

CODIFIED ORDINANCES OF FAIRBORN
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CODIFIED ORDINANCES OF FAIRBORN
PART ELEVEN - PLANNING AND ZONING CODE

TITLE ONE - Planning
Chap. 1101. Charter Provisions.

CHAPTER 1101
Charter Provisions

EDITOR'S NOTE: This chapter has been established to provide a place for cross references and to repeat the City Charter provisions of Article VI relative to planning and zoning, which provisions may only be amended by the electors, Sections referred to are numbered exactly as in the Charter.

CROSS REFERENCES
Administration, process and procedures - see P. & Z. Ch. 1132

SECTION 6.01 CITY PLANNING BOARD.

There shall be a City Planning Board consisting of seven members appointed by the Council for terms of three years on a rotating basis from among the qualified electors of the City. Members of the Board shall hold no other City office. The Board may make recommendations to the City Manager and the City Council on all matters affecting the physical growth and development of the City, shall be consulted on the comprehensive plan and the implementation or amendment thereof as provided in Sections 6.02 and 6.03, and shall exercise all other responsibilities as may be provided by this Charter or by ordinance.

SECTION 6.02 COMPREHENSIVE PLAN.

(a) Content. The Council shall adopt, and may from time to time modify, a comprehensive plan setting forth in graphic and textual form policies to govern the future physical growth and development of the City. Such plan may cover the entire City and all of its functions and services or may consist of a combination of plans governing specific functions and services or specific geographic areas which together cover the entire City and all of its functions and services.

(b) Adoption. Upon receipt from the City Manager of a proposed comprehensive plan or proposed amendment of the plan, the Council shall refer such proposal to the City Planning Board, which shall within a time specified by the Council report its recommendations thereon. After receipt of the recommendations of the Planning Board, the Council shall hold a public hearing on the proposed comprehensive plan or amendment thereof and shall thereafter adopt it by resolution with or without amendment.

(c) Effect. The comprehensive plan shall serve as a guide to all future Council action concerning land use and development regulations, urban redevelopment programs and expenditures for capital improvements.

SECTION 6.03 IMPLEMENTATION OF THE COMPREHENSIVE PLAN.

(a) Land Use and Development Regulations. The Council may by ordinance adopt land use and development regulations, including but not limited to an official map and zoning and subdivision regulations.

(b) Urban Redevelopment. The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) the alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, and (2) the achievement of the most appropriate use of land.

(c) Council Action. Before acting on any proposed ordinance concerning land use and development regulations, urban redevelopment or expenditures for capital improvements, where such ordinance refers to a matter covered by the comprehensive plan, the Council shall refer the proposal to the City Planning Board, which shall within a time specified by the Council and prior to the public hearing on the proposed ordinance report its recommendations thereon. Upon adopting any such ordinance, the Council shall make findings and report on the relationship between the ordinance and the comprehensive plan and, in the event that the ordinance is not in accord with the comprehensive plan, the plan shall be amended by resolution in accordance with such findings and report.

SECTION 6.04 BOARD OF APPEALS.

The Council shall by ordinance establish a Board of Appeals consisting of five members and shall provide standards and procedures for such Board to hear and determine appeals from administrative decisions pertaining to use of land, petitions for variances in the case of peculiar and unusual circumstances which would prevent the reasonable use of land and such other matters as may be required by the Council or by law.

TITLE THREE - Subdivision Regulations

- Chap. 1111. Title, Scope and Jurisdiction.
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CHAPTER 1111

Title, Scope and Jurisdiction

- 1111.01 Title.
- 1111.02 Purpose.
- 1111.03 Authority.
- 1111.04 Administration.
- 1111.05 Jurisdiction.

- 1111.06 Relation to other laws.
- 1111.07 Planned unit developments
required; regulations may be
modified.
- 1111.08 Separability.

CROSS REFERENCES

Authority - see CHTR. Sec. 6.03(a)
Jurisdiction - see Ohio R.C. 711.09
Zoning purpose - see P. & Z. 1121.01(b)

1111.01 TITLE

These regulations shall be known and may be cited and referred to as the "Subdivision Regulations for the City of Fairborn, Ohio", and shall hereinafter be referred to as "these regulations". (Ord. 7-77. Passed 4-18-77.)

1111.02 PURPOSE.

These regulations are adopted to secure and provide for:

- (a) The proper arrangement of streets or highways in relation to existing or planned streets or highways, or to the Thoroughfare Plan.
- (b) Adequate and convenient open spaces for vehicular and pedestrian traffic, utilities, access of fire fighting apparatus, recreation, light and air.
- (c) The avoidance of congestion of population.
- (d) The orderly and efficient layout and the appropriate use of the land.
- (e) The accurate surveying of land, preparing and recording of plats and the equitable handling of all subdivision plats by providing uniform procedures and standards for observance by both the approving authority and subdividers.
(Ord. 7-77. Passed 4-18-77.)

1111.03 AUTHORITY.

Article VI of the Fairborn Charter enables the Council of the City of Fairborn to adopt regulations governing plats and subdivisions of land within its jurisdiction.
(Ord. 7-77. Passed 4-18-77.)

1111.04 ADMINISTRATION.

(a) The provisions of these regulations shall be administered and enforced by the Planning Board and the City Manager. Such rules and procedures as are necessary to carry out the provisions of these regulations may be adopted by the City Manager.

(b) No plat of any subdivision within the territorial limits of these regulations shall be recorded with the County or have any validity until approved in the manner herein prescribed.
(Ord. 7-77. Passed 4-18-77.)

1111.05 JURISDICTION.

These regulations shall be applicable to all subdivisions of land within the City and the territory within three miles of the corporate limits. If such land overlaps the three-mile territorial limit of another city, exercising subdivision jurisdiction, then approval authority is vested with the city whose corporate boundary is closest to the land. The City shall exercise its jurisdiction within three miles of the corporate limits except when such jurisdiction is waived by a resolution of Council. (Ord. 8-87. Passed 2-2-87.)

1111.06 RELATION TO OTHER LAWS.

The provisions of these regulations shall supplement any and all laws of the State of Ohio, ordinances or resolutions of the City, or any and all rules and regulations promulgated by authority of such ordinances or resolutions relating to the purpose and scope of these regulations. Whenever the requirements of these regulations are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances or resolutions, the most restrictive or that imposing the higher standard shall govern except as provided in Section 1111.07. (Ord. 7-77. Passed 4-18-77.)

1111.07 PLANNED UNIT DEVELOPMENTS REQUIRED; REGULATIONS
MAY BE MODIFIED.

The Planned unit development approach to development is required when the total gross area of the proposed development is five (5) acres or more in size.

These regulations may be modified by the degree necessary to accomplish the objectives and standards required for the planned unit development of residential, commercial or industrial subdivisions, or a mixture thereof, in accordance with the Zoning Ordinance. This section, however, shall not exempt the developer from the requirements of subdivision plat approval as specified in Chapters 1113 and 1114.
(Ord. 21-05. Passed 6-20-05.)

1111.08 SEPARABILITY.

If, for any reason, any clause, sentence, paragraph, section or other part of these regulations should be decided by a court of competent jurisdiction to be invalid, such judgment shall not affect the validity of these regulations as a whole, or any part thereof, other than the part so held to be invalid. (Ord. 7-77. Passed 4-18-77.)

CHAPTER 1112
Definitions

- 1112.01 Interpretation of terms or words.
- 1112.02 Alley.
- 1112.03 Block.
- 1112.04 Building line.
- 1112.05 City of Fairborn Construction and Materials Specifications.
- 1112.06 City of Fairborn Design Criteria.
- 1112.07 City of Fairborn Standard Drawings.
- 1112.08 Comprehensive Plan.
- 1112.09 Corner lot.
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- 1112.11 Covenant.
- 1112.12 Cul-de-sac.
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- 1112.15 Developer.
- 1112.16 Dwelling units.
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- 1112.20 Location map.
- 1112.21 Lot.
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- 1112.26 Lot of record.
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- 1112.38 Public way.
- 1112.39 Right of way.
- 1112.40 Setback line.
- 1112.41 Sewers, central or group.
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- 1112.43 Sewer, storm.
- 1112.44 Sidewalk.
- 1112.45 Subdivider.
- 1112.46 Subdivision.
- 1112.47 Surveyor.
- 1112.48 Thoroughfare Plan.
- 1112.49 Thoroughfare, street or road.
- 1112.50 Variance.
- 1112.51 Vicinity map.
- 1112.52 Walkway.
- 1112.53 Yard, front.
- 1112.54 Yard, rear.
- 1112.55 Yard, side.

CROSS REFERENCES

Plat and subdivision defined - see Ohio R.C. 711.001
 Zoning definitions - see P. & Z. Ch. 113~~43~~

1112.01 INTERPRETATION OF TERMS OR WORDS.

For the purpose of these regulations, certain terms or words used herein shall be interpreted as follows:

- (a) The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- (b) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- (c) The word "shall" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement.
- (d) The words "used" or "occupied" include the words "intended, designed or arranged to be used or occupied".
- (e) The word "lot" includes the words "plot" or "parcel".
(Ord. 7-77. Passed 4-18-77.)

1112.02 ALLEY.

"Alley" means a minor street used primarily for vehicular service access to the back side of properties abutting on another street. (Ord. 7-77. Passed 4-18-77.)

1112.03 BLOCK.

"Block" means a parcel of land bounded on all sides by a street or streets.
(Ord. 7-77. Passed 4-18-77.)

1112.04 BUILDING LINE.

(See setback line)

1112.05 CITY OF FAIRBORN CONSTRUCTION AND MATERIALS SPECIFICATIONS.

"Construction and Materials Specifications" means those prepared by the City Engineer.
(Ord. 7-77. Passed 4-18-77.)

1112.06 CITY OF FAIRBORN DESIGN CRITERIA.

"Design Criteria" means those established by the City Engineer.
(Ord. 7-77. Passed 4-18-77.)

1112.07 CITY OF FAIRBORN STANDARD DRAWINGS.

"Standard Drawings" means those prepared by the City Engineer.
(Ord. 7-77. Passed 4-18-77.)

1112.08 COMPREHENSIVE PLAN.

"Comprehensive Plan" means the Comprehensive Plan of the City of Fairborn.
(Ord. 7-77. Passed 4-18-77.)

1112.09 CORNER LOT.

(See lot)

1112.10 COUNTY.

"County" means Greene County, Ohio. (Ord. 7-77. Passed 4-18-77.)

1112.11 COVENANT.

"Covenant" means a written promise or pledge. (Ord. 7-77. Passed 4-18-77.)

1112.12 CUL-DE-SAC.

"Cul-de-sac" means a local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turn around. (Ord. 7-77. Passed 4-18-77.)

1112.13 CULVERT.

"Culvert" means a transverse drain that channels under a bridge, street or driveway. (Ord. 7-77. Passed 4-18-77.)

1112.14 DEAD-END STREET.

"Dead-end street" means a street temporarily having only one outlet for vehicular traffic and intended to be extended or continued in the future. (Ord. 7-77. Passed 4-18-77.)

1112.15 DEVELOPER.

"Developer" means any individual, subdivider, firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself or for another. (Ord. 7-77. Passed 4-18-77.)

1112.16 DWELLING UNITS.

"Dwelling units" mean one room, or a suite of two or more rooms, designed for or used by one family or housekeeping unit for living and sleeping purposes and which includes permanently installed cooking and lawfully required sanitary facilities. (Ord. 7-77. Passed 4-18-77.)

1112.17 EASEMENT.

"Easement" means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property. (Ord. 7-77. Passed 4-18-77.)

1112.18 ENGINEER.

"Engineer" means any person registered to practice professional engineering by the State Board of Registration for Professional Engineers and Surveyors as specified in Ohio R.C. 4733.14. (Ord. 7-77. Passed 4-18-77.)

1112.19 IMPROVEMENTS.

"Improvements" mean street pavement or resurfacing, curbs, gutters, sidewalks, water lines, sewer lines, storm drains, street lights, flood control and drainage facilities, utility lines, landscaping, and other related matters normally associated with the development of land into building sites. (Ord. 7-77. Passed 4-18-77.)

1112.20 LOCATION MAP.

(See vicinity map)

1112.21 LOT.

"Lot" means a piece or parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have its frontage on a public street.

- (a) "Corner lot" means a lot abutting upon two or more streets at their intersection or upon two parts of the same street, and in either case forming an interior angle of 122 degrees or less.
- (b) "Double frontage lot" means a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.
- (c) "Interior lot" means a lot other than a corner lot. (Ord. 7-77. Passed 4-18-77.)

1112.22 LOT AREA.

"Lot area" means the computed area contained within the lot lines, exclusive of any portion of the right of way of any public street. (Ord. 7-77. Passed 4-18-77.)

1112.23 LOT COVERAGE.

"Lot coverage" means the percentage of a lot which, when viewed directly from above, would be covered by a structure or structures, or any part thereof, excluding projecting roof eaves. (Ord. 7-77. Passed 4-18-77.)

1112.24 LOT FRONTAGE.

"Lot frontage" means the distance between the side lot lines, measured by a line drawn parallel with the front lot line at a point of required minimum front yard depth. For the purposes of determining yard requirements on corner lots and double frontage lots, all sides of a lot adjacent to a street shall be considered frontage. (See lot lines)
(Ord. 7-77. Passed 4-18-77.)

1112.25 LOT LINES.

(a) "Front lot line" means a street right of way forming the boundary of a lot. On a corner lot, the street right-of-way line with the least amount of street frontage shall be the front lot line.

(b) "Rear lot line" means the lot line that is most distant from, and is, or is most nearly parallel to, the front lot line. If a rear lot line is less than fifteen feet long, or if the lot comes to a point at the rear, the rear lot line shall be a line at least fifteen feet long, lying wholly within the lot, parallel to the front lot line.

(c) "Side lot line" means a lot line which is neither a front lot line nor a rear lot line. On a corner lot, the street right-of-way line with the greatest amount of street frontage shall be a side lot line. (Ord. 7-77. Passed 4-18-77.)

1112.26 LOT OF RECORD.

"Lot of record" means a lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder; or a parcel of land, the deed to which was of record as of (May 9, 1977) the effective date of these regulations. (Ord. 7-77. Passed 4-18-77.)

1112.27 LOT SPLIT.

(See minor subdivision)

1112.28 MARGINAL ACCESS STREET.

"Marginal access street" means a local street, parallel and adjacent to an arterial or collector street providing access to abutting properties and protection from arterial or collector streets. (Ord. 7-77. Passed 4-18-77.)

1112.29 MINOR SUBDIVISION.

"Minor subdivision" means a division of a parcel of land that does not require a plat to be approved by a planning authority according to Ohio R.C. 711.131. Also known as a lot split. (Ord. 7-77. Passed 4-18-77.)

1112.30 MONUMENTS.

"Monuments" mean permanent concrete or iron markers used to establish definitely all lines of the plat of a subdivision, including all lot corners, boundary line corners and points of change in street alignment. (Ord. 7-77. Passed 4-18-77.)

1112.31 OPEN SPACE.

"Open space" means an area open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, swimming pools, tennis courts and any other recreational facilities that the Planning Board deems permissive. Streets, structures for habitation and the like shall not be included. (Ord. 7-77. Passed 4-18-77.)

1112.32 OUT LOT.

"Out lot" means property shown on a subdivision plat outside of the boundaries of the land which is to be developed and which is to be excluded from the development of the subdivision. (Ord. 7-77. Passed 4-18-77.)

1112.33 PAD.

"Pad" means a building site prepared by artificial means, including, but not limited to, grading, excavation or filling, or any combination thereof. (Ord. 7-77. Passed 4-18-77.)

1112.34 PARKING SPACE, OFF-STREET.

"Off-street parking space" means an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, but shall be located totally outside of any street or alley right of way. (Ord. 7-77. Passed 4-18-77.)

1112.35 PERFORMANCE BOND OR SURETY BOND.

"Performance bond or surety bond" means an agreement by a subdivider or developer with the City of Fairborn or other applicable government agency having jurisdiction for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the subdivider's agreement. (Ord. 7-77. Passed 4-18-77.)

1112.36 PLANNING BOARD.

"Planning Board" means the Planning Board of the City of Fairborn, Ohio. (Ord. 7-77. Passed 4-18-77.)

1112.37 PLAT.

"Plat" means the map, drawing or chart on which the developer's plan of subdivision is presented to the Planning Board and Council for approval and, after such approval, to the County Recorder for recording. (Ord. 7-77. Passed 4-18-77.)

1112.38 PUBLIC WAY.

"Public way" means an alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right of way, road, sidewalk, street, subway, tunnel, viaduct, walkway or other way in which the general public or a public entity have a right, or which are dedicated, whether improved or not. (Ord. 7-77. Passed 4-18-77.)

1112.39 RIGHT OF WAY.

"Right of way" means a strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts and bridges. (Ord. 7-77. Passed 4-18-77.)

1112.40 SETBACK LINE.

"Setback line" means a line parallel to the street right-of-way line being the distance which all or any part of the building is to be set back from such right of way. (Ord. 7-77. Passed 4-18-77.)

1112.41 SEWERS, CENTRAL OR GROUP.

"Central or group sewers" mean an approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community or region. (Ord. 7-77. Passed 4-18-77.)

1112.42 SEWER, ON-SITE.

"On-site sewer" means a septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction. (Ord. 7-77. Passed 4-18-77.)

1112.43 SEWER, STORM.

"Storm sewer" means a sewer that carries storm water and surface water, street wash and other wash waters, but excludes domestic wastewater and industrial wastes. Also called a storm drain. (Ord. 7-77. Passed 4-18-77.)

1112.44 SIDEWALK.

"Sidewalk" means that portion of the road right of way outside the roadway, which is improved for the use of pedestrian traffic. (See walkway) (Ord. 7-77. Passed 4-18-77.)

1112.45 SUBDIVIDER.

(See developer)

1112.46 SUBDIVISION.

"Subdivision" means:

- (a) The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into two or more parcels, sites, or lots, any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the division or partition of land into parcels of more than five acres not involving any new streets or easements of access, and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall be exempted; or

- (b) The improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension of any street or streets except private streets serving industrial structures; the division or allocation of land as open spaces for common use by owners, occupants or lease holders, or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities. (See minor subdivision)
(Ord. 7-77. Passed 4-18-77.)

1112.47 SURVEYOR.

"Surveyor" means any person registered to practice surveying in the State of Ohio by the State Board of Registration for Professional Engineers and Surveyors.
(Ord. 7-77. Passed 4-18-77.)

1112.48 THOROUGHFARE PLAN.

"Thoroughfare Plan" means that Plan as contained in the Comprehensive Plan for the City of Fairborn together with all amendments thereto subsequently adopted.
(Ord. 7-77. Passed 4-18-77.)

1112.49 THOROUGHFARE, STREET OR ROAD.

"Thoroughfare, street or road" means the full width between property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic.
(Ord. 7-77. Passed 4-18-77.)

1112.50 VARIANCE.

"Variance" means a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.
(Ord. 7-77. Passed 4-18-77.)

1112.51 VICINITY MAP.

"Vicinity map" means a drawing located on the plat which sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services in order to better locate and orient the area in question. (Ord. 7-77. Passed 4-18-77.)

1112.52 WALKWAY.

"Walkway" means a dedicated public way, four feet or more in width, for pedestrian use only, whether along the side of a road or not, with not less than four feet of pavement width. (See public way and sidewalk) (Ord. 7-77. Passed 4-18-77.)

1112.53 YARD, FRONT.

(a) "Front yard" means an open space extending the full width of the lot between a building and front lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified.

(b) "Front yard least depth" means the shortest distance, measured horizontally, between any part of the building and the front lot line.

(c) Front Yard Least Depth; How Measured. Such depth shall be measured from the right-of-way line of the existing street on which the lot fronts; provided, however, that if the proposed location of the right-of-way line of such street as established on the Thoroughfare Plan differs from that of the existing street, then the required front yard least depth shall be measured from the right-of-way line of such street as designated on such Thoroughfare Plan. (Ord. 7-77. Passed 4-18-77.)

1112.54 YARD, REAR.

(a) "Rear yard" means an open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified.

(b) "Rear yard least depth" means the average distance measured horizontally between any part of a building and the nearest rear lot line. (Ord. 7-77. Passed 4-18-77.)

1112.55 YARD, SIDE.

(a) "Side yard" means an open space extending from the front yard to the rear yard between a building and the nearest side lot line unoccupied and unobstructed from the ground upward except as hereinafter specified.

(b) "Side yard least width" means the shortest distance, measured horizontally, between any part of a building, other than such parts hereinafter excepted and the nearest side lot line.

(c) Side Yard Least Width; How Measured. Such width shall be measured from the nearest side lot line. On a corner lot when the side lot line is a side street lot line, the required side yard shall be the same as the required front yard of the lot adjacent thereto. (Ord. 7-77. Passed 4-18-77.)

CHAPTER 1113
Preliminary Plat

- 1113.01 Purpose.
- 1113.02 Preapplication meeting.
- 1113.03 Planning Board review of sketch plan.
- 1113.04 Submission to Director of Ohio Department of Transportation.
- 1113.05 Subdivider's option.
- 1113.06 Application for preliminary approval.

- 1113.07 Preliminary plat form.
- 1113.08 Preliminary plat contents.
- 1113.09 Supplementary information.
- 1113.10 Filing.
- 1113.11 Public hearing.
- 1113.12 Report to and approval by
Planning Board.
- 1113.13 Approval by Council.
- 1113.14 Approval period.

CROSS REFERENCES

Plat and contents - see Ohio R.C. 711.01 et seq.
Plat defined - see P. & Z. 1112.37
Final plat - see P. & Z. Ch. 1114
Preliminary plat fees - see P. & Z. 1119.04(a)(1)

1113.01 PURPOSE.

The purpose of the preliminary plat is to provide sufficient information to the Planning Board and Council to determine whether the general layout of the land is satisfactory from the standpoint of public interest without requiring complete plans necessary for final approval. The plat shall be prepared by individuals licensed or registered to prepare such material by the State of Ohio. (Ord. 15-89. Passed 4-3-89.)

1113.02 PREAPPLICATION MEETING.

Prior to submitting the preliminary plat, the subdivider shall meet with the ~~Community~~ Development ~~Services~~ Department to discuss early and informally the purpose and effect of these regulations and the criteria and standards contained therein; and to familiarize the developer with planned projects, and the drainage, sewerage and water systems of the City. The subdivider should submit a sketch plan, legibly drawn at a suitable scale and containing the following information:

- (a) The proposed subdivision in relation to existing community facilities, thoroughfares and other transportation modes, shopping centers, manufacturing establishments, residential developments and existing natural and manmade features such as soil types, vegetation, contours and utilities in the neighboring area;
- (b) The layout and acreage of streets, lots and any nonresidential sites such as commercial, manufacturing, school or recreational uses within the proposed subdivision;

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- (c) The location of utilities in the proposed subdivision, if available, or the locations of the nearest sources for water and public facilities;
- (d) The scale and title of the subdivision, north arrow and the date; and
- (e) The name, address and telephone number of owners and developers.
(Ord. 15-89. Passed 4-3-89.)

1113.03 PLANNING BOARD REVIEW OF SKETCH PLAN.

The subdivider may also submit the preapplication sketch to the Planning Board for informal review. The Planning Board members shall provide comments but no formal vote shall take place. (Ord. 15-89. Passed 4-3-89.)

1113.04 SUBMISSION TO DIRECTOR OF OHIO DEPARTMENT OF TRANSPORTATION.

(a) When the application is received for a plat lying fully or in part within 300 feet of the centerline of a proposed new highway or a highway for which changes are proposed by the Ohio Department of Transportation, or for a plat lying fully or in part within a radius of 500 feet from the point of intersection of such centerline with any public road or highway, the City shall notify the Director of the Ohio Department of Transportation by registered or certified mail. If such Director notifies the City that he shall proceed to acquire the land needed, then the Planning Board and Council shall refuse to approve the plat. If the Director notifies the City that acquisition at this time is not in the public interest, the Planning Board and Council shall, if the plat is in conformance with all provisions of these regulations, take action on the plat.

(b) While awaiting the Ohio Transportation Director's response, the Planning Board and Council may review the plat and give tentative approval. Such tentative approval shall only signify the likelihood of future approval, but shall not permit the plat to be recorded or constructed. From the date the notice is received by the Ohio Director of Transportation, 120 days shall be allowed for him to respond. This time limit may be extended by mutual agreement between such Director and the property owner. If the Director's response is not received within the time limits as noted above, the Planning Board and Council may proceed to approve the plat which may then be recorded and constructed. (Ord. 15-89. Passed 4-3-89.)

1113.05 SUBDIVIDER'S OPTION.

The subdivider shall have the following options in the review and approval of ~~the his~~ |

proposal:

- (a) Submission of a preliminary plat processed in the manner hereinafter set forth, and the subsequent submission of final plat(s) for sections identified by the preliminary plate, or
- (b) Concurrent submission of a preliminary plat and a final plat in the manner hereinafter set forth. (Ord. 15-89. Passed 4-3-89.)

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1113.06 APPLICATION FOR PRELIMINARY APPROVAL.

An application for approval of the preliminary plat shall be submitted to the City on forms provided, together with:

- (a) At least ~~one seven~~ copy~~ies~~ of the preliminary plat;
- (b) One copy of the proposed protective covenants and restrictions;
- (c) ~~One Twenty~~ copy~~ies~~ of the preliminary development plat in summary form at any scale fitting an eight and one-half inch by eleven inch sheet of paper; and
- (d) Such supplementary information as may be required.

When all the above information is provided ~~in accordance with review procedures set forth in Chapter 1132: Administration Process and Procedures, twenty working days prior to its meeting, the Planning Board shall consider the application. When all the above information is provided ten working days prior to its meeting,~~ the Planning Board may consider the application. (Ord. 15-89. Passed 4-3-89.)

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1113.07 PRELIMINARY PLAT FORM.

The preliminary plat shall be drawn at a scale not less than 100 feet to the inch. (Ord. 15-89. Passed 4-3-89.)

1113.08 PRELIMINARY PLAT CONTENTS.

The preliminary plat shall contain the following information:

- (a) Proposed name of the subdivision, which shall not duplicate or closely approximate the name of any other subdivision in the County;
- (b) Location by section, range and township or other surveys;
- (c) Names, addresses and telephone numbers of the owner, subdivider and professional engineer and registered surveyor who prepared the plat, and appropriate registration numbers and seals;
- (d) Date of survey;
- (e) Scale of the plat, north arrow;
- (f) Boundaries of the subdivision and its acreage;
- (g) Names of adjacent subdivisions, owners of adjoining parcels of unsubdivided land, lot numbers of adjacent lots and the location of their boundary line;
- (h) Locations, widths and names of existing streets, railroad rights of way, easements, parks, permanent buildings, and corporation and township lines; location of wooded areas and other significant topographic and natural features within and adjacent to the plat for a minimum distance of 200 feet;
- (i) Zoning classification of the tract and adjoining properties and a description of proposed zoning changes, if any;
- (j) Existing contours at two-foot intervals for predominant ground slopes between the level and fifteen percent (15%) grade and five-foot intervals for predominant ground slopes over fifteen percent (15%) grade within the subdivision and for a minimum distance of fifty feet adjacent to the plat unless waived by City Engineer;
- (k) Location and dimension of existing sewers, water lines, culverts and other underground transmission or associated structures, and power transmission poles and lines, within and adjacent to the tract;
- (l) Location, names and widths of proposed streets and easements;
- (m) Building setback lines with dimensions;
- (n) The location and dimensions of all proposed utility and sewer lines, showing their connections with the existing system;

- (o) All thoroughfares as shown on the Official Thoroughfare Plan wherever they traverse the plat;
- (p) Layout, numbers and approximate dimensions of each lot. When a lot is located on a curved street or when side lot lines are not at ninety degree angles, the width at the building line shall be shown;
- (q) Parcels of land in acres to be reserved for public use or to be reserved by covenant for residents of the subdivision; and
- (r) A vicinity map at a scale of not less than 1,000 feet to the inch shall be shown on, or accompany, the preliminary plat. This map shall show all existing subdivisions, roads, and tract lines within 1,000 feet of the plat and the two nearest existing thoroughfares regardless of distance. It shall also show the most advantageous connections between the roads in the proposed subdivision and those of the neighboring areas. (Ord. 15-89. Passed 4-3-89.)

1113.09 SUPPLEMENTARY INFORMATION.

The following information shall be supplied in addition to the requirements in Section

1113.08:

- (a) A completed application on forms provided by the City;
- (b) Statement of proposed use of lots, giving type and number of dwelling units and type of business or industry;
- (c) Location and approximate dimensions of all existing buildings;
- (d) For commercial and industrial development, the location, dimensions and approximate grade of proposed parking and loading areas, alleys, pedestrian walks, streets and the points of vehicular ingress and egress to the development;
- (e) Description of proposed covenants and restrictions;
- (f) The subdivider shall state how sewage disposal and water supply will be provided. The City Engineer may require an analysis be provided demonstrating adequate utility capacity;
- (g) Traffic impact analysis as required by the City Engineer for subdivisions creating twenty-five or more lots and/or dwellings, an analysis would involve at the minimum:
 - (1) Development's projected traffic generation (peak hour over twenty-four hours estimate);
 - (2) Traffic assignment to development entrances and adjoining street;
- (h) Storm drainage calculations as required by the City Engineer; and
- (i) Soil erosion and sedimentation control strategy. (Ord. 15-89. Passed 4-3-89.)

1113.10 FILING.

The preliminary plat shall be considered filed at the time of receipt of the preliminary plat application, the preliminary plat map, and all required information and fees. If the preliminary plat or required information does not comply with these regulations the original filing date shall be void. The filing date shall then be the date of receipt of the corrected preliminary plat and/or information. Each subsequent resubmission of the plat and/or required information shall establish a new filing date. (Ord. 15-89. Passed 4-3-89.)

1113.11 PUBLIC HEARING.

The Planning Board on its own initiative prior to acting on a preliminary plat of a subdivision, may hold a public hearing thereon at such time and upon such notice as the Board may designate. (Ord. 15-89. Passed 4-3-89.)

1113.12 REPORT TO AND APPROVAL BY PLANNING BOARD.

The ~~Community~~ Development ~~Services~~ Department shall forward copies of the preliminary plat to such officials and agencies as may be necessary for the purpose of study and recommendation. These shall include at least the City Engineer and, if on-site water supply and/or sewage disposal is proposed, the County Health Department. Based on the information from these officials and agencies, the ~~Community~~ Development ~~Services~~ Department shall present a report to the Planning Board. The Board shall recommend whether the preliminary plat shall be approved, approved with modifications or disapproved within sixty days of filing. This recommendation shall be forwarded to Council. (Ord. 15-89. Passed 4-3-89.)

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1113.13 APPROVAL BY COUNCIL.

Council shall approve, disapprove or approve with conditions the preliminary plat within ninety days of filing. If a plat is disapproved, the reasons for such disapproval shall be stated in writing. (Ord. 15-89. Passed 4-3-89.)

1113.14 APPROVAL PERIOD.

The approval of the preliminary plat shall be effective for a maximum period of twelve months unless the first section has been filed for final approval. (Ord. 15-89. Passed 4-3-89.)

CHAPTER 1114
Final Plat

	1114.01	Purpose.	Purpose.
	1114.02	Final plat required.	
	1114.03	Application for approval.	
	1114.04	Regulations governing improvements.	
	1114.05	Final plat form.	
	1114.06	Final plat contents.	
	1114.07	Supplementary information.	
	1114.08	Filing.	

- 1114.09 City Engineer report.
- 1114.10 Approval by Council.
- 1114.11 Recording.
- 1114.12 Minor subdivisions (lot splits).
- 1114.13 Administrative approval of replats.
- 1114.14 Appeals procedure.

CROSS REFERENCES

Preliminary plat - see P. & Z. Ch. 1113
Plat recording and revision - see P. & Z. Ch. 1119.01, 1119.02
Final plat fee - see P. & Z. 1119.04(a)(2)

1114.01 PURPOSE.

The purpose of the final plat application is to provide all information including maps, plans, profiles and recording instruments and other legal documentation necessary to determine precisely the nature of the proposal and whether all aspects of the proposed layout of land is satisfactory from the standpoint of public interest. The plan shall be prepared by individuals licensed or registered by the State of Ohio to prepare such material.
(Ord. 16-89. Passed 4-3-89.)

1114.02 FINAL PLAT REQUIRED.

- (a) No subdivision shall be recorded without receiving approval from the City using the appropriate sections of this chapter.
- (b) Council shall approve a preliminary plat before taking action on an associated final plat. However, Council may take action on both a preliminary and final plat at the same meeting. (Ord. 16-89. Passed 4-3-89.)

1114.03 APPLICATION FOR APPROVAL.

An application for the approval of the final plat shall be submitted on forms provided by the City with:

- (a) ~~One Eight~~ copies of the final plat map; and
- (b) ~~One Eight~~ copies of profiles and cross-sections of streets, sanitary and storm sewers, water mains, curbs and gutters and all other construction drawings and the related estimated construction costs of the improvements to be constructed in the subdivision.

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When all the above information is provided ~~in accordance with review procedures set forth in Chapter 1132: Administration Process and Procedures, the Planning Board may consider the application twenty working days prior to its meeting. Council shall consider the application. Council may consider an application if all the above information is received ten working days prior to the Council meeting.~~

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(Ord. 16-89. Passed 4-3-89.)

1114.04 REGULATIONS GOVERNING IMPROVEMENTS.

The following rules apply to subdivision improvements and performance guarantees:

- (a) The final plat drawings and specifications of improvements shall be a set of construction drawings, general block grading plans, utility plans, street name and traffic control signing plans prepared by a professional licensed by the State of Ohio to provide such material.
- (b) The plans shall contain typical sections, plans and profiles, construction details and estimates of quantities for all improvements to be publicly dedicated. All typical sections and major engineering details to be used on any particular street shall be approved in advance by the City Engineer before completion of the plans.
- (c) Prior to recording the final plat the subdivider shall have furnished a surety in the form of a bond or irrevocable letter of credit or certified check for the amount of the estimated construction cost of the ultimate installation.
(Ord. 16-89. Passed 4-3-89.)

1114.05 FINAL PLAT FORM.

The final plat shall be legibly drawn in waterproof ink on tracing cloth or other material of equal permanence. It shall be drawn at a scale of not less than 100 feet to the inch, and should be one or more sheets fourteen by twenty (14 x 20) inches in size. If more than one sheet is needed, each sheet shall be numbered and the relation of one sheet to another clearly shown.
(Ord. 16-89. Passed 4-3-89.)

1114.06 FINAL PLAT CONTENTS.

The final plat shall be superimposed on a survey of the lands of the dedicators from which such plat is drawn, and shall contain an accurate background drawing of any metes and bounds descriptions of the lands of the dedicators from which such plat is drawn. In addition, the final plat shall contain the following information:

- (a) Name of the subdivision, location by section, town, range and township, or by other survey number; date, north arrow, scale, and acreage to hundredths of acre, official record and page reference.
- (b) Name and address of the subdividers, and the professional engineer and/or registered surveyor who prepared the plat and appropriate registration numbers and seals.
- (c) Plat boundaries, based on accurate traverse, with angular and lineal dimensions. The basis for the bearings shall be stated.
- (d) Bearings and distances to nearest established street lines or other recognized permanent monuments.
- (e) Exact location, right-of-way widths, and names of all streets within and adjoining the plat, and building setback lines.
- (f) Radii, internal angles, points of curvature, tangent bearings, lengths of arcs, of all applicable streets within the plat area.

- (g) All easements and rights of way provided for public services or utilities. Labels shall indicate the specific function(s) of each easement.
- (h) All lot numbers and lines with accurate dimensions in feet and hundredths.
- (i) Accurate location and description of all monuments and pins.
- (j) Accurate outlines of areas to be dedicated or reserved for public use, or any area to be reserved for the common use of all property owners. The use and accurate boundary locations shall be shown for each parcel of land to be dedicated.
- (k) Protective covenants and restrictions.
- (l) Certification by a registered surveyor to the effect that the plat represents a survey made by him and that the monuments shown thereon exist as located and that all dimensional details are correct.
- (m) Acknowledgment of the owner or owners to the plat and restrictions, including dedications to public use of all streets, walkways, alleys, parks or other open spaces shown thereon and the granting of the required easements, as shall be indicated by the following notarized statement on the plat tracing: "Easements shown on this plat are for the construction, operation, maintenance, repair, replacement or removal of water, gas, sewer, electric, telephone or other utilities or services, and for the express privilege of removing any and all trees or other obstructions to the free use of said utilities and for providing of ingress and egress to the property for said purposes, and are to be maintained as such forever."
- (n) The names of record of all abutting tracts with their deed book and page reference and the plat book reference of all abutting plats or City lot numbers.
- (o) Any section lines, corporation limits, township and county lines shall be accurately documented and located on the plat and their names lettered thereon.
- (p) A statement of approval by the Planning Board, a statement of acceptance by Council and if the plat is outside the corporate limits of Fairborn but within the three-mile area, a statement of review by the appropriate County's Planning Commission. (Ord. 16-89. Passed 4-3-89.)

1114.07 SUPPLEMENTARY INFORMATION.

The following information shall be supplied in addition to the requirements in Section

1114.06:

- (a) A completed application on forms provided by the City;
- (b) If a zoning change is involved, certification from the government agency having jurisdiction shall be required indicating that the change has been approved and is in effect;
- (c) Certification shall be required showing that all required improvements have been either installed and approved by the proper officials or agencies, or that a bond or other surety has been furnished assuring installation; and
- (d) Soil erosion and sedimentation control plan as required by the City Engineer. (Ord. 16-89. Passed 4-3-89.)

1114.08 FILING.

- (a) The final plat of the first section of the preliminary plat shall be filed with the City not later than twelve months after the date of approval of the preliminary plat and remaining sections thereafter shall be filed not later than twenty-four months after the date of final plat approval of the previous section; otherwise preliminary plat approval will be considered void unless an extension is requested by the developer and granted in writing by the Planning Board.

(b) The final plat shall be considered filed at the time of receipt of the final plat application, plat map, plans for construction of public improvements, and all required information and fees. If the plat map, plans for construction of public improvements, or required information do not comply with these regulations the original filing date shall be void. The filing date shall then be the date of receipt of the corrected plat map, plans, and/or required information. Each subsequent resubmission of the plat plans and/or information shall establish a new filing date.

(Ord. 16-89. Passed 4-3-89.)

1114.09 CITY ENGINEER REPORT.

The City Engineer shall review final plat applications and report to ~~Council~~ Planning Board whether the final plat is in substantive compliance with the preliminary plan, as well as, City ordinances and standards. The City Engineer shall submit any substantive deviations from the preliminary plan to the Planning Board for consideration. The Planning Board shall then submit their recommendations to Council within thirty days.

(Ord. 16-89. Passed 4-3-89.)

1114.10 APPROVAL BY COUNCIL.

Council shall approve or disapprove the final plat within seventy-five days of filing except as provided in Section 1113.04.

(Ord. 16-89. Passed 4-3-89.)

1114.11 RECORDING.

(a) The City Engineer shall notify the subdivider of the action of the Planning Board and Council within ten working days of Council action. The subdivider shall submit the original drawing of the final plat and all required fees and bonds to the City within 270 days of Council approval.

(b) After the final plat has been approved by the Planning Board and Council and the necessary approvals endorsed in writing thereon, the subdivider shall record the plat in the office of the Greene County Recorder as required by law. The subdivider shall provide the City Engineer with a durable Mylar copy of the recorded plat within thirty days of the receipt of the approved plat. No plat of any subdivision shall be entitled to be recorded in the office of the County Recorder or have any validity until it shall have been approved in the manner prescribed herein. In the event any such unapproved plat is recorded, it shall be considered invalid and the Board shall institute proceedings to have the plat stricken from the records of Greene County.

(Ord. 23-04. Passed 5-3-04.)

1114.12 MINOR SUBDIVISIONS (LOT SPLITS).

(a) Approval without a plat of a minor subdivision may be granted by the ~~Community Development Services~~ Department if the proposed division of a parcel of land meets all of the following conditions:

- (1) The proposed subdivision is located along an existing public road and involves no opening, widening or extension of any street or road or additional right-of-way dedication per the Fairborn Thoroughfare Plan;
- (2) No more than five lots have been created by this process from the parcel as it existed on May 8th, 1977;
- (3) No easements or public infrastructure are to be granted to the City;

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- (4) The land in question has not been previously platted;
- (5) The proposed subdivision is not contrary to applicable subdivision or zoning regulations; and
- (6) The property has been surveyed and a surveyor's record per Greene County Recorder's Office standards and legal description of the property is submitted with the application. Distances of all existing buildings from any new or altered property lines, and existing easements of record, shall be indicated.

(b) If approval is given under these provisions, the ~~Community Development Director~~Zoning Administrator or ~~their~~his designated representative shall within seven working days after submission approve such proposed division, and upon presentation of a conveyance for such parcel, shall stamp "Approved by the City of Fairborn; no plat required" and shall sign the conveyance. Such approval shall be stamped on the surveyor's record and the signed and witnessed deed of conveyance.

(c) A yearly report of all approvals given under this section shall be given to the Planning Board and Council.
(Ord. 16-96. Passed 4-15-96.)

1114.13 ADMINISTRATIVE APPROVAL OF REPLATS.

The ~~Community Development Director~~Zoning Administrator or ~~their~~his designated representative is granted authority to process and approve, on behalf of the Planning Board, replats where no additional lots are created subject to the following:

- (a) Administrative approval shall only be granted for recombination of land consolidation into lots, creation and removal of easements, and for dedication of additional land for the widening of existing streets where no new lots are created.
- (b) In no case shall administrative approval be given where an additional lot would be created.
- (c) Review and approval by the ~~Community~~ Development Services Department and appropriate agencies shall be conducted to insure that the proposed replat shall be in conformance with all other appropriate sections of the subdivision regulations and the zoning code. All replats shall be accompanied by new survey descriptions.

(Ord. 16-96. Passed 4-15-96.)

1114.14 APPEALS PROCEDURE.

The decision of the Urban Planner relative to minor subdivision may be appealed to the City Planning Board. (Ord. 16-96. Passed 4-15-96.)

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CHAPTER 1115
Subdivision Design Standards

- 1115.01 General statement.
- 1115.02 Conformity to zoning regulations.
- 1115.03 Suitability of land.
- 1115.04 Street names.
- 1115.05 Street design and location.
- 1115.06 Intersection design standards.
- 1115.07 Special street types.
- 1115.08 Streets for commercial subdivisions.

- 1115.09 Streets for industrial subdivisions.
- 1115.10 Sidewalks.
- 1115.11 Blocks.
- 1115.12 Lots.
- 1115.13 Easements.
- 1115.14 Physical considerations.
- 1115.15 Flood plain.
- 1115.16 Subsurface investigation.
- 1115.17 Subbase, base and subdrainage.

CROSS REFERENCES

Construction of improvements - see P. & Z. 1116.07 et seq.
"As built" construction drawings - see P. & Z. 1116. 22
Variances - see P. & Z. 1119.05

1115.01 GENERAL STATEMENT.

The regulations in Sections 1115.02 to 1115.17 shall control the manner in which streets, lots and other elements of a subdivision are arranged on the land. These design controls shall help insure convenient and safe streets, creation of usable lots, provision of space for public utilities, and reservation of land for recreational uses. The planning of attractive and functional neighborhoods shall be promoted, minimizing the undesirable features of unplanned and haphazard growth. (Ord. 7-77. Passed 4-18-77.)

1115.02 CONFORMITY TO ZONING REGULATIONS.

No final plat of land within an area in which an existing zoning resolution is in effect shall be approved unless it conforms to such resolution. (Ord. 7-77. Passed 4-18-77.)

1115.03 SUITABILITY OF LAND.

If the Planning Board finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, topography, inadequate water supply, schools, transportation facilities and other such conditions which may endanger health, life, or property; and, if from investigations conducted by the public agencies concerned, it is determined that in the best interest of the public the land should not be developed for the purpose proposed, the Board shall not approve the land for subdivision unless adequate methods are advanced by the subdivider for solving the problems that will be created by the development of the land. (Ord. 7-77. Passed 4-18-77.)

1115.04 STREET NAMES.

Names of new streets shall not duplicate those of existing or platted streets, irrespective of the use of the suffix street, avenue, circle, boulevard, drive, etc., and shall be displayed at each street intersection with street signs of the type designated by the City. When a new street is a direct extension of an existing street, the name shall remain the same. The location of signs shall be shown in the street name and traffic control signing plans. Street names shall be subject to the approval of the Planning Board. (Ord. 7-77. Passed 4-18-77.)

1115.05 STREET DESIGN AND LOCATION.

(a) The design and location of all streets shall conform to the City of Fairborn Thoroughfare Plan, the City of Fairborn Design Criteria, the City of Fairborn Standard Drawings, and the City of Fairborn Construction and Materials Specifications. The subdivider shall provide within the subdivision the necessary right of way for the widening, continuance, and alignment of streets so as to conform to the requirements of the Thoroughfare Plan.

(b) Relation to existing and planned streets, topography, public convenience and safety, and proposed uses of the land to be served shall be considered in the design and location of streets. Through traffic on local streets shall be discouraged. (Ord. 7-77. Passed 4-18-77.)

1115.06 INTERSECTION DESIGN STANDARDS.

(a) Multiple intersections involving junctions of more than two streets shall not be permitted.

(b) Four-way intersections of local streets should be avoided and three-way or T-intersections should be encouraged wherever possible.

(c) Individual grades for each curb shall be provided on a stop street when the grade on the through street exceeds two percent.

(d) Low points which would result in water ponding or poor visibility shall not be permitted. (Ord. 7-77. Passed 4-18-77.)

1115.07 SPECIAL STREET TYPES.

The following requirements shall apply to special street types:

(a) Permanent dead-end streets shall not be permitted. Temporary dead-end streets shall be permitted only as part of a continuing street plan and shall provide a temporary turn around.

- (b) Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Board may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys or other such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic. There shall be no direct vehicular access from residential lots to such arterial streets or highways.
- (c) Alleys shall not be approved in residential subdivisions, except where justified by extreme conditions. Alleys may be required in commercial and industrial districts if other provisions cannot be made for adequate service access. The minimum widths for alleys shall be twenty feet for the right of way and eighteen feet for the pavement width. (Ord. 7-77. Passed 4-18-77.)

1115.08 STREETS FOR COMMERCIAL SUBDIVISIONS.

Streets serving commercial developments and accessory parking areas shall be planned to connect with arterial streets so as not to generate traffic on local streets. The intersections of driveways from parking areas with arterial or collector streets shall be located so as to cause the least possible interference with traffic movement on the streets. The location of such intersections shall be approved by the City Engineer. Marginal access streets may be required to provide maximum safety and convenience. (Ord. 7-77. Passed 4-18-77.)

1115.09 STREETS FOR INDUSTRIAL SUBDIVISIONS.

Collector streets for industrial subdivisions shall be planned to serve industrial areas exclusively and shall connect with arterial streets so that no industrial traffic will be directed into any residential streets. Curb cuts shall be approved by the City Engineer.

Streets should be planned to be extended to the boundaries of any adjoining land planned for industry, except in the case of severe physical conditions or if the Board finds such extension is not in accord with the approved plan of the area.

For the purpose of encouraging industrial development, curbs, gutters, sidewalks and storm sewers may be waived for industrial streets. The specific circumstances justifying the waiver include: no pedestrian traffic expected; no resulting storm drainage problem by lack of curbs and gutters and storm sewers; no excessive long-term street maintenance costs identified by lack of curbs; economic justification of development cost; and adequate provision made for storm drainage by roadside ditches and overall grading. The approval shall be on a case-by-case basis. Pavement width shall be thirty-six feet with three feet gravel shoulders to preserve the strength of the pavement. Design and construction shall conform to the City Thoroughfare Plan, the City Design Criteria, the City Standard Drawings, and the City Construction Materials and Specifications. (Ord. 3-85. Passed 2-4-85.)

1115.10 SIDEWALKS.

Sidewalks shall be required along both sides of the street in all subdivisions. (Ord. 21-19. Passed 4-1-19.)

1115.11 BLOCKS.

The following regulations shall govern the design and layout of blocks:

- (a) The arrangement of blocks shall be such as to conform to the street planning criteria set forth in Sections 1115.04 to 1115.17, and shall be arranged to accommodate lots and building sites of the size and character required for the district as set forth in these Subdivision Regulations or applicable zoning resolution and to provide for required community facilities.
- (b) Irregularly shaped blocks, those intended for cul-de-sacs or loop streets, and those containing interior parks or playgrounds, may be approved by the Board if properly designed and located and if the maintenance of interior public spaces is covered by agreements.
- (c) No block shall be longer than 1500 feet and the block width shall accommodate two tiers of lots, except where unusual topography or other exceptional physical circumstances exist.
- (d) Where blocks are over 900 feet in length a dedicated walkway not less than ten feet in width at or near the halfway point may be required, if necessary, to provide proper access to schools, recreational areas, shopping centers and other facilities.
- (e) For slope areas where the average topographic slope is fifteen percent or greater, refer to Chapter 1117. (Ord. 7-77. Passed 4-18-77.)

1115.12 LOTS.

The following regulations shall govern the design and layout of lots:

- (a) The lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related to topography and the character of surrounding development.
- (b) All lots shall conform to or exceed the requirements of these Subdivision Regulations and the zoning district requirements for the district in which they are located and the use for which they are intended.
- (c) Each lot shall front on a dedicated street. The minimum lot sizes and frontage shall be as specified in Fairborn zoning regulations. Where soil conditions are of such nature that proper operation of wells and septic tanks may be impaired, the Planning Board may increase the size of any or all lots in the subdivision.
- (d) All side lot lines shall be at right angles to street lines and radial to curved street lines, except where the Board determines that a variation to this rule would provide a better layout.
- (e) Lots with double frontage shall be avoided except where the Board determines that it is essential to provide separation of residential development from arterial streets.
- (f) No corner lot shall have a width at the building line of less than eighty-five feet. Property lines at intersections for corner lots shall be curved and conform generally to the curb line.

- (g) The maximum depth of a lot shall not be greater than three times the width of the lot, except lots which contain an area of five acres or more. Lots containing over five acres shall not be less than 300 feet in width at any location; they should be of such shape and dimensions as to render the possible resubdivision of any such parcels at some later date into lots and streets which meet the requirements of these regulations.
- (h) Additional lot depth may be required where a residential lot in a subdivision backs up to a railroad right of way, a high pressure gasoline or gas line, open drainage ditch, an arterial street, an industrial area or other existing land use which may have a detrimental effect on the residential use of the property, and where no street is provided at the rear of such lot. Where a residential lot has its side lot line adjacent to any of the aforementioned, an appropriate additional width may also be required. (Ord. 7-77. Passed 4-18-77.)

1115.13 EASEMENTS.

(a) Utility Easements. Public utility easements at least ten feet in total width may be required along the rear and sides of lots where needed for the accommodation of a public utility, drainage or sanitary structures or any combination of the foregoing. Where deemed necessary by the Planning Board and/or Council, an additional easement width shall be provided.

(b) Watercourses. The subdivider shall dedicate rights of way or provide easements for storm drainage purposes which conform substantially with the lines of any natural watercourses, channels, streams or creeks which traverse the subdivision or for any new channel which is established to substitute for a natural watercourse, channel, stream or creek. Such rights of way or easements shall be of a width which will provide for the maintenance needs of the channel and incidental structures as determined by the Planning Board. (Ord. 7-77. Passed 4-18-77.)

1115.14 PHYSICAL CONSIDERATIONS.

Natural Land Uses. Subdivisions should be planned to take advantage of the topography of the land, to economize in the construction of drainage facilities, to reduce the amount of danger to and minimize destruction of trees and topsoil, and to preserve such natural features as watercourses, unusual rock formations, large trees, sites of historical significance and other assets which, if preserved, will add attractiveness and value to the subdivision and the community. (Ord. 7-77. Passed 4-18-77.)

1115.15 FLOOD PLAIN.

(a) As a safety measure for the protection of the health and welfare of the people of the County, the Planning Board shall not approve any subdivision located in areas subject to flooding. If the subdivision is located in such area or an area having other physical impairment, the Board may approve the subdivision provided the developer or subdivider agrees to perform such improvements as will render the area substantially safe for residential, commercial or industrial uses. Prior to acting on a proposed subdivision located in a flood plain, the Board shall secure advice from the Miami Conservancy District.

(b) If a stream flows through, or adjacent to, the proposed subdivision, the plat shall provide for a storm water easement or drainage right of way along the stream for a floodway of at least ten feet. For the smaller streams, the plat shall provide for channel improvement to enable them to carry all reasonable floods within banks. The floodway easement shall be wide enough to provide for future enlargement of the stream channels as adjacent areas become more highly developed and runoff rates are increased.

(c) Approval shall not be given for streets within a subdivision which would be subject to flooding. All streets must be located at elevations which will make them flood free in order that no portion of the subdivision would become isolated by floods.
(Ord. 7-77. Passed 4-18-77.)

1115.16 SUBSURFACE INVESTIGATION.

The subdivider may be required to submit sufficient detailed information as to subsurface conditions in order that a determination can be made of the suitability of the land for development. (Ord. 7-77. Passed 4-18-77.)

1115.17 SUBBASE, BASE AND SUBDRAINAGE.

The developer may be required to construct subbase, base, and/or subdrains under streets where subsurface conditions warrant. (Ord. 7-77. Passed 4-18-77.)

CHAPTER 1116
Requirements for Construction of Improvements

- 1116.01 Bond for installation of _____ improvements.
- 1116.02 Bond for maintenance of improvements.
- 1116.03 Maintenance of improvements.
- 1116.04 Construction procedure and materials.
- 1116.05 Survey monuments.
- 1116.06 Plans and profiles.
- 1116.07 Street and construction requirements.
- 1116.08 Curbs and gutters.
- 1116.09 Sidewalks.
- 1116.10 House and lot numbers.
- 1116.11 Street and walkway lighting.

- 1116.12 Water supply improvements.
- 1116.13 Fire protection.
- 1116.14 Sanitary sewer improvements.
- 1116.15 Drainage improvements.
- 1116.16 Storm drainage and storm sewers.
- 1116.17 Culverts and bridges.
- 1116.18 Electric, gas and telephone improvements.
- 1116.19 Oversize improvements.
- 1116.20 Off-site extensions.
- 1116.21 Final inspection.
- 1116.22 "As-built" construction drawings.

CROSS REFERENCES

Improvements defined - see P. & Z. 1112.19
 Variances - see P. & Z. 1119.05

1116.01 BOND FOR INSTALLATION OF IMPROVEMENTS.

(a) General. In order that the City has the assurance that the construction and installation of such improvements as street surfacing, curbs, gutters, sidewalks, public sanitary sewers, public water supply and street signs will be constructed, and lot grading completed the subdivider shall furnish bond executed by a surety company, certified check or letter of credit.

(b) Conditions. The City has developed two methods from which a developer may choose to assure the construction and installation of such improvements.

Option 1: One performance bond for all improvements. Before construction of a plat may begin the developer shall have executed a subdivider's contract and deliver one performance bond, certified check or letter of credit to the City covering one hundred percent (100%) of the estimated cost of all required improvements as shown on the plans and approved by the City Engineer.

Option 2: Multiple bonds for each area of improvement. Before construction of a plat may begin the developer shall have executed a subdivider's contract and delivered performance bonds, certified checks or letters of credit for each construction improvement type (Roadway - includes signage and lighting; Sidewalks; Storm Water Management - includes storm sewers, drainage, erosion control, detention/retention; Water System; Sanitary Sewer System) to the City covering one hundred twenty percent (120%) of the estimated cost of all required improvements as shown on the plans and approved by the City Engineer.

Each performance bond, certified check or letter of credit shall be to the City of Fairborn and shall provide that the subdivider, his heirs, successors and assigns, their agents or servants, will comply with all applicable terms, conditions, provisions and requirements of these regulations, and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with such laws and regulations.

Before such bond or letter of credit is accepted it shall be approved by the proper administrative officials.

Whenever deposit of a certified check is made, the same shall be made to the City of Fairborn.

(c) Time Limit. The construction or installation of any improvement or facility, for which guarantee has been made by the developer in the form of bond, certified check or letter of credit shall be completed within two years from the date of final approval of the final plat. The developer may request the City Manager to grant an extension of one year, provided he can show reasonable cause for inability to complete such improvements within the required two years. The extension shall not exceed one year and shall not be granted unless the guarantee of the developer covers such extended period. At the expiration of the two years or the one year extension, if an extension has been granted, the City will use as much of the bond, certified check deposit or letter of credit as necessary to complete the construction of the improvements. The same shall apply whenever construction of improvements is not performed in accordance with applicable standards and specifications.

(d) Partial Release. As required improvements are completed the City Engineer may partially release the bond on the required improvements; provided that there shall remain as bonded the total cost of improvements not completed, plus not less than twenty percent (20%) of the completed work; that such release shall apply only to work and materials totally installed; and that a partial release of any portion of the required improvements shall not operate to release the subdivider of total liability on work and/or materials, until after final acceptance of the plat by the City. If a developer has chosen bond option #1 (one performance bond for all improvements), the bond will be reduced as improvements are completed but will not be totally eliminated until all improvements are complete at which time the maintenance bond would go into effect. If a developer has chosen option #2 (multiple bonds for all improvements), each bond will be reduced as work is completed for the improvement and released once totally complete at which time a maintenance bond for the improvement will immediately be applicable.

(e) Inspections. Periodic inspection during the installation of improvements shall be made by the City to insure conformity with the approved plans and specifications as required by these regulations. The subdivider shall notify proper City administrative officials at least twenty-four hours before each phase of the improvements is ready for inspection.

The absence of an inspector from a plat during construction shall not relieve the subdivider from full responsibility under this agreement. Upon acceptable completion of installation of the required improvements, the City Engineer shall issue a letter to the subdivider or his agent and such letter shall be sufficient evidence for the release of bond or letter of credit by the City.

(f) Failure to Comply. Whenever public improvements have not been constructed in accordance with the agreement and with specifications as established, the City may exercise its rights of foreclosure under the bond, cash the certified check or draw upon the letter of credit to complete the required improvements.
(Ord. 39-12. Passed 7-16-12.)

1116.02 BOND FOR MAINTENANCE OF IMPROVEMENTS.

A maintenance bond in the amount of at least twenty percent (20%) of the value of the minimum required improvements shall be in effect before the surety or certified check is released. The maintenance bond is to be effective for a period of not less than one year from the date of the release of the performance surety bond or certified check. If a developer has chosen performance bond option #1 (one performance bond for all improvements), the maintenance bond will cover all improvements under one bond. If a developer has chosen option #2 (multiple performance bonds for all improvements), the developer will be required to have a maintenance bond for each improvement at the time that each performance bond is released. (Ord. 39-12. Passed 7-16-12.)

1116.03 MAINTENANCE OF IMPROVEMENTS.

The subdivider is responsible for all cost incurred in maintaining the required improvements in satisfactory condition during the year the maintenance bond is in effect. The improvements must be free of all defects in workmanship and materials one year after the performance bond is released or the City has the right, title, and privilege to resort to the maintenance bond to correct such defects, by way of forfeiture or otherwise, as provided by contract with the subdivider. (Ord. 7-77. Passed 4-18-77.)

1116.04 CONSTRUCTION PROCEDURE AND MATERIALS.

The subdivider shall design and construct improvements meeting the standards outlined in these regulations. The work shall be done under City supervision and inspection and shall be completed within the time fixed or agreed upon by the City. The minimum requirements for materials shall be in accordance with City of Fairborn Construction and Materials Specifications, and the requirements of the County Health Department. The City shall be permitted at any time to test materials being used for conformity to Fairborn Construction and Materials Specifications. All required improvements shall be maintained in a satisfactory condition by the subdivider between construction and final acceptance of such improvements by the City. (Ord. 7-77. Passed 4-18-77.)

1116.05 SURVEY MONUMENTS.

- (a) A complete survey shall be made by a registered surveyor.
- (b) The traverse of the exterior boundaries of the tract and of each block, when computed from field measurements of the ground, shall close within a limit of error of one foot to 10,000 feet of the perimeter before balancing the survey.
- (c) Permanent concrete monuments, at least thirty-six inches long and at least six inches in diameter, shall be accurately set and established at the intersections of all outside boundary lines of the subdivision.
- (d) Solid iron pin monuments, three-quarter inch in diameter and thirty inches long, shall be placed by the surveyor at all points on boundary lines where there is a change of direction and at all lot corners.
- (e) There shall be no final release of performance bond until after monuments have been placed. (Ord. 7-77. Passed 4-18-77.)

1116.06 PLANS AND PROFILES.

Complete plans and profiles, signed and approved by a registered professional engineer, shall be made for all new streets and other improvements to be constructed in any subdivision subject to these regulations, and shall be filed with the City Engineer prior to approval of the final plat.

The plan and profile shall be on twenty-four by thirty-six (24 x 36) inch plan and profile sheets and shall show all necessary data in sufficient detail for the complete construction of all work and improvements to be made in the plat. All elevations shall be based on U.S.G.S. datum.

- (a) More specifically, all profiles shall show at least the following:
 - (1) A centerline of proposed streets or roads.
 - (2) Existing roadways or streets extended a sufficient distance beyond the plat boundary to determine suitable grades for proposed pavement.
 - (3) Storm and sanitary sewer lines.
 - (4) Invert elevations of all pipe at manholes, headwalls, junction boxes, etc.
 - (5) Rim elevations of manholes.
 - (6) Length of storm and sanitary sewer spans, and types and sizes of pipe.
- (b) All plans shall show at least the following:
 - (1) Lot grading details and existing contour lines at five-foot intervals where slopes exceed fifteen percent and at two-foot intervals where the slope is less than or equal to fifteen percent.
 - (2) Existing pavements, headwalls and other structures.
 - (3) Construction notes.
 - (4) Structural details.
 - (5) North arrow.
 - (6) Centerline stations.
 - (7) Easements for utilities and storm drainage.
 - (8) Pavement and right-of-way widths.
 - (9) Lot numbers and dimensions.
 - (10) Curve data.
 - (11) Location and/or statement of adequate storm sewer outlet.
 - (12) Storm sewers, manholes, laterals, catch basins, headwalls, etc.
 - (13) Length of storm and sanitary sewers, spans and types and sizes of pipe.
- (c) All plans for subdivisions located in the special flood hazard area as defined in Section 1361.04 shall:
 - (1) Be consistent with the need to minimize flood damage.
 - (2) Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
 - (3) Have adequate drainage provided to reduce exposure to flood damage.
- (d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty lots or five acres, whichever is less, within the special flood hazard area as defined in Section 1361.04.
(Ord. 54-80. Passed 10-20-80.)

1116.07 STREET CONSTRUCTION REQUIREMENTS.

(a) All streets shall be constructed in conformance with the City of Fairborn Construction and Materials Specifications and Standard Drawings.

(b) When developing along one side of an existing street the subdivider shall construct the sidewalk, curb, pavement to at least half width of the street in accordance with the Thoroughfare Plan, all necessary adjustments to existing pavement, storm drainage, and all incidental work in accordance with an agreement with the City. Where sight distance, pavement transitions, or other engineering requirements make it imperative, the subdivider may be required to construct additional pavement.

(c) Dedication of new half streets shall not be permitted. Where a dedicated or platted half street exists adjacent to the tract being developed, the other half shall be platted. (Ord. 7-77. Passed 4-18-77.)

1116.08 CURBS AND GUTTERS.

Curbs shall be required on all streets. Curbs and combined curbs and gutters shall be constructed in conformance with current City of Fairborn Construction and Materials Specifications and City of Fairborn Standard Drawings. (Ord. 7-77. Passed 4-18-77.)

1116.09 SIDEWALKS.

All sidewalks shall be constructed of Portland cement concrete to a minimum width, and depth as specified in City of Fairborn Construction and Materials Specifications. (Ord. 7-77. Passed 4-18-77.)

1116.10 HOUSE AND LOT NUMBERS.

House and lot numbers shall be assigned in accordance with the current house and lot numbering systems in effect for the City and shall be assigned by the City. (Ord. 7-77. Passed 4-18-77.)

1116.11 STREET AND WALKWAY LIGHTING.

(a) The subdivider shall arrange with the local power company to install street lights in accordance with standards and specifications of the City Engineer in each subdivision.

(b) New subdivision street (walkway) lighting shall be installed with all associated wiring underground. Installation of underground wiring shall be at no cost to the City. (Ord. 7-77. Passed 4-18-77.)

1116.12 WATER SUPPLY IMPROVEMENTS.

(a) Where public water supply is within reasonable distance, as determined by the City, the subdivider shall construct a system of water mains and connect with such public water supply and provide a connection for each lot.

(b) Where public water supply is not available, the subdivider or developer shall provide for individual wells for each lot in the subdivision, subject to the approval of the City and County agencies having jurisdiction.

(c) All new and replacement water supply systems within the special flood hazard area as defined in Section 1361.04 shall be designed to minimize or eliminate infiltration of flood waters into the system. (Ord. 55-80. Passed 10-20-80.)

1116.13 FIRE PROTECTION.

(a) General. Fire hydrants of a type and color specified by the Fire Chief shall be provided by the subdivider in all subdivisions with public water supplies. The hydrants should be located between property lines and curbs with all outlets facing or parallel to the street. The size and location of water lines shall be approved by the Fire Chief and the City Engineer. All fire hydrants shall be accessible at all times for use and periodic testing. (Ord. 45-87. Passed 8-3-87.)

(b) Residential. Water lines in residential areas shall be at least six inches in diameter and should be circulating flow. Hydrants shall be placed at the corners of all blocks and at mid-block for blocks exceeding 800 feet in length. In no instance shall hydrants be more than 600 feet apart. Hydrants shall also be required at the entrance of all cul-de-sacs and additionally at the end of all cul-de-sacs.

(c) Multi-Family and Low to Moderate Risk Commercial Areas. Water lines shall be at least eight inches in diameter. Hydrants shall be placed on corners of all blocks and mid-block for blocks exceeding 600 feet in length. In no instance shall hydrants be more than 400 feet apart.

(d) High Risk Commercial Areas, Industrial Areas, and High Rise Locations (Over Five Stories). Water lines shall be at least twelve inches in diameter. Hydrants shall be placed on corners of all blocks and mid-block for blocks exceeding 600 feet in length. In no instance shall hydrants be more than 400 feet apart.

(e) Dead-End Lines. Water lines may dead-end only with the approval of the Fire Chief. When it becomes necessary to dead-end a water line, the minimum diameter water line size shall be increased as required. (Ord. 7-77. Passed 4-18-77.)

1116.14 SANITARY SEWER IMPROVEMENTS.

(a) Where a public sanitary sewer system is within reasonable distance of a subdivision, as determined by the City, the subdivider shall construct an approved sanitary sewer to connect to such system and provide a connection for each lot.

(b) Where a public sanitary sewer system is unavailable, as determined by the City, the subdivider shall provide a disposal system of a type approved by the City and County agencies having jurisdiction.

(c) New and replacement sanitary sewage systems within the flood hazard area as defined in Section 1361.04 of the Codified Ordinances shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

(d) On-site waste disposal systems within the special flood hazard area as defined in Section 1361.04 of the Codified Ordinances shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 56-80. Passed 10-20-80.)

1116.15 DRAINAGE IMPROVEMENTS.

The subdivider shall construct all necessary facilities; including underground pipe, inlets, catch basins or open drainage ditches with improved cross sections as determined by the City Engineer; to provide for the adequate disposal of subsurface and surface water, and maintenance of natural drainage courses.

Storm drainage, including drain tile around basements, shall not be permitted to discharge into any sanitary sewer facility, but shall connect to an adequate drainage outlet. All storm sewer and open drainage ditches shall be designed and constructed in accordance with the City of Fairborn Standard Drawings and Construction and Materials Specifications. As part of the construction drawings, a grading plan shall be furnished with detailed information shown as required by the City Engineer. Grading costs shall be included with the performance bond or certified check.

Drainage channels, including banks and an area of adequate width to permit proper maintenance of such channels, shall be dedicated and maintained by the applicable government agency. (Ord. 7-77. Passed 4-18-77.)

1116.16 STORM DRAINAGE AND STORM SEWERS.

Retention basins shall be considered acceptable components of a storm drainage system.

Open drainage ditches with improved cross sections may be permitted outside the boundaries of a subdivision when the physical conditions are such that a storm sewer in excess of seventy-two inches in diameter is required, or where an adequate public storm drainage system is not within reasonable distance of a subdivision as determined by the City. All other storm drainage shall be sewered.

Open drainage ditches with improved cross sections will be permitted within the boundaries of a subdivision only where the physical conditions are such that a storm sewer in excess of seventy-two inches in diameter is required. The Planning Board or Council may permit open drainage within a subdivision based on aesthetic and public safety considerations. All other storm drainage shall be sewered. (Ord. 7-77. Passed 4-18-77.)

1116.17 CULVERTS AND BRIDGES.

Where natural drainage channels intersect any street right of way, it shall be the responsibility of the subdivider to have satisfactory bridges and/or culverts constructed. Where culverts are required, minimum requirements shall be observed as follows:

- (a) All culverts shall extend across the entire right-of-way width of the proposed street.
- (b) The cover over the culvert and its capacity shall be determined by the City Engineer.
- (c) The minimum diameter of a culvert pipe shall be eighteen inches.
- (d) Headwalls shall be required. (Ord. 7-77. Passed 4-18-77.)

1116.18 ELECTRIC, GAS AND TELEPHONE IMPROVEMENTS.

(a) Electric service and telephone service shall be provided within each subdivision. Gas service may be provided where reasonably accessible. Telephone, electric and street lighting wires, conduits, and cables shall be constructed underground except in cases where the City determines that subsurface conditions would result in excessive costs to the subdivider.

- (1) Screening of Utility Boxes. Any above ground utility boxes serving the neighborhood shall be screened from the public right-of-way view while maintaining the necessary access for future access to the equipment. The screening plan shall be reviewed and approved by the Planning Commission.

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(b) Overhead utility lines, where permitted, shall be located at the rear of all lots. The width of the easement per lot shall be not less than five feet and the total easement width shall be not less than ten feet.

(c) Whenever two or more utilities (sanitary sewer line, water line, gas line, electric and/or telephone line) are each placed underground in the same utility easement, a width greater than the minimum ten feet shall be required. (Ord. 7-77. Passed 4-18-77.)

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1116.19 OVERSIZE IMPROVEMENTS.

The utilities, pavements and other land improvements within a subdivision shall be designed oversized if required by the City and shall extend to the boundaries of the subdivision to serve future and existing development. (Ord. 7-77. Passed 4-18-77.)

1116.20 OFF-SITE EXTENSIONS.

If streets or utilities are not available at the boundary of a proposed subdivision, and if the Planning Board and Council find that extensions across undeveloped areas would not be warranted as a special assessment to the intervening properties or as a municipal expense until some future time, the subdivider may be required, prior to approval of the final plat, to obtain necessary easements or rights of way and construct and pay for such extensions; however, the City may enter into an agreement with the developer to protect the developer's investment in such improvements. The improvements shall be available for connections by owners of adjoining land. (Ord. 7-77. Passed 4-18-77.)

1116.21 FINAL INSPECTION.

Upon completion of all the improvements, the subdivider shall request, in writing, a final inspection by the City Engineer pursuant to Ohio R.C. 711.091. (Ord. 7-77. Passed 4-18-77.)

1116.22 "AS-BUILT" CONSTRUCTION DRAWINGS.

After the final inspection of the improvements by the City, the subdivider shall submit to the City "as-built" construction drawings showing improvements and all deviations from the construction plans.

"As-built" drawings shall consist of either ink on linen drawings or photographically reproduced mylars and shall show the following:

- (a) Final curb elevations where street profile has been changed from the plan.
- (b) Alignment changes.
- (c) If no changes have been made, a statement to that fact shall be shown.
- (d) Established bench marks.
- (e) Invert and manhole rim elevations and distances between manholes for all storm and sanitary sewer lines. Manholes and sewer lines shall be shown in their proper, respective locations to other features.
- (f) Water valves, back yard drains and similar features referenced to permanent visible features.
- (g) Individual sanitary sewer and water service laterals.

The "as-built" drawings shall be a part of the performance bond or certified check. The performance bond or check shall be released only after "as-built" drawings have been received and approved by the City. (Ord. 7-77. Passed 4-18-77.)

CHAPTER 1117
Hillside Regulations

- 1117.01 General.
- 1117.02 Determination of average slope.
- 1117.03 Minimum lot requirements for single-family homes.
- 1117.04 Grading plan and controls.
- 1117.05 Cuts and fills.

- 1117.06 Compaction of fill.
- 1117.07 Retaining walls.
- 1117.08 Minimum hillside requirements.
- 1117.09 Street alignment.
- 1117.10 Driveways.
- 1117.11 Sewage disposal.

CROSS REFERENCES

Suitability of land - see P. & Z. 1115.03
Variances - see P. & Z. 1119.05

1117.01 GENERAL.

These regulations apply to all hillside areas. A "hillside area" as referred to herein is defined as one with an average slope of more than fifteen percent. The subdivider shall submit sufficient detailed information as to geologic conditions, soil types, and underground water level in order that a determination can be made by the City Engineer as to the safety of development of the particular location. (Ord. 7-77. Passed 4-18-77.)

1117.02 DETERMINATION OF AVERAGE SLOPE.

The average slope for any hillside development shall be determined by the City Engineer during the time of preliminary subdivision design. Determination will be on an area by area basis with each lot sized according to the average topographic change falling within each area. (Ord. 7-77. Passed 4-18-77.)

1117.03 MINIMUM LOT REQUIREMENTS FOR SINGLE-FAMILY HOMES.

The minimum lot requirements as per Figure 1 minimum lot size requirements based on slope, shall be used to determine the minimum lot area for a single-family home. The lot area in thousands of square feet shall then be determined by charting the average natural ground slope and the minimum lot area. Rounding shall be made to the nearest five foot frontage interval. Deviations from these requirements may be allowed subject to determination by the Planning Board where exceptional circumstances warrant. (Ord. 7-77. Passed 4-18-77.)

MINIMUM LOT SIZE REQUIREMENTS
BASED ON SLOPE

1117.04 GRADING PLAN AND CONTROLS.

The grading plan shall show contour lines at five foot intervals where average slopes exceed fifteen percent and at two foot intervals where slopes are less than fifteen percent. Elevations are to be based on the sea level datum (U.S.G.S.). The approximate lot layout and the approximate dimensions shall be shown for each lot and each building site. Where pads are utilized or proposed for building sites, engineering data shall show the existing topography and the approximate finished grades, location and size of each building site, and finished grade of streets prior to consideration of the final plat. (Ord. 7-77. Passed 4-18-77.)

1117.05 CUTS AND FILLS.

No land shall be graded, cut or filled so as to create a slope exceeding a vertical rise of one foot for each two and one-half feet of horizontal distance between abutting lots, unless a retaining wall of sufficient height and thickness is provided to retain the graded bank. Major cuts, excavation, grading and filling, where the same materially changes the site and its relationship with surrounding areas or materially affects such areas, shall not be permitted if such excavation, grading and filling will result in a slope exceeding a vertical rise of one foot for each two and one-half feet of horizontal distance between abutting lots or between adjoining tracts of land, except where adequate provision is made to prevent slides and erosion by cribbing and retaining walls. (Ord. 7-77. Passed 4-18-77.)

1117.06 COMPACTION OF FILL.

All fill shall be compacted to a density of ninety percent or greater. Inspection of fill shall be conducted by an independent soils laboratory and furnished to the City. (Ord. 7-77. Passed 4-18-77.)

1117.07 RETAINING WALLS.

Retaining walls may be required whenever topographic conditions warrant or where necessary to retain fill or cut slopes within the right of way. Such improvements shall require the approval of the City Engineer. (Ord. 7-77. Passed 4-18-77.)

1117.08 MINIMUM HILLSIDE REQUIREMENTS.

The following minimum regulations shall govern the front yard, side yard, street right of way and pavement requirements in hillside subdivisions:

Group	Percent of Slope	Side Yard		Right of Way (ft)
		Front Yard (ft)	in % of lot width	
1	15 to 25%	25	10	50
2	26 to 30%	23	10	45
3	31 or over	20	10	40

(Ord. 7-77. Passed 4-18-77.)

1117.09 STREET ALIGNMENT.

The following regulations shall govern street alignment:

- (a) Waiver of visibility requirements may be given subject to the approval of the Planning Board and/or Council.
- (b) Waiver of vertical curve requirements may be given subject to the approval of the Board and/or Council.
- (c) Waiver of street width requirements may be given subject to the approval of the Board and/or Council. (Ord. 7-77. Passed 4-18-77.)

1117.10 DRIVEWAYS.

The maximum grade on driveways shall not exceed ten percent. Each drive shall provide sufficient space and distance to turn around prior to entering the street. (Ord. 7-77. Passed 4-18-77.)

1117.11 SEWAGE DISPOSAL.

Where public sewers are not available or reasonably accessible, a central treatment plant shall be installed by the subdivider in accordance with State and City Board of Health requirements. The use of individual systems shall be prohibited. (Ord. 7-77. Passed 4-18-77.)

CHAPTER 1118
Park Land Dedication and Fees-in-Lieu

- 1118.01 Statement of purpose;
comprehensive park system.
- 1118.02 Parties who must provide
park and recreational
facilities.
- 1118.03 Application to residential
subdivisions.

- 1118.04 Definition of terms.
- 1118.05 Comprehensive parks and recreation system; park types and standards.
- 1118.06 Dedication of parks and open space.

CROSS REFERENCES

Parks and Recreation Advisory Board - see S. & P. S. Ch. 931
Parks on preliminary plat - see P. & Z. 1113.07(h), (q)
Final plat to indicate - see PO & Z. 1114.07(j)
Variances - see P. & Z. 1119.05

1118.01 STATEMENT OF PURPOSE; COMPREHENSIVE PARK SYSTEM.

(a) Since the initial ordinance was passed April 18, 1977, an increased awareness in business and residential development, and now standard for economic development, includes a growing recognition of the need for: neighborhood and community parks; comprehensive recreational facilities; trail connectivity of parks, schools and recreation facilities; including sufficient open space areas for both passive and active function. This recognition has developed not only because of the important aesthetic reasons involved, but also because of the increased realization that these parks, recreational facilities and open space areas are a vital ingredient in any urban world that is to be considered livable.

(b) If there is to be a quality environment throughout the community, and if likewise there are to be adequate parks and recreational facilities for all citizens and a variety of leisure time opportunities for the entire family, then it is going to be necessary that a City have a comprehensive park system. A comprehensive park system, by setting forth definite principles, policies, practices and priorities, will meet the needs of and serve the citizens by providing recreational outlets and sources of relaxation, and also by improving the visual quality of the urban environment - thus making the community a much more enjoyable and attractive place in which to live. Based upon national standards by The National Parks & Recreation Association (NPRA) governing body, it is hereby found and determined by the City, as established by the Division of Parks & Recreation Master Plan, that the public health, safety and welfare requires that at least ten (10) acres of land for each 1,000 persons residing within the City of Fairborn be devoted to neighborhood and community park, recreational facilities and/or trails; and, the same is hereby established as the parkland standard for all purposes of this section. It is the goal of the City of Fairborn to provide such a comprehensive park system.

(c) A comprehensive park and trail system is a necessary and integral part of any community, and as such it will be found that parks, trails, and open space areas are a key element in and a dominant feature of the social and physical structure of the community. The importance and value of such public improvements as streets and sidewalks, water distribution systems, sanitary sewer systems, storm sewer systems, street lighting, street name and traffic control signs, and other such required public improvements and physical facilities has long been recognized and acknowledged. Community Development Directors and Planners have developed a realization that adequate parks, trails, proper recreational facilities, and sufficient open space areas represent a need as real and important as that for these other required public improvements. Parks, trails, recreational facilities and open space areas are no longer merely desirable. They have in effect become a modern necessity, especially as relates to the continued growth, development and expansion of the City.

(d) Because of this increased awareness of the need for and necessity of parks, trails, recreational facilities and open space areas in the community, the demands upon the City to reserve, acquire, develop, and maintain adequate parks, trails and open space areas are going to increase. This is especially going to be the case in newly developed areas where, because of the massing together of large residential sections, the demand for urban services and recreational areas and facilities is going to be localized.

(e) If these parks, trails and recreational facilities are to be provided, then adequate land must be available. This will certainly require an effective park land acquisition and development program. Obviously, public finances are currently totally inadequate to accomplish this task. Furthermore, in light of the existing fiscal situation in our community, it has been determined that the City must prevent an excessive burden on property taxes, and particularly as relates to existing residents. Consequently, the responsibility for providing these needed parks, trails, recreational facilities and open space areas is going to have to be assumed by those citizens directly benefitting from their use.

(f) The purpose of this chapter is to set forth a workable procedure whereby adequate parks, trails, open space areas and recreational facilities may be mandatorily required in newly developed areas on an equitable and reasonable basis and financed by those directly benefitting from these parks and facilities. Only in this manner and with such requirements will the City be able to assure that parks, open space areas and recreational facilities are provided in newly developed areas, and thus in the process prevent a further widening of the gap between the need for such parks and recreational facilities and their availability.

(g) All land dedications and/or fees-in-lieu of dedication required by this section shall substantially conform to the official City of Fairborn Parks & Recreation Master Plan and other applicable City plans, policies and programs.
(Ord. 19-15. Passed 6-15-15.)

1118.02 PARTIES WHO MUST PROVIDE PARK AND RECREATIONAL FACILITIES.

Parties who shall be required to dedicate suitable land to the City, or pay a fee-in-lieu of such dedication equivalent in value to such land, or provide a combination of such dedication and payment, and who shall further be required to pay a park development fee based upon the value of the required land dedication, all in accordance with the standards and other provisions as set forth in this chapter, for the purpose of providing park, trail and recreational facilities to serve future residents in newly developing areas of the community, are as follows:

- (a) Subdivider. Every subdivider who subdivides and plats land shall dedicate a portion of such land, pay a fee in-lieu thereof, or provide a combination of both, such conditions to be satisfied before a final plat map will be approved and recorded. However, for the purposes of this chapter, where the required park land dedication would be less than one (1) acre, then only the payment of an in-lieu fee shall be required. Chapter 1118 of the Codified Ordinances for the City of Fairborn supersedes all other planning and zoning, past or future, in other sections referring to park land dedication or fees in-lieu policies.
- (b) Developer (including, but not limited to, Planned Unit Developments - PUD). Every developer who develops any residential lot(s) development area, which at the time of the enactment of this chapter has previously been subdivided and platted, and which has not since the enactment of this chapter been re-divided (i.e., lot splits), shall dedicate a portion of such land, prior to the issuance of any building permits for the development, pay a fee in-lieu thereof, or provide a combination of both. However, for purposes of this chapter, where the required park land dedication would be less than one (1) acre, then only the payment of an in-lieu fee shall be required. As used herein, the term "development" means the building of one or more dwellings, including but not limited to single-family dwellings, two-family dwellings, multiple-family dwellings or dwelling groups; or the installation of one or more mobile homes or other industrially manufactured residential units upon one or more lots, within a Planned Unit Development or not.
Where more than one lot is being developed by the same developer/owner or multiple developers/owners, all of such undeveloped lots which form a contiguous tract of land shall be deemed to be one development, and the standards and provisions of this chapter shall be considered accordingly. Lots which are separated by a street shall be deemed to be contiguous for the purposes of this chapter. This section supersedes all other planning and zoning, past or future, in other sections referring to park land dedication or fees in-lieu policies.
- (c) Lot Splits. Every subdivider or developer who makes minor land divisions (i.e., lot splits), shall dedicate a portion of such land before a survey or plat record will be approved and recorded, pay a fee in-lieu thereof, or provide a combination of both. In the event that the land has previously been subdivided and the noted conditions (as outlined in subsection (a) above) have already been satisfied, then the land dedication and fee payment requirement would be based only upon the additional lot or lots created by the lot split and the resultant increase in the population density. For purposes of this chapter, where the required park land dedication would be less than one (1) acre, then only the payment of an in-lieu fee shall be required.

(Ord. 19-15. Passed 6-15-15.)

1118.03 APPLICATION TO RESIDENTIAL SUBDIVISIONS.

The provisions of this chapter shall apply to all residential subdivisions and/or residential development, as that phrase is defined within this chapter.
(Ord. 19-15. Passed 6-15-15.)

1118.04 DEFINITION OF TERMS.

(a) Whenever any words or phrases in this chapter are not defined herein, but are defined elsewhere in this Planning and Zoning Code, then such definitions are to be interpreted by the ~~Zoning Administrator or City Engineer~~ Community Development Director and Planning Director to be incorporated herein and shall apply to such words and phrases, unless the context clearly indicates a contrary intention.

(b) “Residential” shall be defined as a planned unit being either single or multi-unit in nature and not deemed commercial in any form.
(Ord. 19-15. Passed 6-15-15.)

**1118.05 COMPREHENSIVE PARKS AND RECREATION SYSTEM;
PARK TYPES AND STANDARDS.**

(a) There are several open space policy alternatives recognized by urban planners and available to cities today, including, and among others, the linear corridor parks system, the large scale parks system, the small scale parks system and the combination parks system. It has been determined and established that the combination parks system is best suited for and best meets the open space and recreational needs of this community. Such a combination parks system emphasizes the integration of parks of varying sizes and functions throughout the community, and encompasses possibly one very large City park, several strategically located multiple-use community parks, and many smaller and evenly dispersed neighborhood parks and block parks.

(b) To fully provide for the open space and recreational needs of the community, a comprehensive parks and recreation system is required. As indicated above, such a system will include a combination of open space and recreational areas involving a variety of park types, each serving a particular area and range of active and passive recreational activities, and each varying in size according to its function and location. Such a system will further provide for adequate recreational equipment and park facilities, as well as needed recreational programs and activities at these parks.

(c) The following table depicts classification, description and population standards of various parks, trails, and recreation amenities as identified by the National Recreation and Parks Association (NRPA) Board of Accreditation and National Standards:

National Standards of Park/Trail Land Development (NPRA Standards)

Classification	Description	Population Standards
Mini Park	Used to address limited, isolated or unique recreation needs	0.5 acres/1,000 people (no firm standard is applicable)
Neighborhood Park	Court games, play fields, playgrounds, sitting areas. Focus on informal active/passive recreation.	1.0 to 2.0 acres/1,000 people
Community Park	Serves a broader purpose than neighborhood park. Focus is on community-based recreation needs, preservation of unique landscapes.	5.0 to 8.0 acres/1,000 people
School Park Facility	Combines park with school site. May be elementary, middle or high school. May satisfy neighborhood, community or sports complex need.	Variable size depending on function.
Sports Complex	Consolidates, heavily programmed, athletic fields and associated facilities to larger and fewer sites, strategically located.	Determined by demand. Minimum 25 acres. 40-80 acres optimal.
OVERALL SYSTEM	ALL DEVELOPED PARK LAND	6.25 to 10.5 acres/1,000 people
Overall System	Including undeveloped park land	6.25 to 10.5 acres/1,000 people
Baseball/Softball		1 field/2,000 people
Basketball		1 court/1,000 people
Boating		100 acres of water surface/1,000 people
Golf		18 holes/25,000 people
Picnicking		7 to 14 tables/1,000 people
Soccer		1 field/2,000 people
Swimming Pool - Indoor		1 pool/20,000 people
Swimming Pool - Outdoor		150 - meter pool/20,000 people
Tennis		1 court/2,000 people
Theater - outdoor stage		1 stage/20,000 people
Track & Field		1 track/10,000 people
Trails - biking		1 mile/1,500 people
Trails - hiking		1 mile/5,000 people
Trails - nature		1 mile/10,000 people
Volleyball		1 court/5,00 people

(d) For purposes of this chapter, and in accordance with the Parks and Recreation Master Plan, the minimum park standards will be referenced to the national standards listed in the previous section based on National Standards of Parks stipulated in the 1995 and 1983 NPRA publications. Population standard of ten (10) acres per 1,000 people has been stated in Section 1118.01(b). (Ord. 19-15. Passed 6-15-15.)

1118.06 DEDICATION OF PARKS AND OPEN SPACE.

(a) Findings and Statement of Policy. It is hereby found and determined by the City, as established in the City of Fairborn Parks and Recreation Master Plan, that the public health, safety and welfare requires that at least ten (10) acres of land for each 1,000 persons residing within the City of Fairborn be devoted to neighborhood and community park and recreational facilities, and the same is hereby established as the parkland standard for all purposes of this section.

(b) Choice of Land Dedication or Fee-in-Lieu.

- (1) Planning Board determination. The Planning Board shall make the final recommendation to City Council for approval whether the developer shall dedicate land, dedicate trail or pay a fee-in-lieu of dedication, or provide a combination of dedication and fee in-lieu of payment.
- (2) Procedure. In making the determination referred to in subsection (b)(1) above, the following procedure shall apply:
 - A. At the time of filing the initial ~~development plan~~ Development Plan for the property (specific site plan or preliminary subdivision plan, whichever is earlier), the Developer shall, as a part of such filing, complete the provided plan development checklist and by the time of submittal propose whether the intention to fulfill the requirements of this section will be met by land dedication, fees in-lieu of dedication, or a combination thereof on the ~~development plan~~ Development Plan.
 - B. At the time of official submission of the initial ~~development plan~~ Development Plan for the property, the developer shall submit the plan to the ~~Development Services~~ Planning Department for preliminary review and feedback. Prior to the recommendation to the Planning Board, the entire ~~development plan~~ Development Plan including the park dedication portion will be addressed by staff in the developmental review meeting(s).
 - C. Planning Board determination regarding land dedication, fees, or a combination thereof, shall be made during the review of the initial ~~development plan~~ Development Plan for the property. Insofar as practicable, the determination of the Planning Board shall be compatible with the Parks and Recreation Master Plan.
- (3) Criteria. In making the determination referred to in subsection (b)(1) above, the following criteria shall be considered:
 - A. Residential site plan for review - Residential site plans would be reviewed for park land dedication, trail line land dedication/development or fees in-lieu of compensation.
 - B. Suitability of soils and geology for the proposed use;
 - C. Suitability of topography and drainage for the proposed use, with no more than forty percent (40%) of the dedicated land comprised of environmentally sensitive areas and not more than fifty percent (50%) of the dry ground exceeding the three percent (3%) grade or the remaining dry ground exceeding five percent (5%) grade, unless the Planning Board determines that such areas would be of

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51	Park Land Dedication and Fees-in-Lieu	1118.06
unique natural or environmental values for future subdivision residents or property holders;		
51	Park Land Dedication and Fees in Lieu	1118.06

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- D. Location and impact of federally-designated floodways and floodway fringe areas relative to the proposed use;
 - E. Extent of natural vegetation and tree cover, with priority given to the preservation of wooded areas and other natural features of scenic beauty which will add attractiveness and value to the dedicated land;
 - F. The adequacy of the location of the dedicated land within the subdivision relative to its centrality and proximity to residents;
 - G. The adequacy of the configuration of each proposed area, with preference given to one contiguous parcel sufficiently geometric to be usable for active and/or passive recreational pursuits; and
 - H. The degree of quality of vehicular and non-vehicular access provided to the public and for maintenance purposes.
- (4) Minimum dedication. A fee-in-lieu of dedication shall be paid, and no dedication of land shall be required, in the event the amount of dedication required by this section would comprise less than one (1) acre, except in the event the land so dedicated could be added to the adjoining, contiguous land area of an existing park or recreational facility.
- (5) Quality of land to be dedicated. A fee-in-lieu of land dedication shall be paid when the Planning Board determines no land shall be required to be dedicated and/or the land proposed to be dedicated to be unsuitable in location, topography, environmental characteristics and/or development potential as related to the intended use.
- (c) Dedication of Land.
- (1) Intent. The primary intent of this subsection is to provide land to serve local, neighborhood or community-wide recreational needs, including but not limited to facilities such as tot lots, play lots, playgrounds, playfields, neighborhood parks, community parks, trails, and other specialized recreational facilities.
- (2) Amount of land to be dedicated. The amount of land to be dedicated by a developer pursuant to this section shall not exceed 15% of the total development and shall be determined by the following formula:
- Residential.
- A. Total number of acres within the entire land purchased by the developer for this project (including, but not limited to all land considered non-developable by the developer, retention/detention basins, easements, etc.)
- DIVIDED BY:
- B. The maximum number of dwelling units permitted by the zoning approval; provides the average acre per unit.
- MULTIPLIED BY:
- C. 10 (ten) to determine total whole (with possible additional partial acreage) number of acres to be dedicated as land only, fees in-lieu, and/or the combination therein.
- (3) Location of land to be dedicated. The Planning Board shall recommend to City Council the final location of the park land to be dedicated. The park shall be located to primarily benefit the future residents of the subdivision, region or community.

- (4) Minimum dedication. A fee-in-lieu of dedication shall be paid, and no dedication of land shall be required, in the event the amount of dedication required by this section would comprise less than one (1) acres, except in the event the land so dedicated could be added to the adjoining, contiguous land area of an existing park or recreational facility.
- (5) Procedure. Dedication of park land shall occur at the final subdivision approval stage or as may be otherwise required by the Planning Board. The dedication of land required by this subsection shall be by a general warranty deed conveying to the City and its successors and assigns, good and marketable title to the real estate described in such deed, free and clear of all liens and encumbrances. This general warranty deed for dedicated public park land, as well as any covenants for private park or recreational facilities, shall be executed and delivered to the County Recorder together with the final subdivision plat. The form of all deeds and dedication of land to the City pursuant to this subsection shall be approved by the City Solicitor. Subdivision plats shall show dedication of land for park uses at approved locations. All land to be dedicated to the City for park purposes shall be shown on the plat as dedicated to Fairborn, Ohio for park and recreation purposes.
- (6) Adverse effects of development; reclamation. Following approval of any plan which designates land for dedication as required by this section, the existing vegetation, topography, features of historic value, stream courses, soil rock strata and other natural features shall not be altered or their condition adversely affected in any way except as directed in this subsection or as directed by the Planning Board. If, in the opinion of the Planning Board any portion of land proposed for dedication has been, or will be, adversely affected by the operations of a developer and such land or portion thereof will require reclamation in order to render it suitable as a park or recreational facility, the Planning Board may require the developer to furnish a plan for such reclamation. After approval of such plan by the City, the developer shall implement such reclamation plan within one year of final plat approval. Required reclamation shall be included in the developer's performance bond to ensure implementation.
- (7) Required improvements. Whenever land is dedicated, the developer shall provide the following improvements:
- A. Site grading necessary for the conveyance and disposal of storm water generated within or flowing through the park land;
 - B. Seeding of the park land utilizing an athletic field mixture;
 - C. Fencing;
 - D. Full street improvements and utility connections within the adjoining public rights-of-way including, but not limited to, street paving, water & sewer stubs, sidewalks, curbs, and gutters, street trees and traffic control devices; and
 - E. Any other public improvements which ~~the~~ the City determines are necessary in order to make the dedicated park land suitable for development as a park facility.

(d) Fee-in-Lieu of Dedication. In the event a developer is required to pay a fee in-lieu of dedication, as outlined in subsection (b) and/or (c) above, the following provisions shall apply:

- (1) Amount of fee for residential site plans. The amount of the fee shall equal one thousand dollars (\$1,000) per dwelling unit less any credit allowed by subsection (e).
- (2) Use and deposits of fees. The City shall include all required fees associated with each phase of development in the Engineering Division Subdivider's Contract with the Developer. If the Engineering Subdivider's Agreement is not necessary all fees shall be paid with the Zoning Permit. Said fees shall be in cash form or surety bond assuring future performance. All fees collected pursuant to this subsection shall be deposited in the Parks and Recreation Capital Improvement Fund, to be used solely for the acquisition, development and improvement of a Citywide community park and/or the acquisition, development and improvement of park, trail and recreational facilities.

(e) Credit for Private Facilities.

- (1) Allowance of credit. The Planning Board may grant credit for park and recreational land which is to be privately owned and maintained by the future residents of the subdivision or by the developer if such land adequately fulfills the park and recreational needs of the proposed development. The fair market value of the private recreational land shall be credited against the land dedication and/or fee requirements of this section.
- (2) Standards and limitations. In approving credit for private facilities, the Planning Board shall find that all of the following standards are met:
 - A. Yards, court areas, setbacks and other such open areas required by the City Zoning Code and other land use regulations shall not be included in the private recreational facility credit;
 - B. Private ownership, development, and maintenance of the private facilities shall be assumed by the execution of valid and enforceable legal documents by the developer;
 - C. Use of the private facilities is restricted for park and recreational purposes by recorded covenants, which run with the land in favor of the future owners of the property within the subdivision, and, which cannot be defeated or eliminated without the consent of the Planning Board;

- D. The proposed private facilities are reasonably adaptable for park and recreational uses, taking into consideration such factors as size, shape, topography, geology, access and location of the land; and, are available for use by the general public;
- E. The private facilities are reasonably compatible with the provisions of the Parks and Recreation Master Plan and other applicable City plans, policies and programs.

(f) Exemptions. The following types of developments shall be exempt from the land dedication and fee requirements of this section:

- (1) Condominium or cooperative projects which consist of the subdivision of airspace in an existing apartment building when no new dwelling units are added.

(g) Adjustments. Notwithstanding any provisions of this section to the contrary, the Planning Board may in cases of an unusual or exceptional nature allow for adjustments in the land dedication and fee requirements when it has been sufficiently shown that the needs of a development sufficiently justify such an adjustment.
(Ord. 19-15. Passed 6-15-15.)

(h) Effective Period. The land dedication and/or payment of fees required by this section shall be conveyed to the City after preliminary subdivision approval, but prior to construction of all phases in full for the total acreage/fee due the City. No ~~zoning permit~~ ~~zoning~~ ~~permit~~ shall be issued for the development unless and until the plat is recorded and this dedication or payment is conveyed.
(Ord. 25-21. Passed 11-1-21.)

(EDITOR'S NOTE: The next printed page is page 59.)

CHAPTER 1119
Revisions and Enforcement

- 1119.01 Recording of plat.
- 1119.02 Revision of plat after approval.
- 1119.03 Sale of land within subdivisions.
- 1119.04 Schedule of fees, charges and expenses.

1119.05 Subdivision Regulations Waiver~~Variances~~.
1119.99 Penalty.

CROSS REFERENCES

Plat acknowledgment and recording - see Ohio R.C. 711.06

Variance defined - see P. & Z. 1112.50

Zoning Code penalty - see P. & Z. 1132.076

1119.01 RECORDING OF PLAT.

No plat of any subdivision shall be recorded or have any validity until such plat has received final approval by the Planning Board and/or Council in the manner prescribed in these regulations. (Ord. 7-77. Passed 4-18-77.)

1119.02 REVISION OF PLAT AFTER APPROVAL.

No changes, erasures, modifications or revisions shall be made in any plat of a subdivision after approval has been given by the Planning Board, and endorsed in writing on the plat, unless such plat is first resubmitted to the Board. (Ord. 7-77. Passed 4-18-77.)

1119.03 SALE OF LAND WITHIN SUBDIVISIONS.

No owner or agent of the owner of any land located within a subdivision shall transfer or sell any land by reference to, exhibition of, or by the use of a plat of the subdivision before such plat has been approved and recorded in the manner prescribed in these regulations. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from the provisions of these regulations. (Ord. 7-77. Passed 4-18-77.)

1119.04 SCHEDULE OF FEES, CHARGES AND EXPENSES.

(a) At the time of submission of a plat, the subdivider shall submit fees payable to the City in the following amounts:

- (1) Preliminary Plat - \$250.00 per plat plus \$25.00 per acre or any part thereof.
- (2) Final Plat - \$250.00 per plat plus \$25.00 per acre or any part thereof.
- (3) Park Land Fee - as required in Chapter 1118.
- (4) Lot Splits - \$125.00 plus \$12.00 per lot.
- (5) Replats - \$125.00 plus \$12.00 per lot.
- (6) Developer Fee - 2.5% of the bonded amount.
- (7) Stormwater Review Fee - Amount shall be set by City Council Ordinance
(Ord. 25-21. Passed 11-1-21.)

(b) Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application.
(Ord. 18-03. Passed 7-7-03.)

1119.05 SUBDIVISION REGULATIONS WAIVER~~VARIANCES~~.

The following regulations shall govern the granting of a subdivision regulations waiver~~variances~~:

- (a) Where the Planning Board finds that extraordinary and unnecessary hardship may result from strict compliance with ~~these those subdivision~~ regulations found in Sections 1115 through 1117, due to exceptional topographic or other physical conditions, it may vary the regulations so as to relieve such hardship, provided such relief may be granted without detriment to the public interest and without impairing the intent and purpose of these regulations or the desirable development of the neighborhood and community. Such ~~modifications~~variations shall not conflict with have ~~the effect of nullifying~~ the intent and purpose of these Subdivision Regulations, the Comprehensive Plan or the Zoning Code regulations.
- (b) In granting a waiver~~variances or modifications~~, the Planning Board may require such conditions as will, in its judgment, secure substantially the objective of the standards or requirements so ~~varied or~~ modified.
(Ord. 7-77. Passed 4-18-77.)

1119.99 PENALTY.

Whoever violates any of the provisions of these Subdivision Regulations is guilty of a misdemeanor and shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). Each day's continuance of the violation shall constitute a separate offense. (Ord. 7-77. Passed 4-18-77.)

TITLE FIVE - Zoning Code

- Chap. 1121. Introductory Provisions.
- Chap. 1122. Use Districts.
- Chap. 1123. Planned Unit Development District.
- Chap. 1124. Nonconformities.
- Chap. 1125. Performance Standards.
- Chap. 1126. Adult Uses.
- Chap. 1127. Wireless Telecommunication Facilities.
- Chap. 1128. Supplemental and Accessory Regulations.
- Chap. 1129. Screening, Buffer Yard, Landscaping and Fences.
- Chap. 1130. Parking and Loading.
- Chap. 1131. Signs.
- Chap. 1132. Administration, Process and Procedures.
- Chap. 1133. Development Plan Review
- Chap. 1134. Definitions.
- Chap. 1135. Fees.

CHAPTER 1121
Introductory Provisions

- 1121.01 Title, purpose, scope and severability.**
- 1121.02 Map and Districts established.**

1121.03 Zoning Code compliance.

1121.01 TITLE, PURPOSE, SCOPE AND SEVERABILITY.

(a) Short Title. The Zoning Code for the City of Fairborn, Ohio, inclusive of Chapter 1121: Introductory Provisions to Chapter 113~~4~~³: Definitions, shall be known and may be cited and referred to as the "Zoning Code".

(b) Purpose and Objectives. The text and Zoning Map in this Zoning Code constitute the comprehensive zoning ordinance and regulations for the incorporated area of the City of Fairborn and are adopted to protect and promote the public health, safety, convenience, comfort, prosperity or general welfare, and to provide the economic and social advantages which result from an orderly, planned use of land resources. Such regulations are designed to achieve the following objectives:

- (1) To promote the achievement of the Comprehensive Land Use Plan for the City;
- (2) To advance the position of the City as a center of commerce, industry, recreation and culture;
- (3) To provide for desirable, appropriately located living areas in a variety of dwelling types and at a suitable range of population densities, with adequate provision for sunlight, fresh air and usable open space;
- (4) To protect residential, commercial, industrial and civic areas from the intrusions of incompatible uses, and to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to share services;
- (5) To ensure preservation of adequate space for commercial, industrial and other activities necessary for a healthy economy;
- (6) To promote safe, fast and efficient movement of people and goods without sacrifice to the quality of the City's environment and to provide adequate off-street parking;
- (7) To stabilize expectations regarding future development of the City, thereby providing a basis for wise decisions with respect to such development;
- (8) To preserve and enhance the quality of the City's environment;
- (9) To provide for effective signage that is compatible with the surrounding urban environment; and
- (10) To maintain the safety and potability of public water supplies located within the City.

(c) Scope. In their interpretation and application, the provisions of this Zoning Code shall be held to be minimum requirements, adopted for the promotion of the public health, safety, convenience, comfort, prosperity or general welfare. Wherever the requirements of the Zoning Code are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the provisions of this Zoning Code shall control.

(d) Severability. Should any section, clause or provision of this Zoning Code be declared by the courts to be invalid, the same shall not affect the validity of the Zoning Code as a whole or any part thereof other than the part so declared to be invalid.
(Ord. 34-17. Effective 12-7-17.)

1121.02 MAP AND DISTRICTS ESTABLISHED.

(a) Zoning Map Adopted. For the purposes of this Zoning Code, the City of Fairborn is divided into zoning districts. Zoning district boundaries are established as shown on the Official Zoning Map that accompanies and is part of this Zoning Code. These zoning districts are intended to:

- (1) Regulate and restrict the location and use of buildings and land for residence, commerce, trade, industry, transportation, communications and utilities;

- (2) Regulate and restrict the size and height of buildings, structures including the size of yards, setbacks, lot coverage, open spaces and the density of population; and
- (3) Establish site development standards and requirements for adequate public facilities and services.

(b) Use and Overlay Districts. This Zoning Code hereby establishes the following classes of use districts and overlay districts:

Table 1121-1: Use and Overlay Districts	
AG Agricultural District	CC Community Commercial
PG Parkland Conservation Development	DC Downtown Commercial
SR Suburban Residential	GC General Commercial
UER Urban Edge Residential	LI Light Industrial
MDR Medium Density Residential	AM Agricultural and Mineral
MHP Manufactured Home Park	PUD Planned Unit Development
PO Professional Office	WO Wellhead Operation
NCTR Neighborhood Center	WP Well Field Protection Overlay
NC Neighborhood Commercial	F Floodplain Overlay
ER East Residential	

(c) Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of districts, as shown on the Official Zoning Map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the centerline or right-of-way lines of streets, highways or alleys shall be construed to follow such center lines;
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (3) Boundaries indicated approximately following City limits shall be construed as following City limits;
- (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracts;
- (5) Boundaries indicated as following rivers and streams should be construed to follow the approximate centerline of such river or stream, and in the event of change in such river or stream, should be construed as moving with the actual centerline; and
- (6) If any uncertainty remains as to the location of a district boundary, the Zoning Administrator has the duty to determine the exact location and document that boundary location on the Official Zoning Map. The Zoning Administrator has the duty to keep a record of such decisions.

(d) Lot Divided by Zoning District Boundary. Where a district boundary divides a lot in single ownership and of record prior to and continuously since the time the district boundary line was established, the use authorized on and the district requirements of the least restrictive portion of the lot are construed as extending to the entire lot. (Ord. 34-17. Effective 12-7-17.)

1121.03 ZONING CODE COMPLIANCE.

(a) Compliance with District Regulations. Except as hereinafter provided, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

(b) Minor Variances. Except for minor variances that may be allowed by the Zoning Administrator that they determine are reasonable and follow the intent of this Zoning Code, no building or other structure shall hereafter be erected or altered:

- (1) To exceed the permitted height;
- (2) To accommodate or house a greater number of families;
- (3) To occupy a greater percentage of lot area; or
- (4) To have narrower or smaller rear yards, front yards, side yards, or other open spaces; than herein required, or in any other manner contrary to the provisions of this Zoning Code.

(c) Duplication of Individual Requirements Prohibited. No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Zoning Code, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building, except where permitted.

(d) Lots Existing Prior to Effective Date. No yard or lot existing at the time of passage of this Zoning Code shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Zoning Code shall meet at least the minimum requirements established by this Zoning Code.

(e) Regulations are a Minimum. Within each district, the regulations set by this Zoning Code shall be the minimum regulations and shall apply uniformly to each class or kind of structure or land.

(f) Zoning of Annexed Territory. Upon annexation of territory to the existing municipal corporation of the City, the zoning regulations then in effect shall remain in full force, administered by the Zoning Administrator or their authorized representative, until Fairborn City Council officially adopts the existing zoning regulations or enact new regulations for such territory. (Ord. 34-17. Effective 12-7-17.)

CHAPTER 1122
Use Districts

1122.01.	_____	District transition and interpretation.	
1122.02	AG Agricultural.		
1122.03	P Parkland C Conservation		
	Development.		
1122.04	SR Suburban Residential.		
1122.05	ER East Residential		
1122.06	UER Urban Edge Residential.		
1122.07	MDR Medium Density Residential.		
1122.08	MHP Manufactured Home Park (no new districts permitted).		
1122.09	CI Civic/Institutional.		
1122.10	PO Professional Office.		

	1122.1 10	NCTR Neighborhood Center.
	1122.1 21	DC Downtown Commercial.
	1122.1 32	NC Neighborhood Commercial.
	1122.1 43	CC Community Commercial.
	1122.1 54	GC General Commercial.
	1122.1 65	LI Light Industrial.
	1122.1 76	AM Agricultural and Mineral.
	1122.1 87	WO Wellhead Operation.
	1122.1 98	WP Well Field Protection Overlay District.

1122.01 DISTRICT TRANSITION AND INTERPRETATION.

(a) District Transition. In some instances, the district nomenclature established in this code differs from previous versions of the Zoning Code. The table below identifies the previous districts relationship to the new districts in this code.

Table 1122-1: District Transition

Zoning Districts Prior to XXXXXX12-7-17 (Effective Date of Approved Ordinance)		Current Zoning District as of XXXXXX12-7-17 (Effective Date of Approved Ordinance)	
AG	Agricultural	AG	Agricultural
C	Conservation Development	P	Parkland
SR	Suburban Residential	SR	Suburban Residential
A	No prior zoning district.	ER	East Residential
UER	Urban Edge Residential	UER	Urban Edge Residential
R-4MDR	Medium Density Multi-Family Residential	MDR	Medium Density Residential
MHPR-5	Manufactured Home Park s Dwelling	MHP	Manufactured Home Parks Dwelling
CI	Civic Institutional	CI	Civic Institutional
POO-1	Professional Office	PO	Professional Office
NCTR	Neighborhood Center	NCTR	Neighborhood Center
B-1	Neighborhood Commercial	NCTR	Neighborhood Center
		NC	Neighborhood Commercial
		CC	Community Commercial
		GC	General Commercial
		CI	Civic/Institutional
		DC	Downtown Commercial
DCB-2	Downtown Central Commercial	DCCI	Downtown
		DC	Commercial/Civic/Institutional
			Downtown Commercial Broad Street
			Subdistrict
			Main Street Subdistrict
NCB-3	Neighborhood Highway Commercial	NCCC	Community Neighborhood Commercial
		GC	General Commercial
		LI	Light Industrial
CC	Community Commercial	CC	Community Commercial
GC	General Commercial	GC	General Commercial
LI	Light Industrial	LI	Light Industrial
No Previous Zoning District		E	Conservation Development
No Previous Zoning District		NCTR	Neighborhood Center
Planned Development Districts			
PUD	Planned Unit Development	PUD	Planned Unit Development
Overlay Districts			
WPF	Well Field Protection Area	WPF	Well Field Protection Area
WO	Wellhead Operation Overlay	WO	Wellhead Operation Overlay
AM	Agricultural and Mineral	AM	Agricultural and Mineral

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(b) Interpretation. The following graphics depict the interpretation of lot development standards.

Table 1122-2: Typical Lot Development Standard Identification	
Lot Area Dimensions	
Lot Area	
A. Lot Width	
B. Lot Depth (Interior or Through Lot Only)	
Setbacks	
Principal	Accessory
C. Front Yard	F. Side Yard
D. Side Yard	G. Rear Yard
E. Rear Yard	
Coverage	
H. Maximum Lot Coverage	
Maximum Height	
I. Principal Building	
J. Story	
K. Accessory Building	

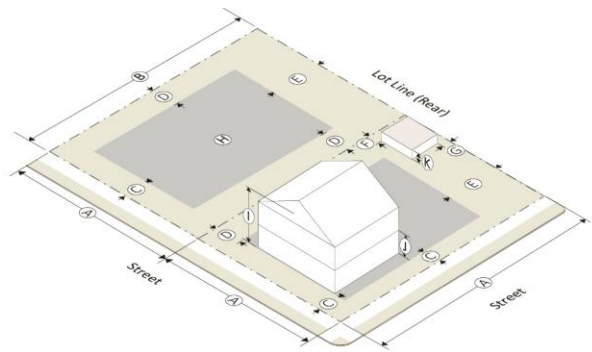


Figure 1122-A: Illustrative example of lot development standards related to Table 1122-2. (Ord. 34-17. Effective 12-7-17.)

1122.02 AG AGRICULTURAL.

(a) Purpose. The "AG" Agricultural District is intended to permit the preservation of relatively intensive agricultural operations within the City. Such district and the uses permitted shall provide a transition between urban and rural types of development.

(b) Lot Development Standards

Table 1122-3: Lot Development Standards for the AG Agricultural District		
Lot Area Dimensions	Use	Standard
Lot Area	All	5 acres minimum
Lot Width	All	300 feet minimum
Setbacks		
Principal		
Front Yard	All	100 feet minimum
Side Yard	All	50 feet minimum for each yard
Rear Yard	All	50 feet minimum
Accessory		
Front Principal Structure		10 feet minimum
Front Yard		Not permitted
Side Yard		3 feet minimum
Rear Yard		3 feet minimum
Size		25% maximum rear yard coverage and 60% maximum square feet of principal structure footprint
Coverage		
Maximum Lot Coverage	All	20%
Height		
Principal Building	All	35 feet maximum
Accessory Building		20 feet maximum or no taller than principal structure, whichever is less

(c) Minimum Dwelling Area. The minimum livable dwelling area shall be satisfied.

(1) Single Family Dwelling. The minimum livable area shall be 2,000 square feet.

(de) Accessory Uses. Accessory uses, structures, buildings, or facilities customarily incidental and subordinate to the principally permitted use, structure, building, or facility shall be as permitted on the same lot, subject to the standards of Chapter 1128: Supplemental and Accessory Regulations.

(ed) Permitted Uses in the AG District**Agricultural**

Agriculture

Agricultural Display Stand

Residential

Single Family Detached Dwelling

Family Home**Institutional/Public/Semi-Public**

Essential Public Services and Utilities

Religious Places of Worship(fe) Conditional Uses in the AG District**Agricultural**

Extraction of Minerals

Residential

Bed and Breakfast Establishment

Institutional/Public/Semi-Public

Cemetery

Golf Course

Wireless Telecommunications Antenna, Facility, or Tower

Commercial/Service

Agritourism/Agribusiness

Commercial Stable and Riding Academy

Kennel

Retail Sales & Services less than 5,000 square feet

Winery/Distillery

(Ord. 34-17. Effective 12-7-17.)

(g) Architectural Design Guidelines. New single family dwellings shall conform to the applicable architectural design guidelines provided in Section 1122.05(gf). Additions or modifications made to dwellings existing at the time of the adoption of these architectural design guidelines shall be exempt from the architectural design guidelines.

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1122.03 P PARKLAND CONSERVATION DEVELOPMENT.

(a) Purpose. The "PC" Parkland Conservation Development district aims to preserve as much open space land as possible while providing for public amenities and activities on these parcels, typically 50-70% of an original greenfield site. Parcels in this zoning district are typically either undevelopable or reserved for specific passive or other low intensity use or parkland use. Dense single family or multi-family residential and any community facilities are reserved to smaller portions of the total site and the remaining land is communal and left undisturbed.

(b) Lot Development Standards.

Table 1122-4: Lot Development Standards for the P ParklandC-Conservation District		
Lot Area Dimensions	Use	Standard
Lot Area	Non-Residential	5 acres minimum
	Residential	20,000 square feet maximum, not to exceed 2 dwelling units per acre. 50% gross site must remain open space.
Lot Width	Non-Residential	300 feet minimum
	Residential	100 feet minimum
Setbacks		
Principal		
Front Yard	Non-Residential	100 feet minimum
	Residential	10 feet minimum
Side Yard	Non-Residential	50 feet minimum for each yard
	Residential	10 feet minimum for each yard
Rear Yard	All	50 feet minimum
Accessory		
From Principal Structure		10 feet minimum
Front Yard		Not Permitted
Side Yard		3 feet minimum
Rear Yard		3 feet minimum
Size		25% maximum rear yard coverage and 60% maximum square feet of principal structure footprint
Coverage		
Maximum Lot Coverage	All	20% per individual lot or 50% gross maximum for conservation subdivision
Height		
Principal Building	All	35 feet maximum
Accessory Building		20 feet maximum or no taller than principal structure, whichever is less.

(~~ce~~) Accessory Uses. Accessory uses, structures, buildings, or facilities customarily incidental and subordinate to the principally permitted use, structure, building, or facility shall be as permitted on the same lot, subject to the standards of Chapter 1128: Supplemental and Accessory Regulations.

(~~dd~~) Permitted Uses in the ~~PC~~ District.

~~**Agricultural**~~

~~Agriculture~~

~~Agricultural Display Stand~~

~~**Residential**~~

~~Duplex~~

~~Fourplex~~

~~Multiple Family~~

~~Single Family Attached Dwelling~~

~~Single Family Detached Dwelling~~

~~**Residential Care and Congregate Residential**~~

~~Development Disability 1-5 Unrelated Persons~~

~~Development Disability 6-8 Unrelated Persons~~

~~Mental Health or Substance Abuse 1-5 Unrelated Persons~~

Institutional/Public/Semi-Public

~~Child Day Care Type A~~

~~Child Day Care Type B~~

Community Garden

Essential Public Services and Utilities

Park, Playground

(~~ee~~) Conditional Uses in the ~~PC~~ District

~~**Agricultural**~~

~~Extraction of Minerals~~

~~**Residential**~~

~~Bed and Breakfast Establishment~~

Institutional/Public/Semi-Public

Cemetery

Golf Course

Public Recreation and Community Center

~~School; Elementary and Secondary for Academic Instruction~~

Wireless Telecommunications Antenna, Facility or Tower

~~**Commercial/Service**~~

~~Commercial Stable and Riding Academy~~

~~Office, Business and Professional~~

~~Retail Sales & Services less than 5,000 square feet~~

(Ord. 34-17. Effective 12-7-17.)

1122.04 SR SUBURBAN RESIDENTIAL.

(a) Purpose. The "SR" Suburban Residential district is characterized by single family dwellings or duplexes situated on medium-sized lots with a gross density of 3-6 dwelling units per acre. Streets should include sidewalks and street trees, and be designed to promote a walkable environment with short blocks.

(b) Lot Development Standards.**Table 1122-5: Lot Development Standards for the SR Suburban Residential District**

Table 1122-5: Lot Development Standards for the SR Suburban Residential District		
Lot Area Dimensions	Use	Standard
Lot Area Per Dwelling Unit	Duplex	7,500 square feet minimum
	Single Family	15,000 square feet minimum
	All Other Uses	
Lot Width	Duplex	80 feet minimum
	Single Family	100 feet minimum
	All Other Uses	
Setbacks		
Principal		
Front Yard	All	20 feet minimum
Side Yard	Duplex	6 feet minimum for each yard
	Single Family	10 feet minimum for each yard
	All Other Uses	
Rear Yard	Duplex	30 feet minimum
	Single Family	50 feet minimum
	All Other Uses	
Accessory		
From Principal Structure	10 feet minimum	
Front Yard	Not Permitted	
Side Yard	3 feet minimum	
Rear Yard	3 feet minimum	
Size	25% maximum rear yard coverage and 60% maximum square feet of principal structure footprint	
Coverage		
Maximum Lot Coverage	All/Single Family	30%
	Duplex	40%
Height		
Principal Building	All	35 feet maximum
Accessory Building	20 feet maximum or no taller than principal structure, whichever is less	

(c) Minimum Dwelling Area. The minimum livable dwelling area shall be satisfied.

(1) Single Family Dwelling (One Story). The minimum livable area shall be 1,500 square feet.

(2) Single Family Dwelling (Two Story). The minimum livable area shall be 2,000 square feet.

(3) Duplex Dwelling Unit. The minimum livable area for an individual dwelling unit within a duplex building shall be shall be 1,000 square feet.

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(de) Accessory Uses. Accessory uses, structures, buildings, or facilities customarily incidental and subordinate to the principally permitted use, structure, building, or facility shall be as permitted on the same lot, subject to the standards of Chapter 1128: Supplemental and Accessory Regulations.

(ed) Permitted Uses in the SR District

Residential

Duplex

Single Family Detached Dwelling

Family Home

~~**Residential Care and Congregate Residential**~~

~~Development Disability 1-5 Unrelated Persons~~

~~Development Disability 6-8 Unrelated Persons~~

~~Mental Health or Substance Abuse 1-5 Unrelated Persons~~

Institutional/Public/Semi-Public

Child Day Care Type A

Child Day Care Type B

Community Garden

Essential Public Services and Utilities

Park, Playground

Religious Places of Worship

(fe) Conditional Uses in the SR District

Residential

Bed and Breakfast Establishment

Institutional/Public/Semi-Public

Public Recreation and Community Center

Public Safety Facility

School; Elementary and Secondary for Academic Instruction

Wireless Telecommunications Antenna, Facility or Tower

(Ord. 34-17. Effective 12-7-17.)

(g) Architectural Design Guidelines.

(1) Single Family and Duplex Dwellings. New single family and duplex dwellings shall conform to the applicable architectural design guidelines provided in Section 1122.05(gf). Additions or modifications made to dwellings existing at the time of the adoption of these architectural design guidelines shall be exempt from the architectural design guidelines.

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1122.05 ER EAST RESIDENTIAL.

(a) Purpose. The "ER" Eastern Residential District provides for medium density detached single family dwelling developments and individual lots.

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(b) Lot Development Standards.

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Table 1122-6: Lot Development Standards for the ER East Residential District		
Lot Area Dimensions	Use	Standard
Lot Area by Use Type	Single Family (Non-PUD)	10,000 square feet minimum
	Single Family (PUD)	XXXX
	All Other Uses	XXXX
Lot Width	All	75 feet minimum
Setbacks		
Principal		
Front Yard	All	30 feet minimum
Side Yard	All	10 feet minimum
Rear Yard	All	80 feet minimum
Accessory		
From Principal Structure	10 feet minimum	
Front Yard	Not Permitted	
Side Yard	10 feet minimum	
Rear Yard	10 feet minimum	
Size	25% maximum rear yard coverage and 60% maximum square feet of principal structure footprint	
Coverage		
Maximum Lot Coverage	All	40%
Height		
Principal Building	All	35 feet maximum
Accessory Building	20 feet maximum or no taller than principal structure, whichever is less	

(c) Minimum Dwelling Area. The minimum livable dwelling area shall be satisfied.

(1) Single Family Dwelling. The minimum livable area shall be 2,000 square feet.

(d) Accessory Uses. Accessory uses, structures, buildings, or facilities customarily incidental and subordinate to the principally permitted use, structure, building, or facility shall be as permitted on the same lot, subject to the standards of Chapter 1128: Supplemental and Accessory Regulations.

(e) Permitted Uses in the ER District

Residential

Single Family Attached Dwelling

Family Home

Institutional/Public/Semi-Public

Child Day Care Type A

Child Day Care Type B

Community Garden
Essential Public Services and Utilities
Park, Playground
Religious Places of Worship

- (f) Conditional Uses in the ER District
Residential
Bed and Breakfast Establishment

Institutional/Public/Semi-Public
Public Recreation and Community Center
Public Safety Facility
Wireless Telecommunication Antenna, Facility and/or Tower
School; Elementary and Secondary for Academic Instruction

(g) Architectural Design Guidelines Purpose and Application. The purpose of these architectural design guidelines is to define the criteria that will guide homeowners, builders and architects as they design single family dwellings that will achieve long term community quality. The ultimate result will be to maintain property values long term while maintaining a cohesive residential character and appeal. These architectural design guidelines shall apply to both individual lot development and multiple lot development via a subdivision plan review.

- (1) Roofs.

- A. All roofs are to be a minimum of 8/12 pitch unless otherwise approved by the Zoning Administrator. Roof slopes of a lesser pitch, if in keeping with the architectural style and appropriately designed in terms of proportions and scale, may be considered. All dwellings with covered front porch gables and garages with gabled roofs shall have a minimum 10/12 pitch.
B. Roofing material shall be asphalt/fiberglass architectural type shingles (no tab), metal, slate or composite slate roofs.
C. All roof vents, plumbing stacks and flashing shall closely match the color of the surrounding materials and be located behind the main ridge line.
D. Building additions must use a roof design with a similar pitch to the original building roof.

- (2) Garages. Two (2) car enclosed garages shall be attached to their respective dwelling structure.

- A. No carports shall be permitted.

- (3) Foundation Walls. All foundation walls above grade facing the street must be faced with brick, brick impressions, stone, stucco, or other similar materials subject to approval of the Zoning Administrator.

- (4) Blank Wall Elevations Prohibited. All building wall elevations shall be treated with architectural detailing to enhance the character. Each major dwelling wall elevation shall include at least two (2) windows.

- (5) Masonry Veneer Wrap. Masonry veneers located on any building wall of a dwelling shall extend around the corner of the wall for a minimum distance of two (2) feet.

- (6) Chimneys. All exterior wood burning chimneys shall be constructed of masonry materials except for a direct vent or vent-less fire box which may be the same material as the sides or rear of the dwelling structure.

- (7) Door Materials and Styles.

- A. Exterior Dwelling Doors. Exterior dwelling doors are focal points and should be protected with sufficient overhangs or by front porches at the main entry door. Wood, insulated metal and quality hardboard materials are acceptable. A variety of door styles are encouraged.

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- B. Side lights and/or transoms are required on all front doors.
- (8) Porches and Landings.
- A. Front porches or steps and landings are not permitted to be made of wood.
- B. Replacement front landings must be constructed in the same manner as the original landing.
- C. Front landings with more than two (2) risers shall have railings.
- (9) Exterior Building Materials and Finishes. Dwelling structures shall use the following exterior materials:
- A. Exterior Building Materials Permitted. A dwelling structure may be constructed of the following exterior materials: wood, fiber cement siding, stucco, natural stone, cultured stone and brick.
- B. Aluminum and vinyl siding products shall be prohibited.
- C. A stucco finish of varying textures is permitted as a supplementary exterior material only.
- D. At least fifty percent (50%) of the front building elevation of a dwelling shall be brick, stone or cultured stone. For the purpose of determining the fifty percent (50%) exterior material requirements all glass located on the dwelling wall facade shall be removed from the calculation to determine the fifty percent (50%) required materials. For example, if a front dwelling wall face features glass equal to 100 square feet out of a total wall face area of 800 square feet, fifty percent (50%) of the remaining 700 square feet of wall area shall utilize those permitted required exterior materials.
- E. Cement Siding shall have a maximum six-inch (6") lap and be trimmed in a traditional manner.
- F. Minimum trim board dimensions are as follows: comer trim-8"; door trim-6"; window trim-4"; frieze board-6" (unless otherwise noted for lap siding and trim).

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1122.065 UER URBAN EDGE RESIDENTIAL.

(a) Purpose. The "UER" Urban Edge Residential district represents the historic residential heart of Fairborn including a compact, walkable development type at a gross density between 5-10 dwelling units per acre with an emphasis on traditional architectural styles and materials.

(b) Lot Development Standards.

Table 1122-76: Lot Development Standards for the UER Urban Edge Residential District		
Lot Area Dimensions	Use	Standard
Lot Area by Use Type Lot Area Per Dwelling Unit	Duplex	3,125 square feet minimum
	Multiple Family	2,000 square feet per one bedroom dwelling unit minimum plus 500 square feet for each additional bedroom
	Single Family	7,000 square feet minimum
	All Other Uses	7,000 square feet minimum
Lot Width	All	50 feet minimum
Setbacks		
Principal		
Front Yard	All	20 feet minimum
Side Yard	All	6 feet minimum for each yard; 15 feet minimum for total side yards
Rear Yard	All	50 feet minimum
Accessory		
From Principal Structure	10 feet minimum	
Front Yard	Not Permitted	
Side Yard	3 feet minimum	
Rear Yard	3 feet minimum	
Size	25% maximum rear yard coverage and 60% maximum square feet of principal structure footprint	
Coverage		
Maximum Lot Coverage	All	45%
Height		
Principal Building	All	35 feet maximum
Accessory Building	20 feet maximum or no taller than principal structure, whichever is less	

(c) Minimum Dwelling Area. The minimum livable dwelling area shall be satisfied.(1) Single Family Dwelling (One Story). The minimum livable area shall be 1,200 square feet.(2) Single Family Dwelling (Two Story). The minimum livable area shall be 1,600 square feet which includes a minimum area of 900 square feet on the first floor.(3) Multiple Family Dwelling Unit. For the purpose of regulating minimum dwelling unit area, "multiple family dwelling unit" shall include any dwelling unit within a duplex, triplex, fourplex or five or more attached units in a single building. A one bedroom dwelling unit shall be a minimum of 800 square feet. Each additional bedroom shall require 125 square feet of area per bedroom.

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(de) Accessory Uses. Accessory uses, structures, buildings, or facilities customarily incidental and subordinate to the principally permitted use, structure, building, or facility shall be as permitted on the same lot, subject to the standards of Chapter 1128: Supplemental and Accessory Regulations.

(ed) Permitted Uses in the UER District

Residential

Duplex

Triplex

Fourplex

Multiple Family

~~Single Family Attached Dwelling~~

Single Family Detached Dwelling

Family Home

~~**Residential Care and Congregate Residential**~~

~~Development Disability 1-5 Unrelated Persons~~

~~Development Disability 6-8 Unrelated Persons~~

~~Mental Health or Substance Abuse 1-5 Unrelated Persons~~

Institutional/Public/Semi-Public

Child Day Care Type A

Child Day Care Type B

Community Garden

Essential Public Services and Utilities

Park, Playground

Religious Places of Worship

School, Elementary and Secondary for Academic Instruction

(fe) Conditional Uses in the UER District

Residential

Bed and Breakfast Establishment

Group Home

~~**Residential Care and Congregate Residential**~~

~~Development Disability 9-16 Unrelated Persons~~

~~Mental Health or Substance Abuse 6-16 Unrelated Persons~~

Institutional/Public/Semi-Public

Public Recreation and Community Center

Public Safety Facility

Wireless Telecommunication Antenna, Facility and/or Tower

(Ord. 34-17. Effective 12-7-17.)

(g) Architectural Design Guidelines.

(1) New Single Family Dwellings. New single family dwellings and multiple family dwellings up through a fourplex shall conform to the applicable architectural design guidelines provided in Section 1122.05(f).

(2) New Multiple family Dwellings. New multiple family dwellings consisting of five or more attached dwelling units shall conform to the applicable architectural design guidelines provided in Section 1122.07(f)-(l).

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(3) Existing Dwellings. Additions or modifications to single family or multiple family dwellings existing at the time of the adoption of these architectural design guidelines shall be exempt from the architectural design guidelines.

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1122.0706 MDR MEDIUM DENSITY RESIDENTIAL.

(a) Purpose. The "MDR" Medium Density Residential district includes a range of housing options at a range of price points and styles, including condominiums, townhomes, row houses, and mid-rise multi-tenant buildings at an average gross density between 10-20 dwelling units per acre.

(b) Lot Development Standards.

Table 1122-87: Lot Development Standards for the MDR Medium Density Residential District		
Lot Area Dimensions	Use	Standard
Lot Area by Use Type Lot Area Per Dwelling Unit	Duplex	3,125 square feet minimum
	Multiple Family	2,000 square feet per one bedroom dwelling unit minimum plus 500 square feet for each additional bedroom
	Single Family	6,000 square feet minimum
	All Other Uses	
Lot Width	All Other Uses	50 feet minimum
	Multiple Family	150 feet minimum
Setbacks		
Principal		
Front Yard	All	20 feet minimum
Side Yard	All	6 feet minimum for each yard; 15 feet minimum for total side yards
Rear Yard	All	30 feet minimum
Accessory		
From Principal Structure		10 feet minimum
Front Yard		Not Permitted
Side Yard		3 feet minimum
Rear Yard		3 feet minimum
Size		25% maximum rear yard coverage and 60% maximum square feet of principal structure footprint
Coverage		
Maximum Lot Coverage	All	45%
Height		
Principal Building	All	35 feet maximum
	Multiple Family	40 feet maximum
Accessory Building		20 feet maximum or no taller than principal structure, whichever is less

(c) Minimum Dwelling Area. The minimum livable dwelling area shall be satisfied.

(1) Single Family Dwelling (One Story). The minimum livable area shall be 1,200 square feet.

(2) Single Family Dwelling (Two Story). The minimum livable area shall be 1,600 square feet which includes a minimum area of 900 square feet on the first floor.

(3) Multiple Family Dwelling Unit. For the purpose of regulating minimum dwelling unit area, "multiple family dwelling unit" shall include any dwelling unit within a duplex, triplex, fourplex or five or more attached units in a single building. A one bedroom dwelling unit shall be a minimum of 800 square feet. Each additional bedroom shall require 125 square feet of area per bedroom.

(de) Accessory Uses. Accessory uses, structures, buildings, or facilities customarily incidental and subordinate to the principally permitted use, structure, building, or facility shall be as permitted on the same lot, subject to the standards of Chapter 1128: Supplemental and Accessory Regulations.

(ed) Permitted Uses in the MDR District

Residential

Duplex

~~Triples~~

Fourplex

Multiple Family

~~Family Home~~

~~Single Family Attached Dwelling~~

~~**Residential Care and Congregate Residential**~~

~~Development Disability 1-5 Unrelated Persons~~

~~Development Disability 6-8 Unrelated Persons~~

~~Mental Health or Substance Abuse 1-5 Unrelated Persons~~

Institutional/Public/Semi-Public

Child Day Care Type A

Child Day Care Type B

Community Garden

Essential Public Services and Utilities

Park, Playground

Religious Places of Worship

School, Elementary and Secondary for Academic Instruction

(fe) Conditional Uses in the MDR District

Residential

Single Family Detached Dwelling

~~Group Home~~

~~**Residential Care and Congregate Residential**~~

~~Assisted Living~~

~~Development Disability 9-16 Unrelated Persons~~

~~Elderly Care~~

~~Life or Continuing Care~~

~~Mental Health or Substance Abuse 6-16 Unrelated Persons~~

~~Other Not Listed as Approved by the Zoning Administrator~~

Institutional/Public/Semi-Public

Public Recreation and Community Center

Public Safety Facility

Wireless Telecommunication Antenna, Facility and/or Tower

(Ord. 34-17. Effective 12-7-17; Ord. 21-19. Passed 4-1-19.)

(g) Architectural Design Guidelines Purpose. The purpose of the architectural design standards set forth in this Section 1122.07 is to define the criteria that will guide Applicants as they design new multifamily dwellings that will achieve long term community quality. The ultimate result will be to preserve property values while maintaining a cohesive residential character and appeal.

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(h) Application of Architectural Design Guidelines.

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- (1) These architectural design guidelines shall apply to all new multiple family buildings within the MDR zoning district that contain five (5) or more attached dwelling units and may include both individual property development and multiple lot developments.
- (2) Additions or modifications to multiple family and single family dwellings existing at the time of the adoption of these architectural design guidelines shall be exempt from the architectural design guidelines.
- (3) Single-family dwellings constructed as a conditional use shall follow the architectural design guidelines provided in section 1122.05(f).

(ih) Exterior Building Materials.

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- (1) A minimum of seventy-five percent (75%) of the front building façade and fifty percent (50%) of all other building facades shall be constructed of brick or stone (natural or cultured) with the remaining building faced area consisting of wood, fiber cement siding or stucco.
- (2) Aluminum and vinyl siding are prohibited.
- (3) A stucco finish of varying textures is permitted as a supplementary exterior material only.
- (4) Siding shall have a maximum six inch (6") lap and be trimmed in a traditional manner.
- (5) Minimum trim board dimensions are as follows: corner trim-8"; door trim-6"; window trim-4"; frieze board-6" (unless otherwise noted for lap siding and trim).
- (6) Blank building elevations are prohibited.
- (7) All building elevations shall be treated with architectural detailing to enhance the character.
- (8) Continuing masonry veneers around corners for a minimum distance of two feet is required.
- (9) Building Material Samples Required. Samples (color / texture selections) for all exterior materials including but not limited to the following shall be submitted to the City Architect as part of the Development Plan review process.
 - A. Roof materials.
 - B. Siding material color and material type.
 - C. Stucco (color and finish) stone, face brick.
 - D. Window material and color.
 - E. Trim color.
 - F. Entry door design(s) and color.
 - G. Fences and other detached elements to include color and material type.

H. Paving color and material.

- (10) Exterior Colors. Building facade colors shall be low reflectance, subtle, neutral or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited.

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- (11) Additional Design and Material Information. Additional architectural design and material requirements may be imposed by the Zoning Administrator as reasonably necessary to achieve the zoning district purpose and goals.

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(j) Building Massing. Front facades shall incorporate variation in mass through one or more of the following methods for every thirty feet (30') of facade frontage:

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- (1) Wall offsets in the form of projections and/or recesses in the facade plane. Wall offsets shall have a minimum depth of two feet (2').
- (2) Bay windows.
- (3) Facade color changes.
- (4) Use of pilasters, columns, or other detailing to articulate the facades.
- (5) Roofline changes when coupled with correspondingly aligned facade material changes.

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(k) Roof Design Guidelines.

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- (1) All new principal structures containing up to two (2) occupied or unoccupied stories shall be constructed using a minimum 8/12 pitched roof design.
- A. The roof area located over any porch and entrance portions of the principal structure shall be constructed using a minimum 5/12 pitch design.
- (2) All new principal structures containing three (3) occupied or unoccupied stories may be constructed using a flat roof design for both the primary structure and any accessory structures subject to the parapet and cornice requirements set forth below.
- A. Flat roofs shall be hidden from public view by a parapet and decorated by a cornice.
- B. The highest point of a parapet shall not at any point exceed fifteen percent (15%) of the height of the supporting wall.
- C. Cornices may be simple or mixed (straight and curved moldings), but should not exceed twenty-four inches (24") in depth. Cornices shall have a minimum of twelve inches (12") in height, and a minimum of three (3) vertical (not diagonal) changes in plane, and a variety of thicknesses in relief ranging from the greatest at the top to the least at the bottom.
- (3) Minimum overhang length of twelve inches shall be provided over all faces of the exterior walls of a principal structure.
- (4) Use individual roof pitches to break up the form.

(l) Roof Penetrations and Mechanical Equipment.

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- (1) To the degree practicable, all roof vents, pipes, antennas, satellite dishes, and other roof penetrations and equipment (except chimneys) shall be located on the rear elevations or configured to have a minimal visual impact as seen from the street.
- (2) Wall mounted mechanical, electrical, communication equipment, downspouts, gutters, service doors, and other building-mounted utility fixtures, shall be painted and maintained to match the building or be screened from view.
- (3) Mechanical equipment such as transformers and HVAC units shall not be located in front yards.

- (4) All mechanical equipment, including both ground-mounted and roof-mounted equipment, shall be screened from view from adjacent public and private rights-of-way, as well as from all property zoned or used for residential purposes.
- (5) Screening elements shall include walls (same material and color as principal structure), landscaping, mounds, parapets or enclosures constructed of the same materials used on the majority of the principal structure or any combination or as otherwise approved or required through the Development Plan review.

(m) Architectural Design Standards for Building Expansions and Alterations. Where a principal building or accessory building is proposed to be expanded or altered in the MDR zoning districts the expansion or alteration shall meet the following standards for materials:

- (1) The expansion or alteration shall be constructed of materials and proportions similar to the façade that is being extended or altered (i.e., if the side façade of a dwelling is constructed of brick and will be extended or altered, the expanded or altered area shall also be constructed of brick).
- (2) In all cases, an expansion or alteration may be constructed of materials on the list of approved exterior building materials set forth in Section 1122.07(h).
- (3) Where an existing building is constructed with brick, stone, cultured stone, cement siding, wood, stucco or synthetic stucco material, such materials shall not be removed and replaced with vinyl or aluminum siding. The siding may only be replaced with the same material or materials on the list of approved exterior building materials set forth in Section 1122.07(h).
- (4) A majority of glass and similar materials (excluding glass block siding) may be used in building expansions to the rear or side of an existing building.

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1122.0807 MHP MANUFACTURED HOME PARK (NO NEW DISTRICTS PERMITTED).

(a) Purpose. The "MHP" Manufactured Home Park district is intended to allow development of manufactured home parks on land identified as appropriate for moderate population residential use.

(b) Lot Development Standards

Table 1122-98: Lot Development Standards for the MHP Manufactured Home Park District		
Lot Area Dimensions	Use	Standard
Lot Area	All	4,000 square feet minimum
Lot Width	All	40 feet minimum
Setbacks		
Principal		
Front Yard	All	5 feet minimum
Side Yard	All	5 feet minimum
Rear Yard	All	5 feet minimum
Accessory		
From Principal Structure	10 feet minimum	
Front Yard	Not Permitted	
Side Yard	3 feet minimum	
Rear Yard	3 feet minimum	
Size	25% maximum rear yard coverage and 60% maximum square feet of principal structure footprint	
Coverage		
Maximum Lot Coverage	All	50%
Height		
Principal Building	All	35 feet maximum
Accessory Building	20 feet maximum or no taller than principal structure, whichever is less	

(c) Minimum Dwelling Area. The minimum livable dwelling area shall be satisfied.(1) Single Family Dwelling (One Story). The minimum livable area shall be 1,500 square feet.(2) Single Family Dwelling (Two Story). The minimum livable area shall be 2,000 square feet.(3) Duplex Dwelling Unit. The minimum livable area for an individual dwelling unit within a duplex building shall be 1,000 square feet.

(de) Accessory Uses. Accessory uses, structures, buildings, or facilities customarily incidental and subordinate to the principally permitted use, structure, building, or facility shall be as permitted on the same lot, subject to the standards of Chapter 1128: Supplemental and Accessory Regulations.

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(ed) Permitted Uses in the MHP District

Residential

Duplex
Manufactured Home
Single Family Detached Dwelling
Family Home

~~**Residential Care and Congregate Residential**~~

~~Development Disability 1-5 Unrelated Persons~~
~~Development Disability 6-8 Unrelated Persons~~
~~Mental Health or Substance Abuse 1-5 Unrelated Persons~~

Institutional/Public/Semi-Public

Child Day Care Type A
Child Day Care Type B
Community Garden
Essential Public Services and Utilities
Park, Playground
Religious Places of Worship

(fe) Conditional Uses in the MHP District

Institutional/Public/Semi-Public

Public Recreation and Community Center
Public Safety Facility
School; Elementary and Secondary for Academic Instruction

Wireless Telecommunications Antenna, Facility or Tower

(Ord. 34-17. Effective 12-7-17.)

1122.0908 CI CIVIC/INSTITUTIONAL.

(a) Purpose. The "CI" Civic/Institutional district is intended to accommodate public and semi-public uses. Buildings and land owned by government agencies, privately owned schools and universities, and the public school system are anticipated in this district. Such facilities should be well designed and integrated into their surroundings. Attractive landscaping, streetscape elements, and signage are expected to be used to integrate larger sites into the existing street network.

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(b) Lot Development Standards

Table 1122-109: Lot Development Standards for the CI Civic/Institutional District		
Lot Area Dimensions	Use	Standard
Lot Area	All	None
	Residential	5,000 square feet minimum
Lot Width	All	None
Setbacks		
Principal		
Front Yard	All	None unless abutting a Residential District, then equal to the Residential District requirement for abutting structures
Side Yard	All	None unless abutting a Residential District, then equal to the Residential District requirement for abutting structures
Rear Yard	All	10 feet minimum
Accessory		
From Principal Structure		10 feet minimum
Front Yard		Not Permitted
Side Yard		3 feet minimum
Rear Yard		3 feet minimum
Size		25% maximum rear yard coverage and 60% maximum square feet of principal structure footprint
Coverage		
Maximum Lot Coverage	All	70% maximum
Height		
Principal Building	All	50 feet maximum or no higher than WPAFB Airport Zoning Regulation, whichever is less
Accessory Building		20 feet maximum or no taller than principal structure, whichever is less

(c) Minimum Dwelling Area. The minimum livable dwelling area shall be satisfied.

(1) Single Family Dwelling (One Story). The minimum livable area shall be 1,200 square feet.

(2) Single Family Dwelling (Two Story). The minimum livable area shall be 1,600 square feet which includes a minimum area of 900 square feet on the first floor.

(3) Multiple Family Dwelling Unit. A one bedroom dwelling unit shall be a minimum of 800 square feet. Each additional bedroom shall require 125 square feet of area per bedroom.

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(de) Accessory Uses. Accessory uses, structures, buildings, or facilities customarily incidental and subordinate to the principally permitted use, structure, building, or facility shall be as permitted on the same lot, subject to the standards of Chapter 1128: Supplemental and Accessory Regulations.

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(ed) Permitted Uses in the CI District

Residential

Multiple Family Dwelling when on upper floors of a non-residential building

Family Home

~~Residential Care and Congregate Residential~~

~~Assisted Living~~

~~Life or Continuing Care~~

Institutional/Public/Semi-Public

~~Assembly Club, Fraternal, Lodge Meeting~~ Hall

Cultural Institution

Essential Public Services and Utilities

Government Office Building

Park, Playground

Public Recreation and Community Center

Public Safety Facility

Religious Places of Worship

School, College or University, Vocational and Technical, Trade or Business

School, Elementary and Secondary for Academic Instruction

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(fe) Conditional Uses in the CI District

Residential

Multiple Family Dwelling

Group Home

Single Family Attached Dwelling

~~Residential Care and Congregate Residential~~

~~Nursing Home~~

~~Student Housing~~

~~Other Groups Not Listed, as Approved by the Zoning Administrator~~

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Institutional/Public/Semi-Public

Emergency Care Facility

Wireless Telecommunications Antenna, Facility or Tower

Commercial/Service

Day Care Center

Food Truck Park
Medical or Dental Office or Clinic

~~Multiple Uses in one Building~~

(Ord. 34-17. Effective 12-7-17.)

(f) Architectural Design Guidelines.

(1) New Buildings. New buildings shall conform to the applicable architectural design guidelines provided in Section 1122.12(g).

(2) Existing Buildings. Additions or modifications to buildings existing at the time of the adoption of these architectural design guidelines shall be exempt from the architectural design guidelines.

1122.1099 PO PROFESSIONAL OFFICE.

(a) Purpose. The "PO" Professional Office district should accommodate medium to large office buildings needing major collector or highway access and visibility. These developments should primarily serve large regional and national tenants.

(b) Lot Development Standards

Table 1122-110: Lot Development Standards for the PO Professional Office District		
Lot Area Dimensions	Use	Standard
Lot Area	All	None
Lot Width	All	None
Setbacks		
Principal		
Front Yard	All	15 feet maximum unless abutting a Residential District, then equal to the Residential District requirement for abutting structure.
Side Yard	All	None unless abutting a Residential District, then 5 feet minimum
Rear Yard	All	None unless abutting a Residential District, then 50 feet minimum
Accessory		
From Principal Structure		10 feet minimum
Front Yard		Not Permitted
Side Yard		3 feet minimum
Rear Yard		3 feet minimum
Size		25% maximum rear yard coverage and 60% maximum square feet of principal structure footprint
Coverage		
Maximum Lot Coverage	All	70% maximum
Height		
Principal Building	All	50 feet maximum or no higher than WPAFB Airport Zoning Regulation, whichever is less
Accessory Building		20 feet maximum or no taller than principal structure, whichever is less.

(c) Accessory Uses. Accessory uses, structures, buildings, or facilities customarily incidental and subordinate to the principally permitted use, structure, building, or facility shall be as permitted on the same lot, subject to the standards of Chapter 1128: Supplemental and Accessory Regulations.

- (d) Permitted Uses in the PO District
Institutional/Public/Semi-Public
~~Assembly Club, Fraternal, Lodge Meeting~~ Hall
Cultural Institution
Essential Public Services and Utilities
Government Office Building
Public Recreation and Community Center
Public Safety Facility
Religious Places of Worship
School, College or University, Vocational and Technical, Trade or Business
School, Elementary and Secondary for Academic Instruction

Commercial/Service
~~Medical or Dental Office or Clinic~~
Office, Business and Professional
~~Instructional Studio or Meeting~~ Facility less than 5,000 square feet

- (e) Conditional Uses in the PO District
~~Residential Care and Congregate Residential~~
~~Assisted Living~~
~~Life or Continuing Care~~
~~Nursing Home~~
~~Other Groups Not Listed, as Approved by the Zoning Administrator~~

Institutional/Public/Semi-Public
Emergency Care Facility
Wireless Telecommunications Antenna, Facility or Tower

Commercial/Service
Commercial Entertainment, Recreation - Indoor Excluding Adult Uses
Commercial Entertainment, Recreation - Outdoor Excluding Adult Uses
Day Care Center
Eating or Drinking Establishment Excluding Drive-In
Food Truck Park
~~Multiple Uses~~
Retail Sales & Services ~~less than 5,000 square feet~~
~~Retail Sales & Services 5,000 to 49,999 square feet~~
~~Instructional Studio or Meeting~~ Facility larger than 5,000 square feet

Industrial, Manufacturing and Processing
Laboratory or Research Establishment
(Ord. 34-17. Effective 12-7-17.)

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(f) Architectural Design Guidelines.

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(1) New Buildings. New buildings shall conform to the applicable architectural design guidelines provided in Section 1122.12(gf).

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(2) Existing Buildings. Additions or modifications to buildings existing at the time of the adoption of these architectural design guidelines shall be exempt from the architectural design guidelines.

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1122.1140 NCTR NEIGHBORHOOD CENTER.

(a) Purpose. The "NCTR" Neighborhood Center district incorporates a mixture of small- and medium-sized commercial and office uses, residential units, and retail uses, including shopping and dining, within a short walking distance of each other. Developments contribute public spaces such as plazas, pocket parks, and streetscape improvements and their structures should help define the character of a street. Multi-story, mixed use buildings will have non-residential uses on bottom floors.

(b) Lot Development Standards

Table 1122-1244: Lot Development Standards for the NCTR Neighborhood Center District		
Lot Area Dimensions	Use	Standard
Lot Area	All	None
	Residential	1,000 square feet per unit minimum
Lot Width	All	None
Setbacks		
Principal		
Front Yard	All	0 to 10 feet Build To Line
Side Yard	All	None unless abutting a Residential District, then 5 feet minimum
Rear Yard	All	None unless abutting a Residential District, then a minimum of one foot setback for each two feet of building height
Accessory		
From Principal Structure		10 feet minimum
Front Yard		Not Permitted
Side Yard		3 feet minimum
Rear Yard		3 feet minimum
Size		25% maximum rear yard coverage and 60% maximum square feet of principal structure footprint
Coverage		
Maximum Lot Coverage	All	70% maximum
Height		
Principal Building	All	50 feet maximum or no higher than WPAFB Airport Zoning Regulation, whichever is less
Accessory Building		20 feet maximum or no taller than principal structure, whichever is less.

(c) Minimum Dwelling Area. The minimum livable dwelling area shall be satisfied.

(1) Single Family Dwelling (One Story). The minimum livable area shall be 1,200 square feet.

(2) Single Family Dwelling (Two Story). The minimum livable area shall be 1,600 square feet which includes a minimum area of 900 square feet on the first floor.

(3) Multiple Family Dwelling Unit. For the purpose of regulating minimum dwelling unit area, "multiple family dwelling unit" shall include any dwelling unit within a duplex, or five or more attached units in a single

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building. A one bedroom dwelling unit shall be a minimum of 800 square feet. Each additional bedroom shall require 125 square feet of area per bedroom.

(de) Accessory Uses. Accessory uses, structures, buildings, or facilities customarily incidental and subordinate to the principally permitted use, structure, building, or facility shall be as permitted on the same lot, subject to the standards of Chapter 1128: Supplemental and Accessory Regulations.

(ed) Permitted Uses in the NCTR District**Residential**

Multiple Family Dwelling

~~Multiple Family Dwelling when on Upper Floors of Non-Residential Building~~~~Single Family Attached Dwelling~~**Residential Care and Congregate Residential**~~Independent Senior Facility~~~~Senior Care Facility~~ ~~Assisted Living~~~~Elderly Care~~~~Life or Continuing Care~~~~Nursing Home~~~~Patient Families~~~~Student Housing~~~~Other Groups Not Listed, as Approved by the Zoning Administrator~~**Institutional/Public/Semi-Public**~~Assembly Club, Fraternal, Lodge Meeting Hall~~

Cultural Institution

Essential Public Services and Utilities

Government Office Building

Public Recreation and Community Center

Public Safety Facility

Religious Places of Worship

School, Elementary and Secondary for Academic Instruction

Commercial/Service

Animal Hospital/Veterinary Clinic - No Outdoor Run or Kennel

Commercial Entertainment, Recreation - Indoor Excluding Adult Uses

Day Care Center

Eating or Drinking Establishment Excluding Drive-In

Financial Institution Excluding Drive-In Service

Medical or Dental Office or Clinic

Office, Business and Professional

Retail Sales & Services less than 5,000 square feet

~~Instructional Studio~~ ~~or Meeting Facility less than 5,000 square feet~~(fe) Conditional Uses in the NCTR District**Residential**

Duplex Dwelling

Single Family Detached Dwelling

~~Group Home~~**Institutional/Public/Semi-Public**

Emergency Care Facility

Park/Playground

Wireless Telecommunications Antenna, Facility or Tower

~~Life or Continuing Care~~

Commercial/Service

Commercial Entertainment, Recreation - Outdoor Excluding Adult Uses

~~Student Housing~~~~Distillery, Winery, Brewery where more than 30% of square feet is devoted to retail sales/taproom.~~

Drive-In and Drive Through Establishments

Eating or Drinking Establishment Including Drive-In

Food Truck Park

Food Truck Park

Funeral Home or Internment Service

Hotel

Medical Dispensary

~~Multiple Uses~~Retail Sales & Services 5,000 to ~~49,999~~ square feet~~Instructional Studio or Meeting Facility larger than 5,000 square feet~~~~Studio or Meeting Facility larger than 5,000 square feet~~

(Ord. 34-17. Effective 12-7-17.)

(f) Architectural Design Guidelines.(1) New Buildings. New buildings shall conform to the applicable architectural design guidelines provided in Section 1122.12(f).(2) Existing Buildings. Additions or modifications to buildings existing at the time of the adoption of these architectural design guidelines shall be exempt from the architectural design guidelines.

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1122.1244 DC DOWNTOWN COMMERCIAL.

(a) Purpose. The "DC" Downtown Commercial district is comprised of two separate subdistricts which, collectively, form a mixed-use town center within the City as identified in Figure 1122-B. The Main Street Subdistrict is intended to serve as the historic mixed use town center featuring predominantly destination based land uses that are compatible with each other. The Broad Street Subdistrict is intended to serve as a transitional and complimentary district to the Main Street Subdistrict featuring a broader list of permitted land uses while promoting a mixed-use development pattern including medium density residential housing options. The Downtown Commercial zoning district development should be compact, walkable, and vertical in scale and complement the adjacent lower density development patterns. These uses are expected to serve the everyday needs of the nearby community.

Figure 1122-B: PLACEHOLDER FOR DOWNTOWN DISTRICT MAP

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PLACEHOLDER FOR DOWNTOWN DISTRICT MAP SHOWING THE TWO SUBDISTRICTS.

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(b) Lot Development Standards

Table 1122-1342: Lot Development Standards for the DC Downtown Commercial District		
Lot Area Dimensions	Use	Standard
Lot Area	All	None
Lot Width	All	None
Setbacks		
Principal		
Front Yard	All	0 to 10 feet Build to To Line
Side Yard	All	None unless abutting a Residential District, then 5 feet minimum
Rear Yard	All	None
Accessory		
From Principal Structure		No minimum
Front Yard		Not Permitted
Side Yard		0 feet minimum to 5 feet maximum
Rear Yard		0 feet minimum
Size		60% maximum square feet of principal structure footprint
Coverage		
Maximum Lot Coverage	All	80% minimum to 100% maximum
Height		
Principal Building	All	45 feet maximum or no higher than WPAFB Airport Zoning Regulations, whichever is less
Accessory Building		20 feet maximum or no taller than principal structure, whichever is less
Building Frontage Buildout		
Principal Building		85% minimum of lot width

(c) Minimum Dwelling Area. The minimum livable dwelling area shall be satisfied.

- (1) Single Family Dwelling (One Story). The minimum livable area shall be 1,200 square feet.
- (2) Single Family Dwelling (Two Story). The minimum livable area shall be 1,600 square feet which includes a minimum area of 900 square feet on the first floor.
- (3) Multiple Family Dwelling Unit. For the purpose of regulating minimum dwelling unit area, "multiple family dwelling unit" shall include any dwelling unit within a duplex, triplex, fourplex or five or more attached units in a single building including upper floor dwelling units. A one bedroom dwelling unit shall be a minimum of 800 square feet. Each additional bedroom shall require 125 square feet of area per bedroom.

(de) Accessory Uses. Accessory uses, structures, buildings, or facilities customarily incidental and subordinate to the principally permitted use, structure, building, or facility shall be

as permitted on the same lot, subject to the standards of Chapter 1128: Supplemental and Accessory Regulations.

~~(d) Permitted Uses in the DC District
Residential
Multiple Family Dwelling when on Upper Floors of Non Residential Building~~

1122.11 ZONING CODE -88

~~Residential Care and Congregate Residential
Other Groups Not Listed, as Approved by the Zoning Administrator~~

~~(e) Permitted Uses in the Main Street Subdistrict~~

~~**Institutional/Public/Semi-Public**
Assembly Club, Fraternal, Lodge Meeting Hall
Cultural Institution
Essential Public Services and Utilities
Government Office Building
Public Recreation and Community Center
Public Safety Facility
Religious Places of Worship
School, Elementary and Secondary for Academic Instruction~~

~~**Commercial/Service**
Animal Hospital/Veterinary Clinic — No Outdoor Run or Kennel
Commercial Entertainment, Recreation - Indoor Excluding Adult Uses
Day Care Center
— Distillery, Winery, Brewery where more than 30% of square feet is devoted to retail sales/taproom.
Eating or Drinking Establishment Excluding Drive-In
Financial Institution Excluding Drive-In Service
Funeral Home or Internment Service
Medical or Dental Office or Clinic less than 1,000 square feet
Office, Business and Professional less than 1,000 square feet
Retail Sales & Services less than 5,000 square feet
Downtown retail less than 5,000 square feet
Instructional Studio or Meeting Facility less than 15,000 square feet~~

~~(fe) Conditional Uses in the Main Street DC SubDistrict
Residential
Fourplex Dwelling
Multiple Family Dwelling (when located on upper floors)
Single Family Attached Dwelling
Single Family Detached Dwelling~~

~~**Residential Care and Congregate Residential**
Assisted Living Senior Care Facility
Group Home
Nursing Home~~

~~**Institutional/Public/Semi-Public**
Emergency Care Facility
Park/Playground~~

Wireless Telecommunications Antenna, Facility or Tower

Commercial/Service

Commercial Entertainment, Recreation - Outdoor Excluding Adult Uses

~~Drive-In and Drive-Through Establishments~~

~~Eating or Drinking Establishment Including Drive-In~~

~~Financial Institution Including Drive-In Service~~

Food Truck Park

Hotel

~~Mixed Use~~~~Multiple Uses~~

(g) Permitted Uses in the Broad Street Subdistrict

Institutional/Public/Semi-Public

Assembly Hall

Cultural Institution

Essential Public Services and Utilities

Government Office Building

Public Recreation and Community Center

Public Safety Facility

Religious Places of Worship

Commercial/Service

Retail Sales and Services

Commercial Entertainment, Recreation - Indoor Excluding Adult Uses

Distillery, Winery, Brewery where more than 30% of square feet is devoted to retail sales/taproom.

Eating or Drinking Establishment Excluding Drive-In

Financial Institution Excluding Drive-In Service

Medical or Dental Office or Clinic

Office, Business and Professional

Instructional Studio Facility

(h) Conditional Uses in the Broad Street Subdistrict

Residential

Single Family Detached Dwelling

Duplex

Triplex

Fourplex

Multiple Family Dwelling

Residential Care and Congregate Residential

Senior Care Facility

Group Home

Institutional/Public/Semi-Public

Park/Playground

Wireless Telecommunications Antenna, Facility or Tower

Commercial/Service

Commercial Entertainment, Recreation - Outdoor Excluding Adult Uses

Food Truck Park

Hotel

Mixed Use

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—	Retail Sales & Services 5,000 to 49,999 square feet	
—	Studio or Meeting Facility larger than 5,000 square feet	
—	Vehicle Fuel Sales when Accessory to a Permitted Use	
89	Use Districts	1122.11

(i) Design Guidelines. The Downtown Commercial district is unique within the City of Fairborn with its existing older buildings and shallow building setbacks. It is envisioned to be a pedestrian-oriented, mixed use environment along an arterial roadway. The reuse of existing buildings, as well as redevelopment with new construction is expected to be designed to be pedestrian in scale to encourage historic character. The use of quality building materials will reinforce the character and viability of this area long term.

- (1) Lots. All lots shall have direct frontage to a street.
- (2) Sidewalks. Sidewalks shall be provided along all streets in accordance with the applicable standards of Section 1128.30(o): Pedestrian Flow.
- (3) Building Articulation
 - A. Horizontal and vertical articulation of buildings is required.
 - B. For the first two stories, buildings will generally be designed with a change in building plane, stepping portions of facades in and out, utilizing balconies, windows, columns or similar architectural features that are distinctly set out from the façade, or changing types or colors of materials in combination with other techniques.
 - C. Balconies may extend over the sidewalk provided that they maintain a minimum ten feet of clearance above the sidewalk and do not substantially interfere with street tree growth.
 - D. All buildings will be designed and constructed with a distinct base, middle and top. An expression line, setback or other architectural element will delineate the base and top. In buildings which have more than one material, the "heavier" material will go below the "lighter" material (e.g. brick under painted plaster façade).



- (4) Primary Entrances. Primary entrances to buildings shall be located on the street along which the building is oriented. At intersections, corner buildings may have the primary entrance oriented at an angle to the intersection.
- (5) Ground Floors.
- A. Buildings shall have a minimum of 50% of the ground floor façade, both horizontally and vertically, comprised of window area. Ground floor is defined as that portion of a building from the street-level finish floor elevation and extended twelve feet above the street-level finish floor elevation.
 - B. All primary entries ~~shall~~should be covered with awnings, canopies, or be inset behind the front façade a minimum six feet. A door shall not be permitted to swing into a public right-of-way or sidewalk area.
 - C. Blank facades where visible from the public right of way are prohibited in lengths greater than ten linear feet. Design treatments to eliminate blank facades are required to enhance the pedestrian and visual environment and can include items such as transparent windows and doors, display windows and/or awnings.
- (6) Wall Materials. Each exterior wall visible from the public right of way shall comply with the following materials requirements:
- A. Primary Materials. A minimum of 75% or more of each exterior wall shall be comprised of the following materials.
 - i. Masonry (excluding cinder block)
 - ii. Stone
 - iii. Ventilated façade systems (above ground floor only)
 - B. Secondary Materials. A maximum of 25% of materials shall be comprised of the following materials.
 - i. Wood
 - ii. Cement Board
 - iii. Glass (excluding mirrored glass which is not permitted)
 - C. Accent Materials (<10%)
 - i. Pre-cast stone
 - ii. Metal Accents
 - iii. Other as permitted by the building code and subject to Zoning Administrator approval.
 - D. Exterior Building Colors. ~~Building facade colors shall be low reflectance, subtle, neutral or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited.~~
- (7) Windows. Windows should establish a scale and rhythm of the streetscape for pedestrians controlled by the placement, type and sizes of windows. Windows are expected to allow for goods and customers to be viewed, creating interaction between the building and public realm.
- A. First floor windows must have a minimum 70% visible light transmittance/opacity.
 - B. Mirrored and black glass is prohibited.
 - C. At the street level, windows shall not be made opaque by excessive signage or other application treatments.
- (8) Doors.
- A. Doors ~~shall~~may be constructed of wood, clad wood, anodized aluminum, glass, or steel.
 - B. Doors ~~shall~~are expected to have a minimum of 50% transparency.

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- C. Service, security, or garage doors shall not be located along the street frontage façade.

- (9) Roofs.
- A. Flat roofs are preferred for buildings located in the Downtown Commercial zoning district in order to continue the historic development character. Buildings located outside the Downtown Commercial zoning district and utilizing these architectural design guidelines may propose other roof styles as approved by the Zoning Administrator.
 - B. Cornices must be provided for flat roofs.
 - C. Other roof types for buildings in the Downtown Commercial zoning district may be acceptable as permitted by the building code and subject to Zoning Administrator approval.
- (10) Awnings, Marquees and Canopies
- A. Permitted materials include metal, canvas, or glass and shall relate to the overall architectural character of the building.
 - B. Awnings, marquees, and canopies shall have a minimum clearance of 8 feet above the sidewalk.
- (11) Outdoor Seating. Outdoor seating areas along the sidewalk are allowed, and may be partially enclosed. Outdoor seating areas:
- A. Are allowed as an accessory use/structure only and shall be architecturally consistent with the primary building it is serving;
 - B. Shall not encroach into a minimum required sidewalk area as established in Section 1128.30(o): Pedestrian Flow;
 - C. May be enclosed by a perimeter fence and/or wall which shall be constructed of tubular steel, masonry and/or a combination thereof, and shall not exceed 36 inches in height with a maximum opacity of 40%;
 - D. Shall comply with building and fire codes;
 - E. Shall be maintained in good condition free from damage; and
 - F. Shall be subject to review and approval by the Zoning Administrator.
- (12) Parking. In order to promote a compact and pedestrian friendly environment:
- A. Off-street parking requirements identified in Chapter 1130: Parking and Loading, ~~may~~ may be reduced by up to 75%.
 - B. On-street spaces located on the same block face of the lot may count towards required parking space requirements at a 1:1 ratio as approved by the Zoning Administrator.



- C. Parking spaces in municipally owned/operated lots in this district, regardless of distance to the lot, may count towards the required parking space requirements at a 1:2 ratio.
- D. Off-street parking shall be located at the rear of the primary building and screened from the public right-of-way through a wall, hedge, decorative fence or similar type screen no higher than 36 inches.

- E. Limited parking may be permitted in a side yard upon approval by the Zoning Administrator if it does not significantly reduce building frontage along the street front.
- F. If a lot is to be used entirely for off-street parking, it shall be accessible to the general public.
- (13) Signage. Signage ~~shall be expected to~~ be in scale with a pedestrian environment with exterior illumination. Sign types are as permitted in Chapter 1131: Signs.
- (14) Fences. ~~In the side or rear yard shall be constructed of tubular steel, masonry and/or a combination thereof, and shall not exceed 72 inches in height with a maximum opacity of 40%;~~

~~(j)~~ Streetscape Standards. Streetscape Standards provide for a cohesive streetscape along block faces in the downtown area, emphasizing the public realm with a consistent design theme and enhancing the physical relationship between buildings and their adjacent streets.

- (1) Right-of-Way Encroachment. Any encroachment into the public right-of-way shall require approval by the City Manager.
- (2) Pedestrian Amenities
 - A. The property owner is expected to provide and maintain a minimum of one of the following pedestrian amenities to enhance the pedestrian realm:
 - i. Sidewalk planters;
 - ii. Outdoor seating or benches;
 - iii. Mini park/plaza with a minimum of 100 square feet of usable area;
 - iv. Public art such as sculpture, fountain, clock or mural integrated into the design of the building; or
 - v. Rack to secure bicycles.
 - B. Sidewalk planters and benches ~~shall be expected to~~ conform to the general designs identified in this section which are consistent with the public improvements made by the City of Fairborn in the public right-of-way.





(Ord. 34-17. Effective 12-7-17; Ord. 21-19. Passed 4-1-19.)

1122.1312 NC NEIGHBORHOOD COMMERCIAL.

(a) Purpose. The "NC" Neighborhood Commercial district is intended to serve residents in close proximity with a lower intensity commercial product. Neighborhood Commercial development should be small in scale and complement the adjacent development patterns nearby. These uses should serve the everyday needs of the nearby community.

(b) Lot Development Standards

Table 1122-1413: Lot Development Standards for the NC Neighborhood Commercial District		
Lot Area Dimensions	Use	Standard
Lot Area	All	None
Lot Width	All	None
Setbacks		
Principal		
Front Yard	All	15 feet minimum or equal to the surrounding Residential District
Side Yard	All	None unless abutting a Residential District, then 5 feet minimum
Rear Yard	All	10 feet minimum
Accessory		
From Principal Structure		No minimum
Front Yard		Not Permitted
Side Yard		0 feet minimum to 5 feet maximum
Rear Yard		0 feet minimum
Size		25% maximum rear yard coverage and 60% maximum square feet of principal structure footprint
Coverage		
Maximum Lot Coverage	All	70% maximum
Height		
Principal Building	All	35 feet maximum or no higher than WPAFB Airport Zoning Regulation, whichever is less
Accessory Building		20 feet maximum or no taller than principal structure, whichever is less

(c) Minimum Dwelling Area. The minimum livable dwelling area shall be satisfied.

- (1) Multiple Family Dwelling Unit. For the purpose of regulating minimum dwelling unit area, "multiple family dwelling unit" shall include any dwelling unit within a building containing five or more attached units in a single building, including upper floor dwelling units. A one bedroom dwelling unit shall be a minimum of 800 square feet. Each additional bedroom shall require 125 square feet of area per bedroom.

(de) Accessory Uses. Accessory uses, structures, buildings, or facilities customarily incidental and subordinate to the principally permitted use, structure, building, or facility shall be as permitted on the same lot, subject to the standards of Chapter 1128: Supplemental and Accessory Regulations.

(ed) Permitted Uses in the NC District

~~Residential Care and Congregate Residential~~

~~Other Groups Not Listed, as Approved by the Zoning Administrator~~

Institutional/Public/Semi-Public

~~Assembly Club, Fraternal, Lodge Meeting~~ Hall

Cultural Institution

Essential Public Services and Utilities

Government Office Building

Public Recreation and Community Center

Public Safety Facility

Religious Places of Worship

School, Elementary and Secondary for Academic Instruction

Commercial/Service

Animal Hospital/Veterinary Clinic - No Outdoor Run or Kennel

Commercial Entertainment, Recreation - Indoor Excluding Adult Uses

Day Care Center

Eating or Drinking Establishment Excluding Drive-In

Financial Institution Excluding Drive-In Service

Funeral Home or Internment Service

Medical or Dental Office or Clinic

Office, Business and Professional

Retail Sales and Service less than 5,000 square feet

~~Instructional~~ Studio ~~or Meeting~~ Facility less than 5,000 square feet

(fe) Conditional Uses in the NC District

Residential

Multiple Family Dwelling when on Upper Floors of Non-Residential Building

Residential Care and Congregate Residential

~~Senior Care Facility Assisted Living~~

~~Independent Senior Facility~~ ~~Life or Continuing Care~~

~~Group Home~~ ~~Nursing Home~~

Institutional/Public/Semi-Public

Emergency Care Facility

Park/Playground

Wireless Telecommunications Antenna, Facility or Tower

Commercial/Service

Commercial Entertainment, Recreation - Outdoor Excluding Adult Uses

~~Distillery, Winery, Brewery where more than 30% of square feet is devoted to retail sales/taproom.~~

Drive-In and Drive Through Establishments

Food Truck Park

~~Medical~~ Dispensary

~~Multiple Uses~~

Retail Sales and Service 5,000 to 49,999 square feet

~~Instructional~~ Studio ~~or Meeting~~ Facility larger than 5,000 square feet

Vehicle Fuel Sales when Accessory to a Permitted Use

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(Ord. 34-17. Effective 12-7-17.)

(g) Architectural Design Guidelines.

- | | |
|-----|---|
| (1) | New Buildings. New buildings shall conform to the applicable architectural design guidelines provided in Section 1122.12(i). |
| (2) | Existing Buildings. Additions or modifications to buildings existing at the time of the adoption of these architectural design guidelines shall be exempt from the architectural design guidelines. |

1122.13

ZONING CODE

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1122.~~1413~~ CC COMMUNITY COMMERCIAL.

(a) Purpose. The "CC" Community Commercial district is intended for small to medium scale commercial uses adjacent to primary arterials that serve the larger area. Uses in this area must be well suited for vehicular and pedestrian connections. Buildings must be well designed and have distinct architectural character. High quality landscaping and streetscape elements are very important in this area and will define the overall character.

(b) Lot Development Standards.

Table 1122- 1514 : Lot Development Standards for the CC Community Commercial District		
Lot Area Dimensions	Use	Standard
Lot Area	All	None
Lot Width	All	None
Setbacks		
Principal		
Front Yard	All	None
Side Yard	All	None unless abutting a Residential District, then 5 feet minimum
Rear Yard	All	None unless abutting a Residential District, then 20 foot minimum
Accessory		
From Principal Structure		No minimum
Front Yard		Not Permitted
Side Yard		3 feet minimum
Rear Yard		3 feet minimum
Size		25% maximum rear yard coverage and 60% maximum square feet of principal structure footprint
Coverage		
Maximum Lot Coverage	All	70% maximum
Height		
Principal Building	All	35 feet maximum or no higher than WPAFB Airport Zoning Regulation, whichever is less
Accessory Building		20 feet maximum or no taller than principal structure, whichever is less

(c) Minimum Dwelling Area. The minimum livable dwelling area shall be satisfied.

(1) Multiple Family Dwelling Unit. For the purpose of regulating minimum dwelling unit area, "multiple family dwelling unit" shall include any dwelling unit within a building containing five or more attached units in a single building, including upper floor dwelling units. A one bedroom dwelling unit shall be a minimum of 800 square feet. Each additional bedroom shall require 125 square feet of area per bedroom.

(de) Accessory Uses. Accessory uses, structures, buildings, or facilities customarily incidental and subordinate to the principally permitted use, structure, building, or facility shall be as permitted on the same lot, subject to the standards of Chapter 1128: Supplemental and Accessory Regulations.

(ed) Permitted Uses in the CC District

~~Residential Care and Congregate Residential~~~~Assisted Living~~~~Life or Continuing Care~~~~Other Groups Not Listed, as Approved by the Zoning Administrator~~**Institutional/Public/Semi-Public**~~Assembly Club, Fraternal, Lodge Meeting~~ Hall

Cultural Institution

Essential Public Services and Utilities

Government Office Building

Public Recreation and Community Center

Public Safety Facility

Religious Places of Worship

Commercial/Service

Animal Hospital/Veterinary Clinic - No Outdoor Run or Kennel

Commercial Entertainment, Recreation - Indoor Excluding Adult Uses

Day Care Center

~~Distillery, Winery, Brewery where more than 30% of square feet is devoted to retail sales/taproom.~~

Eating or Drinking Establishment Excluding Drive-In

Financial Institution Excluding Drive-In Service

Funeral Home or Internment Service

Medical or Dental Office or Clinic

Office, Business and Professional

Retail Sales & Services less than 5,000 square feet

~~Instructional Studio, or Meeting~~ Facility less than 5,000 square feet

(fe) Conditional Uses in the CC District

Residential

Bed and Breakfast Establishment

Multiple Family Dwelling when on Upper Floors of Non-Residential Building

Residential Care and Congregate Residential~~Nursing Home~~ Senior Care Facility~~Independent Senior Facility~~~~Group Home~~**Institutional/Public/Semi-Public**

Emergency Care Facility

Park/Playground

~~School, College or University, Vocational and Technical, Trade or~~

Business containing more than 50 students

School, Elementary and Secondary for Academic Instruction

Wireless Telecommunications Antenna, Facility or Tower

Commercial/Service

Animal Hospital, Veterinary Clinic - With Outdoor Run or Kennel

Commercial Entertainment, Recreation - Outdoor Excluding Adult Uses

Drive-In and Drive Through Establishments

Food Truck Park

Hotel

|

~~Medical~~ Dispensary

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~~Multiple Uses~~

Retail Sales & Services 5,000 to 49,999 square feet
~~Instructional Studio, or Meeting~~ Facility larger than 5,000 square feet
 Vehicle Fuel Sales when Accessory to a Permitted Use
 Vehicle Service and Repair Facility
 Vehicle Wash Facility

(Ord. 34-17. Effective 12-7-17; Ord. 21-19. Passed 4-1-19.)

(g) Architectural Design Guidelines.

- (1) New Buildings. New buildings shall conform to the applicable architectural design guidelines provided in Section 1122.12(i).
- (2) Existing Buildings. Additions or modifications to buildings existing at the time of the adoption of these architectural design guidelines shall be exempt from the architectural design guidelines.

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1122.154 GC GENERAL COMMERCIAL.

(a) Purpose. The "GC" General Commercial district is intended to include highway-oriented businesses. Uses in this area must be well connected via auto and pedestrian connections. Buildings must be well designed and have distinct architectural character. High quality landscaping and streetscape elements are very important in this area and will define the gateway into the district. Buildings should be limited to 120,000 square feet in size.

(b) Lot Development Standards.

Table 1122-1615: Lot Development Standards for the GC General Commercial District		
Lot Area Dimensions	Use	Standard
Lot Area	All	None
Lot Width	All	90 feet minimum
Setbacks		
Principal		
Front Yard	All	20 feet minimum
Side Yard	All	None unless abutting a Residential District, then 5 feet minimum
Rear Yard	All	None
Accessory		
From Principal Structure		10 feet minimum
Front Yard		Not Permitted
Side Yard		3 feet minimum
Rear Yard		3 feet minimum
Size		25% maximum rear yard coverage and 60% maximum square feet of principal structure footprint
Coverage		
Maximum Lot Coverage	All	70% maximum
Height		
Principal Building	All	35 feet maximum or no higher than WPAFB Airport Zoning Regulation, whichever is less
Accessory Building		20 feet maximum or no taller than principal structure, whichever is less

(c) Minimum Dwelling Area. The minimum livable dwelling area shall be satisfied.

(1) Multiple Family Dwelling Unit. For the purpose of regulating minimum dwelling unit area, "multiple family dwelling unit" shall include any dwelling unit within a building containing five or more attached units in a single building. A one bedroom dwelling unit shall be a minimum of 800 square feet. Each additional bedroom shall require 125 square feet of area per bedroom.

(de) Accessory Uses. Accessory uses, structures, buildings, or facilities customarily incidental and subordinate to the principally permitted use, structure, building, or facility shall be as permitted on the same lot, subject to the standards of Chapter 1128: Supplemental and Accessory Regulations

(ed) Permitted Uses in the GC District

~~Residential Care and Congregate Residential~~

~~Assisted Living~~

~~Life or Continuing Care~~

~~Other Groups Not Listed, as Approved by the Zoning Administrator~~

Institutional/Public/Semi-Public

~~Assembly—Club, Fraternal, Lodge Meeting Hall~~

Cultural Institution

Essential Public Services and Utilities

Government Office Building

Hospital

Public Recreation and Community Center

Public Safety Facility

Religious Places of Worship

Commercial/Service

Animal Hospital/Veterinary Clinic - No Outdoor Run or Kennel

Commercial Entertainment, Recreation - Indoor Excluding Adult Uses

Day Care Center

Distillery/Winery

Drive-In and Drive Through Establishments

Eating or Drinking Establishment

Financial Institution

Funeral Home or Internment Service

~~Hotel~~

Medical or Dental Office or Clinic

Microbrewery

Office, Business and Professional

Retail Sales & Services

~~Instructional Studio or Meeting Facility~~

Vehicle Fuel Sales when Accessory to a Permitted Use

Vehicle Sales, Rental and Lease Excluding Body Work

~~Other Groups Not Listed, as Approved by the Zoning Administrator~~

(fe) Conditional Uses in the GC District

Residential Care and Congregate Residential

~~Nursing Home~~Senior Care Facility

Independent Senior Facility

Institutional/Public/Semi-Public

Emergency Care Facility

Park/Playground

Public Works/Maintenance Facility

School, College or University, Vocational and Technical, Trade or Business

Essential Public Services and Utilities
School, Elementary and Secondary for Academic Instruction
Hospital
Wireless Telecommunications Antenna, Facility or Tower

Commercial/Service

Animal Hospital, Veterinary Clinic - With Outdoor Run or Kennel
Building Materials and Hardware
~~Commercial and Industrial Equipment and Machinery Sales, Rental,~~
Leasing and ~~Repair~~
Distillery/Winery
Commercial Entertainment, Recreation - Outdoor Excluding Adult Uses
Food Truck Park
Hotel
Kennel
~~Medical Dispensary~~
~~Multiple Uses~~
Vehicle Service and Repair Facility
Vehicle Wash Facility

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Industrial, Manufacturing and Processing

Laboratory or Research Establishment

(Ord. 34-17. Effective 12-7-17; Ord. 21-19. Passed 4-1-19.)

(g) Architectural Design Guidelines.

- (1) New Buildings. New buildings shall conform to the applicable architectural design guidelines provided in Section 1122.12(i).
- (2) Existing Buildings. Additions or modifications to buildings existing at the time of the adoption of these architectural design guidelines shall be exempt from the architectural design guidelines.

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1122.1615 LI LIGHT INDUSTRIAL.

(a) Purpose. The "LI" Light Industrial district includes small to mid-sized warehouses and manufacturing uses that generate limited amounts of noise and pollutants, if any at all. Development in this area is encouraged primarily for light industrial users, but may integrate some office uses and open space.

(b) Lot Development Standards

Table 1122-1746: Lot Development Standards for the LI Light Industrial District		
Lot Area Dimensions	Use	Standard
Lot Area	All	None
Lot Width	All	None
Setbacks		
Principal		
Front Yard	All	30 feet minimum
Side Yard	All	25 feet minimum 150 feet minimum from any Residential District 50 feet minimum from any other Non-Industrial District
Rear Yard	All	25 feet minimum 150 feet minimum from any Residential District 50 feet minimum from any other Non-Industrial District
Accessory		
From Principal Structure		No minimum
Front Yard		Not Permitted
Side Yard		3 feet minimum
Rear Yard		3 feet minimum
Size		25% maximum rear yard coverage and 60% maximum square feet of principal structure footprint
Coverage		
Maximum Lot Coverage	All	90% maximum
Height		
Principal Building	All	50 feet maximum or no higher than WPAFB Airport Zoning Regulation whichever is less
Accessory Building		25 feet maximum or no taller than principal structure, whichever is less

(c) Accessory Uses. Accessory uses, structures, buildings, or facilities customarily incidental and subordinate to the principally permitted use, structure, building, or facility shall be as permitted on the same lot, subject to the standards of Chapter 1128: Supplemental and Accessory Regulations.

(d) Permitted Uses in the LI District

Institutional/Public/Semi-Public

Essential Public Services and Utilities

Government Office Building

Hospital

Public Safety Facility

Public Works/Maintenance Facility

School, College or University, Vocational and Technical, Trade or Business

Commercial/Service

Animal Hospital/Veterinary Clinic - With Outdoor Run or Kennel

Building Materials and Hardware

Commercial and Industrial Equipment and Machinery Sales, Rental,

Leasing and Repair

Distillery/Winery

Drive-In and Drive Through Establishments

Microbrewery

Vehicle Body Shop

Vehicle Fuel Sales

Vehicle Fuel Sales when Accessory to a Permitted Use

Vehicle Sales, Rental and Lease Excluding Body Work

Vehicle Service and Repair Facility

Vehicle Wash Facility

Industrial, Manufacturing and Processing

Construction, Drilling and Mining Technology

Laboratory or Research Establishment

Manufacturing, Artisan

Manufacturing, General

Multiple Uses

Warehousing

Wholesale and Distribution

(e) Conditional Uses in the LI District

Institutional/Public/Semi-Public

Park/Playground

Public Works/Maintenance Facility

Wireless Telecommunications Antenna, Facility or Tower

Commercial/Service

Adult Uses

Commercial Entertainment, Recreation - Indoor Excluding Adult Uses

Commercial Entertainment, Recreation - Outdoor Excluding Adult Uses

Day Care Center

Kennel
Office, Business and Professional
~~Instructional~~ Studio ~~or Meeting~~ Facility
Vehicle Body Shop

Industrial, Manufacturing and Processing

Manufacturing, High Intensity
Oil and Gas Storage
Outdoor Storage
Warehousing, Personal Storage/Mini
Wrecking, Junk and Salvage Yard

(Ord. 34-17. Effective 12-7-17.)

1122.1716 AM AGRICULTURAL AND MINERAL.

(a) Purpose. The "AM" Agricultural and Mineral District is intended to permit agricultural and mining, extraction, storage, sales and processing of minerals as a matter of right where a property owner owns more than 500 contiguous acres of land, whether separated by a road or highway owned in fee or by easement by a governmental entity or not, is able to meet the criteria below and provides buffer areas by way of setbacks, mounding or screening from adjoining non-compatible uses on property not owned by the owner.

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(b) Lot Development Standards

Table 1122-1847: Lot Development Standards for the AM Agricultural and Mineral District		
Lot Area Dimensions	Use	Standard
Lot Area	All	500 acres minimum
Lot Width	All	None
Setbacks		
Principal		
Front Yard	All	None
Side Yard	All	None unless abutting a Residential District, then 100 feet minimum
Rear Yard	All	None unless abutting a Residential District, then 100 feet minimum
Accessory		
From Principal Structure		Not applicable
Front Yard		Not applicable
Side Yard		100 feet minimum
Rear Yard		100 feet minimum
Size		Not applicable
Coverage		
Maximum Lot Coverage	All	Not applicable
Height		
Principal Building	All	50 feet maximum or no higher than WPAFB Airport Zoning Regulation, whichever is less 1 additional foot of height may be added for each 3 feet of additional setback
Accessory Building		25 feet maximum or no taller than principal structure, whichever is less

(c) Accessory Uses. Accessory uses, structures, buildings, or facilities customarily incidental and subordinate to the principally permitted use, structure, building, or facility shall be as permitted on the same lot, subject to the standards of Chapter 1128: Supplemental and Accessory Regulations.

(d) Permitted Uses in the AM District**Agricultural**

Agricultural

Agricultural Display Stand

Extraction of Minerals

Institutional/Public/Semi-Public

Essential Public Services and Utilities

Park, Playground

Public Recreation and Community Center

(e) Conditional Uses in the AM District**Institutional/Public/Semi-Public**

Golf Course

Government Office Building

Public Works/Maintenance Facility

Wireless Telecommunications Antenna, Facility and/or Tower

Essential Public Services and Utilities

(Ord. 34-17. Effective 12-7-17.)

(f) Lot Area, Height and Yard Requirement.

(1) Lot area, height and yard requirements for uses set out in Section 1131.02 shall be those requirements set out in Section 1131.05.

(2) The following requirements shall be observed for Mineral Extraction:

- A. Maximum height: 50 feet, provided however, an additional one (1) foot in height shall be added to the maximum height for each additional three (3) feet of building setback the structure is setback from the property line.
- B. Minimum lot area: 500 contiguous acres.
- C. Side yard: 100 feet to an existing residentially zoned district.
- D. No excavations shall be made within fifty (50) feet of the right of way of a public highway.
- E. All significant additions to mineral processing plants and new mineral processing plants shall employ, as far as practical, the best available technology to minimize objectionable elements or conditions which may affect the adjacent properties not owned by the owner of the quarry. Operations of all equipment shall comply with industry standards. Buildings and structures designed and constructed exclusively for Mineral Extraction or processing for which no future use is contemplated and no other adopted uses are practical shall be demolished and removed within three years after all mining operations and/or processing is completed.

- F. Screening. When the floor of a quarry is greater than five (5) feet below the average elevation of an adjacent public street or adjacent private property not owned by the owner of the quarry, the quarry property boundary adjacent to such street or property shall be completely enclosed by an earthen mound of not less than six (6) feet in height to provide visual and noise barrier from such activity or screened by an opaque fence of not less than six (6) feet in height or a combination.
- G. Noise. Impulsive noise: when measured at any public street or private property line, the maximum instantaneous sound intensity resulting from any blasting shall not exceed 125 decibels when measured on a sound meter or at the maximum amount that is allowed by state or federal law, whichever is less. Sounds generated or emitted by government required safety devices (such as back up alarms) and sounds generated incidental to construction of barriers or mounds are exceptions from the sound limits.
- H. Dust. All equipment used in quarrying and processing operations shall be constructed, maintained and operated in such a manner as to eliminate as far as practicable, dust which would be a nuisance. Trucks shall not track excessive dust onto public rights-of-way. Any foreign material tracked on the public highway will be cleaned up by the owner/operator within a reasonable time. All roads and access ways located within the mineral extraction property shall comply with dust emission standards of the Ohio EPA.
- I. Lateral Support. To ensure lateral support, all excavations shall be located at least 50 feet from all public rights-of-way or waters or 100 feet from adjacent property not owned by the owner of the quarry. When quarrying activities are completed, they shall be backfilled and reclaimed as required by the Ohio Department of Natural Resources.
- J. Depth: Mineral Extraction to a depth not exceeding six feet may be conducted not closer than one hundred feet of any existing residential district, provided the operation is conducted over a temporary period not to exceed twelve (12) months and no blasting is used in the extraction process. Mineral extraction to a depth exceeding six (6) feet may be conducted not closer than 150 feet of any existing residentially occupied building not owned by the landowners. All other mineral extraction activities utilizing blasting may be conducted not closer than 250 feet from any existing occupied residential structure.
- K. Blasting. Blasting is permitted within the district in accordance with all rules and regulations promulgated by the United States Department of Homeland Security, United States Bureau of Alcohol, Tobacco and Firearms, and Ohio Department of Transportation and the Ohio Department of Natural Resources related to the use, storage and transportation of explosive materials. The applicant/operator shall maintain complete records on all blasting operations and comply with all state and federal laws and regulations.

- L. Notice of Mining and Mineral Extraction Activity. At least sixty (60) days prior to commencement of Mineral Extraction, the property owner will provide a Notice of Mining and Mineral Extraction Activity with the Zoning Administrator which contains the following:
1. The name and address of the operator.
 2. The name and address of the property owner, surface owner, or mineral rights owner if different from the operator.
 3. The types of materials or minerals to be extracted and the method for such extraction.
 4. A statement as to the nature of the use of any public rights-of-way for the movement of materials to and from the quarry property.
 5. A copy of the Ohio Department of Natural Resources application filed by the owner/operator requesting a new or continued surface mining permit with its attachments.
 6. In the event the Zoning Administrator finds, upon review of the notice, that the Notice of Mining and Mineral Extraction Activity complies with the above, the use shall be approved and the Zoning Administrator shall issue a ~~certificate of zoning~~ permit ~~compliance~~ to the owner/operator within fourteen (14) days. Mineral extraction may commence in accordance with such approval.
 7. In the event the Zoning Administrator (or in the absence or disability, the Development Services Director acting in the capacity as temporary or acting Zoning Administrator) finds, upon review of the Notice, that the Notice of Mining and Mineral Extraction Activity does not comply with the provisions above, the use shall be deemed disapproved and mineral extraction shall not begin on the property. In the event the use is disapproved by the administrative decision of the Zoning Administrator, the Zoning Administrator shall provide written notice to the applicant within three (3) days of the decision of the denial. Upon receipt of the denial, in whole or in part, the applicant shall have the right to appeal such disapproval to the Board of Zoning Appeals within thirty (30) days. The Board of Zoning Appeals shall review such Notice and decision in accordance with the rules of the board. Further appeal of the denial by the Board of Zoning Appeals may be taken by the owner to City Council, then to the Greene County Court of Common Pleas.

- (g) Conflicts.
(1) To the extent the state or federal laws set standards on a specific subject, such standards control over conflicting sections of the chapter.
- (h) Bond.
(1) The owner/applicant will provide the Zoning Administrator with a copy of the bond posted with the Ohio Department of Natural Resources in connection with its mining permit with the city named as an additional insured.
- (i) Mineral Extraction.
(1) "Mineral Extraction" means the quarrying and extraction of minerals from the ground, and the storage, processing and sales of minerals, aggregates, sand, limestone, stone, gravel, clary, overburden, topsoil and other minerals; provided however, mineral extraction shall not include extraction of oil and gas. (Ord. 21-19. Passed 4-1-19.)

1122.1817 WO WELLHEAD OPERATION.

(a) Purpose. It is the purpose of the "WO" Wellhead Operation District to safeguard the public health, safety and welfare of the customers of protected public water supplies and to protect the community's potable water supply against contamination by regulating land use and the storage, handling, use and/or production of regulated substances as defined in Chapter 11343: Definitions. This district shall be shown on the City Zoning Map at the location of any existing or proposed public wells.

(b) Determination of Applicability. It shall be the responsibility of any person owning real property and/or owning or operating a business within the City to make a determination of the applicability of this chapter as it pertains to the property and/or business and failure to do so shall not excuse any violations of this chapter.

- (c) Permitted Uses in the WO District
Institutional/Public/Semi-Public
Essential Public Services and Utilities

- (d) Conditional Uses in the WO District
Institutional/Public/Semi-Public
Park, Playground
Public Recreation and Community Center
Wireless Telecommunications Antenna, Facility and/or Tower

- (e) Standards. Within the "WO" Wellhead Operation District, the following standards shall apply:
(1) Use and/or storage of regulated substances in conjunction with public water supply and treatment activities shall not be restricted by this subsection.

- (2) Use of regulated substances in conjunction with public parks, playgrounds, and community centers shall be in accordance with the City's management plan for maintenance of sensitive areas.
- (3) Use of regulated substances in conjunction with conditional uses in this district shall be limited to:
 - A. The aggregate of regulated substances in use may not exceed twenty gallons or 160 pounds at any time.
 - B. The total use of regulated substances may not exceed fifty gallons or 400 pounds in any twelve month period.
- (4) A limited exclusion from the provisions of subsection (3) hereof is authorized for non-routine maintenance or repair of property or equipment. The use of regulated substances under this exclusion shall be limited to:
 - A. The aggregate of regulated substances in use may not exceed fifty gallons or 400 pounds at any time.
 - B. The total use of regulated substances may not exceed 100 gallons or 800 pounds in any twelve month period.
- (5) Underground storage of fuel and lubricants for vehicle operations in conjunction with permitted and conditional uses in this district shall be in tanks placed above the floor surface of a below grade vault. Such vault shall allow access for physical inspection of the tank for leakage and the interior of the vault shall be continuously monitored and alarmed to provide for automatic and immediate detection of any release from the tank.
- (6) Notwithstanding other provisions of this chapter, nonconforming uses in this district presently utilizing underground storage tanks for fuel and lubricants for vehicle operations shall be permitted to replace existing tanks with those constructed as per the specifications of subsection (5) hereof and not exceeding the capacity of existing tanks. Replacement of underground tanks for regulated substances other than fuel and lubricants for vehicle operations is not permitted.
- (7) Storage of regulated substances other than fuel and lubricants for vehicle operations in conjunction with permitted and conditional uses in this district is prohibited.

- (8) As part of the findings required under Chapter 1132: Administration, Process and Procedures, prior to issuance of a ~~Zoning Permit Certificate of Zoning Compliance~~, the City Manager or his authorized designee shall utilize the hazard potential ranking system, identified in Section 1122.198(i): Hazard Potential Ranking System, to assist in the determination of intensity of use within this district. No substitutions of a nonconforming use shall be permitted which result in an increase of the hazard potential ranking on a parcel within this district.
- (9) All uses within this district shall be connected to the public wastewater disposal system within a three year period from the effective date of this section or have a wastewater disposal system approved by the Greene County Combined General Health District.
(Ord. 34-17. Effective 12-7-17.)

1122.1918 WP WELL FIELD PROTECTION OVERLAY DISTRICT.

(a) Purpose. It is the purpose of the "WP" Well Field Protection Overlay District to safeguard the public health, safety and welfare of the customers of protected public water supplies and to protect the community's potable water supply against contamination by regulating land use and the storage, handling, use and/or production of regulated substances as defined in Chapter 11343: Definitions. The areal extent of the overlay district is described as the land area within the City that lies within the five year Time-of-Travel Zone (Inner Management Zone and Wellhead Protection Area) adjacent to existing and proposed public wells of a protected public water supply.

(b) Applicability to Underlying Zoning Districts. The provisions of this section shall be applicable to all lands shown as being located within the boundaries of the "WP" Well Field Protection Overlay District on the Zoning Map and shall be supplemental to the regulations of the underlying zoning district. Where the requirements of this chapter are in conflict with the regulations of the underlying district, the more restrictive regulations shall apply.

(c) Determination of Applicability. It shall be the responsibility of any person owning real property and/or owning or operating a business within the City to make a determination of the applicability of this chapter as it pertains to the property and/or business, and failure to do so shall not excuse any violations of this chapter.

(d) Permitted Uses, Bulk and Yard Regulations. The permitted uses, bulk and yard regulations within the WP Well Field Protection Overlay District shall be those of the underlying zoning district, except as specified in 1122.198(g): Prohibited Uses.

(e) Conditional Uses. The requirements of this section shall be in addition to any applicable regulations found elsewhere within the Zoning Code.

- (1) The conditional uses within the "WP" Well Field Protection Overlay District shall be those of the underlying zoning district, except as specified in 1122.198(e)(2) and 1122.198(g): Prohibited Uses.
- (2) When listed as a permitted or conditional use within the underlying zoning district, the excavation, extraction, mining or processing of sand, gravel and minerals from the earth for resale shall remain as conditional uses in the "WP" Well Field Protection Overlay District subject to Planning Board approval of an excavation and facilities plan that includes, but is not limited to:
 - A. An existing site plan with topographic detail at two foot contour intervals, all planimetric information, depth to groundwater and flood plain characteristics where applicable;
 - B. The proposed extent and depth of excavations;
 - C. Slope angle of excavation walls (any final slopes shall be at the angle of repose for the remaining material);
 - D. Use and disposition of the spoil and/or overburden materials from the excavations including a landscaping and vegetation plan to stabilize any disturbed material;
 - E. Surface drainage plan:
 - i. Drainage into on-site excavations from proximate off-site transportation facilities such as roadways and roadbeds and off-site watercourses is prohibited unless the applicant provides a plan which otherwise protects the excavations from off-site waterborne regulated substances.

- ii. The final on-site grading shall minimize all surface drainage into the excavations;
- iii. A post-excavation and operation land use plan; and
- iv. A security plan (unauthorized access shall be strictly prohibited as long as any excavations remain on site).

(f) Accessory Use and Buildings. Accessory uses, buildings or structures customarily incident to a principal permitted use or a conditionally permitted use within the "WP" Well Field Protection Overlay District shall be those of the underlying zoning district.

(g) Prohibited Uses. Sanitary landfills, dry wells, landfills comprised of demolition debris or other non-approved matter, and junkyards are prohibited within the "WP" Well Field Protection Overlay District.

(h) Groundwater Protection Standards.

- (1) Use, storage, handling and/or production of regulated substances in conjunction with permitted and conditional uses in this district shall be limited to:
 - A. Aggregate of regulated substances. The aggregate of regulated substances in use, storage, handling and/or production may not exceed twenty gallons or 160 pounds at any time.
 - B. Total use of regulated substances. The total use, storage, handling and/or production of regulated substances may not exceed fifty gallons or 400 pounds in any twelve month period.
- (2) A limited exclusion from the provisions of subsection (a) hereof is authorized for non-routine maintenance or repair of property or equipment. The use, storage, handling and/or production of regulated substances under this exclusion shall be limited to:
 - A. The aggregate of regulated substances in use, storage, handling and/or production may not exceed fifty gallons or 400 pounds at any time.
 - B. The total use, storage, handling and/or production of regulated substances may not exceed 100 gallons or 800 pounds in any twelve month period.
 - C. The application of U.S.E.P.A. approved agricultural chemicals by licensed personnel using U.S.E.P.A. best recommended practices. Below ground applications in excess of 100 gallons or 800 pounds in any twelve month period shall require seventy-two hour prior notice to the City Manager or his authorized designee.
- (3) A limited exclusion from the provisions of subsection (a) hereof is authorized for each medical and research laboratory use, provided however, regulated substances shall be stored, handled or used in containers not to exceed five gallons or forty pounds of each substance and the aggregate inventory of regulated substances shall not exceed 250 gallons or 2,000 pounds.
- (4) A limited exclusion from the provisions of subsection (a) hereof is authorized for regulated substances which are cleaning agents, provided however such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public, and provided the aggregate inventory of such cleaning agents shall not exceed 100 gallons or 800 pounds at any time. In no case shall regulated substances claimed under this exclusion include hydrocarbon or halogenated hydrocarbon solvents.

- (5) A limited exclusion from the provisions of subsection (a) hereof is authorized for on-site storage of a maximum one-year supply of agricultural chemicals to be used for routine on-site agricultural operations, provided such substances are stored in standard approved packaging and such chemicals are applied to cropland under Best Management Practices as indicated by soil tests, agricultural experts, or label directions approved by the United States Environmental Protection Agency (EPA) or the Ohio Department of Agriculture. This limited exclusion also applies to the application of agricultural chemicals to cropland where such chemicals are brought in from other locations. This provision does not exempt such agricultural chemicals either stored on-site or brought in from other locations from the inventory, spill reporting and underground storage tank protection requirements of the "WP" Well Field Protection Overlay District.
 - (6) With the exception of residential use of heating fuels in tanks having a capacity equal to or less than 500 gallons, the underground storage of fuel and lubricants for vehicle operations and fuel for building and/or process heating in conjunction with permitted and conditional uses in this district shall be in tanks secondarily contained and monitored. Such installations shall be subject to approval by the City Manager or his designee.
 - (7) Notwithstanding other provisions of this chapter, nonconforming uses in this District presently utilizing underground storage tanks for fuel and lubricants for vehicle operations and fuel for building and/or process heating shall be permitted to replace existing tanks with those constructed as per the specifications of subsection (f) hereof and not exceeding the capacity of existing tanks. Replacement of underground tanks for regulated substances other than the above noted fuels and lubricants is not permitted.
 - (8) As part of the findings required under Chapter 1132: Administration, Process and Procedures, prior to issuance of a ~~Zoning Permit-Certificate of Zoning Compliance~~ or Certificate of Occupancy, the City Manager or his authorized designee shall utilize the hazard potential ranking system in 1122.198(i) to assist in the determination of intensity of use within this district. No substitutions of a nonconforming use shall be permitted which result in an increase of the hazard potential ranking on a parcel within this District. If the quantities of regulated substances initially exceed the de minimis quantities above, they shall be considered legally nonconforming. Such legally nonconforming quantities cannot be increased.
- (i) Hazard Potential Ranking System.
- (1) In order to assess the risk for potential groundwater contamination, a hazard ranking has been developed for various activities categorized by their Standard Industrial Classification (SIC) code. This ranking is based on the kind of materials commonly associated with each use looking only at the most critical hydrologic factors.
 - (2) The table on the following page lists the site hazard potential by land use activity (source) on a scale of one to nine, with one being a low hazard and nine a very high hazard. This rating is based on the intrinsic hazards posed by different land uses and is related to the materials commonly used or stored on the site or the types and amounts of wastes commonly discharged.

Table 1122-1948: Contaminated Hazard Potential Ranking - Classified by Source		
SIC Number	Description of Waste Source	Hazard Potential Initial Ranking
01	Agricultural Production - Crops	1 - 2
02	Agricultural Production - Livestock	
	021 Livestock, except Dairy, Poultry and Animal Specialties	(5 for feedlots)
	024 Dairy Farms	4
	025 Poultry and Eggs	4
	027 Animal Specialties	2 - 4
	029 General Farms, Primarily Livestock	2
10	Metal Mining	
	101 Iron Ores	4
	102 Copper Ores	6
	103 Lead and Zinc Ores	5
	104 Gold and Silver Ores	6
	105 Bauxite and Other Aluminum Ores	5
	106 Ferroalloy Ores except Vanadium	5
	108 Metal Ores Not Elsewhere Classified	5
	1092 Mercury Ore	6
	1094 Uranium - Radium - Vanadium Ores	7
	1099 Metal Ores Not Elsewhere Classified	5
11	Anthracite Mining	7
12	Bituminous Coal and Lignite Mining	7
13	Oil and Gas Extraction	
	131 Crude Petroleum and Natural Gas	7
	132 Natural Gas Liquids	7
	1381 Drilling Oil and Gas Wells	6
	1382 Oil and Gas Field Exploration Services	1
	1389 Oil and Gas Field Services Not Elsewhere Classified	Varies by Activity

Table 1122-1918: Contaminated Hazard Potential Ranking - Classified by Source		
SIC Number	Description of Waste Source	Hazard Potential Initial Ranking
14	Mining and Quarrying of Non-Metallic Minerals, Except Fuels	
	141 Dimension Stone	2
	142 Crushed and Broken Stone, Including Riprap	2
	144 Sand and Gravel	2
	145 Clay, Ceramic, and Refractory Minerals	2 - 5
	147 Chemical and Fertilizer Mineral Mining	4 - 7
	148 Nonmetallic Minerals Services	1 - 7
	149 Miscellaneous Nonmetallic Minerals, Except Fuels	2 - 5
16	Construction Other Than Building Construction	
	1629 Heavy Construction, Not Elsewhere Classified (Dredging, Especially in Salt Water)	4
20	Food and Kindred Products	
	201 Meat Products	3
	202 Dairy Products	2
	203 Canned and Preserved Fruits and Vegetables	4
	204 Grain Mill Products	2
	205 Bakery Products	2
	206 Sugar and Confectionary Products	2
	207 Fats and Oils	3
	208 Beverages	2 - 5
	209 Misc. Food Preparation and Kindred Products	2
22	Textile Mill Products, All Except Listings Below	
	223 Broad Woven Fabric Mills, Wool (including dyeing and finishing)	6
	226 Dyeing and Finishing Textiles, Except Wool Fabrics and Knit Goods	6
	2295 Coated Fabrics, Not Rubberized	6

Table 1122- 1918 : Contaminated Hazard Potential Ranking - Classified by Source		
SIC Number	Description of Waste Source	Hazard Potential Initial Ranking
24	Lumber and Wood Products, Except Furniture	
	241 Logging Camps and Logging Contractors	2
	242 Sawmills and Planing Mills	2
	2435 Hardwood Veneer and Plywood	4
	2436 Softwood Veneer and Plywood	4
	2439 Structural Wood Members, Not Elsewhere Classified (laminated wood-glue)	3
	2491 Wood Preserving	5
	2492 Particle Board	4
	2499 Wood Products, Not Elsewhere Classified	2 - 5
26	Paper and Allied Products	
	261 Pulp Mills	6
	262 Paper Mills Except Building Paper Mills	6
	263 Paperboard Mills	6
28	Chemicals and Allied Products	
	2812 Alkalies and Chlorine	7 - 9
	2813 Industrial Gases	-
	2816 Inorganic Pigments	3 - 8
	2819 Industrial Inorganic Chemicals Not Elsewhere Classified	3 - 9
	2821 Plastic Materials, Synthetic Resins and Non-vulcanizable Elastomers	6 - 8
	2822 Synthetic Rubber (Vulcanizable Elastomers)	6 - 8
	2923 Cellulose Man-Made Fibers	6 - 8
	2824 Synthetic Organic Fibers Except Cellulosic	6 - 8
	2831 Biological Products	6 - 9
	2833 Medicinal Chemicals and Botanical Products	3 - 8

Table 1122-1918: Contaminated Hazard Potential Ranking - Classified by Source		
SIC Number	Description of Waste Source	Hazard Potential Initial Ranking
28	2834 Pharmaceutical Preparations	6 - 9
	2841 Soap and Other Detergents, Except Specialty Cleaners	4 - 6
	2842 Specialty Cleaning, Polishing, and Sanitation Preparation	3 - 8
	2843 Surface Active Agents, Finishing Agents, Sulfonated Oils and Assistants	6 - 8
	2844 Perfumes, Cosmetics and Other Toilet Preparations	3 - 6
	2851 Paints, Varnishes, Lacquers, Enamels and Allied Products	5 - 8
	2861 Gum and Wood Chemicals	5 - 8
	2865 Cyclic (coal tar) Crudes, and Cyclic Intermediates, Dyes and Organic Pigments (Lakes and Toners)	6 - 9
	2869 Industrial Organic Chemicals Not Elsewhere Listed	3 - 9
	2873 Nitrogenous Fertilizers	7 - 8
	2874 Phosphatic Fertilizers	7 - 8
	2875 Fertilizer Mixing Only	5
	2879 Pesticides and Agricultural Chemicals, Not Elsewhere Listed	5 - 9
	2891 Adhesives and Sealants	5 - 8
	2892 Explosives	6 - 9
	2893 Printing Ink	2 - 5
	2895 Carbon Black	1 - 3
	2899 Chemicals and Chemical Preparations, Not Elsewhere Listed	3 - 9
29	Petroleum Refining and Related Industries	
	291 Petroleum Refining	8
	295 Paving and Roofing Materials	7
	299 Misc. Petroleum and Coal Products	7

Table 1122-1918: Contaminated Hazard Potential Ranking - Classified by Source

SIC Number	Description of Waste Source	Hazard Potential Initial Ranking
30	Rubber and Miscellaneous Plastics Products	
	301 Tires and Inner Tubes	6
	302 Rubber and Plastic Footwear	6
	303 Reclaimed Rubber	6
	304 Rubber and Plastic Hose and Belting	4
	306 Fabricated Rubber Products, Not Elsewhere Classified	4
31	Leather and Leather Products	
	311 Leather Tanning and Finishing	8
	(Remaining Three-Digit Code)	1 - 3
32	Stone, Clay, Glass and Concrete Products	
	321 Flat Glass	4
	322 Glass and Glassware, Pressed or Blown	4
	324 Cement, Hydraulic	3
	3274 Lime	3
	3291 Abrasive Products	3
	3292 Asbestos	3
	3293 Gaskets, Packing and Sealing Devices	3
33	Primary Metal Industries (Except as Noted Below)	3
	3312 Blast Furnaces, Steel Works and Rolling and Finishing Mills	6
	333 Primary Smelting and Refining of Nonferrous Metals	7
34	Fabricated Metal Products, Except Machinery and Transportation Equipment (Except as Noted Below)	5
	347 Coating, Engraving and Allied Services	8
	3482 Small Arms Ammunition	7
	3483 Ammunition, Except for Small Arms, Not Elsewhere Classified	7
	3489 Ordnance and Accessories, Not Elsewhere Classified	7
	349 Misc. Fabricated Metal Products	3 - 6

Table 1122-1918: Contaminated Hazard Potential Ranking - Classified by Source		
SIC Number	Description of Waste Source	Hazard Potential Initial Ranking
35	Machinery, Except Electrical	5 - 7
36	Electrical and Electronic Machinery, Equipment and Supplies (Except as Noted Below)	8
	3691 Storage Batteries	8
	3692 Primary Batteries, Dry and Wet	8
37	Transportation Equipment	5 - 8
38	Measuring, Analyzing and Controlling Instruments, Photographic, Medical and Optical Goods, Watches and Clocks (Except as Noted Below)	4 - 6
	386 Photographic Equipment and Supplies	7
39	Miscellaneous Manufacturing Industries	3 - 7
49	Electric, Gas and Sanitary Services	
	491 Electric Services	3 - 5
	492 Gas Production and Distribution	3
	494 Water Supply	2
	4952 Sewage Systems	2 - 5
	4953 Refuse Systems (Landfills)	5 - 9
	496 Steam Supply	2 - 4

- (3) Table 1122 19 below lists the hazard potential determined on the basis of materials known to be used, stored or disposed of at a specific site.

Table 1122-2019: Contaminant Hazard Potential Ranking Classified by Type		
Description	Hazard Potential Initial Ranking	ID Number *
Solids		
Ferrous Metals	1 -4	1100
Non-Ferrous Metals	1 - 7	1200
Resins, Plastics and Rubbers	2	1300
Wood and Paper Materials (except as noted below)	2	1400
Bark	4	1401
Textiles and Related Fibers	2	1500
Inert Materials (except as noted below)	2	1600
Sulfide Mineral-Bearing Mine Tailings	6	1601
Slag and Other Combustion Residues	5	1602
Rubble, Construction and Demolition Mixed Waste	3	1603
Animal Processing Wastes (except as noted below)	2 - 4	1700
Processed Skins, Hides and Leathers	6	1701
Dairy Wastes	4	1702
Live Animal Wastes - Raw Manures (Feedlots)	5	1703
Composts of Animal Waste	2 - 4	1704
Dead Animals	6	1705
Edible Fruit and Vegetable Remains - Putrescibles	2 - 3	1800
Liquids		
Organic Chemicals (must be chemically classified)		2000
Aliphatic (Fatty) Acids	3 - 5	2001
Aromatic (Benzene) Acids	7 - 8	2002
Resin Acids	--	2003
Alcohols	5 - 7	2004
Aliphatic Hydrocarbons (petroleum derivatives)	4 - 6	2005

Table 1122-2019: Contaminant Hazard Potential Ranking Classified by Type		
Description	Hazard Potential Initial Ranking	ID Number *
Aromatic Hydrocarbons (benzene derivatives)	6 - 8	2006
Sulfonated Hydrocarbons	7 - 8	2007
Halogenated Hydrocarbons	7 - 9	2008
Alkaloids	7 - 9	2009
Aliphatic Amines and Their Salts	1 - 4	2010
Anilines	6 - 8	2011
Pyridine	2 - 6	2012
Phenols	7 - 9	2013
Aldehydes	6 - 8	2014
Ketones	6 - 8	2015
Organic Sulfur Compounds (Sulfides, Mercaptans)	7 - 9	2016
Organometallic Compounds	7 - 9	2017
Cyanides	7 - 9	2018
Thiocyanides	2 - 6	2019
Sterols	-	2020
Sugars and Cellulose	1 - 4	2021
Esters	6 - 8	2022
Inorganic Chemicals (must be chemically classified)		2100
Mineral and Metal Acids	5 - 8	2101
Mineral and Metal Bases	5 - 8	2102
Metal Salts Including Heavy Metals	6 - 9	2103
Oxides	5 - 8	2104
Sulfides	5 - 8	2105
Carbon or Graphite	1 - 3	2106

Table 1122-~~2019~~: Contaminant Hazard Potential Ranking Classified by Type

Description	Hazard Potential Initial Ranking	ID Number *
Other Chemical Process Wastes not Previously Listed (Must be chemically classified)		2200
Inks	2 - 5	2201
Dyes	3 - 8	2202
Paints	5 - 8	2203
Adhesives	5 - 8	2204
Pharmaceutical Wastes	6 - 9	2205
Petrochemical Wastes	7 - 9	2206
Metal Treatment Wastes	7 - 9	2207
Solvents	6 - 9	2208
Agricultural Chemicals (Pesticides, Herbicides, Fungicides, etc.)	7 - 9	2209
Waxes and Tars	4 - 7	2210
Fermentation and Culture Wastes	2 - 5	2211
Oils, Including Gasoline, Fuel Oil, Etc.	5 - 8	2212
Soaps and Detergents	4 - 6	2213
Other Organic or Inorganic Chemicals, includes Radioactive Wastes	4 - 8	2300
Conventional Treatment Process		
Municipal Sludges		
From Biological Sewage Treatment	4 - 8	2301
From Water Treatment and Conditioning Plants (must be chemically classified)	2 - 5	2302
<p>* ID Number is for identification of waste types in the Reporting Form.</p> <p>1. Classification based on material in Environmental Protection Agency Publication, 670-2-75-024, pp. 79-85, prepared by Arthur D. Little, Inc., and published in 1975.</p> <p>2. For individual material ranking, refer to solubility-toxicity tables prepared by Versar, Inc., for the Environmental Protection Agency (source: MDNR, June 1980).</p> <p>Source: WMSRDC. A Pollutant Nature Sampling Plan for Groundwater Contamination in Region 14 (Muskegon, Mich.: West Michigan Shoreline Regional Development Commission, November 1980).</p>		

If the two tables referenced above indicate different site hazard potential ratings for the SIC-coded land use activity and the materials found on-site, the higher of the two scores is the rating for the site.

(j) Enforcement Provisions

(1) Scope.

- A. The provisions of this chapter shall be effective within the "WP" Well Field Protection Overlay District, except as otherwise provided. This chapter provides for pollution control safeguarding the public water supply.
- B. Nothing contained in this chapter shall be construed so as to interfere with any existing or future lawful requirements that may be, or heretofore were, imposed by any other public body authorized to enact sanitary, health or water pollution abatement restrictions so long as such requirements are consistent with, or more stringent than, the stated purpose of this chapter.

(2) Administration. Except as otherwise provided herein, the City Manager or his or her designee, hereinafter referred to as the City Manager, shall administer, implement, and enforce the provisions of this chapter.

(3) Notice of Violation.

- A. Any person found in violation of any provision of this chapter or any order, requirement, rule, or regulation issued under the authority of this chapter shall be served with a written notice stating the nature of the violation and providing reasonable time for compliance; provided however, written notice of violation may be dispensed with under the conditions described in subsection (7)(B) hereof and provided further, that if the City Manager has previously promulgated a schedule of compliance or issued an order addressing the same type of or a similar violation and the time for compliance has passed, the City Manager may dispense with establishing another time period for compliance.
- B. The notice shall be served in the manner provided by law for the service of civil process. Where the address of the violator is unknown, service may be made upon the owner of the property involved at the tax-mailing address of the owner as shown on the County tax record.

(4) Inspections. Subject to applicable provisions of law, the City Manager or authorized designee bearing proper identification, shall be permitted to enter private property at any reasonable time, with reasonable cause or with prior notification, for such purposes as inspection, observation, measurement, sampling and records examination pertaining to the requirements of this chapter to ensure that activities are in accordance with the provisions of this chapter. Upon request of the entity which is the subject of the inspection, and if permitted by the State Public Records Law, information obtained as a result of the inspection shall be maintained as confidential. If the owner or tenant does not consent to the entry of the City Manager for the above stated purposes, the City Manager may apply to a court of competent jurisdiction for an appropriate warrant or other authority to enter such property.

- (5) Handling of Regulated Substances.
- A. No person shall place, deposit or permit to be deposited, store, process, use, produce, dispose of, transport or discharge, hereinafter referred to as "handle", any regulated substance on public or private property within the City or in any area under the jurisdiction of the City except as provided by law, statute, ordinance, rule or regulation.
- B. Any violation of this subsection 1122.198(j)(5) is hereby determined to be a nuisance and must be abated.
- (6) Underground Storage Tanks Declared to Constitute Dangerous Nuisances.
- A. With the exception of the underground storage of fuel and lubricants for vehicular operations and fuel for building heating and/or process heating in conjunction with permitted and conditional uses in this district, any storage of regulated substances in underground storage tanks within the "WP" Well Field Protection Overlay District shall be deemed to constitute a dangerous nuisance. Every such nuisance shall be abated no later than five years from the effective date of this chapter.
- B. With the exception of residential use of home heating fuel in tanks having a capacity equal to or less than 500 gallons, any underground storage tank systems for vehicle fuel and lubricants and fuel for building and/or process heating within the "WP" Well Field Protection Overlay District not removed within five years from the effective date of this chapter shall be secondarily contained and monitored in accordance with plans submitted to and approved by the City Manager or authorized designee and the City Fire Department.
- (7) Reporting Requirements.
- A. Regulated Substance Activity Inventory.
- i. Applicability
- a. Except as provided in subsection 1122.198(j)(7)A.ii, hereof, any owner or occupant of any land in the "WP" Well Field Protection Overlay District at the effective date of this chapter, shall file a Regulated Substance Activity Inventory Report with the City Manager or his authorized designee. Such Report shall be filed within 180 days of the effective date of this chapter and at twenty-four month intervals thereafter.
- b. Except as provided in subsection 1122.198(j)(7)A.ii, hereof, any new owner or occupant of any land in the "WP" Well Field Protection Overlay District shall file a Regulated Substance Activity Inventory Report prior to receipt of a Zoning Permit Certificate of Zoning Compliance or a Certificate of Occupancy and at twenty-four month intervals following the date of occupancy. For purposes of this subsection, "new" shall be defined as subsequent to the effective date of this chapter.

- c. Where a person owns, operates or occupies more than one location, Regulated Substance Activity Inventory Reports shall be made for each location.
 - d. Agricultural uses shall file a Regulated Substance Activity Inventory Report within 180 days of the effective date of this chapter and at twelve month intervals thereafter. Regulated Substance Activity Inventory Reports for agricultural uses shall include total annual on-site application of regulated substances for the reporting property.
- ii. Exclusions to Activity Inventory Reporting
 - a. Any exclusion set forth in this subsection shall apply provided that such exclusion does not substantially increase any risk or hazard to the public health or water supply, wells or well fields; and provided further that any spill, leak, discharge or mishandling shall be subject to the provisions of subsection 1122.198(j)(7)B, hereof. Any exclusion granted herein shall not remove or limit the liability and responsibility of any person or activity involved.
 - b. A limited exclusion from Regulated Substance Activity Inventory reporting is hereby authorized for incidental uses of regulated substances provided the uses are limited as follows:
 - 1. The aggregate of regulated substances in use may not exceed twenty gallons or 160 pounds at any time.
 - 2. The total use of regulated substances may not exceed fifty gallons or 400 pounds in any twelve-month period.
 - c. A limited exclusion from Regulated Substance Activity Inventory reporting is hereby authorized for non-routine maintenance or repair of property or equipment in the "WP" Well Field Protection Overlay District provided the uses are limited as follows:
 - 1. The aggregate of regulated substances in use may not exceed fifty gallons or 400 pounds at any time.
 - 2. The total use of regulated substances may not exceed 100 gallons or 800 pounds in any twelve month period.

- d. A limited exclusion from Regulated Substance Activity Inventory reporting is hereby authorized for regulated substances which are cleaning agents, provided however, such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public, and provided the aggregate inventory of such cleaning agents shall not exceed 100 gallons or 800 pounds at any time. In no case shall regulated substances claimed under the exclusion include hydrocarbon or halogenated hydrocarbon solvents.
- e. A limited exclusion from Regulated Substance Activity Inventory reporting is hereby authorized for medical and research laboratory uses in the "WP" Well Field Protection Overlay District, provided however, regulated substances shall be stored, handled or used in containers not to exceed five gallons or forty pounds of each substance and the aggregate inventory of regulated substances shall not exceed 250 gallons or 2,000 pounds.
- f. A limited exclusion from Regulated Substance Activity Inventory reporting is hereby authorized for the transportation of regulated substances through the WP Well Field Protection Overlay District provided that the transportation vehicle is in compliance with applicable local, State, and Federal laws and regulations; provided that the regulated substance is fueling the transportation vehicle; and provided that the transportation vehicle is in continuous transit, making delivery, or is stopped for a period of time not to exceed seventy-two hours.
- g. A limited exclusion from Regulated Substance Activity Inventory reporting is hereby authorized for owners and occupants of single or two family residences, provided however, the storage and use of regulated substances are related to the maintenance of the residence or vehicles under control of the occupant and provided waste regulated substances are appropriately disposed of to a permitted solid waste facility or a permitted publicly-owned wastewater treatment works.

- B. Spills, Leaks or Discharges.
 - i. Any person with direct knowledge of a spill, leak or discharge of a regulated substance within the "WP" Well Field Protection Overlay District shall, if such spill, leak or discharge escapes containment or contacts a pervious ground surface and is not immediately and completely remediated, give notice to the Public Works Director of the City or the operator on duty at the affected or potentially affected water treatment facility by telephone within thirty minutes. The notification shall include at a minimum, the location of the incident, name and telephone number, date and time thereof, type of substance(s), concentration and volume, and control or corrective action taken. Such notification shall in no way alleviate other local, State and Federal reporting obligations as required by law.
 - ii. The application of agricultural chemicals, fertilizers, mineral acids, organic sulphur compounds, etc., used in routine agricultural operations, including plant nutrients and crop protection materials, applied under Best Management Practices as indicated by soil tests, agricultural experts, or label directions approved by the United States EPA or the Ohio Department of Agriculture, shall not be considered a spill, leak or discharge subject to the reporting provisions of this subsection.
 - iii. Any entity or person who spills, leaks or discharges such substance(s) shall be liable for any reasonable expense, loss or damages incurred by the City in response to such an incident, in addition to the amount of any fines imposed on account thereof under State and Federal law; such entity or person shall document and maintain sufficient records so as to reflect accurately the circumstances related to any such incident and develop and implement procedures to substantially eliminate the likelihood of reoccurrence of such spills, leaks or discharges as soon as practicable following the incident, but no later than 180 days after the incident.
 - C. No person shall make any false statement, representation, or certification in any report or other document filed or required to be maintained pursuant to this chapter.
 - D. Any reports or records compiled or submitted pursuant to this subsection 1122.198(j)(7), shall be maintained by the user for a minimum of five years or so long as enforcement or judicial proceedings are being pursued, whichever is longer.
- (8) Public Water Supply Protection Authorities.
- A. If any activity or use of regulated substance is deemed by the City Manager or authorized designee to pose a real and present danger of contaminating surface and/or groundwater which would normally enter the public water supply, the City Manager, in accordance with Ohio R.C. 713.13, is authorized to:

- i. Cause cessation of such activity or use of the regulated substance;
 - ii. Require the provision of administrative controls and/or facilities sufficient to mitigate such danger; and/or
 - iii. Cause the provision of pollution control and/or abatement activities.
 - B. When considering the exercise of any of the above authorities or actions, the City Manager or authorized designee shall consult with the appropriate administrative official of any potentially affected protected public water supply. Such consultation shall determine what measures need to be taken to ensure the public water supply is reasonably and adequately protected from contamination for the present and the future. The City Manager may take into consideration any evidence represented by the entity regarding cost effectiveness and the economic effectiveness and the economic impact imposed by the requirements or actions.
 - C. The City Manager is authorized to exclude certain regulated substances that pose no threat to ground water, from the provisions of these regulations. Prior to authorizing the exemption of any regulated substance, the City Manager shall have such request for exemption reviewed by the Environmental Advisory Board. The recommendation of the Regional Environmental Advisory Board shall be binding on the City Manager.
 - D. Upon application for a Zoning Clearance Permit and/or Occupancy Certificate for a use within the "WP" Well Field Protection Overlay District, the City Manager may employ such technical expertise as needed to ensure compliance with the provisions of these regulations. All costs incurred in the compliance review process shall be passed through to the applicant and shall be in addition to those fees normally charged by the City to review an application for a Zoning Clearance Permit and/or Occupancy Certificate.
- (9) Well Field Protection Appeals Board.
- A. Any person may appeal an action of the City Manager made pursuant to this chapter by filing a notice of appeal within twenty-one days of such action and a statement of appeal within thirty days of the date that the order being appealed was issued. A notice of appeal shall include at a minimum, name, address, telephone number, date and a statement of intent to appeal.
 - B. A statement of appeal shall include all information contained in the notice of appeal, a description of the nature of the appeal and any pertinent documentation.
 - C. The Board of Zoning Appeals of the City shall hear Well Field Protection Overlay District appeals. Such Board shall have the authority to take appeals, investigate matters related to such appeals, deny, uphold or otherwise modify or waive the City Manager's actions on a case-by-case basis.

- D. No modification or waiver of the requirements of this chapter shall be authorized by the Board unless they find beyond a reasonable doubt, that all of the following facts and conditions exist:
- i. That there are exceptional circumstances regarding the property or its conforming uses which make enforcement of this chapter an unreasonable burden on the continuation of such conforming uses; and
 - ii. That the waiver or modification shall not increase the threat of contamination of the community's potable water supply. (Ord. 34-17. Effective 12-7-17.)

CHAPTER 1123
Planned Unit Development District

- 1123.01 Purpose.**
- 1123.02 Scope and applicability.**
- 1123.03 PUD review process.**
- 1123.04 Review criteria.**

- 1123.05 Permitted uses.**
- 1123.06 Development standards.**

1123.01 PURPOSE.

The purpose of the Planned Unit Development (PUD) District is to provide a means for encouraging ingenuity, imagination and flexibility in the planning and designing of land areas and permitting uses and intensities of development which could cause adverse impact in other zoning categories. The PUD regulations provide a controlled flexibility by utilizing objectives and performance standards rather than rigid design requirements, the intent being to encourage developments which possess greater amenities than that resulting under standard zoning district requirements. It is not the intent of the PUD to allow applications to circumvent the intent of the Zoning Ordinance to permit residential density, housing types, commercial or industrial uses, or street and utility layouts which are in conflict with the Comprehensive Land Use Plan of the City or the character of the area. It is furthermore the purpose of the PUD regulations to:

- (a) Encourage creative and high-quality developments that are compatible with surrounding land uses, achieve a high degree of pedestrian-vehicular separation; and contribute to the overall quality of Fairborn;
- (b) Protect natural features such as topography, trees, and drainage ways in the existing state as much as possible;
- (c) Provide for adequate and usable open space where there is a residential component to the proposed PUD;
- (d) Ensure that there are adequate services and infrastructure to serve the proposed development; and
- (e) Promote a harmonious design amongst the various elements and uses within the development while mitigating any potential negative impact on surrounding properties. (Ord. 34-17. Effective 12-7-17.)

1123.02 SCOPE AND APPLICABILITY.

(a) The intent of the PUD regulations is to provide a means for applying comprehensive and flexible planning and design techniques on properties substantially sized to accommodate such a plan. As such, all proposed developments on all lots or combination of lots five acres or more shall be rezoned to PUD. PUD proposals should not be applied to small areas as a means of bypassing traditional district regulations.

(b) Any Planned Development (PD) or PUD approved and constructed prior to the effective date of this amendment shall be rezoned to a PUD with any approved plans carrying forward. All future construction or changes shall comply with the applicable approved plan unless a modification is required, in which case, the modification shall be reviewed in accordance with this chapter.

(c) The Planning Board may authorize a PUD application on lots less than five acres where the proposed uses are of such a density or intensity that would not be otherwise permitted under a base zoning district in this code, but is otherwise envisioned as part of the comprehensive plan. (Ord. 21-19. Passed 4-1-19.)

1123.03 PUD REVIEW PROCESS.

(a) In order to submit an application for PUD review, the tract or tracts of land included within the proposed PUD shall be in one ownership or control or shall be subject to a joint application by the owners of all property included within the proposal.

(b) Review Procedure Options.

- (1) All applications shall be preceded by a pre-application conference pursuant to this chapter.
- (2) All applications that are not within a PUD Zoning District shall include a separate application for a rezoning. The Planning Board and Council shall approve the initial plans by ordinance using the notice and procedure requirements for rezoning in Chapter 1132: Administration, Process and Procedures.
- (3) All applications for PUD review shall be required to submit both a PUD Preliminary Plan and PUD Final Development Plan. Preliminary and final plans may be submitted and approved simultaneously where an application is for a tract or tracts of land that have a minimum acreage of five acres but is less than 25 acres in total project area.

(4) The minimum contents of the Preliminary Development Plan and Final Development Plan shall utilize the applicable Development Plan contents as provided for in Section 1133.03.

(c) Pre-application Conference.

- (1) Prior to submitting a PUD application, all potential applicants shall meet with the Development Services Department Preliminary and Final Plan contents, and any other City department which may have an interest in the project.
- (2) The purpose of the pre-application conference shall be to discuss the proposed development, review submittal requirements, and discuss compliance with the provisions of this Code prior to the submission of an application.
- (3) No action can be taken by the staff until the applicant submits an actual application and/or plan to the City pursuant to the requirements of this Code. Therefore, all discussions that occur between the applicant and/or applicant's representative(s) and staff that occur prior to the date applicant submits an actual application and/or plan including, but not limited to, any

informal meetings with City staff, boards, any pre-application conferences or meetings, are not binding on the City and do not constitute official assurances or representations by the City or its officials regarding any aspects of the plan or application discussed.

(d) PUD Review Procedure.

(1) Application (Preliminary Development Plan and Zoning Map Amendment)
The applicant shall submit an application in accordance with applicable requirements of this Code.

(2) Preliminary Development Plan and Zoning Map Amendment.

- A. The PUD Preliminary Development Plan approval procedure involves a zoning map amendment to rezone the subject property to a PUD with an approved PUD Preliminary Development Plan.
- B. The procedure for this stage shall comply with the requirements of Chapter 1132: Administration, Process and Procedures regarding zoning map amendments.
- C. The Planning Board shall review the PUD Preliminary Development Plan and make a recommendation to City Council to approve, approve with modifications, or deny the application. The recommendation shall be made based on review of the application using the criteria contained in this chapter.
- D. The Planning Board may, in its recommendation to City Council, require that the PUD Final Development Plan be submitted in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the PUD Preliminary Development Plan and phased development schedule.
- E. In accordance with the zoning map amendment review process, City Council shall hold a public hearing on the Preliminary Development Plan and PUD zoning map amendment and decide to approve, approve with modifications, or deny the application using the criteria contained in this chapter. If the application is approved, the area of land involved shall be rezoned as a PUD with a related, approved PUD Preliminary Development Plan.
- F. In making its recommendations or decisions, the Planning Board and/or City Council may impose such conditions of approval as are in its judgment necessary to insure conformity to the applicable criteria and standards. In so doing, the Planning Board and/or City Council may permit the applicant to revise the plan and resubmit it as a PUD Preliminary Development Plan within 60 days of such action. Such resubmission shall be made to the board that imposed such conditions.

(3) Final Development Plan Review.

- A. Within one year after the approval of the PUD Preliminary Development Plan, the applicant shall file a PUD Final Development Plan for the entire development, or when submitting in stages, as authorized by the Planning Board during the PUD Preliminary Development Plan review, for the first phase of the development.

- B. If more than one year passes from the date of approval of the PUD Preliminary Development Plan and the final PUD ~~development plan~~ Development Plan has not been submitted for approval or a request for an extension not to exceed one year has been filed with the Planning Board, the PUD Preliminary Development Plan shall be deemed expired and the applicant must resubmit such plan. In no case shall a PUD Preliminary Development Plan be valid for more than two years. After the PUD Preliminary Development Plan has expired, the PUD zoning designation shall remain in place but no development shall be authorized unless the property owner, or authorized agent, submits a new PUD Preliminary Development Plan for review pursuant to this chapter, or submits an application for a zoning map amendment to a base zoning district.
 - C. Preliminary subdivision plat approval may occur concurrently with the PUD Final Development Plan approval.
 - D. An applicant shall submit a PUD Final Development Plan for review. Upon determination by the Zoning Administrator that the PUD Final Development Plan submissions are complete, such plans shall be submitted to the Planning Board for review at its next regularly scheduled meeting, or at a special meeting.
 - E. The Planning Board will review the PUD Final Development Plan to determine whether it conforms to all substantial respects to the previously approved PUD Preliminary Development Plan and to all other applicable standards of this Code.
 - F. If submitting plats for subdivision review simultaneously with the PUD Final Development Plan, the plats shall be subject to all applicable subdivision standards and requirements including the applicable review process.
 - G. The Planning Board shall hold a public hearing on the PUD Final Development Plan and decide to approve, approve with modifications, or deny the application using the criteria contained in this chapter.
 - H. In its decision, the Planning Board may impose such conditions of approval as are in its judgment necessary to insure conformity to the applicable criteria and standards. In so doing, the Planning Board may permit the applicant to revise the plan and resubmit it as a PUD Final Development Plan within 60 days of such action. Such conditions shall be made a part of the terms under which the development is approved. Any violation of such conditions shall be deemed a violation of this section and no zoning ~~permit-permit~~ will be issued
- (4) Zoning Permit Issuance. Zoning permits shall not be issued until the lot or applicable subdivision has been fully recorded in the office of the Greene County Recorder's Office and public improvements have been installed in accordance with the applicable subdivision regulations.

(e) Time Limit.

- (1) Any PUD Final Development Plan shall be valid for a period of two years after the date of approval by the Planning Board. If no development has begun (development being defined as the start of construction of the required public/private improvements as shown on the approved PUD Final Development Plan for one or more phases of the project) in the PUD within two years from the date of approval, such approval shall lapse and be of no force and effect.
- (2) Two one-year extensions of the time limit set forth in Subsection (1) hereof, may be granted by the Planning Board if such extension is not in conflict with the most current comprehensive land use plan and that such extension is in the best interests of the entire community. The developer/owner shall apply for an extension and shall state the reason for the extension.
- (3) If an approved PUD Final Development Plan lapses as provided in Subsection (1) hereof, the originally approved PUD Preliminary Development Plan shall also be considered void. Notice of such lapse shall be filed by the Planning Board and forwarded to the City Council.
- (4) Voiding of the PUD preliminary and Final Development Plans shall not rezone the property. After such plans are voided, the Planning Board, City Council, or property owners may initiate a rezoning to a base zoning district in accordance with Chapter 1132: Administration, Process and Procedures or the property owner, or their agent, may resubmit a PUD Preliminary Development Plan in accordance with the procedures of this chapter.

(f) Waiver of Standards.

- (1) In order to encourage ingenuity, imagination and flexibility in the design of PUDs and prevent unnecessary hardships, the Planning Board may choose to waive specific standards cited in the Planned Unit Development provisions in this chapter. By motion, the Planning Board may waive specific standards based on one of two following findings:
 - A. The waiver will allow for improvement in overall design of the development and will enhance the proposal's compliance with the general criteria for approval in this chapter; or
 - B. The waiver will remedy a standard causing practical difficulty or unnecessary hardship to the property owner. The difficulty or hardship caused is due to exceptional circumstances applying to the property but not caused by the owner. The waiver is necessary for preservation of substantial property rights possessed by others in the same PUD District. After the waiver is approved the development will continue to comply with the general criteria for approval in this chapter.
- (2) The applicant shall identify each requested waiver at the time of application and explain in writing how the waiver meets one of the two findings. Prior to making an overall recommendation regarding the PUD application, the Planning Board shall, by motion, accept or reject the requested waiver. Any recommendation of the Planning Board shall be by a simple majority of the full membership of Planning Board.

- (3) If the waiver is denied by the Planning Board, any applicant whose property is included in the development proposal may appeal to Council within ten days of the Planning Board action taken. City Council shall take no final action on an overall application during this ten day period unless the application waives his right to appeal. After Council has held a public hearing upon the waiver, it may overrule the denial by the Planning Board, but only by a three-fourths vote of the full membership of City Council.
- (g) Changes to Approved PUDs.
 - (1) A PUD shall be constructed and completed in accordance with the approved PUD Final Development Plan and all supporting data. The PUD Final Development Plan and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees and assignees, and shall limit and control the use of premises (including the internal use of buildings and structures) and the location of structures in the planned unit development as set forth therein.
 - (2) Where a property owner on a lot in a PUD seeks a variance from the applicable standards for an individual property that will not apply to any other property in the PUD, the property owner shall request such variance in accordance with Chapter 1132: Administration, Process and Procedures.
 - (3) Any request to change or otherwise modify the approved PUD Final Development Plan as it applies to more than one property owner, shall be reviewed based on whether the change is considered major or minor, in accordance with this subsection.
 - (4) Major Change.
 - A. Major changes to a PUD require the prior approval of the Planning Board and the City Council in the same process, and with the same hears, as that used to review of the PUD Preliminary Development Plan. The Zoning Administrator shall have the authority to determine if a proposed change is a major change. Such changes include, but are not limited to:
 - i. Expansion of the PUD project beyond the original tract coverage;
 - ii. Removal or subtraction of land from the original tract coverage; and
 - iii. Proposed changes that will result in an increase in residential dwelling units of more than 5% of the total dwelling units proposed or an aggregate increase of more than 10% in nonresidential square footage.
 - B. Changes that require the approval of only the Planning Board at a public hearing include, but are not limited to, the following:
 - i. Changes in the site plan relative to the size and arrangement of buildings, the layout of streets or circulation patterns, the size, configuration and location of common open space, and changes in any approved elements of the PUD; and
 - ii. Amendments to the conditions that were attached to the PUD Preliminary Development Plan or PUD Final Development Plan approval.

(5) Minor Changes.

- A. Minor changes are those proposed by the developer/owner which do not disturb or affect the basic design and approved PUD Preliminary Development Plan and which are essentially technical in nature, as determined by the Zoning Administrator.
- B. Examples of minor changes include, but are not limited to, change in the intensity of lighting, changes in the size and location of water and sewer lines within approved easements and changes in the location and number of fire hydrants.
- C. The Zoning Administrator shall notify the Planning Board of all such approved minor changes.

(h) Limitation on Resubmission. Whenever an application for a PUD has been denied, no application for the same area or any portion thereof shall be filed by the same applicant within six months after the date of denial unless there has been a substantial change to the proposed application.

(i) Revocation.

- (1) In the event of a failure to comply with the approved plan or any prescribed condition or approval, including failure to comply with the stage development schedule, the Planning Board may, after notice and hearing, revoke the approval of the PUD Preliminary or Final Development Plan. The Planning Board shall at the same time recommend whether to maintain the PUD zoning district or the rezoning of the properties to another zoning district.
- (2) The revocation shall become final thirty days after Council passes an ordinance to rezone the property to a non-PUD zoning category or a decision by the Planning Board to revoke the approved plans but retain the PUD zoning.
- (3) Where the PUD zoning remains without an approved PUD Preliminary Development Plan or a PUD Final Development Plan, the property owner or agent shall be required to submit a new PUD Preliminary Development Plan in accordance with the review procedures of this chapter.

(j) Recording.

- (1) The developer shall submit the original drawing of the final record plat and all required fees and bonds to the City within 180 days of City Council approval or the final approval is null and void unless an extension is granted by the Zoning Administrator for up to 180 additional days.
- (2) The developer shall record the plat, at their own expense, with the Greene County Recorder within 30 days from the receipt of the original drawing and all required fees and bonds.
(Ord. 34-17. Effective 12-7-17.)

1123.04 REVIEW CRITERIA.

(a) General Review Criteria. All PUD applications shall be reviewed based on the following general criteria and the applicable review body shall consider such criteria in the creation of their specific findings of fact when making recommendations and decisions regarding PUD applications, especially for the review of the PUD Preliminary Development Plan:

- (1) The proposed development is in conformity with the goals, ~~policies, and~~ any applicable recommendations of the Fairborn Comprehensive Land Use Plan;
- (2) The proposed development meets the intent and spirit of the Zoning Ordinance and all other applicable City ordinances;
- (3) The development provides an environment of stable character that promotes a harmonious relationship between land uses within the site and a harmonious relationship with surrounding development, utilizing adequate buffers where necessary;
- (4) The proposed development provides a development pattern which preserves and utilizes the natural topography, geologic features, scenic vistas, natural vegetation and natural drainage patterns of the site;
- (5) The proposed development maximizes the opportunity for privacy within residential areas and minimizes nuisances between residential areas and other land uses;
- (6) The proposed development, while compatible with its surroundings, provides a more diverse environment for living, shopping and/or working than would be possible under strict application of the standard minimum design requirements of other districts provided within this Zoning Ordinance;
- (7) The proposed development promotes greater efficiency in the use of land and does not impose an undue burden on public services and facilities such as fire and police protection, schools, water supply and wastewater disposal due to excessive population densities;
- (8) The proposed development is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- (9) The proposed development is accessible from public thoroughfares adequate to accommodate the traffic which shall be imposed on them by the proposed development, and the proposed streets and parking areas within the site are adequate to serve the proposed arrangement of land uses;
- (10) The proposed development minimizes pedestrian, bicycle, and vehicle conflicts;
- (11) The proposed development provides a higher quality and more useful design of landscaping and open space and amenities than would normally be required under the strict application of existing zoning and subdivision requirements;
- (12) The proposed development contains such proposed covenants, easements, association by-laws and other such provisions as may reasonably be required for the public health, safety, and welfare;

- (13) The proposed development is designed in such a way that each individual section of the development as well as the total development, can exist as an independent section capable of creating an environment of sustained desirability and stability or that adequate assurance has been provided that such an objective shall be attained;
- (14) The proposed development can be substantially completed within the period of time specified in the schedule of development submitted by the developer; and
- (15) The PUD plans have been transmitted to all other agencies and departments charged with responsibility of review and any identified issues have been reasonably addressed by the applicant.

(b) Review Criteria for the PUD Final Development Plan. In addition to the General Review Criteria above, the following criteria shall serve as conditions that should generally be satisfied before the approval of the PUD Final Development Plan:

- (1) Where common open space is required, appropriate arrangements with the applicant have been made which will ensure the reservation of common open space as indicated on the PUD Preliminary Development Plan and PUD Final Development Plan. If deemed necessary by City Council during the PUD Preliminary Development Plan review process, City Council may require the applicant to hold bond to ensure the successful and proper reservation of open space. Furthermore, the PUD Final Development Plan shall demonstrate how the open spaces shall be duly transferred to a legally established homeowner's association or has been dedicated to the City or another public or quasi-public agency;
- (2) Appropriate agreements with the applicant have been made to ensure the proper completion of public improvements in compliance with Title Three (Subdivision Regulations) of the Codified Ordinances of Fairborn, Ohio;
- (3) The proposed PUD Final Development Plan for the individual section(s) of the overall PUD is consistent in contents (building location, land uses, densities and intensities, yard requirements, and area and frontage requirements) with the approved PUD Preliminary Development Plan;
- (4) Each individual phase of the development can exist as an independent unit that is capable of creating an environment of sustained desirability and stability, or that adequate assurance will be provided that such objective can be obtained;
- (5) That any exception from the design standards provided in the PUD Preliminary Development Plan is warranted by the design and amenities incorporated in the detailed PUD Final Development Plan;
- (6) That the internal streets and thoroughfares proposed are suitable and adequate to accommodate the anticipated traffic within and through the development; and
- (7) The PUD Final Development Plan has been transmitted to all other agencies and departments charged with responsibility of review.
(Ord. 34-17. Effective 12-7-17.)

1123.05 PERMITTED USES.(a) Principal Uses.

- (1) Only those uses listed in Chapter 1122, Use Districts, as a permitted use, whether permitted as-of-right or conditional, may be considered in the application of a PUD.
- (2) In general, any standards that applies to a specific use in Chapter 1128: Supplemental and Accessory Regulations shall also apply to those same uses in a PUD. However, the Planning Board and City Council may adjust or waive any of those use-specific standards.
- (3) As part of any approval, the Planning Board and/or City Council may restrict the uses permitted within an individual PUD.
- (4) No land or structure shall be used or occupied so as to create any nuisance or hazard involving fire, explosion, noise, vermin, brilliant light, vibration, smoke, dust, fumes, odor, heat, cold, disease, dampness, electrical or electronic disturbance, radiation and/or toxic agents.
- (5) Any changes in uses within an approved PUD shall be required to be reviewed as part of a major PUD amendment.

(b) Accessory Uses.

- (1) Unless otherwise allowed for in the approved plans, accessory uses associated with development in a PUD shall be allowed in accordance with the following:
 - A. Accessory uses permitted in the SR district shall be allowed for any single-family dwelling.
 - B. Accessory uses allowed in the MDR district shall be allowed for any two-family, three-family, or multi-family dwelling.
 - C. Accessory uses allowed in the GC and LI zoning districts shall be allowed for nonresidential uses.
- (2) Any allowed accessory uses shall still comply with the applicable accessory use standards established in Chapter 1128: Supplemental and Accessory Regulations.
- (3) As part of any approval, the Planning Board and/or City Council may restrict the accessory uses permitted within an individual PUD.
(Ord. 34-17. Effective 12-7-17.)

1123.06 DEVELOPMENT STANDARDS.(a) Minimum Site or Lot Requirements.

- (1) Yard, setback, lot size, type of dwelling unit, height, frontage and floor area requirements and related limitations, and use restrictions contained in other chapters of this Code, may be waived for a PUD, provided that the spirit and intent of this Code and this section are met as determined by the Planning Board and City Council.
- (2) Every building in a PUD shall have access either to a public street, walkway or other area dedicated to common use.
- (3) In PUDs with residential dwelling units, the privacy of future residents shall be assured by yards, creative building arrangements, screening and other design elements. At a minimum, residential dwellings shall meet the following standards in a PUD:

- A. The minimum distance between structures shall not be less than 15 feet or one-half the height of the higher structure, whichever is greater;
 - B. The minimum setback permitted from public rights-of-way shall be 25 feet for streets identified on the City Thoroughfare Plan or related plans for transportation in the City of Fairborn, and for streets designed to provide access to property adjoining the development;
 - C. Impervious surface coverage shall not exceed 33 percent of the total site, excluding public rights-of-way, except that variances from coverage requirements may be permitted when balanced by the provisions of additional amenities achieved by the amount, location, and improvement of open space and increased attention to storm water run-off and its detention. Coverage shall never exceed 50 percent except by the waiver procedure found in Section 1123.03(f): Waiver of Standards; and
 - D. Balconies, decks and patios shall be screened from each other in multiple family developments.
- (4) For developments without any residential component, the minimum spacing between interior buildings shall be subject to approval by the City, but in no case shall be less than 20 feet or one-half the height of the taller building whichever is greater. All buildings along the perimeter of a PUD that is larger than five acres in size shall be set back a minimum of 50 feet along any existing residential district, park, or school property, and 25 feet along any other district or property. These perimeter setbacks shall be doubled if the proposed use is classified as an "industrial, manufacturing and process" use in Section 1122.165(d): Permitted Uses in the LI District or Section 1122.165(e): Conditional Uses in the LI District. Perimeter setbacks may only be reduced using the waiver procedure found in Section 1123.03(f): Waiver of Standards.
- (b) Maximum Building Height Standards.
- (1) Residential buildings or mixed-use buildings that contain residential dwellings may exceed 35 feet only if the Planning Board determines the proposed building allows adequate fire emergency access and is of an appropriate scale to its surroundings.
 - (2) All other buildings shall not exceed 80 feet in height or the appropriate Airport Zoning Regulation, whichever is less.
- (c) Land Use Density and Intensity.
- (1) Final land use density and intensity of uses shall be subject to approval of the Planning Board and City Council during the PUD Preliminary Development Plan review.
 - (2) In general, the overall gross density of a residential component of a PUD shall comply with the Comprehensive Land Use Plan. Residential densities shall not exceed 17.5 dwellings units per gross acre for units with two bedrooms per unit or less. Residential densities shall not exceed 14.5 dwelling units per gross acres for units with three or more bedrooms per unit.

- (3) Increased net densities or lot coverage may be permitted by the Planning Board where it is satisfied that the applicant has provided a proportionate increase in the amount and amenity of common open space. Such density increases shall not exceed fifteen percent of the maximum densities established in this section.
- (4) For nonresidential uses, the overall intensity of development shall be compatible with the recommendations of the Comprehensive Land Use Plan and with the capacity of public streets, drainage facilities and utilities and not violate the following standards:
 - A. The impervious surface of the site shall not exceed 80% of the total site excluding public rights of way.
 - B. The aggregate floor area of all buildings shall not be greater than sixty percent of the total area of the site excluding public rights of way.
- (5) The preceding density guidelines may be varied at the discretion of the Planning Board and the City Council if it can be demonstrated that a variance to a guideline is necessary to achieve an improved site design, that surrounding neighborhoods and public facilities will not be adversely affected, and that a common open space will be provided. However, the approved density in the PUD shall not exceed more than 15% the density which is permitted in this section.
- (6) Where there are mixed-use structures that contain both residential and commercial or commercial and industrial uses, the applicant shall provide information indicating the appropriate use groups for various areas within such structures and type of construction separating them. No highly combustible, toxic or otherwise hazardous materials shall be permitted within residential areas of the development. In addition:
 - A. Adequate information shall be provided to the Fire Department and Building Inspection Division for each to determine that the mixed use building(s) shall meet State and local building and fire codes.
 - B. Adequate security shall be provided between uses in mixed-use structures. Interior common areas serving dwellings shall not be accessible to the public at large.

(d) Design and Development Standards. Where this Code provides for design and development standards not specifically addressed in this chapter, development within a PUD shall comply with the applicable standard.

- (1) Illumination.
 - A. Common parking areas and accessways shall be illuminated adequately with fixtures designed and installed so as to reflect light away from adjoining properties.
 - B. All development shall comply with the outdoor lighting requirements of Chapter 1125: Performance Standards.
- (2) Off-Street Parking and Loading. Adequate off-street parking shall be provided including provisions for guest parking. The Planning Board may require parking exceeding the requirements of Chapter 1130: Parking and Loading, when on-street parking will not be available to meet guest parking needs. The off-street parking and loading requirements may only be waived using the waiver procedure identified in Section 1123.03(f): Waiver of Standards.

- (3) Landscaping and Buffering.
- A. All PUDs shall comply with the applicable landscaping and buffering requirements of Chapter 1129: Screening, Buffer Yard, Landscaping and Fences, which shall be established as the minimum landscaping and buffering requirements.
 - B. The percentage of retained and proposed landscaped areas to total area shall not be less than 20 percent of the entire lot.
 - C. In general, all unpaved areas of a lot shall be landscaped or a bond or irrevocable letter of credit submitted to guarantee the installation of landscaping prior to occupancy of a principal building.
 - D. Every effort shall be made to preserve mature stands of trees and other natural features having intrinsic, aesthetic value.
 - E. Where this is not practical, attractive groupings of nursery materials shall be planned.
 - F. The amount of landscaping shall be comparable to the intensity of the development proposed. Particular care shall be taken to introduce trees and other landscaping into parking and other paved areas.
 - G. PUDs that contain nonresidential uses or residential uses of a higher density or intensity of adjacent residential uses shall be required to provide a permanent open space buffer consisting of mounding and vegetative plantings sufficient to protect the privacy and amenity of such adjoining areas. The buffer area shall be a minimum of 50 feet in width unless otherwise approved by the Planning Board through the waiver procedure of Section 1123.03(f): Waiver of Standards.
 - H. The buffer area shall be maintained by the land owner or owner association in such a manner as to insure its effectiveness.
 - I. Outdoor areas or containers holding or storing trash, garbage, recycled or reused materials shall be screened on three sides from adjoining properties, streets and other public areas. Such areas or containers shall be screened in accordance with this Code and shall include a decorative gate for access.
- (4) Signs. Signs shall be integrated into the building and landscaping plans so as to enhance the overall appearance while providing adequate identification of the development. The requirements of Chapter 1131: Signs may only be waived using the waiver procedure identified in Section 1123.03(f): Waiver of Standards.
- (5) Vehicular Access Points.
- A. The number of ingress and egress points shall be limited in order to reduce the number of potential accident locations with streets.
 - B. Adequate and properly arranged facilities for internal pedestrian and traffic circulations shall be provided.
 - C. Topography, landscaping and existing vegetative clusters shall be utilized as necessary to make the project attractive and provide buffers between areas of substantially different character.
 - D. The street and thoroughfare network shall be designed to minimize truck and through traffic passing through residential areas of the development, especially where dwelling units with two or more bedrooms are common.

- E. Truck loading areas shall be physically isolated from residences or enclosed.

(e) Improvement Standards.

- (1) Unless alternative standards are approved as part of the PUD approval process, all PUDs shall comply with the applicable subdivision improvement and design standards including, but not limited to, sidewalks, street design, drainage, and utilities.
 - A. All streets proposed within a PUD shall be public streets, dedicated to the City of Fairborn in accordance with the applicable subdivision regulations, unless otherwise approved by Planning Board and City Council as part of the PUD Preliminary Development Plan approval. In considering the approval of any application that proposes the use of private streets, the Planning Board and City Council shall consider the following:
 - i. All private streets shall be designed in accordance with the standards of the Subdivision Regulations except that curbs and gutters may be waived and street width reduced if adequate provision has been made for storm drainage, guest parking and for access by emergency vehicles and trash collection trucks.
 - ii. Private streets shall be oriented and designed to discourage through traffic movement.
 - iii. Private streets should not be designed for extension into any adjacent development or provide access to future development which may occur on adjacent undeveloped land;
 - iv. Private streets shall have no more than thirty residential properties per entrance to a public street.
 - v. Any development proposed containing private streets shall also contain a description of the method by which such streets are to be maintained, such as the by-laws of a homeowners' association.
- (2) In addition to any sidewalk requirements required by the applicable subdivision standards, any PUD that contains residential uses shall provide for adequate pedestrian walkways connecting residences to existing and proposed recreational facilities, schools, neighborhood shopping, other residential areas, and adjoining sidewalks.

(f) Common Open Spaces.

- (1) Common open space shall be required in all applications where there is a proposed PUD that contains any residential uses
- (2) The common open space requirements for a PUD shall be based on the proposed residential density and shall be in accordance with Table 1123 1.

Table 1123-1: Common Open Space Set-Aside

Proposed Residential Gross Density	Open Space Requirement
Under 4 dwelling units per acre	10% formal or informal
4 to less than 8 dwelling units per acre	10% total with a minimum of ½ of the set-aside established as formal
8 or more dwelling units per acre	5% formal

- (3) The open space shall be designed for the leisure and recreational use of the residents of the development.
- (4) The percentage of open space shall be based on the gross site area of the proposed project, including all rights-of-way.
- (5) When open space is required, such space shall be areas that have been improved for active use by residents or members of the public that may include, but is not limited to, in-ground swimming pools, playgrounds, tennis courts, jogging trails, or similar outdoor recreational uses.
- (6) The following areas shall not be counted toward compliance with open space requirements:
 - A. Private and public roads, and associated rights-of-way;
 - B. Public or private parking spaces, access ways, and driveways related to any residential use;
 - C. Required minimum spacing between buildings and required yard setbacks;
 - D. Vehicular use areas;
 - E. Land that is subject to pre-existing conservation easements or other similar protected open spaces;
 - F. Above-ground buildings, pipes, apparatus, and other equipment for community or individual use, septic or sewage disposal systems;
 - G. Substations, public utility easements;
 - H. Dry stormwater detention basins or facilities;
 - I. Leftover land that has no value for development and is not a natural resource (e.g., river or stream corridor, large forest stand, wetland) that contributes to the quality of the overall project, as determined by the Planning Board or Zoning Administrator, as may be applicable based on the review procedure.
- (7) All common open space shall be in accordance with the following:
 - A. The location, shape, size and character of common open space shall be suitable for the proposed residential uses in relation to the location, number and types of dwelling units it is intended to serve. In any case, it shall be highly accessible to all residents or users of the PUD;
 - B. The common open space shall be used for amenity and/or recreational purposes. Any uses and/or buildings authorized for the common open space must be appropriate to the scale and character of the PUD in relation to its size, density, expected population, topography and the type of dwellings;

- C. The common open space shall be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space shall be appropriate to the uses which are authorized for the common open space and shall conserve and enhance the amenities of the common open space with regard to its topography and unimproved condition; and
- D. Adequate provision shall be made for the long-term maintenance and/or operation of the open space and its improvements:
 - i. The proposed common open space may be conveyed to a public authority which agrees to maintain the common open space and any buildings, structures or improvements which have been placed on it. All land dedicated to the public shall meet the requirements of the appropriate authority as to size, shape and location. Public utility or other similar easements and rights of way for water course, other similar channels or for storm drainage facilities are not acceptable for common open space dedication unless such land or right of way is usable as a trail or other similar purpose and approved by the authority to which the land is dedicated; and
 - ii. The proposed open space may be conveyed to the trustees of a Homeowners' Association or similar organization formed for the maintenance of the planned development. The common open space may be conveyed by covenants under such an arrangement subject to approval by the Planning Board. Such covenants shall restrict the common open space to the uses specified on the PUD Final Development Plan and provide for the maintenance of common open space in a manner which assures its continuing use for its intended purpose.
(Ord. 34-17. Effective 12-7-17; Ord. 21-19. Passed 4-1-19.)

CHAPTER 1124
Nonconformities

- 1124.01 Intent.**
- 1124.02 Nonconforming lots of record.**
- 1124.03 Nonconforming uses of land.**
- 1124.04 Nonconforming structure.**
- 1124.05 Nonconforming uses of structures.**

1124.06 Repairs and maintenance.
1124.07 Uses under prior special permits deemed conforming uses.

1124.01 INTENT.

(a) Within the districts established by this Zoning Code or amendments thereto that may later be adopted there exist lots, structures and uses of land and structures which were lawful before this Zoning Code was passed or amended, but which would be prohibited under the terms of this Zoning Code or any future amendment.

(b) It is the intent of this Zoning Code to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Zoning Code that nonconforming uses shall not be enlarged upon, expanded nor extended, nor be used as a basis for additional structures or uses prohibited elsewhere in the same district. Structures which are nonconforming due to front, side or rear yard requirements may be expanded or extended in conformance with this Zoning Code. Variances of area, width, and yard requirements may be granted by the Board of Zoning Appeals where necessary and where such addition does not create an unusual neighborhood building type.

(c) To avoid undue hardship, nothing in this Zoning Code shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Zoning Code and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner, and demolition, elimination and removal of an existing structure in connection with such construction, provided that actual construction work shall be diligently carried on until the completion of the building involved.
(Ord. 34-17. Effective 12-7-17.)

1124.02 NONCONFORMING LOTS OF RECORD.

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Zoning Code, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Zoning Code. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of lot shall conform to the provisions of this Chapter.
(Ord. 34-17. Effective 12-7-17.)

1124.03 NONCONFORMING USES OF LAND.

Where, at the effective date of adoption or amendment of this Zoning Code, lawful use of land exists that is no longer permissible under the terms of this Zoning Code as enacted or amended, such use may be continued, so long as it remains otherwise lawful subject to the following provisions:

- (a) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Zoning Code.
- (b) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Zoning Code.
- (c) If any such nonconforming use of land ceases for any reason for a period of more than six months, any subsequent use of such land shall conform to the regulations specified by this Zoning Code, for the district in which such land is located.
- (d) Signs or display devices for uses of land not permitted in a zoning district shall not be increased in number or in size beyond the size allowed for conforming uses in the district. Signs used for commercial purposes shall not exceed the size of signs and locational requirements of the NC Neighborhood Commercial District.
(Ord. 34-17. Effective 12-7-17.)

1124.04 NONCONFORMING STRUCTURE.

If a lawful structure, or structures and land in combination, exists at the effective date of adoption or amendment of this Zoning Code that would not be allowed in the district under the terms of this Code, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (a) No such structure may be enlarged or altered in a way which increases the nonconformity.
- (b) Should such structure be destroyed by any means to an extent of more than 50% of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Zoning Code.
- (c) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved. (Ord. 34-17. Effective 12-7-17.)

1124.05 NONCONFORMING USES OF STRUCTURES.

If a lawful use of a structure, or of a structure and land in combination, exists at the effective date of adoption or amendment of this Zoning Code that would not be allowed in the district under the terms of this Code, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

- (a) No existing structure devoted to a use not permitted by this Zoning Code in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- (b) No additional signs or display devices may be attached to the building or placed on land outside the building.
- (c) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Zoning Code, but no such use shall be extended to occupy any land outside such building.
- (d) If no structural alterations are made, any nonconforming use of a structure, or structure and lands, may be changed to another nonconforming use provided that the Board of Zoning Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with the provisions of this Zoning Code.
- (e) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and any nonconforming use shall not thereafter be resumed.
- (f) When a nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for six consecutive months, the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- (g) When a nonconforming use status applies to a structure and land in combination, removal or destruction of the structure per Section 1124.04(b) shall eliminate the nonconforming status of the land.
(Ord. 34-17. Effective 12-7-17.)

1124.06 REPAIRS AND MAINTENANCE.

(a) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 10% of the current replacement value of the building, provided that the cubical content of the building as it existed at the time of passage or amendment of this Zoning Code shall not be increased.

(b) Nothing in this Zoning Code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any City official charged with protecting the public safety, upon order of such official.
(Ord. 34-17. Effective 12-7-17.)

1124.07 USES UNDER PRIOR SPECIAL PERMITS DEEMED CONFORMING USES.

Any use for which a special permit has been issued under a prior ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district under the conditions of such permit.
(Ord. 34-17. Effective 12-7-17.)

CHAPTER 1125
Performance Standards

- 1125.01** Compliance required.
- 1125.02** Performance standards
procedure.
- 1125.03** Health Department
enforcement.
- 1125.04** Nonconforming uses.

- 1125.05** Locations where determinations are to be made for enforcement of performance standards.
- 1125.06** Performance standard regulations.

1125.01 COMPLIANCE REQUIRED.

No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazards, including possible potential hazards; noise or vibration, smoke, dust, odor or other form of air pollution; heat, cold, dampness, electrical or other substance, condition or element in such a manner or in such amount as to adversely affect the surrounding area or adjoining premises; provided that any use permitted or not expressly prohibited by this Zoning Code may be undertaken and maintained if it conforms to the regulations of this chapter limiting dangerous and objectionable elements at the point of the determination of their existence.
(Ord. 34-17. Effective 12-7-17.)

1125.02 PERFORMANCE STANDARDS PROCEDURE.

All permitted uses as specified in Chapter 1122: Use Districts and Chapter 1123: Planned Unit Development District, shall comply with the performance standards procedure in this Chapter. In addition, the Zoning Administrator may, at their discretion, require any other use not specifically listed to comply with the performance standards procedure if such use is likely to violate the standards of this Chapter.
(Ord. 34-17. Effective 12-7-17.)

1125.03 HEALTH DEPARTMENT ENFORCEMENT.

The City Manager may request the County Health Department to assist the Zoning Administrator in the enforcement of the provisions of this chapter or in any investigation hereunder, as such assistance may be necessary and authorized by law.
(Ord. 34-17. Effective 12-7-17.)

1125.04 NONCONFORMING USES.

Certain uses established before the effective date of this Zoning Code and nonconforming as to performance standards shall be given a reasonable time in which to conform therewith as provided in Chapter 1124: Nonconformities.
(Ord. 34-17. Effective 12-7-17.)

1125.05 LOCATIONS WHERE DETERMINATIONS ARE TO BE MADE FOR ENFORCEMENT OF PERFORMANCE STANDARDS.

The determination of the existence of any dangerous or objectionable elements shall be made at the location of the use creating the same and at any points where the existence of such elements may be more apparent (herein referred to as "at any point"); provided, however, that the measurements necessary for enforcement of performance standards set forth in this Chapter shall be taken at different points in different zoning districts in relation to the establishment or use creating the element being measured (herein referred to as "point of measurement") as follows:

- (a) In any Residential District and "NTCR" and "NC" Districts: Twenty-five feet from the establishment or use, or at the lot line of the use if closer to the establishment or use.
- (b) In any Other District: At the boundary or boundaries of the district, or at any point within any Residential District.
(Ord. 34-17. Effective 12-7-17.)

1125.06 PERFORMANCE STANDARD REGULATIONS.

The following provisions, standards and specifications shall apply:

- (a) Air Pollution. No emission, dust, fume, mist, gas or vapor shall be permitted which can cause damage to health, animals, vegetation or other forms of property, or which can cause any excessive soiling, at any point as regulated by Air Pollution Control Regulation (A.P.C.R.) developed by Greene County General Health District (August 5, 1972 or as may be amended or replaced from time to time).
- (b) Liquid or Solid Wastes. No discharge shall occur at any point into any public sewer, private sewage disposal system, or stream, or into the ground, except in accordance with standards approved by the Greene County Health Department or the Ohio State Department of Health, or the U.S. Environmental Protection Agency, as may be applicable.
- (c) Fire & Explosive Hazards. Storage, utilization, or manufacture of free-burning or intense-burning solid or liquid materials or products shall be prohibited in all zoning districts. This prohibition shall apply also to materials producing flammable or explosive vapors or gases.
- (d) Electrical Disturbances. Activities emitting electrical disturbances affecting the operation of any equipment other than that of the creator of such disturbances shall be prohibited in all zoning districts.
- (e) Glare, Heat and Exterior Light. Any operation producing intense light or heat, such as high temperature processes like combustion or welding, shall be performed within an enclosed building. The operation shall not be visible beyond any lot line bounding the property whereon the use is conducted. No lighting shall be positioned so as to extend light or glare onto adjacent properties or right of ways.

(f) Noise.

(1) Noise levels shall not exceed the following A-weighted decibel (DbA) levels:

Table 1125-1: Allowable Noise Levels		
District	Exterior	Interior
Residential	60DbA - 7:00 am - 10:00 pm 55DbA - 10:00 pm - 7:00 am	45DbA
Commercial	70 DbA	45 DbA
Industrial	70 DbA	n/a
Public	65 DbA	n/a

(2) These noise levels shall not be exceeded for more than fifteen (15) minutes during any continuously monitored, typical, 24-hour period. Measurement shall be made from the edge of the zoning lot to the structure or noise source existing or proposed.

(g) Vibrations. No uses shall be located, and no equipment shall be installed, in such a way as to produce intense, earth-shaking vibrations which are discernible, without instruments, at the property lines of any premises.
(Ord. 34-17. Effective 12-7-17.)

CHAPTER 1126
Adult Uses

- 1126.01** Purpose and intent.
- 1126.02** Finding of facts.
- 1126.03** Where permitted and prohibited.
- 1126.04** Public nudity prohibited.

- 1126.05 Specified sexual activity prohibited.**
- 1126.06 General development and use standards.**
- 1126.07 Specific development and use standards.**

1126.01 PURPOSE AND INTENT.

It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the City of Fairborn, 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 ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this ordinance 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 ordinance to condone or legitimize the distribution of obscene material. Rather, this chapter is intended to provide for the proper location of adult uses in order to protect the integrity of adjacent neighborhoods, educational uses, religious uses, parks and other areas where large numbers of minors regularly travel or congregate, and the quality of urban life. Proper separation of adult uses prevents the creation of "skid-row" areas in the City of Fairborn, Ohio that results from the concentration of these uses and their patrons. It is the intent of this chapter to limit the secondary effects of adult uses. The standards in this chapter are intended to ensure that residential districts, religious uses, educational uses, parks and other areas where large numbers of minors regularly travel or congregate are located in areas free from the secondary effects of adult uses. The location of residential districts, religious uses, educational uses, parks and other areas where large numbers of minors regularly travel or congregate within viable, unblighted, and desirable areas supports the preservation of property values and promotes the health, safety and welfare of the public.
(Ord. 34-17. Effective 12-7-17.)

1126.02 FINDING OF FACTS.

Based upon various studies done on the effects of adult uses on the quality of community life, the recognition of the United States Supreme Court and the courts of Ohio that a city's regulation of the location of adult uses in order to preserve the quality of urban life constitutes a substantial government interest, and based upon the successful enactment and enforcement of similar ordinances throughout this state and other states, Council hereby finds that the enactment of a zoning ordinance to regulate the location of adult uses is a substantial government interest for the City of Fairborn in preserving the quality of urban life and that it is in the interest of the health, safety, morals, and general welfare of the citizens of Fairborn, Ohio that adult uses are regulated pursuant to the standards herein.
(Ord. 34-17. Effective 12-7-17.)

1126.03 WHERE PERMITTED AND PROHIBITED.

Adult uses, including but not limited to adult arcades, adult book stores, adult theaters, and adult cabarets shall meet the following requirements:

- (a) Adult uses are conditionally permitted in the LI Light Industrial District.
- (b) In no case shall an adult use be permitted as an accessory use.
- (c) All adult uses shall be contained entirely within an enclosed building.
- (d) An adult use shall not be located within a 1,000 foot radius of a residential zoning district or a parcel of land containing a religious institution, school, child care facility, nursing or retirement home, library, museum, park, swimming pool, playground, place of public amusement or other areas where large numbers of minors regularly travel or congregate, a hotel or motel, or any business that sells alcoholic beverages either packaged, by the glass or by other means, within or outside the city corporate limits.
 - (1) No more than one adult use shall be located in the same building or structure, or on the same parcel.
 - (2) An adult use shall not be located within a 1,000-foot radius of another adult use.
 - (3) No adult use shall be located within 1,000 feet of the property line of a parcel containing a legal nonconforming use.
- (e) For the purpose of Subsections 1126.03(d)(1) and 1126.03(d)(3), measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the principal building or structure or tenant space if located in a multi-tenant building used as the part of the premises where an adult use is operated, to the nearest Zoning District or property line of the premises of the non-adult use listed.
- (f) For the purpose of subsection 1126.03(d)(2) of this section, the distance between any two adult uses shall be measured in a straight line, without regard to the intervening structures or objects, from the closest exterior walls of the structure or tenant spaces if located in a multi-tenant building in which each adult use is located.
(Ord. 34-17. Effective 12-7-17.)

1126.04 PUBLIC NUDITY PROHIBITED.

"Nudity", as defined under Chapter 113~~43~~: Definitions, is prohibited in public areas of adult uses, except as permitted entirely within the confines of a cabaret stage, as defined in this Zoning Code and regulated by Section 1126.07. Any adult use which is found in violation of this Section shall have its permit suspended pursuant to the provisions of Section 701.10 of the Codified Ordinances of Fairborn in addition to any other penalty provided by law.
(Ord. 34-17. Effective 12-7-17.)

1126.05 SPECIFIED SEXUAL ACTIVITY PROHIBITED.

Any act of sexual intercourse, sexual conduct, or any other specified sexual activities as defined in Chapter 113~~43~~: Definitions, shall not be permitted to occur in or on the permitted premises of an adult use. (Ord. 34-17. Effective 12-7-17.)

1126.06 GENERAL DEVELOPMENT AND USE STANDARDS.

The following shall apply to all adult uses:

- (a) The interior of the adult use shall be adequately lighted and constructed so that every portion thereof is readily visible to the clerk or other supervisory personnel from the counter or other regulation station.
- (b) Lobby and entrance areas shall be designed so as to minimize obstruction during operating hours.
- (c) Advertisements, displays, or other promotional materials shall not be shown or exhibited so as to be visible to the public, from pedestrian sidewalks or walkways or public thoroughfares, or from other areas, public or semipublic; and such displays shall be considered signs.
- (d) Signs shall not advertise the presentation of any activity prohibited by Chapter 701 of the Codified Ordinances of Fairborn or other local or state regulation.
- (e) All building openings, entries, window, etc., shall be located, covered or screened in such a manner as to prevent a view into the interior from any public or semipublic areas. Adult drive-in theaters are expressly prohibited for their inability to obscure presentation of adult uses from neighboring properties and public thoroughfares.
- (f) No screens, loudspeakers or sound equipment shall be used for an adult use that can be seen or discerned by the general public from public or semipublic areas or public thoroughfares.
- (g) No adult use shall serve alcoholic beverages, either packaged, by the glass or by any other means, nor shall the adult use allow alcoholic beverages purchased at another location to be brought onto the premises.
- (h) Adult uses shall not be permitted to operate from the hours of 12:00 a.m. to 9:00 a.m. of any particular day.
- (i) No adult use shall be open at any time on any state or federal holiday.
- (j) No animals except seeing-eye, guide, hearing, and service dogs, and other animals trained to assist disabled individuals shall be permitted at any time at or in any adult use.
- (k) All restrooms shall be equipped with standard toilets, sinks, and other traditional lavatory facilities. No adult materials or live performances shall be provided or allowed at any time in the restrooms of an adult use. Separate male and female restrooms shall be provided for and used by employees and patrons.
- (l) The exterior building walls shall be a single achromatic color of white, gray or black.
- (m) Premise entries and off-street parking areas shall be illuminated from dusk until closing with a lighting system which provides an average maintained horizontal illumination of one foot candle of light on the parking surface and walkways.
- (n) Upon application for conditional use, the applicant(s) shall also comply with the licensing and permitting requirements for adult uses and their employees as specified in Chapter 701 of the City of Fairborn Codified Ordinances. Said licensing requirements shall be renewed annually. Failure to comply with licensing requirements shall be grounds for revocation of conditional use approval.

- (o) Floor coverings shall be nonporous, easily cleanable surfaces, with no rugs or carpeting.
- (p) Wall surfaces and seating surfaces in any room or area shall be constructed of, or permanently covered by nonporous easily cleanable material.
- (q) The floors, seats, walls and other public and private portions of any adult use shall be maintained clean and free from waste and bodily secretions. Presence of human excrement, urine, semen or saliva shall be evidence of improper maintenance and inadequate sanitary controls. Repeated instances of such conditions may justify suspension or revocation of the license to operate the adult use.
- (r) The operator of an adult use shall not permit any doors on the premises to be locked during business hours and, in addition, the operator shall be responsible to see that any room or area on the premises shall be readily accessible at all times and shall be open to view in its entirety for inspection by any law enforcement official.
- (s) Sufficient lighting shall be provided and equally distributed throughout public areas of the building interior so that all objects are plainly visible at all times. A minimum lighting level of not less than 100 lux horizontal, measured at 30 inches from the floor and on 10-foot centers shall be maintained at all times for all areas where adult use patrons are admitted.
(Ord. 34-17. Effective 12-7-17.)

1126.07 SPECIFIC DEVELOPMENT AND USE STANDARDS.

- (a) Specific Requirements for Adult Cabarets.
 - (1) The adult cabaret shall provide a separate employee entrance and exit.
 - (2) Adult cabaret shall provide dressing room facilities that are exclusively dedicated to the employees' use.
 - (3) The performance area of an adult cabaret shall be limited to one or more stages or platforms permanently anchored to the floor (a "cabaret stage").
 - A. The cabaret stage shall be visible immediately upon entering the premise's seating area and shall be visible to an operator at all times. The cabaret stage shall not be blocked or obstructed by a door, curtain, drape or any other obstruction.
 - B. Each cabaret stage shall be at least 18 inches in elevation above the level of the patron seating areas and shall be separated by a distance of at least six feet from all areas of the premises to which patrons have access. A continuous railing, at least three feet in height and located at least six feet from all points of the stage, shall separate the stage from seating areas for patrons.
 - C. The adult use shall provide permanent access for employees between the cabaret stage and employee dressing room facilities that are completely separated from the patrons. If the separate access is not physically feasible, the adult use shall provide a minimum four-foot-wide walk aisle for entertainers between the dressing room facilities and the cabaret stage, with a permanent rail system or other barrier separating the patrons and the employees using the stage to prevent any physical contact between patrons and the employees. Fixed rail(s) at least 30 inches in height shall be installed and permanently maintained, establishing the required separations between the entertainers and patrons.

- D. No adult use patron shall offer, and no adult use employee having performed on any Cabaret Stage shall accept any form of tip or gratuity offered directly or personally to the employee by the adult use patron. Rather, all tips and gratuities to adult use employees performing on any cabaret stage shall be placed into a receptacle provided for receipt of such tips and gratuities by the adult use. Said receptacle shall be located at least six feet from all points of the stage. Tips shall only be collected and distributed by the operator or designated employee.
- E. A sign at least two feet by two feet, with letters of at least one inch high shall be conspicuously displayed on or adjacent to every cabaret stage stating the following:

THIS ADULT CABARET IS REGULATED BY THE CITY OF FAIRBORN.
EMPLOYEES ARE:

1. NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT.
2. NOT PERMITTED TO ACCEPT ANY TIPS DIRECTLY OR PERSONALLY FROM PATRONS. ANY SUCH TIPS MUST BE PLACED INTO THE RECEPTACLE PROVIDED BY MANAGEMENT.
3. NOT PERMITTED TO ENGAGE IN ANY LAP DANCE OR PRIVATE PERFORMANCE.
4. NOT PERMITTED TO ENGAGE IN ANY OTHER PUBLIC DANCE, PUBLIC PERFORMANCE OR EXHIBITION UNLESS CONDUCTED ENTIRELY WITHIN THE CONFINES OF A CABARET STAGE.
5. NOT PERMITTED TO APPEAR IN A STATE OF PUBLIC NUDITY.

- F. Prohibited Activities. It shall be unlawful for an operator of an adult cabaret or other adult use to knowingly or with reason to know, permit, suffer or allow any employee:
- i. To engage in a lap dance or private performance with a person at the establishment; or to contract or otherwise agree with a person to engage in a lap dance or private performance with a person at the establishment; or
 - ii. To engage in any other public dance, public performance or exhibition unless conducted on a cabaret stage as defined and regulated by Section 1126.07(a)(3); or
 - iii. To contract or otherwise agree with a person to engage in any specified sexual activity at the establishment; or
 - iv. To display or expose any specified anatomical area while simulating any specified sexual activity with any other person at the establishment, including with another employee; or
 - v. To allow any person to touch any portion of a clothed or unclothed body below the neck and above the knee, excluding that part of the employee's arm below the wrist, commonly referred to as the hand; or
 - vi. To appear in a state of semi-nudity unless such person is entirely within the confines of a cabaret stage; or

- vii. To intentionally touch the clothed or unclothed body of any person at the adult use, excluding another employee, at any point below the neck and above the knee of the person, excluding that part of the person's arm below the wrist, commonly referred to as the hand.
- viii. An adult cabaret shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room.
- ix. An adult cabaret shall provide and display to the public, at a place near the main entrance of the establishment, information, brochures or pamphlets available from the Greene County Health Department specific to AIDS and other sexually transmitted diseases.

(b) Specific Requirements for Adult Arcades, Adult Bookstores, Adult Novelty Stores and Adult Video Stores.

- (1) Window areas for adult arcades and stores shall not be covered or obstructed in any way.
- (2) Any and all sexually oriented materials or sexually oriented merchandise characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" discarded by any adult use shall be fully contained within a locked garbage receptacle at all times so that minors are not exposed to said materials or merchandise.
- (3) Such adult uses shall provide and display to the public, at a place near the main entrance of the establishment, information, brochures or pamphlets available from the Greene County Health Department specific to AIDS and other sexually transmitted diseases.

(c) Specific Requirements for Adult Theaters.

- (1) Seating. Each adult theater shall provide seating only in individual chairs with arms or in seats separated from each other by immovable arms and not on couches, benches, or any other multiple person seating structures. The number of seats shall equal the maximum number of persons who may occupy the adult theater.
- (2) Aisles. Each adult theater shall have a continuous main aisle alongside the seating area in order that each person seated in the adult theater shall be visible from the aisle at all times.
- (3) Signage. Each adult theater shall have a sign posted in a conspicuous place at or near each entranceway to the auditorium or similar area that lists the maximum number of persons who may occupy the auditorium area, which number shall not exceed the number of seats in the auditorium area.
- (4) An adult theater shall provide and display to the public, at a place near the main entrance of the establishment, information, brochures or pamphlets available from the Greene County Health Department specific to AIDS and other sexually transmitted diseases.

(d) Specific Requirements for Adult Uses with Booths. Adult theaters and other adult uses that contain booths for the display of films, motion pictures, video cassettes, DVDs, slides, or other visual representations, shall comply with the following provisions:

- (1) Have a sign posted in a conspicuous place at or near the entrance way which states that only one person may occupy the booth;
 - (2) Have a permanently open entrance way for each booth not less than three feet- two inches wide and not less than seven feet high, which shall never be closed or partially closed by any curtain, door or other partition which would be capable of wholly or partially obscuring any person situated in the booth; no curtains, doors or other partitions shall be affixed, attached or connected to the permanently open entrance way of any booth;
 - (3) Have one individual seat, not a couch, bench or the like;
 - (4) Have a continuous main aisle alongside the booth in order that each person situated in the booth shall be visible from the aisle at all times;
 - (5) Have, except for the open entrance way for each, for each booth walls or partitions of solid construction without any holes or openings in such walls or partitions; and
 - (6) Such adult uses shall provide and display to the public, at a place near the main entrance of the establishment, information, brochures or pamphlets available from the Greene County Health Department specific to aids and other sexually transmitted diseases.
- (e) Specific Requirements for Nude Modeling Studios.
- (1) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room or area open to the public.
 - (2) A nude model studio shall provide and display to the public, at a place near the main entrance of the establishment, information, brochures or pamphlets available from the Greene County Health Department specific to AIDS and other sexually transmitted diseases.
(Ord. 34-17. Effective 12-7-17.)

CHAPTER 1127
Wireless Telecommunication Facilities

- 1127.01 Purpose.**
- 1127.02 Standards applicable to all wireless telecommunications facilities.**
- 1127.03 Co-location requirements.**
- 1127.04 Permitted and accessory uses in all zoning districts.**
- 1127.05 Locations in Agricultural Districts.**

- 1127.06 Locations in residential districts.
- 1127.07 Locations in office, commercial and industrial districts.
- 1127.08 Abandonment of tower.
- 1127.09 Application and review requirements.

1127.01 PURPOSE.

(a) The purpose of this chapter is to regulate the placement, construction, and modification of wireless telecommunication facilities and their support structures within appropriate areas of the City of Fairborn in order to protect the public health, safety and welfare, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the Miami Valley Region. Specifically, the purposes of the chapter are:

- (1) To protect residential areas and all land uses from potential adverse impacts of towers and wireless telecommunications facilities, through careful design siting, landscaping and innovative disguising techniques;
- (2) To promote and encourage shared use and co-location of towers and antenna support structures as a primary option rather than construction of additional single-use towers;
- (3) To avoid potential damage to adjacent properties caused by towers and wireless telecommunications facilities by ensuring such structures are soundly designed, constructed, and modified, are appropriately maintained, and are fully removed when abandoned; and
- (4) To the greatest extent feasible, ensure that towers and wireless telecommunications facilities are compatible with surrounding land uses, and are designed in harmony with natural settings and in a manner consistent with current development patterns.

(b) All towers, antenna support structures, and wireless telecommunication facilities, any portion of which is located within Fairborn, are subject to this chapter. Except as provided in this chapter, any use of an existing tower or antenna support structure on the effective date of this chapter shall be deemed a nonconforming structure and allowed to continue, even if in conflict with the terms of this chapter.
(Ord. 34-17. Effective 12-7-17.)

**1127.02 STANDARDS APPLICABLE TO ALL WIRELESS
TELECOMMUNICATIONS FACILITIES.**

(a) Construction Standards. All wireless telecommunication facilities and support structures shall be certified by an Engineer licensed in the State of Ohio to be structurally sound and, at a minimum, in conformance with the Ohio Basic Building Code.

(b) Natural Resource Protection Standards. The location of the wireless telecommunication facilities shall comply with all natural resource protection standards established either in this Zoning Ordinance or in other applicable regulations, including those for flood plains, wetlands, groundwater protection, and steep slopes.

(c) Historic or Architectural Standards Compliance. Any application to locate a wireless telecommunication facilities on a building or structure that is listed on a federal, state, or local historic register, or is in a historic district established by Fairborn, shall be subject to review by the appropriate review board. If there is no such review board, the Zoning Administrator shall review the request to ensure architectural and design standards are maintained.

(d) Color and Appearance Standards. All towers shall be monopole construction unless specifically approved otherwise. All towers and wireless telecommunication facilities to which they are attached shall be painted a non-contrasting gray or similar color minimizing its visibility, unless otherwise required by the Federal Communications Commission, Federal Aviation Administration and by historical or architectural standards imposed under 1127.02(c): Historic or Architectural Standards Compliance, of this Zoning Ordinance. All appurtenances shall be aesthetically and architecturally compatible with the surrounding environment by means of disguise deemed acceptable by Fairborn. This compatibility shall be measured against recommendations provided in the Fairborn Wireless Communications Plan.

(e) Advertising Prohibited. No advertising is permitted anywhere upon or attached to the wireless telecommunications facility. An exception may be considered if the tower or antenna support structure is principally designed to be utilized for purposes other than operation of the wireless telecommunications facility.

(f) Artificial Lighting Restricted. No wireless telecommunication facility shall be artificially lit for safety purposes except as required by the Federal Aviation Administration. When required by FAA, a red by night, white by day lighting system shall be utilized. An exception may be considered if the tower or antenna support structure is designed to be utilized for purposes other than operation of the wireless telecommunications facility and the lighting is a decorative component of that additional purpose.

(g) Co-location. All wireless telecommunication facilities shall be subject to the co-location requirements set forth in Section 1127.03: Co-Location Requirements, of this Zoning Code.

(h) Abandonment. All wireless telecommunication facilities shall be subject to the abandonment requirements set forth in Section 1127.08: Abandonment of Tower.

(i) Setback from Edge of Roof. Any wireless telecommunication facilities and related appurtenances permitted on the roof of a building shall be set back one foot from the edge of the roof for each one foot in height of the wireless telecommunication facility. However, this setback requirement shall not apply to antennas that are less than two inches in thickness mounted on the sides of antenna support structures and do not protrude more than six inches from the side of such an antenna support structure. This requirement is subject to change, upon the review of the photo simulation provided in compliance with Section 1127.09: Application and Review Requirements.

(j) Security Enclosure Requirements. All towers and equipment shelters are not encouraged except in areas with isolated visibility or sites with concern for accessibility by the public, as determined by the City of Fairborn. The City of Fairborn and co-locators shall have reasonable access. No fence shall be required on top of a building or other structure if access to the roof or top of the structure or building is secure.

(k) Existing Vegetation and Buffer Plantings. Existing vegetation (trees, shrubs, etc.) shall be preserved to the maximum extent possible. Buffer plantings shall be located around the perimeter of the security enclosure or lease hold sufficient to screen offensive views and structures. An evergreen screen may be required around the perimeter of the property in lieu of such buffer plantings.

(l) Access Control and Emergency Contract. "No Trespassing" signs shall be posted around the wireless telecommunications facility, along with a telephone number of who to contact in the event of an emergency. These signs should not exceed two square feet in sign area.

(m) Utility Connections. All public utility service connections to be constructed to the wireless communications facility shall be buried underground from the point of the public transmission supply line.

(n) Vehicular Access and Parking. All vehicular access routes, and a minimum of one vehicular parking space to be provided, shall be a paved surface.

(o) Equipment Shelters. Equipment shelters shall be constructed as an underground vault or as a building complimentary in style and materials to neighboring buildings. Typically, the building shall be of masonry construction with residential-styled roof systems. An exception to permit industrialized units may be considered when the shelter is not visible from residential neighborhoods, public streets, or parking areas of customers or visitors of the proposed site.

(p) Facilities Located on Public Lands, Railroads and Road Right-of-Ways. When a wireless telecommunication facility is located on land owned by any government entity or railroad, for public purposes or railroads, the facilities shall comply with all requirement and procedures for the underlying zoning district, or in the case of railroads, the most stringent zoning district immediately adjacent to the proposed site and subject to the standards in Section 1127.04: Permitted and Accessory Uses in All Zoning Districts.

(q) Facilities Located within Right-of-Ways. A wireless telecommunications facility shall be permitted to be located on pre-existing electric, telephone, traffic signal, street light poles or fixtures, be served with underground wire or cable only, and require a permit from the Division of Engineering.

(r) Minimum Distance Requirements Between Towers. Towers proposed to be constructed solely for the purpose of locating a wireless telecommunication facilities shall be a minimum of a 2,000-foot radius from all adjacent towers.
(Ord. 34-17. Effective 12-7-17.)

1127.03 CO-LOCATION REQUIREMENTS.

(a) Jurisdiction Study of Potential Public Sites. In order to encourage the location of a wireless telecommunication facility on publicly-owned property, the Planning Board shall undertake an identification of publicly-owned properties that the Board determines are suitable for such use. The Zoning Administrator shall regularly update such identification and make the results of such available to the public.

(b) Exemption from Proof of Co-Location Availability. Persons locating a wireless telecommunication facility upon a publicly-owned property identified in the study mentioned in Section 1127.03(a): Jurisdiction Study of Potential Public Sites, above shall be exempted from the requirements herein regarding presentation of proof that co-location is not available. However, persons locating a wireless telecommunication facility on publicly-owned property shall continue to be subject to the requirements contained in Section 1127.03(d): Technically Suitable Space, below.

(c) Co-Location Design Required. No new tower shall be constructed in the City of Fairborn unless such tower is capable of accommodating at least one additional wireless telecommunication facility owned by another entity if less than 100 feet in height and at least two additional facilities if over 100 feet in height. Approval of any new tower shall be granted only subject to the tower owner agreeing to allow such future co-locations to occur if requested. Lease holds or lots shall be of sufficient size to accommodate all potential wireless telecommunication facilities proposed at the site.

(d) Technically Suitable Space. Authorization for a tower shall be issued only if there is not technically suitable space reasonably available on an existing tower or structure within the geographic area to be served.

(e) Application Requirements. With the permit application, the applicant shall list the location of every tower, building, or structure within approximately one mile that could support the proposed antenna. The applicant must demonstrate that a technically suitable location is not reasonably available on an existing tower, antenna support structure, building, or structure within such area. If another communication tower owned by another party within such area is technically suitable, applicant must show that an offer was made to the owner of such tower to co-locate an antenna on a tower owned by the applicant on reciprocal terms within the applicant's entire service area, and the offer was not accepted. If such co-location offer has not been attempted by the applicant, then such other tower is presumed to be reasonably available.
(Ord. 34-17. Effective 12-7-17.)

1127.04 PERMITTED AND ACCESSORY USES IN ALL ZONING DISTRICTS.

(a) Permitted Principal Uses. The following wireless telecommunication facilities are permitted as a principal use upon a lot, in any zoning district, subject to the following siting requirements:

- (1) A wireless telecommunication facility shall be permitted when physically attached to or contained within the principal structure on the lot.
- (2) A wireless telecommunication facility shall be permitted to be located on a pre-existing electric, telephone, street light poles, or fixtures, provided that said facility meets only criteria (1) and (3) of Section 1127.04(b): Siting Requirements for Principal Uses.

(b) Siting Requirements for Principal Uses.

- (1) The maximum height of an antenna shall not exceed the lesser of the following:
 - A. Height of the existing principal structure by 20 feet;
 - B. Maximum height of the zoning district by 20 feet; or
 - C. Antenna greater in height shall require approval as a conditional use under the guidelines of the appropriate zoning district.
- (2) Antenna support structures shall meet the setback requirements of principal uses of the zoning district.
- (3) The minimum setbacks and yard requirements for principal structures shall apply and such shelter shall not be located above ground in any required front or side yards unless the structure is less than 3 feet above grade and occupying less than 12 square feet.

(c) Accessory Uses. Only personal use antennas are permitted as accessory uses on a lot, provided the antenna shall be attached to the principal structure, with the exception of ground mounted satellite dishes. Additional siting requirements as specified in Chapter 1128: Supplemental and Accessory Regulations, and the maximum height shall not exceed the lesser of the following:

- (1) Height of the existing principal structure by 20 feet; or
- (2) Maximum height of the zoning district by 20 feet.
(Ord. 34-17. Effective 12-7-17.)

1127.05 LOCATIONS IN AGRICULTURAL DISTRICTS.

(a) Principal and Accessory Uses. The following wireless telecommunication facilities are permitted as a principal use upon a lot, in any zoning district, subject to the following siting requirements:

- (1) A wireless telecommunication facility shall be permitted when physically attached to or contained within the principal structure on the lot.
- (2) A wireless telecommunication facility shall be permitted to be located on a preexisting electric, telephone, street light poles or fixtures, provided that said facility meets only criteria (1) and (3) of Section 1127.04(b): Siting Requirements for Principal Uses.

(b) Conditional Uses. Wireless telecommunication facilities not permitted as a principal or accessory use, may be permitted as a conditional use upon a lot, subject to the following requirements.

(c) Siting Requirements for Conditional Uses.

- (1) Maximum height shall require the approval of the Planning Board subject to technical evidence presented by the applicant. The Planning Board shall consider in its evaluation the potential future use of the site as recommended by the Comprehensive Land Use Plan and may impose height limitations in keeping with those future zoning districts.
- (2) The minimum setbacks for towers should meet a height distance ratio of 1:1. Under special circumstances, the Planning Board may reduce this setback, but it generally should not be less than one-half the height of the tower.
- (3) No tower shall be located a distance less than its height from any residential dwelling unit.
- (4) The minimum setbacks and yard requirements shall be established by the Planning Board, but in no case shall such shelter be located above ground in any required front or side yard unless the structure is less than three feet above grade and occupying less than twelve square feet.
- (5) The Planning Board shall evaluate the visual impact of the tower or antenna support structure and may require techniques to disguise the proposed structure to reduce negative impacts.
(Ord. 34-17. Effective 12-7-17.)

1127.06 LOCATIONS IN RESIDENTIAL DISTRICTS.

(a) Principal and Accessory Uses. The following wireless telecommunication facilities are permitted as a principal use upon a lot, in any zoning district, subject to the following siting requirements:

- (1) A wireless telecommunication facility shall be permitted when physically attached to or contained within the principal structure on the lot.
- (2) A wireless telecommunication facility shall be permitted to be located on a preexisting electric, telephone, street light poles or fixtures, provided that said facility meets only criteria (1) and (3) of Section 1127.04(b): Siting Requirements for Principal Uses.

(b) Conditional Uses. Wireless telecommunication facilities not permitted as a principal or accessory use, may be permitted as a conditional use upon a lot, subject to the following requirements.

(c) Siting Requirements for Conditional Uses.

- (1) The height of such tower shall be subject to approval by the Planning Board and be the minimum height necessary, but generally shall not exceed 100 feet in height, including antennas.
- (2) The minimum setbacks for towers should meet a height distance ratio of 1:1. Under special circumstances, Planning Board may reduce this setback, but it generally should not be less than ½ the height of the tower.
- (3) No tower shall be located a distance less than its height from any residential dwelling unit.

- (4) Screening, setback and fencing standards shall be established by the Planning Board during the conditional use process. The shelter shall either be underground or designed to look like a residential accessory structure. Such shelter shall not be located above ground in any required front or side yard unless the structure is less than 3 feet above grade and occupying less than 12 square feet.
- (5) The Planning Board shall evaluate the visual impact of the tower or antenna support structure and may require techniques to disguise the proposed structure to reduce negative impacts.
(Ord. 34-17. Effective 12-7-17.)

1127.07 LOCATIONS IN OFFICE, COMMERCIAL AND INDUSTRIAL DISTRICTS.

(a) Principal Uses. The following wireless telecommunication facilities are permitted as a principal use upon a lot, in any zoning district, subject to the following siting requirements:

- (1) A wireless telecommunication facility shall be permitted when physically attached to or contained within the principal structure on the lot.
- (2) A wireless telecommunication facility shall be permitted to be located on a preexisting electric, telephone, street light poles or fixtures, provided that said facility meets only criteria (1) and (3) of Section 1127.04(b): Siting Requirements for Principal Uses.
- (3) These are permitted provided that they can meet the siting requirements of Section 1127.04(b): Siting Requirements for Principal Uses, without special exceptions or waivers. Any requested exception shall require Planning Board evaluation through the conditional use process.
- (4) The following are not considered permitted principal uses.
 - A. Wireless telecommunication facilities proposed on new antenna support structures or tower shall be considered a conditional use and require an amendment to the preliminary ~~development plan~~ Development Plan approval.
 - B. Any new antenna support structure or tower proposed within 500 feet of any 1-675 interchange, or within 200 feet of any interstate, U.S. Route, State Route or Dayton-Yellow Springs Road, measured from the road's right-of-way lines, shall require a conditional use approval.

(b) Accessory Uses. Only personal use antennas are permitted as accessory uses on a lot, provided the antenna shall be attached to the principal structure, with the exception of ground mounted satellite dishes. Additional siting requirements as specified in Chapter 1128: Supplemental and Accessory Regulations, and the maximum height shall not exceed the lesser of the following:

- (1) Height of the existing principal structure by 20 feet; or
- (2) Maximum height of the zoning district by 20 feet.

(c) Conditional Uses. Wireless telecommunication facilities not permitted as a principal or accessory use, may be permitted as a conditional use upon a lot, subject to the following requirements.

(d) Siting Requirements for Conditional Uses.

- (1) The height of such tower shall be subject to approval by the Planning Board and is the minimum height necessary, but shall not exceed 150 feet in height, including antennas.
- (2) The minimum setbacks for towers should meet a height distance ratio of 1:1. Under special circumstances, Planning Board may reduce this setback, but it generally should not be less than ½ the height of the tower.
- (3) No tower shall be located a distance less than its height from any residential dwelling unit.
- (4) The minimum setbacks, screening and fencing standards shall be established by the Planning Board during the conditional use process. The shelter shall either be underground or designed to be complimentary to the property's principal structures. Such shelter shall not be located above ground in any required front or side yard unless the structure is less than three feet above grade and occupying less than 12 square feet.
- (5) The Planning Board shall evaluate the visual impact of the tower or antenna support structure and may require techniques to disguise the proposed structure to reduce negative impacts.
(Ord. 34-17. Effective 12-7-17.)

1127.08 ABANDONMENT OF TOWER.

(a) Required Registration and Post Construction Monitoring. All providers utilizing wireless telecommunication facilities shall present an annual registration report to Zoning Administrator notifying him of each wireless telecommunication facility located in The City of Fairborn per the requirements of Chapter 702, Business Regulations. This registration will acknowledge whether the provider will discontinue use of the wireless telecommunication facilities in the upcoming year and the date this use will cease. A report showing compliance with FCC guidelines on electromagnetic radiation emissions shall also be submitted with this registration. Such reports shall be filed with the Zoning Administrator 30 days prior to the cessation date.

(b) Procedures for Abandonment. If at any time the use of a wireless telecommunication facility is discontinued or the renewal of the annual registration has lapsed for 180 days, the Zoning Administrator or Building Inspector may declare the facility abandoned under the procedures outlined in the Fairborn Codified Ordinances as it relates to Abandonment of Abandoned Commercial Structures. The 180-day period excludes any dormancy period between construction and the initial use of the facility. If reactivation or dismantling does not occur, the City of Fairborn will either remove the facility or will contract to have the facility removed and assess the owner or operator the costs per the procedures established.
(Ord. 34-17. Effective 12-7-17.)

1127.09 APPLICATION AND REVIEW REQUIREMENTS.

(a) Required Information for Applications. All applications for wireless telecommunication facilities, including towers, shall include the information required under this section.

(b) Plot Plan Required. When a proposed wireless telecommunication facility is to include a new tower or antenna support structure, a plot plan at a scale of not less than one inch equals 100 feet shall be submitted. This plot plan shall indicate all building and land uses on the legal lot of record and within 250 feet of the proposed tower or antenna support structure. Aerial photos or renderings may augment the plot plan.

(c) Photo Simulations Required. Up to four total photo simulations of the proposed wireless telecommunication facility from affected residential properties and public rights-of-way shall be provided at a minimum of a 250 foot distance from the wireless telecommunication facility and one from each of the four cardinal directions.

(d) Proof Why Nonresidential Tower Location Not Feasible. In applying for authorization to erect a tower or antenna support structure within any residential district, the applicant must present sufficient evidence as to why it is not technically feasible to locate such tower in a more appropriate nonresidential zone. This evidence shall be reviewed during the conditional use approval process. Proof of technical feasibility in a nonresidential zone is grounds for denial of a request in a residential district.

(e) Technical Necessity.

- (1) The applicant shall provide written documentation of all wireless telecommunication facilities in the City of Fairborn, Bath Township, and facilities outside these jurisdictions that are within five miles of the proposed site, in which it has a legal interest, whether by ownership, leasehold or otherwise. From each such wireless telecommunication facility, it shall demonstrate with written documentation that these wireless telecommunication facilities are not already providing, or do not have the potential by adjusting the wireless telecommunication facilities, to provide adequate coverage and adequate capacity to the City of Fairborn and Bath Township.
- (2) The applicant shall demonstrate with written documentation that it has examined all wireless telecommunication facilities in the City of Fairborn, Bath Township and facilities outside these jurisdictions that are within five miles of the proposed site, in which it has no legal interest, whether by ownership, leasehold or otherwise, to determine whether those existing wireless telecommunication facilities can be used to provide adequate coverage and adequate capacity to the City of Fairborn and Bath Township.
- (3) The applicant shall demonstrate with written documentation that it has analyzed the feasibility of repeaters in conjunction with all wireless telecommunication facilities listed in (1) and (2) above to provide adequate coverage and adequate capacity in the City of Fairborn and Bath Township.
- (4) The documentation shall include, for each wireless telecommunication facility or repeater examined, the exact location in latitude and longitude, ground elevation, height of tower or structure, type of antenna proposed, proposed output frequency, proposed number of channels, proposed power input and proposed maximum power output per channel. Radial plots from each of these wireless telecommunication facilities, as proposed, shall be provided as part of the application.

(f) Review by Radio Frequency Engineer. The evidence submitted by the applicant shall be reviewed by a radio frequency (RF) engineer. This RF engineer shall be chosen by the City of Fairborn, and all associated costs incurred in the review of the evidence shall be borne by the applicant. Evidence shall be of sufficient degree to allow the RF engineer to support or refute the evidence. With the exception of network site location maps, technical evidence shall be considered proprietary and shall not be available for review beyond City Staff and entities given express permission from the applicant.

(g) Land Owner Support and Access. Where the wireless telecommunication facility is located on a property with another principal use, the applicant shall present documentation that the owner of the property supports the application and vehicular access is provided to the facility.

(h) Required Site and Landscaping Plan. The applicant shall present a site and landscaping plan showing the following:

- (1) Specific placement of the wireless telecommunication facility on the site. If the wireless telecommunication facility is within a leasehold on a portion of a legal lot of record, the area of the leasehold shall be identified. A copy of the proposed lease shall be submitted;
- (2) The location of existing structures, trees, and other significant site features;
- (3) Type and locations of plant materials used to screen the facilities;
- (4) The proposed color of the facilities;
- (5) The proposed equipment shelter and images depicting its facade; and
- (6) Measurement of ambient or "existing" radio frequency (RF) radiation at the site, predictive measurements, or "existing plus proposed" RF radiation at the site, and cumulative measurements, or "existing plus proposed project plus cumulative" RF radiation at the site.

(i) Co-location and Removal Agreement. The applicant shall present signed statements indicating that:

- (1) The applicant agrees to allow for the potential co-location of additional wireless telecommunication facilities by other providers on the applicant's structure or within the same site location; and
- (2) The applicant agrees to remove the facility within 180 days after its use is discontinued.

(j) Denial by Jurisdiction. Any decision to deny a request to place, construct or modify a wireless telecommunication facility or tower shall be in writing and supported by evidence contained in a written record.

(Ord. 34-17. Effective 12-7-17.)

CHAPTER 1128
Supplemental and Accessory Regulations

- 1128.01 Purpose.
- 1128.02 Exceptions to height regulations.
- 1128.03 Exceptions to yard regulations.
- 1128.04 Accessory structures.
- 1128.05 Residential accessory uses.
- 1128.06 Keeping of animals.
- 1128.07 Swimming pools.
- 1128.08 Parking or storing of recreational equipment in residential districts.
- 1128.09 Satellite antenna receiving systems.
- 1128.10 Building setback lines established.
- 1128.11 Bed and breakfast establishment.
- 1128.12 ~~Assembly~~ ~~Club meeting~~ halls.
- 1128.13 Residential care and congregate residential facility.
- 1128.14 Convalescent, nursing and rest homes.
- 1128.15 Child care facilities, Type A.
- 1128.16 Kennels.

- 1128.17 Mortuary.
- 1128.18 Recreational uses, outdoor.
- 1128.19 Religious, institutional, educational and cultural structures in residential districts.
- 1128.20 Stables, commercial or private.
- 1128.21 Computerized internet sweepstakes terminal cafes.
- 1128.22 Community garden.
- 1128.23 ~~Outdoor~~ ~~Exterior~~ lighting standards.
- 1128.24 Home occupations.
- 1128.25 Outdoor storage and display in non-residential districts.
- 1128.26 Food trucks.
- 1128.27 Drive-in restaurants and drive-through businesses.
- 1128.28 Solar panels.
- 1128.29 Special requirements for facilities related to vehicles.
- 1128.30 Special requirements for large retail developments.
- 1128.31 Wall murals.

1128.01 PURPOSE.

The purposes of these supplemental regulations are to assist property owners in developing their site in a manner which is harmonious with its neighboring uses. These parameters will account for issues relating to siting, lot coverage, parking, screening, lighting, noise and landscaping needing to be reviewed as the following uses relate to neighboring uses. These parameters may be considered the basis for any conditions derived when such a use is being considered for approval as a conditional use within a zoning district or when reviewed by staff as a principal permitted use in a residential district.
(Ord. 34-17. Effective 12-7-17.)

1128.02 EXCEPTIONS TO HEIGHT REGULATIONS.

(a) Architectural Projections. The height regulations as prescribed in this Zoning Code shall not apply to the following named structures or other structures that project in the air, except where the height of such structures will constitute a hazard to the safe landing and takeoff of military, public and commercial aircraft:

- (1) Church spires;
- (2) Belfries;

- (3) Monuments;
- (4) Tanks;
- (5) Water towers;
- (6) Fire towers;
- (7) Stage towers or scenery lofts;
- (8) Cooling towers;
- (9) Ornamental towers and spires;
- (10) Chimneys;
- (11) Elevator bulkheads;
- (12) Smoke stacks;
- (13) Conveyors; and/or
- (14) Flag poles.

(b) Aviation Hazards. Where a structure, because of its height constitutes a hazard to aviation, and is within the flight path of the runways of Wright Patterson Air Force Base, the property owner shall consult with and seek necessary permits from the Administrator of the Wright Patterson Air Force Base Airport Zoning Board, or other appropriate authorities, so as to bring about general conformity with regulations governing "Aircraft Approach and Airspace Areas".

(c) Public or Semipublic Service Buildings. Public or semipublic service buildings including hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding 60 feet, and churches and temples may be erected to a height not exceeding seventy-five feet when the required side and rear yards are each increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.

(Ord. 34-17. Effective 12-7-17.)

1128.03 EXCEPTIONS TO YARD REGULATIONS.

(a) Number of Structures per Lot. No more than one principal structure shall be located on a lot or tract, except that a conditional use permit may be issued in accordance with Chapter 1132: Administration, Process and Procedures, to permit additional buildings on the lot or tract, provided a site plan is submitted which complies with all Zoning Code requirements and adequately addresses area traffic, safety, parking, utilities, storm drainage and environmental protection. Accessory buildings are not subject to this restriction.

(b) Front Yard.

(1) Deviations of Setback Requirements.

- A. When 40% or more of the lots fronting on one side of a street between two intersecting streets have been improved with buildings and the front yards provided are greater than the required minimum front yard of that zoning district, thereafter no building shall be erected with a front yard less than the least front yard provided on that block.

- B. When 40% or more of the lots fronting on one side of a street between two intersecting streets have been improved with buildings, and the front yards provided are less than the minimum front yard required in that zoning district, thereafter future construction on this block shall be permitted to have a front yard setback equal to the average of the building setbacks on the nearest 40% of the lots.
- (2) Double Frontage Lots. On double frontage lots the required front yard shall be provided on the street of address and the greater of the required front or rear yard setbacks shall be required on the parallel street.
- (3) Encroachments of Patios and Porches. An uncovered patio, terrace, stoop or landing, completely open to the sky, may project into a required front yard of a residence for a distance not exceeding 10 feet. Fixed canopies, porches, roofs, or awnings shall also be permitted to project into a required front yard for a distance not exceeding 10 feet, if the following conditions are complied with:
- A. The property is zoned "SR" or "UER";
- B. The dwelling was constructed prior to November, 1988;
- C. The cover is a minimum of seven feet from the front property line; and
- D. The canopy or awning is supported by posts and remains open sided. This shall preclude the use of all permanent or temporary enclosing materials.
- (c) Side Yard.
- (1) Housing Built Prior to 1955. Where the main building on any lot in a residence district has been erected prior to June 6, 1955, additions to such building may be erected, provided the side yards shall have a combined width of not less than 12 feet and provided that no side yard shall have a width of less than five feet.
- (2) Unenclosed Porches. An unenclosed porch, porte-cochere or canopy may project into a required side yard, provided every part of such porte-cochere or canopy is unenclosed and shall not be less than five feet from the side lot line.
- (d) Rear Yard.
- (1) Fire Escapes and Chimneys. Open or lattice-enclosed fire escapes, fireproof outside stairways, balconies opening upon fire towers and the ordinary projections of chimneys and flues into the rear yard may be permitted by the Building Inspector for a distance of not more than five feet, but only where the same are so placed as not to obstruct light and ventilation.
- (e) Corner Lots.
- (1) Required Yards. On a corner lot, for setback purposes, the lot shall maintain two front yard setbacks and two side yard setbacks as regulated by the particular zoning district and subsection (e)(3) hereof.
- (2) Nonresidential Lots. Where a corner lot in any business or industrial district abuts upon a lot in any residential dwelling district, the side yard of the corner lot shall not be less than one-half of the required front or side yard on the lot in the residential dwelling district.

- (3) Platted after 1976. Any corner lot platted after the effective date of this Zoning Code, February, 1976, shall have an exterior side yard of a minimum of ten feet.

(f) Lot Coverage. All parts of the premises beyond the maximum lot coverage area shall be open to the sky, except for ordinary projections of sills, belt courses, cornices, and ornamental features. Such features shall not project more than eighteen inches.
(Ord. 34-17. Effective 12-7-17.)

1128.04 ACCESSORY STRUCTURES.

Accessory structures, buildings, or facilities customarily incidental and subordinate to the principal permitted structures or conditionally permitted structures shall be permitted, located on the same lot therewith, including:

- (a) Accessory Buildings. As specified herein and including, but not limited to, private garages not involving the conduct of a business, sheds, playhouses, tree houses, gazebos, dog houses/animal shelters, and non-commercial greenhouses.
- (b) Accessory Structures. Including, but not limited to, decks, driveways, parking pads, patios and carports.
- (c) Outdoor Recreation Facilities.
 - (1) Outdoor recreation facilities including, but not limited to, a swimming pool, spas/hot tubs, basketball court, tennis or volleyball court. For the purposes of this section, a basketball, tennis or volleyball court shall be defined as a permanent improved surface used exclusively for recreational activities.
 - (2) Swimming pools and spas shall be further regulated as specified in Section 1128.07 of the City of Fairborn Codified Ordinances.
- (d) Siting Requirements. Any accessory buildings, structures or outdoor recreation facilities that are not attached to the principal structure shall comply with the siting requirements for accessory structures and uses in each individual district and the following:
 - (1) Shall not be located in the front yard;
 - (2) Shall be located in the rear yard except in the case of corner lot; placement on corner lots must be located in a side yard;
 - (3) Shall not be permitted to be constructed upon any utility, access or storm water easement;
 - (4) Shall not exceed the maximum height for an accessory structure as identified in each zoning district. If no height is identified, the accessory structure shall not exceed twenty feet in height or the height of the principal structure, whichever is the lesser;
 - (5) Decks and Covered Patios are permitted to encroach ten feet into the required rear setback.
- ~~(6) No accessory structure shall be constructed upon a lot until the construction of the principal structure is completed.~~
- ~~(7) Structures including garages, sheds, and carports shall not be constructed with canvas or fabric materials.~~
- (e) Antennas. Antennas including radio and television types shall be regulated as specified in Chapter 1127, Wireless Telecommunications Facilities. Satellite dish-types shall be regulated as specified in Section 1128.09: Satellite Antenna Receiving Systems.
- (f) Trash and Recycling Containers. All refuse and recyclable materials shall be stored in personal trash/recycling containers or commercial dumpsters.
 - (1) No trash/recycling containers shall be located or stored in the front yard of the premise.

- (2) When a commercial dumpster is not utilized, trash/recycling containers may be placed at the curb or alley line the day before pick up and shall be removed not later than the day after the scheduled pick up.

- (3) Containers and dumpsters should also comply with Chapter 917, Sanitation Services, and Chapter 1331 of the City of Fairborn Codified Ordinances.
- (4) When a commercial dumpster is utilized, the following standards shall apply:
 - A. All dumpsters situated on a site shall be contained within a gated enclosure. The enclosure shall be a minimum of six feet in height, the walls shall be constructed of masonry, decorative block or combinations of these and a solid wood gate, architecturally compatible with the principal structure, and have bumper blocks or posts on the interior to protect the enclosure.
 - B. Dumpsters shall be placed on a concrete pad; (3000 psi minimum) extended a minimum of ten feet beyond the enclosure to permit trash truck front wheels to rest on the pad.
- (g) Donation Boxes. Donation boxes are a receptacle used for the unmanned collection of donated and secondhand goods and merchandise for the purpose of redistribution by an entity. Donation boxes shall:
 - (1) Be in compliance with the setback requirements for accessory structures as determined by the zone district in which such structure is placed. The donation box shall be located on a concrete pad or paved area constructed of sufficient strength for the donation box, equipment and vehicles that will empty the units.
 - (2) Not be permitted in the required front yard or in front of a building or structure on a lot.
 - (3) Be maintained in good condition and appearance with no structural damage, holes, or visible rust, and shall be free of graffiti;
 - (4) Be locked or otherwise secured;
 - (5) Contain the contact information visible from the front of the unit including the name, address, email, and phone number of the operator;
 - (6) Be serviced and emptied as needed. No materials or goods shall be stored or left outside of the box and the surrounding area shall be maintained to be free of any junk, debris or other material.
 - (7) Notwithstanding any other provision of this code, it is unlawful for any person to place an unattended donation box:
 - A. On any property used for residential purposes; or
 - B. On or in required parking or loading spaces.
- (h) Temporary Buildings for Construction Sites. Temporary buildings that are used in conjunction with construction work, including trailers, may be permitted in any district only during the period that the construction work is in progress, but such temporary buildings shall be removed upon completion of the construction work.
- (i) Temporary Storage Containers/Buildings. Temporary storage containers/buildings shall include any container, vessel, or building that is designed as to be placed onto any truck, trailer, or other vehicle for the purposes of transportation. When a temporary storage container is utilized, the following standards shall apply:
 - (1) In Residential, Professional Office and Civic/Institutional Districts:
 - A. Placement shall be on asphaltic or cement binder, concrete or other comparable material;
 - B. Placement shall be to the rear of the front building line of the lot;

- C. In the event there is no access available, via an existing driveway, for placement to the rear of the front building line or there is no space for placement on the lot to the rear of the front building line, then placement may be on the lot forward of the front building line, but as close to the building line as possible;
 - D. Shall be located not less than three feet from any lot line;
 - E. Shall not remain on the premises for a period exceeding 30 days per calendar year;
 - F. Shall not be connected to any public utilities;
 - G. Placement shall not create a vehicular sight obstruction; and
 - H. Temporary storage containers larger than 8 feet in width by 8 feet in height by 16 feet in length in residential districts shall be prohibited by the Zoning Administrator.
- (2) In Commercial districts:
- A. Placement shall be on asphaltic or cement binder, concrete or other comparable material;
 - B. Shall be to the rear of the principal structure;
 - C. Shall be located not less than three feet from any lot line;
 - D. Shall not be connected to any public utilities;
 - E. Shall not remain on the premises for a period exceeding 60 days per calendar year; and
 - F. Placement shall not create a vehicular sight obstruction.
- (3) In Industrial districts:
- A. Placement shall be on asphaltic or cement binder, concrete or other comparable material;
 - B. Shall be to the rear of the principal structure;
 - C. Shall be located not less than three feet from any lot line;
 - D. Shall not be connected to any public utilities;
 - E. Shall not remain on the premises for a period exceeding 90 days per calendar year;
 - F. Placement shall not create a vehicular sight obstruction; and
 - G. Any temporary storage containers/buildings which are on the premises exceeding 90 days per calendar year shall be considered permanent in nature and shall be regulated by the siting requirements for accessory structures contained in Section 1128.04(d); and
 - H. Building/Electrical permits shall be obtained for any permanent accessory structure/building.
- (4) Prohibitions.
- A. No temporary storage container shall be used for human or animal occupation.
 - B. Only one temporary storage container shall be permitted on the property at any time.
 - C. No portable storage unit shall be located in or on a public right-of-way.
 - D. No portable storage unit shall be placed in a manner blocking a sidewalk.
- (5) Units Must be Secured. Portable storage units shall be fully secured at all times including the use of a locking device on the door to prohibit unauthorized entry into the unit.

- (6) Public Nuisance. The placement of any portable storage unit shall be located in such a manner on any property as not to create a public nuisance such as creating a vehicle visibility issue or storing hazardous materials. (Ord. 34-17. Effective 12-7-17; Ord. 21-19. Passed 4-1-19.)

1128.05 RESIDENTIAL ACCESSORY USES.

Accessory uses customarily incidental and subordinate to the principal permitted use or conditionally permitted use shall be permitted, located on the same lot therewith, including:

- (a) Customary home occupations as regulated in Section 1128.24: Home Occupations;
- (b) Gardens and landscaping including lamp posts, flag poles, bird houses, trellis, ornamental structures or a work of art;
- (c) Patios and walkways;
- (d) Fences and screening: fences, walls, hedges as specified in Chapter 1129: Screening, Buffer Yard, Landscaping and Fences;
- (e) Garage sales (home sales) as regulated in Chapter 715 of the City of Fairborn Codified Ordinances;
- (f) Household pets as regulated in Section 1128.06: Keeping of Animals
- (g) Off-Street Parking.
 - (1) Parking of cars, motorcycles, trucks, trailers and vehicles not exceeding 22 feet in total overall length, or 7 feet in width (excluding mirrors) or 8 feet in height (including load) and/or a gross weight of five tons, as further governed by Section 341.12 of the City of Fairborn Codified Ordinances.
 - (2) Off-street parking of commercial, agricultural or multi-wheel agricultural tractors or trailers, semitrailers, pole trailers or trailer dolly's as defined in Ohio R.C. 4511.01 whether commercially manufactured or homemade is prohibited in residential districts and is further governed by Chapter 335 and Section 341.06 of the City of Fairborn Codified Ordinances.
 - (3) Exceptions may be permitted for loading or unloading of personal or household goods for a period of not more than 48 hours, commercial service calls involving active installation, maintenance or repair work and/or active construction sites.
 - (4) Parking of recreational equipment, as defined in Chapter 11343: Definitions, permitted and further specified in Section 1128.08: Parking or Storing of Recreational Equipment in Residential Districts; and
- (h) Living quarters of persons employed on the premises by the residents for home care, child care, or medical care and not rented or otherwise used as a separate independent dwelling. (Ord. 34-17. Effective 12-7-17.)

1128.06 KEEPING OF ANIMALS.

- (a) For purposes of this section a "dangerous animal" means:
 - (1) Any mammal, amphibian, fish, reptile, or fowl of a species which due to size, vicious nature or other characteristics would constitute a danger to the physical well-being of human life or animals.
 - (2) Any animal having a known disposition or propensity to attack, bite, or injure any person or animal without provocation. Where the official records of an Animal Control Officer, City Clerk, Police Department, or Clerk of the Municipal Court indicate that an animal has bitten or attacked any person or animal, it shall be prima facie evidence that said animal is a dangerous animal.

- (3) Any animal owned or kept primarily or in part for the purpose of fighting or any animal trained or bred for fighting.
- (4) Any animal which is urged by its owner or keeper to attack, or whose owner or keeper threatens to cause such animal to attack any law enforcement officer while such officer is engaged in the performance of official duty and when such animal has the apparent ability to cause injury or harm to such officer.

(b) For purposes of this section a "pure domestic dog" means any member of the canine genus - group of species *Canis familiaris* or *Canis lupus familiaris* of the family Canidae, or dog family, that has not been bred with any other group of species, species or animal.

(c) For purposes of this section a "domestic cat" means *Felis Domesticus* or any domesticated member of the *Felis* genus.

(d) For purposes of this section a "secure temporary enclosure" means an enclosure with a top, bottom, three sides and one door made of materials which, when secured, prevents a dangerous animal from exiting the enclosure on its own.

(e) No livestock and poultry or similar farm animals shall be raised, bred or kept on any nonagricultural lot. However, dogs, cats and other household pets, may be kept on a residential premise provided they are not maintained for any commercial purposes and they meet the requirements of Subsection 1128.06(g) hereof.

(f) The keeping of wild or exotic animals shall be prohibited. This restriction shall not include the keeping of such animals as part of a circus, zoo or similar function.

(g) No residentially used or zoned premises shall contain more than 4 pure domestic dogs, 4 domestic cats, or a combination of pure domestic dogs and domestic cats so as not to total more than 4.

(h) Pure domestic dogs or domestic cats three (3) months of age or younger are not subject to these regulations.

(i) Five or more dogs or cats constitutes a kennel, as defined in Chapter 113~~43~~. Definitions, and shall be regulated as permitted within the zoning districts specified and by the special provisions of Section 1128.16: Kennels.

(j) It shall be unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, transport, sell, barter or other way dispose of any dangerous animal within the City of Fairborn. This section shall not apply to any dangerous animal which are:

- (1) Less than eight weeks of age; or
- (2) Brought into the City for the purposes of participating in a canine sporting event, canine show or other recognized or sanctioned animal show or similar public exhibition in which the owner is able to show proof of entry, for a period not to exceed 72 hours; and
- (3) Kept in a secure temporary enclosure during transport to and from any place of public exhibition within the City.
- (4) Fed and sheltered at a kennel or similar place which prevents access of said dangerous animal to the general public.

(k) Commercial care and keeping of animals shall only be allowed as permitted in designated districts. (Ord. 34-17. Effective 12-7-17.)

1128.07 SWIMMING POOLS.

All pools and pool equipment shall be installed and utilized in accordance with its listing and labeling; and shall be assembled, erected, operated, and maintained as directed in the manufacturer's installation instructions.

- (a) Any swimming pool as defined by Section 11343.02 shall be subject to the standards of this subsection including pools that are designed to be temporary in nature.
 - (1) Swimming pools that are enclosed within a building shall not be subject to these standards.
 - (2) The swimming pool shall be set back a minimum of ten feet from all lot lines and five feet from all principal and accessory buildings as measured from the edge of the water.
 - (3) The swimming pool, or the entire property on which it is located, shall be walled or fenced to prevent uncontrolled access. Said fence or wall shall not be less than four feet in height and maintained in good condition with a gate and lock with the following modifications.
 - A. Such fence shall be constructed so as to have no openings, holes, or gaps larger than three inches in any dimension, except for doors or gates. An accessory building may be used in or as part of such enclosure.
 - B. Above-ground pools that have a vertical surface of at least four feet in height shall be required to have fences, locking gates or other approved barriers only where access is made to the pool.
- (b) Prior to erecting and utilizing, swimming pools exceeding minimum thresholds shall require a zoning permit as indicated in Section 1132.02 (c)(3).
- (c) Any pool for the use of occupants of multi-family dwellings containing over three apartments or those that are accessory to a nonresidential use shall meet the structural and sanitary requirements of the Ohio Department of Health.
(Ord. 21-19. Passed 4-1-19.)

1128.08 PARKING OR STORING OF RECREATIONAL EQUIPMENT IN RESIDENTIAL DISTRICTS.

Any owner of camping and recreational equipment may park or store such equipment on single-family residential property subject to the following conditions:

- (a) Recreational equipment parked and stored shall not have fixed connections to electricity, water, gas, or sanitary sewer facilities, and at no time shall this equipment be used for living or housekeeping purposes for a period which exceeds thirty calendar days.
- (b) If the camping and recreational equipment is parked or stored outside of a garage, it shall be parked or stored to the rear of the front building line of the lot except as provided in Subsection 1128.08(c) hereof. The equipment must be stored on an improved surface such as a driveway or parking pad. The setback requirement in the side or rear yard shall be a minimum of three feet.
- (c) Notwithstanding the provisions of Subsection 1128.08(b) hereof, camping and recreational equipment may be parked anywhere on the premises for loading or unloading purposes, for a period of not more than forty-eight hours.
- (d) Wheels or any similar transporting device shall not be removed, except for service, nor shall any trailer be permanently affixed to the ground.
(Ord. 34-17. Effective 12-7-17.)

1128.09 SATELLITE ANTENNA RECEIVING SYSTEMS.

Satellite antenna receiving systems are antennas designed to receive broadcasts from satellites in stationary earth orbit and convert these broadcasts into usable television signals. Satellite antennas shall be permitted to be installed as accessory structures for any permitted use of any zoning district. It shall comply with the following rules:

- (a) For all residential districts, the following shall apply to the installation of any satellite antenna receiving dish exceeding one meter (39.37 inches) in diameter:
 - (1) When roof mounted, satellite antennas shall be mounted only on the rear portion as viewed from the front yard.
 - (2) When ground mounted, it shall be located only in the rear yard as permitted under Section 1128.04: Accessory Structures.
 - (3) The diameter of the satellite antenna dish shall not exceed three feet.
- (b) For all districts the following shall apply:
 - (1) All satellite antennas shall be properly grounded and meet all National Electrical Code requirements.
 - (2) All satellite dish systems shall be engineered to withstand snow and wind loads designated in the Ohio Basic Building Code.
 - A. Any satellite receiving dish exceeding one meter (39.37 inches) in diameter, which is located on the roof of any structure within the City, shall be permitted upon presentation of a plan by a registered engineer or architect. The plan shall show the roof and satellite dish are able to withstand snow and wind loads designated in the Ohio Basic Building Code.
 - B. Any dish one meter (39.37 inches) or less in diameter which is mounted on the roof of a structure shall be mounted in accordance with the manufacturer's recommendations for installation and properly secured to the structure so as to prevent damage from wind or snow loads.
 - C. Any ground mounted satellite dish exceeding one meter (39.37 inches) in diameter shall be anchored by one cubic yard of Portland cement concrete beginning below the frost line, or any other method which can be demonstrated to meet wind load requirements of the Ohio Basic Building Code.
 - (3) All satellite dishes shall be located:
 - A. Outside any utility, stormwater or access easement;
 - B. A minimum of ten feet, measured horizontally from suspended electrical wires; and
 - C. Fifteen feet from public rights-of-way in nonresidential areas.
- (c) A permit shall be required by any person installing a satellite antenna, greater than one meter (39.37 inches) in diameter, prior to installation. An applicant shall provide installation instructions and/or sketches. When proposing to ground mount a satellite antenna, an applicant shall provide a site plan showing antenna in relation to buildings, structures, easements, electrical lines and property line.
(Ord. 34-17. Effective 12-7-17.)

1128.10 BUILDING SETBACK LINES ESTABLISHED.

No building, house or construction of any kind, pumps, porticos, business equipment or any other fixture shall be erected, constructed, maintained or operated within the area between the existing street right-of-way line and the setback lines herein established as follows:

- (a) On Central Avenue from Main Street to Dayton Drive the setback shall be in conformity with the lines presently established on both sides of such street by existing buildings on South Central Avenue extended south. On Central Avenue from Xenia Drive to Main Street, the setback shall be not less than ten feet from the Central Avenue property line, and the rear yard shall be not less than twenty feet.
- (b) On First Street in its entirety the setback shall be five feet on both sides of such street.
- (c) On Second Street from Xenia Drive to Dayton Drive the setback shall be five feet on both sides of such street.
(Ord. 34-17. Effective 12-7-17.)

1128.11 BED AND BREAKFAST ESTABLISHMENT.

Bed and Breakfast Establishments may be permitted provided that:

- (a) The establishment is only conducted by a person owning the dwelling and residing therein.
- (b) The establishment contains a maximum of four guest rooms.
- (c) No exterior change to the residential character of the structure shall occur.
- (d) Adequate off-street parking be provided, and other such conditions as may be necessary to reduce impact of the lodging use surrounding residences.
(Ord. 34-17. Effective 12-7-17.)

1128.12 ~~ASSEMBLY CLUB MEETING HALLS.~~

(a) Proposed uses of the building shall be reviewed and specifically approved by Planning Board. Approval of banquet/hall facilities or facilities rentable to the general public shall be approved if adequate provisions are made to avoid conflict with neighboring residential dwellings. If available to the general public, proximity to a collector or arterial street as defined on the Thoroughfare Plan should be considered.

(b) Outdoor facilities, such as picnic areas and recreation areas shall be reviewed to insure adequate screening and noise barriers.

(c) Parking lot lighting, landscaping and general screening shall be reviewed.

(d) Hours shall be reviewed particularly when the facility will have a social hall and/or rentable area to nonmembers.
(Ord. 34-17. Effective 12-7-17.)

1128.13 ~~RESIDENTIAL CARE AND CONGREGATE RESIDENTIAL GROUP HOME~~ FACILITY.

(a) The agency operating a ~~group home as defined in Chapter 1134 residential care or congregate residential facility~~ shall have at least two qualified houseparent's or supervisors for each ~~group residential~~ home and shall maintain 24-hour supervision at all times. The operating agency shall provide social work, psychological and medical services as required.

(b) The Zoning Administrator will review the ~~group residential~~ home site selection and development according to the following required performance criteria:

- (1) No ~~group home facility hereof~~ shall be permitted within 1,500 feet of another ~~group home facility herein defined.~~
- (2) The ~~group residential~~ home shall provide not less than twenty-five square feet per person of suitable indoor recreation area and not less than 200

square feet of outdoor open space per person consolidated in a useful configuration and location provided on the site.

- (3) Every room occupied for sleeping purposes within the ~~group~~residential home shall contain a minimum of eighty square feet of habitable room area for one occupant, and when occupied by more than one shall contain at least sixty square feet of habitable room area for each occupant.
- (4) A site plan for the proposed ~~group~~ home shall be submitted for a review of the recreation and open space requirements and such landscaping and fencing as may be appropriate for this site.

(c) The operator or agency applying for an occupancy permit to operate a ~~group~~residential home shall provide to the Planning Board, for review and approval, a plan which documents the need for the home in relationship to the specific clientele service; which identifies the location of similar type homes existing in Greene County. The plan will be maintained by the Planning Board and used as a reference document to review future ~~permit~~ applications by the operator or agency.

~~(d) The operator or agency applying for an occupancy permit to operate a residential home shall provide to the Planning Board the following:~~

- ~~(1) A license or statement of need for a license from the applicable governmental unit which may include: Greene County, the State of Ohio, the Federal Government or other political subdivisions. Prior to the issuance of a final certificate of occupancy, the operator or agency shall provide evidence that a valid license has been or will be issued.~~
- ~~(2) Submit the sponsoring agency's operational and occupancy standards.~~
- ~~(3) Submit such documentation which indicates the supervisory responsibility of the sponsoring agency and the residential home operator.~~

~~(e) The occupancy permit issued for a residential home shall be limited to the operator to whom it is originally issued and is not transferable to a subsequent operator.~~

~~(f) The Planning Board may issue a temporary conditional use permit for a period of one year. At the completion of the one year time period, the residential home operation shall be reviewed by the Planning Board. The Planning Board may grant a permanent conditional use or deny the conditional use.~~

~~(g) A conditional use permit applies only to that specific type of residential home as indicated in the approving legislation duly passed by Council.~~
(Ord. 34-17. Effective 12-7-17.)

1128.14 CONVALESCENT, NURSING AND REST HOMES.

Convalescent, nursing and rest home residential care facilities are as regulated by Section 173.45 of the Ohio Revised Code.
(Ord. 34-17. Effective 12-7-17.)

1128.15 CHILD CARE FACILITIES, TYPE A.

Child Day Care Type A shall be as regulated by Section 5104.01 of the Ohio Revised Code.
(Ord. 34-17. Effective 12-7-17.)

1128.16 KENNELS.

(a) Outdoor runs shall be setback 100 feet from residentially zoned properties, and fifty feet from any nonresidential properties. Such runs shall be screened from neighboring properties by a masonry wall of a four feet minimum height, additional fencing to insure dogs remain in kennel, and hedges or ornamental trees.

(b) Kennels wholly contained indoors shall be permitted within fifteen feet of a side or rear property line if the following are provided in the kennel area:

- (1) No openable windows
- (2) A forced air ventilation system
- (3) Solid core doors; and
- (4) Other measures necessary to sound proof the building so as noise levels on the exterior of the building shall not exceed sixty-five decibels.

(c) Kennels shall not be visible from the front of the lot at the right-of-way line.

(d) Kennels shall demonstrate that they will be sanitary and safe. Provisions for cleaning, hard surface floors, and minimization of barking shall be considered.
(Ord. 34-17. Effective 12-7-17.)

1128.17 MORTUARY.

A mortuary or funeral home shall be permitted, when located on premises with frontage on a street officially designated as an arterial on the "Official Thoroughfare Plan". This use shall not include crematories. All loading areas shall be completely screened to a height of six feet. Lot coverage may not exceed 70% in a residential district.
(Ord. 34-17. Effective 12-7-17.)

1128.18 RECREATIONAL USES, OUTDOOR.

Fixed lighting for these uses shall be located, screened, or fully shielded so that any adjacent residential lots are not directly illuminated.
(Ord. 34-17. Effective 12-7-17.)

1128.19 RELIGIOUS, INSTITUTIONAL, EDUCATIONAL AND CULTURAL STRUCTURES IN RESIDENTIAL DISTRICTS.

(a) Structures in this section shall be allowed a maximum lot coverage of 70%.

(b) Parking areas shall be encouraged not to be created within the required front yard of the zoning district the facility is located within. If constructed closer than the minimum building setback, screening of parking from street shall be required. Parking shall also have interior landscaping as recommended in Chapter 1130: Parking and Loading.

(c) Screening between adjacent residential properties shall be required per Chapter 1130: Parking and Loading, when parking areas are within twenty-five feet of the property lines, or outdoor uses such as shelters and improved recreational areas are proposed.

(d) Landscaping plans shall be submitted prior to issuance of a zoning permit.

(e) The uses activities must be deemed not to be detrimental to neighboring residential uses caused by time and type of activities.
(Ord. 34-17. Effective 12-7-17.)

1128.20 STABLES, COMMERCIAL OR PRIVATE.

(a) Stable buildings and manure piles shall be set back at least 100 feet from other residentially zoned properties.

(b) One acre of secured and dedicated pasture area shall be provided for each horse. Pasture fencing should be setback five feet from any property lines.

(c) The driveway to the stables shall be a hard surface.

(d) Riding rings and show staging areas may be limited to only operating during daylight hours. If lighting or amplification is requested, additional distances and/or mounding may be required. (Ord. 34-17. Effective 12-7-17.)

1128.21 COMPUTERIZED INTERNET SWEEPSTAKES TERMINAL CAFES.

(a) Computerized internet sweepstakes terminal cafes shall not be located within five hundred (500) feet of a church, public or private school, library, public park or playground, child care center or neighborhood center as measured in a straight line from the nearest portion of the structure in which the computerized internet sweepstakes café use is proposed to the nearest property line of an existing church, school, park, playground and child care of community center.

(b) Computerized internet sweepstakes terminal cafés shall not be located within one thousand (1,000) feet of a residential zoning district, the property lot line of a residential use or any structure containing a residence as measured in a straight line from the nearest portion of the structure in which the computerized internet sweepstakes café use is proposed to the nearest property line of a residential zoning district, the lot line of a residential use or any structure containing a residence.

(c) Computerized internet sweepstakes terminal cafes shall not be located within 1,500 feet of another computerized internet sweepstakes café as measured in a straight line from the nearest portion of the structure in which the computerized internet sweepstakes café use is proposed to the closest external wall of the structure containing an existing computerized internet sweepstakes café use.

(d) All activities associated with the operation of computerized internet sweepstakes terminal cafés shall be conducted wholly within a fully enclosed structure.

(e) Computerized internet sweepstakes terminal cafés shall provide one and one half (1.5) parking spaces for each one machine.

(f) Computerized internet sweepstakes terminal cafés shall be adequately lighted and maintained free from obstruction such that external view into premises from any street facing facade for law enforcement purposes is reasonably provided.

(g) Computerized internet sweepstakes terminal cafés shall only be located on lots which abut a Public Arterial as shown on the Official Thoroughfare Plan of the City of Fairborn.

(h) Computerized internet sweepstakes terminal cafés shall not be permitted to operate between the hours of 12:00 a.m. to 8:00 a.m. of any particular day. (Ord. 34-17. Effective 12-7-17.)

1128.22 COMMUNITY GARDEN.

(a) Community gardens shall not be used between the hours of 10:00pm and 7:00am.

(b) One structure, no higher than fifteen feet and less than 800 square feet, shall be permitted.

- (c) The minimum setback for all structures and growing areas shall be:
 - (1) Front Yard - 20 feet
 - (2) Side Yard - 10 Feet
 - (3) Rear Yard - 10 feet
 - (d) Any fencing shall:
 - (1) Be a maximum of four feet in height.
 - (2) Be a maximum of 50% opaque.
 - (3) Not contain any razor or barbed wire nor shall it use an electric charge.
 - (e) Tools and supplies, including pesticides and fertilizers, shall be stored indoors in a secured structure or removed from the property daily.
 - (f) The use of commercial or industrial equipment is not permitted.
 - (g) Composting shall:
 - (1) Be only of materials generated on site and shall be less than 10% of the total site area.
 - (2) Be kept free of offensive odor and pests and must be located to prevent water runoff from flowing onto an adjacent property.
 - (h) Maintenance shall be conducted to:
 - (1) Prevent any chemical, pesticide, fertilizer or other garden waste from encroaching on adjoining property.
 - (2) Remove all dead plant materials at the end of the growing season.
 - (i) The on-site sales of products in residential districts are prohibited.
- (Ord. 34-17. Effective 12-7-17.)

1128.23 OUTDOOREXTERIOR LIGHTING STANDARDS.

(a) Lighting Standards. These outdoor lighting guidelines shall apply to all new projects and qualified expansion projects subject to the Development Plan review process. These outdoor lighting standards shall also apply to any other site that is proposing new lighting installation.

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- (1) Lighting shall be placed and shielded so as to direct the light onto the site and away from adjoining properties.
- (2) The lighting source shall not be directly visible from adjoining properties.
- (3) Floodlights, wall pack units, other types of unshielded lights, and lights where the lens is visible outside of the light fixture shall be prohibited.
- (4) Non-cutoff light fixtures shall be prohibited.
- (5) All lighting placement and details shall comply with the approved Development Plan.

(b) Illumination Standards.

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- (1) Photometric Analysis Plan. A photometric analysis plan and accompanying test report addressing all proposed light fixtures on the site shall be submitted with a Development Plan and include the following information, as applicable:
 - A. Illuminating Engineering Society of North America ("IESNA") recommended illumination values should be used and provided for the design of each lighting system.
 - B. Photometric data regarding light fixture brightness control (candlepower curves cut through the major fixture axis and through the maximum

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candela axis) or any additional supporting data that may indicate how candle power is controlled by the light fixture.

C. All exterior lighting shall be warm in color.

- (2) Catalog cut sheets or other visual representation using photos or detailed illustrations identifying the appearance, construction, and features of the light fixtures that are specified to serve the site.

(c) Minimum Illumination Standards.

- (1) Sidewalks and parking areas shall be properly lighted to facilitate the safe movement of pedestrians and vehicles and provide a secure environment.
- (2) In parking areas, the light intensity shall average a minimum of 0.5 foot candles.
- (3) In pedestrian areas, the light intensity shall average a minimum of 2.0 foot candles.
- (4) Lighting levels shall not exceed 0.5 foot-candles at any common property line with property zoned or used for residential uses. The measurement shall be taken at the property line at a height of five feet (5').

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(d) Light Pole Height. All freestanding light poles and fixtures shall not exceed fifteen feet (15') when located in any front yard or side yard nor exceed twenty feet (20') when located in any rear yard area.

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(e) Light Pole Location. Any freestanding light pole and fixture shall be placed a minimum of ten feet (10') from any property line when proposed to be located adjacent to a residential zoning district or residential land use. There shall be no yard setback requirements for any freestanding light poles and fixtures when abutting any non-residential land use.

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(f) Light Pole Base Standards.

- (1) A light pole base shall not exceed eight inches (8") in height as measured from the finished grade level.
- (2) A light pole base located in a parking lot area shall not exceed thirty-six inches (36") in height as measured from the finished grade level.
- (3) A light pole base shall be setback an appropriate distance from any curb to avoid conflicts with vehicles.

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(g) Right-of-Way Lighting Standards. No light pole or fixture shall be placed in any right-of-way area unless expressly approved by the Planning Board. Exterior lighting installed on private premises shall be shielded and directed as necessary to avoid casting direct light upon public streets or upon neighboring properties where such lighting might be considered a nuisance.

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~~(Ord. 34-17. Effective 12-7-17.)~~

1128.24 HOME OCCUPATIONS.

(a) Home occupations are permitted in any dwelling in any residential zoning district when carried on solely by members of the family residing therein. Unless otherwise prohibited in this zoning code, a ~~No~~ wholesale, jobbing or retail business shall be permitted if, unless it is conducted entirely by mail, computer, and/or telephone and does not involve the receipt, sale, shipment, delivery, or storage of merchandise on or from the premises. ~~Home occupations requiring a state or local license and/or inspection for occupancy shall not be perm~~ No more than one client shall visit the dwelling at any time. ited. Permitted home occupations include the following:

- ~~(1) Professional office or service provided that such services limit the number of clients to one at a time.~~
- ~~(2) Personal service type occupations including tailor or personal shopper.~~

- ~~_____ (3) An office for a minister, rabbi, priest or other clergyman.~~
- ~~_____ (4) A studio for an artist, sculptor or author.~~
- ~~_____ (5) Music teaching or other type of instruction provided that such teaching or instruction is limited to one pupil at a time.~~

(b) In addition to all of the standards applicable to the district in which it is located, all home occupations shall comply with the following requirements:

- (1) No person other than members of the immediate family occupying such dwelling shall be employed.
- (2) No exterior alteration of the principal building shall be made which changes the character as a dwelling.
- (3) No home occupation shall occupy more than 25% of the floor area of the dwelling unit in which it is located.
- (4) No mechanical or electrical equipment may be used, except such type as is customary for purely domestic or hobby purposes.
- (5) No home occupation shall be operated in such a manner as to cause offensive noise, vibration, odors, smoke or other particulate matter, heat, humidity, glare, electronic interference or otherwise constitute a nuisance or safety hazard to the occupants of nearby properties.
- (6) No outdoor storage shall be permitted.
- (7) No home occupation shall be conducted in any accessory building.
- (8) No sign shall be displayed other than what may be permitted in the Chapter 1131: Signs, sufficient to display the name of the person and the type of home occupation.
- (9) No more than one home occupation shall be permitted within any single dwelling unit.

- (10) The commercial sale or wholesaling of knives, firearms, firearm components, or ammunition for firearms is strictly prohibited as a home occupation.

(c) Professional Home Office Exemption. A professional home office use, as defined by this code, is exempt from the home occupation regulations.

(Ord. 34-17. Effective 12-7-17.)

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1128.25 OUTDOOR STORAGE AND DISPLAY IN NON-RESIDENTIAL DISTRICTS.

Unless otherwise specified in this Code, the outdoor storage or display of bulk goods including retail and seasonal items such as firewood, landscaping materials, bagged materials, construction materials, mulch and the like shall be controlled by the following regulations:

- (a) The outdoor storage or display of merchandise, inventory or materials shall not interfere with required off-street parking or the safe and unobstructed use of vehicular or pedestrian access ways or walkways or block any drainage ways.
- (b) Outdoor storage shall be stored in an orderly manner (e.g. stacked) and shall remain free of stagnant water, weeds, insects and vermin.
- (c) Outdoor storage or display locations shall be approved by the Zoning Administrator.

(Ord. 34-17. Effective 12-7-17.)

1128.26 FOOD TRUCKS.

(a) Food Trucks may only be located on a lot with a principally permitted use on the same zoning lot, and are conditionally permitted in an PO, NCTR, DC, NC, CC, GC or LI zoning district provided the following conditions can be met:

(b) Food trucks may not conduct sales when parked on a public street unless approved for a City sponsored event or between the hours of 10pm and 7am.

(c) The food truck must be licensed by the Greene County Health Department and have a valid business license for food truck operations.

(d) A minimum one-half acre lot is required.

(1) A maximum of 2 food trucks on lots a one-half acre to one acre in size.

(2) A maximum of 4 food trucks on lots greater than one acre.

(e) Temporary outdoor seating is only permitted upon review and approval of the Zoning Administrator.

(f) Food trucks shall not block any ingress/egress or vehicular circulation in a parking lot, loading/unloading area or building entrance.

(g) Food trucks shall not block any fire hydrant or fire lane.

(h) Food truck operations shall be limited to the operating hours of the primary business on the lot.

(i) Food truck operations shall be located a minimum of 100 feet from a residential dwelling.

(j) No audio speakers or on-site/off-site freestanding signage shall be permitted other than what is displayed on the food truck.

(k) Grease, liquid waste and garbage shall not be disposed of on-site.

(l) Food trucks shall be subject to the all other applicable City and County Ordinances related to food operation.
(Ord. 34-17. Effective 12-7-17.)

1128.27 DRIVE-IN RESTAURANTS AND DRIVE-THROUGH BUSINESSES.

Drive-in restaurants and drive-through businesses are permitted in the GC and LI and conditionally permitted in the DC, NC, CC zoning districts, provided:

- (a) Minimum site size is one-half acre, with frontage of one 100 feet;
- (b) Drive-through automobile storage lanes meet the greater requirement of:
 - (1) The same setback requirements as are imposed on principal structures, or
 - (2) Thirty-five feet from the nearest existing or dwelling unit;
- (c) A six foot high screening fence may be required to separate the subject zoning lot from abutting residential properties;
- (d) Only one business is served by the drive-through window, drive storage lane;
- (e) The storage area for waiting cars is at least one-third the gross square footage of the business to be served;
- (f) There is an acceptable relationship to the abutting thoroughfare and an adequate on-site circulation pattern.
(Ord. 34-17. Effective 12-7-17.)

1128.28 SOLAR PANELS.

(a) Solar panels are permitted as an accessory use in all districts to promote clean, sustainable and renewable energy resources. The intent of these regulations is to establish general guidelines for the location of solar panels and solar collection systems to prevent off-site nuisances including unreasonable visual interference, light glare and heat that the incorrect placement of solar panels or solar collection systems may create such that they may have a negative effect on surrounding property values.

(b) No solar panel or solar collection system shall be constructed, erected, installed or located proper approval has been obtained pursuant to this Section.

(c) Requirements and Regulations. Solar panels or solar collection systems shall conform to or be evaluated for compliance with the following standards:

- (1) The proposed system is no larger than necessary to provide 120 percent of the electrical energy requirements of the structure to which it is accessory to as determined by a contractor licensed to install solar and photovoltaic energy systems.
- (2) If roof mounted, the solar or photovoltaic system shall:
 - A. Be flush mounted on the roof unless good cause is shown by the applicant that the solar panel is not at an appropriate angle to obtain maximum sun exposure if mounted flush to the roof.
 - B. Be located in the most inconspicuous location on the roof so as not to be seen from the street, if possible, and still be able to function as designed.
 - C. Not extend higher than the peak of a sloped roof or higher than 5 feet from the top of a flat roof.
- (3) If freestanding, the solar or photovoltaic system shall:
 - A. Not extend more than 10 feet above the existing grade in residential districts. In all other districts, the maximum height of a solar or photovoltaic system will be determined on a case by case basis upon plan review.
 - B. Not be located in the front yard.
 - C. Not be located in any required side or rear yard setback areas for accessory uses.
 - D. Not be positioned so as to reflect sunlight onto neighboring property, public streets or sidewalks, including on any neighboring structures.
 - E. Be landscaped at the base and the back of the panel structure if structure is visible from neighboring property.
- (4) All signs, both temporary and permanent, are prohibited on solar panel or solar collection systems, except as follows:
 - A. Manufacturer's or installer's identification information on the system.
 - B. Appropriate warning signs and placards.
- (5) Solar panel or solar collection systems shall comply with all applicable sections of the City of Fairborn Building Code and applicable industry standards such as the American National Standards Institute (ANSI), Underwriters Laboratories (UL) or an equivalent third party.
- (6) All electrical wires and connections on freestanding solar or photovoltaic collection system shall be located underground.

(d) Utility Connection. Solar panels or solar collection systems proposed to be connected to the local utility power grid through net metering shall adhere to Ohio Revised Code Section 4928.67 or any future corresponding statutory provision.

(e) Maintenance: All solar panel or solar collection systems shall be maintained in good working order.

(f) Procedure for Review. The review and approval of solar panels or a solar collection system shall comply with the following requirements:

- (1) Plan Review. A plan shall be submitted for review for freestanding solar panel or solar collection systems. The following items shall be the minimum requirements to be considered a complete application and shall include the following:
 - A. Property lines and physical dimensions of the applicant's property.
 - B. Location, dimensions and types of existing structures on the subject property and on properties directly contiguous to the subject property.
 - C. Location of the proposed solar panel or solar collection system, and associated equipment.
 - D. System specifications, including manufacturer, model, kilowatt _____ size.
 - E. Documentation shall be provided regarding the notification of the intent with the utility regarding the applicant's installation if the system will be connected to the power grid.
 - F. Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code (typically provided by the manufacturer).
 - G. Compliance with all development standards as outlined in this Section.
- (2) Zoning Compliance. A Zoning ~~Permit-Certificate of Compliance~~ must be obtained in accordance with this Zoning Code.
- (3) Building Permit. A Building Permit must be obtained from the City, as directed by the Zoning Administrator.
(Ord. 34-17. Effective 12-7-17.)

1128.29 SPECIAL REQUIREMENTS FOR FACILITIES RELATED TO VEHICLES.

Unless otherwise stated, this section shall apply to all vehicle body shops, vehicle fuel sales, vehicle sales, rental, or lease facilities, vehicle service and repair facilities, vehicle self-service stations/convenience stores, vehicle wash facilities and vehicle body shops.

- (a) Purpose. It is the purpose of this section to require that uses focused around vehicles, as identified above, be designed, located, used and maintained so as not to create blight, pedestrian and vehicular traffic hazards, and not be detrimental to the development and redevelopment of surrounding areas. In addition, to:
 - (1) Promote an aesthetically pleasing environment for all new vehicle related facilities, generally;
 - (2) Reduce noise and visual impacts on abutting and proximate uses;
 - (3) Ensure adequate drainage, especially for vehicle wash facilities;
 - (4) Promote safer and more efficient on-site vehicular circulation;
 - (5) Locate certain facilities, especial vehicle sales, rental or lease facilities so that they are not the dominant land uses of primary commercial or retail corridors; and
 - (6) Implement the provisions of the City of Fairborn Comprehensive Land Use Plan.
- (b) Plan Submission.
 - (1) The criteria listed in this chapter are to be used as guidelines in approving all principal permitted and conditional use vehicle sales and services, as defined in Chapter 113~~43~~: Definitions.

- (2) The applicant shall submit for review to the Zoning Administrator copies of a site plan, drawn to scale as identified in the Meeting and Submittal Schedule Guidelines provided by the City, showing:
 - A. The proposed location, arrangement and dimensions of all buildings, vehicular entrances, exits and driveways and pedestrian walks.
 - B. The proposed location, arrangement and dimensions of off-street parking, circulation and loading areas, as regulated by Chapter 1130: Parking and Loading.
 - C. The location of existing buildings and other natural and man-made features on all property contiguous to the property in question including property across public streets.
 - D. Proposed screening, buffering, landscaping and fences, as regulated by Chapter 1129: Screening, Buffer Yard, Landscaping and Fences.
 - E. The location and direction of proposed outdoor lighting.
 - F. The location, size and height of all proposed signs as regulated by Chapter 1131: Signs.
 - G. The location and capacity of all proposed and existing storage tanks.
 - H. The location, capacity and screening plan for proposed outdoor storage of vehicles, as regulated by Section 1128.29(h): General Site Design Standards.
- (c) Permitted and Prohibited Activities.
 - (1) No major repair work shall be performed in the open. "Major repair work" is defined as any work requiring two man-hours of effort. Examples of minor repair work permitted include fixing or replacing a tire, battery, headlight, or replacing fluids that do not require draining. All repair work, excluding emergency service shall be conducted only between the hours of 7:00 a.m. and 10:00 p.m.
 - (2) There shall be no outdoor storage of dismantled, disabled, or inoperable vehicles, except as provided in the Fairborn Codified Ordinances Section 341.12(b) and Section 1128.29(h): General Site Design Standards and regulated by Chapter 1129: Screening, Buffer Yard, Landscaping and Fences. When a conditional use permit is required such storage shall be approved by the Planning Board prior to the issuance of any occupancy permits. All other outdoor storage, except as regulated by Section 1128.29(h): General Site Design Standards shall be prohibited.
 - (3) There shall be no rental of wheeled vehicles such as trailers, automobiles, and trucks, unless expressly permitted by the Planning Board.
- (d) Accessory Uses Located on Same Lot as Vehicles Sales and Services.
 - (1) Off-street parking, circulation and loading shall be required as regulated by Chapter 1130: Parking and Loading.
 - (2) Accessory buildings and structures shall be permitted as regulated by Chapter 1128: Supplemental and Accessory Regulations.
 - (3) Signs shall be permitted as regulated by Chapter 1131: Signs.
 - (4) Outdoor lighting shall be permitted provided that all lighting fixtures shall be so placed or shielded that the lighting does not disturb adjoining properties.

- (5) Screening, buffer yards, landscaping and fences shall be required as regulated by Chapter 1129: Screening, Buffer Yard, Landscaping and Fences.
- (6) Outdoor storage of vehicles shall be permitted as regulated by Section 1128.29(h): General Site Design Standards.
- (7) Other uses clearly incidental and subordinate to the principal use and not otherwise prohibited shall be permitted.
- (e) Height. No building or structure, except fuel dispenser canopies, shall be erected or altered to a height exceeding one story or 15 feet from grade.
- (f) Prohibited Locations.
 - (1) Except for vehicle self-service stations/convenience stores, all vehicle sales and services shall be prohibited on a lot adjoining a ~~Parkland Conservation~~, Suburban Residential, or Medium Density Residential Zoning District.
 - (2) Vehicle wash facilities shall be prohibited:
 - A. On a corner lot.
 - B. Within 300 feet of a residentially zoned or residentially used property.
 - ~~C. Within 1,000 feet of a lot containing an existing and operational vehicle wash facility.~~
 - (3) A vehicle service and repair facility shall be prohibited within 1,000 feet of an existing and operational vehicle service and repair facility.
 - (4) A vehicle body shop shall be prohibited within 1,000 feet of an existing and operational vehicle body shop.
- (g) Area Regulations. Except as superseded by other sections of this Zoning Code the following area and yard requirements shall apply:
 - (1) No building or structure shall be erected or altered on a lot having an area of less than 20,000 square feet or upon a lot having a frontage on one street of less than 200 feet.
 - (2) There shall be a front yard having a depth of not less than 50 feet from the building line.
 - (3) Side yards of at least 20 are required, except on the side of a lot adjoining a dwelling district, in which case there shall be a side yard of not less than 40 feet.
 - (4) A rear yard of at least 15 feet is required, except where a lot abuts a dwelling district containing a dwelling, in which case there shall be a rear yard of not less than 30 in depth.
- (h) General Site Design Standards. All applicable facilities shall express architectural and design character which respect neighboring uses through adherence to the following standards:
 - (1) Design schemes, including materials and colors which are derived solely from corporate identities are discouraged.
 - A. Building elements shall not function as signage. Incorporation of franchise or business design elements unique or symbolic of a particular business shall be secondary to the overall architectural design.
 - B. Exterior brick used in new building construction shall be in the red, brown and buff color ranges or a substantially similar color as approved by the Zoning Administrator. Any exterior building materials featuring bold, brash, intense, fluorescent or metallic accent colors shall only be prohibited used in limited application.

Building facade colors for non-masonry materials shall be low reflectance, subtle, neutral or earth tone colors.

- (2) All building façades shall express a consistent architectural character, which respects the neighborhood fabric and maintains the continuity of the street. this is accomplished, in part, by ensuring the following features are consistent with the same or similar features found within proximate developments:
 - A. Building setback, height, width and general proportion;
 - B. Patterns of windows and doors; roof pitch, shutters, dormers, cornices, eaves and other decorative features; and
 - C. Building materials.
- (3) Blank walls that are visible from streets are prohibited. Façades devoid of openings, such as windows and transparent doors, shall not be permitted on the front façade. Façade openings, including windows, shall be vertical in orientation. Each storefront window panel shall not exceed an area of 21 square feet.
- (4) Curbs and bollards shall be used to create a safe zone around fuel dispensers.
- (5) Access points and driveways shall be planned and shared between properties to the greatest extent possible. There shall be no more than two access drives per street frontage.
- (6) The circulation plan shall demonstrate continuous traffic flow with efficient, non-conflicting movement throughout the site. Conflicts between major pedestrian movement and vehicular circulation shall be minimized.
- (7) Landscaping shall complement the existing streetscape to connect the site to the surrounding environment.
- (8) Site furniture may be incorporated in the design of all applicable facilities. This includes, but is not limited to bicycle racks, trash receptacles, and benches. The style and quality of the site furniture shall compliment the overall design of the principal building.
- (9) Fuel dispenser support structures or islands shall only include fuel dispensers, trash receptacles, pay stations, canopy supports, safety bollards and merchandise as regulated by Subsection 1128.29(h)(10).
- (10) All merchandise and material for sale except vehicles, dispensed fuel, motor oil and similar vehicle maintenance fluids and incidental supplies shall be displayed within an enclosed building.
 - A. Maintenance fluids and incidental supplies may be displayed outdoors, however, such displays shall only occur in outdoor racks or compartments located on or proximate to fuel dispensing islands.
 - B. In no case shall merchandise such as fertilizer, mulch, plants, salt and similar products sold in bulk be displayed or sold, except within an enclosed building.
 - C. Wash facilities shall have no more than five façade mounted machines for the distribution of change, tokens and incidental vehicle cleaning supplies.
- (11) All cash dispensing ATMs shall be located within the building.
- (12) Permitted outdoor storage of motor vehicles as regulated by Section 341.12(b) and outdoor areas or containers holding or storing trash, garbage, recycled or reused materials shall be properly screened from adjoining properties, streets and other public areas as regulated by Chapter 1129: Screening, Buffer Yard, Landscaping and Fences.

- (13) All trash containers required shall be constructed and finished to match the design, material, texture and color of the predominate building façade.
- (14) ~~Drive-up windows and drive-through buildings, excluding bays and similar building openings used for vehicle washing, maintenance and repair, shall be prohibited. All rooftop equipment shall be screened from public view.~~
- (15) Except as permitted in Subsection 1128.29(h)(10) above, outdoor vending machines shall be prohibited.
- (16) Detached accessory buildings and structures are discouraged. When permitted, they shall only be located in a rear yard; be compatible with principal building placement, design, materials, detail, color; and comply with all other applicable general site design standards of this section.
- (17) Rest rooms shall only be accessible from the building interior.
- (18) ~~All rooftop equipment shall be screened from public view.~~
- (i) Specific Site Design Standards for Vehicle Wash Facilities.
 - (1) Vehicle wash facilities shall have a minimum lot size of 40,000 square feet.
 - (2) Accessory equipment, such as vacuum facilities, shall have a minimum front yard setback of 20 feet.
 - (3) To the extent practicable, the sides of wash bays shall be sited parallel to the front lot line, so that lot frontage is minimized and wash activities are not visible from the public right-of-way.
 - (4) All wash bays and other building openings shall be capable of being completely enclosed and secured when not in operation.
 - (5) In addition to the off-street parking requirements of Chapter 1130: Parking and Loading, each motor vehicle wash bay shall have the following stacking capacity for vehicles waiting to be serviced:
 - A. Three stacking spaces for each bay in a self-service vehicle wash facility; and
 - B. Six stacking spaces for each in-bay automatic or conveyor vehicle wash facility.
- (j) Specific Site Design Standards for Vehicle Sales, Rental or Lease.
 - (1) Vehicle sales, rental or lease Facilities shall have a minimum lot size of 40,000 square feet.
 - (2) Floor space dedicated to general vehicle repair, body work and related vehicle services shall be incidental and subordinate to the vehicle sales, rental or leasing activities.
 - (3) No repair or servicing of trucks in excess of one and one-half ton capacity or industrial equipment of any type or character shall be permitted.
 - (4) All repaired or serviced vehicles waiting for customer pick-up shall be parked on-site and not within public rights-of-way.
 - (5) Any damaged, wrecked, unlicensed or junk motor vehicle shall not be stored on-site for purposes other than repair.
 - (6) All repair and service activities shall be conducted within an enclosed structure.
 - A. All hydraulic hoists and pits, and all other equipment used for greasing, lubrication, repairs and services shall be conducted completely within an enclosed structure.
 - B. All structures, whole or part, used for vehicle repair and services shall be constructed, located and used in a manner not to exceed maximum permitted vehicle noise levels as regulated by Chapter 551 of the Fairborn Codified Ordinances.

- (k) Specific Site Design Standards for Vehicle Repair Garages and Body Shops.
- (1) Motor Vehicle Repair Garages and Body Shops shall have a minimum lot size of 40,000 square feet.
 - (2) All repaired or serviced vehicles waiting for customer pick-up shall be parked on-site and not within public rights-of-way.
 - (3) Any damaged, wrecked, unlicensed or junk motor vehicle shall not be stored on-site for purposes other than repair.
 - (4) All repair and service activities shall be conducted within an enclosed structure.
 - A. All hydraulic hoists and pits, and all other equipment used for greasing, lubrication, repairs and services shall be conducted completely within an enclosed structure.
 - B. All structures, whole or part, used for vehicle repair and services shall be constructed, located and used in a manner not to exceed maximum permitted vehicle noise levels as regulated by Chapter 551.
- (l) Specific Site Design Standards for Fuel Dispensers and Canopies.
- (1) Fuel dispensers and support structures or islands not located within an enclosed building shall be set back at least 25 feet from any property line.
 - (2) Canopies shall:
 - A. Be set back 15 feet from the public right of way measured horizontally from any part of the structure including overhang;
 - B. Not exceed 18 feet in height from grade.
 - C. Meet the applicable general site design standards of Section 1128.29(h): General Site Design Standards.
- (m) Curb Cuts. Curbs shall be required on all streets providing access to the site. No use shall have more than two curb cuts on any one street. The location and angle of an approach in relation to an adjacent highway intersection shall be such that a vehicle entering or leaving the site may turn out of or into the nearest lane of traffic moving in the desired direction and be channeled within this lane before entering the intersection or proceeding along the highway. Applicants are encouraged to develop innovative design proposals. The Planning Board and Council will consider the modification of some of the above requirements if it is felt that such innovative design will promote the public safety and welfare.
(Ord. 34-17. Effective 12-7-17.)

1128.30 SPECIAL REQUIREMENTS FOR LARGE RETAIL DEVELOPMENTS.

(a) Purpose and Intent. The purpose of this section is to provide suitable land for large retail development. Suitable land includes, but is not limited to, lots with proper access to arterial roads and highways, locations and sufficient acreage to accommodate appropriate stormwater and soil/erosion management practices, as well as adequate water and sewerage service. Furthermore, the intent of this chapter is to:

- (1) Minimize the massive scale of large retail buildings to ensure that development is compatible with and does not detract from Fairborn's character, scale, and sense of place;
- (2) Ensure that building material and colors are aesthetically pleasing and compatible with materials and colors used in adjoining neighborhoods and developments;
- (3) Ensure that multiple building entrances for customer are provided and that such entrances provide orientation and character to the building;

- (4) Reduce the visual impact of large parking areas;
- (5) Require that parking areas, driveway aisles and walkways provide clean, safe, convenient, and efficient access for vehicles and pedestrians; and
- (6) Mitigate the visual and noise impacts on surrounding neighborhoods caused by lighting, outdoor storage, trash collection and off-street loading.

(b) Applicability. The regulations in this chapter shall apply to any new construction 75,000 gross square feet or greater in a single building retail development or 100,000 gross square feet or greater in a multiple building retail development, regardless of the number of building tenants. A large retail development shall include a single use or any combination of uses from the following categories as defined and regulated by the NC Neighborhood Commercial, Community Commercial or General Commercial Districts:

- (1) Retail and Service;
- (2) Offices;
- (3) Financial Institutions;
- (4) Trade and Services;
- (5) Retail Sales and Services; or
- (6) Personal Services and Business Services.

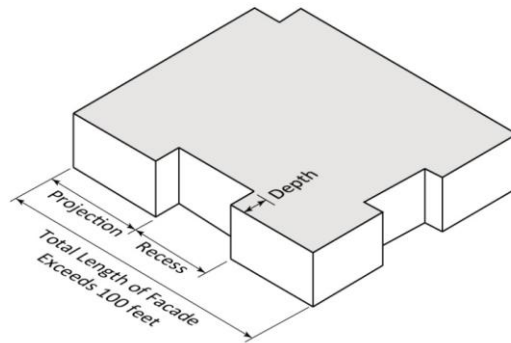
(c) Conditional Use and Planned Unit Development Approval.

- (1) Any new large retail development identified in Section 1128.30(b): Applicability, shall be conditionally permitted in the GC General Commercial District, and therefore shall be approved by Council in accordance with the conditional use provisions of Chapter 1132: Administration, Process and Procedures.
- (2) Any new large retail development identified in Section 1128.30(b): Applicability, shall be considered in a commercial/service oriented or mixed use Planned Unit Development District by Council in accordance with Chapter 1123: Planned Unit Development District.

(d) Design Standards Generally. In addition to other applicable requirements of the Zoning Code and Fairborn Code of Ordinances as a whole, Sections 1128.30(e) through 1128.30(r) identifies specific design standards that shall be met prior to approval of a large retail development.

(e) Facades and Exterior Walls.

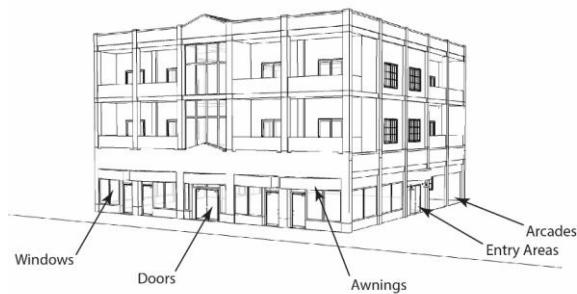
- (1) Facades shall be articulated to reduce the massive scale and the uniform, impersonal appearances of large retail buildings and provide visual interest that will be consistent with the City's identity, character and scale. The intent is to encourage a more human scale that Fairborn residents will be able to identify with.
- (2) Facades greater than 100 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the façade and extending at least 20 percent of the length of the facade. No uninterrupted length of any façade shall exceed 100 horizontal feet.



Projections and recesses shall comprise at least 20% of facade length with a minimum depth of 3% of facade length

Figure 1128 A: Illustration of wall plane projection and recess requirements.

- (3) Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than 60 percent of their horizontal length.



Animating features such as windows, doors, awnings, entry areas and arcades must total 60% of the total facade length for any facade abutting a public street

Figure 1128 B: Illustration of ground floor architectural details.

(f) Detail Features.

- (1) Buildings shall have architectural features and patterns that provide visual interest at the scale of the pedestrian, reduce massive aesthetic effects, and recognize local character. The elements in the following standard shall be integral parts of the building fabric, and not superficially applied trim or graphics, or paint.
- (2) Building facades must include a repeating pattern that shall include no less than three of the elements listed below. At least one of these elements shall repeat horizontally. All elements shall repeat at intervals of no more than 30 feet, either horizontally or vertically.
 - A. Color change;
 - B. Texture change;
 - C. Material module change; or
 - D. Expression of architectural or structural bay through a change in plane no less than 12 inches in width, such as an offset, reveal, or projecting rib.

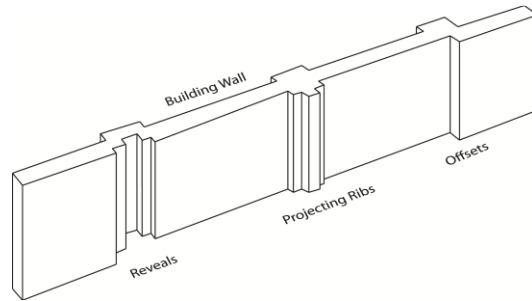


Figure 1128 C: Illustration of building wall architectural details

(g) Roofs.

- (1) Variations in roof lines should be used to add interest to, and reduce the massive scale of, large buildings. Roof features should complement the character of adjoining neighborhoods.
- (2) Roofs shall have no less than two of the following features:
 - A. Parapets that conceal flat roofs and rooftop equipment such as HVAC units from public view. The average height of such parapets shall not exceed 15 percent of the height of the supporting wall and such parapets shall not at any point exceed one-third of the height of the supporting wall. Such parapets shall feature three-dimensional cornice treatments.
 - B. Overhanging eaves, extending no less than three feet past the supporting walls.

- C. Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to one foot of vertical rise for every three feet of horizontal run and less than or equal to one foot of vertical rise for every 1 foot of horizontal run.
- D. Three or more roof slope planes.

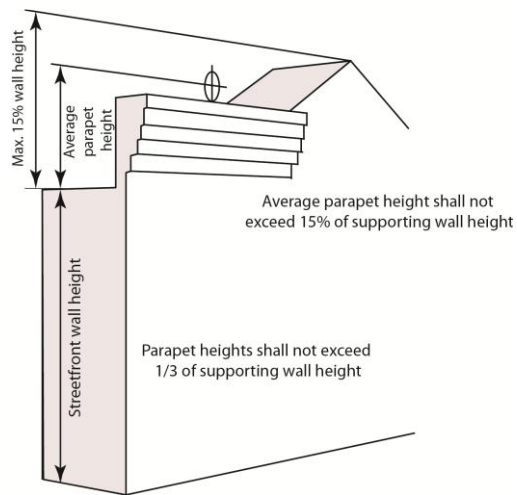


Figure 1128 D: Illustration of roof architectural details

- (h) Materials and Color.
 - (1) Exterior building materials and colors comprise a significant part of the visual impact of a building. Therefore, they shall be aesthetically pleasing and compatible with materials and colors used in adjoining neighborhoods.
 - (2) Predominant exterior building materials shall be high quality materials. These include, but are not limited to:
 - A. Brick;
 - B. Wood;
 - C. Limestone;
 - D. Other native stone; or
 - E. Tinted, textured, concrete masonry units.
 - (3) Facade colors shall be low reflectance, subtle, neutral or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited.
 - (4) Building trim and accent areas may feature colors brighter than permitted on the facade, including primary colors, but neon tubing shall not be an acceptable feature for building trim or accent areas.

- (5) Predominant exterior building materials shall not include the following:
 - A. Smooth-faced concrete block;
 - B. Unfinished concrete;
 - C. Pre-fabricated steel panels; or
 - D. Vinyl.
- (i) Entryways.
 - (1) Entryway design elements and variations shall give orientation and aesthetically pleasing character to the building.
 - (2) Each principal building on a site shall have clearly defined, highly visible customer entrances featuring no less than three of the following:
 - A. Canopies or porticos;
 - B. Overhangs;
 - C. Recesses/projections;
 - D. Arcades;
 - E. Raised corniced parapets over the door;
 - F. Peaked roof forms;
 - G. Arches;
 - H. Outdoor patios;
 - I. Display windows;
 - J. Architectural details such as tile work and moldings which are integrated into the building structure and design; or
 - K. Integral planters or wing walls that incorporate landscaped areas and/or places for sitting.
 - (3) Where additional stores will be located in the principal building, each such store shall have at least one exterior customer entrance, which shall conform to the above requirements.
- (j) Side and Back Facades.
 - (1) All facades of a building which are visible from adjoining properties and/or public streets shall contribute to the pleasing scale features of the building and encourage community integration by featuring characteristics similar to the front facade.
 - (2) All side and back building facades which are visible from adjoining properties and/or public streets shall comply with the requirements of Section 1128.30(e): Facades and Exterior Walls.
- (k) Entrances.
 - (1) Large retail buildings shall feature multiple entrances. Multiple building entrances reduce walking distances from cars, facilitate pedestrian and bicycle access from public sidewalks, and provide convenience where certain entrances offer access to individual stores, or identified departments of a store.
 - (2) At least two sides of a large retail establishment shall feature customer entrances. The two required sides shall be those planned to have the highest level of public pedestrian activity, and one of the sides shall be that which most directly faces a street with pedestrian access. The other of the two sides may face a second street with pedestrian access, and/or a main parking lot area. All entrances shall be architecturally prominent and clearly visible from the abutting public street. Movie theaters are exempt from this requirement.

(l) Off-Street Parking. Off-street parking shall be regulated by Chapter 1130: Parking and Loading, and as follows:

- (1) Off-street parking areas shall provide safe, convenient, and efficient access. Parking shall be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks and to reduce the overall scale of the paved surface. If buildings are located closer to streets, the scale of the complex is reduced, pedestrian traffic is encouraged, and architectural details take on added importance.
- (2) No more than 50 percent of the off-street parking area for the lot, tract or area of land devoted to the large retail establishment shall be located between the front facade of the large retail establishment and the abutting streets (the "Front Parking Area"). The Front Parking Area shall be determined by drawing a line from the front corners of the building to the nearest property corners.
- (3) No single parking area shall exceed 120 spaces unless divided into two or more sub-areas by a building, internal landscaped street, driveway aisle, or landscaped pedestrian way.

(m) Sides and Rear of Building.

- (1) The rear or sides of buildings often present an unattractive view of blank walls, loading areas, storage areas, HVAC units, garbage receptacles, and other such features. Architectural and landscaping features mitigate these impacts.
- (2) The minimum setback for any side or rear building facade shall be 35 feet from the nearest property line. Where the side or rear yards faces adjacent residential uses, an earthen berm, no less than six feet in height, containing at a minimum evergreen trees planted at intervals of 20 feet on center, or in clusters or clumps, shall be provided.

(n) Outdoor Storage, Trash Collection and Loading Areas.

- (1) Loading areas and outdoor storage areas exert visual and noise impacts on surrounding neighborhoods. These areas, when visible from adjoining properties and/or public streets, shall be screened, recessed or enclosed. While screens and recesses can effectively mitigate these impacts, the selection of inappropriate screening materials can exacerbate the problem. Appropriate locations for loading and outdoor storage include areas between buildings, where more than one building is located on a site and such buildings are not more than 40 feet apart, or on those sides of buildings that do not have customer entrances.
- (2) Areas for outdoor storage, truck parking, trash collection or compaction, loading, or other such uses shall not be visible from abutting streets.
- (3) No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 20 feet of any public street, public sidewalk, or internal pedestrian way.
- (4) Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash collection, trash compaction, and other service functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets, and no attention is attracted to the functions by the use of screening materials that are different from or inferior to the principal materials of the building and landscape.

- (5) Non-enclosed areas for the storage and sale of seasonal inventory shall be permanently defined and screened with walls and/or fences. Materials, colors, and design of screening walls and/or fences and the cover shall conform to those used as predominant materials and colors on the building. If such areas are to be covered, then the covering shall conform to those used as predominant materials and colors on the building.
- (o) Pedestrian Flow.
 - (1) Pedestrian accessibility opens auto-oriented developments to the neighborhood, reducing traffic impacts and enabling the development to project a friendlier, more inviting image. This section sets forth standards for public sidewalks and internal pedestrian circulation systems that can provide user-friendly pedestrian access as well as pedestrian safety, shelter, and convenience within the center grounds.
 - (2) Sidewalks at least eight feet in width shall be provided along all sides of that lot that abut a public street.
 - (3) Continuous internal pedestrian walkways, no less than eight feet in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all principal buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or similar materials.
 - (4) Sidewalks, no less than eight feet in width, shall be provided along the full length of the building along any facade featuring a customer entrance, and along any facade abutting public parking areas. Such sidewalks shall be located at least six feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.
 - (5) Internal pedestrian walkways provided in conformance with subsection 3. above shall provide weather protection features such as awnings or arcades within 30 feet of all customer entrances.
 - (6) All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways.
- (p) Central Features and Community Spaces.
 - (1) Buildings shall offer attractive and inviting pedestrian scale features, spaces, and amenities. Entrances and parking lots shall be configured to be functional and inviting with walkways conveniently tied to logical destinations. Bus stops and drop-off/pick-up points shall be considered as integral parts of the configuration. Pedestrian ways shall be anchored by special design features such as towers, arcades, porticos, pedestrian light fixtures, bollards, planter walls, and other architectural elements that define circulation ways and outdoor spaces. Examples of outdoor spaces are plazas, patios, courtyards, and window shopping areas. The features and spaces shall enhance the building and the center as integral parts of the community fabric.

- (2) Each retail establishment subject to these standards shall contribute to the establishment or enhancement of community and public spaces by providing at least two of the following:
 - A. Patio/seating area;
 - B. Pedestrian plaza with benches;
 - C. Transportation center;
 - D. Window shopping walkway;
 - E. Outdoor playground area;
 - F. Kiosk area;
 - G. Water feature; or
 - H. Clock tower, or other such deliberately shaped area and/or a focal feature or amenity that enhances such community and public spaces.
- (3) Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape.

(q) Delivery and Loading Operations.

- (1) Delivery and loading operations shall not disturb adjoining neighborhoods, or other uses.
- (2) No delivery, loading, trash removal or compaction, or other such operations shall be permitted between the hours of 10:00 p.m. and 7:00 a.m. unless the applicant submits evidence that sound barriers between all areas for such operations effectively reduce noise emissions to a level of 45 dBL, as measured at the lot line of any adjoining property.

(r) External Lighting.

- (1) On-site lighting in all unenclosed areas shall not disturb adjoining neighborhoods or other uses.
- (2) Light design and installation shall emphasize low-level uniform lighting to avoid abrupt changes from bright lights to darkness. In addition, the development shall conform with all other provisions of the Zoning Code specific to lighting on private property.

(s) Modifications to Design Standards. Council may modify any standard regulated by this chapter under the following circumstances:

- (1) The strict application of the standard would result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of the affected property; or
- (2) The alternative site planning and building design approach meets the design objectives as stated in the standard, equally well or better than would compliance with the standard; and
- (3) In either of the foregoing circumstances, the modification may be granted without substantial detriment to the public good.
(Ord. 34-17. Effective 12-7-17.)

1128.31 WALL MURALS.

- (a) Wall murals shall not be permitted on the front façade of a building.

- (b) A wall mural shall not cover, destroy, or materially alter a distinctive architectural or historic feature of a building or structure.
- (c) Wall murals may be illuminated with up or down lighting. No glare shall be observed from neighboring properties or the public right-of-way.
- (d) Wall murals shall be kept in good repair and free of vandalism.
- (e) An application for a wall mural shall be submitted to the Zoning Administrator including the following as a minimum:
 - (1) A color rendering or digital image of the proposed mural including wall location.
 - (2) A description of the materials to be used.
 - (3) Written permission from the owner of the building or structure where the mural is to be located.
 - (4) Any other information the Zoning Administrator deems necessary to review and evaluate the request.
(Ord. 34-17. Effective 12-7-17.)

CHAPTER 1129
Screening, Buffer Yard, Landscaping and Fences

- 1129.01 Purpose.**
- 1129.02 Screening, buffering and landscaping required.**
- 1129.03 Submission of screening, buffering and landscaping plan.**
- 1129.04 Components of screening, buffer yard and landscaping plan.**
- 1129.05 Specific buffer yards and landscaping requirement.**

- 1129.06 Approval of plan.**
- 1129.07 Required completion time.**
- 1129.08 Fence requirements.**
- 1129.09 Maintenance of screening,
buffer yards, landscaping
and fences.**
- 1129.10 Obstructing vehicular vision.**
- 1129.11 Retaining walls.**
- 1129.12 Screening of maintenance
equipment.**

1129.01 PURPOSE.

The purpose of the screening, buffer yard and landscaping regulations is to:

- (a) Eliminate or minimize conflicts between potentially incompatible, but otherwise permitted land uses on adjoining lots using a suitable combination of setbacks, visual buffers and physical barriers.
 - (b) Prescribe standards for the development and maintenance of trees, plantings, walls and fences.
 - (c) Mitigate the adverse effects of noise, blowing dust and debris.
 - (d) Improve the urban environment by providing trees and plantings that cool the air and land, reduce carbon dioxide in the air, and produce oxygen.
 - (e) Protect users of parking areas from excessive wind, glare, and temperature extremes.
 - (f) Promote attractive development and preserve the appearance and character of the surrounding area through the use of landscaping.
- (Ord. 34-17. Effective 12-7-17.)

1129.02 SCREENING, BUFFERING AND LANDSCAPING REQUIRED.

A suitable combination of screening, buffering and landscaping along and proximate to common property lines shall be required for any new development or expansion of an existing development involving more than a 10% increase of gross floor area, which occurs between:

- (a) A non-residential zoning district or use and a residential zoning district or use;
- (b) Residential subdivisions with different zoning districts; or,
- (c) Planned unit development districts with a common measure of density that varies more than 30%. (Ord. 34-17. Effective 12-7-17.)

1129.03 SUBMISSION OF SCREENING, BUFFERING AND LANDSCAPING PLAN.

Prior to the issuance of a building permit for any of the uses described above, the applicant shall be required to submit to the Zoning Administrator a plan setting forth the proposed method of screening, buffering and landscaping. The plan shall take into consideration the space required to be screened, buffered and landscaped, the planting area available, the density of the foliage required to adequately protect abutting properties and the height of screening necessary to provide the desired protection.

(Ord. 34-17. Effective 12-7-17.)

1129.04 COMPONENTS OF SCREENING, BUFFER YARD AND LANDSCAPING PLAN.

The screening, buffering and landscaping plan shall include a site plan, drawn to scale, indicating the specifications and locations of the following screening, buffering and landscaping components, when applicable:

- (a) The species and size of all existing trees 1¼ inch caliper or larger, showing those that are proposed for removal and those proposed for retention;
 - (b) The species and size of all proposed trees 1¼ inch caliper or larger;
 - (c) The species and size of all other plantings, including shrubs and ground covers, indicating common names, scientific names and varieties, quantities, and sizes for all plant materials proposed;
 - (d) All proposed man-made barriers such as fences and walls;
 - (e) Proposed grading, drainage and erosion control measures;
 - (f) The irrigation system, if any; and
 - (g) The maintenance plan, if any.
- (Ord. 34-17. Effective 12-7-17.)

1129.05 SPECIFIC BUFFER YARDS AND LANDSCAPING REQUIREMENT.

(a) The buffer yard shall be a landscaped area free of structures, dumpsters, material storage or display, manufacturing or processing activity, loading and unloading areas or vehicle parking or outdoor display. No new driveways or streets shall be permitted in buffer yards except at points of approved approximately perpendicular crossings for ingress or egress.

(b) All areas not covered by plants, shrubs and trees shall be well maintained by an all season vegetative ground cover and shall be kept free of debris and rubbish and not include grass areas higher than eight inches at grade. Grass shall be the default ground cover.

(c) All plantings must be suitable for the City of Fairborn's soils and climatic conditions and the planting's slope exposure, and:

- (1) Shall be distributed so as to provide a relatively uniform planting. Where the planting is along a street and some visibility into the development is desired, the plant material may be arranged to provide view corridors.
- (2) The landscaped areas shall be entirely pervious except for barrier structures and walks that provide pedestrian access. No more than 25% of the required area may consist of impervious materials such as gravel, stones, or paving.
- (3) A mix of hardwood tree species shall be provided.
- (4) Native grasses and plants that are pollinator friendly shall be provided.

(d) If an applicant demonstrates to the satisfaction of the Zoning Administrator and City Engineer that an existing healthy tree line, attractive thick vegetation, natural earth berm and/or steep slopes will be preserved and serve the same buffer purposes that would otherwise be required by this Chapter, then such preserved existing buffer shall be permitted to be used, in part or whole, in place of new ground cover, grading and plantings. If this existing natural buffer is removed at any time, the applicant or property owner shall be required to plant a buffer yard that will meet the ground cover, grading and planting requirements of this chapter.
(Ord. 34-17. Effective 12-7-17.)

1129.06 APPROVAL OF PLAN.

The Zoning Administrator and City Engineer shall review such plans and shall forward their findings to the applicant within 30 days.
(Ord. 34-17. Effective 12-7-17.)

1129.07 REQUIRED COMPLETION TIME.

All screening required hereunder shall be completed prior to the issuance of an occupancy permit, or in such cases in which issuance of an occupancy permit is not applicable, within one month from the effective date of the rezoning or conditional use legislation. The Zoning Administrator may issue a reasonable extension of the 30-day requirement in case of extenuating circumstances. A satisfactory performance bond or letter of credit shall be provided to assure completion of the screening as shown on the plan.
(Ord. 34-17. Passed 12-7-17.)

1129.08 FENCE REQUIREMENTS.

(a) Purpose. Properly designed and installed fences provide screening, privacy and security, delineate boundaries, improve pedestrian and vehicular traffic flow, and enhance aesthetics on private property. Fences are permitted within any zoning district and may be required in some districts for screening purposes as specified in applicable sections of this Zoning Code. The purpose of these regulations is to:

- (1) Control the design and installation of fences;
- (2) Protect the general appearance of properties within the community; and
- (3) Preserve the health and safety of the general public.

(b) Agricultural Uses Exempted. Any premises whose principal use is agriculture shall be exempt from Sub Section (f) below if approved by the Zoning Administrator.

(c) Means of Emergency Access Required. Fences located in any zoning district within a front yard shall include at least one permanent opening or unlockable gate with a minimum width of four feet to provide emergency access to the principal building or to the enclosed areas of the property.

(d) Fences Permitted by Material, Type and Style. Durable, weather resistant and rustproof materials such as wood, metal, vinyl and stone, as certified by the Zoning Administrator, may be used in the following fence types:

- (1) Board-on-board, louver or shadowbox;
- (2) Rail or split rail;
- (3) Basket weave or lattice;
- (4) Open palisade or stockade;
- (5) Standard picket;
- (6) Decorative, finished concrete or masonry;
- (7) Invisible fences consisting of a low voltage (2.5 watts or less) wire buried beneath the ground, used to activate a device placed on the collar of dogs or other similar pets to contain them on the premises. Invisible fences shall be restricted to private property; or
- (8) Vinyl coated chain link.

(e) Fence Gates and Ornamentation. All fence gates and ornamentation shall be constructed of the same style and color as the predominant fence materials.

(f) Fences Prohibited by Location, Material, Type and Style. The following fence location, materials, types, and styles shall be prohibited:

- (1) Dangerous fences installed above ground, such as electrified, barbed wire, unfinished, non-durable, sharpened edge, rusted, or other such fences designed to inflict pain or cause injury, not including radio frequency fences, shall be prohibited within any zoning district;
- (2) Chicken, mesh or woven wire fences;
- (3) Deer fences;
- (4) Snow fences;
- (5) Non-decorative concrete or masonry wall fences;
- (6) Plywood, particle board and other non-traditional fence materials deemed unacceptable by the Zoning Administrator;
- (7) Any part of a fence or fence gate located within a public right-of-way; and
- (8) Any part of a fence or fence gate containing a sign or message other than the name of the fence manufacturer not to exceed ½ square foot.

(g) Facing. All fences shall be installed so that support posts and other support mechanisms face the inside part of the fence.

(h) Residential Rear Yard Fence Requirements.

- (1) Rear yard fencing shall not be erected in front of the rear building line of the principal building.
- (2) The maximum height permitted in a rear yard shall be six feet.
- (3) Within any residential district, any style or type of fencing other than those listed as prohibited fences are permitted in the rear yard.
- (4) An exception for tennis and basketball courts is granted to allow 12 feet, provided any part of the fence above six feet shall be constructed of an open material which minimally obstructs vision.

- (5) In all residential zoning districts except the ~~C-Conservation Development~~, SE Suburban Residential district and PUDs with residential uses, wire fencing, including chain link shall only be permitted in the rear yard.
- (i) Residential Front and Side Yard Fence Requirements.
- (1) The maximum height permitted for fences located within a front yard shall be 48 inches. The fence located within a front yard shall be constructed using such materials or construction methods as to achieve a minimum transparency of sixty percent (60%). The openings of the fence that provides that transparency shall be evenly spaced throughout the vertical surface. Picket, split rail or ornamental metal are permitted.
- (2) Side yard fencing shall not be erected in front of the front building line of the principal building. The maximum height for fences located within a side yard shall be six feet or 72 inches.
- (j) Residential Front and Side Yard Fence Requirements for Corner Lots.
- (1) The maximum height permitted for fences located within a front yard on a corner lot shall be six feet or 72 inches provided the fence is behind the front building line of the house and is set back a minimum of 10 feet from the right-of-way.
- (2) The maximum height permitted for fences located within a side yard on a corner lot shall be six feet or 72 inches.
- (k) Residential Fence Exceptions. Noncontiguous fence components that reasonably do not provide screening, privacy or security and are not greater than 18 inches in height and three feet in linear width shall not require a fence permit.
- (l) Non-Residential Fence Requirements.
- (1) The maximum height permitted for fences located in any yard shall be six feet.
- (2) Any fence located in a required front yard shall not exceed four feet, or 48 inches in height.
- (3) The maximum height permitted for fences located within a front yard on a corner lot shall be six feet or 72 inches provided the fence is behind the front building line of the principle structure and is set back a minimum of 10 feet from the right-of-way.
- (m) Fence Permit Required.
- (1) A permit is required prior to the installation of a new fence or fence section, or the relocation of any part of an existing fence located in any yard.
- (2) A fence permit application shall be submitted on forms provided by the Zoning Administrator signed by the owner of the property or by the commercial fence contractor, if applicable.

- (3) A fence permit application shall be accompanied by plans or drawings showing the actual shape and dimension of the lot on which the fence is to be installed, and the exact height, location, length, and type of fence materials proposed.
- (4) The applicant is responsible for confirming that the fence will not encroach into an adjoining property or into a right-of-way.
- (5) Permits for Regular Maintenance Not Required.
- (6) A permit shall not be required for regular fence maintenance. Regular maintenance includes any activity which does not result in the relocation, change in elevation, size or extension of an existing fence or fence section. Any regular maintenance shall require the use of the same style and color of materials as the predominant fence materials.
(Ord. 34-17. Effective 12-7-17; Ord. 21-19. Passed 4-1-19.)

1129.09 MAINTENANCE OF SCREENING, BUFFER YARDS, LANDSCAPING AND FENCES.

All screening shall be maintained to continue its effectiveness. If a screening fence or wall required by the Zoning Code deteriorates, it shall be replaced within six weeks. If ground cover or plantings required by the Zoning Code die or otherwise lose their effectiveness, they shall be repaired, or replaced, during the next planting season, or within six months, whichever is sooner. When screening is achieved by either a wall or fence, they must be properly maintained as per the Fairborn Property Maintenance Code.
(Ord. 34-17. Effective 12-7-17.)

1129.10 OBSTRUCTING VEHICULAR VISION.

Screening, buffer yards, landscaping, and fences shall not obstruct vehicular vision at street and driveway intersections, as regulated by Sections 521.12 and 521.13 of the General Offenses Code. (Ord. 34-17. Effective 12-7-17.)

1129.11 RETAINING WALLS.

Retaining walls or short sections of walls or fences that are primarily of a decorative nature rather than enclosing nature, not exceeding one and one-half feet in height, or 50% of the lot frontage shall not require a permit. All other retaining walls shall require a permit as regulated by Section 1311.02 of the Building Code.
(Ord. 34-17. Effective 12-7-17.)

1129.12 SCREENING OF MAINTENANCE EQUIPMENT.

All mechanical, electronic, and communication equipment mounted upon a roof shall be screened to an opacity of one hundred percent (100%) and be a minimum of 12 inches in height or equal in height to the items or area to be screened, whichever is greater. All screening shall complement existing buildings.
(Ord. 21-19. Passed 4-1-19.)

CHAPTER 1130
Parking and Loading

- 1130.01 Purpose.
- 1130.02 Off-street parking required.
- 1130.03 Minimum parking space and driveway aisle standards.
- 1130.04 Accessible spaces for automobiles and vans.
- 1130.05 ~~Access for each R~~residential driveway standards.
- 1130.06 Parking spaces by location and material.
- 1130.07 Units of measurement.
- 1130.08 Change in use, additions and enlargements.
- 1130.09 Mixed occupancies and uses not specified.
- 1130.10 Collective off-street parking.
- 1130.11 Joint use of facilities.
- 1130.12 Not to exceed requirement.
- 1130.13 Number of parking spaces required.

- 1130.14 Credit for number of parking spaces.
- 1130.15 Existing parking to be maintained.
- 1130.16 Dual usage prohibited.
- 1130.17 Design, development and maintenance of parking areas.
- 1130.18 Accessory off-street parking on a noncontiguous lot permitted.
- 1130.19 Special requirements for public off-street parking.
- 1130.20 Drive-in and drive-through circulation.
- 1130.21 Off-street loading space.
- 1130.22 Prohibited uses.
- 1130.23 Bicycle parking.

1130.01 PURPOSE.

It is the purpose of the off-street parking and loading and bicycle parking regulations to reduce the congestion on streets due to excessive use for parking and loading of motor vehicles and to prevent excessive amounts of off-street parking and loading through the appropriate control of the siting and number of spaces permitted. Off-street circulation regulations are designed to prevent traffic congestion and hazard due to the movement of vehicles and pedestrians on private property. The requirements apply uniformly to all buildings and uses, regardless of the districts in which they are located. (Ord. 34-17. Effective 12-7-17.)

1130.02 OFF-STREET PARKING REQUIRED.

Off-street parking and/or loading shall be provided for every new, enlarged or modified use in connection with every use as applicable, in accordance with the requirements specified in this chapter. (Ord. 34-17. Effective 12-7-17.)

1130.03 MINIMUM PARKING SPACE AND DRIVEWAY AISLE STANDARDS.

The following minimum standards shall apply to all parking spaces and driveway aisles:

- (a) Parking Space Standard Width and Length. Parking spaces shall have the following minimum dimensions:

Table 1130-1: Parking Space Dimensional Requirements					
Dimension	0° Parallel	30° Diagonal	45° Diagonal	60° Diagonal	90° Perpendicular
Space Width (feet)	8	8.5	8.5	9	9
Space Length (feet)	22	18	18	18	18

- (b) Driveway Aisles. Driveway aisles shall have the following minimum dimensions:

Table 1130-2: Driveway Aisle Dimensional Requirements					
Dimension	0° Parallel	30° Diagonal	45° Diagonal	60° Diagonal	90° Perpendicular
Space Width (feet) Aisle Width 1 Way	12	14	15	15	24
Space Length (feet) Aisle Width 2 Way	24	24	24	24	24

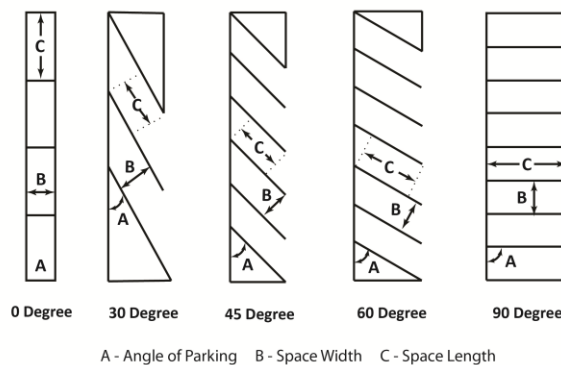


Figure 1130-A: Illustration of driveway aisle dimension.

(Ord. 34-17. Effective 12-7-17; Ord. 21-19. Passed 4-1-19.)

1130.04 ACCESSIBLE SPACES FOR AUTOMOBILES AND VANS.

(a) Accessible parking and loading spaces, except spaces used exclusively by buses, trucks, other delivery vehicles, law enforcement vehicles or vehicular impound, shall meet the following requirements unless superseded by federal or state regulations:

- (1) Every parking space shall not be less than nine feet in width and 20 feet in length.
- (2) Six of every seven parking spaces shall include an accompanying 60" wide access aisle.
- (3) One of every seven parking spaces shall be designated as "van-accessible", and shall include a 96" wide access aisle to accommodate a wheelchair lift.

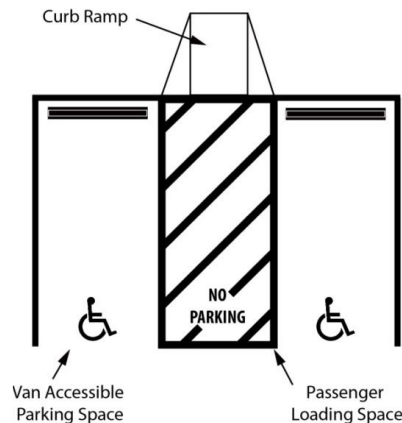


Figure 1130 B: Illustration of location and space of van-accessible parking spaces.

- (4) All access aisles shall be the same length as the adjacent parking spaces, with a 1:50 (2%) maximum surface slope in all directions.
- (5) All access aisle boundaries shall be marked as required by Section 1130.17(d). The end of the aisle boundary may be a squared or curved shape.
- (6) Two accessible parking spaces may share a common access aisle.
- (7) A minimum vertical clearance of 98 inches is required at van accessible parking spaces and along at least one vehicle access route to such spaces from site entrances and exits.
- (8) Uses with passenger loading zones shall provide an access aisle at least 60 inches wide and twenty (20) feet long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions.

- (9) A minimum vertical clearance of 114 inches is required at accessible passenger loading zones and along at least one vehicle access route to such loading zones from site entrances and exits.
- (10) The total minimum number of accessible parking spaces for all uses, except in-patient and out-patient medical facilities and facilities or units that specialize in treatment or other services for persons with mobility impairments, shall be as follows:

Table 1130-3: Required Accessible Parking			
Total Number of Parking Spaces Provided (per lot)	Column A Total Minimum Number of Accessible Parking Spaces (60" & 96" aisles)	Van-Accessible Parking Spaces with min. 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle
1-25	1	1	0
26-50	2	1	1
51-75	3	1	2
76-100	4	1	3
101-150	5	1	4
151-200	6	1	5
201-300	7	1	6
301-400	8	2	7
401-500	9	2	7
501-1000	2% of total parking provided in each lot	1/8 of column A	7/8 of Column A
1001 and over	20 plus 1 for each 100 over 1000		

- (11) For in-patient and out-patient medical facilities and facilities or units that specialize in treatment or other services for persons with mobility impairments the total minimum number of accessible parking spaces shall be equal to 20% of the total number of parking spaces provided.
- (12) For multiple-level parking facilities, all parking spaces may be evenly distributed on each level or located exclusively on one level, except that van accessible parking spaces shall be located on the first level or level closest to grade.

- (13) Accessible parking spaces shall be located with the shortest accessible route of travel to an accessible facility entrance. Where buildings have multiple accessible entrances with adjacent parking, the accessible parking spaces shall be dispersed and located closest to the accessible entrances.
- (14) An accessible route shall not have curbs or stairs, shall be at least three feet wide, and have a firm, stable, slip-resistant surface. The slope along the accessible route should not be greater than 1:12 (8%) in the direction of travel.
- (15) For accessible parking spaces added in an existing parking lot or facility, the spaces on the most level ground shall be located close to the accessible entrance. An accessible route shall always be provided from the accessible parking to the accessible entrance.
- (16) Accessible parking spaces shall be designated as reserved by a sign showing the international symbol of accessibility. Van-accessible spaces shall have an additional sign, stating "Van-Accessible", mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space. Said signage shall be a 60" minimum height, measured from grade to the bottom of the sign.



Figure 1130 C: Example of accessible parking signage.
(Ord. 34-17. Effective 12-7-17.)

1130.05 ~~ACCESS FOR EACH RESIDENTIAL DRIVEWAY STANDARDS USE.~~

Access for each residential use shall be as follows:

- (a) For ~~each~~ single family ~~detached dwelling, duplex and fourplex dwellings,~~ no more than one ~~driveway with access drive per unit with a minimum width of 10 feet and a~~ maximum width of ~~24~~18 feet shall be permitted.
 - (1) ~~When a garage has more than two front load parking bays (i.e. a three car or four car garage), the maximum driveway width shall be 36 feet for three parking bays and a maximum of 48 feet for four parking bays.~~
 - (2) ~~When a garage has more than two front load parking bays (i.e. a three car or four car garage), the driveway width shall taper down to no more than twenty-four feet as soon as practical, as approved by the Zoning Administrator.~~
 - (3) ~~All driveways shall taper to the approach located in the right-of-way which shall not exceed 18 feet in width and be built in accordance with the City Engineer.~~
- (b) ~~For duplex, triplex and fourplex dwellings, no more than one access drive per unit with a minimum width of 10 feet and a maximum width of 18 feet shall be permitted.~~
- (c) ~~For multiple family dwellings, no more than two ingress/egress points into the off-street parking area with a minimum width of 20 feet and a maximum width of 30 feet shall be permitted.~~
- (d) ~~All r~~Residential driveways and parking pads shall be set back a minimum of three

-feet_-from any side lot line.

(e) For all single family, duplex, triplex and fourplex dwellings, no driveway or other hard-surfaced vehicular parking area shall cover more than thirty-five percent (35%) of the front yard area or thirty-five percent (35%) of the rear yard area.

(f) In any residential dwelling building with front load garages, the front door and porch shall be connected to the driveway with a minimum three foot wide walkway.

(Ord. 34-17. Effective 12-7-17.)

1130.06 PARKING SPACES BY LOCATION AND MATERIAL.

(a) Parking spaces for all types of uses shall be provided either in garages or dedicated parking areas conforming to the provisions of this Zoning Code. Other than a paved driveway, no off-street parking shall be located within any required front yard for any residential use.

(b) Except as otherwise provided, required off-street parking facilities shall be located on the same lot as the principal building.

(c) All parking spaces and their access drives shall be hard surfaced with asphalt or concrete. (Ord. 34-17. Effective 12-7-17.)

1130.07 UNITS OF MEASUREMENT.

For the purposes of determining off-street parking requirements, the following units of measurement shall apply:

- (a) Floor Area. In the case of uses where floor area is the unit for determining the required number of off-street parking spaces, such unit shall mean the gross floor area (GFA) used or intended to be used by occupants or for service to the public as patrons, patients, visitors, residents or persons in attendance.
- (b) Places of Public Assembly.
 - (1) In stadiums, sports arenas, religious places of worship and other places of public assembly, in which those in attendance occupy benches, pews or other similar seating facilities, each 30 inches of such seating facilities shall be counted as one seat for the purpose of determining off-street parking requirements under this chapter.
 - (2) In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together. (Ord. 34-17. Effective 12-7-17.)

1130.08 CHANGE IN USE, ADDITIONS AND ENLARGEMENTS.

Whenever any change in use, enlargement of building or extension of land use results in an increase in the number of units used to measure required off-street parking spaces, and such alteration or change creates a need for an increase of more than 10% in the number of required off-street parking spaces, additional off-street parking shall be provided on the basis of the increase in the number of such units of measurement.
(Ord. 34-17. Effective 12-7-17.)

1130.09 MIXED OCCUPANCIES AND USES NOT SPECIFIED.

(a) In the case of mixed or multiple uses in one building or one lot, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately and may be reduced as per Sec. 1130.10: Collective Off-Street Parking.

(b) Where a use is not specifically mentioned, the requirements for the most similar applicable use shall apply.

(c) Off-street parking facilities for one use shall not be considered as providing requirements for any other use, except as hereinafter specified for joint or mixed use ~~buildings multiple uses~~.

(Ord. 34-17. Effective 12-7-17.)

1130.10 COLLECTIVE OFF-STREET PARKING.

Nothing in this chapter shall be construed to prevent provision of collective off-street parking facilities for two or more buildings or uses, exclusive of facilities required for dwelling units. In cases of collective use, the required total of such off-street parking space supplied collectively shall be:

- (a) Not less than 85% of the sum of the requirements of the various uses computed separately, and
- (b) Not less than the largest amount required for any of the uses computed separately, provided further that the applicable district use regulations shall be complied with. (Ord. 34-17. Effective 12-7-17.)

1130.11 JOINT USE OF FACILITIES.

Off-street parking facilities required for religious institutions shall be reduced by fifty percent (50%) where such Institutions:

- (a) Abut, either directly or across a street or alley, a non-residence district;
- (b) Are located within a non-residence district; or
- (c) Abut a parking lot serving a business or industrial use in a non-residence district. (Ord. 34-17. Effective 12-7-17.)

1130.12 NOT TO EXCEED REQUIREMENT.

In order to prevent excessive lot coverage, the artificial increase in air temperature, and an unnecessary increase in surface water run-off, no minimum off-street parking space requirement in Section 1130.13, Number of Parking Spaces Required, shall be exceeded by more than 20% percent unless good cause can be shown by the applicant and approved by the Board of Zoning Appeals. Single family dwellings, two family dwellings and accessory apartments are exempt from this provision. (Ord. 34-17. Effective 12-7-17; Ord. 21-19. Passed 4-1-19.)

1130.13 NUMBER OF PARKING SPACES REQUIRED.

The minimum number of off-street parking spaces required shall be as follows:

Table 1130-4: Number of Parking Spaces Required	
Use	Minimum Parking Spaces Required SF = Square Feet GFA = Gross Floor Area
Agricultural	
Agriculture	1 per site
Agricultural Display Stand	2 per site
Extraction of Minerals	1 per 1,000 SF of GFA of a building on site
Residential Uses	
Bed and Breakfast Establishment	1 per guest room
Dwelling, Duplex <u>and Triplex</u>	2 per each dwelling unit. A driveway may count towards the required space amount
Dwelling, Fourplex	
Dwelling, Manufactured Home	
Dwelling, Multiple Family	
Dwelling, Single Family	

Table 1130-4: Number of Parking Spaces Required

Use	Minimum Parking Spaces Required SF = Square Feet GFA = Gross Floor Area
Residential Care and Congregate	
Assisted Living	1 per 4 residents of design capacity plus 2 per facility
Development Disability	
Elderly Care	
Life or Continuing Care	
Mental Health or Substance Abuse	
Nursing Home	
Patient Families	1 per each bedroom
Student Housing	1 per 2 residents of design capacity
Institutional/Public/Semi-Public	
Cemetery	1 per 100 SF of GFA used for assembly
Assembly Club, Fraternal Lodge, Meeting Hall	1 per 150 SF of GFA
Community Garden	None required
Cultural Institution	1 per 400 SF of GFA or 1 per 8 seats, whichever is greater
Emergency Care Facility	2 per examination room plus 1 per 200 SF GFA
Essential Public Services and Utilities	1 per 1,000 SF of GFA
Golf Course	4 per hole plus 1 per 50 SF GFA club house
Government Office Building	1 per 400 SF GFA
Hospital	2 per 3 beds of design capacity
Park, Playground	1 per 100 SF GFA of indoor space plus 1 per 500 SF of field area.
Public Recreation and Community Center	1 per 150 SF GFA
Public Safety Facility	1 per 50 SF GFA of personnel occupied area
Public Works Maintenance Facility	1 per 1,000 SF GFA
Religious Place of Worship	1 per 4 seats of design capacity

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Table 1130-4: Number of Parking Spaces Required

Use	Minimum Parking Spaces Required SF = Square Feet GFA = Gross Floor Area
School, College or University, Vocational and Technical, Trade or Business	1 per 3 auditorium seats, plus 1 per 5 classroom seats of design capacity
School; Elementary and Secondary for Academic Instruction	1 per 15 classroom seats of design capacity
Wireless Telecommunications Antenna, Facility or Tower	1 per site. The driveway may count towards the parking requirement.
Commercial/Service	
Adult Uses	1 per 400 SF GFA
Animal Hospital/Veterinary Clinic	1 per 400 SF GFA
Building Materials and Hardware	1 per 750 SF GFA
Commercial and Industrial Equipment and Machinery Sales, Rental, Leasing and Repair	1 per 1,000 SF GFA, or 1 per 2,000 outdoor use area, whichever is greater
Commercial Entertainment, Recreation - Indoor Excluding Adult Uses	1 per 150 SF GFA, or 1 per 5 seats, whichever is greater
Commercial Entertainment, Recreation - Outdoor Excluding Adult Uses	1 per 1,000 SF outdoor use area, plus 1 per 5 seats
Commercial Stable and Riding Academy	1 per 1,000 SF GFA
Day Care Center	2 per facility plus 1 for every 8 clients of design capacity
Distillery/Winery	1 per 150 SF GFA
Eating or Drinking Establishment	1 per 150 SF GFA
Financial Establishment	1 per 400 SF GFA
Food Truck Park	1 per 1,000 SF outdoor use area
Funeral Home or Internment Service	1 per 100 SF GFA used for assembly
Hotel	1 per guest room
Kennel	1 per 1,000 SF GFA

Table 1130-4: Number of Parking Spaces Required

Use	Minimum Parking Spaces Required SF = Square Feet GFA = Gross Floor Area
Medical or Dental Office or Clinic	1 per 400 SF GFA
Medical Dispensary	1 per 400 SF GFA
Microbrewery	1 per 150 SF GFA
Multiple Uses <u>on a Site</u>	See Section 1156.10, Collective Off-street parking
Office, Business and Professional	1 per 400 SF GFA
Retail Sales & Services	1 per 400 SF GFA
<u>Instructional</u> Studio or Meeting Facility	1 per 50 SF GFA
Vehicle Fuel Sales	1 per 400 SF GFA
Vehicle Service and Repair Facility	2 per service bay or 1 for every 400 SF GFA, whichever is greater
Vehicle Sales, Rental and Lease	1 per 1,000 SF GFA of indoor showroom space
Vehicle Wash Facility	No spaces required
Industrial, Manufacturing and Processing	
Construction, Drilling and Mining Technology	1 per 400 SF GFA of office/assembly space
Laboratory or Research Establishment	1 per 750 SF GFA
Manufacturing, Artisan	1 per 1,000 SF GFA
Manufacturing, General	1 per 1,000 SF GFA
Manufacturing, High Intensity	1 per 1,000 SF GFA
Multiple Uses <u>on a Site</u>	Multiple use buildings or lots shall be 50% of the sum of all included uses
Oil and Gas Storage	1 per 1,000 SF of GFA of a building on site
Outdoor Storage	1 per 1,000 SF outdoor use area
Warehousing	1 per 1,000 SF GFA
Warehousing, Personal Storage/Mini	1 per 10 units
Wholesale and Distribution	1 per 1,000 SF GFA
Wrecking, Junk and Salvage Yard	1 per 400 SF GFA

(Ord. 34-17. Effective 12-7-17.)

1130.14 CREDIT FOR NUMBER OF PARKING SPACES.

A space may be credited for required off-street parking only if it is located in such a manner that a motor vehicle can gain access to or from the space without requiring the movement of any other motor vehicle. (Ord. 34-17. Effective 12-7-17.)

1130.15 EXISTING PARKING TO BE MAINTAINED.

Existing off-street parking or loading serving any use may not be reduced in amount or changed in size to less than required by this chapter. (Ord. 34-17. Effective 12-7-17.)

1130.16 DUAL USAGE PROHIBITED.

An area may not be used and counted both as a required parking space and a required loading space. (Ord. 34-17. Effective 12-7-17.)

1130.17 DESIGN, DEVELOPMENT AND MAINTENANCE OF PARKING AREAS.

Every parcel of land hereinafter used as a public or private parking area shall be designed, developed and maintained in accordance with the following requirements:

- (a) Screening. Off-street parking areas for more than 10 vehicles shall be effectively screened by a solid wall or opaque fence on each side which adjoins or faces and is within ten feet of any lot situated in any residence district.
- (b) Surfacing. Any off-street parking area and access drives shall be graded and surfaced with, asphalt or concrete or other comparable durable and dustless material.
- (c) Lighting. Any light used to illuminate off-street parking facilities shall be equipped with suitable shielding designed to prevent glare on surrounding public or private property and pedestrian and vehicular traffic. Such lighting shall be approved by the City Engineer.
- (d) Space and Directional Arrow Markings. Designated parking spaces shall be marked on the surface of the parking area with paint or permanent marking materials and maintained in a clearly visible condition. Unless modified by the City Engineer, white shall be the standard color to delineate usable portions of off-street parking areas. One-way and two-way access ways into required parking facilities must be identified by directional arrows.
- (e) Drainage. All open off-street parking facilities shall be provided with adequate drainage facilities as approved by the City Engineer.
- (f) Slope. Unless modified by the City Engineer, the maximum slope of any required off-street parking, circulation or loading space is 10% and the maximum slope of any required driveway is 15%.
- (g) Separation from Public Right-of-Way. Except in Districts zoned exclusively for residential uses, all open off-street parking facilities located within a required front yard shall be separated from public sidewalks or the existing right-of-way by a grass area at least 10 feet in width. This grass area shall be landscaped and maintained with a suitable combination of planted flowers and shrubs. A minimum six-inch barrier curb shall be provided on the parking lot side of the required landscaped areas.

- (h) Separation from Adjoining Properties. Except in Districts zoned exclusively for residential uses, all open off-street parking facilities shall be separated from adjoining properties by a grass area of at least 10 feet in width. This grass area shall be landscaped and maintained with a suitable combination of planted flowers and shrubs.
- (i) Connection of Adjoining Parking Areas. Planned open off-street parking facilities shall be required to provide interior access to planned or existing adjoining open off-street parking facilities and private roadways at property lines. All interior access between adjoining parking facilities and private roads shall be open to the public.
- (j) Interior Design and Landscaping.
 - (1) All parts of open off-street parking facilities which are unusable, either for parking, circulation or loading, shall be landscaped and maintained with plantings of grass, flowers, shrubs, and at a minimum, one tree of at least 1¼ inch caliper or larger for every 12 parking spaces.
 - (2) In addition, the following planting, landscaping and interior design requirements shall be met:
 - A. Interior Rows. For parking lots with interior rows, one tree shall be located at the ends of interior rows and one at each end of a perimeter row.
 - B. Distribution. Any remaining required trees shall be evenly distributed along the parking lot perimeter or in interior islands.
 - C. Maximum Number Required. Nothing in this section requires the planting of more trees than the number calculated using the 1:12 ratio.
 - D. Interior Island. A curbed landscaped interior island is required for each 20 contiguous parking spaces in a parking row. The island must be three feet in width and the length of the adjoining spaces. If a tree is planted in the interior island the width must be four feet.
 - E. Interior End Island. A three-foot wide curbed landscaped interior end island is required at the end of all interior rows. The length of the island must be equal to the depth of the adjoining parking spaces. If a tree is planted in the island area the width at the tree planting area must be four feet.
 - F. Interior Mid-Row Island. For parking lots in excess of 40 spaces, a curbed landscaped interior mid-row island connecting the interior end islands must be provided having a minimum width of three feet. If a tree is planted in the interior mid-row island the width must be four feet.
 - G. Island Design. All islands shall be designed for ease of vehicular movement.

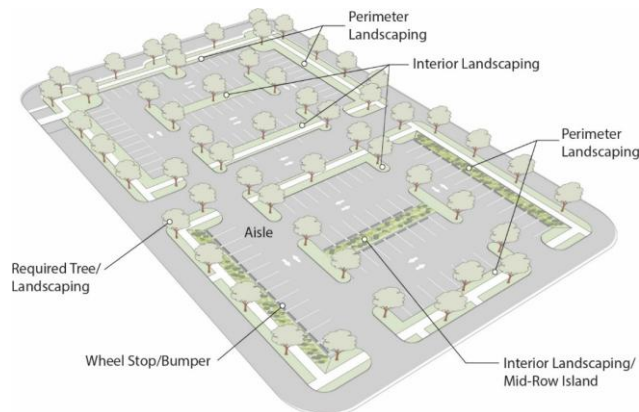


Figure 1130 D: Common Components to Interior Landscaping

- H. Ground Cover. Ground cover must be installed appropriate to the surface conditions sufficient to prevent erosion and sedimentation of the area. Grass is the default landscaping material.
- I. Lighting and Walkways. Lighting fixtures and walkways are permitted within all islands and perimeter areas.
- J. Interior Curbs. All off-street parking spaces must include a minimum six-inch barrier curb, per City of Fairborn Standard Drawing No. 300-1. Such barrier curb shall be located at least two and one half feet from a fence, wall or walkway unless this requirement is waived by the City Engineer.
- K. Maintenance. All required planting must be permanently maintained in good growing condition and replaced with new plant materials when necessary to ensure continued compliance with applicable landscaping requirements.
(Ord. 34-17. Effective 12-7-17.)

1130.18 ACCESSORY OFF-STREET PARKING ON A NONCONTIGUOUS LOT PERMITTED.

Off-street parking accessory to a principally or conditionally permitted use may be provided on a separate noncontiguous lot in all non-residential zoning districts, subject to the following requirements:

- (a) No more than one noncontiguous lot for each use shall be permitted for such off-street parking.
- (b) The noncontiguous parking lot shall be within 400 feet of the building and 300 feet of the lot containing the principal or conditional use.
- (c) The noncontiguous parking lot shall be under the same ownership as the lot containing the principal or conditional use, or a private parking easement shall be secured.

- (d) The noncontiguous parking lot shall not contain a principally permitted or conditionally permitted building or use.
- (e) All contiguous and noncontiguous off-street parking for a permitted use shall be located within the same zoning district.
- (f) All noncontiguous off-street parking shall be used solely for the parking of private passenger vehicles.
- (g) Said noncontiguous accessory parking shall only be permitted within the periods one hour before, one hour after and during the hours of operation of the principally or conditionally permitted use.
- (h) The right to permanently use said noncontiguous lot for accessory parking shall be established by deed, parking easement, lease, or similar recorded covenant or agreement, and shall be approved as to form and content by the City Solicitor and appropriately filed in the Greene County, Ohio recorder's office.
- (i) All other applicable requirements of this Chapter shall be met prior to the use of a noncontiguous parking lot.
(Ord. 34-17. Effective 12-7-17.)

1130.19 SPECIAL REQUIREMENTS FOR PUBLIC OFF-STREET PARKING.

The following requirements shall apply to principally and conditionally permitted public off-street parking lots or facilities in certain non-residential zoning districts with more than 10 off-street parking spaces designed for common use:

- (a) The parking lot or facility shall not contain another principally permitted or conditionally permitted building or use, unless approved as part of a planned unit development in accordance with chapter 1145.
- (b) All off-street parking shall be used solely for the parking of private passenger vehicles unless specifically modified under these regulations (e.g. food trucks, outdoor display, outdoor storage).
- (c) No parking shall be accessory to another principal or conditional use; no off-street parking within such lot or facility shall be counted to meet any off-street parking requirements of this chapter.
- (d) The proposed use will not create an undue increase of vehicular traffic on proximate public streets.
- (e) Solid or opaque fencing or walls shall be prohibited. Chain link and wooden fences shall be prohibited. Masonry walls are permitted when not more than 50% of the wall is opaque.
- (f) In addition to required construction and drainage plans, an application for a new parking lot or facility shall contain a parking operations plan submitted to the City Engineer and Zoning Administrator for review and approval before issuance of any building or occupancy permits. The plan shall describe:
 - (1) Means of ingress, egress, internal circulation and parking space locations;
 - (2) The type and location of access control (if any);
 - (3) Rates charged for parking (if any), method of payment for parking, number of transactions that can be accommodated throughout the day, whether the development will offer validated parking, and whether parking fees will be reduced or forgiven during special events;
 - (4) Any additional information the city engineer and city planner deems necessary to determine the on-site and off-site impact of said public parking.

- (g) Copies of current contractual agreements for use of said public parking shall be provided to and maintained by the City Engineer.
(Ord. 34-17. Effective 12-7-17.)

1130.20 DRIVE-IN AND DRIVE-THROUGH CIRCULATION.

When products or services are proposed to be provided to the general public without requiring them to exit their motor vehicles, a vehicular circulation plan shall be submitted prior to issuing building permits. The City Engineer shall review the plan and determine that it does not:

- (a) Constitute a threat to public safety either to vehicles or pedestrians.
- (b) Require drive-through traffic to block access to and from the number of parking spaces required in Section 1130.13.
- (c) Number of Parking Spaces Required.
(Ord. 34-17. Effective 12-7-17.)

1130.21 OFF-STREET LOADING SPACE.

(a) When Required.

- (1) In connection with every non-residential building or part thereof having a gross floor area of 10,000 square feet or more, there shall be provided and maintained at least one off-street loading space.
- (2) In addition, one additional such loading space for each 20,000 square feet or major fraction thereof of gross floor area so used in excess of 20,000 square feet.

(b) Each off-street loading space shall be not less than 10 feet in width, 45 feet in length and 14 feet in height, unless waived by the Zoning Administrator for good cause shown.

(c) In the case of mixed uses, the total requirements for off-street loading facilities shall be the sum of the various uses computed separately.

(d) All loading areas shall be graded as necessary and improved with bituminous or Portland cement, and shall be provided with adequate drainage per plans approved by the City Engineer.

(e) Each loading space shall be served by direct access to a street, service drive or alley in a manner that will not interfere with traffic or parking lot circulation.

(f) Off-street loading areas shall be located on the same zoning lot as the specific use to be served, and shall not be located in any front yard or within 25 feet of any street right of way, except for areas used for the occasional drop-off or pick-up of goods by vans, step-vans, or panel trucks or within the Downtown Commercial District.

(g) All operations, materials, and vehicles in any loading space that are visible from public streets or from residential districts shall be screened. The screening material, upon installation, shall be at least six feet in height and 100% opaque.

(h) Exterior lighting shall be designed and maintained so that glare is not cast on adjacent properties, regardless of use, or on adjacent streets. All lighting structures shall be cut-off types which include shields or other devices which eliminate all light above an angle of eighty-five degrees, as measured from the vertical axis of the light source.
(Ord. 34-17. Effective 12-7-17.)

1130.22 PROHIBITED USES.

(a) The display for sale of all types of vehicles shall be prohibited within any required off-street parking area, except for a private individual selling one personal vehicle from a residence at any one time.

(b) The display, sales, or storage of any goods, wares, or merchandise shall not be permitted within any areas designated for required off-street parking, circulation and loading.

(c) No part of any building, structure or related improvements shall be temporarily or permanently located or stored in areas designated for off-street parking, circulation and loading. (Ord. 34-17. Effective 12-7-17.)

1130.23 BICYCLE PARKING.

(a) Bicycle parking shall be provided for certain land uses in the City as follows:

Table 1130-3: Number of Parking Spaces Required	
Use	Minimum Rack Spaces Required SF = Square Feet GFA = Gross Floor Area
Agricultural	
All agricultural	None
Residential	
Multi-family dwelling	0.5 per unit up to 2 bedrooms plus 0.25 per additional bedroom
All other Residential	None
Institutional/Public/Semi-Public	
All institutional, public and semi-public	1 per 5,000 SF GFA indoor space or 1,000 SF outdoor space, 2 minimum
Commercial/Service	
All commercial/services	1 per 2,500 SF of GFA, 2 minimum
Industrial, Manufacturing and Processing	
All industrial, manufacturing and processing	1 per 7,500 SF of GFA, 2 minimum

(b) In no case is a single use required to provide more than 20 bicycle parking spaces.

(c) Bicycle parking spaces must be located on paved or pervious, dust-free surface with a slope no greater than 3%.

(d) Bicycle parking spaces must be a minimum of two feet by six feet. There must be an access aisle a minimum of five feet in width and a separation of five feet minimum from a sidewalk.

(e) Each required bicycle parking space must be accessible without moving another bicycle and its placement must not result in a bicycle obstructing a required walkway.

(f) All racks must accommodate cable locks and "U" locks and must permit the locking of the bicycle frame and one wheel to the rack and must support a bicycle in a stable position.

(g) Bicycle facilities may be placed within the public right-of-way provided the encroachment is approved by the Zoning Administrator.

(h) Required bicycle parking spaces must be located on the same lot being served and shall be within 20 feet of the building access point.
(Ord. 34-17. Effective 12-7-17.)

CHAPTER 1131
Signs

- 1131.01 Purpose.**
- 1131.02 Applicability.**
- 1131.03 Exemptions.**
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- 1131.07 Permanent signs permitted in Planned Unit Development Districts (PUD).**
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- 1131.09 Permanent signs permitted in nonresidential districts.**
- 1131.10 Temporary signs.**
- 1131.11 Nonconforming signs.**
- 1131.12 Sign responsibility, maintenance, modification, replacement or removal.**
- 1131.13 Penalty.**

1131.01 PURPOSE.

The purpose of these standards is to balance the need to protect the public safety and welfare, the need for a well maintained and attractive community, and the need for adequate identification, communication and advertising. The regulations are further intended:

- (a) To allow businesses, institutions, and people to exercise their right to free speech by displaying messages on a sign, and to allow audiences to receive such information;
- (b) Enhance the economy and the business and industry of the City by promoting the reasonable, orderly, and effective display of signs and thereby encourage increased communication with the public;
- (c) To ensure that signs are designed, constructed, installed and maintained according to minimum standards to safeguard life, health, property, and public welfare;
- (d) To reflect and support the desired ambience and development patterns of the various zoning districts and sub-districts, and promote an attractive built environment;

- (e) To allow for adequate and effective signs whose dimensional characteristics further the interests of public safety and the needs of the motorist, where signs are viewed from a street, sidewalk, bike path, or other form of transportation infrastructure; and
- (f) To implement relevant provisions of the City of Fairborn Comprehensive Land Use Plan, as may be updated periodically.
(Ord. 34-17. Effective 12-7-17.)

1131.02 APPLICABILITY.

(a) It shall hereafter be unlawful for any person to erect, place, relocate, expand, modify, maintain, or otherwise alter a sign in the City except in accordance with the provisions of this chapter.

(b) Unless otherwise provided, this chapter shall apply to any sign, in any zoning district, that is visible from a public right-of-way or from an adjacent property.

(c) Any sign established prior to the effective date of this code, and which sign is rendered legally nonconforming by the provisions herein, shall be subject to the nonconforming sign regulations of Section 1131.11: Nonconforming Signs.
(Ord. 34-17. Effective 12-7-17.)

1131.03 EXEMPTIONS.

The following signs are entirely exempt from this chapter:

- (a) Interior signs within a stadium, open-air theater, shopping center, arena or other use, which signs are not visible from a public right-of-way or adjacent property, and can be viewed only by persons within such stadium, open-air theater, shopping center, parks, arena, or other use.
- (b) Any sign located on umbrellas or similarly related private patio furniture or seating provided it is located outside of the right-of-way and complies with any other applicable standards of this code;
- (c) Any sign on a truck, bus or other vehicle that is used in the normal course of a business for transportation (See also Paragraph 1131.06(g)(16). or signage required by the State or federal government;
- (d) Signs installed by the City, Greene County, State of Ohio, or approved transit agency and which sign is allowed pursuant to the latest version of the Manual on Uniform Traffic Control Devices (MUTCD);
- (e) Any warning signs or traffic safety signs required by public utility providers; and
- (f) Any holiday lighting, signs, or related decorations.
(Ord. 34-17. Effective 12-7-17.)

1131.04 SIGN PERMIT REQUIRED.

(a) Unless otherwise provided by this chapter, all signs shall require a sign permit that shall be reviewed in the same manner as a zoning permit.

(b) In some instances, a sign may require a building permit and/or floodplain permit and where required, approval of all permits shall be required prior to the installation of the applicable sign.

(c) When any sign is installed, erected, constructed or maintained in violation of any of the terms of this code, the Zoning Administrator shall notify the sign owner or property owner in writing thereof to alter such sign so as to comply with this code.

(d) No permit for any building, structure, or use shall be issued until any abandoned, discontinued, or condemned sign is removed from the property, or modified or replaced by a sign which conforms to the applicable requirements of this chapter and other applicable requirements of the Fairborn Codified Ordinances.

(e) Signs Allowed without a Sign Permit. The following signs or activities do not require a sign permit, but may still be subject to building and floodplain permit requirements. Each sign exempt from the permit process shall still comply with any applicable safety, height, area, and locational standards established in this chapter and shall not count toward other maximum sign area or sign height standards:

- (1) Flags that do not contain a commercial message provided there shall be no more than three such flags on any lot;
- (2) Signs and/or notices issued by any court, officer, or other person in performance of a public duty;
- (3) For the purposes of safety and emergency access, signs indicating the street number of a building or structure are permitted without a sign permit but shall not exceed six square feet in sign area.
- (4) Sign face changes where there is no change to the structure including change in sign face area, height, or alteration of the sign cabinet, if applicable (e.g., replacement of a sign face, repainting of a sign face, etc.);
- (5) Signs on vending machines, automatic teller machines, or fuel dispensers where the sign area does not exceed eight square feet in area per side;
- (6) Commemorative plaques placed by recognized historical or government agencies;
- (7) Certain temporary signs as established in Section 1131.10: Temporary Signs.
- (8) Changes of copy on signs with changeable copy (See Section 1131.06(i): Changeable Copy.);
- (9) Works of art which do not identify a business, product or service; and
- (10) A sign permit is not required for general maintenance, painting, repainting, cleaning and other normal maintenance and repair of a sign or any sign structure unless a structural change is made.
(Ord. 34-17. Effective 12-7-17.)

1131.05 MEASUREMENTS AND CALCULATIONS.

(a) Sign Height. The height of a sign shall be measured as the vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and a level plane going through the nearest point of the improved public right-of-way, other than an alley. In the event a sign is equidistant from more than one improved public right-of-way, none of which are alleys, the highest point shall be used.

(b) Sign Area. The surface of a sign to be included when computing maximum allowable square footage of sign area shall be calculated as follows:

- (1) When calculating street frontage, only the street frontage that lies in the incorporated area of the City of Fairborn shall be used in the calculation.
- (2) All fractions will be rounded to the closest integral number.

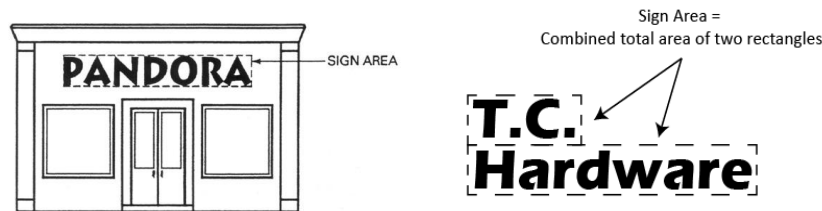


Figure 1131 B: Illustration of sign area calculation for two differently shaped wall signs with individual letters.

- (6) In the case of a three-dimensional sign where the sign faces are not mounted back-to-back, the sign area shall be calculated by the smallest square, rectangle or circle that encompasses the profile of the sign message. The profile used shall be the largest area of the sign message visible from any one point.
- (7) Except for three-dimensional signs, the sign area for a sign with more than one flat sign face shall be computed by adding together the area of all sign faces when the interior angle is greater than 60 degrees.
- (8) When two identical sign faces are placed back to back or at angles of 60 degrees or less, so that both faces cannot be viewed from any one point at the same time, and when such sign faces are part of the same sign structure and are not more than 24 inches apart, the sign area shall be computed by the measurement of one of the faces. If the two faces are unequal, the sign area shall be calculated based on the larger of the two faces.
- (9) The calculation of the width or lineal measurement of any façade shall be the measurement of the façade between two side façades. The calculation shall be based on viewing the façade from a 90-degree angle (i.e., straight on), regardless of façade insets, offsets, or angles. See Figure 1131 C.

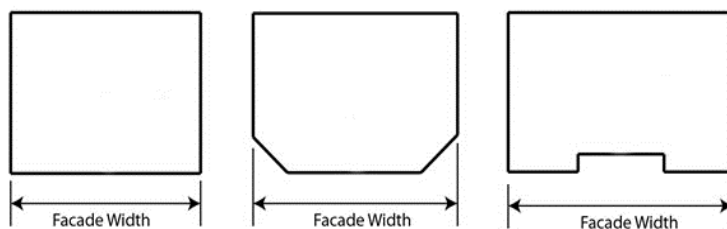


Figure 1131 C: Illustration of façade width measurement on varied façade shapes. (Ord. 34-17. Effective 12-7-17.)

1131.06 GENERAL REGULATIONS.

Unless otherwise specifically stated, the following regulations shall apply to all signs within the City:

- (a) All signs shall comply with applicable provisions of the all applicable building codes, electrical codes, or other applicable City codes.
- (b) All permanent signs shall be accessory to a principal use or development of land. Permanent signs shall be prohibited on unimproved properties.
- (c) No sign or sign structure shall be placed on private or public property without the written consent of the owner or agent thereof.
- (d) No sign or sign structure shall be erected at any location where it may interfere with, or obstruct the view of vehicles. All signs shall comply with the clear vision triangle requirements of this code.
- (e) All signs shall be secured in such a manner as to prevent swinging or other significant noticeable movement, not including movement related to signs with changeable copy.
- (f) Sign Materials.
 - (1) No exterior portion or display area of any permanent exterior sign open to the elements shall be constructed of converted, laminated, manufactured or processed materials, such as and including, but not limited to, paper, unfinished, unsealed, or untreated non-exterior grade plywood, pressboard, wafer-board, cardboard, polystyrene foam or similar material not generally recognized and expressly designed for sign construction, erection and operation. Fabric and canvas shall be prohibited unless used in conjunction with awning or canopy signs.
 - (2) All exterior portions and display areas of any permanent exterior sign open to the elements shall be constructed of any of the following materials: aluminum, brick, glass plastic, painted, treated or stainless steel, stone including cultured stone, rough-faced block, thermoplastic, vinyl; finished, sealed or treated exterior grade wood, or similar compatible materials in any combination generally recognized and expressly designed for sign construction, erection and operation. Fabric and canvas shall be permitted when used in conjunction with awning or canopy signs.
 - (3) Composite, compounded or synthetic matter or materials not generally recognized and expressly designed for sign construction, erection, and operation may be approved by the Zoning Administrator.
 - (4) Incorporation of materials matching or compatible to the materials used in the construction of the principal structure is encouraged in the design of proposed permanent exterior signs.
 - (5) All signage attached to vehicles or trailers shall be magnetic, a decal or painted on the vehicle or trailer.
- (g) Prohibited Signs. The following types of signs are specifically prohibited within the City:
 - (1) Any sign that obstructs or interferes with fire ingress or egress from any door, window, or fire escape, or that obstructs or interferes with traffic or traffic visibility, or resembles or imitates signs or signals erected by the City or other governmental agency;
 - (2) A sign located in any other location that creates a hazard in the opinion of the Zoning Administrator or the City Engineer;
 - (3) Windblown devices;
 - (4) Helium, gas, or other air or gas filled balloons, signs, or similar inflatable devices located on, attached to, or anchored by structures, vehicles, the ground, or anything connected to or on the ground.

- (5) Signs that employ any parts or elements which revolve, rotate, whirl, spin or otherwise make use of motion to attract attention. This shall not include changeable copy signs as allowed in this chapter.
 - (6) Signs with moving or flashing lights, except as noted in the changeable copy sign section;
 - (7) Beacons and searchlights, except for emergency purposes;
 - (8) Any sign which emits audible sound, odor or matter unless the sign is part of a drive-through facility approved under this code and pursuant to the drive-through sign regulation in Section 1131.09(h).
 - (9) Pennants or streamers;
 - (10) Signs that are applied to trees, bus shelters, utility poles, benches, trash receptacles, newspaper vending machines or boxes, or any other unapproved supporting structure, or otherwise placed in the public right-of-way;
 - (11) Any sign located in a public right-of-way unless otherwise specifically stated in this chapter;
 - (12) Signs attached to, painted on, or supported by accessory uses or structures with the exception of banner signs that may be attached to fences or wall in accordance with the temporary sign regulations;
 - (13) Signs which are not securely affixed to the ground or otherwise affixed in a permanent manner to an approved supporting structure unless specifically permitted as a temporary sign;
 - (14) Signs mounted on or above the roofline of any building;
 - (15) Portable signs unless the specific sign type is permitted as a temporary sign;
 - (16) Vehicle signs viewed from a public road with the primary purpose of providing signage not otherwise allowed by this chapter. A vehicle sign shall be considered to be used for the primary purpose of advertising if the vehicle fails to display current license plates or inspection sticker, if the vehicle is inoperable, if the sign alters the standard design of such vehicle. Vehicle signs include those attached to or placed on a vehicle or trailer. Vehicles or trailers shall not be parked continuously in one location to be used primarily as additional signage. This does not apply to a vehicle parked at a driver's residence and/or where it is the primary means of transportation to and from his or her place of employment; and
 - (17) Any other sign not expressly permitted or exempt from these regulations or any sign that does not comply with this chapter.
- (h) Signs in Rights-of-Way.
- (1) No part of a privately-owned sign shall be located or project within the public right-of-way or railroad right-of-way unless specifically authorized through a revocable encroachment permit in Chapter 1323 of the City of Fairborn Codified Ordinances, but in no case shall a sign be:
 - A. Closer than two feet from a vertical plane extended above the curb or edge of pavement when there is no curb.
 - B. Allowed to be erected or maintained within any tree lawn, or any other part of the public right-of-way at or near grade, not normally accessible to vehicular or pedestrian traffic.
 - (2) The Zoning Administrator or their designee may remove or cause to be removed any unlawful sign in the public right-of-way. The sign will be destroyed or disposed of within ten days of removal unless claimed by owner.

- (3) Publicly-owned signs such as traffic and emergency signs shall be permitted within the right-of-way as required.
- (4) Publicly-owned signs or signs authorized by the Zoning Administrator, City Manager, or Council such as, but not limited to, entrance signs, gateway signs and other signs which serve to identify major entrances, corridors or parts of the City shall be permitted within the right-of-way as required, subject to applicable building regulations.
- (i) Changeable Copy. The following standards shall apply to all electronic message centers allowed in this chapter:
 - (1) Any message change shall be a static, instant message change that means that the sign does not produce any apparent motion of the visual image, including but not limited to illusion of moving objects, moving patterns or bands of light, expanding or contracting shapes, rotation or any similar effect of animation;
 - (2) Messages can only change once every five seconds or more;
 - (3) The transition time between messages shall be less than one second;
 - (4) All electronic message centers shall contain a default mechanism that will cause the sign to revert immediately to a black screen or will be turned off if the sign malfunctions;
 - (5) Any sign that incorporates a change of illumination shall not be permitted within 1,000 feet of another sign that incorporates a change of illumination on the same side of a roadway visible in the same direction of travel.
 - (6) Only Light Emitting Diodes (LED) technology or similar quality signs shall be permitted for electronic message centers; and
 - (7) Brightness Controls.
 - A. The electronic message center shall come equipped with an automatic dimming photocell, which automatically adjusts the display's brightness based on ambient light conditions.
 - B. The brightness level shall not increase by more than 0.3 foot candles (or 3.23 lumens per square meter or lux) (over ambient levels) as measured using a foot candle meter at a pre-set distance.
 - C. The procedure and distances for measurement of brightness shall be as established by the International Sign Association's Recommend Night-time Brightness Levels for On-Premise Electronic Message Centers.
- (j) Sign Illumination.
 - (1) All signs, except as specifically stated in this chapter, may be illuminated by internal or external light sources, provided that such source of illumination shall:
 - A. Be shielded from all adjacent residential buildings and all streets;
 - B. Not have an intensity to cause glare visible to pedestrians or vehicle drivers, nor shall the illumination be of such brightness as to cause reasonable objection from adjacent residential districts; and
 - C. Signs shall not be lighted so as to obstruct traffic control or other public signs installed by a governmental agency ; and
 - D. Not utilize flames as a source of light.

- (2) The following types of illumination are prohibited in the DC District:
 - A. Internal illumination not confined to sign letters, numbers, characters, symbols, and logos;
 - B. Fiber optics and other high-intensity signs, which exhibit glare and high contrast within their surroundings; and
 - C. Any external illumination which casts glare or other visual disturbance on any storefront, façade, sidewalk, right-of-way, or any other private or public property.
- (k) Landscaping Permanent Monument Signs.
 - (1) All permanent monument signs shall be located in a landscaped area equal to or larger than the total sign area of the applicable sign. Such landscaped area may be an area that fulfills any landscaping requirements of this code.
 - (2) The landscaped area shall include all points where sign structural supports attach to the ground.
 - (3) Exposed sign foundations shall be constructed with a finished material such as brick, stone, or wood, or be screened with evergreens to the top of the anchor bolts.
 - (4) The required landscaped area shall contain materials such as, but not limited to, vegetative ground covers, perennials, shrubs, and ornamental trees covering at least fifty percent (50%) of the defined landscaped area at maturity. Artificial plant materials shall not be included in fulfilling this requirement.
 - (5) Season permitting, all landscaping and related plantings shall be installed within 60 days from the date of issuance of the sign permit, but in no case shall said installation be completed later than April 30th of the next calendar year.
 - (6) The property owner shall be responsible for landscape installation and maintenance in accordance with Section 1131.12.
(Ord. 34-17. Effective 12-7-17; Ord. 21-19. Passed 4-1-19.)

1131.07 PERMANENT SIGNS PERMITTED IN PLANNED UNIT DEVELOPMENT DISTRICTS (PUD).

All development in a PUD shall be subject to the standards of this chapter unless otherwise modified through the PUD review and approval process.
(Ord. 34-17. Effective 12-7-17.)

1131.08 PERMANENT SIGNS PERMITTED IN RESIDENTIAL DISTRICTS.

The following are the permanent signs allowed in C, SR, UER, MDR, and MHP zoning districts or for a residential uses within a PUD, along with all applicable standards:

- (a) Signs for Individual Dwellings.
 - (1) One wall sign is permitted on each individual lot used for residential purposes provided the sign is mounted flush to the façade of the principal dwelling and does not exceed two square feet for dwellings with up to four dwelling units or six feet for dwellings that contain five or more dwellings.
 - (2) Such sign shall not be directly illuminated.
 - (3) The wall sign shall not protrude more than six inches from the wall or face of the building to which it is attached.
 - (4) The wall sign may be painted or mounted directly on the building façade.

- (b) Signs at Entrances. Two wall signs or one permanent monument sign may be permitted for any subdivision or multi-family dwelling development that is 10 acres or larger provided that the sign meets the following requirements:
- (1) General Standards.
- A. Each sign may have a maximum sign area of 36 square feet.
 - B. No such sign or any portion of the structure shall exceed six feet in height.
 - C. The sign may only be illuminated through an external light source.
 - D. The sign shall be an on-premise sign.
- (2) Monument Sign.
- A. A maximum of one monument sign may be permitted for each entrance to the subdivision or development on a collector or arterial street, as determined by the Zoning Administrator.
 - B. The monument sign shall be set back from the right-of-way so as to comply with the clear vision triangle requirements.
 - C. If an applicant proposes to use a monument sign, no wall signs, as allowed in Section 1131.08(b)(3), below shall be permitted.
- (3) Wall Signs on Entry Fences or Entry Walls.
- A. A maximum of two wall signs may be permitted for each entrance to the subdivision or development on a collector or arterial street, as determined by the Zoning Administrator.
 - B. If two signs are utilized, the signs shall be separated by a minimum of 50 feet.
 - C. The signs shall be mounted to a decorative wall or fence that generally runs parallel with the street.
 - D. If an applicant proposes to use wall signs, no monument sign, as allowed in Section 1131.08(b)(2), above shall be permitted.
- (c) Signs for Nonresidential Uses in Residential Zoning Districts.
- (1) One permanent monument sign may be permitted on a lot containing a nonresidential use in a residential zoning district provided the sign meets the following requirements:
- A. The sign shall be set back a minimum of 10 feet from any adjacent lot lines.
 - B. The monument sign shall be set back 10 feet from the right-of-way so as to comply with the clear vision triangle requirements.
 - C. The maximum sign area shall be 36 square feet.
 - D. No such sign or any portion of the structure shall exceed eight feet in height.
 - E. The sign may include manual changeable copy or electronic message centers provided that the total area of changeable copy signage does not exceed 50 percent of the total sign area and complies with the applicable requirements of Section 1131.06(i): Changeable Copy.
 - F. On additional permanent monument sign may be allowed in accordance with this section if the lot has more than 750 feet of frontage along a public way that does not include an alley. Where two signs are installed, such signs shall be separated by a minimum of 250 feet.

- (2) Building signs shall be permitted for all nonresidential uses in a residential district in the same manner as permitted for nonresidential uses in the NCTR District. This shall not apply to signs located on lots used exclusively for residential dwellings where signage is controlled by Section 1131.08(a): Signs for Individual Dwellings.
(Ord. 34-17. Effective 12-7-17.)

1131.09 PERMANENT SIGNS PERMITTED IN NONRESIDENTIAL DISTRICTS.

(a) The standards in this subsection are for permanent signs allowed in all districts except the C, SR, UER, MDR and MHP residential zoning districts.

(b) Buildings, developments, or subdivisions that are 100 percent residential in any nonresidential district, shall be subject to the permanent sign allowances established in Section 1131.08 Permanent Signs Permitted in Residential Districts.

(c) Window Signs. Window signs do not require a sign permit provided they comply with the following standards:

- (1) Window signs shall not occupy more than 50 percent of the window area in any nonresidential districts except in the DC District where the maximum coverage shall be 25 percent of the window area. See Figure 1131 D for locations used in the calculation of sign area. The sign area is based on the window area, regardless of the presence of an awning or window panel supports and other minor architectural elements of windows and doors.



Figure 1131 D: The window area is illustrated within the dashed line area for the two storefronts in the above image.

- (2) Window signs may be temporarily or permanently attached.
- (3) Acceptable window sign application techniques are sandblasted or etched glass, professionally painted lettering, professionally or custom fabricated and applied vinyl, metal leaf and stained glass.
- (4) In addition to the above, one window sign with a maximum sign area of two square feet may be comprised of an electronic message center that are subject to the applicable standards of Section 1131.06(i): Changeable Copy.

(d) Building Signs. Building signs are permitted on all principal structures in accordance with the following:

- (1) The building sign area allowed in Table 1131.1 shall include the total amount of all awning, canopy, projecting, suspended, flag banner, or wall signs on each façade wall. Standards for each individual building sign type are established in this section.
- (2) Building signs shall not extend parallel beyond a building facade, wall, or story, nor should they extend above the top of the roofline of the building to which it is attached.
- (3) Building signs may not be attached to mechanical equipment or roof screening.
- (4) Signs shall be mounted or erected so they do not obscure the architectural features or openings of the building.
- (5) Building signs shall not include electronic message centers unless otherwise specifically stated.
- (6) Size.
 - A. This section establishes the maximum sign area permitted for all building signs based on the district, building, and/or use that they serve.
 - B. There is no maximum number of building signs but the total square footage of building signs located on a single façade shall comply with the requirements of this section.
 - C. An applicant may provide signage on any façade but shall not combine the total amount of building sign area permitted on each facade and apply it to any single façade.
 - D. Any sign that is incorporated into a building as an architectural element shall be classified as a building sign.
 - E. The amount of building signs permitted shall be based on the façade width of the principal building regardless if the signs are to be attached to accessory buildings, gas pumps, gas pump islands, or similar accessory structures.
 - F. The amount of building signs permitted as part of a PUD shall be established within the PUD approval.

Table 1131-1: Maximum Building Sign Area Allowance per Facade

Building Type/Occupancy	PO, NCTR, NC, and DC Districts	CI, CC, GC, and LI Districts
Single-Tenant or Multi-Tenant Buildings [1]	2.0 square foot of sign area per lineal foot of facade width	2.5 square foot of sign area per lineal foot of facade width
Large-scale nonresidential buildings with a single tenant that exceeds 150,000 square feet of gross floor area	Not Applicable	The sign area shall not exceed 5 percent of the total facade area and shall not exceed 35 percent of the height of the facade, as measured from the bottom most point of the message to the top most point of the message [2]
Notes: [1] For buildings with multiple tenants, the ratio shall be applied to each lineal foot of building facade width assigned to each individual tenant. [2] Signs shall be limited to wall signs.		

- (7) Wall Signs.
- A. Wall signs shall be mounted on or flush with a wall and shall not protrude more than 12 inches from the wall or face of the building to which it is attached in the DC District or 24 inches for all other areas in nonresidential zoning districts.
 - B. A wall sign may be painted directly on a building wall, mounted on the façade wall, or mounted on a raceway.
 - C. Permanent signs that are attached to gas pumps or gas pump islands that that can be read or understood from a public street by most persons of normal vision shall be considered a wall sign for the purposes of this chapter.
 - D. A wall sign shall utilize hidden rust -proof structural supports and all sign lighting and wiring components shall be concealed from public view.
- (8) Awning or Canopy Signs. Any canopy or awning sign allowed pursuant to this section shall comply with the following standards:
- A. Signage shall not cover more than 50 percent of any individual awning, or canopy.
 - B. All components of the awning or canopy shall have a minimum clearance of eight feet from the sidewalk and 15 feet above any driveway or vehicular use area.
- (9) Flag Banner Signs.
- A. Only one flag banner sign is allowed for any one business establishment at one time.
 - B. Flag banner signs shall be mounted on the building wall either by bracket or by a pole.
 - C. The maximum sign area of a flag banner sign shall be six square feet.
 - D. The bottom of the flag banner sign shall be no lower than nine feet measured from grade of the property line closest to the flag banner sign.
 - E. Flag banner signs shall not extend beyond three feet over the sidewalk measured from their point of mounting on the storefront wall.
 - F. Flag banner sign mounting devices shall have structural integrity as authorized by the Zoning Administrator.
- (10) Projecting or Suspended Signs.
- A. Only one projecting or one suspended sign shall be permitted for each tenant and must be located within five feet of the customer entrance as measured parallel from the façade opening to the nearest part of the sign.
 - B. A projecting sign shall be perpendicular to the wall of the building to which it is attached.
 - C. A suspended sign may be attached to the ceiling of an outdoor arcade or underneath a canopy or awning if it complies with the sign area, height, and clearance standards of this section.
 - D. The maximum sign area for a projecting sign shall be six square feet.
 - E. The maximum sign area for any single suspended sign shall be four square feet.

- F. All components of the projecting sign shall have a minimum clearance of nine feet above a sidewalk or any walkway and 15 feet above any driveway or portion of a private lot used for vehicular circulation.
- G. Projecting signs shall not be internally illuminated.
- H. The façade mounting bracket design shall be integrally planned and detailed and shall be ornamental in nature. Brackets shall be consistent or similar in design throughout their use on any particular building.
- I. Projecting and suspended signs must be suspended from brackets approved by the Zoning Administrator and contain no exposed guy wires or turnbuckles.

(e) Monument Signs.

- (1) The following standards apply to monument signs that are allowed in all nonresidential zoning districts outside of the DC District in accordance with this section.
 - A. One permanent monument sign shall be permitted on lots with a minimum of 50 feet of lot frontage, in accordance with the provisions of this chapter.
 - B. For corner lots, one permanent monument sign shall be permitted in accordance with this section on each frontage but the sign area allowed shall be based on the individual frontages.
 - C. A monument sign shall not exceed one-half ($1/2$) square foot of sign area per one linear foot of lot frontage, not to exceed 50 square feet.
 - D. Monument signs that are not illuminated in any manner shall be set back a minimum of 5 feet from any residential lot line. All other monument signs shall be set back a minimum of 25 feet from any residential lot line. All monument signs shall be set back a minimum of 10 feet from the right-of-way so as to comply with the clear vision triangle requirements.
 - E. The maximum height of the sign shall be 10 feet at the minimum setback line, and for every additional two feet of sign setback, one foot may be added to the sign height not to exceed a total sign height of 16 feet.
 - F. The sign may include manual changeable copy or electronic message centers provided that the total area of changeable copy signage does not exceed 50 percent of the total sign area in the PO, NC, and NCTR Districts and 75 percent in the CI, CC, GC, and LI Districts. Such signs shall also comply with the applicable requirements of Section 1131.06(i): Changeable Copy.
 - G. One additional permanent monument sign may be allowed on a lot, in accordance with this section, if one of the following situations exists:
 - i. If the lot has more than 750 feet of frontage along a public way that does not include an alley. Where two signs are installed under this situation, such signs shall be separated by a minimum of 250 feet; or

- ii. If a lot has a minimum of 100 lineal feet of frontage along an expressway, in which case the additional sign shall be set back a minimum of 25 feet from the expressway right-of-way and the height shall not exceed 16 feet.
- (2) Signs at entrances allowed in Section 1131.09(h) shall not be counted as a monument sign allowed under this section.
- (3) Monument signs are prohibited in the DC District with the exception of the following, which are allowed specifically for uses fronting East Main Street, east of Pleasant Avenue:
 - A. Each building may have an externally illuminated monument sign no wider and no higher than 30 inches.
 - B. Additionally, a second monument sign may be provided at the rear entrance provided it is no wider and no higher than 24 inches.

(f) Signs at Private Driveway Entrances or Intersections. Permanent signs shall be permitted near driveway entrances to a street and at intersections of internal drives under the following provisions:

- (1) Driveway signs are not permitted in the DC District.
- (2) Driveway signs shall be set back at least 15 feet from any adjacent residential lot line but are not otherwise subject to minimum setback standards. In no case shall a driveway sign be located in a right-of-way.
- (3) In no case shall a driveway sign be set back more than 25 feet from the driveway entrance or intersection of internal drives;
- (4) Two signs may be permitted per individual driveway or internal intersection;
- (5) The sign may not exceed two square feet in area and three feet in height.
- (6) Driveway signs may be internally or externally illuminated.

(g) Signs at Entrances.

- (1) For subdivisions or development parks designed for nonresidential uses that have a development size of at least 10 acres and contains five or more individual lots, such subdivision or park may incorporate one monument sign within 150 feet of an entrance point into the subdivision or park in accordance with this section.
- (2) The entrance sign shall be subject to the same standards as Section 1131.08(b): Signs at Entrances, with the following exceptions:
 - A. The maximum sign area shall be 50 square feet.
 - B. The maximum height of the monument sign shall be 10 feet.
 - C. The sign shall be set back a minimum of 75 feet from any residential lot line.
 - D. Such sign may be located on a lot with another monument sign as allowed in Section 1131.09(f).
 - E. If this sign is utilized, no other monument sign shall be located within 50 feet of the entrance sign on the same street or road on which the park has access.
 - F. Provided the subdivision is recorded and the zoning is for a nonresidential zoning district, the sign may be placed even if no construction has taken place on any of the lots.
 - G. Signs at entrances may only be externally illuminated.

(h) Drive-Through Signs.

- (1) Two drive-through signs shall be allowed for each stacking lane in a drive-through facility provided it does not exceed 36 square feet in sign area. If the sign is completely screened from view from any right-of-way or adjacent residential uses, there shall be no maximum sign area.
 - (2) Drive-through signs shall only be permitted in a side or rear yard.
 - (3) Drive-through signage shall not be included in the total calculated allowed signage for a property under the remainder of this chapter. Any signs attached to a wall of building or the structure shall be calculated as part of the building signage allowance in Section 1131.09(e).
 - (4) No drive-through sign shall exceed six feet in height measured from the grade of the adjacent driving surface to the top of the sign.
 - (5) Drive-through signs may have changeable copy subject to Section 1131.06(i): Changeable Copy.
 - (6) Drive-through signs may be internally or externally illuminated.
 - (7) The Minimum Landscape area for each drive-through sign shall be equal to or greater than the total area of the sign.
- (Ord. 34-17. Effective 12-7-17; Ord. 21-19. Passed 4-1-19.)

1131.10 TEMPORARY SIGNS.

The following temporary signs shall be permitted anywhere within the City provided they meet the established standards.

(a) Standards that Apply to all Temporary Signs.

- (1) Temporary signs shall not be mounted, attached, affixed, installed, or otherwise secured in a manner that will make the sign a permanent sign.
- (2) No temporary sign shall be mounted, attached, affixed, installed, or otherwise secured so as to protrude above the roofline of a structure.
- (3) Unless otherwise specifically stated, temporary signs shall not be illuminated.
- (4) No temporary sign shall require a foundation, support, wiring, fittings, or elements that would traditionally require a building permit or electrical permit.
- (5) No streamers, spinning, flashing, or similarly moving devices shall be allowed as part of or attachments to temporary signs.
- (6) All temporary signs shall be secured in such a manner as to prevent swinging or other significantly noticeable movement resulting from the wind that could pose a danger to people, vehicles, or structures.
- (7) Mobile signs on wheels, runners, casters, parked trailers, parked vehicles, or other temporary or movable signs shall not be permitted unless otherwise specifically stated in this chapter.
- (8) Because of the nature of materials typically used to construct temporary signs and to avoid the unsightliness of deteriorating signs and all safety concerns which accompany such a condition, temporary signs shall be removed or replaced when such sign is deteriorated.

(b) Sign Permits for Temporary Signs.

- (1) Unless otherwise stated, a sign permit for temporary signs shall be required for temporary signs that exceed 12 square feet.
- (2) Only one sign permit for a temporary sign shall be issued to the same business license holder, on the same site, for the same business at any one time.

- (c) Temporary Signs in Residential Zoning Districts. The following temporary signs are allowed in the C, SR, UER, MDR and MHP zoning districts or on residential lots within a PUD along provided they comply with all applicable standards:
- (1) A maximum of 24 square feet of total temporary sign area is allowed on any single lot.
 - (2) The signs are limited to yard signs or banner signs subject to the sign-specific standards in Section 1131.10(e): Standards for Temporary Sign Types.
 - (3) The maximum sign area for any individual sign shall be six square feet with a maximum height of four feet in the C, SR, UER and MHP zoning districts.
 - (4) The maximum sign area for any individual sign shall be 12 square feet with a maximum height of six feet in the MDR district.
 - (5) In lieu of the above regulations, any nonresidential use located in a residential zoning district shall be permitted the same amount of temporary commercial signs as allowed in the NCTR District pursuant to Section 1131.10(d): Temporary Signs in Nonresidential Zoning Districts.
- (d) Temporary Signs in Nonresidential Zoning Districts. The following temporary signs with a commercial message are allowed in the CI, PO, NCTR, NC, CC, GC, DC and LI nonresidential zoning districts or on lots used for nonresidential purposes within a PUD:
- (1) Signs Allowed for an Unrestricted Time. The following temporary signs are allowed without any time restrictions subject to all other applicable standards in this code:
 - A. A maximum of 24 square feet of total temporary sign area is allowed on any single lot.
 - B. The signs are limited to yard signs or banner signs subject to the sign-specific standards in Section 1131.10(e): Standards for Temporary Sign Types
 - C. The maximum sign area for any individual sign shall be 12 square feet with a maximum height of six feet.
 - (2) Additional Signs with Time Limitations.
 - A. In addition to the temporary signs allowed in Section 1131.10(d)(1) above, Table 1131 2 establishes the total square footage, height, and allowances for temporary signs allowed in the applicable nonresidential zoning district.
 - B. Each sign shall be subject to the standards established for each applicable sign type in this section.

Table 1131-2: Temporary Signs Allowances in Nonresidential Districts

Sign Type	Districts Allowed	Maximum Sign Area (Square Feet)	Maximum Sign Height (feet)	Time Limits
A-Frame or T-Frame Sidewalk Signs	All Districts	9	4	See Section 1131.10(e)(1)
Banner Signs	All Districts	See Section 1131.10(e)(2)		
Feather Signs	All Districts except in the DC District	20	8	15 consecutive days, two times per calendar year
Yard Signs	All Districts	24	6	15 consecutive days, four times per calendar year

(e) Standards for Temporary Sign Types.(1) A-Frame or T-Frame Sidewalk Signs.

- A. There shall be no time limit for sidewalk signs with the exception that the sign shall only be placed outside during the hours of the establishment's operation.
- B. Only one sidewalk sign is allowed per each first floor business establishment at one time.
- C. A sign permit shall be required for the initial placement of the sign, regardless of the size of the sign.
- D. The sign may be located on a public or private sidewalk or walkway provided it is placed on pavement and not in any landscaped areas or on pavement used for vehicles (e.g., driveways and parking lots).
- E. If the sign is placed on a sidewalk or walkway, the sign can only be placed where the paved sidewalk or walkway width, not including curb top, is at least seven feet wide. The width and placement of the sign shall be such so that there shall be a minimum width of four feet of clear and passable sidewalk or walkway for pedestrians.
- F. The sign must be freestanding and shall not be affixed, chained, anchored, or otherwise secured to the ground or to any pole, parking meter, tree, tree grate, fire hydrant, railing, or other structure.
- G. The sign must not obstruct access to parking meters, bicycle racks and other features legally in the right-of-way.
- H. The sign must not interfere with the opening of car doors in legal spaces, or with the operation of wheelchair lifts and ramps, cab stands, loading zones or bus stops.
- I. Any area designated for emergency access or off-street parking, circulation and loading shall not contain a sign.

- J. The sign shall be internally weighted so that it is stable and windproof so as to resist wind gusts of up to ten miles per hour.
 - K. The City of Fairborn shall be held harmless from any liability resulting from accident or injury caused by the placement and/or maintenance of such sign.
 - L. Banners, pennants, streamers or similar wind or air driven devices attached to or otherwise used in conjunction with the sign are prohibited.
- (2) Banner Signs.
- A. There shall be no maximum number of banner signs provided the aggregate total square footage of all banner signs does not exceed the maximum sign area allowed in Section 1131.10(c) for residential uses or 36 square feet per establishment for nonresidential uses with the exception of paragraph 1131.10(e)(2)E below.
 - B. Banner signs may be attached to a building, fence, or other similar structure. Banner signs attached to posts and mounted in a yard or landscaped area shall be regulated as a temporary yard sign.
 - C. The maximum height standard for temporary signs shall not apply to a banner sign but such signs shall not be mounted in a manner that extends above the roofline of a building or the top of the structure on which it is mounted.
 - D. Banner signs shall be permitted for up to 15 consecutive days, four times per calendar year with the exception of paragraphs (e) below.
 - E. For zoning permit applications related to the establishment of a new use within an existing building where there is existing permanent sign, a banner sign may be approved for up to 60 consecutive days to cover the existing permanent signs. Such banner sign shall not exceed the sign area of the permanent sign and shall require a sign permit.
- (3) Feather Signs.
- A. There shall be a maximum of two feather signs allowed on any lot at one time.
 - B. There shall be a minimum separation distance of 50 feet as measured along the street frontage.
 - C. The signs shall be securely anchored in the ground or within a portable base designed for such function.
 - D. The sign shall be setback from any right-of-way and any parking space a minimum distance equal to its height.
- (4) Yard Signs.
- A. There shall be no maximum number of yard signs provided the aggregate total square footage of all yard signs does not exceed the maximum sign area allowed in Section 1131.10(c) for residential uses or Table 1131 2 for nonresidential uses.
 - B. There shall be a maximum of two faces to the sign, mounted back-to-back.
- (Ord. 34-17. Effective 12-7-17; Ord. 21-19. Passed 4-1-19.)

1131.11 NONCONFORMING SIGNS.

(a) All signs that do not conform to the specific standards of this code may be considered legally nonconforming if the sign was erected in conformance with a valid sign permit and complied with all applicable laws at the time of the sign's installation or if the sign was part of a property that was annexed to the City.

(b) A sign shall lose its legal nonconforming status and must be brought into compliance with the provisions of this chapter by an application for, and issuance of, a sign permit or by complete removal, if any of the following occurs:

- (1) If such sign is damaged to an amount exceeding 50 percent of the sign's replacement value, as determined by at least two sign companies requested to provide a quote;
- (2) The structure of the sign is altered in any form;
- (3) The sign is relocated;
- (4) The sign is defined as a temporary sign and has been in use for more than one year following the effective date of this amendment; or
- (5) The nonconforming sign and its structure (including support and frame and panel) are determined by the Zoning Administrator to be unsafe or in violation of this code and are declared a nuisance.

(c) Failure to bring a sign into compliance after loss of a legal nonconformity status as defined in (b) above shall cause the sign to be considered an illegal sign.

(d) Minor repairs and maintenance of nonconforming signs, such as repainting, electrical repairs and neon tubing repair shall be permitted.

(e) Sign face changes where there is no change to the nonconforming sign structure including change in sign face area, height, or alteration of the sign cabinet, if applicable, may be made without a sign permit and without losing the legal nonconforming status of the sign. These actions include, but are not limited to, replacement of a sign face within a pre-existing sign cabinet, repainting of a sign face where the message does not change, etc.
(Ord. 34-17. Effective 12-7-17.)

1131.12 SIGN RESPONSIBILITY, MAINTENANCE, MODIFICATION, REPLACEMENT OR REMOVAL.

(a) Every sign shall be maintained in a safe, presentable, and good structural condition at all times, including the replacement of a defective part, painting, cleaning, and other acts required for the maintenance of the sign.

(b) The sign owner or property owner shall be responsible for sign maintenance and repair.

(c) If any sign reaches a state of disrepair or is deemed unsafe by the Zoning Administrator, and is not properly renovated, it shall be condemned and an order issued for immediate removal at the expense of the sign owner or property owner.

(d) By order of the Zoning Administrator a sign shall be removed whenever the use of a building or premises by a specified business or other establishment is discontinued by the owner or occupant for a period of 90 days, the sign permits for all signs pertaining to that business or establishment that were installed by the occupant or owner shall be deemed to have lapsed, and the signs shall be removed, as well as all signs which do not conform to the standards of this code.

(e) A sign shall not stand with bent or broken sign facing, with broken supports, with loose appendages or struts, or more than 15 degrees from vertical for a period of more than ten days.

(f) Whenever a sign is to be removed pursuant to the requirements of this section, all parts of the sign and supporting structure (e.g., monument, cabinet structure, etc.), excluding buildings for wall, projecting, or similar signage, shall be removed in its entirety. This section shall not require the removal of a raceway if mounted to such structure on a building.

(g) When any sign is installed, erected, constructed or maintained in violation of any of the terms of this code, the Zoning Administrator shall notify the sign owner or property owner in writing thereof to alter such sign so as to comply with this code.

(h) No permit for any building, structure or use shall be issued until any abandoned, discontinued, or condemned sign is removed from the property, or modified or replaced by a sign which conforms to the applicable requirements of this chapter and other applicable requirements of the Fairborn Codified Ordinances.
(Ord. 34-17. Effective 12-7-17.)

1131.13 PENALTY.

Any person who violates a provision of this Chapter is guilty of a separate misdemeanor offense for each day or portion of a day during which the violation is committed, continued or permitted, and each offense is punishable by a fine as established by City Council.
(Ord. 34-17. Effective 12-7-17.)

CHAPTER 1132
Administration, Process and Procedures

1132.01	<hr/>	Decision making	
	responsibilities.		
1132.02	Zoning Administrator		
	reviews and decisions.		
1132.03	Board of Zoning Appeals		
	review and decisions.		

- 1132.04 Planning Board review and approvals.
- 1132.05 Review procedures.
- 1132.06 Violations and penalties.

1132.01 DECISION MAKING RESPONSIBILITIES.

The following table provides a summary of the decisions and applicable decision makers for each of the determinations to be made in this Chapter.

Table 1132-1: Summary Table of Procedures and Decision-Making Rules				
	Zoning Administrator	Board of Zoning Appeals	Planning Board	City Council
Administrative Adjustments	√	✗		
Administrative Appeals		√		
Conditional Uses			√	
Temporary Uses	√			
Area Variances		√		
Zoning Certificate of Compliance	✗			
Major Subdivision Applications			√	✗
Zoning Code Enforcement	√			
Zoning Code Text Amendments			√	√
Zoning Map Amendments			√	√
Zoning Permits	√			

(Ord. 34-17. Effective 12-7-17.)

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1132.02 ZONING ADMINISTRATOR REVIEWS AND DECISIONS.

(a) Role of the Zoning Administrator. The Zoning Administrator, or his or her designee, shall have the authority to administer and enforce this Zoning Code, including, without limitation, the authority to approve and issue zoning permits ~~and zoning certificates of compliance~~, and to make interpretations and determinations of the Zoning Code and Zoning Map to carry out the intent and purpose of this Zoning Code. All decisions of the Zoning Administrator shall be in writing and sent to the owner of record of the subject property and the applicant by certified mail.

(b) Applications.

- (1) All applications for reviews and decisions by the Zoning Administrator shall be made on such forms and in accordance with such procedures as the Zoning Administrator shall from time to time adopt and make available to the public.
 - A. The Zoning Administrator shall charge application and review fees in amounts reasonably approximate to the administrative costs of processing and administering the applications, such fees to be reviewed and approved by the Planning Board on an annual basis.
 - B. An application to the Zoning Administrator shall not be deemed complete until all submission requirements are fully satisfied in the sole discretion of the Zoning Administrator.
 - C. Application fees shall be non-refundable.
- (2) If an application is deemed incomplete, or if the application is complete but fails to contain sufficient information to satisfy the applicable burden of proof, the Zoning Administrator shall send the applicant a letter setting forth the deficiencies and thirty (30) days to re-submit a complete application. If a re-submitted application is further deemed incomplete, or further fails to satisfy the applicable burden of proof, the Zoning Administrator may (a) send the applicant an additional letter setting forth the deficiencies and providing thirty (30) days to re-submit the application, or (b) reject the application, which shall be deemed to be an applicable denial of the request.

(c) Zoning Permit Required. Application for a zoning permit shall be required for the erection, relocation, addition, or structural alteration of all of the following:

- (1) Buildings of a total of more than 120 square feet under roof;
- (2) Fences, walls, and gates greater than four feet in height; and
- (3) Structures, including swimming pools as defined in Section 11343.02 | when such pools exceed twelve feet in diameter or 100 square feet in surface area, flag poles, trellis, outdoor kitchens and fireplaces, decks, or other non-building structures that are anchored in the ground.

(d) Administrative Adjustments for Zoning Permit Approval.

- (1) The Zoning Administrator shall have the authority to review and grant administrative adjustments in connection with a zoning permit. The scope of the Zoning Administrator's authority to grant administrative adjustments is limited to the following:
 - A. Dimensional adjustments that are within five percent (5%) of the dimensional requirement in the zoning code; and

- B. Locational adjustments when the proposed location is within three feet (3') of the location permitted by the Zoning Code.
- (2) In determining whether to grant an administrative adjustment, the Zoning Administrator shall weigh the private and public interests and determine, in his or her reasonable discretion, that there will not be any adverse impacts to the public as a result of the granting of an administrative adjustment. The Zoning Administrator shall not have the authority to grant any administrative adjustments beyond the parameters set forth above. The Zoning Administrator shall not be required to grant any administrative adjustments and shall have the right to refer any application to the Board of Zoning Appeals for determination under the standards of review for an ~~an area dimensional or locational~~ variance. All decisions of the Zoning Administrator regarding an administrative adjustment shall be reduced to writing upon a form adopted by the Zoning Administrator and sent via certified mail to the owners of record of any adjacent properties and the applicant. The owner of record of an adjacent property and the applicant shall have fifteen (15) days from receipt of the notice to file an appeal of the Zoning Administrator's decision. All appeals of an administrative adjustment shall be heard by the BZA within thirty (30) days of the date upon which the notice of appeal is received by the Board.

(e) ~~Request for Final Inspection for the Issuance of a Zoning Permit~~~~Certificates of Zoning Compliance~~. Any property owner may apply to the Zoning Administrator for final inspection for the issuance of a ~~Certificate of Zoning Permit~~~~Compliance~~, which shall contain a listing of all additional conditions and exceptions to which the property is subject as the result of variances, conditional uses and Planned Unit Developments (PUD's). The ~~certificate of zoning permit~~~~compliance~~ shall also state specifically wherein a nonconforming use or structure varies from the provisions of this Zoning Code.

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(f) Temporary Structures. The Zoning Administrator may authorize the temporary use of a structure for any permitted use in the district in which the structure is located; provided that such temporary use:

- (1) Shall not be permitted for longer than a total period of ninety (90) days, subject to the issuance of a temporary zoning permit containing such conditions to safeguard the public health, safety, general welfare, and
- (2) Provided that the applicant removes the temporary structure by a date certain at the applicant's sole cost and expense.

(g) Zoning Code Violations. Whenever a violation of this Zoning Code occurs, or is alleged to have occurred, any person may file a written complaint with the Zoning Administrator. The Zoning Administrator shall promptly investigate all complaints, and after providing the property owner with notice and an opportunity to cure the violation, and if not so cured, may refer the matter to the City's attorney who shall have the discretion to bring a misdemeanor charge against the offending or parties.

(h) Penalties. Anyone who is adjudicated in violation of any of the provisions of this Zoning Code shall be guilty of a minor misdemeanor in accordance with Section 501.05, et seq. of the Fairborn Code of Ordinances. Notwithstanding anything to the contrary in Part Five of the Fairborn Code of Ordinances, each day that a violation continues shall be considered a separate offense. (Ord. 34-17. Effective 12-7-17; Ord. 21-19. Passed 4-1-19.)

1132.03 BOARD OF ZONING APPEALS REVIEW AND DECISIONS.**(a) Role of the Board of Zoning Appeals (BZA).**

- (1) The BZA shall consist of five (5) members each a citizen of the City, appointed by City Council for terms of five (5) years and they shall serve without compensation. The BZA shall, from time to time adopt and amend from time to time amend by-laws and rules of procedure governing itself and its proceedings.
- (2) The BZA shall have the power to make decisions on applications for ~~areadimensional, locational, and use~~ variances, appeals of all final decisions and interpretations of the Zoning Administrator and appeals of final the decisions of the Planning Board, ~~on Conditional Use Applications.~~
- (3) The BZA shall also hear and determine all administrative ~~appealsadjustments~~ referred to it by the Zoning Administrator ~~and appealed to it by adjacent property owners under the standards of review for a dimensional or locational variance, as they case may be.~~
- (4) The BZA shall hear and determine all appeals to the Residential Building Code.
- (5) The BZA shall hear and determine all appeals to the City's Property Maintenance Code.
- ~~(65)~~ Applications to the BZA shall be made on forms provided by the Zoning Administrator, as BZA Secretary, and shall not be deemed complete and shall not be processed until all required submissions and fees are received.
- ~~(76)~~ The BZA shall hold a hearing to consider a complete application within forty-five (45) days of the date of receipt of the complete application, unless the applicant approves a continuance or postponement of the hearing to a later date.

(b) BZA Hearings. The BZA shall conduct public hearings on all applications or referrals at a time and place to be published at least fourteen (14) days prior to the hearing in a newspaper of general circulation of the City, and shall provide written notice thereof to all owners of property located within two hundred and fifty (250) feet in any direction of the property that is the subject of the application or referral.

~~(c) Stay of Proceedings. An appeal of a decision of the Zoning Administrator shall stay all proceedings and the operation of any decision appealed unless the Zoning Administrator certifies that by reason of facts stated in the application, a stay would in his or her opinion, cause imminent peril to life and property. In such case, proceedings or the operation of the decision shall not be stayed other than by a restraining order, which may only be granted by a court of complete jurisdiction.~~

~~(cd)~~ AreaDimensional and Locational Variances. Where the strict application or literal enforcement of the requirements of this Zoning Code would result in the applicant suffering practical difficulties, the BZA shall have power to authorize an area variance from the terms of this Zoning Code so as to relieve such difficulties.

- (1) Area Variance Definition. Area variances shall be defined as those variances from a zoning regulation that establishes minimum or maximum areas, heights, distances, separation volume or any other United States customary unit of measurement. A "use" variance shall be prohibited.
- (2) Use Variance Prohibited. For the purpose of this Zoning Code, a use variance request is not authorized and shall not be considered nor granted by the BZA.

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A. A “use variance” is defined as a variance that is granted to allow the establishment or expansion of a use of land that is not permitted in the zoning district in which the property is located.

(3) In granting a variance, the BZA may impose such conditions as may be necessary to comply with the factors herein to reduce or minimize potential injurious effects of such variance upon neighboring properties and to carry out the general purpose and intent of this Zoning Code.

~~(4)~~ Area Variance Standards of Review. A practical difficulty exists whenever a zoning standard unreasonably deprives a landowner of a permitted use of their property. All of the factors set forth in this Section do not need to be satisfied; rather, they shall be weighed together in the analysis as part of a balancing test. The factors to be considered and weighed in determining whether a property owner seeking an area variance has encountered practical difficulties in the use of their property include, but are not limited to: In making such determination, the BZA shall consider all of the following factors, no single factor being determined whether:

~~(1)~~A. The property in question will yield a reasonable return or whether there can be any beneficial use of the property without a variance;

~~(2)~~B. The variance is substantial;

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- ~~_____ (3)C.~~ The essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- ~~_____ (4)D.~~ The variance would adversely affect the delivery of government services (i.e., water, sewer, garbage);
- ~~_____ (5)E.~~ The property owner purchased the property with knowledge of the zoning restriction;
- ~~_____ (6)E.~~ The property owner's predicament feasibly can be obviated through some method other than a variance;
- ~~_____ (7)G.~~ The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance; and
- ~~_____ (8)H.~~ Any other relevant factor to assist the BZA in weighing and balancing the public and private benefits and harms of the requested relief is necessary.

(de) Term and Extension of Variance. Variances shall expire one (1) year from the date of their being granted 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 Appeals. There shall be no modification of variances except by further action of the BZA. Once the time limit pursuant to this subsection has expired, a request for a variance shall be considered to be a new application for a variance and shall meet all requirements for application and review pursuant to this Section.

~~_____ (f) Appeal of Zoning Permits. The BZA shall have the authority to affirm, reverse in whole or in part, or subject to conditions, or modify the Zoning Administrator's decision on a zoning permit application, if the BZA finds that there is credible evidence that the Zoning Administrator's decision is unreasonable, arbitrary, capricious or not supported by a preponderance of the evidence in the administrative record.~~

~~_____ (g) Appeal of Administrative Adjustment. The BZA shall have the authority to affirm, reverse in whole or in part, or subject to conditions, or modify the Zoning Administrator's decision on an application for an administrative adjustment, if the BZA finds that there is credible evidence that the Zoning Administrator's decision is unreasonable, arbitrary, capricious or not supported by a preponderance of the evidence in the administrative record.~~

~~_____ (h) Appeal of Conditional Uses. The BZA shall have the authority to affirm, reverse in whole or in part, or subject to conditions, modify the Planning Board's decision on a conditional use application, if the BZA finds that there is credible evidence that the Planning Board's decision is unreasonable, arbitrary, capricious or not supported by a preponderance of the evidence in the administrative record.~~

(e†) BZA Decisions. All BZA decisions shall be in writing and shall contain findings of facts and conclusions of law. Decisions shall be mailed to the applicant, and any interested parties who make a written request for a copy of the written decision without unreasonable delay after the close of the hearing. Where an application has been denied, no new application on substantially the same facts shall be filed within six (6) months of the date the previous denial, unless the BZA, for good cause shown by the applicant, grants permission to do so.

(1j) Appeals of BZA Decisions. A person or persons aggrieved by a decision of the BZA may appeal such decision by filing an appeal under Ohio Revised Code 2506 et seq. (Ord. 34-17. Effective 12-7-17.)

(f) Administrative Appeals. This section sets out the procedures to follow when a person or entity claims to have been aggrieved or affected by an administrative decision made in the enforcement of this Zoning Code or the City's Property Maintenance Code.

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(1) Applicability. Administrative appeals shall be initiated within 30 calendar days of the final decision date or order by a person or entity alleging there is error in any order, requirement, decision, determination or interpretation made by the Planning Commission, City Council acting in an administrative capacity, the Zoning Administrator or other authorized administrative official in the enforcement of this Zoning Code or the City's Property Maintenance Code.

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(2) Administrative Appeal Procedure.

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A. Step 1 - Application. An administrative appeal pursuant to this Section shall be initiated by filing a written appeal of the administrative decision or determination within thirty days of the date of the order, decision, determination. The applicant shall submit an application based on a form provided by the Zoning Administrator, as BZA secretary.

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B. Step 2 - Forwarding of the record to the BZA. Upon receiving the written appeal of an administrative decision or determination, the Zoning Commissioner shall transmit the written appeal with all papers, documents, and other materials related to the appealed decision or determination to the Board of Zoning Appeals. This material shall be incorporated into the record of the appeal.

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C. Step 3 - BZA Review and Decision. The BZA shall conduct public hearings on all applications or referrals at a time and place to be published at least fourteen (14) days prior to the hearing in a newspaper of general circulation of the City, and shall provide written notice thereof to all owners of property located within two hundred and fifty (250) feet in any direction of the property that is the subject of the application or referral.

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D. Any person affected by the appeal may appear at the public hearing and testify in person, or by attorney or agent.

E. The Board of Zoning Appeals shall render a decision on the appeal without unreasonable delay. The Zoning Administrator shall notify the appellant in writing of the decision of the Board.

(3) Administrative Appeals Standard of Review.

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A. An administrative order, requirement, decision, determination or interpretation shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the decision or determination fails to comply with either the procedural or substantive requirements of this Zoning Code or the City's Property Maintenance Code.

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B. Within its powers, the Board may reverse or affirm, wholly or in part, or modify, any such order, requirement, decision or determination as, in its opinion, ought to be made under the circumstances and, to that end, it shall have all the powers of the officer from whose decision the appeal is taken.

- ~~(4e) Stay of Proceedings. An appeal of a decision or an interpretation of the Zoning Administrator shall stay all proceedings and the operation of any decision appealed unless the Zoning Administrator certifies that by reason of facts stated in the application, a stay would in his or her opinion, cause imminent peril to life and property. In such case, proceedings or the operation of the decision shall not be stayed other than by a restraining order, which may only be granted by a court of complete jurisdiction.~~

1132.04 PLANNING BOARD REVIEW AND APPROVALS.

- (a) Planning Board. The Planning Board shall consist of seven (7) members appointed by City Council for terms of three (3) years on a rotating basis from and among the qualified electors of the City. Members of the Planning Board shall not hold any other City office.
- (1) The Planning Board may make recommendations to the City Manager and City Council on all matters affecting the physical growth and development of the City, shall be consulted on the Comprehensive Land Use Plan and the implementation or amendment thereof, and shall exercise all other responsibilities as may be provided by the City Charter or by ordinance, including, but not limited to, this Zoning Code.
 - (2) Meetings of the Planning Board shall be held at the call of the Board Chair and at such other times as the Planning Board may determine.
 - (3) The Planning Board shall adopt rules of procedure and shall keep a record of its proceedings, recording the vote upon each question, and shall also keep records of its hearings and other official actions.
 - (4) Findings of fact and the reasons for the action shall be included in the minutes of each case. Actions of the Planning Board shall be a public record and all meetings of the Planning Board shall be open to the public except in those instances when the Planning Board is acting in a quasi-judicial manner, in which case the Planning Board shall conduct a record hearing and may deliberate in private, and any matters permitted to be closed to the public under applicable Ohio law.
- (b) Amendments to the Zoning Code and Map.
- (1) Petitions for amendments to the Zoning Code or Zoning Map shall be made to the Planning Board by the Development Services Department, any member of the Planning Board, any member of City Council, the City Manager, or any citizen elector of the City, or if a petition for a Zoning Map amendment, by any of the aforementioned and by one or more owners of property within the area proposed to be amended.
 - (2) The Planning Board shall select a time, place and date for the public hearing on any such amendment application and shall publish the notice of the hearing in a newspaper of general circulation of the City once at least twenty-one (21) days prior to the hearing, and shall provide written notice thereof to all owners of property located within two hundred and fifty (250) feet of any property affected by the proposed amendment to the Zoning Map.
- (c) Conditional Uses. The Planning Board shall review and ~~consider~~approve the establishment or material change in conditional uses.
- (1) Expansions, enlargements, and substitutions of non-conforming uses, structures and lots shall be reviewed as conditional uses for purposes hereof.

- (2) The Planning Board shall give due regard to the nature and condition of all adjacent uses and structures and in authorizing a conditional use may impose such requirements and conditions, in addition to those expressly stipulated in this Zoning Code, as it may deem necessary for the protection of adjacent properties and the public interest.
- (3) In approving a conditional use, the Planning Board may impose conditions as may be necessary to comply with the standards set forth herein to reduce or minimize potential injurious affects upon neighboring properties and to carry out the general purpose and intent of this Zoning Code.
- (4) A conditional use shall become null and void at the end of twelve (12) months from date on which the Planning Board approves the conditional use, unless within such time period the applicant applies for and obtains a zoning permit from the Zoning Administrator.
- (5) The Planning Board shall not ~~approve~~~~recommend~~ a conditional use unless it, in each specific case, makes specific findings of fact directly based upon credible evidence as to all of the following:
 - A. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals or general welfare;
 - B. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or will not substantially diminish and impair property value within the neighborhood;
 - C. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
 - D. Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;
 - E. Adequate measures have been or will be taken to provide ingress and egress so designed to minimize traffic congestion in the public streets; and
 - F. The conditional use will be located in a district where such use is permitted and that all requirements set forth in this Zoning Code and applicable to such conditional use will be met.

(d) Planned Developments. The Planning Board shall review and approve, in conjunction with City Council, all applications for Planned Unit Developments in accordance with approval procedures set forth under Chapter 1123: Planned Unit Development District.

(e) Subdivision Regulations. The Planning Board shall review and decide upon all applications required under the Subdivision Regulations as provided for in codified ordinances section 1111.04 unless otherwise provided for.

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(1) Subdivision Regulations Waiver. The Planning Board shall have the authority to review and decide upon subdivision regulations waiver applications as set forth in Section 1119.05.

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(fe) Decisions of the Planning Board.

- (1) The Planning Board may, by a vote of not less than a simple majority of the members present at a meeting:
 - A. Recommend that the proposed amendment to the Zoning Map or Zoning Code be approved as requested; or
 - B. Recommend that the proposed amendment to the Zoning Map or Zoning Code be approved with conditions; or

- C. Recommend denial of the proposed amendment to the Zoning Map or Zoning Code.

- (2) The recommendation shall be forwarded to City Council within 30 days of the Planning Board's vote, after which a public hearing shall be held by City Council in accordance with its rules of procedure.

(g) Appeals of Planning Board Decisions ~~of Conditional Uses~~. A person or persons aggrieved may appeal a final decision of the Planning Board ~~or a Conditional Use Application~~ by filing a complete application for appeal to the BZA within 30 days of the written decision of the Planning Board. The BZA's decision shall be appealable under Ohio Revised Code Chapter 2506.

(Ord. 34-17. Effective 12-7-17; Ord. 21-19. Passed 4-1-19.)

1132.05 REVIEW PROCEDURES.

(a) Purpose. The purpose of this chapter is to establish the review procedures that will ensure that the regulations set forth in this code are soundly and consistently applied, and that this code be vigorously administered.

(b) Common Review Standards. The requirements of this section shall apply to all applications and procedures subject to development review under this code, unless otherwise stated.

- (1) Authority to File Applications.
 - A. Unless otherwise specified in this code, applications defined in this code may be initiated by:
 - i. An owner of the property that is subject of the application; or
 - ii. An agent authorized by the owner, which may include a lessee of the property.
 - B. The Planning Board or City Council may initiate code text and map amendments under this code with or without written authorization or application from the property owner who may be affected.
- (2) Application Submission Schedule. The schedule for the submission of applications in relation to scheduled meetings and hearings of the review bodies shall be established by the Zoning Administrator, and made available to the public.
- (3) Application Contents (as applicable).
 - A. Applications required under this code shall be submitted in a form, in such numbers, and in a manner (digital or hard copy) as established by the Zoning Administrator, and made available to the public.
 - B. Applications shall be accompanied by a fee as established by City Council.
 - C. Complete Application Determination
 - i. The Zoning Administrator shall only initiate the review and processing of applications submitted under this chapter if such application is determined to be complete.
 - ii. An application shall be determined to be complete if the applicant has submitted all of the forms, maps, and other submittal requirements required for the specified application, in the numbers required.
 - iii. The Zoning Administrator shall make a determination of application completeness within 14 calendar days of the application filing.

- iv. If the application is determined to be complete, the application shall then be processed according to the procedures and timelines set forth in this code.
 - v. If an application is determined to be incomplete, the Zoning Administrator shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected and the Zoning Administrator determines that the application is complete.
 - vi. The City shall not be required to process an incomplete application, forward an incomplete application to any decision-making body, or be subject to any required timelines of review for incomplete applications.
 - vii. If the applicant fails to correct all deficiencies and submit a complete application within 90 days of the notice provided by the Zoning Administrator, the incomplete application shall not be reviewed, the applicant's original filing fee shall be forfeited, and the incomplete application shall be deemed withdrawn. The Zoning Administrator may grant one 60 day extension if just cause is shown.
 - viii. No reconsideration of an incomplete application shall occur after expiration of the 90-day period, and an applicant in need of further development approval under the code shall, pursuant to all of the original requirements this chapter, submit a new application, and submit a new filing fee.
 - ix. If any false or misleading information is submitted or supplied by an applicant on an application, that application shall be deemed incomplete.
- (4) Simultaneous Processing of Applications.
- A. Whenever two or more forms of review and approval are required under this code, the Zoning Administrator shall determine the order and timing of review.
 - B. The Zoning Administrator may authorize a simultaneous review of applications, so long as all applicable requirements are satisfied for all applications.
- (5) Pre-application Meetings (as applicable)
- A. Prior to filing an application, an applicant may request a meeting with the Zoning Administrator or City Engineer for a pre-application meeting to discuss the proposed application or project.
 - B. The purpose of the pre-application meeting shall be to discuss the proposed application or project, review submittal requirements, and discuss compliance with the provisions of this code and the comprehensive plan prior to the submission of an application.
 - C. The applicant should be prepared to provide all of the application submittal requirements established for the applicable review procedure pursuant to 1132.05(b)(3), Application Contents.
 - D. Applicants for planned developments or zoning map amendments may request an informal pre-application meeting with the Planning Board to informally discuss the proposed amendment. However, no action shall be taken at such a meeting.

- E. No action can be taken by the staff and/or any boards until the applicant submits an actual application and/or plan to the City pursuant to the laws and policies of the City. Therefore, all discussions that occur between the applicant and/or applicant's representative(s) and staff, and/or City boards, that occur prior to the date the applicant submits an actual application and/or plan including, but not limited to, any informal meetings with City staff, boards, any pre-application conferences or meetings, are not binding on the City and do not constitute official assurances or representations by the City or its officials regarding any aspects of the plan or application discussed.
- (6) Fees.
 - A. Any application for development review under this code shall be accompanied by such fee as shall be specified from time to time by ordinance of City Council. There shall be no fee, however, in the case of applications filed by City Council or the Planning Board.
 - B. The fees shall be in addition to any other fees that may be imposed by the City, State, County, or other agency having jurisdiction.
 - C. Such fees are adopted to cover the cost to the City for investigations, legal advertising, postage, and other expenses resulting from the administration of the respective zoning activities.
 - D. Unless otherwise identified in the fee schedule adopted by City Council, no application shall be processed or determined to be complete until the established fee has been paid.
 - E. Application fees are not refundable except where the Zoning Administrator determines that an application was accepted in error, or the fee paid exceeds the amount due, in which case the amount of the overpayment will be refunded to the applicant.
- (7) Public Notification for Public Hearings and Public Meetings.
 - A. Applications for approvals that require public hearings shall comply with all applicable State requirements.
 - B. The Zoning Administrator shall be responsible for providing the required notice as specified by this subsection.
 - C. Content. Notices for public hearings, whether by publication or mail (written notice), shall, at a minimum:
 - i. Identify the address or location of the property subject to the application and the name of the applicant or the applicant's agent;
 - ii. Indicate the date, time, and place of the public hearing;
 - iii. Describe the land involved by street address, Greene County parcel identification number, or by legal description;
 - iv. Describe the nature, scope, and purpose of the application or proposal;
 - v. Identify the location (e.g., the offices of the Zoning Administrator) where the public may view the application and related documents;

- vi. Include a statement that the public may appear at the public hearing, be heard, and submit evidence and written comments with respect to the application; and
 - vii. Include a statement describing where written comments will be received prior to the public hearing.
- D. Notice Requirements. Published and mailed notice for public hearings shall be provided at least twenty one (21) days prior to the hearing and as required by the Ohio Revised Code.
- E. Published Notice.
 - i. Published notice shall be provided in a minimum of one newspaper of general circulation.
 - ii. The content and form of the published notice shall be consistent with the requirements of this section and State law.
- F. Written (Mailed) Notice
 - i. Written notification of property owners shall apply only to the initial presentation of the application for the public hearing in front of the applicable review board.
 - ii. Written notice shall be postmarked no later than amount of days prior to the hearing date at which the item will be considered.
 - iii. Notice shall be sent to the address of such owners appearing on the Greene County Auditor's current tax list or the County Treasurer's mailing list within two hundred fifty (250) feet in any direction of the property that is the subject of the application.
- G. Constructive Notice
 - i. Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall direct the department having responsibility for notification to make a formal finding as to whether there was substantial compliance with the notice requirements of this code, and such finding shall be made available to the decision-making body prior to final action on the request.
 - ii. When the records of the City document the publication, mailing, and/or posting of notices as required by this chapter, it shall be presumed that notice of a public hearing was given as required by this section.

- (8) Conduct of Public Hearings.
- A. Rights of All Persons. Any person may appear at a public hearing and submit information or evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state his or her address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.
- B. Continuance of a Public Hearing or Deferral of Application Review
- i. An applicant may request that a review or decision-making body's consideration of an application at a public hearing be deferred by submitting a written request for deferral to the Zoning Administrator prior to the publication of notice as may be required by this code. The Zoning Administrator may grant such requests, in which case, the application will be considered at the next regularly scheduled meeting.
- ii. A request for deferral of consideration of an application received by the Zoning Administrator after publication of notice of the public hearing as required by this code shall be considered as a request for a continuance of the public hearing, and may only be granted by the review or decision-making body.
- iii. The review or decision-making body conducting the public hearing may, on its own motion or at the request of the applicant, continue the public hearing to a fixed date, time, and place. No additional notice is required if the fixed date, time, and place is announced at the time of the continuance.
- (9) Withdrawal of Application. Any request for withdrawal of an application shall be either submitted in writing to the Zoning Administrator or made through a verbal request by the applicant prior to action by the review or decision-making body.
- A. The Zoning Administrator shall approve a request for withdrawal of an application if it has been submitted prior to publication of notice for the public hearing on the application in accordance with this code.
- B. If the request for withdrawal of an application is submitted after publication of notice for the public hearing in accordance with this code, the request for withdrawal shall be placed on the public hearing agenda and acted upon by the review or decision-making body.
- (10) Examination and Copying of Application and Other Document (New). Documents and/or records may be inspected and/or copied as provided for by State law. At a minimum, the documents and/or records shall be available in the office of the Zoning Administrator.
- (11) Effect of any Approvals.
- A. The issuance of any approval, certificate, or permit under this code shall authorize only the particular development, alteration, construction, or use approved in the subject application.

- B. All approvals shall run with the land or use and shall not be affected by change in ownership.
- (12) Amendments of Approved Applications.
 - A. Minor Amendments
 - i. For any review procedure, the Zoning Administrator is authorized to allow minor changes related to design of an approved application where the change is insignificant. This shall not give the Zoning Administrator the authority to vary the requirements of this code or any conditions of approval.
 - ii. In cases where the proposed minor amendment is related to a public improvement or another element that the City Engineer has authority over, the City Engineer shall have the same authority to authorize minor changes.
 - B. Unless otherwise stated, any approval granted through the provisions of this code may be otherwise be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.
- (13) Reapplication after Denial of an Application. If an application is denied, the applicant may:
 - A. Appeal the decision in accordance with the applicable appeals procedure established in this code;
 - B. Wait one year prior to resubmitting an application if it remains substantially the same as the original application; or
 - C. Make changes to the application that will fully address all issues and findings identified for the denial and resubmit a new application, including any required fees. Any such resubmission that occurs within one years of the date of original denial must include a list of the findings for denial and evidence that shows how the new application has substantially changed to address each of the findings. The Zoning Administrator shall have the authority to determine if the evidence submitted substantially changes the application to address all issues as part of the complete application. If it does not, the Zoning Administrator shall return the application, with reasons for their determination in writing, along with any paid fees; or
 - D. Submit a new application if the proposed use and design of the site will be entirely different than the denied application.
- (14) Subsequent Development.
 - A. Development authorized by any approval under this section and this code shall not be carried out until the applicant has secured all other approvals required by this code or any other applicable provisions of the City.
 - B. The granting of any approval, certificate, or permit shall not guarantee the approval of any other required certificate, permit, or application.
 - C. The City shall not be responsible for reviewing the application for compliance with any permits, certificates, or other approvals that may be required by the Greene County, State, or other agencies having jurisdiction.

(15) Computation of Time.

- A. In computing any period of time prescribed or allowed by this code, the date of the application, act, decision, or event, from which the designated period of time begins shall not be included. The last date of the period of time to be computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which case the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday as observed by the City of Fairborn where the City administrative offices are closed for the entire day.
- B. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation (i.e., business days and not calendar days).
- C. When the City offices are closed to the public for the entire day which constitutes the last day of the period of time, then such application, act, decision, or event may be performed on the next succeeding day which is not a Saturday, a Sunday, or a legal holiday observed by the City of Fairborn in which the City administrative offices are closed for the entire day.
(Ord. 34-17. Effective 12-7-17; Ord. 21-19. Passed 4-1-19.)

1132.06 VIOLATIONS AND PENALTIES.

(a) Complaints Regarding Violation. Whenever a violation of this Zoning Code occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Zoning Administrator. They shall record properly such complaint, immediately investigate and act thereon as provided by this Zoning Code.

(b) Penalty.

- (1) Any person violating any of the provisions of this Zoning Code where another penalty is not otherwise provided shall be deemed guilty of a misdemeanor and shall be fined as permitted under Section 765, Noncriminal Land Use Infractions, of the Ohio Revised Code.
- (2) Each day's continuance of the violation shall be considered a separate offense.
- (3) The owner of any buildings or premises, or part thereof, where anything in violation of this Zoning Code shall be placed or shall exist, and any architect, builder, contractor, agent or persons employed in connection therewith, and who may have assisted in the commission of any such violation, shall be guilty of a separate offense.
(Ord. 34-17. Effective 12-7-17.)

(NOTE: The next printed page is Page 265.)

CHAPTER 1133
Development Plan Review

1133.01 Development Plan Required.	1133.06 Architectural Design Standards
1133.02 Pre-Application Development Plan	1133.07 Access Management Requirements.
1133.03 Development Plan Review Procedure.	1133.08 Traffic Impact Study.
1133.04 Development Plan Standards of Review.	1133.09 Conformity to an Approved Development Plan.
1133.05 General Site Design Standards.	1133.10 Amendment to an Approved Development Plan.

1133.01 DEVELOPMENT PLAN REQUIRED.

(a) Development Plan Required. In order to administer the provisions of this Zoning Code and to evaluate Development Plans in the interest of the public health, safety and general welfare, this Chapter shall apply to new property development and any collective substantial expansion of existing structures except for individual single-family dwellings and two-family dwellings (duplexes). Substantial expansion of existing structures shall be defined based on the criteria established below:

When Existing Structure is....	A Substantial Expansion is....
0 - 1,000 Sq. Ft.	50% or Greater
1,001 - 10,000 Sq. Ft.	40% or Greater
10,001 - 25,000 Sq. Ft.	30% or Greater
25,001 - 50,000 Sq. Ft.	20% or Greater
50,001 Sq. Ft. and larger	10% or Greater

(b) Furthermore, no building shall be erected or structurally altered on any lot or parcel in cases where a Development Plan review is required as set forth in this Zoning Code, except in accordance with the regulations of this section and all other applicable sections within this Zoning Code and an approved Development Plan.

(c) Submission and approval of a Development Plan is required before a building permit may be issued. Formal submission and approval of a Development Plan includes following the review procedures and submission requirements set forth in this Chapter.

(d) Parking lot expansion projects and new parking lots projects serving as a principal use on any lot shall be reviewed and approved for compliance by the Zoning Administrator after following the applicable standards and procedure set forth in this Chapter. On any parking lot Development Plan application, the Zoning Administrator may elect to refer the application to the Planning Board for consideration and decision-making authority.

1133.02 PRE-SUBMITTAL DEVELOPMENT PLAN MEETING.

(a) Submittal. Before submitting an application for a Development Plan pursuant to this Chapter, an Applicant shall submit the required Development Plan information as required under this Section in digital PDF file format and contact the Zoning Administrator to schedule the required pre-submittal Development Plan meeting.

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(1) Review for Completeness. The Zoning Administrator shall review the plan and accompanying information for conformance to the applicable submittal requirements listed in this Section. If the plan and information are deemed substantially complete and sufficient enough to conduct the meeting, the Zoning Administrator shall proceed with scheduling the meeting.

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(b) Pre-Submittal Development Plan Meeting Procedure.

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(1) The Applicant, or their representative, shall attend the mandatory pre-submittal Development Plan meeting. The purpose of the meeting is to discuss, early and informally with the Applicant, the purpose, intent, objective, scope, and requirements of this Zoning Code as it applies to the proposed project. No opinions, suggestions or recommendations discussed with or provided to the Applicant at such meeting shall be relied upon by the Applicant as a guarantee or other indicator of subsequent specific action on an application.

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A. There shall not be any formal action taken on the pre-submittal Development Plan. The only requirements are the Applicant's attendance at the meeting and submitting a Development Plan package that is substantially complete as determined by the Zoning Administrator.

(2) After the Applicant has attended the mandatory pre-submittal Development Plan meeting, the full Development Plan package may be submitted as required in Section 1133.03 incorporating any plan changes or additional information requested during the pre-submittal Development Plan meeting.

(c) Required Contents for a Pre-Submittal Development Plan. A Development Plan shall be designed by a civil engineer registered in the State of Ohio and evidenced by the engineer's stamp being placed on the plan. Any surveys, parcel descriptions and similar items shall be performed by an Ohio licensed surveyor. This Development Plan submittal package shall, at a minimum, include the following data, details, and supporting documentation:

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(1) Location of all existing structures located within the Development Plan, and within twenty-five (25) feet of the boundary of the proposed Preliminary Development Plan area.

(2) The footprint locations and height of proposed buildings and land uses within the Development Plan. Calculations of density and open space area shall be indicated, if applicable.

(3) Proposed parcels contained within the Development Plan area including parcel lines, and dimensions.

(4) Location of existing and proposed public and private streets, parking, pedestrian walkways, storm water management facilities and sanitary sewer, water and other utility lines and facilities where such lines and facilities first enter the Development Plan.

(5) Identify all setbacks of buildings, structures, and parking areas from property lines and any required buffer zones.

(6) Location, type and size of any easements, covenants, deed restrictions and other restrictions proposed or recorded.

(7) The proposed location of the following elements, as applicable to the project: points of ingress and egress serving the site, and the location of all present and proposed public and private drives, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping, ground mounted signs, walls, and fences.

(8) Existing and proposed topography at, a minimum of, two foot (2') contour interval. All elevations shall refer to the nearest United States Coastal and Geodetic Benchmark. If any portion of the parcel is within the 100-year floodplain, the area will be shown and base flood elevations given, as available on the most recent FEMA maps.

(9) A conceptual landscape plan, prepared by a landscape architect registered in the State of Ohio and evidenced by the landscape architect's stamp being placed on the plan. The applicable landscaping and screening regulations provided for in this Zoning Code shall apply and be shown on this plan.

(10) A table containing the following information must be included, as applicable:

- A. Area of building to be used for a particular land use such as retail operation, office, storage, and the like, and maximum number of employees.
- B. Maximum seating capacity, where applicable.
- C. Number of parking spaces existing and required for the intended use.
- D. Development standards to include: All required and proposed yard setback amounts, proposed building lot coverage percentage, proposed total non-impervious surface lot coverage percentage.

(11) Any additional information reasonably deemed necessary by the Zoning Administrator or City Engineer.

1133.03 DEVELOPMENT PLAN REVIEW PROCEDURE.

(a) Development Plan Submission Requirements.

(1) Four (4) copies of the Development Plan shall be prepared at a scale of one inch equals twenty feet (20'). Developments containing more than five acres may be drawn at a scale of one inch equals fifty feet (50'). Drawings shall be made on standard 24-inch x 36-inch sheets with continuation on 8½-inch x 11-inch sheets as necessary for narrative.

(2) Twelve (12) copies of the Development Plan shall also be submitted on 11-inch x 17-inch format. A Development Plan shall, at a minimum, include all data, details, and supporting information as outlined in this Chapter and other applicable Zoning Code chapters.

(3) One (1) digital copy of the Development Plan set and any other submittal materials in PDF file format submitted on a portable USB thumb drive.

(b) Development Plan Contents. A Development Plan shall, at a minimum, include the following data, details, and supporting documentation. All Development Plans shall be prepared by an Ohio registered professional civil engineer and any surveys, parcel descriptions and similar items shall be performed by an Ohio licensed surveyor. Development plans should be drafted at a level of detail suitable for use as construction drawings. Items required for submission include:

(1) Name of the project, boundaries, and location maps showing the site's location in the City, date, north arrow, and scale of the plan.

(2) Name, mailing address, telephone number and email address of the owner of record and applicant. Provide the seal and signature of an Ohio licensed civil engineer who prepared the Development Plan.

(3) Names and addresses of all owners of record of abutting parcels and those within two-hundred feet (200') of the property line.

(4) A brief description of the proposed use of the site shall be included with an estimate of the number of employees.

(5) Indicate the existing land use and current zoning classification of all abutting parcels.

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- (6) All existing lot lines, easements, and rights-of-way. Include area of subject parcel to be developed in both acres and square feet.
- (7) The location and use of all existing and proposed buildings and structures within the development area.
- (8) All dimensions of height and floor area and showing all exterior entrances.
- (9) Illustrations of internal traffic movement, ingress and egress, and the location of all present and proposed public and private drives, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping, walls, and fences.
- (10) Traffic impact study as required by Section 1133.08.
- (11) Illustrated drawings identifying the location, height, intensity, and bulb type (e.g., fluorescent, sodium incandescent) of all external lighting fixtures. A photometric analysis of the proposed development site shall be submitted as part of the Development Plan application to determine conformance with the illumination standards set forth in Section 1133.06.
- (12) Provide the footprint locations and property line setback distance for all proposed signage to be installed in the ground. Sign permits must be applied for and granted after Development Plan approval.
- (13) The location and sizing of all present and proposed utility systems, including sewage systems, water supply system, telephone, cable and electrical systems, storm drainage system, including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.
- (14) Stormwater and Wetlands. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
- (15) Existing and proposed topography at a one foot (1') contour interval. All elevations shall refer to the nearest United States Coastal and Geodetic Benchmark. If any portion of the parcel is within the 100-year floodplain, the area will be shown and base flood elevations given.
- (16) A construction level detailed landscape plan prepared by a landscape architect registered in the State of Ohio showing all existing natural land features, trees, forest cover and water resources, and all proposed changes to these features including size and type of plant material. Water resources will include ponds, lakes, streams, wetlands, floodplains, and drainage retention areas. The applicable landscaping and screening regulations found in this Zoning Code shall apply. At a minimum, the landscape plan shall include the following information provided at construction level detail:
 - A. All existing natural land features, trees, forest cover and water resources, and all proposed changes to these features including size and type of plant material.
 - B. Water resources will include ponds, lakes, streams, wetlands, floodplains, and drainage retention areas.

- C. Tabular listings of existing plant material to be retained and proposed plant material within the bufferyard or landscape areas with typical planting details for trees, shrubs and ground cover.
- D. Planting details for all required areas, included, but not limited to: bufferyard areas, parking lot related landscaping, street frontage landscaping, dumpster enclosure screening and ground mounted sign landscaping.
- (17) For new construction or alterations to any existing building, a table containing the following information must be included:
 - A. Area of building to be used for a particular land use such as retail operation, office, storage, and the like, and maximum number of employees.
 - B. Maximum seating capacity, where applicable.
 - C. Number of parking spaces existing and required for the intended use.
 - D. Development standards to include: All required and proposed yard setback amounts, proposed building lot coverage percentage, proposed total non-impervious surface lot coverage percentage.
- (18) Provide a full color sample board of all proposed exterior building materials and exterior color selections.
- (19) Other such relevant information as the City may require to adequately review the proposed development.

(c) Planning Board Action.

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- (1) The Development Plan shall be submitted to the Zoning Administrator. The Zoning Administrator shall transmit copies of the Development Plan to the Planning Board and other City Staff members or consultants for their review and comment.
- (2) If the Planning Board finds that based upon reports from City Staff and its own review, that the Development Plan meets all of the applicable requirements of this Zoning Code and has adequately address any conditions or plan modification, it shall approve the Development Plan.
 - A. If the Planning Board does not approve the Development Plan, the Applicant may seek an administrative appeal under Chapter 1132 of this Zoning Code or re-submit a revised development that addresses all items found to be deficient by the Planning Board.
- (3) If the Planning Board approves the Development Plan, the Applicant shall proceed with development of the site and submit a building permit application for proposed structures on the site.

1133.04 DEVELOPMENT PLAN STANDARDS OF REVIEW.

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- (a) Development Plan Review Standards. Development plans shall be reviewed by the Planning Board in accordance with the following criteria:

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(1) Traffic. Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.

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(2) Parking. Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment; adequate parking, adequate lighting, and internal traffic control.

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(3) Services. Reasonable demands placed on City services and infrastructure.

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(4) Pollution Control. Adequacy of methods for sewage and refuse disposal and the protection from pollution of both surface water and groundwater.

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(5) Nuisances. Protection of abutting properties from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, storm water runoff, and the like.

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(6) Existing Vegetation. Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.

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(7) Site Amenities. The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside plantings, and the retention of open space.

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(8) Community Character. The building setbacks, area and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding landscape.

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1133.05 GENERAL SITE DESIGN STANDARDS.

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(a) Site Conditions.

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(1) The property shall not be subject to hazards such as objectionable smoke, noxious odors, unusual noise, the possibility of subsidence or the probability of flood or erosion.

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(2) The condition of soil, ground water level, drainage, rock formations, and topography shall be such as not to create hazards to the property or to the health and safety of occupants or the public.

(b) Services and Facilities.

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(1) The facilities shall be so designed that they can be used and maintained without encroachment upon adjoining properties.

(2) Utilities, including water pipelines, gas pipelines, sewage disposal, and electric power lines, shall be independent for the property without dependence upon other properties.

(3) Each building intended for use as a residence or place of employment shall have provisions for each of the following:

A. A continuing supply of safe and potable water.

B. Sanitary facilities and a safe method of sewage disposal.

C. Heating adequate for healthful and comfortable living conditions.

D. An adequate supply of domestic hot water.

E. Adequate electricity for lighting and for equipment used in the dwelling.

F. Adequate provisions for the removal of garbage and trash and its sanitary storage pending removal.

(c) Site Access.

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(1) Each property shall be provided with vehicular access by an abutting public or private street. Private streets shall be created by a permanent access easement.

(2) The width and construction of the required internal drive and provisions for its continued maintenance, by the property owner if a private street and by the City if accepted as a public street, shall provide safe and suitable vehicular access to and from the property at all times, including appropriate access for fire-fighting equipment, trash collection, deliveries and snow removal. Dead-end internal access drives shall include adequate vehicular turning space, for public safety and maintenance vehicles as well as private vehicles.

(3) Each building shall provide safe and convenient pedestrian access from parking areas to the building entrances.

(4) Each building shall provide convenient access for service and, when necessary, for delivery of fuel.

(5) A safe and convenient means of access shall be provided to each dwelling unit without passing through any other dwelling unit.

(6) Access to buildings and circulation between buildings and other important project facilities for vehicular and pedestrian traffic, which is safe, comfortable and convenient for occupants and the public.

1133.06 ARCHITECTURAL DESIGN STANDARDS.

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(a) Specific architectural design guidelines may be set forth in those Zoning Code chapters containing the standards for each specific zoning district within the City. Any applicable architectural design guidelines shall be reviewed and considered as part of this Development Plan process.

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1133.07 ACCESS MANAGEMENT REQUIREMENTS.

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(a) General Access Management Standards.

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(1) General standards for parking areas, circulation, and access shall be incorporated as part of the Development Plan as set forth in Chapter 1130. As part of the Development Plan review process, access shall be reviewed relative to the distance from other driveway approaches and from roadway intersections.

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(2) The preferred method of providing access to parcels is to minimize or eliminate driveways by using service roads, rear access roads, or shared driveways.

(3) The Planning Board may, as part of the Development Plan review process, require that existing driveways be moved, combined, re-aligned, or eliminated to reduce the potential for accidents.

(b) Conditional Approval of Driveways. As part of the Development Plan review process, the Planning Board may approve a Development Plan with a specific driveway location with the condition that an agreement be first entered into between the property owner and the City, requiring that if a service road is constructed in the future, or if the opportunity for a shared driveway should present itself with development of adjacent property, one or more approved driveways shall be closed and measurements taken to utilize such service road or shared drive.

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(1) Conditional approval of driveways may also include restrictions on turning movements, locations, or other requirements to ensure safe and efficient traffic movement.

(c) Construction and Use of Service Roads. When a service road is required, such improvement shall be constructed by the Applicant before any occupancy or use of the parcel or structure is permitted.

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(1) When a service road is provided, all access to an adjacent property shall use that service road and no direct access to the main thoroughfare shall be provided.

1133.08 TRAFFIC IMPACT STUDY.

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(a) A Traffic Impact Study shall be a requirement for Development Plan review if the expected trip generation of the land use is 100 or more vehicles at peak hour periods as identified in the Institute of Traffic Engineers (ITE) Manual.

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(1) The Applicant must submit a trip generation analysis to the City Engineer to determine if the peak hour vehicle threshold is reached.

(2) The City Engineer may require a full traffic impact study be performed even if the Applicants' initial trip generation analysis report states a vehicle estimate less than 100 vehicles at peak hour.

(b) A Traffic Impact Study shall be prepared by a qualified professional civil engineer registered in the State of Ohio at the developer's expense. The Traffic Impact Study shall investigate the feasibility and benefits of improvements such as signals, turn lanes, driveway movement limitations, and other relevant information to the site to protect the safety of the traveling public.

(1) The Traffic Impact Study shall include the following minimum elements:

A. A description of the site and study area.

B. Anticipated development of adjacent parcels.

C. Trip generation and distribution, including a description of all assumptions used to generate findings of trip distribution.

D. Modal split, if applicable.

E. Traffic assignment resulting from the development.

F. Projected future traffic volumes.

G. An assessment of the impact that would result from driveway alternatives.

H. Recommendations for site access and transportation improvements needed to maintain traffic flow within and past the site at an acceptable and safe level of service.

I. An evaluation of the effects the proposed development will have on the level of service and roadway capacity.

1133.09 CONFORMITY TO AN APPROVED DEVELOPMENT PLAN.

(a) Property subject to Development Plan approval must be developed in strict compliance with the approved Development Plan, inclusive of any conditions or plan modifications as approved by the Planning Board.

(b) If construction and development does not conform with the approved Development Plan, the approval of the Development Plan shall be revoked by the Zoning Administrator by written notice of the revocation mailed to the owner at the address shown on the Development Plan application. Upon revocation of this approval, all construction activities shall cease upon the site until such time as the violation has been corrected or the Zoning Administrator or Planning Board have, upon a completed Development Plan application being re-filed by the Applicant, approved an amendment to the Development Plan to coincide with the owner's construction, or altered plans for construction to be in compliance with the criteria and conditions contained in the Development Plan approval provisions and satisfying the spirit, purpose, and intent of this Zoning Code.

(c) Approval of the Development Plan shall be valid for a period of one (1) year beginning from the date of Planning Board approval. If both a building permit has not been obtained and substantial on-site construction, equal to or greater than fifty percent (50%) of project completion has not been commenced within one (1) year, the Development Plan approval shall become null and void and a new application for Development Plan approval shall be required and new approval obtained before any additional construction or site preparation work is commenced upon the site.

(d) Enforcement. The City shall require the posting of a surety bond, letter of credit or other similar performance guarantee to ensure that required infrastructure improvements within the public right-of-way are completed in the event that the project is abandoned. The City may suspend the building permit when work is not performed as required by an approved Development Plan.

1133.10 AMENDMENT TO AN APPROVED DEVELOPMENT PLAN.

(a) Minor Amendment. Minor changes to an approved Development Plan may be reviewed and decided by the Zoning Administrator, provided such changes comply with all applicable requirements of this Zoning Code and all other federal, state, or county laws and regulations.

(1) The Zoning Administrator shall have the authority to request that the Planning Board review and consider any proposed minor amendment.

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(b) Major Amendment. Major changes shall be re-submitted as a Development Plan to the Planning Board and follow the procedure set forth in this Chapter for review and consideration. Major changes include, but are not limited to, the following:

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- (1) Increases in the scope or density of land use, land area, or building size.
- (2) The addition of uses and/or buildings not authorized by the original approval.
- (3) The rearrangement of lot lines or building locations by more than five feet (5').
- (4) Changes in the character or function of access drives.
- (5) Significant changes in the concept of the development.
- (6) Any other changes which the Zoning Administrator refuses or fails to approve.

CHAPTER 113~~43~~
Definitions

113~~43~~.01 _____ General meanings of words
and terms.

113~~43~~.02 Defined terms.

113~~43~~.01 GENERAL MEANING OF WORDS AND TERMS.

(a) For the purposes of the Fairborn Zoning Ordinance, the words and terms defined in this Chapter have the meanings ascribed to them. Additional definitions, if not defined here, may be in other chapters of this Ordinance or defined by other chapters of the Fairborn Codified Ordinances or by the Ohio Revised Code.

(b) Any word or term not specifically defined or described in this chapter shall have their commonly accepted and ordinary meaning.

(c) Words used in the present tense shall include the future tense; the singular number shall include the plural, and the plural the singular; the word "person" shall include a firm, association, organization, partnership, trust, company or corporation; the words "used or occupied" include the words "intended, designed or arranged to be used or occupied"; the word "shall" or "will" is mandatory; and the word "may" is permissive.
(Ord. 34-17. Effective 12-7-17.)

113~~43~~.02 DEFINED TERMS.

Access

Access means physical access of property to a publicly dedicated street not including lot frontages which abut a highway but have no driveway affording physical access to such highway.

Access Drive

Access drive means a privately owned, constructed and maintained surface providing vehicular access to and between parking areas for two or more parking spaces within a land development OR any drive servicing one or more units of occupancy on a single lot.

Accessory Use, Building or Structure

Accessory use, building or structure means a use, building or structure subordinate to the principal use of the land or a building on the same lot and serving a purpose customarily incidental to the principal use or structure.

Adequate Capacity (Wireless Telecommunication Facilities)

Adequate capacity is considered to be "adequate" if the Grade of Service (GOS) is p.05 or better for median traffic levels offered during the typical busy hour, as assessed by direct measurement of the Personal Wireless Service Facility in question. The GOS shall be determined by the use of standard Erlang B calculations. As call blocking may occur in either the land line or radio portions of a wireless network, Adequate Capacity for this ordinance shall apply only to the capacity of the radio components.

Adequate Coverage (Wireless Telecommunication Facilities)

Adequate coverage is considered to be "adequate" within that area surrounding a wireless telecommunication facility where the predicted or measured median field strength of transmittal signal is greater than or equal to -95dbm for at least seventy-five percent (75%) of the intended coverage area. It is acceptable for there to be holes within the area of Adequate Coverage where the signal is less than -95dbm, as long as the signal regains its strength to greater than or equal to -95dbm further away from the wireless telecommunication facility. For the limited purpose of determining whether the use of a Repeater is necessary or desirable, there shall be deemed not to be Adequate Coverage within said holes. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain strength of greater than or equal to -95dbm.

Adjacent

Adjacent means touching or so close that it functions as attached.

Adult Arcade

Any place to which the public is permitted or invited where either or both (i) motion picture machines, projectors, video tape players or DVD 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 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.

Adult Bookstore, Adult Novelty Store, or Adult Video Store (Adult Uses)

A commercial establishment which has as a significant or substantial portion of its stock-in-trade (25% or more) or derives a significant or substantial portion of its revenues (25% or more in value and/or trade) or devotes a significant or substantial portion of its interior business or advertising to the sale or rental, for any form of consideration, of any one or more of the following:

- Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" as defined herein; the display of matter harmful to juveniles as defined in the Ohio Revised Code; or the pandering of obscenity as defined in The Ohio Revised Code.
- Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse.

Adult Cabaret (Adult Uses)

A nightclub, bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

- Persons who appear nude, semi-nude or in a state of nudity;
- Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", or
- 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".

Adult Motel (Adult Uses)

A motel, hotel or similar commercial establishment which offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, 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" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television. Evidence that a sleeping room in a hotel, motel, or a similar commercial building or structure has been rented and vacated two or more times in a period of time that is less than 10 hours creates a rebuttable presumption that the enterprise is an adult motel.

Adult Motion Picture Theater

A commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

Adult Theater (Adult Uses)

A theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities".

Adult Uses or Sexually Oriented Businesses

Shall mean "adult arcade", "adult cabaret", "adult motion picture theater", "adult theater" "adult motel", "adult bookstore", "adult novelty store", "nude model studio", "escort agency", "massage parlor", "sexual encounter establishment", or "adult video store". See Chapter 1126: Adult Uses.

Agricultural Display Stand

"Agricultural display stand" means a structure or vehicle used for the display and sale of primarily those products raised on the same premises provided the structure does not exceed an area of 200 square feet.

Agriculture

Agriculture includes farming; ranching; aquaculture; algaculture meaning the farming of algae; apiculture and related apicultural activities, production of honey, beeswax, honeycomb, and other related products; horticulture; viticulture, winemaking, and related activities; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production; and any additions or modifications to the foregoing made by the director of agriculture by rule adopted in accordance with Chapter 119. of the Ohio Revised Code.

Aisle

Aisle means that portion of the off-street parking and loading area that provides access to parking, cueing or loading spaces, exclusive of driveways and parking and loading spaces.

Animal Hospital

See definition of "veterinarian hospital."

Animal Processing

Animal processing means a person who slaughters animals or processes non-inspected meat (under continuous inspection by either the Ohio Department of Agriculture or the U.S. Department of Agriculture for slaughterhouse activities) for the owner of the animal, and returns the majority of the meat products derived from the slaughter or processing to the owner.

Animal Shelter

Animal Shelter means any facility operated by a political subdivision or non-profit agency, or its authorized agents for the purpose of impounding or caring for animals held under government authority or state law.

Animal, Dangerous

Dangerous animal means:

- Any mammal, amphibian, fish, reptile, or fowl of a species, insect or arachnid, which due to size, vicious nature, or other characteristics would constitute a danger to the physical well-being of human life or animals.
- Any animal having a known disposition or propensity to attack, bite, or injure any person or animal without provocation. Where the official records of an Animal Control Officer, City Clerk, Police Department, or Clerk of the Municipal Court indicate that an animal has bitten or attacked any person or animal, it shall be prima facie evidence that said animal is a dangerous animal.
- Any animal owned or kept primarily or in part for the purpose of fighting or any animal trained or bred for fighting.
- Any animal which is urged by its owner or keeper to attack, or whose owner or keeper threatens to cause such animal to attack any law enforcement officer while such officer is engaged in the performance of official duty and when such animal has the apparent ability to cause injury or harm to such officer.

Animals

Animals means:

- "Wild or exotic animals" means animals which are not domesticated for household or agricultural uses and more particularly animals capable of causing injury or death to a human. A lion, tiger, bear, poisonous or large constricting snake, or vicious or poisonous fish, insect, or mammal are examples of these animals.
- "Livestock and poultry animals" means any animal customarily raised for food and consumer products such as cattle, horses, sheep, hogs, goats, chickens, ducks, geese, and turkeys.
- "Household pets" means animals that are customarily kept for the personal use or enjoyment within the home. "Household pets" includes but shall not be limited to domestic dogs, domestic cats, domestic birds, fish and rodents.

Antenna Support Structure (Wireless Telecommunication Facilities)

Any building or other structure other than a tower utilized as a location for wireless telecommunications facilities.

Antenna, Personal Use

Any antenna and earth satellite dishes designed only to receive AM and FM radio, CB radio, television, and satellite television broadcast transmissions and receive and transmit amateur radio signals, for the use and enjoyment of the property owner. Such uses are an accessory use of the property and shall be governed by provisions specified in this chapter and Chapter 1128: Supplemental and Accessory Regulations.

Apartment

Apartment means a room or suite of rooms in a multi-family or multi-use building arranged and intended as a place of residence for a single housekeeping unit or a group of individuals living together as a single housekeeping unit.

Arcade

Arcade means a series of arches supported by pillars, piers or columns.

Arch or Arches

Arch means a curved structural member spanning an opening or recess.

Architecture

Architecture means the art or science of building; specifically, the art or practice of designing and building structures and especially habitable ones.

Assembly Hall

Assembly hall means a non-commercial use of a building or structure providing for the assembly of persons for religious, charitable, philanthropic, cultural or educational purposes. This use shall not include any group organized solely or primarily to provide a place of residence or render a service customarily carried on as a commercial enterprise.

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Automobile Trailer

Automobile trailer includes all enclosed and unenclosed trailers used to transport or store any wheeled vehicle and related parts, accessories and equipment.

Automobile Wrecking

Automobile wrecking means the dismantling or disassembling of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

Awning

A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework. See also definition of “canopy”.

Figure 1134-A: Example of a sign attached to an awning.

**Basement**

Basement means that portion of a building having part but not more than one-half (1/2) its height below grade and having primary access from within said building. A basement is counted as a story for the purpose of height regulations if used for a separate business or dwelling purpose by other than a janitor employed on the premises. See the definition of "cellar" for comparison.

Figure 1134-B: Illustration of “basement” versus “cellar”.

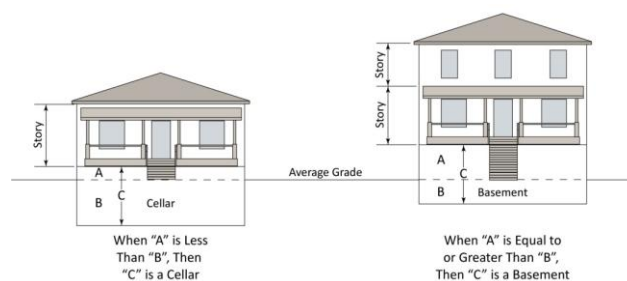


Figure 1133-B: Illustration of “basement” versus “cellar”.

Bay

Bay means a unit of interior space in a building, marked off by architectural divisions.

Bed and Breakfast Establishment

Bed and breakfast establishment means an owner-occupied residential single-family, detached structure wherein lodging and breakfast only are provided to transient guests for compensation in accordance with specific development standards. The provision of lodging and breakfast shall be subordinate to the principal use of the structure.

Bedroom

Bedroom means a private room within a dwelling unit designed exclusively for sleeping of household members regularly residing within the dwelling unit. The bedroom should be able to be separated or enclosed from communal living areas, contain two (2) means of escape, and contain a minimum of 70 square feet to accommodate one individual, 120 square feet to accommodate two individuals. Gathering and communal rooms such as a living room or family room shall not be considered a bedroom.

Belt Course

Belt course means a horizontal course of brick or stone flush with or projecting beyond the face of a building, often molded to mark a division in the wall. Also called a string course.

Block

Block means a tract of land bordered on all sides by streets, or by one or more streets and a railroad right of way, stream, river or un-subdivided acreage.

Block Face

All lots that have frontage on the same street as the subject lot between an intersecting street or other boundary.

Boats and Boat Trailers

Boats and boat trailers includes boats, jet skis, canoes, kayaks, catamarans, racing shells, floats, rafts, and similar motorized and non-motorized vessels and watercraft, plus the enclosed and unenclosed trailers used to transport or store the same and related parts, accessories and equipment.

Bond

Bond means any form of financial guaranty including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Planning Board and Fairborn Council.

Buffer Yard

Buffer yard means a unit of land, together with a specified type and amount of planting thereon, and any structures which may be required, intended to eliminate or minimize conflicts and provide screening within and between land uses.

Buildable Area

Buildable area means the portion of a lot remaining after allowing for all required yard areas and other required open spaces.

Building

Building means any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind.

Building Area

Building area means the area included within surrounding exterior walls (or exterior walls and fire walls) exclusive of vent shafts and courts. Areas of the building not provided with surrounding walls shall be included in the building area if such areas are included within the horizontal projection of the roof or floor above.

Building Elevation

The front, rear or side exterior surface of a building as viewed in a flat scale drawing.

Building Height

Building height means the vertical distance from grade at a building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched or hip roof.

Figure 1134-C: Illustration of "basement" versus "cellar."



Figure 1133 C: Illustration of "basement" versus "cellar."

Building Materials and Hardware

Building materials and hardware means retailing, wholesaling or rental of building supplies or construction equipment. This classification includes lumberyards, home improvement sales and services, tool and equipment sales or rental establishments.

Building Setback Line

Building setback line means a line parallel to the street right-of-way line at any story level of a building and representing the minimum distance which all or any part of the building is set back from the right-of-way line.

Building, Accessory

A building on the same lot with, and of a nature customarily incident and subordinate to, that of the principal building.

Building, Principal

A building in which is conducted the principal use of the lot upon which it is situated.

Bulk

Bulk means the size of lots; the size and placement of buildings or structures, and the location of same with respect to one another, and includes the following:

- Size and height of buildings;
- Location of exterior walls at all levels in relation to lot lines, streets or to other buildings;
- Floor area ratio;
- All open spaces allocated to buildings; and,
- Amount of lot area and lot width provided per dwelling unit.

Business

Business means retail, wholesale, and service establishments which cater to the community needs for goods and services.

- "Retail Business" means the sale of products directly to the consumer for personal, household or farm use including restaurants.
- "Wholesale Business" means the sale of products to retailers or to institutional, industrial, commercial and professional users.
- "Personal Service" means any enterprise conducted for gain which primarily offers services to the general public including, but not limited to, shoe repair, barbershop, beauty parlor, or doctor's office.
- "Business Services" means any activity conducted for gain which renders services primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in homes or businesses.

Caliper

Caliper means the American Association of Nurseryman standard for trunk measurement of nursery stock. Caliper of the trunk shall be taken 6 inches above the ground up to and including 4 inch caliper size, and 12 inches above the ground for a caliper size greater than 4 inches.

Canopy

A permanent structure made of cloth, metal or other material attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure but typically is supported by features other than the building façade (e.g., structural legs, building extensions, etc.). See also definition of "awning."

Figure 1134-3-D: Example of a sign attached to a canopy.



Figure 1133 D: Example of a sign attached to a canopy.

Cellar

Cellar means that portion of a building between floor and ceiling having more than one-half (1/2) of its height below grade, being uninhabitable, and therefore not counted towards the computation of floor space, and having primary access from outside said building. See Basement for comparison. See Figure 1133 B under the definition of "basement".

Cemetery

Cemetery means land used or intended to be used for the burial of the human dead and dedicated as a cemetery for such purposes.

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Channel (Wireless Telecommunication Facilities)

The segment of the radiation spectrum from an antenna which carries one signal. An antenna may radiate on many channels simultaneously.

Child Care Center Licensee

Child care center licensee means the owner of a child day-care center, Type A family day-care home or Type B family day-care home, licensed pursuant to Chapter 5104 of the Ohio Revised Code who is responsible for ensuring the center's compliance with Chapter 5104 of the Ohio Revised Code and rules adopted pursuant to that chapter.

Child Care Facility

Child care facility means a child day-care center, a type A family day-care home, or a type B family day-care home.

Child Care Provider

Child care provider means any of the following:

- An owner, provider, administrator, or employee of, or volunteer at, a child care facility;
- An in-home aide; or
- A person who represents that the person provides child care.

Child Day Care and Day Care Centers

Child day-care, child care, In-home aide, type A family day-care home, and type B family day-care home means administering to the needs of infants, toddlers, pre-school children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four (24) hour day in a place or residence other than a child's own home.

City

City means the City of Fairborn, Ohio.

~~Club~~

~~Club means a nonprofit association of persons who are bona fide members, paying regular dues, and are organized for some common purpose, but not including a group organized solely or primarily to provide a place of residence or render a service customarily carried on as a commercial enterprise.~~

Co-location (Wireless Telecommunication Facilities)

The use of a tower or antenna support structure by more than one wireless telecommunications provider.

Commercial and Industrial Equipment and Machinery Sales, Rental, Leasing and Repair

Commercial and industrial machinery and equipment rental and leasing establishments means businesses primarily engaged in renting or leasing machinery and equipment for use in business or industrial operations. These establishments typically cater to a business clientele and do not generally operate a retail-like or store-front facility. Examples including the leasing of heavy equipment, office furniture or equipment, or off-highway transportation equipment.

Commercial Entertainment

Commercial entertainment means a facility for any indoor profit-making activity which is providing participatory and/or spectator activities, such as, but not limited to, motion picture theaters, live performances, bowling alleys, commercial recreation, video game rooms, billiard halls, indoor skating rinks, bingo parlors and similar entertainment activities. Commercial entertainment shall not include Adult Uses or computerized sweepstakes terminal café's.

Commercial Message

Any sign, wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

Common Area

Common area means any land area, and associated facilities, within a planned unit development that is held in common ownership through a Homeowners Association, Community Association or other legal entity.

Community Garden

Community garden means a site operated and maintained by an individual or group to cultivate trees, herbs, fruits, vegetables, flowers, or other ornamental foliage for the following uses: personal use/consumption, donation or off-site sale of items grown on the site.

Comprehensive Land Use Plan

The most recent comprehensive land use plan for the City of Fairborn, Ohio, as adopted by City Council. The Comprehensive Land Use Plan may also be referred to as the "Comprehensive Plan" or "Land Use Plan."

Computerized Internet Sweepstakes

Computerized internet sweepstakes means any computer, machine, or apparatus which is capable of connection to the Internet, regardless of whether such connection is utilized, through a wireless router telephone line, digital subscriber line, satellite, cellular telephone, cable connection or any other method, which is engaged or accessed upon the insertion of a coin, token, or similar object, or the sliding of a magnetic card or entry of a code, or similar process, or upon payment of anything of value, either directly or indirectly, and which may be operated by the public generally for use as entertainment, amusement or a contest of skill, whether or not registering a score and which when so utilized produces, announces, reveals or discloses the eligibility, award or payment of a cash prize redeemable on or at the Computerized Sweepstakes Terminal Café, whether or not said prize was in fact announced, revealed or disclosed through the usage of the Computerized Sweepstakes Device. "Computerized Sweepstakes Device" does not include machines designated for use by the State Lottery Commission.

Computerized Internet Sweepstakes Terminal Café

Computerized internet sweepstakes terminal café means any premises upon which there are situated 2 or more Computerized Sweepstake Devices that are available for the use or entertainment of the public within such premises, whether or not such premise has any other business purpose.

Conditional Use

Conditional use means a special zoning ~~procedure~~ that allows the Planning Board ~~and Fairborn City Council~~ to review and place conditions on certain types of land uses regarding development standards such as location, design, size, density, operation, intensity of use, generation of traffic and traffic movement, processes and equipment employed, and the amount and kinds of public facilities and services required. These conditions ensure that each proposed conditional use is consistent with the intent and objectives of the particular zoning district in which it is to be located, and protects adjacent properties and the general health, safety and welfare of the public.

Contiguous

Contiguous means next to, abutting, or touching and having a boundary, or portion thereof, that is coterminous.

Convalescent, Nursing or Rest Home

Convalescent, nursing or rest home means any building or group of buildings providing personal assistance or nursing care for the aged or infirmed, or any other person in need of continual care from medical practitioners and support staff. In addition to providing medical and monitoring services on a daily basis, such facilities may also provide other recreational, social, educational and cultural activities, transportation and financial services.

Cornice

Cornice means the uppermost section of moldings along the top of a wall or just below a roof.

Court

Court means an open unoccupied and unobstructed space, other than a yard, on the same lot with a building or group of buildings.

Covering (Adult Uses)

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 anatomic area beneath it.

Cul-De-Sac

Cul-de-sac means a local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turn around. This definition does not include streets intended, as of the time of final plat acceptance, to be designed for future extension or connection with another public right of way for vehicular traffic.

Cultural Institution

Cultural institution means a nonprofit institution engaged primarily in the performing arts or in the display or preservation of objects of interest in the arts or sciences that are open to the public on a regular basis, with or without a charge for admission. Cultural institution includes performing arts centers for theater, dance and events, museums, historical sites, art galleries, aquariums and the like.

Day Care Center

Day care center means an establishment, other than a day care home, licensed by the State of Ohio, that provides care and supervision for seven or more persons on a less than 24-hour basis. This division includes nursery schools, preschools (when not part of an elementary school), day care centers for children or adults and other day care type facilities licensed by the State of Ohio.

DBM (Wireless Telecommunication Facilities)

Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt.

Deminimis Quantity

Deminimis quantity means a specified amount of regulated substances, expressed in gallons and/or pounds, that is excluded from the provisions of the "WP" Wellhead Operation District and the "WP" Well Field Protection Overlay District regulations. Any use of regulated substances in excess of the deminimis quantities and not explicitly subject to exclusion is considered nonconforming.

Density, Gross

Gross density means the number of dwelling units which are allowed on an area of land, usually an acre, which area of land shall be permitted to include dedicated streets contained within the development.

Developer

Developer means any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under this Zoning Code to effect the development of land.

Development

Development means the division of land; also, the construction of any new building or structure, or the making of any material change in the use or appearance of any existing building or structure above or below grade through activities of construction, erection or alteration.

Distillery/Winery

Distillery/winery means a facility that: (1) ferments juices from grapes and/or other fruit; (2) blends wines; (3) distills and/or blends alcoholic liquors; (4) manufactures, bottles, labels and packages wine and/or alcoholic liquors; and/or (5) performs any other similar activity authorized by the Ohio Division of Liquor Control.

District

See the definition for "zoning district".

Dog, Pure Domestic

Pure domestic dog means any member of the canine genus - group of species *Canis familiaris* or *Canis lupus familiaris* of the family *Canidae*, or dog family, that has not been bred with any other group of species, species or animal.

Dormer

Dormer means a window which is set vertically on a sloping roof. The dormer has its own roof, which may be flat, arched, or pointed.

Drive-In and Drive Through Establishment

Drive-in and drive through establishments means a facility at which the customer is served while sitting in a vehicle, typically associated with drive through restaurants, banks and pharmacies.

Driveway

Driveway means a private roadway providing access for vehicles to a parking space, garage, dwelling or other structure.

Dwelling

Dwelling means any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, cabin, trailer or mobile home, boarding or rooming house, hotel or motel.

Dwelling Unit

Dwelling unit means one room, or a suite of two (2) or more rooms, designed for or used by one family or housekeeping unit for living and sleeping purposes. A dwelling unit shall be comprised of the following components:

- Kitchen or kitchenette; and
- Bath/toilet facility.

Dwelling, Duplex

Duplex ~~or duplex dwelling~~ means a single building designed for two families, or housekeeping units, living independently of each other in separate dwelling units.

Dwelling, Triplex

Triplex means a single building designed for three families, or housekeeping units, living independently of each other in separate dwelling units.

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Dwelling, Fourplex

Fourplex dwelling means a single building designed for 4 families or housekeeping units, living independently of each other in separate dwelling units.

Dwelling, Multiple Family

Multiple family dwelling means a single building or portion thereof designed for or occupied by ~~five~~^{three (3)} or more families, or housekeeping units, living independently of each other in separate dwelling units which are accessible by interior hallways. This type of dwelling unit excludes a hotel.

Dwelling, Single Family Attached

~~Single family attached dwelling means a dwelling unit that is attached to one or more dwelling units, each with independent exterior access and each with no less than two exterior walls. This type of dwelling includes condominiums and townhouses.~~

Dwelling, Single-Family Detached

Single-family detached dwelling means a building designed for or occupied by one family or housekeeping unit.

Easement

Easement means authorization by a property owner for the use or access of a designated area of land by another entity.

Eating or Drinking Establishment

Eating or drinking establishment means a business that is primarily engaged in serving prepared food, beverages for consumption on or off premises, with or without alcohol sales. It includes drinking establishments, bars, night clubs, taverns, pony keg drive-through, lounges or dance halls serving beverages for consumption on the premises as a primary use and including on-site service of alcohol, including beer, wine and mixed drinks.

Eave or Eaves

Eave means the edge of a roof. Eaves usually project beyond the side of the building.

EFM (Wireless Telecommunication Facilities)**Electromagnetic Frequency Radiation.**

Electromagnetically Able (Wireless Telecommunication Facilities)

The determination that the new signal from and to the proposed new Antennas will not significantly interfere with the existing signals from and to other Facilities located on the same Tower or structure as determined by a qualified professional telecommunications engineer. The use of available technologies to alleviate such interferences shall be considered when making this determination.

Electronic Message Center

A sign designed so that the characters, letter or illustrations can be changed or rearranged automatically on a lampbank or through mechanical means (e.g. electronic or digital signs).

Emergency Care Facility

Emergency Care Facility means a 24-hour outpatient facility, operated by a hospital or health organization, and staffed by doctors and nurses that provides immediate emergency care services similar to what would be expected in a hospital. Urgent care facilities are not considered emergency care facilities.

Employee (Adult Uses)

A person who works or performs in and/or for ~~aan~~ adult use, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

Engineer

Any engineer licensed by the State of Ohio.

Equipment Shelter (Wireless Telecommunication Facilities)

The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

Escort (Adult Uses)

A person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency (Adult Uses)

A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Establishment (Adult Uses)

For the purposes of adult uses, the term establishment shall mean and include any of the following:

- The opening or commencement of any adult use as a new business;
- The conversion of an existing business, whether or not an adult use, to any of the adult uses defined in this Zoning Code;
- The addition of any of the adult uses defined in this Zoning Code to any other existing adult uses; or
- The relocation of any such adult use.

FAA

The Federal Aviation Administration and any legally appointed, designated or elected agent or successor.

Façade

Façade means that portion of any exterior elevation of a building extending from the grade of the building to the top of the parapet wall or eaves, for the entire width of the building elevation.

Family

A family consists of any person living alone or any of the following groups living together as a single housekeeping unit that shares common living, sleeping, cooking, and eating facilities: (1) any number of people related by blood, marriage, adoption, guardianship, or other duly and legally authorized custodial relationship and no more than two unrelated individuals who provide care or assistance or are domestic employees, (2) two unrelated individuals and their children related to either of them and their foster children, or (3) four unrelated individuals. A family does not include any society; club; boarding or lodging house; fraternity; sorority; or group of individuals whose association is seasonal or similar in nature to a resort, hotel, boarding or lodging house, nor that is institutional in nature. Family means one or more persons living together as a single housekeeping unit in a dwelling unit; or

Family Home

Family Home means a residence or facility, licensed by an agency of the State of Ohio, that provides accommodations from one to five unrelated persons and also provides supervision and personal care for at least three persons. Such family homes shall be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the applicable residential zoning district.

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Fascia

Fascia means exterior horizontal visible flat front trim board that caps exterior horizontal visible flat front trim board that caps the rafter tail ends.

FCC

The Federal Communications Commission and any legally appointed, designated or elected agent or successor.

Fence

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

Financial Institution

Financial institution means an establishment that provides retail banking, credit and mortgage, or insurance services to individuals and businesses. This classification includes banks and trust companies, savings and loan establishments, credit unions, credit agencies, lending and thrift institutions, investment companies and brokerage firms, securities/commodity contract brokers, securities/commodities exchanges, vehicle finance agencies, check cashing and currency exchange outlets and stand-alone automated teller machines. This does not include payday loan/alternative financial establishments which would be considered "personal services".

Floor Area Ratio (FAR)

Floor area ratio means the gross floor area of all buildings or structures on a lot divided by the total lot area. For example: when a floor area ratio of twenty-five one- hundredths (0.25) is specified the floor area of a building constructed on a lot of 40,000 square feet in area is limited to a maximum of 10,000 square feet. The number of stories being optional, the building area may be 5,000 square feet for each of two (2) stories, 2,500 square feet for each of four (4) stories and so forth. The purpose of this ratio is to control the bulk of buildings and encourage the development of open space or plazas about structures in the intensely developed portions of the City.

Floor Area, Gross

Gross floor area means the floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

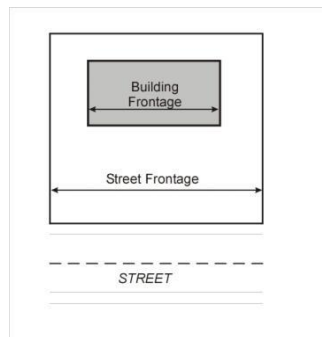
Frontage

Frontage means all the property on one side of a street or place between two intersecting streets or places either crossing or terminating measured along the line of the street or place, or if the street or place is dead ended, then all the property abutting on one side between an intersecting street or place and the dead end of the street or place, but not including the dead end of the street.

Frontage, Building

Building frontage means the side or façade of a building closest to and most nearly parallel to an abutting street. See Figure 1134-3-E.

Figure 1134-3-E: Illustration of building frontage versus street frontage.



~~Figure 1133 E: Illustration of building frontage versus street frontage.~~

Frontage, Street

The distance for which the front boundary line of the lot and the street line are coincident. See Figure 1134-3-E.

Gable

Gable means triangle formed by a sloping roof. A building may be front- gabled or side-gabled. Porches and dormers may also be gabled.

Government Office Building

Government office building means administrative, clerical or public contact offices of a government agency.

Grade

Grade means the average of the finished ground or surface level at the center of all walls of a building.

Grade of Service (Wireless Telecommunication Facilities)

A measure of percentage of calls which are able to connect to the Basic Station, during the busiest hour of the day. Grade of Service is expressed as a number, such as p.05- which means that 95% of callers will connect on their first try. A lower number (p.04) indicates a better Grade of Service.

Group Home

Group Home means a residence or facility licensed by an agency of the State of Ohio, that accommodates from six to sixteen unrelated persons and also provides supervision and personal care for at least three persons. "Group Home" does not include nursing homes where the individuals are infirm.~~Group Residential, Congregate Housing~~

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~~Congregate housing group residential means apartments and dwellings with communal dining facilities and services, such as housekeeping, organized social and recreational activities, transportation services and other support services appropriate for the residents (e.g. student housing).~~

Habitable Space

Habitable space means areas within a dwelling unit that are used for living, sleeping, eating or cooking. Living or habitable space includes bathrooms, toilet compartments and other sanitary facilities and halls, but does not include closets, crawl spaces, garages and other storage and uninhabitable areas.

Hazard

Hazard means any danger to public health, welfare or safety, including exposure to risk or damage to property or liability for personal injury; or risk of harm to land, air or water resulting in environmental degradation. Hazards can include, but are not limited to, flooding and ponding, compaction and settling, landslides, earthquakes, toxic chemicals, radiation, fire and disease.

Height, Building

Building height means the vertical distance from grade at a building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched or hip roof.

Home Occupation

Home occupation means any occupation conducted entirely within a dwelling unit exclusive of garages or accessory buildings carried on by persons residing in the dwelling unit, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not involve any extension or modification of the dwelling which will alter its outward appearance. The intent of the home occupation designation is to provide for a more intense business use compared to the less intensive "Professional Home Office" use. A "Home Occupation" use does not include a "Professional Home Office" use as defined in this chapter.~~an occupation which is customarily~~

~~incidental to the principal use of the premises and is conducted by a member of the immediate household occupying such dwelling.~~

Home Office, Professional

~~Professional home office means a homed based business utilizing the dwelling area for a small scale professional office use by an occupant of the dwelling. The intent of the “Professional Home Office” designation is to provide for a less intensive business use compared to the more intensive “Home Occupation” use. Examples of a “Professional Home Office” use include, but are not limited to: attorney, accountant, sales representative, architect. A “Professional Home Office” use does not constitute a “Home Occupation” use as defined in this chapter.~~

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Hospital

Hospital means an institution providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out- patient department, training facilities, central service facilities and staff offices which are an integral part of the facility.

Hotel

- Hotel means a place of transient residence which includes:
- A hotel includes any structure consisting of one or more buildings containing any combination of more than 5 guestrooms that are each approved by the Chief Building Official and the fire chief as meeting the requirements for transient sleeping rooms or extended stay temporary residence dwelling units, or as having features of such sleeping rooms and dwelling units within the same room, and such structure is specifically constructed, kept, used, maintained, advertised, and held out to the public to be a place where transient sleeping accommodations or temporary residence is offered for pay to persons, but such structure does not otherwise meet the definition of a transient hotel or an extended stay hotel as defined in this section. "Hotel" does not include agricultural labor camps, apartment houses, apartments or other similar places of permanent personal residence, lodging houses, rooming houses, or hospital or college dormitories.

Hotel, Extended Stay

An extended stay hotel means any structure consisting of one or more buildings, with more than five (5) dwelling units with provisions for living, eating, cooking, sanitation, and sleeping, that is specifically constructed, kept, used, maintained, advertised, and held out to the public to be a place where temporary residence is offered for more than thirty (30) days and a maximum stay of one (1) year within the dwelling units at the structure, that is approved pursuant to a valid certificate of occupancy issued by the chief building official, having all of the required dwelling unit features, and for which such valid certificate of occupancy indicates the specific rooms within the structure that can be used as dwelling units, and that is approved by the fire chief for extended stay temporary residence purposes. NOTE: In part from Ohio Revised Code

Impervious Surface

Impervious surface means any material that prevents the infiltration of storm water into the ground. The definition includes, but is not limited to, building and structural components such as roofs, roof overhangs, eaves, decks and patios. The definition also includes structural and non-structural surfaces, materials and minerals such as roads, parking lots, sidewalks, driveways, decorative pavers, concrete, cement, asphalt, brick, crushed rock and gravel. Impervious surface coverage is measured in square feet and as a percentage of lot area.

Improved Surface

Improved surface means concrete, asphalt, aggregate base, sub-base, asphalt concrete, brick or such other unenclosed surfaces as approved by the Chief Building Official and City Engineer.

Improvements

Improvements means street pavement or resurfacing, curbs, gutters, sidewalks, water lines, sewer lines, storm drains, street lights, flood control and drainage facilities, street signs, utility lines, landscaping, and other related matters normally associated with the development of unimproved land into building sites.

Incidental

Incidental means an object or use necessarily found in connection with the principal structure or use, but subordinate and secondary thereto.

Independent Senior Facility

A facility that contains multiple units used by individuals who are fifty-five years of age or older. The individual units contain bathroom facilities and may contain a full kitchen, partial kitchen or no kitchen when those services are provided. The facility may offer a variety of social, housekeeping, transportation and food services to the users of the facility. This type of senior facility does not offer skilled care nursing nor assistance with common daily activities such as supervision of medication, bathing, dressing, toileting, etc., although these services may be available through licensed, third-party health care providers. For the purpose of determining minimum dwelling unit area, the minimum area for a "multiple family" dwelling unit shall be used as set forth in the respective zoning district standards. A project reviewed as a PUD may be considered for reduced dwelling unit area on a case-by-case basis.

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Instructional Studio Facility

Instructional studio facility means facilities, typically accommodating groups of students in multiple instructional spaces. Examples of these facilities include: individual and group instruction and training in the arts; production rehearsal; photography, and the processing of photographs produced only by users of the studio facilities; martial arts training studios; gymnastics instruction; and aerobics and gymnastics studios with no other fitness facilities or equipment. This definition also includes production studios for individual musicians, painters, sculptors, photographers, and other artists.

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Junk Yard

Junk yard means a place where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled; including auto wrecking yards, house wrecking yards, used material yards, but not including pawn shops, antique shops and places for the sale, purchase or storage of used furniture and household equipment, used cars in operable condition or salvaged materials incidental to manufacturing operations.

Kennel

Kennel means any structure or premises on which five (5) or more dogs or cats over three (3) months of age are housed, bred, boarded, or trained overnight. Pet shops shall not be included within this definition. Kennels are further regulated as specified in Chapter 1171.

Laboratory or Research Establishment

Laboratory or research establishment means a facility primarily for medical, optical, orthotic, prosthetic, or dental laboratory services, photographic, analytical, or testing services and/or engaged in the research, development and controlled production of high technology electronic, industrial or scientific products or commodities for sale.

Landscaped Area

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

Lap Dance (Adult Uses)

A lap dance, also known as a straddle dance, face dance, or flash dance, shall mean the use by an employee, whether clothed or partially or totally nude, of any part of his or her body to touch, massage, rub, stroke, caress, or fondle the genital or pubic area of a person while at the establishment, or the touching of the genital or pubic area of any employee by a person while at the establishment. It shall be a lap dance regardless of whether the touch or touching occurs while the employee is displaying or exposing any specified anatomical area. It shall also be a lap dance regardless of whether the touch or touching is direct or through a medium.

Large Retail Development

Large retail development means any new construction 75,000 gross square feet or greater in a single building retail development or 100,000 gross square feet or greater in a multiple building retail development, regardless of the number of building tenants. A large retail development shall include a single use or any combination of uses from the following categories as defined and regulated by Chapters 1139, 1140 and 1141 of the Zoning Ordinance:

- Retail and Service
- Offices
- Financial Institutions
- Trade and Services
- Retail Stores
- Personal Services and Business Services

Lattice

Lattice means a framework consisting of an ornamental design made of strips of wood or metal.

Livable Square Footage

Livable square footage means the term describing the minimum required dwelling area. The calculation of minimum livable square footage area for permitted dwelling shall be exclusive of any garages, cornices, eaves, gutters, porches, balconies, terraces, outside enclosures or basements. Basement areas meeting the ingress and egress requirements of the Building Code shall not be included in the calculation of livable square footage of a dwelling under this chapter.

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Loading Space

Loading Space means an off-street space or berth on the same lot within a building or contiguous to a group of buildings for temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Lot

Lot means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, and may consist of:

- A single lot of record;
- A portion of a lot of record;
- A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record, provided that it is recorded as one lot; or
- A parcel of land described by metes and bounds description provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirement of this Zoning Ordinance.

Figure 1134-3 F: Illustration of lot types.

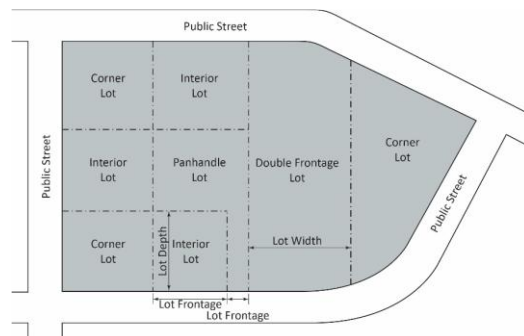


Figure 1133 F: Illustration of lot types.

Lot Area

The area of a lot shall be computed from the area contained in horizontal plane defined by the lot lines.

Lot Coverage

Lot coverage means that portion of a lot which, when viewed directly from above, would be covered by a building, principal or accessory, or any part of a building covered by a roof or structure extending thirty inches or greater above the grade of the lot; and any portion of the lot which is devoted to off-street parking, including access aisles and driveways. By definition, lot coverage is one component of impervious surface.

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Lot Depth

The depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

Lot Line, Front

A front lot line shall be the line separating the lot from the street. See Figure 1134-3-G.

Lot Line, Rear

A rear lot line shall mean the lot line(s) generally opposite the front lot line. See Figure 1134-3-G.

Lot Line, Side

A side lot line shall mean any lot line not a front lot line or a rear lot line. See Figure 1134-3-G.

Lot Lines

Lot lines mean the lines bounding a lot.

Figure 1134-3-G: Illustration of lot lines.

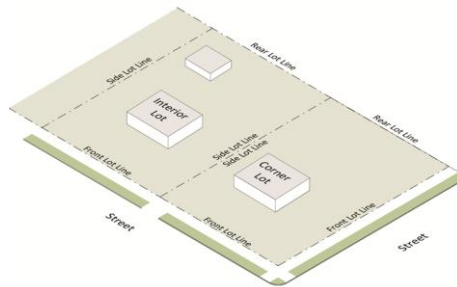


Figure 1133-G: Illustration of lot lines.

Lot of Record

Lot of record means a lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder of Greene County, Ohio, or a lot described by metes and bounds, the description of which has been recorded in the office of the County Recorder.

Lot Width

The width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot measured across the rear of the required front yard, provided, however, that the width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty percent of the required lot width except in the case of lots on the turning circle of cul-de-sacs, where the eighty percent requirements shall not apply. (See ~~Appendix Figure 8~~ Figure 1134-F)

Lot, Corner

Corner lot means a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 122 degrees. See Figure 1134-3-F.

Lot, Interior

Interior lot means a lot other than a corner lot with only one frontage on a street other than an alley. See Figure 1134-3-F.

Lot, Reversed Frontage

Reversed frontage lot means a lot in which the frontage is at right angles, or approximately right angles, to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot. See Figure 1134-3-F.

Lot, Through

Through lot means a lot other than a corner lot with frontage on more than one street other than an alley. Through lots with frontage on two streets may be referred to as "double frontage" lots. See Figure 1134-3-F.

Manufactured Home

Manufactured home or mobile home means a structure that is fabricated in an off-site facility, on a chassis to be towed or transported on wheels, designed as a permanent dwelling comprised of one or more sections and intended for year-round occupancy when securely anchored to the ground and connected to utilities. Such manufactured home shall contain not less than 600 square feet nor more than 2,000 square feet of gross floor area, shall be equipped with a water- flushed toilet, lavatory and bathtub or shower, and shall be no higher than twenty-two (22) feet at the highest point from the mounting pad. Any manufactured home site after January 1, 1998, shall be constructed in compliance with the federal construction and safety standards established by the Secretary of Housing and Urban Development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974", 88 Stat. 700, 42 U.S.C.A. 5401, 5403 or subsequent amendments thereto, and shall have a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards. A portable camping unit or recreational vehicle is not defined as a manufactured home.

Manufactured Home Lot

Manufactured home lot or mobile home lot means an area of land within a manufactured home park that is planned and developed in such a manner as to provide a location for one manufactured home or manufactured HUD unit.

Manufactured Home Park

Manufactured home park or mobile home park means one or more contiguous parcels of land, under a single ownership and/or management, which have been planned and developed for the placement of manufactured HUD units or manufactured homes on a manufactured home lot for non-transient occupancy.

Manufactured HUD Unit

Manufactured HUD unit means a permanently-sited, occupancy-ready manufactured residential housing unit as defined under 24 CFR 3280.2 of the Department of Housing and Urban Development regulations establishing manufactured home construction and safety standards.

Manufacturing, Artisan

Artisan manufacturing means a business primarily engaged in the on-site production of goods by hand manufacturing which involve the use of hand tools and small scale equipment.

Manufacturing, General

General Manufacturing includes the production of products, from extracted or raw materials, or recycled or secondary materials, or bulk storage and handling of such products and materials. This classification includes: food, beverage and tobacco product manufacturing; textiles, apparel, leather and allied products, wood products, paper, chemicals, plastics, rubber, nonmetallic mineral products, fabricated metal products, and transportation equipment. This does not include any activity listed under High Intensity Manufacturing.

Manufacturing, High Intensity

High intensity manufacturing includes the production of acetylene, cement, lime, gypsum or plaster-of-Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins and radioactive materials. This group also includes smelting, animal slaughtering and oil refining.

Massage Parlor (Adult Uses)

Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with "specified sexual activities", or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas". The definition of adult use shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program nor by any Licensed Massage Therapist licensed in the State of Ohio pursuant to the Ohio Revised Code.

Medical Dispensary

Medical dispensary means an office or provider, licensed by the State of Ohio, that dispenses medical cannabis as per prescription.

Medical or Dental Office or Clinic

Medical or dental office or clinic means a facility other than a hospital where medical, mental health, surgical and other personal health services are provided on an outpatient basis. Examples of these uses include: offices for physicians, dentists, chiropractors, or other health care professionals; outpatient care facilities; urgent care facilities; and other allied health services. These facilities may also include incidental medical laboratories. Counseling services by other than medical doctors or psychiatrists are included under "Offices Professional/Administrative." Patients are not provided with room and board and are not kept overnight on the premises. Medical Services and medical clinics include medical and dental laboratories incidental to the medical office use.

Meeting Hall

~~Meeting hall means a building primarily used by a nonprofit association of persons who are bona fide members, paying regular dues, and are organized for some common purpose, but not including a group organized solely or primarily to provide a place of residence or render a service customarily carried on as a commercial enterprise.~~

Microbrewery

Microbrewery means a place of business primarily engaged in the manufacture and wholesale sale of ale and malt liquor, subject to applicable provisions of the Ohio Revised Code.

Mineral Extraction

Mineral extraction means the quarrying and extraction of minerals from the ground, and the storage, processing and sales of minerals, aggregates, sand, limestone, stone, gravel, clay, overburden, topsoil and other minerals; provided however, mineral extraction shall not include extraction of oil and gas.

Mixed Use

Mixed Use means a building featuring a mixture of both residential and non-residential land uses with no residential land use permitted on the first floor level or ground level.

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Mobile Home

See Section 1128.108 Manufactured Home.

Monitoring Protocol (Wireless Telecommunication Facilities)

An approved testing protocol as defined in the most current FCC regulations. As of August 15, 1997, the most current practice is referenced in FCC Regulations, Title 47, Part 1, Section 1.1307 as IEEE C95.1-1992.

Monopole (Wireless Telecommunication Facilities)

A support structure constructed as a single, self-supporting hollow metal tube securely anchored to a foundation.

Motor Home

Motor home means a self-propelled recreational vehicle that has no fifth wheel and is constructed with permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping.

Nude Model Studio (Adult Uses)

means any place where a person who appears 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:

- A proprietary school licensed by the State of Ohio, or a college, junior college or university supported entirely or in part by public taxation.
- 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
- 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 days in advance of the class; and where no more than one semi-nude model is on the premises at any one time.

Nudity, State of Nudity, or Nude (Adult Uses)

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 stimulates any of these anatomical areas.

Office, Business or Professional

Business or professional office means a building or portion of a building wherein services are performed involving predominately administrative, professional or clerical operations.

Oil and Gas Storage

Oil and gas storage means a tank farm or outdoor facility for the storage of oil, gas and related products.

Open Space

Open space means:

- An area open to the sky that may be on the same lot with a building and may include, along with environmental features, recreation facilities such as pools, tennis courts and similar outdoor activities; or,
- Land devoted to open space, conservation or recreational purposes and/or land designated by the City to remain undeveloped.

Open Space, Formal

Formal open space is a generally planned and structured area that includes formally designed landscape plantings, activity areas, or is otherwise usable by the residents or occupants of the applicable development. The space is regularly maintained and may include streetscape furnishings (e.g., benches, lighting, and sculptures), recreational improvements (e.g., playground, swimming pool, tennis courts), and street improvements.

Operator (Adult Uses)

The term operator shall mean and include the owner, permit holder, custodian, manager, operator, or person in charge of any permitted or licensed premises.

Orientation

Orientation means the direction a building faces. Most buildings squarely face a street, with their principal facade and entrance in full view.

Outdoor Storage

Outdoor storage means the keeping of commercial goods, equipment and raw materials in an open lot.

Overlay District

Overlay District means a district described on the zoning map, within which, through superimposition of a special designation, certain regulations and requirements apply in addition to those of the underlying zoning districts to which such designation is added.

Pad

Pad means a building site or parking area improvement prepared by artificial means, including, but not limited to, grading, excavation or filling or any combination thereof.

Parapet

Parapet means a low wall projecting from the edge of a platform, terrace, or roof. Parapets may rise above the cornice of a building or form the upper portion of a defensive wall on a castle. In Mission style homes, rounded parapets are often used as decorative features.

Parking Lot

Parking lot means a parcel of land containing one or more unenclosed parking spaces whose use is principal to the lot as differentiated from an accessory use, as in a residential lot.

Parking Space

Parking space means a durable, solid surfaced area, enclosed or unenclosed, sufficient in size to store one motor vehicle, together with a paved driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

Performance Standard

Performance standard means a land use or development requirement which establishes allowed effects or characteristics of a land use or activity, rather than prescribing the allowed uses or activities themselves.

Permitted or Licensed Premises (Adult Uses)

Any premises that requires a license and/or permit and that is classified as an adult use.

Permittee and/or Licensee (Adult Uses)

A person in whose name a permit and/or license to operate an adult use has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

Person

An individual, proprietorship, partnership, corporation, association, or other legal entity.

Planned Unit Development

Planned Unit Development means a predominantly residential, commercial, industrial, or mixed use development located within a respective zoning district which provides a means for encouraging ingenuity, imagination and flexibility in the planning and designing of land areas and permitting uses and intensities of development which could cause adverse impact in other zoning categories. The Planned Unit Development District regulations provide a controlled flexibility by utilizing objectives and performance standards rather than rigid design requirements, the intent being to encourage developments which possess greater amenities than that resulting under standard zoning district requirements.

Planning Board

Planning Board means the Planning Commission for the City of Fairborn, as permitted by Chapter 713 of the Ohio Revised Code.

Premises

Premises means a lot, parcel, tract, plot of land, or sum total of the previous, containing all principal and accessory structures thereon.

Private Performance (Adult Uses)

The display or exposure of any specified anatomical area by an employee at an adult use to a person other than another employee while the person is in an area within the establishment not accessible during such display to all other persons in the establishment, or while the person is an area in which the person is totally or partially screened or partitioned during such display from the view of all persons within the establishment.

Proportion

Proportion means the relationship of the dimensions of building elements, such as windows and doors, to each other and to the elevations. Often, proportions are expressed as mathematical ratios, particularly for buildings based on Greek, Roman and Renaissance architecture.

Protected Public Water Supply

Protected public water supply means a public water system which services at least fifteen service connections used by year-round residents or regularly serves at least twenty-five year-round residents, and having a one-year capture area defined through appropriate hydrologic studies.

Protected Use

For the purpose of regulating adult uses in Chapter 1126: Adult Uses, "protected uses" are those uses listed below and defined as:

- "Public building" means any building owned, leased, or held by the United States, the state, the county, the city, any special district, school district, or any other agency or political subdivision of the state or the United States, which building is used for governmental purposes;
- "Public park" or "recreation area" means public land 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, open space, wilderness areas, or similar public land within the city which is under the control, operation, or management of the city park and recreation authorities;
- "Religious institution" means any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
- "Residential district or use" means a single family, duplex, triplex, fourplex, townhouse, multiple family, retirement or nursing home, senior care facility, independent senior facility or Mobile Home Park or subdivision and campground as defined in the Zoning Code;
- "School" means any public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary 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 any facilities used primarily for another purpose and only incidentally as a school;
- "Hotel" or "motel"; and/or
- Establishment that sells alcoholic beverages either packaged, by the glass, or by other means.

Public Safety Facility

Public safety facility means a facility for public safety and emergency services, including police and fire protection and related training facilities.

Public Use (Adult Uses)

Any use designed for the benefit and/or accommodation of the general public which is available to all persons, without restriction, regardless of whether or not a fee is charged for admission.

Public Works/Maintenance Facility

Public works/ maintenance facility means a governmentally owned facility providing maintenance and repair services for vehicles and equipment and areas for storage of equipment and supplies. This classification includes governmentally owned construction yards, equipment service centers and similar facilities.

Purlin

Purlin means timber used to support roofing sheets. Usually fixed on top of rafters.

Radiation Propagation Studies or Radial Plots (Wireless Telecommunication Facilities)

Computer generated estimates of the radiation emanating from Antennas or Repeaters sited on a specific Tower or Structure. The height above ground and above mean sea level, power input and output, frequency output, type of antenna, antenna gain energy dispersion characteristics, and topography of both the site and its surroundings are all taken into account to create these situations. They are the primary tool for determining whether a site will provide Adequate Coverage for the Personal Wireless Telecommunications Service Facility proposed for that site.

Rafter

Rafter means a parallel member of a roof that support battens/purlins and roofing materials.

Rail

Rail means the top and bottom frame member of a door or window that is not the jamb.

Railroad and Freight Station

Railroad and freight station means land used for classification yards, switch tracks, team tracks, storage tracks and areas for the transfer and storage of freight.

Recreational Facility, Indoor

Indoor recreational facility means small, generally indoor facilities, although some facilities may be outdoor, including: fitness centers, gymnasiums, handball, racquetball or tennis club facilities, ice or roller skating rinks, movie theaters (three or fewer screens); bingo parlors, billiard parlors, bowling centers, poolrooms, miniature golf courses and amusement arcades. This use shall not include computerized sweepstakes terminal café's.

Recreational Facility, Outdoor or Large Scale

Outdoor or large scale recreational facility means large, generally outdoor facilities, including: sports stadiums and arenas; amusement and theme parks; racetracks; driving ranges; swimming or wave pools; entertainment complexes; movie theaters (4 or more screens); drive-in theaters; archery or shooting ranges; riding stables; campgrounds; recreational vehicle parks; miniature golf; golf courses and country clubs, etc.

Regulated Substances

Regulated substances means chemicals and mixtures of chemicals which are health hazards. Materials packaged for personal or household use as food or drink for man or other animals are not "regulated substances". "Regulated substances" include:

- Chemicals for which there is scientific evidence that acute or chronic health effects may result from exposure including carcinogens, toxic and highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes.
- Mixtures of chemicals which have been tested as a whole and have been determined to be a health hazard.
- Mixtures of chemicals which have not been tested as a whole but which contain any chemical which has been determined to be a health hazard and which comprises one percent (1%) or greater of the composition on a weight per unit weight basis, and mixtures of chemicals which include a carcinogen if the concentration of the carcinogen in the mixture is one tenth of one percent (0.1%) or greater of the composition on a weight per unit weight basis.
- Ingredients of mixtures prepared within the "WP" Well Field Protection Overlay District in cases where such ingredients are health hazards but comprise less than one tenth of one percent (0.1%) of the mixture on a weight per unit weight basis if carcinogenic, or less than one percent (1%) of the mixture on a weight per unit weight basis if non-carcinogenic.
- Petroleum and nonsolid petroleum derivatives (except non-PCB dielectric fluids).

Religious Place of Worship

Religious place of worship means a permanently located church, cathedral, synagogue, temple, mosque, or other place dedicated to religious worship. As part of its functions it may include the following incidental and subordinate uses subject to applicable federal, state and local regulations: offices, residences for clergy, religious instruction, educational institutions, private and special schools, day care centers, emergency shelters, and community and recreational activities.

Retail, Downtown

Downtown retail means any small-scale business which primarily sells goods, wares or merchandise directly to the ultimate customer for direct consumption and not for resale. ~~Residential Care and Congregate Residential~~

~~Residential care and congregate residential means an establishment operated for the purpose of providing special care or rehabilitation to the occupants, as defined in the Ohio Revised Code Sections 5119.341 and 5123.19, including the following:~~

- ~~• Assisted living~~
- ~~• Developmental disability dwelling~~
- ~~• Elderly Care~~
- ~~• Life Care or Continuing Care Services~~
- ~~• Mental Health or Substance Abuse~~
- ~~• Nursing care~~

Retail Sales and Services

Retail sales and services means an establishment engaged in sales of goods or the provision of services, including, but not limited to: alcoholic beverages, furniture and home furnishings, electronics and appliances, clothing and shoes, jewelry, luggage and leather goods, sporting goods and hobbies, books, periodicals and music, tobacco sales, department stores, florists, office supplies and stationary, gifts and novelties, pets, hardware, pawn shops, video stores and auto parts, tailor, dry cleaning, tax preparation, hairdresser, or barber. This classification includes the retail sale or rental of merchandise not specifically listed under another use classification.

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Reveal

Reveal means the part of the side of a window or door opening that is between the outer surface of a wall and the window or door frame.

Rhythm

Rhythm means the spacing of repetitive façade elements, such as projecting bays, storefronts, windows, doors, belt courses and the like.

Right-of-Way

Land areas obtained by easement or deed by railroads or government entities for a public interest, to allow movement by trains or vehicles.

Roof, Mansard

A mansard roof means a roof with two slopes on each of the four sides. The lower slope is steeper than the upper slope. Dormers are often set in the lower slope. The upper slope is usually not visible from the ground.

Scale

Scale means the relationship of the size of a building or object to the size of a human being. Grand or large scale implies a size out of proportion to human size, while small or intimate scale implies the opposite.

School, College or University, Vocational and Technical, Trade or Business

School, college or university, vocational and technical, trade or business means an institution of higher education providing curricula of a general, religious, or professional nature, typically granting recognized degrees. This classification includes business and computer schools, management training, technical vocational and trade schools, but excludes personal instructional services.

School, Elementary or Secondary for Academic Instruction

School, elementary or secondary for academic instruction means any school having regular sessions with regularly employed instructors teaching subjects which are fundamental and essential for a general academic education, under the supervision of, and in accordance with, the applicable statutes of the State of Ohio.

Semi-Nudity or Semi-Nude Condition or Semi-Nude (Adult Uses)

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 exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided that the areola is not exposed in whole or in part.

Senior Care Facility

Any place or abode, building, institution, residence, or home used for the reception and care for a consideration of three or more persons who by reason of age or mental or physical infirmities are not capable of properly caring for themselves, or who are fifty-five years of age or over and for which a license, if necessary, has been issued by the Ohio Department of Public Welfare or other appropriate agency. This land use includes commonly used references such as assisted living facilities and nursing home facilities. Skilled care nursing services are typically provided in a senior care facility. A "hospital" land use is not covered under this definition. For the purpose of determining minimum dwelling unit area, the minimum area for a "multiple family" dwelling unit shall be used as set forth in the respective zoning district standards. A project reviewed as a PUD may be considered for reduced dwelling unit area on a case-by-case basis.

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Setback

Setback means the distance between the building or structure and any lot line.

Sexual Encounter Establishment (Adult Uses)

A business commercial establishment, that as one of its primary business or purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas" or activities when one or more of the persons is in a state of nudity or semi-nudity. The definition of adult use shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

Sign

Any object, device, display or structure or part thereof situated outdoors or adjacent the interior of a window or doorway which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, pictures, logos, figures, designs, symbols, fixtures, colors, illumination or projected images.

Sign Area

The entire display area of a sign including the advertising surface located on one or more sign faces and any framing, trim and molding, but not including the supporting structure as measured pursuant to Section 1131.05: Measurements and Calculations.

Sign Copy

Those letters, numerals, and figures, symbols, logos, and graphic elements comprising the content or message of a sign.

Sign Face

The surface of the sign upon, against or through which the message of the sign is exhibited.

Sign Height

The vertical distance to top of sign structure as measured pursuant to Section 1131.05: Measurements and Calculations.

Sign, Awning

A sign painted on, printed on or attached flat against the surface of an awning.

Sign, Banner

A temporary sign constructed of canvas, plastic, fabric or similar lightweight, non-rigid material that can be mounted to a structure with cord, rope, cable, or a similar method. Where a banner sign is supported by stakes or another type of supporting structure for posting in the ground, such sign shall be classified as a "Sign, Yard."

Sign, Building

Signs that are attached to the building including wall signs, projecting signs, awning signs, suspended signs, flag banner signs, and canopy signs.

Sign, Canopy

A sign attached to the soffit or fascia of a canopy of a covered entrance or walkway, or to a permanent canopy.

Sign, Changeable Copy

A sign designed so that the characters, letter or illustrations can be changed or rearranged manually or electronically without altering the sign display surface. May also be known as readerboards. See also the definition of "electronic message center."

Sign, Drive-Through

Any signage allocated along a drive-through lane that is oriented toward the customer or user in the drive-through lane.

Sign, Feather

A temporary sign that is constructed of cloth, canvas, plastic fabric or similar lightweight, non-rigid material and that is supported by a single vertical pole mounted into the ground or on a portable structure.

Sign, Flag Banner

Any rigid cloth, plastic or canvas sign with no enclosing framework that is mounted to a building at one or more edges or on a pole. Flags with noncommercial speech shall not be considered flag banner signs.

Sign, Monument

A permanent freestanding sign other than a pole sign, not attached to a building, which is placed upon or supported by the ground independently of any other structure, typically on a monument or pedestal structure. Unless otherwise stated, monument signs shall either be a pole sign or monument sign. A sign that is placed on two posts, which are no more than two feet in height to the base of the sign cabinet or sign face, shall be considered a monument sign for the purposes of this chapter.

Sign, Nonconforming

Any sign which was erected legally prior to the adoption of this code, but which does not comply with subsequently enacted sign restrictions and regulations or a sign which does not conform to the sign code requirements.

Sign, Permanent

A sign permitted by this code to be located on the premises for an unlimited period of time and designed to be permanently attached to a structure or the ground.

Sign, Pole

A permanent freestanding sign supported by one or more uprights, poles or braces placed in or upon the ground surface and not attached to any building.

Sign, Portable

Any sign not attached to the ground or a sign designed to be transported, including signs designed to be transported by means of wheels. Such signs shall not include sidewalk signs as allowed in Section 1131.10: Temporary Signs.

Sign, Projecting

A sign that is affixed perpendicular to a building or wall and extends more than eighteen inches beyond the face of such building or wall.

Sign, Sidewalk (A-Frame)

A freestanding sign which is ordinarily in the shape of an "A" or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure. See also the definition of T-frame signs. Such signs are placed on a public sidewalk, private sidewalk, or similar walkway, in a manner established in Section 1131.10(e)(1).

Sign, Sidewalk (T-Frame)

A freestanding sign which is ordinarily in the shape of an upside down "T" or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure. See also the definition for A-frame signs. Such signs are placed on a public sidewalk, private sidewalk, or similar walkway, in a manner established in Section 1131.10(e)(1).

Sign, Suspended

A sign that is affixed beneath the roof of a canopy, awning, or outdoor form of a ceiling that maintain the minimum clearance requirements established in this code.

Sign, Temporary

A sign that is neither permanently anchored to the ground, nor permanently affixed to a structure, nor mounted on a chassis, and/or is intended for a limited period of display.

Sign, Wall

A sign attached directly to an exterior wall of a building with the exposed face of the sign in a plane parallel to the building wall.

Sign, Window

A sign attached to, in contact with, placed upon or painted on the window or door of a building which is intended for viewing from the outside of such building. This does not include merchandise located in a window.

Sign, Yard

Any temporary sign placed on the ground or attached to a supporting structure, posts, or poles, that is not attached to any building.

Sill

Sill means the framing member that forms the bottom edge of the window opening.

Site Plan

Site plan means a scaled drawing of a proposed development showing grade, property lines, building locations, drives, walkways, parking areas, fencing, screening, setbacks, signs and other improvements.

Slope (Related to Roofs)

Slope means the incline of the roof. Amount of rise for every twelve inches of run.

Slope (Related to the Ground or Topography)

The face of an embankment or cut section; any ground whose surface makes an angle with the plane of the horizon. Slope is usually expressed in a percentage based upon vertical differences in feet per 100 feet of horizontal distance.

Soffit

Soffit means a horizontal member that fills the gap between the exterior wall and the fascia.

Specified Anatomical Areas (Adult Uses)

As used in Chapter 1126: Adult Uses, specified anatomical areas means and includes any of the following:

- Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or
- Human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified Criminal Acts (Adult Uses)

Sexual crimes against children, sexual abuse, rape, gross sexual imposition, and other crimes connected with adult uses including but not limited to distribution of obscenity or other material harmful to minors, pandering, prostitution, tax violations in connection with an adult use, or acts prohibited by the Ohio Revised Code.

Specified Sexual Activities (Adult Uses)

As used in Chapter 1126: Adult Uses, specified sexual activities means and includes any of the following:

- The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts; or
- Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- Masturbation, actual or simulated; or
- Human genitals in a state of sexual stimulation, arousal or tumescence; or
- Excretory functions as part of or in connection with any of the activities set forth above.

Static/Instant Message Change

On electronic message centers, a static or instant message change is when one message changes to another message instantly without scrolling, flashing, or other movement of the message.

Story

Story means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.

Story, Half

Half-story means a habitable space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half-story containing independent apartment or living quarters shall be counted as a full story.

Street

Street means a common way that serves as the principal means of access to abutting properties for vehicles, bicycles and pedestrians. May be used interchangeably with road or roadway.

Street Line

Street line means a dividing line between a lot, tract or parcel of land and a contiguous street.

Street, Arterial

Arterial street means a major street that provides intra-community travel and access to the county or regional highway system. Access to an arterial should be provided at collector and local streets.

Street, Collector

Collector street means a street which provides for distribution of traffic between major and local streets and abutting properties, including the principal entrance and circulation routes within residential subdivisions.

Street, Local

Local street means a minor street primarily used for providing access to individual properties.

Street, Private

Private street means a street not dedicated to the City.

Street, Public

Public street means a street dedicated to the City.

Structural Alterations

Structural alterations means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

Structure

Structure means anything constructed or erected, the use of which requires permanent location on the ground or which is attached to something having a permanent location on the ground.

Structure, Accessory

A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

Structure, Temporary

A use or structure permitted for limited duration with the intent that such use will terminate or the structure will be removed automatically upon expiration of the fixed period of time. A temporary structure is without a foundation or footing.

Studio or Meeting Facility

Studio or meeting facility means facilities, typically accommodating groups of students in multiple instructional spaces. Examples of these facilities include: individual and group instruction and training in the arts; production rehearsal; photography, and the processing of photographs produced only by users of the studio facilities; martial arts training studios; gymnastics instruction; and aerobics and gymnastics studios with no other fitness facilities or equipment. This definition also includes production studios for individual musicians, painters, sculptors, photographers, and other artists.

Substantial Enlargement of an Adult Use

The substantial enlargement of an adult use means increase in the floor areas occupied by the business by more than fifteen (15%), as the floor areas exist on June 1, 1997.

Swimming Pool

A water filled enclosure, permanent or portable, with or without water heating or circulating functions, having a depth of more than eighteen inches below the level of the surrounding land, or an above-surface pool, having a depth of more than 36 inches, designed, used and maintained for swimming, bathing, or soaking by the residents, tenants, or occupants of the subject property.

Tent-Type Fold Out Camping Trailer

Tent-type fold out camping trailer means any vehicle intended to be used, when stationary, as a temporary shelter with living and sleeping facilities, and which is subject to the following properties and limitations:

- A minimum of twenty-five percent (25%) of the fold out portion of the top and sidewalls combined must be constructed of canvas, vinyl or other fabric, and form an integral part of the shelter.
- When folded, the unit shall not exceed:
- 15 feet in length, exclusive of bumper and tongue;
- 60 inches in height from the point of contact with the ground;
 - A. Eight (8) feet in width;
 - B. One (1) ton gross weight at time of sale.

Tower (Wireless Telecommunication Facilities)

A self-supporting, monopole, or guyed structure, constructed from grade, which supports wireless telecommunications facilities. The term tower shall not include amateur radio operator's equipment, as licensed by the FCC.

Transfer of Ownership or Control of an Adult Use

The transfer of ownership or control of an adult use means and includes any of the following:

- The sale, lease or sublease of the business;
- The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means;
- The establishment of a trust, gift, or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death a person possessing the ownership or control.

Transparency

Transparency means the amount of glass and other transparent materials used in openings such as doors and windows to promote visual interest in storefronts, especially at the pedestrian level.

Travel Trailer

Travel trailer means a nonself-propelled recreational vehicle not exceeding an overall length of thirty-five (35) feet, exclusive of bumper and tongue or coupling, and includes a tent-type fold out camping trailer as defined in Ohio R.C. 4517.01(N).

Truck Camper

Truck camper means a nonself-propelled recreational vehicle without wheels for road use and designed to be placed upon and attached to a motor vehicle. "Truck camper" does not include truck covers which consist of walls and roof but do not have floors and facilities for using same as a dwelling.

Type A Family Day-Care Home

Type A family day-care home means a permanent residence of the provider in which child care is provided for seven (7) to twelve (12) children at one time or four (4) or more children at one time under two (2) years of age. In counting children for the purposes of this division, any child under six (6) years of age who are related to the provider and who are on the premises of the Type A family day-care home shall be counted.

Type B Family Day-Care Home

Type B family day-care home means a permanent residence of the provider in which child care is provided for one (1) to six (6) children at one time, and no more than three (3) children are under two (2) years of age at one time, counting children for the purposes of this division, any child under age six (6) years of age who are related to the provider and who are on the premise of the Type B family day-care home shall be counted.

Underground Storage Tank

Underground storage tank means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of "regulated substances" and the volume of which (including the volume of underground pipes connected thereto) is ten percent (10%) or more beneath the surface of the ground. Flow-through process tanks and septic tanks approved by the Health Department or State Environmental Protection Agency, as applicable, are excluded from the definition of underground storage tanks.

Use

Use means the activity occurring on a lot or parcel for which land, building or a structure is arranged, designed, or intended, or for which land or a building is or may be occupied, including all accessory uses.

Use, Change of

Change of use means the change of activity of a building, structure or premise.

Use, Nonconforming

Nonconforming use means a building, structure or premises legally existing and/or used at the time of adoption of this Zoning Ordinance, or any amendment thereof, and which does not conform with the use provisions of this Ordinance for the district in which the premises are located.

Use, Nonconforming

Nonconforming use means a use which lawfully occupied a building or land at the time this Zoning Ordinance became effective, which has been lawfully continued and which does not now conform with the use regulations.

Use, Principal

"Principal use" means a use which fulfills a primary function of a household, establishment, institution, or other entity.

Use, Temporary

Temporary use means a use that is authorized by this Zoning Ordinance to be conducted for a fixed period of time. Temporary uses are characterized by such activities as the sale of agricultural products, contractors' offices and equipment sheds, fireworks, carnivals, flea markets, and garage sales.

Variance

Variance means an adjustment to the development standards of the zoning regulations, that does not apply to use or required density that is reviewed and approved, modified, or denied by the Fairborn Board of Zoning Appeals after at least one public hearing.

Vehicle Body Shop

Vehicle body shop means a building, lot, or portion of a lot used or intended to be used for the business of collision service, which shall include body, frame, or fender straightening or repair, painting and glass replacement. It also includes the reconditioning of motor vehicles, which shall include repainting, resculpturing, rust repair, steam cleaning, and undercoating.

Vehicle Fuel Sales

Vehicle fuel sales means a building and/or lot or use having pumps and storage tanks where motor vehicle fuels or lubricating oil or grease or accessories for motor vehicles are dispensed, sold, or offered for sale at retail only; where deliveries are made directly into motor vehicles, including greasing and oiling on the premises and car washing; and where repair services is incidental to the use.

Vehicle Repair Facility

Vehicle repair facility means a building, lot, or portion of a lot used or intended to be used for the business of general motor vehicle repair and service, including engine rebuilding, transmission work, or reconditioning of motor vehicles, but excludes motor vehicle body shops and junk yards.

Vehicle Sales, Rental and Lease

Vehicle sales, rental and lease means a building, lot, or portion of a lot used or intended to be used for the display, sale, rent or lease of new or used motor vehicles in operable condition and where repair service is accessory to the sale, rental or lease.

Vehicle Self-Service Station/Convenience Store

Vehicle self-service station/convenience store means a building, lot, or portion of a lot used or intended to be used for the retail dispensing of vehicular fuels, and may as an accessory use sell convenience food items, commercial products and lubricants, but not including any repair or storage of motor vehicles.

Vehicle Service and Repair Facility

Vehicle service and repair facility means a building, lot, or portion of a lot used or intended to be used for the retail dispensing of vehicle fuels, and including as an accessory use minor mechanical repair such as brake, exhaust and muffler work, and the dispensing of lubricants, tires, batteries, similar accessories, and convenience food items.

Vehicle Wash Facility

Vehicle wash facility means a building, lot, or portion of a lot used or intended to be used exclusively for exterior washing and interior cleaning of motor vehicles.

Veterinary Clinic

Veterinary clinic means a structure or premises utilized for the diagnosis and treatment of ill and injured animals and the short-term boarding incidental to the clinical use. A veterinary clinic cannot be implicitly interpreted as a kennel.

Warehousing

Warehousing means a facility for the storage and distribution of property without sales to the public.

Warehousing, Personal Storage/Mini

Warehousing, personal storage/mini means a facility for the storage of personal property in a secure, individual unit.

Well Field

Well field means a tract of land that contains one or a number of wells for supplying water.

Wellhead

Wellhead means the source of a spring or stream.

Wholesale and Distribution

Wholesale and distribution means an establishment that engages in the sale of goods, merchandise and commodities for resale by the purchaser.

Wireless Telecommunication Antenna

Any panel, whip, dish, or other apparatus designed for communications through the sending and receiving of electromagnetic waves, excluding any support structure other than brackets.

Wireless Telecommunication Facility

Wireless telecommunication facility means public, commercial and private electromagnetic and photoelectric transmission, broadcast, repeater and receiving stations for radio, television, telegraph, telephone, data network, and wireless telecommunications, including commercial earth stations for satellite-based communications. Wireless telecommunication facilities include antennas, commercial satellite dish antennas, and equipment buildings. Wireless telecommunication facilities do not include telephone, telegraph and cable television transmission facilities utilizing hard-wired or direct cable connections.

Wireless Telecommunication Tower

Wireless telecommunication tower means a structure that elevates the wireless telecommunication antenna and may include accessory transmission and receiving equipment, including, but not limited to, self-supporting lattice, guyed or monopole towers.

Wrecking, Junk, and Salvage Yard

Wrecking, junk, and salvage yard means an area used to store resalable items and junk.

Yard

Yard means an open space at grade that lies between a principal building and the nearest lot line. Such yard is unoccupied and obstructed from grade upward except as may be specifically provided in the Zoning Ordinance.

Figure 1134-H: Illustration of yard locations.

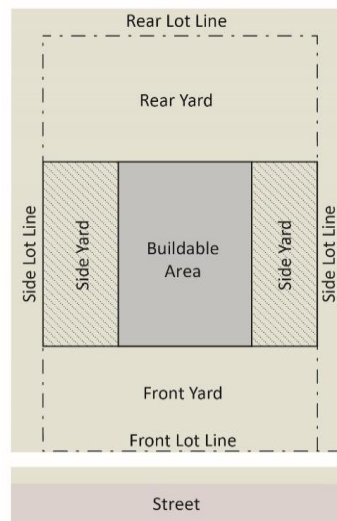


Figure 1133 H: Illustration of yard locations.

Yard, Front

Front yard means space extending the full width of the lot between the principal building and the front lot line, and measured perpendicular to the building at the closest point to the front lot line. Such front yard is unoccupied and unobstructed from grade upward except as may be permitted elsewhere in this zoning code. A corner lot or a through lot shall be required to have a front yard on each street abutting the lot. See Figure 1134.3-H.

Yard, Rear

Rear yard means a space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line. Such rear yard is unoccupied and unobstructed from grade upward except as may be permitted elsewhere in this Zoning Ordinance. A corner lot or a through lot shall not have a rear yard. See Figure 1134.3-H.

Yard, Required

Required yard means a space between a lot line and the buildable area within which no structure shall be located except as provided in this Zoning Ordinance.

Yard, Side

Side yard means a space extending from the front yard to the rear yard between the principal building and the side lot line, and measured perpendicular from the side lot line to the closest point of the principal building. Such side yard is unoccupied and unobstructed from grade except as may be provided elsewhere in this Zoning Ordinance. On a corner lot, any yard opposite a front yard is defined as a side yard. See Figure 1134.3-H.

Zoning Administrator

Zoning Administrator means the person designated by the City of Fairborn to administer and enforce the provisions of this Zoning Code.

Zoning District

Any section of the City for which the regulations governing the use of buildings and premises and the height and area of buildings are uniform as defined by Chapter 1122: Use Districts.

Zoning Map, Official

The Official Zoning Map is the official district map of the City of Fairborn, as adopted by Fairborn City Council, together with all amendments subsequently adopted by the Fairborn City Council, kept on file by the Fairborn Clerk of Council.

(Ord. 34-17. Effective 12-7-17; Ord. 21-19. Passed 4-1-19.)

CHAPTER 11354
Fees

- 11354.01 Rezoning request.
- 11354.02 Appeals to the Zoning Appeals.
- 11354.03 Conditional use permit.

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- | **113~~5~~4.04** Planned unit development.
- | **113~~5~~4.05** Zoning ~~permite~~compliance fees.

- | **113~~5~~4.01 REZONING REQUEST.**

A fee of two hundred fifty dollars (\$250.00) shall be paid when a rezoning application is filed with the Planning Board.
(Ord. 18-03. Passed 7-7-03; Ord. 21-19. Passed 4-1-19.)

- | **113~~5~~4.02 APPEALS TO THE ZONING APPEALS.**

A fee of one hundred seventy-five dollars (\$175.00) shall be paid when an appeal is filed with the Board of Zoning Appeals.
(Ord. 25-21. Passed 11-1-21.)

- | **113~~5~~4.03 CONDITIONAL USE PERMIT.**

A fee of two hundred fifty dollars (\$250.00) shall be paid when an application is filed for a conditional use certificate.
(Ord. 25-21. Passed 11-1-21.)

- | **113~~5~~4.04 PLANNED UNIT DEVELOPMENT.**

(a) A fee of two hundred fifty dollars (\$250.00) plus twenty-five dollars (\$25.00) per acre or any part thereof shall be paid when an application for a concept or preliminary plan is filed.

(b) A fee of two hundred fifty dollars (\$250.00) plus twenty-five dollars (\$25.00) per acre or any part thereof shall be paid when an application for a final plan is filed.
(Ord. 25-21. Passed 11-1-21.)

11354.05 ZONING COMPLIANCE FEES.

The following fees shall be paid for ~~certificates of~~ zoning ~~permits compliance~~ for:

(a) Principal Structures (New Construction).

<u>Structure:</u>	<u>Fee:</u>
(1) Single Family detached and duplex units, residential units	\$75
(2) Commercial, multiple family, residential, institutional or industrial	\$75.00 for up to 1,000 square feet and \$15.00 for every 500 square feet beyond 1,000 square feet or fraction thereof.

(b) Accessory Structures and Additions to Principal Structures (Construction Related).

		<u>Fee</u>
(1)	<u>Building Structures</u>	
	A. Patio cover or enclosure	\$45.00
	B. Garage (detached or attached)	\$45.00
	C. Room addition	\$45.00
	D. Storage sheds	\$45.00
	E. Remodeling (involving exterior alterations)	\$45.00
	F. Other accessory buildings	\$45.00

(2)	<u>Other Structures/Uses</u>	<u>Fee</u>
	A. TV/ radio towers	\$45.00
	B. Swimming pools	\$45.00
	C. Permanent sign	\$45.00
	D. Temporary sign	\$45.00
	E. Fences	\$45.00
	F. Temporary tent	\$45.00

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(c) Uses Not Involving Construction.

	<u>Types of Certificate</u>	<u>Fee</u>
(1)	Letter of Zoning Compliance	\$75.00

(Ord. 25-21. Passed 11-1-21.)