteration of an existing building, structure or vehicular use area when such site is not governed by subsection 1296.02(a)(2) above. The minimum landscaping and screening required by this Chapter shall be provided to the extent of the alteration or expansion, but not for the entire property of which the alteration or expansion is a part.
- (b) One-family detached dwellings and two and three-family dwellings shall be exempt from the requirements of this Chapter.
- (c) The requirements of this Chapter are minimum landscaping requirements, and nothing herein shall preclude a developer and the City from agreeing to more extensive landscaping.

**1296.03 DEFINITIONS.**

Terms related to required landscaping and screening shall have the following meanings:

**DRAFT**

- (a) **Berm**: A linear mound of earth designed to provide visual interest, screen undesirable views, buffer adjacent uses, and/or decrease noise. The height of a berm shall be measured from the average natural grade at the base of the berm.
- (b) **Caliper**: The American Association of Nurserymen standard for trunk measurement of nursery stock. Caliper of the trunk shall be taken at diameter-at-breast-height.
- (c) **Diameter-at-breast-height (DBH)**: The diameter of a tree trunk measured in inches at a height 4.5 feet above ground. If a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point below the split.
- (d) **Large Tree**: A living tree with a DBH measurement at maturity of at least six (6) inches.
- (e) **Shade Tree**: A tree with foliage that usually sheds annually and is planted primarily for its high crown of foliage or overhead canopy.
- (f) **Shrub**: A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground.
- (g) **Small Tree**: A living tree with a DBH measurement at maturity of at least four (4) inches.

**1296.04 LANDSCAPING ALONG THE STREET FRONTAGE & PARKING SETBACK.**

In addition to the requirements on sub-section 1296.05 (c), all areas within the required setback adjacent to a street right-of-way as well as the front or corner lot and/or parking setbacks, excluding driveway openings, shall be landscaped as required below. The following minimum plant materials shall be provided and maintained on all lots or developments:

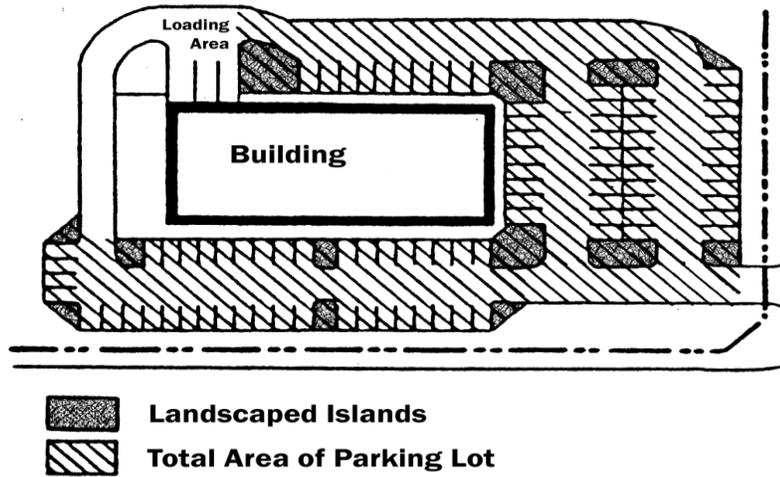
- (a) One (1) large shade tree shall be provided for every fifty (50) linear feet of lot frontage or fraction thereof, not including drive entrances.
- (b) One (1) shrub shall be provided for every ten (10) linear feet of lot frontage or fraction thereof, not including drive entrances.
- (c) All areas not devoted to trees and shrubs shall be planted with grass, ground cover or other live landscape treatment.
- (d) Trees and shrubs may be aggregated appropriately, as approved by the Planning Commission.

**1296.05 SCREENING AND LANDSCAPING OF PARKING LOTS.**

- (a) Landscaping on the Interior of Parking Lots: Interior landscaping of parking lots shall be provided in accordance with the following requirements.
- (1) For any parking area designed to accommodate fifty (50) or more vehicles, a minimum of five percent (5%) of the parking lot shall be planted as landscaped island areas, developed, and reasonably distributed throughout the parking lot to define major circulation aisles and driving lanes and provide visual and climatic relief from broad expanses of pavement, except perimeter plantings may be used to satisfy the requirements in this Section when parking facilities are less than sixty-two (62) feet in width.
  - (2) Each interior landscaped area shall be no less than 200 square feet. The minimum width for each area shall be ten (10) feet. In all cases, the minimum distance from a tree to the back of curb shall be four (4) feet;
  - (3) Within the landscaped islands, there shall be provided one shade tree for every 10 parking spaces.
  - (4) Shrubs or low, spreading plant materials may also be planted within the required landscaped islands provided there is no impairment to the visibility of motorists or pedestrians.
  - (5) If the specific application of the interior landscape requirements will seriously limit functions of the building site, the Planning Commission shall have authority to permit consolidation and relocation of these landscaped areas on the building site.
  - (6) Landscaped areas along the perimeter of the parking area, or in any part of a yard, shall not be counted as interior parking lot landscaped areas, except as provided for in sub-section (1) above.
  - (7) If a landscaped island exceeds fifty (50) linear feet, one shade tree shall be planted per fifty (50) feet of length.
  - (8) For the purpose of this Section, the area of a parking lot shall be the total vehicular use area within the perimeter of the parking lot, including the landscaped islands, parking spaces and all circulation aisles except those with no parking spaces or landscaped islands located on either side. See Figure 1, Parking Lot Interior Calculation.

## DRAFT

Figure 1. Parking Lot Interior Calculation.



- (b) Perimeter Landscaping Requirements. In addition to the requirements of sub-sections [1296.05\(a\)](#) and [1296.05\(c\)](#) hereof, perimeter landscaping shall be required along any side of a parking lot that abuts adjoining property that is not a right-of-way. A landscaped strip, which is the depth of the minimum parking setback set forth in this Zoning Code for the district in which the lot is located, except as otherwise regulated in Chapter [1287](#), Conditional Use Regulations, shall be located between the parking area and the abutting property lines. One large deciduous or two, small shade trees for each forty (40) lineal feet shall be planted in the landscaping strip. However, this does not mean that shade trees must be located forty (40) feet on center or be spaced forty (40) feet apart. This landscaping strip shall be landscaped open space free of any wall, fence, embankment and/or walkway. Such wall, fence, etc. may exist or be constructed on the edge of such landscape strip. The requirements of this section shall not apply where planting is required for screening pursuant to Section [1296.06](#), Buffering and Screening Between Districts and Uses.
- (c) Screening Along Public Streets. In addition to the requirements of sub-sections [1296.05\(a\)](#) and [1296.05\(b\)](#) hereof, whenever parking areas consisting of five (5) spaces or more abut or are located within forty (40) feet of a public street, a buffer yard, which is the depth of the minimum parking setback set forth in this Zoning Code for the district in which the lot is located, except as otherwise regulated in Chapter [1287](#), Conditional Use Regulations, and screening shall be provided and maintained between the parking area and the street right-of-way line. This screening shall be any combination of ornamental fencing or a brick wall and landscaping such that a solid, continuous visual screen is provided, unless additional requirements are mandated elsewhere in this Zoning Code. When landscaping is utilized in combination with ornamental fencing, trees and/or shrubs, such materials shall be adequately spaced to form a solid, continuous visual

**DRAFT**

screen within one (1) year after the initial installation. The requirements of this subsection shall not apply where planting is required for screening pursuant to subsection **1296.06(c)(5)**.

- (1) All shrubs, at the time of planting, berms; walls; and fences shall have a minimum height of three (3) feet, measured from the highest finished grade of the parking area.
- (2) Such landscaping and/or screening shall be located parallel to and within five (5) feet of the edge of the parking lot.
- (3) Where trees are included in the screening of parking areas, a minimum distance of four (4) feet shall be provided between the edge of pavement or back of curb and tree plantings.

**1296.06 BUFFERING AND SCREENING BETWEEN DISTRICTS AND USES.**

- (a) Intent. The intent of this Section is to establish provisions for a visual screen or buffer between incompatible uses and to reduce the effects of glare from automobile headlights, noise, and other objectionable activities conducted on a given lot.
- (b) Screening. Screening, as required by the provisions of this Code, shall be of such nature and density that it will screen the activities on the lot from view from the normal level of a first story window on an abutting lot.
- (c) When Required. A buffer yard shall be required when:
  - (1) A lot in any Business or Municipal District abuts a Residence District;
  - (2) A lot in a Multiple Dwelling Residence District abuts a Single-Family or Two-Family Residence District;
  - (3) A lot in a Residence District is devoted to a non-residential, conditional use;
  - (4) Required by the Conditional Use Regulations in Chapter **1287**; and,
  - (5) When any wall of a non-residential building in a Business or Municipal District faces or is across the street from a Residence District, screening shall be installed along the full length of such street frontage. No screening shall be required when the Business or Municipal District lot is either not in use or is used for residential purposes.
- (d) Width of Buffer Yard. The width of the buffer yard shall be equal to the applicable parking set back set forth in the applicable zoning district or fifteen (15) feet, whichever is greater.

**DRAFT**

- (e) Location. The buffer yard shall be located entirely within the higher intensity zoning district or use and abutting the zoning district line or lot line of lower intensity use. However, the buffer yard may be placed in the lower intensity zoning district or partially within both zoning districts if both sides of the zoning district line and the entire buffer yard width are within common ownership and a permanent easement is provided over any portion of the buffer yard not within the higher intensity zoning district. If a buffer yard is located in a residential development that has an owners' association or other similar legal entity, all buffer yards shall be located in open space owned by the association or in an open space easement controlled by the owners' association.
- (f) Buffer Yard Abutting an Adjacent Jurisdiction. When property lines abut an adjacent jurisdiction, the Planning Commission shall determine the specific screening and buffering requirements along that property line after consideration of the zoning designation and or land use of the adjacent property. Requirements shall not exceed those that would be required for similarly situated/zoned property within the City of Fairlawn.
- (g) Screening. When the natural vegetation within the required buffer yard does not form a solid, continuous, visual screen or does not have a minimum height of five (5) feet along the entire length of the common boundary at the time of occupancy, except as provided for in sub-section (g) (3) (B) below, screening shall be installed in compliance with the following:
  - (1) Screening Materials. Screening design and development shall be compatible with the existing and proposed land use and development character of the surrounding land and structures. Screening within the buffer yard shall consist of one or more or combination thereof of the following:
    - A. A dense vegetative planting incorporating trees and/or shrubs of a variety which shall be equally effective in winter and summer. Trees and/or shrubs shall be adequately spaced to form a solid, continuous visual screen within one (1) year after the initial installation. At a minimum, at the time of planting, the spacing of trees shall not exceed twelve (12) feet on center, and the planting pattern shall be staggered. Shrubbery shall be more closely spaced.
    - B. Non-living opaque structures, such as a solid masonry wall, that is compatible with the principal structure or a solid wood fence together with a landscaped area at least fifteen (15) feet wide. For solid fences, fences shall be designed, constructed, and finished so that the supporting members face the property owner of the fence and they shall be maintained in good condition, be structurally sound, and attractively finished at all times.
    - C. An ornamental fence with openings through which light and air may pass together with a landscaped area at least fifteen (15) feet wide. A chain link fence shall not be permitted.

**DRAFT**

- D. A landscaped mound or berm with no more than a 2.5:1 slope.
- (2) Installation of Screening. Screening shall be continuous and in place at the time of occupancy. If vehicular or pedestrian access through the screen is necessary, the screening function shall be preserved.
- (3) Height of Screening. The height of screening shall be in accordance with the following:
- A. Visual screening by walls, fences, or mounds in combination with vegetation, fences or walls shall be a minimum of five (5) feet high measured from the natural grade on any adjacent residential lot, except as set forth in sub-section B. below.
- B. Whenever the required screening is located within a front yard or within twenty-five (25) feet of a parking lot, drive, or driveway entrance, the required screening shall not exceed a height of three (3) feet.
- C. When used alone, vegetation shall be a minimum of five (5) feet high, as measured from the natural grade on any adjacent residential lot, in order to accomplish the desired screening effect. The required height shall be achieved no later than one (1) year after the initial installation.
- (h) Modifications to Buffering and Screening Requirements. Buffer yards required by this Chapter shall be applied equally to all similarly situated properties. The Planning Commission is empowered to modify the above buffer yard and screening requirements when it determines that:
- (1) Natural land characteristics, such as topography or existing vegetation on the proposed building site, would achieve the same intent as this Section.
- (2) Innovative landscaping or architectural design is employed on the building site to achieve an equivalent screening and buffering effect.
- (3) The required screening and landscaping would be ineffective at maturity due to the proposed topography of the site, and/or the location of the improvements on the site.
- (4) The topography of adjacent and surrounding sites is such as to render required screening ineffective at maturity.
- (5) It can be clearly demonstrated that it is highly improbable that the abutting property will be developed for residential purposes due to circumstances that have taken place since the adoption of this Code.

**DRAFT**

**1296.07 SCREENING OF ACCESSORY USES.**

Screening of accessory uses shall be provided according to the following:

- (a) Trash Collection Areas.
  - (1) Trash and/or garbage collection and service areas shall be enclosed on all sides by a solid wall and a solid gate at least 1 foot-higher than the highest refuse container in the collection area if such area is not within an enclosed building or structure, but in no case shall the wall be less than six (6) feet in height. Such solid wall shall be situated so as to screen the view of the collection area from adjacent roads and properties. Such wall shall be constructed of brick, decorative concrete, split face block, or stone and should be the same as or similar to those utilized on the principal building(s). These enclosures are to be located at least five (5) feet from the property line, unless otherwise specifically regulated in this Code. Supplemental plant materials shall be provided at a minimum height of five (5) feet to effectively screen fifty percent (50%) of the wall.
  - (2) Screening material placed around any trash and/or garbage collection and service areas, which is regularly emptied or removed mechanically shall be protected to prevent damage to the screening when the container is moved or emptied. Curbing may be required for this purpose and shall be at least one (1) foot from the screening material.
- (b) Ground-mounted Mechanical Equipment. Ground mounted mechanical equipment shall be screened with evergreen plant material so that within four (4) years the equipment is completely obscured from view.
- (c) Landscaping. No interior landscaping shall be required within an area screened for accessory uses.

**1296.08 GENERAL REQUIREMENTS.**

Areas within the setback and all other portions of the lot not covered by permitted structures or impervious surfaces shall be landscaped with grass, trees, shrubbery and/or other appropriate ground cover or landscaping material, which at all times shall be maintained in good and healthy condition.

- (a) Installation.
  - (1) Each tree at the time of installation shall have a minimum caliper of 2.5 inches and a clear trunk height of at least six (6) feet, unless otherwise specified.
  - (2) When this Chapter permits a small tree, such tree shall have a minimum caliper of two (2) inches and a clear trunk height of at least five (5) feet at the time of installation, unless otherwise specified.

**DRAFT**

- (3) If installation of plantings is not completed in a planting season, then landscaping shall be installed during the next planting season. The Commission may extend this period where a hardship would be created because of material shortages, but the Commission shall not extend such period beyond two (2) years from the time the initial installation was to have been or has been completed.
- (4) Shrubs shall be no less than twenty-four (24) inches in height. In cases of spreading varieties of shrubs, the twenty-four (24) inch height figure shall mean branch spread, unless otherwise specified.
- (b) Percentage of Lot Landscaped. All of the landscaping requirements set forth herein shall not be less than thirty percent (30%) of the entire development as depicted on the site plan.
- (c) Planting Arrangement. Trees and shrubs shall be arranged to create varied and attractive views and plant material should provide a variety of color displayed throughout the year.
- (d) Parking. Vehicle parking shall not be permitted in landscaped areas.
- (e) Pedestrian Movement. Materials shall not be placed where they will prevent pedestrian movement unless so planted for that or similar purpose.
- (f) Damage to Public Works. In no case shall any plant material interfere with or cause damage to underground utility lines, public roadways, or other public works.
- (g) Maintenance. The owner of landscaping required by this Code shall maintain such landscaping in good condition so as to present a healthy, neat and orderly appearance, free from refuse and debris. No plant material required by this Zoning Code shall be removed for any reason unless replaced with like kind and size as required by the approved plan. Prior to such removal, a revised landscape plan shall be submitted to the Planning Commission for review and approval per Chapter 1240.

**1296.09 APPROVAL PROCESS FOR REQUIRED LANDSCAPING, FENCES, AND WALLS.**

- (a) The location of proposed landscaping, fences, or walls required to fulfill the standards and criteria of this Chapter shall be reviewed and approved as part of a site plan pursuant to Chapter 1240.
- (b) It is hereby determined necessary to regulate and control landscaping and plantings in, about and around all buildings, except one, two, and three-family dwellings, by providing that cash, a performance bond, or other performance guarantee in an amount equal to one hundred ten (110%) percent of the estimate of a bonafide landscaping contractor shall be deposited with the Director of Finance before a

**DRAFT**

Zoning Certificate may be issued. When the site has been inspected and found in compliance with all of the requirements and conditions of the approved final site plans, the cash, performance bond, or other performance guarantee may be released.

- (c) When a fence, wall, or landscaping is proposed at a separate time from any other development for new construction, additions or site renovation, a fence, wall, or landscaping may be approved administratively by the Zoning Administrator when the Zoning Administrator determines that the proposal:
  - (1) Complies with the requirements of this Chapter and other applicable provisions in this Zoning Code;
  - (2) Is consistent with any previously approved plan;
  - (3) Is compatible with the current site development if there is no approved plan; and,
  - (4) Will have a minimal adverse impact to the surrounding areas.

**1296.10 FLEXIBILITY.**

- (a) The standards and criteria in this Chapter establish the City's objectives and levels of landscaping intensity expected. However, in applying these standards during the development plan review, the Planning Commission may exercise discretion and flexibility with respect to the placement and arrangement of the required elements to assure that the objectives of the district and the proposed development or redevelopment are best satisfied.

---

**DRAFT****CHAPTER 1298  
Sign Regulations**

1298.01	Purpose.	1298.12	Projecting signs.
1298.02	Definitions.	1298.13	Shopping center banners.
1298.03	Prohibited signs.	1298.14	Additional allowances
1298.04	Permits required, application and permit conditions.	1298.15	Temporary signs.
1298.05	Insurance.	1298.16	Placement of signs on public property; removal.
1298.06	Maintenance.	1298.17	Placement of nonconforming signs on private property; correction or removal.
1298.07	Criteria for approval.	1298.18	Existing nonconforming signs.
1298.08	Computation and rules of measurement.	1298.19	Conditional uses.
1298.09	Ground signs.	1298.20	Variances.
1298.10	Wall signs.	1298.21	Separability.
1298.11	Window signs.		

**1298.01 PURPOSE.**

The purpose of this Chapter is to protect the general health, safety and welfare of the community by providing an instrument for protecting the physical appearance of the community and for encouraging high quality, effective outdoor graphics for purposes of navigation, information and identification. It is the intent of this Chapter to provide businesses in the City with equitable sign standards in accordance with fair competition and aesthetic standards acceptable to the community and to provide the public with a safe and effective means of locating businesses, services, areas and points of interest in the City. This Chapter is based on the premise that signs are as much subject to control as are noise, odors, debris and similar characteristics of land use and that if signs are not controlled and regulated they can become a nuisance to adjacent properties or the community in general or depreciate the value of other properties in the community.

**1298.02 DEFINITIONS.**

(a) As used in this Chapter:

**Approved combustible material:** Wood or materials not more combustible than wood, and approved combustible plastics.

**Approved combustible plastics:** Only those plastics which, when tested in accordance with the American Society for Testing Materials (A.S.T.M.) standard method for testing flammability of plastics over 0.050 inch in thickness (D635-44), burn no faster than 2.5 inches per minute in sheets of 0.060 inch thickness.

---

**DRAFT**

**Banner**: Any sign printed or displayed upon cloth or other pliable material.

**Billboard or off-premises sign**: Any permanent sign and related structure advertising, or intended to advertise an establishment, merchandise, event, service, or entertainment that is not sold, produced, manufactured or furnished at the property on which the sign is located.

**Electronic changeable copy sign**: A sign or portion thereof on which the copy or symbols change either automatically through electrical or electronic means (for example, time and temperature units), or manually through placement of letters or symbols on a panel mounted in or on a track system.

**Ground sign**: A sign supported by one (1) or more poles, uprights or braces in or upon the ground, which are not a part of the building.

**Illuminated boxed wall sign**: An internally illuminated sign within a boxed frame with a single panel face as opposed to individually illuminated letters.

**Instructional sign**: A sign clearly intended for instructional purposes which shall be determined by the Zoning Administrator. The sign shall be exempt from the sign area of wall, ground and window signs, provided that such a sign is not larger than necessary to serve the intended instructional purpose, and such a sign is not in a location, nor includes design characteristics, that constitute or serve the purposes of a wall, ground and window sign as otherwise regulated in this Chapter.

**Portable sign**: Any sign not securely anchored in or to the ground or a building, and includes, but is not limited to, any sign mounted on wheels, casters or rollers or otherwise constructed so as to be readily movable from place to place.

**Projecting sign**: A sign which projects from and is supported by a wall or parapet of a building with the display surface of the sign in a plane perpendicular to or approximately perpendicular to the wall.

**Roof sign**: A sign erected upon or extending above a roof or above the parapet of a building.

**Shopping center**: A place built and intended to be used for retail shops, department stores, restaurants and other allied businesses and consisting of at least forty-three thousand five hundred sixty (43,560) square feet of area, including all buildings, parking and required green space.

**Shopping center banner**: A banner mounted on a light pole on the property of a shopping center in a designated parking lot, and framed on at least two (2) sides.

---

**DRAFT**

**Sign:** Every sign, ground sign, wall sign, temporary sign, pylon or pole sign, marquee, awning, canopy and street clock, that includes any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person when the same is placed outside of doors in view of the general public.

**Single window:** All the glass area that has not less than a four-inch separation from other glass areas.

**Structural trim:** The molding battens, cappings, nailing strips, latticing, platforms and letters, figures, characters or representations in cut-out or irregular form which are attached to the sign structure.

**Temporary sign:** A sign of any size or material which advertises an offering or an interest of limited duration, including, but not limited to, signs advertising a political candidacy or issue, a special sale of goods or services and signs offering the property upon which they are posted for sale or lease.

**Wall sign:** A sign attached to or erected against the wall of a building or structure, with the exposed face of the sign in a plane approximately parallel to the plane of such wall or placed on the wall as a projecting sign as defined in this Section.

**Window sign:** Any sign painted on, attached or affixed to the interior or exterior surface of windows or doors of a building or placed within two (2) feet of the window with the intention to be seen through a window or door. However, window signs shall not include lettering and logos (not attached to the window) that are clearly related and accessory to window displays of merchandise sold on the premise.

### **1298.03 PROHIBITED SIGNS.**

(a) The following signs are prohibited in the City:

- (1) Roof signs;
- (2) Any sign using flashing, rotating or animated features;
- (3) Revolving beacons used in any manner;
- (4) Portable signs;
- (5) Search lights;
- (6) Signs on vending machines, trash bins or other devices serving the premises which are not screened from view from any public right-of-way;
- (7) Illuminated boxed wall signs;
- (8) Animated sign;
- (9) Electronic changeable copy sign;
- (10) Billboards.

**DRAFT**

**1298.04 PERMITS REQUIRED, PERMIT APPLICATION AND PERMIT CONDITIONS.**

- (a) No sign or banner shall be erected, constructed, altered, rebuilt or relocated except as provided in this Chapter and until a permit therefore has first been issued by the Zoning Administrator.
- (b) Two copies of the application for a permanent sign permit shall be made in writing, in form prescribed by the Zoning Administrator, who shall require the submission of such information as is required for a complete understanding of the proposed sign and work, which shall include:
  - (1) A complete site plan or photograph showing the exact location of the sign and its relationship to the building, the locations and square footage areas of all existing signs on the site, the adjacent parcels and parking lots, drives and sidewalks.
  - (2) The design and layout proposed, including the total area of the sign and the size, character and color of letters, lines and symbols.
  - (3) The method of illumination, if any.
- (c) No permit shall be issued for any sign, except a temporary sign, until a certificate of insurance or bond, as described in Section 1298.05, has been filed with the Zoning Administrator.
- (d) For a temporary sign, the applicant shall submit two (2) copies of drawings indicating the size and location of the sign.
- (e) The owner, manager or person in control of business property or their authorized agent shall register such property with the Zoning Administrator prior to the erection of a temporary sign advertising such sale, rental or lease of the property.
  - (1) The registration shall be on a form and in a manner as provided by the Zoning Administrator and shall be specific as to the building and space for sale, rent, or lease.
  - (2) Said registration must be renewed every ninety (90) days so long as the space identified remains available.
  - (3) Multiple locations within the same building must be registered separately and individually renewed.
  - (4) Within fifteen (15) days of the closing on the sale of business property or within fifteen (15) days of the signing of a rental or lease agreement of business

**DRAFT**

property, the owner, manager, or person in control of business property or their authorized agent shall notify the Zoning Administrator of that fact..

- (5) The Zoning Administrator shall have the right to enter onto business property during normal business hours for the purpose of verifying the information provided in the registration form submitted as required in Section 1298.04(e).
- (f) The issuance of a permit for any temporary sign or banner shall be conditioned upon the applicant agreeing in writing that at the expiration of the term of such permit, the applicant will promptly remove such sign and that, upon the failure to do so within three (3) days after expiration of such permit, the City may remove and destroy or otherwise dispose of such sign at the applicant's expense.
- (g) Permits for temporary signs shall authorize the erection of such signs and their maintenance.

**1298.05 INSURANCE.**

All sign applications shall have attached thereto proof of the existence of a public liability insurance policy issued to the person, applicant and owner of real property on which the sign is located, insuring such applicant and owner against all claims for damage to property or personal injury which may result from such sign or other medium and shall indemnify the City against all liability or damages that may be occasioned by the erection, maintenance, defect and/or collapse of such sign for a period of one (1) year.

**1298.06 MAINTENANCE.**

Each sign and banner, together with all its supports, braces, guys and anchors, shall be kept in good repair and in a clean, sanitary and inoffensive condition and free and clear of all obnoxious substances, rubbish and weeds and in a proper state of preservation. The Zoning Administrator may order the removal of any sign or banner that is not maintained in accordance with the provisions of this Chapter.

**1298.07 CRITERIA FOR APPROVAL**

When approving an application for a sign permit, except for a temporary sign, the Zoning Administrator shall consider the following:

(a) **Location of the Sign.**

- (1) No sign shall be erected, constructed or maintained so as to obstruct the view and sight lines of the traveling public or any fire escape, window, architectural features, door or other opening or so as to prevent free passage from one part of a roof to any other part thereof. No sign shall be attached in any form, shape or manner to a fire escape or be so placed as to interfere with an opening which is required for legal ventilation.

---

**DRAFT**

- (2) The signs are located to maintain safe and orderly pedestrian and vehicular circulation.
  - (3) The siting of ground signs shall be carefully related to other site and landscape features such as landscaped setbacks, trees and plantings.
- (b) **Engineering and Material.** The following regulations regarding engineering design and materials shall apply to all signs per the requirements of the Ohio Building Code (OBC) as applicable:
- (1) **Wind Pressure.** All signs shall be designed and constructed to withstand wind pressures of not less than those required for buildings and other structures.
  - (2) **Earthquakes.** Signs adequately designed to withstand wind pressures specified in subsection (1) hereof shall be considered capable of withstanding earthquake shock, except in areas subject to high-intensity shocks, where all signs shall be designed in accordance with local requirements to resist earthquake shock. Wind loads and earthquake loads need not be combined to determine the maximum horizontal loads acting upon a sign. Only the larger of the two (2) loads need be used for design specifications.
  - (3) **Materials.** All permanent signs shall be constructed of noncombustible materials, provided, however, that background panels, letters, figures, decorations and structural trim thereof may be made of approved combustible materials.
- (c) **Design Criteria.** In addition to ensuring compliance with the numerical standards and engineering and material standards required for signs, the Zoning Administrator shall consider the proposed general design arrangement and placement of the sign according to the following criteria:
- (1) The proposed signs are of an appropriate size, scale and design in relationship with the principal building, site, and surroundings and adequately identify the use.
  - (2) The design of signs shall be consistent in terms of materials, colors and layout, with the architectural character of the associated building.
  - (3) The lettering should be large enough to be easily read but not overly large or out of scale with the building or site.
  - (4) The number of items, letters, symbols and shapes should be consistent with the amount of information that can be comprehended by the viewer, reflect simplicity, avoid visual clutter and improve legibility.

---

**DRAFT**

- (5) The shape of the sign should be simple, and the sign should be consolidated into a minimum number of elements.
  - (6) A ratio between the message and the background should permit easy recognition of the message.
  - (7) Signs should have an appropriate contrast and be designed with a limited number of colors.
  - (8) A sign should be constructed with a minimum of different types of materials so as to provide a consistent overall appearance.
- (d) **Sign Illumination.** The following regulations shall apply to sign illumination:
- (1) Wall signs in all districts and ground signs in the B-4 district shall only be illuminated by either indirect lighting, or the internal illumination of the letters, logo or message. Internal illumination of the background area of these signs is not permitted, except for ground signs in districts other than the B-4 district.
  - (2) Lighting shall not interfere with the traffic on abutting streets.
  - (3) Illuminated signs shall be constructed of noncombustible materials, provided, however, that background panels, letters, figures, decorations and structural trim thereof may be made of approved combustible plastics.
  - (4) Illuminated signs shall be constructed in accordance with the “Standard for Electric Signs (U.L. 48) of Underwriters' Laboratories, Inc.” and shall bear the label of the Underwriters' Laboratories, Inc.
  - (5) No internally illuminated sign shall have a brightness greater than three-tenths (.03) of a foot candle above the ambient light in the area as measured at one hundred (100) feet from the sign.

**1298.08 COMPUTATION AND RULES OF MEASUREMENT.**

(a) **Sign Area or Dimension.**

- (1) For a wall sign that is framed, outlined, painted, or otherwise prepared and intended to provide a background for a sign display, the area of the sign shall be the area that encompasses the entire background or frame.
- (2) For a sign comprised of individual letters, figures or elements on a wall or similar surface of a building or structure, the area of the sign shall be the area that encompasses the perimeter of all the elements in the display.

---

**DRAFT**

- (3) The area of the sign shall be measured by using not more than three (3) geometric shapes, which form, or approximate the perimeter of all elements in the display.
  - (4) For ground signs:
    - A. The area shall be computed by the measurement of one (1) of the faces when two (2) identical display faces are connected back-to-back or, alternatively, may be in a V-shape not to exceed an angle of thirty (30) degrees at the apex. (The apex of such sign shall at no time be directed so as to point upward.)
    - B. No more than two display faces shall be permitted for a ground sign.
    - C. Bracing, framing and supports for a ground sign shall not be included in the computation of sign area, provided, however, that all of the bracing, framing and supports do not exceed twelve (12) square feet per side. Sign Height. The height of a ground sign shall be measured from the established grade line to the maximum height of the sign including display area, bracing, framing, supports and decorative features. As used in this section, “established grade line” means the finished grade for the area between the principal building and the right-of-way line. Grade level at the site of a sign shall not be increased artificially by the use of mounding.
- (b) **Building Frontages.**
- (1) Building Unit. The building unit is equivalent to the tenant space. The frontage of the tenant space on the first floor shall be the basis for determining the permissible area for wall signs and ground signs.
  - (2) Primary and Secondary Frontages. The frontage of any building unit shall include the elevation(s) facing a public street, facing a parking area for the building or tenants, or containing the public entrance (s) to the building or building units.
    - A. The primary frontage shall be considered the portion of frontage containing the primary public entrance to the building or building units.
    - B. The secondary frontage shall include those frontages containing secondary public entrances to the building or building units, and all building walls facing a public street or primary parking area that are not designated as the primary building frontage by subsection “A” above.
- (c) **Length of Building Frontage.** The length of any primary or secondary building frontage, shall be the sum of all wall lengths parallel, or nearly parallel, to such

---

**DRAFT**

frontage, excluding any such wall length determined by the Zoning Administrator as clearly unrelated to the frontage criteria.

- (d) **Building Unit for Multi-Occupant Buildings.** For multi-occupant buildings, the portion of a building that is owned or leased by a single tenant shall be considered a building unit. The building frontage for a building unit shall be measured from the centerline of the party walls defining the building unit.

## **1298.09 GROUND SIGNS**

- (a) **Maximum Number, Area, Height and Minimum Setback of Permanent Ground Signs.**

- (1) In All Districts

- A. Signs shall be set back a minimum of six (6) feet from any public right-of-way and ten (10) feet from any side lot line.
- B. The height of a ground sign shall in no case have the top of the sign more than six (6) feet above the established grade line.

- (2) In M, B-1, B-2, and B-3 Districts

- A. The area of any permanent ground sign shall not exceed one-half (1/2) square foot of sign face per lineal foot of the building's primary frontage or forty (40) square feet, whichever is lesser.
- B. A maximum of one (1) ground sign per lot fronting on a public right-of-way is permitted, except when the lot, not adjoining a residentially zoned district, has frontage on more than one (1) right-of-way, a ground sign is permitted on each right-of-way. When a second (2nd) ground sign is permitted by this section the allowable area shall not exceed one-fourth (1/4) square foot per foot of building's secondary frontage or forty (40) square feet, whichever is lesser.
- C. When a corner parcel on a business district adjoins a residential lot in a residential district, the business parcel shall be restricted to one (1) ground sign on the side not adjoining the residential district.

- (3) In the B-4 District

- A. One (1) ground sign with a maximum width of 8 feet shall be permitted.

---

**DRAFT**

- B. The maximum area of the sign permitted shall not exceed forty eight (48) square feet.
- (4) In residential and office subdivisions, one (1) ground sign shall be permitted at each entrance. Maximum size shall be thirty-two (32) square feet.
- (b) **Bonuses for Ground Signs on Large Lots in B and M Districts.** Except for Summit Mall as regulated in Section 1298.09 (c) below, when a lot has more than 250 feet of frontage on single street, a second ground sign is permitted for each additional 250 feet of frontage, or fraction thereof. The total area of each ground sign shall comply with the requirements set forth in Section 1298.09(a)(2).
- (c) **Special Circumstances.**
- (1) **Summit Mall.** There shall be permitted five (5) ground signs configured either back to back, “V” shaped or otherwise as approved by the Planning Commission as follows:
- A. Two (2) ground signs located at the main entrance to the Mall from West Market St. with a maximum sign area of one hundred (100) square feet.
- B. Three (3) ground signs at locations approved by the Planning Commission with a maximum sign area of one hundred (100) square feet.
- C. The base of each sign is excluded from the square footage calculation unless such base is part of the message or the face of the sign.
- (2) **Previously Approved Plans.** Any sign plan standards for a development that has been previously approved by either Board of Zoning and Building Appeals or the Planning Commission shall continue to govern. Any changes to such approved plans shall be considered only by the body (either the Board or the Planning Commission) that previously approved the sign plan.

**1298.10 WALL SIGNS.**

The following regulations shall apply to wall signs:

- (a) **Supports and Attachments.** Wall signs shall be securely fastened to a masonry wall by means of anchors, bolts, expansion screws or similar connectors. A wall sign which is attached to a wall of wood may be anchored with wood blocks used in connection with screws and nails. No wall sign shall be entirely supported by an unbraced parapet wall.
- (b) **Location.** No sign shall project more than eighteen (18) inches from the building face unless the sign is a projecting sign and complies with regulations in Section 1298.12.

---

**DRAFT****(c) Maximum Number and Area.**

- (1) When a building in B-1, B-2 and B-3 or M district has frontage on more than one (1) public right-of-way, then signage along one primary and one secondary frontage are permitted as follows:
  - A. A maximum of one (1) square foot per foot of building frontage along the primary frontage.
  - B. A maximum of one-half (1/2) square foot per foot of building frontage along the secondary frontage.
- (2) In the B-4 District, wall signs no greater in area than one third (1/3) of a square foot in area for each lineal foot of the building's principal frontage are permitted. Wall signs shall only be constructed of individual raised lettering or logo fastened to the exterior of the building.
- (3) Multiple wall signs for each tenant are permitted provided the total area of all signs does not exceed the area allowances for wall signs permitted in Section 1298.10(c)(1).

**1298.11 WINDOW SIGNS.**

Window signs may include signs, posters, symbols and any other identification of, or information about, the occupant or the activity and/or use of the premises. Window signs are permitted in addition to any permitted wall or ground signs except in the B-4 District, where window signs shall not be permitted..

- (a) Placement of window signs shall be limited to the first floor windows only, unless a use is located in the second or higher stories of a building and has no first (1st) floor occupancy.
- (b) All window signs, permanent and temporary shall not exceed ten percent (10%) of the total first (1st) floor window area and not more than 35% of any single window.

**1298.12 PROJECTING SIGNS.**

Projecting signs are permitted in the B-2 District and shall comply with the following regulations:

- (a) One (1) projecting sign shall be permitted for each ground floor tenant with a minimum of 20 feet of building frontage.
- (b) The sign shall have a maximum area of eight (8) square feet.

**DRAFT**

- (c) All projecting signs shall have a maximum height of fourteen (14) feet and a minimum clearance of eight (8) feet from the ground to the bottom of the sign, except when the projecting sign is located above a landscaped area or other area that does not permit pedestrian traffic beneath the sign.
- (d) The sign shall project not more than three (3) feet from the wall.

**1298.13 SHOPPING CENTER BANNERS.**

- (a) Banners shall be permissible in shopping centers only.
- (b) The minimum distance between banners shall be one hundred (100) feet except when two (2) banners are affixed on opposite sides of the same pole.
- (c) The bottom of a banner shall be not less than fifteen (15) feet high.
- (d) The top of a banner shall not be higher than twenty (20) feet.
- (e) A banner shall not be closer than twenty (20) feet to the right-of-way.
- (f) A banner shall not exceed twenty (20) square feet in area.
- (g) The maintenance of shopping centers banners shall be in accordance with Section 1298.06.

**1298.14 ADDITIONAL ALLOWANCES.**

The following signs are permitted in addition to the sign allowances otherwise specified in this Chapter:

- (a) Instructional signs no larger than eight (8) square feet in area. Such signs shall be located in such a manner so as to not block traffic sight lines.
- (b) Entrance and exit signs, which is a type of instructional sign, that may include logos and outside of the City right-of-way and being no larger than five (5) square feet in area.
- (c) Name plates without illumination and less than two (2) square feet in area.
- (d) Instructional signs greater than 8 square feet in area are subject to approval by the Planning Commission.

---

**DRAFT****1298.15 TEMPORARY SIGNS.**

- (a) **Temporary Business Signs.** In addition to the provisions of Section 1298.13, for Shopping Center Banners, temporary signs announcing sales, new products and special business events shall be permitted on the outside of buildings and in the yards where other signs are permitted, in addition to the permanent business signs, provided such signs do not exceed thirty-two (32) square feet and are not displayed more than ninety (90) consecutive days, and shall not be reissued more than two (2) times in one (1) calendar year per business.
- (b) **Real Estate and Political Signage.**
- (1) Not more than one (1) sign advertising the sale, rental or lease of residential property or to permit non-commercial political expression shall be located on a residential property which sign shall not exceed six (6) square feet in area . When such sign advertises the sale of real estate, it shall not remain longer than three (3) days following the closing on such property.
  - (2) Real estate “open house” signs shall be permitted three (3) days prior to and the day open for inspection and shall be placed six (6) feet behind the right-of-way. A sign permit shall not be required for the sale, rental or lease of residential property.
  - (3) Not more than one (1) sign advertising the sale, rental or lease of business property shall be located on the property for sale, rental or lease. Such sign shall not exceed thirteen and one-half (13.5) square feet.
  - (4) A temporary yard sign advertising a political candidacy or issue shall be permitted for a period beginning not more than sixty-five (65) days prior to, and ending not more than three (3) days after, the election to which it relates. All signs advertising a political candidacy or issue shall be placed behind the public right-of-way.
- (c) **Special Event Banners.**
- (1) Banners shall be limited to one banner with a maximum size of three (3) feet by twenty (20) feet on private property.
  - (2) Banners shall be limited to three (3) consecutive days and shall not be displayed more than four (4) times per calendar year.
- (d) **Special Event Balloons.**
- (1) A cold air balloon used for temporary advertising purposes shall be permitted as a temporary sign but shall not exceed eight (8) feet wide by ten (10) feet high; shall

---

**DRAFT**

not be placed on any roof top; and shall be placed at least six (6) feet from any public right-of-way or access driveways.

- (2) Lighter-than-air balloons shall be no larger than thirty-six (36) inches in diameter.
- (e) **Construction and/or Development Signs.** The issuance of a zoning certificate for construction shall include the right to erect a temporary construction or development site sign not over thirty-two (32) square feet in area, not over six (6) feet above grade and set back a minimum of six (6) feet from the right-of-way line. The sign shall contain the project name, telephone contact numbers for emergency use that are functioning twenty-four (24) hours a day and seven (7) days a week, the full names and addresses of the owners and the contractor. The construction sign shall be removed prior to the issuance of a Certificate of Zoning Compliance. A residential subdivision temporary construction site sign shall be permitted and shall be removed after the sale by the developer of twenty-five percent (25%) of the lots as approved by the City Planning Commission. If the contractor, owner or developer fails to comply with the removal, the City has the right to remove the sign and access to cost to the owner or original applicant.
- (f) **Prohibited Temporary Signage.** Portable signs, Illuminated signs, Streamers (long narrow flags, banners or pennants) and any other forms of advertising signage not specifically authorized herein are prohibited.

## **1298.16 PLACEMENT OF SIGNS ON PUBLIC PROPERTY; REMOVAL.**

- (a) No person shall place or have placed on his behalf any sign on any street or other public ground within the City, except a sign for traffic control or other official public notice placed by a public official or employee in the lawful performance of his duty. No person shall place or have placed on his behalf any sign on any pole, structure, pipe or fitting designed for and carrying electric power, telephone, gas or water, except that the owner or other person responsible for the maintenance of such pole, structure, pipe or fitting may affix thereto a placard showing its ownership or other identification or a warning of any hazard connected therewith or forbidding trespass on the same.
- (b) Any sign placed in violation of the provisions of subsection (a) hereof is hereby declared to be abandoned property and the same may be removed from the site where found either by the owner of such site or by the City, without liability to any claimant thereof to account for the same.

**DRAFT**

**1298.17 PLACEMENT OF NONCONFORMING SIGNS ON PRIVATE PROPERTY; CORRECTION OR REMOVAL.**

- (a) No person shall place or have placed on his behalf any sign on any private property in the City, which sign does not conform in every particular with any of the provisions of this Chapter.
- (b) In the event of a violation of subsection (a) hereof, the Zoning Administrator shall give notice, either personally or by certified mail, return receipt requested, to the owner, lessee or person in possession of the property, to remove such sign or to correct the violation or appeal the decision of the Zoning Administrator to the Board of Building and Zoning Appeals within five (5) days from the receipt of the notice, so that it will be in conformity with the provisions of this Chapter, and, further, that if the same is not removed or corrected, as aforesaid, the Zoning Administrator or his authorized representative will remove it at the expense of such owner, lessee or person in possession.
- (c) In the event that the Zoning Administrator or his authorized representative is obliged to remove a sign because of noncompliance with the notice, as provided in subsection (b) hereof, the cost of such removal shall be charged to the owner, lessee or person in possession of the property. If such cost is not paid within thirty (30) days of the date of the invoice, the same shall be certified to the County Auditor to be put on the owner's tax duplicate and to be collected the same as other taxes are collected. The remedy provided for herein is in addition to the penalty provided in Section 1236.99.

**1298.18 EXISTING NONCONFORMING SIGNS.**

All existing signs that do not conform to the standards of this Chapter must be brought into conformity, as follows:

- (a) Upon any change of ownership of property, or if the property remains vacant for ten (10) days or more, or upon a use of a dissimilar nature, or if the zoning classification changes for the property, such sign shall be brought into conformity with the provisions of this Chapter within six (6) months of such change of ownership, use or zoning classification.
- (b) Upon alterations to the existing sign, the following regulations shall apply:
  - (1) No display sign shall hereafter be altered, rebuilt, enlarged, extended or relocated except in conformity with the provisions of this Chapter.
  - (2) The repainting, refacing or repair of signs shall not be deemed to be an alteration within the meaning of this section.

**DRAFT**

- (3) Except as otherwise specifically provided, nothing in this section shall require the removal or discontinuance of a legally existing permanent display sign which is attached to the realty, as distinguished from a temporary portable sign, that is not altered, rebuilt, enlarged, extended or relocated, and the same shall be deemed a nonconforming use under the terms of this section.

**1298.19 CONDITIONAL USES.**

A conditional use shall be subject to the same signage requirements as if such use were a permitted use, unless further restricted by the regulations in Chapter 1287.

**1298.20 VARIANCES.**

The Board of Zoning and Building Appeals may, in specific cases, vary or permit exceptions to any of the provisions of this Chapter, provided, however, that the Board finds that such variance or exception will not violate the spirit or intent of this Chapter. When reviewing the appropriateness of such deviation from the regulations herein, the Board shall approve such sign only when it determines that:

- (a) The proposed sign is of such size and scale to be appropriate for the size of the building and the proportion of the building (panel, fascia, wall, etc.) on which the sign will be placed.
- (b) The proposed sign is of the minimum relief necessary to assure it is legible to the intended viewers.
- (c) The additional sign, the additional sign area, the alternative location that is proposed, and/or the design of the proposed sign will not adversely impact the adjacent residential areas or, otherwise, compromise any other public interests.

**1298.21 SEPARABILITY.**

This Chapter and its sections, subsections, parts, paragraphs and sentences are hereby declared to be separable, and if any part or portion thereof is deemed to be unconstitutional or invalid by a court of competent jurisdiction, all other parts or portions shall remain in full force and effect.