

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

TITLE ONE - Planning

Chap. 1101. Comprehensive Development Plan.
Chap. 1105. Thoroughfare Plan.

CHAPTER 1101
Comprehensive Development Plan

1101.01 Adoption.

1101.02 Recording with County Recorder.

CROSS REFERENCES

Thoroughfare Plan - see P. & Z. Ch. 1105
Front yard depth measurement - see P. & Z. 1185.13

1101.01 ADOPTION.

The Comprehensive Plan for the City of Moraine, dated 1995, is hereby adopted and titled "Comprehensive Plan for Moraine, Ohio 1995-2015".
(Ord. 1119-95. Passed 5-11-95.)

1101.02 RECORDING WITH COUNTY RECORDER.

The City Manager is directed to cause a true and correct copy of the Conceptual Development Plan for the "Comprehensive Plan for Moraine, Ohio 1995-2015" to be recorded with the Recorder of Montgomery County. (Ord. 1119-95. Passed 5-11-95.)

**CHAPTER 1105
Thoroughfare Plan**

**1105.01 Plan and Map adoption;
recording with County
Recorder.**

**1105.03 Deletion of Encrete Lane
extension and Cardington Road
connector.**

1105.02 Map amendment.

CROSS REFERENCES

Comprehensive Development Plan - see P. & Z. Ch. 1101

Thoroughfare plan streets - see P. & Z. 1111.04

Thoroughfare plan defined - see P. & Z. 1115.03(a)(418)

**1105.01 PLAN AND MAP ADOPTION; RECORDING WITH COUNTY
RECORDER.**

Council, upon recommendation by the Planning Commission and approval of all administrative officials, does hereby adopt a Thoroughfare Plan in and for the corporate limits of the City of Moraine. Such Thoroughfare Plan is incorporated herein by reference as if drawn into this chapter and made a part hereof. The Thoroughfare Plan, for further identification, is approved and adopted as a part of the "Comprehensive Plan for Moraine, Ohio 1995-2015" with an adoption date of 1995, and the same shall be recorded in the office of the Recorder of Montgomery County for public record.

(Ord. 1119-95. Passed 5-11-95.)

1105.02 MAP AMENDMENT.

The Thoroughfare Plan Map is made a part hereof and incorporated by reference and may be altered, amended or otherwise changed without the necessity of repealing this chapter's provisions, provided that such alteration, amendment or change shall be made by motion during a regular session of Council and approved by the unanimous consent of all members of Council present at such meeting where such amendment, alteration or change is proposed or acted upon.

(Ord. 629. Passed 2-25-82.)

**1105.03 DELETION OF ENCRETE LANE EXTENSION AND CARDINGTON
ROAD CONNECTOR.**

The Master Thoroughfare Plan for the City of Moraine is hereby amended by approval of the Planning Commission recommendation more fully set forth in Exhibit A attached to original Ordinance 1076-94, whereby the Encrete Lane extension and Cardington Road connector are hereby deleted.

(Ord. 1076-94. Passed 7-28-94.)

TITLE THREE - Platting
Chap. 1111. Subdivision Regulations.

CHAPTER 1111
Subdivision Regulations

<p>1111.01 Jurisdiction.</p> <p>1111.02 Rules and regulations; compliance.</p> <p>1111.03 Definitions.</p> <p>1111.04 Thoroughfare Plan streets.</p> <p>1111.05 Standards of design.</p>	<p>1111.06 Minimum improvements required.</p> <p>1111.07 Requirements for preliminary plans and final plats.</p> <p>1111.08 Vacations and replats.</p> <p>1111.09 Variations.</p>
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CROSS REFERENCES

Planning Commission - see CHTR. 7.1, 7.2, 7.3, 7.5
 Plat and subdivision defined - see Ohio R.C. 711.001
 Plat approval by planning authority; minimum area - see Ohio R.C. 711.09
 Planning Commission shall be Platting Commission - see Ohio R.C. 713.03
 Zoning Code definitions - see P. & Z. Ch. 1115

1111.01 JURISDICTION.

No person, being the owner or agent, having control of any land within the City of Moraine, or within the unincorporated area lying within three miles of the corporate limits of the City, except plats located in an area closer to another city than to the City of Moraine, shall subdivide, or lay out such land in lots unless by a plat in accordance with the regulations contained herein. No plat shall be recorded and no lot shall be sold from such plat unless approved as herein required. (Ord. 304. Passed 4-14-70.)

1111.02 RULES AND REGULATIONS; COMPLIANCE.

(a) Rules and Regulations. The Planning Commission, upon recommendation of the City Manager and the City Engineer, is hereby authorized to make and adopt such rules and regulations as may be necessary for the proper administration of the provisions of this chapter including but not limited to general construction and material specifications for streets and sewers and standard drawings for street improvements and storm sewer appurtenances; Administrative Rules and Procedures for the Review of Preliminary Plan and Final Plats, provided that such rules and regulations shall not be in conflict with the Ohio statutes or the provisions or intent of this chapter. Such rules shall be approved by Council by resolution after first having affixed thereto the written approval of the City Manager.

(b) Supervisor of Plats. The City Engineer is hereby designated as the supervisor of plats.

(c) Conformance to Requirements. The design and layout of all subdivisions shall conform to the requirements of Section 1111.05. The subdivider shall make improvements and shall submit preliminary plans and final plats, all in accordance with Sections 1111.06 and 1111.07.

(Ord. 304. Passed 4-14-70.)

1111.03 DEFINITIONS.

For the purpose of this chapter, certain terms and conditions are defined as follows:

- (a) "Map" means a drawing showing one or more parcels of land.
- (b) "Plat" means a map showing a plan for the subdivision of land which is submitted for approval and is intended in final form for recording.
- (c) "Subdivision" means:
 - (1) 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
 - (2) 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.

(Ord. 304. Passed 4-14-70.)

1111.04 THOROUGHFARE PLAN STREETS.

The arrangement, character, extent, width, grade and location of all streets shall conform to the official Thoroughfare Plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. Where not shown on the official Thoroughfare Plan, the arrangement and other design standards of streets shall conform to the provisions found herein. In no case shall an official Thoroughfare Plan street be platted less than sixty feet in width.

(Ord. 304. Passed 4-14-70.)

1111.05 STANDARDS OF DESIGN.

(a) Relation to Adjoining Street System. The arrangement of streets in new subdivisions shall make provision for the continuation of the principal existing streets in adjoining areas or their proper projection where adjoining and is not subdivided insofar as they are necessary for public requirements. The width of streets in new subdivisions shall not be less than the minimum widths established herein. The street and alley arrangement shall be such as not to cause a hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Residential streets shall be so designed as to discourage through traffic, but offset streets shall be avoided.

(b) Marginal Access Street. Whenever a subdivision has frontage upon a major thoroughfare, the Planning Commission may require that the plat layout make provision for a marginal access street parallel and adjacent to the thoroughfare to provide access to the abutting lots. When provision is made for a marginal access street, the subdivider is not required to provide improvements on the adjacent thoroughfare.

(c) Angle of Intersection. The angle of intersection between minor streets and major streets shall not vary more than ten degrees (10°) from a right angle. All other streets shall intersect each other as near to a right angle as possible and no intersection of streets at angles of less than sixty degrees (60°) be permitted.

(d) Rounding of Property Corners.

- (1) At all street intersections the corner of property lines shall be rounded by a radius of not less than fifteen feet.
- (2) In business districts a cut-off corner may be substituted in place of a circular arc. Where two alleys intersect, an eight foot cut-off shall be provided.

(e) Private Streets and Reserve Strips.

- (1) Private streets shall not be approved.
- (2) Reserve strips shall not be approved except where their control is definitely placed in the City or County under conditions approved by the Planning Commission.

(f) Streets and Other Public Ways.

<u>Classification</u>	<u>Right-of-Way Width (Feet)</u>
Major streets as shown on the Thoroughfare Plan	Variable as shown on the Thoroughfare Plan
Streets not shown on the Thoroughfare Plan:	
Residential streets	50
Industrial streets, Class I	60
Industrial streets, Class II*	50
Marginal access streets **	50
Alleys	20
Crosswalkways	10
Utility easements	15

- * Industrial street, Class II is one that is approved with the stipulation that no on-street parking is allowed.
- ** Short cul-de-sac or loop streets may also be approved with fifty-foot right of way after proper analysis by the Planning Commission.

This utility easement is not considered as being additional to the right-of-way width. These easements will usually be required when utility lines are along the sides or the rear of lots.

- (1) Additional street right-of-way width may be required to assure adequate access, circulation and parking in subdivisions within high density residential areas, commercial areas and industrial areas.
- (2) Where a proposed subdivision abuts or contains an existing street of inadequate right-of-way width, additional right-of-way width for the existing street may be required in conformance with the above standards.
- (3) A dead-end street may be established but there shall be provided a cul-de-sac at the closed end.
- (4) Half-streets: Dedication of half-streets shall not be permitted except in special situations. Where there exists a dedicated or platted half-street or alley adjacent to the tract being subdivided, the other half shall be platted if deemed necessary.
- (5) Alleys: Alleys shall not be permitted in residential districts. Alleys are required in the rear of all commercial and industrial lots if no other provisions are made for adequate service access or for parking. Dead-end alleys shall not be permitted.
- (6) Street names and house numbers: Names of new streets shall not duplicate existing or platted street names unless a new street is a continuation of, or in alignment with an existing or platted street.
- (7) House numbers shall be assigned in accordance with the house numbering system in effect in the City and in the County.

(g) Easements. Easements of at least seven and one-half feet in width shall be provided on each side of all rear lot lines and along side lot lines, where necessary, for public utilities, such as gas, electric, telephone, storm and sanitary sewers, water or other mains or for surface drainage swales. Easements of greater width may be required along or across lots where necessary for the extension of main sewers or other utilities or where both water and sewer lines are located in the same easement. A two-foot easement shall be required on both sides of an alley to accommodate pole lines.

(h) Blocks. No block shall be longer than 1,500 feet or shorter than 300 feet in length, except where unusual topographic conditions or other physical features warrant a greater or shorter length. Where a subdivision adjoins a major thoroughfare, the long dimension of the block shall front along such major thoroughfare to avoid unnecessary ingress or egress.

- (i) Crosswalks. A dedicated crosswalk or easement not less than ten feet in width may be required to provide proper access to schools, playgrounds, shopping centers and other facilities.
- (j) Lots. Lots in subdivisions shall meet the following standards:
- (1) Arrangement. The lot arrangement and design shall be such that all lots will provide building sites properly related to topography and the character of surrounding development and having frontage upon a public street or road.
 - (2) Lot lines. All side lot lines of lots shall be at right angles to straight street lines and radial to curved street lines except where a variation to this rule will provide a better street and lot layout.
 - (3) Double frontage. Lots with double frontage shall not be approved except to avoid frontage upon heavily traveled thoroughfares or to adjust to other unusual circumstances.
 - (4) Lot sizes.
 - A. City of Moraine. No lot in the City of Moraine shall have a width of less than sixty feet at the building line except the following:
 1. The minimum width for a lot in a mobile home subdivision shall be forty-five feet.
 - B. Three-mile Area Single or Two-family Development. Pursuant to provisions of Ohio R.C. 711.10, lots in the three-mile jurisdictional area of the City of Moraine which are to be used for single or two-family residences shall conform in area and width to the requirements of Subdivision Regulations for Montgomery County, Ohio, adopted by the Board of County Commissioners by Resolution 663 on May 19, 1955, or subsequent amendments thereto.
 - C. Three-mile Area Multi-family Development. Pursuant to provisions of Ohio R.C. 711.10, lots in the three-mile jurisdictional area of the City of Moraine designed for multiple-family development, shall conform in area and width to the requirements of Subdivision Regulations for Montgomery County, Ohio, adopted by the Board of County Commissioners by Resolution 663 on May 19, 1955, or subsequent amendments thereto.
 - D. Water Only. Lots which cannot be served by a public sanitary sewer but can be served by public water supply mains, shall have a minimum width of seventy feet at the building line and an area of not less than 10,000 square feet.
 - E. Sewer Only. Lots which cannot be served by a public water supply main but can be served by a sanitary sewer for that district shall have a minimum width of seventy feet at the building line and an area of not less than 10,000 square feet.

- F. No Sewer or Water. Lots which cannot be served by a public sanitary sewer or a public water supply main shall have a minimum width of 100 feet at the building line and an area of not less than 20,000 square feet.
- G. Unusual Conditions. In a case of unusual soil conditions or other physical factors which may impair the health and safety of the neighborhood in which a subdivision is located, the Planning Commission may require larger lot widths and lot areas as may be necessary.
- H. Zoning. Where compliance with existing zoning regulations will result in a requirement for a greater lot area or width than the standards set forth herein, the more restrictive requirements shall take precedence.
- I. Corner Lots. Corner lots shall be of sufficient width to permit an adequate building setback line for each street upon which the lot abuts.
- J. Building Lines. Where the subdivided area is to be used for residential purposes, the subdivider shall establish building lines in accordance with the character of the development, but in no case shall the front building line be less than that established by the zoning or less than twenty-five feet from the right of way of the street or thoroughfare. Restrictions requiring buildings to be set back of such building lines shall be shown on the plat.
- K. Public Sites and Open Spaces. Where a site for a proposed park, playground, school or other public use which is shown upon the Comprehensive Plan for the City or County is located in whole or in part in a subdivision, the Planning Commission may require the subdivider to grant the appropriate public agency an opportunity to acquire such areas within the subdivision.
- L. Easements Along Streams. Whenever any stream or important surface drainage course is located in the area being subdivided, and open drainage is to be permitted, the subdivider shall provide an adequate easement along each side of the stream or open drainage course for the purpose of widening, deepening, relocating, improving or protecting the stream or open drainage course for drainage or recreational use.
- M. Land Subject to Flooding. The right is reserved to disapprove any subdivision which is subject to periodic flooding or which contains extremely poor drainage facilities. However, if the subdivider agrees to make such improvements as will make the area safe for residential occupancy, the subdivision may be approved, subject, however, to the approval of the County Board of Health.
(Ord. 304. Passed 4-14-70.)

1111.06 MINIMUM IMPROVEMENTS REQUIRED.

(a) Completion or Assurance. No final plat of any subdivision shall be approved unless:

- (1) The improvements listed in the following subsections have been completed; or
- (2) The subdivider has filed with the City Engineer a surety bond, cashier's check or certified check guaranteeing to the City that such improvements will be constructed in accordance with the General Construction and Material Specifications for Streets and Sewers and in accordance with the Standard Drawings for Street Improvements and Storm Sewer Appurtenances which may be in effect at the time and which have been issued by the City Engineer. Such improvements shall be constructed within such period of time as may be specified by the City Engineer but not to exceed two years and shall be maintained in a satisfactory condition during the interim period that the abutting properties are being occupied prior to final acceptance of the improvement by the City. The bond or check shall be approved by the Law Director as to form and shall be made payable to and enforceable by the City.
- (3) The performance bond may provide for ninety percent (90%) release of the penal amounts of the items as completed and a release of the withheld ten percent (10%) after all improvements have been completed and accepted by the City.

(b) Street Improvements.

- (1) Street grading. All streets and thoroughfares shall be graded to their full width of their right of way including side slopes.
- (2) Under drainage. Adequate under drainage shall be provided wherever good engineering practice dictates.
- (3) Street surfacing width. Minimum street surfacing widths shall be as follows:

<u>Major Streets (Feet)</u>		<u>Variable according to Thoroughfare Plan</u>
Residential streets	31	Back to back of curbs
Industrial streets		
Class I	37	Back to back of curbs
Class II	31	Back to back of curbs
Marginal access streets	31	Back to back of curbs

- (4) Curb and gutter. Curb and gutter of a type approved by the City Engineer shall be provided for all thoroughfare, residential, industrial and marginal access streets within any subdivision.
- (5) Street islands and boulevards. Where the subdivider proposes boulevards or street islands in his street layout, the subdivider shall make suitable plans for landscaping the boulevard or island areas. All such landscaping plans, shall be approved as to height, size and type of plant material by the City Engineer.

- (6) Pavement surfaces. All streets shall be surfaced with either asphaltic concrete or Portland cement concrete and all alleys shall be surfaced with Portland cement concrete of such composition and dimensions as shown in the Standard Drawings of the City.
 - (7) Sidewalks. Concrete sidewalks shall be constructed in accordance with the determination of the Planning Commission.
 - (8) Street name signs. Reflectorized street name signs shall be provided at all street intersections or where a change of direction of a street requires a change of street name. The signs shall be of the size and type approved for use by the City. Normally, one sign shall be required at each residential intersection. However, more may be required depending upon the character or width of streets.
- (c) Water Lines.
- (1) Where an approved public water supply is within reasonable access to the subdivision as determined by the number of lots and the distance from and capacity of existing mains, each lot within the subdivision shall be provided with a connection to such water supply. All water lines shall be designed and constructed in accordance with the City standards.
(Ord. 304. Passed 4-14-70.)
 - (2) No plat shall be approved unless the water lines serving the plat are constructed, designed and can supply sufficient continuous pressure and flow to qualify and meet Montgomery County requirements.
(Ord. 509. Passed 2-22-79.)
- (d) Sanitary Sewers. Where a public sanitary sewer is within reasonable access of the subdivision as determined by number of lots and the distance from and capacity of existing sewer lines and topography, each lot therein shall be provided with a connection to each sanitary sewer. All sewers shall be designed and constructed in accordance with the City standards.
(Ord. 304. Passed 4-14-70.)
- (e) Storm Drainage.
- (1) Within the City. All necessary facilities, including underground pipe, manholes, inlets, catch basins and other appurtenances necessary to provide adequate drainage for the plat or to maintain any natural drainage course shall be the responsibility of the developer up to and including a forty-eight inch pipe regardless of the size of the plat. Where a storm sewer in excess of forty-eight inches is necessary to provide drainage for the plat, excluding drainage from about the plat, the cost shall be the responsibility of the developer.
Open drainage ditches may be permitted where in the judgment of the City Engineer conditions are such as to require a storm sewer in excess of sixty-six inches and where such open ditches will not in the judgment of the County Health Commissioner result in health hazards and where proper safety measures are taken. All storm sewer and open drainage ditches shall be designed and constructed in accordance with the City standards.
(Ord. 952-91. Passed 11-26-91.)

- (2) Within the three-mile area. All necessary facilities including underground pipe, manholes, inlets, catch basins and other appurtenances necessary to provide adequate drainage for the plat or to maintain any natural drainage course shall be the responsibility of the developer. Open drainage ditches may be permitted where the physical conditions are such that, in the judgment of the City Engineer, a storm sewer in excess of sixty-six inches is required and where such open ditches will not in the judgment of the County Board of Health result in health hazards, and where proper safety measures are taken. All storm sewer and open drainage ditches shall be designed and constructed in accordance with the City standards.
 - (3) Natural water drainage ways. All natural water drainage ways shall be preserved at their natural gradient unless otherwise determined by the City Engineer. Drainage channels, slopes and swales shall be established on the lots by the developer for the convenience of moving surface water to the street or public storm sewer system and are to be maintained continuously by the lot owners. No material shall be moved from or placed on any lot which obstructs, retards or changes the direction of flow of water through these channels or swales.
- (f) Monuments and Stakes. Monuments and stakes shall be set as follows:
- (1) Location. Permanent monuments of a design approved by the City Engineer shall be accurately set and established at the change of direction of all outside boundary lines of the plat, at intersections of those boundary lines with all street lines, at the beginning and end of all curves, at points of curbs where the radius or direction changes, and at such other points as are necessary to definitely establish all lines of the plat, except those outlining individual lots.
 - (2) Specifications. Monuments, if concrete, shall not be less than thirty inches in length, neatly dressed so as to have a top surface of not less than four inches square. The monument shall have a one inch iron pin at least six inches long set flush with the top of the monument. Iron pins at least one inch in diameter and thirty inches long shall be accepted in lieu of concrete monuments.
 - (3) Lot corner markers. Permanent iron pins at least twenty-four inches long and three-quarters of an inch in diameter.
- (g) Street Trees. Street trees, where provided, shall be so located as not to create a traffic hazard.
- (h) Plans, Specifications and Supervision. All of the improvements required in this section shall be constructed only after the plans and specifications thereof have been approved by the appropriate public official, including the City Engineer, County Sanitary Engineer and the County Board of Health.
(Ord. 304. Passed 4-14-70.)

1111.07 REQUIREMENTS FOR PRELIMINARY PLANS AND FINAL PLATS.

(a) Filing Fee. At the time of submission of the preliminary plan or the final plat, the subdivider shall pay a filing fee payable to the City in the amount shown below.

- (1) Preliminary plan. Thirty dollars (\$30.00) per plan.
- (2) Final plat. Twenty dollars (\$20.00) per acre computed to the tenth of an acre.

(b) Preliminary Plan. Whenever a person seeks approval of a subdivision plat he shall submit the required number of prints of the preliminary plan to the Planning Commission as prescribed in the Administrative Rules and Procedures for the Review of Preliminary Plans and Final Plats. Replats shall be exempt from this provision. Plats containing two lots or less may be exempted from the provision relating to preliminary plans but shall be subject to all the requirements of final plat. Approval of a preliminary plan shall be subject to reappraisal after twelve months unless a section of the plat has been submitted for final approval.

(c) Preliminary Plan Data. The preliminary plan shall show the following data:

- (1) North point, scale and date.
- (2) Location of the plat by section, town, range or by existing plats or thoroughfares.
- (3) Plat boundary by a heavy line with approximate acreage.
- (4) All section, township, corporation and county lines which pass through the plat, and their approximate distance from the boundary lines of the property.
- (5) Name of the plat and names and addresses of owners and subdividing engineer or surveyor. Plat name shall not duplicate or too closely approximate the name of existing plat of record.
- (6) Name of adjacent subdivisions and owners of unsubdivided land and City lot numbers of adjacent lots.
- (7) Contours with intervals of not more than five feet where the slope is greater than ten percent (10%) and not more than two feet where the slope is less than ten percent (10%).
- (8) Sketch plans or written statements, if required, regarding grades and typical cross sections of proposed streets, and any other proposed improvements within the subdivision, including the facilities for storm drainage and a typical swale diagram for the lots and a letter assuring compliance with the drainage plan.
- (9) Size and location of existing sanitary sewers, water or storm sewer lines within or adjacent to the plat.
- (10) Proposed names of streets and location of all streets, alleys, crosswalks, utility and drainage easements with right-of-way widths thereof.
- (11) Lot layout with lot numbers and approximate dimensions including dimensions at the building line when the lot is located on a curve or the side lot lines are not parallel.
- (12) Land to be reserved for public use.

- (13) Location, width and name of existing or platted streets or proposed thoroughfares, railroad right of way, public utility easements and public open spaces.
- (14) Existing physical features including wooded areas, drainage channels and permanent buildings.
- (15) Building setback lines with dimensions.
- (16) Vicinity sketch.
- (17) Typewritten copy of protective covenants, if required.

(d) Preliminary Plan Approval. The approval of the preliminary plan as required herein does not constitute final approval of the plat, but merely indicates that the final plat will be approved whenever it conforms to the requirements of these regulations and conforms to the requirements of the approved preliminary plan. The approval of the preliminary plan is authority for the subdivider to proceed with the plans and specifications for all improvements required in Section 1111.06, as well as the preparation of the final plat in a form satisfactory for recording. After the plans and specifications for the improvements have been approved by the proper authorities, the subdivider may proceed with their installation.

(e) Final Plat. The final plat on tracing cloth and the required number of prints of the final plat, as prescribed in the Administrative Rules and Procedures for the Review of Preliminary Plans and Final Plats shall be submitted not later than twelve months after the date of preliminary plat approval. The final plat is to be drawn at a scale of not more than 100 feet to the inch from an accurate survey, and shall be prepared by a registered surveyor.

- (f) Final Plat Data. The final plat shall show the following data:
- (1) North point, scale and date.
 - (2) All plat boundaries with lengths of courses to hundredths of a foot and bearings to half minutes. The error of closure shall not exceed 1 to 10,000. When required, all calculations and field notes shall be submitted. Plat boundary shall be shown by red line.
 - (3) The name of plat with the correct description of the property being subdivided and its location by section, town, range or City lot number, with deed book and page reference and acreage to hundredths.
 - (4) The names, exact location and width along the property lines of all existing or recorded streets intersecting or paralleling the plat boundaries.
 - (5) 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.
 - (6) Bearings and distances to nearest established street boundaries, section lines or other recognized monuments, which monuments shall be located and accurately described on the plat.
 - (7) Any section lines, corporation limits, township and county lines shall be accurately monumented and located on the plat and their names lettered thereon.
 - (8) All thoroughfares as shown on the official Thoroughfare Plan wherever they traverse the plat.

- (9) The street names and street and alley lines with bearings or angles of intersection and widths including the width along the lines of any obliquely intersecting street.
- (10) The length of all arcs, radii, points of curvature and tangent bearings. In cases where the intersection of property lines is rounded, the radius, central angle and tangent distance shall be noted.
- (11) All easements or rights of way where provided for or owned by public utilities.
- (12) All lot lines with dimensions in feet and hundredths including scaled dimensions on the building line when the side lot lines are not parallel or measured along a line tangent to the center of the arc when the lot is located on a curve.
- (13) The accurate location and material of all monuments. The type of lot corner markers shall be clearly indicated on the plat.
- (14) All public property on the plat accurately outlined and described.
- (15) Protective covenants and restrictions.
- (16) Building setback lines.
- (17) The certificate of the registered surveyor, attesting to the accuracy of the survey and the correct location of all monuments shown.
- (18) Acknowledgment of the owner or owners to the plat and restrictions, including dedications to public use of all streets, alleys, parks or other open spaces shown thereon and the granting of the required easements, as shall be indicated by the following 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."

(g) Recording. After the final plat has been approved by the Planning Commission and by the City Engineer, the necessary approvals endorsed in writing thereon, it shall then be filed for recording in the office of the County Recorder as required by law within sixty days after the date of final approval.

(h) File Copies. The subdivider shall then submit one reproducible drawing of plats within the City and two reproducible drawings of plats within a three-mile limit to the Planning Commission within thirty days after recording of the plat.
(Ord. 304. Passed 4-14-70.)

1111.08 VACATIONS AND REPLATS.

In the case of a replat, the same procedure, rules and regulations shall apply as for the original plat except that a preliminary plan may not be required if changes in the street alignment or similar changes are not included in the proposed plat. The replat should show clearly the area which has been vacated giving reference to the record of vacation and shall also include enough of the surrounding plats to show how the proposed replat fits in with the general scheme. The title of the replat should indicate that part of the plat being replatted and also make reference to the original plat.

(Ord. 304. Passed 4-14-70.)

1111.09 VARIATIONS.

(a) Unusual Cases. Whenever the tract to be subdivided is of such unusual size or shape, or is surrounded by such development or unusual conditions that the strict application of the requirements of these regulations would be impracticable, such requirements may be varied or modified by the Planning Commission provided that the public welfare and interest of the City and the surrounding area is thoroughly protected and the general intent and spirit of these regulations are enforced.

(b) Community Development. The requirements of these regulations may also be varied or modified by the Planning Commission whenever a plat is for a complete community or neighborhood, but any such variation must insure that adequate public spaces, circulation, recreation, light and air will be provided, and that the needs of the entire community will be met when the plat is fully developed.

(c) Proposed Division Approved "No Plat Required". The City Engineer under provision of Ohio R.C. 711.131 and on authority granted by the Planning Commission, subject to the conditions listed below, may approve a proposed division of land without plat if such proposed division is not contrary to applicable platting, zoning or health regulations. On presentation of such conveyance the City Engineer shall stamp the same in the following manner:

"Approved by _____, City Engineer.
No Plat Required. Date _____."

- (1) Minimum lot area requirements shall be complied with.
- (2) Plan and description of property based on survey.
- (3) Minimum of fifty feet of frontage on a fifty foot dedicated street or an established road, except as noted in Section 1111.05(j)(4).
- (4) All streets or parts thereof indicated on the official Thoroughfare Plan shall be dedicated or reserved.
(Ord. 304. Passed 4-14-70.)

TITLE FIVE - Zoning Administration and Enforcement

- Chap. 1115. Definitions.
- Chap. 1117. Special Uses.
- Chap. 1121. Interpretation.
- Chap. 1123. Enforcement and Penalty.
- Chap. 1125. Board of Zoning Appeals.
- Chap. 1127. District Changes and Code Amendments.

**CHAPTER 1115
Definitions**

- 1115.01 Purpose and applicability.**
- 1115.02 General rules for construction of language.**
- 1115.03 Definitions.**

CROSS REFERENCES

- Plat and subdivision defined - see Ohio R.C. 711.001
- Subdivision definitions - see P. & Z. 1111.03
- Zoning Map interpretation - see P. & Z. 1131.03
- Garage sale sign defined - see P. & Z. 1189.20

1115.01 PURPOSE AND APPLICABILITY.

The purpose of this chapter is to promote consistency and precision in the interpretation of the zoning regulations. The meaning and construction of words and phrases defined in this chapter shall apply throughout this Zoning Code, except where the context of such words or phrases clearly indicates a different meaning or construction.
(Ord. 995-92. Passed 1-14-93.)

1115.02 GENERAL RULES FOR CONSTRUCTION OF LANGUAGE.

Code: (a) The following general rules of construction shall apply to the text of this Zoning

- (1) The particular shall control the general;
- (2) In case of any difference of meaning or implication between the text of any provision and any caption or illustration, the text shall control;
- (3) The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual;
- (4) References in the masculine and feminine genders are interchangeable;
- (5) The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular;
- (6) The word "shall" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement.
- (7) The words "used" or "occupied" include the words "intended, designed or arranged to be used or occupied."
- (8) The word "lot" includes the words "plot" or "parcel".
- (9) The words "activities" and "facilities" include any part thereof.
- (10) Unless the context clearly indicates to the contrary, the following conjunctions shall be interpreted as follows:
 - A. "And" indicates that all connected items or provision shall apply.
 - B. "Or" indicates that the connected items or provisions shall apply singly but not in combination.
 - C. "Either or" indicates that the connected items or provisions shall apply singly but not in combination.
- (11) The word "district" means a general district established by this Zoning Code, unless otherwise indicated by specific reference to another kind of district.
- (12) All public officials, bodies and agencies to which reference is made are those of the City of Moraine unless otherwise indicated.
- (13) The word "City" or "Municipality" means the City of Moraine.
(Ord. 995-92. Passed 1-14-93.)

1115.03 DEFINITIONS.

(a) Throughout this Zoning Code, the following words and phrases shall have the meanings ascribed herein.

- (1) "Abandon" means to cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

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- (2) "Abutting" means having property or district lines in common.
 - (3) "Access" means a way or means of approach to provide physical entrance to a property.
 - (4) "Accessory use or structure" means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use or structure.
 - (5) "Addition" means any construction which increases the size of a building or facility in terms of site coverage, height, length, width or gross floor area, such as a porch, attached garage or carport, or a new room or wing.
 - (6) "Adult entertainment facility " means a facility having a significant portion of its function as adult entertainment which includes the following listed categories:
 - A. "Adult book store" means an establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting or relating to "specified sexual activities" or "specified anatomical areas" as herein defined, or an establishment with a segment or section devoted to the sale or display of such material.
 - B. "Adult mini-motion picture theater" means a facility with a capacity for less than fifty (50) persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", for observation by patrons therein.
 - C. "Adult motion picture theater" means a facility with a capacity of fifty (50) or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", for observation by patrons therein.
 - D. "Adult entertainment business" means any establishment involved in the sale of services or products characterized by the exposure or presentation of "specified anatomical areas" or physical contact of live males or females, and which is characterized by salacious conduct appealing to prurient interest for the observation or participation in by patrons. Services or products included within the scope of "adult entertainment business" are photography, dancing, reading, massage and similar functions which utilize activities as specified above.

- E. "Massage establishment" means any establishment having a fixed place of business where massages are administered for pay. This definition shall not be construed to include a hospital, nursing home, medical clinic or the office of a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the State of Ohio, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder.
 - F. "Massage" means a method of treating or stimulating the external parts of the human body by rubbing, stroking, kneading, tapping, touching or vibrating with the hand or any instruments for pay.
 - G. "Specified sexual activities" means:
 - 1. Human genitals in a state of sexual stimulation or arousal;
 - 2. Acts, real or simulated, of human masturbation, sexual intercourse, sodomy, cunnilingus or fellatio;
 - 3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breasts.
 - H. "Specified anatomical areas" means:
 - 1. Less than completely and opaquely covered human genitals, pubic region, buttock and female breasts below a point immediately above the top of the areola;
 - 2. Human male genitals in a discernibly turgid state even if completely and opaquely covered.
- (7) "Agriculture" means the use of a tract of land for the planting, harvesting and marketing of crops and produce; the breeding, feeding and marketing of livestock; horticulture; floriculture; structures necessary for performing these operations; and the residence of the owner or operator. Such agricultural use shall not include the following uses:
- A. Small gardens and fruit bearing trees or shrubbery that are associated with residential uses where the harvests are consumed or used exclusively by persons residing on the premises, shall not be considered as part of the definition of agriculture;
 - B. The maintenance and operation of commercial greenhouses or hydroponic farms, except in zoning districts in which such uses are expressly permitted;
 - C. Wholesale or retail sales as accessory use, unless the same are specifically permitted by this Zoning Code;
 - D. The feeding or sheltering of animals or poultry in penned enclosures within one hundred (100) feet of any residential zoning district. Agriculture does not include the feeding of garbage to animals, or the operation or maintenance of a commercial stockyard or feed yard.

- (8) "Agricultural market" means any fixed or mobile retail food establishment which is engaged primarily in the sale of raw agricultural products, but may include as accessory to the principal use, the sale of factory-sealed or prepackaged food products that normally do not require refrigeration. See farm stand in subsection (a)(146) hereof.
- (9) "Alley" see under "thoroughfare, street or road" in subsection (a)(419)I. hereof.
- (10) "Alteration" means any change, addition or modification in construction or type of occupancy, any change in the structural member of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".
- (11) "Amusement and recreation services" means establishments engaged in providing amusement or entertainment for a fee or admission charge and include such activities as dance halls; studios; theatrical producers; bands, orchestras and other musical entertainment; bowling alleys and billiard and pool establishments; commercial sports such as arenas, rings, racetracks, public golf courses and coin-operated devices; amusement parks; membership sports and recreation clubs; amusement and bathing beaches; swimming pools, riding academies, carnival operations; expositions; game parlors and horse shows.
- (12) "Animal hospital". See "veterinary animal hospital or clinic" in subsection (a)(450) hereof.
- (13) "Animal kennel". See "kennel" in subsection (a)(192) hereof.
- (14) "Apartment" means a room or a suite of rooms within an apartment house, arranged, intended or designed to be used as a home or residence of one (1) family with kitchen facilities for the exclusive use of the one (1) family. Apartments shall not be permitted to have outside doors to bedrooms.
- (15) "Apartment building" means a building which is used or intended to be used as a home or residence for three (3) or more families living in separate apartments, in which the yard areas, hallways, stairways, balconies and other common areas and facilities are shared by families living in the apartment units.
- (16) "Garden apartment". See "garden apartment dwelling" in subsection (a)(106) hereof.
- (17) "High-rise apartment". See "high rise dwelling" in subsection (a)(108) hereof.
- (18) "Apartment house" means a structure containing three (3) or more apartment units. See also "multiple-family dwelling" in subsection (a)(112) hereof.
- (19) "Mid-rise apartment". See "mid-rise dwelling" in subsection (a)(110) hereof.
- (20) "Aquifer" means a glacial formation, group of glacial formations, or part of a glacial formation that contains enough saturated permeable material to yield significant quantities of water.
- (21) "Architectural elevation" means a scale drawing of the front, side or rear of a building or structure.

- (22) "Arterial street". See "thoroughfare, street or road" in subsection (a)(419)A. and B. hereof.
- (23) "Assessment ratio" means the relation between the assessed value of a property and true market value.
- (24) "Automatic car wash" means a structure containing facilities for washing automobiles using a chain conveyor or other method of moving the cars along, and automatic or semiautomatic application of cleaner, brushes, rinse water and heat for drying.
- (25) "Basement" means that portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling and with a floor-to-ceiling height of not less than six and one-half (6-1/2) feet.
- (26) "Block" means a piece of land usually bounded on all sides by streets or other transportation routes such as railroad lines, or by physical barriers such as water bodies or public open space, and not traversed by a through street.
- (27) "Board of Appeals" means a legally constituted committee of persons to which questions of zoning ordinances interpretation or hardship can be brought for review and resolution. Principally, the Board of Zoning Appeals is a quasijudicial board that can grant a specific parcel of real property relief from the strict application of the Zoning Code upon determination of physical hardship conditions.
- (28) "Boarding house" means a dwelling or part thereof, in which lodging is provided by the owner or operator to more than three (3) boarders.
- (29) "Boarding stable" means a structure designated for the feeding, housing and exercising of horses not owned by the owner of the premises.
- (30) "Bond" means any form of security including a cash deposit, surety bond, collateral property or instrument of credit in an amount and form satisfactory to the City. All bonds shall be approved by the City whenever a bond is required by these regulations.
- (31) "Buffer strip" means a strip of land established to protect one type of land use from another with which it is incompatible. Buffer zones are described in this Zoning Code with reference to neighboring districts. Where a commercial district abuts a residential district, for example, additional use, yard or height restrictions may be imposed to protect residential properties. Normally, a buffer zone is landscaped and kept in open space uses.
- (32) "Buildable area" means the portion of a lot remaining after required yards have been provided. See Figure II at subsection (a)(466) hereof.
(Ord. 995-92. Passed 1-14-93.)

- (33) "Building" means any covered structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind; and which is permanently affixed to the ground by means of a footer and foundation as defined in the Ohio Basic Building Code. Accessory buildings with a floor area under 150 square feet do not need footers nor foundations but are included in this definition of "building".
(Ord. 1019-93. Passed 5-27-93.)
- (34) "Accessory building" means a building which:
- A. Is subordinate to and serves a principal structure or a principal use;
 - B. Is subordinate in area, extent and purpose to the principal structure or use served;
 - C. Is located on the same lot as the principal structure or use served except as otherwise expressly authorized by provisions of this Zoning Code; and
 - D. Is customarily incidental to the principal structure or use. Any portion of a principal structure devoted or intended to be devoted to an accessory use is not an accessory structure.
- (35) "Attached building" means a building attached to another building by a common wall (such wall being a solid wall with or without windows and doors) and/or a common roof with a common horizontal dimension of eight (8) feet or more. See also "semi-attached building" in subsection (a)(42) hereof.
- (36) "Building coverage" means the horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.
- (37) "Building frontage", for the purpose of computation of number and area of signs permitted on buildings, in cases where lineal feet of building frontage is a determinant, shall be computed as the horizontal distance across the front as nearly at ground level as computation of horizontal distance permits. In cases where the test is indeterminate or cannot be applied, as for instance where there is a diagonal corner entrance or where two (2) or more sides of a building have entrance or where two (2) or more sides of a building have entrances of equal importance and carry approximately equal amounts of pedestrian traffic, the administrative official shall select building frontage on the basis of the interior layout of the building, traffic on adjacent streets or other indicators available.
- (38) "Building height" means the vertical distance measured from the average elevation of the finished grade within twenty (20) feet of the structure to the highest point of the coping of a flat roof or to the deck line of a mansard roof; or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

- (39) "Building line" means a line parallel to the street right-of-way line at any story level of a building and representing the distance which all or any part of the building is to be set back from such right-of-way.
- (40) "Building permit" means written permission issued by the proper municipal authority for the construction, repair, alteration or addition to a structure.
- (41) "Principal building" means a building in which is conducted the main or principal use of the lot on which such building is situated, and including areas such as garages, carports, storage sheds, etc., which are attached to and architecturally integrated with the principal building.
- (42) "Semi-attached building" means a building attached to another building by a common wall (such wall being a solid wall with or without windows and doors) and/or a common roof with a common horizontal dimension less than eight (8) feet. See also "attached building" in subsection (a)(35) hereof.
- (43) "Building setback" means the closest point at which a building may be constructed in relation to the lot line.
- (44) "Bulk plant" means that portion of a property where materials are received by tank vessel, pipe line, tank car or tank vehicle and are stored or blended in bulk for the purpose of distribution.
- (45) "Bulk regulations" means standards that control the height, density, intensity and location of structures.
- (46) "Business neighborhood" means commercial establishments which cater to and can be located in close proximity to or within residential districts without creating undue vehicular congestion, excessive noise or other objectionable influences. To prevent congestion, convenience uses include, but need not be limited to, drugstores, beauty salons, barber shops, carry outs, if less than 10,000 square feet in floor area. Uses in this classification tend to serve a day-to-day need in the neighborhood.
- (47) "General business" means commercial uses which generally require locations on or near major thoroughfares and/or their intersections, and which tend, in addition to serving day-to-day needs of the community, also supply the more durable and permanent needs of the whole community. General business uses include, but need not be limited to, such activities as supermarkets; stores that sell hardware, apparel, footwear, appliances and furniture; department stores; and discount stores.
- (48) "Highway business" means commercial uses which generally require locations on or near major thoroughfares and/or their intersections, and which tend to serve the motoring public. Highway business uses include, but need not be limited to, such activities as filling stations; truck and auto sales and service; restaurants and motels; and commercial recreation.

- (49) "Office type business" means quasi-commercial uses which may often be transitional between retail business and/or manufacturing and residential uses. Office business generally accommodates such occupations as administrative, executive, professional, accounting, writing, clerical, stenographic and drafting. Institutional offices of a charitable, philanthropic, or religious or educational nature are also included in this classification.
- (50) "Business service" means any profit making activity which renders services primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in homes and businesses.
- (51) "Business or trade school" means a use, a college or university providing education or training in business, commercial, similar activity or pursuit, and not otherwise defined as a home occupation or private educational facility.
- (52) "Wholesale business" means business establishments that generally sell commodities in large quantities or by the piece to retailers, jobbers and/or other wholesale establishments. These commodities are basically for future resale, for use in the fabrication of a product, or for use by a business service.
- (53) "Camping and recreational equipment", for the purpose of this Zoning Code, includes the following:
- A. "Boat and boat trailer" includes boats, floats and rafts plus the normal equipment to transport the same on the highway.
 - B. "Folding tent trailer" means a canvas folding structure, mounted on wheels and designed for travel and vacation uses.
 - C. "Motorized home (motor home)" means a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
 - D. "Pick-up camper (motor home)" means a structure designed primarily to be mounted on a pick-up truck chassis and with sufficient equipment to render it suitable for use for travel, recreational or vacation uses.
 - E. "Travel trailer" means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified "travel trailer" by the manufacturer.
- (54) "Carport" means a roofed shelter, open on at least two (2) sides, designed as a shelter for automobiles or other vehicles. A carport may be freestanding or may be formed by extension of a roof from the side of a building. A carport shall not be considered a private garage.
- (55) "Certificate of occupancy" means a document issued by the proper authority allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all the applicable Municipal codes and ordinances.

- (56) "Child care center" means any place where care is provided to thirteen (13) or more children at one time. It also means a place where care is provided for seven (7) to twelve (12) children when the place is not the permanent residence of the licensee. Children six (6) years old and older related to the licensee, administrator or employee on premises are not counted. This definition also includes a "type A family day-care home" as a "child care center".
(ORC 5104.01)
- (56.1) "Type A family day-care home" means a permanent residence of the administrator where care is provided for seven (7) to twelve (12) children at one time. It also means where care is provided for four (4) to twelve (12) children at one time if four (4) or more children are under two (2) years old. Children six (6) years old and older related to the licensee, administrator or employee on premises are not counted. (ORC 5104.01)
- (57) "Church" means a building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith, including parish houses and educational unit.
- (58) "City" means the City of Moraine, Ohio.
- (59) "City Council" or "Council" means the City Council of the City of Moraine, Ohio.
- (60) "Clinic" means an establishment where patients are admitted for examination and treatment by one (1) or more physicians, dentists, psychologists or social workers and where patients are not usually lodged overnight.
- (61) "Private club" means a building or portion thereof or premises owned or operated for social, literary, political, educational or recreational purposes primarily for the exclusive use of members and their guests, but not operated for profit. Alcoholic beverages may be secondary and incidental to the promotion of some other common objective of the organization, and further provided that the sale or service of alcoholic beverages is in compliance with all applicable Federal, State, County and local law.
- (62) "Cluster" means a development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space and preservation of environmentally sensitive features.
- (63) "Cluster subdivision" means a form of development for single-family residential subdivisions that permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision and the resultant land area is devoted to open space.
- (64) "College" means an educational institution authorized by the State to award baccalaureate or higher degrees.

- (65) "Commercial entertainment facilities" means any profit making activity which is generally related to the entertainment field, such as motion picture theaters, carnivals, nightclubs, cocktail lounges and similar entertainment activities.
- (66) "Commercial recreation" means a use providing recreation including bowling lanes, billiard parlors, skating arenas and similar facilities for patron participation operated on a nonprofit or profit basis, but excluding uses defined as outdoor recreation service.
- (67) "Commercial use" means an activity carried out for pecuniary gain.
- (68) "Commercial vehicle" means any motor vehicle licensed by the State as a commercial vehicle.
- (69) "Commission" means the City of Moraine Planning Commission.
- (70) "Community center" means a place, structure, area or other facility used for and providing recreational programs, social, fraternal, religious and/or other general functions open to the public and designated to accommodate and service significant segments of the community.
- (71) "Community oriented residential social service facilities" means a facility which provides resident services to a group of individuals of whom one (1) or more are unrelated. These individuals are mentally ill, mentally retarded, handicapped, aged or disabled; and/or are undergoing rehabilitation; and are provided services to meet their needs. This category includes uses licensed, supervised or under contract by any Federal, State, County or other political subdivision. "Community oriented residential social service facilities" include the following listed categories:
- A. "Foster care residential facilities" means homes or facilities in which some level of care and/or support is provided to the person residing in the facility who suffers from a mental or physical impairment, is undergoing transition from an institution to the community or for whom other forms of care and support are inappropriate or unavailable. The facility is licensed by an appropriate local and/or State agency which is charged with program development for a specific population. This definition excludes all forms of independent living as well as rest homes, nursing homes, facilities housing more than sixteen (16) persons, residences housing one (1) or two (2) persons and institutions.
1. "Family care homes" means residential facilities that provide room and board, personal care, rehabilitation services and supervision in a family setting for from three (3) to five (5) persons, adults or children, who are mentally ill, mentally retarded, have any form of developmental disability or cannot reside with their natural family.

2. "Group care homes" means residential facilities that provide the services of family homes for at least six (6) but not more than sixteen (16) persons, adults or children, who are mentally ill, mentally retarded, have any form of developmental disability or cannot reside with their natural family.
- B. "Social care homes" means residential homes for children or adolescents who lack social maturity or have emotional problems but who have not been judged delinquent by the criminal justice system. Residency may be permanent or transient.
- C. "Intermediate care homes" means residential homes for children or adolescents who have been judged delinquent and have been assigned by a court to a residential home in lieu of placement in a correctional institution.
- D. "Halfway houses" means residential homes for adolescents or adults who have been institutionalized through the criminal justice system and released or who have had alcohol or drug problems which make operation in society difficult and who require the protection of a group setting.
- (72) "Comprehensive development plan" means a plan including all attachments adopted by Council showing the general location and extent of present and proposed physical facilities, including housing, commercial and industrial uses, major streets, parks, schools and other community facilities. This plan serves as a guide for future development and the enactment of zoning and other growth related legislation.
- (73) "Condominium" means a building or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.
- (74) "Congregate housing" means a housing arrangement for more than three (3) elderly persons who are independent adults where at least meal services are provided. Other services provided to the residents from within the home may include transportation and housekeeping. Personal assistance or care is not provided.
- (75) "Beginning of construction" means the utilization of labor and/or materials on the footings, foundations, walls, roofs and other portions of the building or structure.
- (76) "Convalescent homes". See "nursing home, rest home or convalescent home" in subsection (a)(235) hereof.
- (77) "Convenience store" means a retail store that caters to the motoring public where the sale of food items such as hot or cold drinks, prepackaged foods and tobacco, road maps, magazines and other publications, automotive maintenance items such as brake fluid, oil, polishes, anti-freeze and similar products, and other retail items that may be readily purchased. A convenience store does not sell gasoline or other fuels.

- (78) "Covenant" means a private legal restriction on the use of land, contained in the deed to the property or otherwise formally recorded. There may be certain legal requirements for formal establishment of a covenant such as a written document, a mutual interest in the property, that the covenant be concerned with the use of the land rather than individual characteristics of the ownership, etc. Covenants are most commonly used in the establishment of a subdivision to restrict the use of all individual lots in the development to a certain type of use, such as, single-family dwellings. They are also used in rezoning situations, where contract or conditional zoning is permitted, to bind the landowner to use his property in a specific manner. Finally, they have been used by some communities, such as Houston, Texas, to accomplish through private restrictions much of what zoning does through governmental action.
- (79) "Covered" means a space roofed or permanently covered by a structure having less than fifty percent (50%) open penetration to the sky.
- (80) "Cul-de-sac". See under "thoroughfare, street or road", in subsection (a)(419)D. hereof.
- (81) "Curb cut" means the opening along the curb line at which point vehicles may enter or leave the roadway.
- (82) "Day care center" means a "child care center". It also means a Type B family day-care home as defined in Ohio R.C. 5104.01. Where care is provided to one (1) to six (6) children at one (1) time and no more than three (3) children are under two (2) years of age. Children six (6) years old and older related to the provider are not counted.
- (83) "Dead-end street". See under "thoroughfare, street or road" in subsection (a)(419)E. hereof.
- (84) "Decibel" means a unit of sound pressure level.
- (85) "Deciduous " means plants that drop their leaves before becoming dormant in winter.
- (86) "Deed restrictions". See "covenant" in subsection (a)(78) hereof.
- (87) "Density" means a unit of measurement; the number of dwelling units per acre of land.
- A. "Gross density" means the number of dwelling units per acre of the total land to be developed.
- B. "Net density" means the number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.
- (88) "Detention basin (pond)" means a facility for the temporary storage of storm water run-off.
- (89) "Developed property" means property upon which a building has been erected.
- (90) "Developer" means the legal or beneficial owner or owners of a lot or of any land included in a proposed development including the holder of an option or contract to purchase, or other persons having enforceable proprietary interest in such land.

- (91) "Development standards" means standards controlling the size of structures and the relationships of structures and uses to each other and to open areas and lot lines. Development standards include regulations controlling maximum height, minimum lot area, minimum lot frontage, minimum size of yards and setbacks, maximum lot coverage and maximum floor area ratio.
- (92) "Developmentally disabled" means having a disability attributable to mental retardation, cerebral palsy, epilepsy, autism or dyslexia resulting from these, or any other condition closely related to mental retardation in terms of intellectual and adaptive problems.
- (93) "Direct recharge area" means that portion of a drainage basin in which water infiltrating vertically from the surface shall intercept the water table.
- (94) "Dormitory" means a building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, orphanage, convent, monastery or other similar institutional use.
- (95) "Double wide unit" means two (2) mobile home units, attached side by side, which constitute the complete mobile home.
- (96) "Drainage" means:
- A. Surface water run-off;
 - B. The removal of surface water or groundwater from land by drains, grading or other means which include run-off controls to minimize erosion and sedimentation during and after construction or development, the means for preserving the water supply and the prevention or alleviation of flooding.
- (97) "Drainage area" means that area in which all of the surface run-off resulting from precipitation is concentrated into a particular stream.
- (98) "Drainage district" means a district established by a governmental unit to build and operate facilities for drainage.
- (99) "Drainageway" means a water course, gully, dry stream, creek or ditch which carries stormwater run-off, which is subject to flooding or ponding, which is fed by street or building gutters or by storm water sewers, or which serves the purpose of draining water from the lands adjacent to such water course, gully, dry stream, creek or ditch.
- (100) "Drive-in restaurant". See subsection (a)(304) hereof.
- (101) "Drive-in use" means an establishment which by design, physical facilities, service or packaging procedures encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles.
- (102) "Duplex". See "two-family dwelling" in subsection (a)(121) hereof.

- (103) "Dwelling" means any building or portion thereof occupied or intended to be occupied exclusively for residential purposes, but not including a mobile home, manufactured home, tent, cabin, trailer or trailer coach, or other temporary or transient structure or facility.
- (104) "Attached dwelling" means a one-family dwelling attached to two (2) or more one-family dwellings by common vertical walls.
- (105) "Single-family detached dwelling" means a dwelling which is not attached to any other dwelling by any means.
- (106) "Garden apartment dwelling" means a multi-family dwelling. The commonly accepted configuration of a garden apartment in terms of density is usually ten (10) to fifteen (15) dwelling units per acre in a suburban community, somewhat higher in an urban area and lower in a rural area; in terms of height is usually not more than a maximum of two and one-half (2-1/2) stories or thirty-five (35) feet with two (2) levels of dwelling units; and in terms of maximum length of a structure is usually between 150 to 200 feet. Access is usually from a common hall although individual entrances can be provided. Dwelling units can be located on top of each other, and communities may opt to permit or prohibit the back-to-back type of units.
- (107) "Dwelling groups" mean a group of two (2) or more detached dwellings located on a parcel of land in one (1) ownership and having any yard or court in common.
- (108) "High-rise dwelling" means an apartment building of eight (8) or more stories.
- (109) "Manufactured home" means a structure built under 24 CFR Part 3280 Manufactured Home Construction and Safety Standards and is certified by a US Housing and Urban Development plaque or if built prior to June 15, 1976 bears a label certifying compliance to the Standard for Mobile Homes NFiPA 501, ANSI 119.1. In either case the structure shall not have a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site and does not have wheels or axle permanently attached to its body or frame. A structure qualifying as "modular/industrialized housing" as defined in subsection (a)(223) hereof is excluded from this definition.
- (110) "Mid-rise dwelling" means an apartment building containing from three (3) to seven (7) stories.

- (111) "Mobile home" means a structure built under 24 CFR Part 3280 Manufactured Home Construction and Safety Standards and is certified by a US Housing and Urban Development plaque or if built prior to June 15, 1976 bears a label certifying compliance to the Standard for Mobile Homes NFiPA 501, ANSI 119.1. In either case the structure has a permanent hitch or wheels or axle permanently attached to its body or frame. A structure qualifies as "modular/industrialized housing" as defined in subsection (a)(223) hereof is excluded from this definition.
- (112) "Multiple-family dwelling" means a residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.
- (113) "Patio house dwelling" means a one-family dwelling on a separate lot with open space setbacks on three (3) sides and with a court.
- (114) "Quadruplex dwelling" means four (4) dwellings attached in one (1) structure in which each unit has two (2) open space exposures and shares one (1) or two (2) walls with adjoining unit or units.
- (115) "Rooming house dwelling (boarding house, lodging house, dormitory)" means a dwelling, part thereof, other than a hotel, motel or restaurant, where meals and/or lodging and meals are provided for compensation, for three (3) but not more than six (6) unrelated persons where no cooking or dining facilities are provided in the individual rooms.
- (116) "Row dwelling" means a dwelling having a party wall on each side in common with an adjoining dwelling unless it is situated as the outermost dwelling; in the latter case, it shall have a party wall on one (1) side only. A "row dwelling" shall be considered to be a multiple-family dwelling.
- (117) "Semi-detached dwelling" means a one-family dwelling attached to one (1) other one-family dwelling by a common vertical wall, and each dwelling located on a separate lot.
- (118) "Single-family detached dwelling" means a dwelling which is designed for and occupied by not more than one (1) family and surrounded by open space or yards and which is not attached to any other dwelling by any means. Single-family detached dwelling shall include modular/industrialized housing but shall not include manufactured home dwelling or mobile home dwelling as those terms are defined herein. See also "detached dwelling" in subsection (a)(105) hereof.

- (119) "Townhouse dwelling" means a one-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one (1) or more common fire resistant walls.
- (120) "Triplex dwelling" means a dwelling containing (3) dwelling units, each of which has direct access to the outside or to a common hall.
- (121) "Two-family dwelling" means a structure on a single lot containing two (2) dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.
- (122) "Dwelling unit" means one (1) or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities prescribed within the dwelling unit for the exclusive use of a single family or individual maintaining a household.
- (123) "Efficiency dwelling unit" means a dwelling unit consisting of not more than one (1) habitable room together with kitchen or kitchenette and sanitary facilities.
- (124) "Earth station" means a combination of:
- A. Antenna or dish antenna whose purpose is to receive or transmit communication or other signals from orbiting satellites and other extraterrestrial sources;
 - B. A low-noise amplifier or transmitter (LNA) which is situated at the focal point of the receiving or transmitting component and whose purpose is to magnify and transfer signals; and
 - C. A coaxial cable whose purpose is to carry the signals into or from the interior of the building.
- (125) "Earth station (or dish antenna) height" means the height of the antenna or dish measured vertically from the highest point of the antenna or dish, when positioned for operation, to the bottom of the base which supports the antenna.
- (126) "Earth tones" means muted shades of gray and muted shades and medium to dark tones of the following colors: burnt umber, raw umber, raw sienna, burnt sienna, Indian red, English red, yellow ochre, chrome green and terra verde.
- (127) "Easement" means a grant of one (1) or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

- (128) "Educational institution" means schools and/or seminaries administered by churches or religious organizations; schools, colleges or universities operated under charter or license from the State and any nonprofit institution, residence or home operated for the education of five (5) or more students.
- (129) "Egress" means an exit.
- (130) "Elderly and handicapped persons" means:
- A. Persons who are sixty-two (62) years of age or over;
 - B. Families where either the husband or wife is sixty-two (62) years of age or older; and
 - C. Handicapped persons under sixty-two (62) if determined to have physical impairments which:
 - 1. Are expected to be of long continued and indefinite duration;
 - 2. Substantially impede the ability to live independently; and
 - 3. Are of such a nature that the ability to live independently could be improved by more suitable housing conditions.
- (131) "Electronic, mechanical or video games" means any machine, apparatus, contrivance, appliance or device which may be operated or played upon the placing or depositing therein of any coin, check, token, slug, ball or any other article or device, or by paying therefor either in advance of or after use, involving in its use either skill or chance, including, but not limited to tape machine, card machine, pinball machine, bowling game machine, shuffleboard machine, marble game machine, horse racing machine, basketball game machine, baseball game machine, football game machine, electronic video game or electronic devices. Zoning provisions for such machines or facilities exclude those which are sample or "demonstrator" machines in a retail sales, rental or service facility.
- (132) "Elevation" means:
- A. A vertical distance above or below a fixed reference level;
 - B. A flat scale drawing of the front, rear or side of a building.
- See also "architectural elevation" in subsection (a)(21) hereof.
- (133) "Eminent domain" means the legal right of government to acquire or "take" private property for public use or public purpose upon paying just compensation to the owner. While originally used only when land was to be kept in public ownership, that is for highways, public buildings or parks, property has been condemned under eminent domain powers for private use in the public interest such as urban renewal. See also "inverse condemnation" in subsection (a)(189) hereof and also "police power" in subsection (a)(264) hereof and also "taking" in subsection (a)(411) hereof.

- (134) "Enclosed" means a covered space fully surrounded by walls, including windows, doors and similar openings or architectural features, or an open space of less than one hundred (100) square feet surrounded by a building or walls exceeding eight (8) feet in height.
- (135) "Environmental Impact Statement (EIS)" means a statement on the effect of development proposals and other major actions which significantly affect the environment.
- (136) "Essential services" means the erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical system, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipe, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection herewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare.
- (137) "Exclusionary zoning" means zoning which has the effect of keeping out racial minorities, poor people, or in some cases, additional population of any kind. Techniques such as large-lot zoning or high floor area or minimum residential floor-area requirements which increase housing costs have been challenged for their potential exclusionary effects. Similarly, discretionary techniques have been subject to challenge; they may permit a community to deny certain applications and conceal the real reasons. Exclusionary zoning, in all its subtle variations, is considered by many the most effective and persuasive tool used by suburbs to maintain their homogenous character. A growing number of State court decisions are invalidating exclusionary practices, whether intentional or unintentional, and in some cases are requiring affirmative, inclusionary practices. On the other hand, discretionary techniques, such as inclusionary zoning, can be an important part of an inclusionary land-use program.
- (138) "Existing grade or elevation" means the vertical location of the ground surface prior to excavating or filling.
- (139) "Existing use" means the use of a lot or structure at the time of the enactment of the Zoning Code.
- (140) "Extended care facility" means a long-term care facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged or a governmental medical institution. See "nursing home" in subsection in (a)(235) hereof.

- (141) "Fabrication" means the stamping, cutting, assembling or otherwise shaping of processed materials into useful objects, excluding the refining or other initial processing of basic raw materials.
- (142) "Facade" means the exterior wall of a building exposed to public view or that wall viewed by persons not within the building.
- (143) "Family" means one (1) or more persons related by blood, marriage, adoption or guardianship, or not more than three (3) persons not so related, occupying a dwelling unit and living as a single housekeeping unit.
- (144) "Factory-built house". See "manufactured home" in subsection (a)(109) hereof.
- (145) "Farm" means all of the contiguous neighboring or associated land operated as a single unit on which bona fide farming is carried on directly by the owner-operator, manager or tenant farmer, and/or by his hired employees provided, however, that land to be considered a farm hereunder shall include a continuous parcel of five (5) acres or more in area; provided, further, that farms may be considered as nurseries, orchards, chicken hatcheries, poultry farms and apiaries, but establishments keeping or operating fur-bearing animals, riding or boarding stables, commercial dog kennels, stone quarries or gravel or sand pits shall not be considered a farm hereunder unless combined with bona fide farm operations on the same continuous tract of land of not less than twenty (20) acres. No farms shall be operated as piggeries or for the disposal of garbage, sewage, rubbish, offal or rendering plants or for the slaughtering of animals, except such animals as have been raised on the premises or have been maintained on the premises for at least a period of one (1) year immediately prior thereto and for the use and consumption by persons residing on the premises.
- (146) "Farm stand" means a booth or stall located on a farm from which produce and farm products produced on the subject farm are sold to the general public.
- (147) "Fast food restaurant". See subsection (a)(304.1) hereof.
- (148) "Feedlot":
- A. Means any premises used principally for the raising or keeping of animals in a confined feeding area.
 - B. "Confined feeding area" means any livestock feeding, handling or holding operation or feed yard where animals are concentrated in an area:
 1. Which is not normally used to pasture or for growing crops and in which animal wastes may accumulate; and
 2. Where the space per animal unit is less than 600 square feet.

- C. "Feedlot" is not intended to otherwise preclude the raising of animals as part of a general farming and/or livestock operation or as an FFA, 4-H or other student project in an agricultural zone.
- D. "General farming and/or livestock operation" means one in which the confined feeding of animals is an incidental part of the total livestock operation.
- (149) "Finance, insurance and real estate" means establishments such as, but not limited to, banks and trust companies, credit agencies, investment companies, brokers and dealers of securities and commodities, security and commodity exchanges, insurance agents, brokers, lessors, lessees, buyers, sellers, agents and developers of real estate.
- (150) "Fiscal zoning" means designing zoning regulations for the purpose of attracting uses which will bring in more in local tax revenue than they will cost in public services. This kind of one-sided fiscal zoning is often used as an argument for exclusive zoning.
- (151) "Floating zone" means an unmapped zoning district where all the zone requirements are contained in this Zoning Code and the zone is fixed on the map only when an application for development, meeting the zone requirements, is approved.
- (152) "Flood" means a temporary rise in stream level that results in inundation of areas not ordinarily covered by water.
- (153) "Flood fringe area" means that portion of the flood hazard area outside of the floodway based on the total area inundated during the regulatory base flood plus twenty-five percent (25%) of the regulatory base flood discharge. See "floodway", in subsection (a)(159) hereof.
- (154) "Flood hazard area" means the floodplain consisting of the floodway and the flood fringe area. See "regional floodplain" in subsection (a)(157) hereof.
- (155) "Flood hazard design elevation" means the highest elevation, expressed in feet above sea level, of the level of floodwaters which delineates the flood fringe area.
- (156) "Flood insurance rate map" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- (157) "Regional floodplain" means the area inundated by the regional flood, 100 year frequency flood. This is the floodplain area which shall be regulated by the standards and criteria in this Zoning Code.

- (158) "Floodproofing" means a combination of structural provisions, changes or adjustments to properties and structures subject to flooding for the reduction or elimination of flood damage to properties, water and sanitary facilities, and other utilities, structures and the contents of buildings.
- (159) "Floodway" means the channel of a natural stream or river and portions of the floodplain adjoining the channel, which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream or river.
- (160) "Floor area (gross)" means the sum of the gross horizontal area of all the floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings. Floor area shall include the area of basements when used for residential, commercial or industrial purposes, but shall not include a basement or portion of a basement used for storage or the housing of mechanical or central heating equipment. In calculating floor area, the following shall not be included:
- A. Attic space providing structural headroom of less than seven (7) feet six (6) inches;
 - B. Uncovered steps;
 - C. Terraces, breezeways and open porches;
 - D. Automobile parking space in a basement or private garage; or
 - E. Accessory off-street loading berths, but not to exceed twice the space required by the provision of this Zoning Code.
- (161) "Floor area (net)" means the total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.
- (162) "Floor area ratio" of the building or other structure on any lot is determined by dividing the gross floor area of such building or structure by the area of the lot on which the building or structure is located. When more than one (1) building or structure is located on a lot, then the floor area ratio is determined by dividing the total floor area of all buildings or structures by the area of the lot. The floor area ratio requirements, where applicable, shall determine the maximum floor area allowable for buildings or other structures, in direct ratio to the gross area of the lot.
- (163) "Fraternal organization" means a group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal written membership requirements.

- (164) "Front foot" means a measure of land width, being one (1) foot along the front lot line of a property.
- (165) "Front lot line". See "lot lines" in subsection (a)(207)A. hereof.
- (166) "Front yard". See subsection (a)(464) hereof.
- (167) "Frontage" means that portion of a lot, parcel, tract or block abutting upon a street. See also "front yard" in subsection (a)(464) hereof.
- (168) "Garden apartment". See "garden apartment dwelling" in subsection (a)(106) hereof.
- (169) "Garden center" means a place of business where retail and wholesale products and produce are sold to the retail consumer. These centers, which may include a nursery and/or greenhouses, import most of the items sold. These items may include plants, nursery products and stock, fertilizers, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels and other garden and farm tools and utensils.
- (170) "Grade" means the degree of rise or descent of a sloping surface.
- (171) "Finished grade" means the final elevation of the ground surface after development.
- (172) "Green area" means land shown on a development plan, comprehensive plan or official map for preservation, recreation, landscaping or parks.
- (173) "Greenbelt" means a strip of land parallel to and extending inwardly from the lot lines or right-of-way lines. Such "greenbelt" shall be maintained at all times in grass, trees, shrubs or plantings and no structures, parking areas or signs shall be permitted.
- (174) "Greenhouse " means a building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment. See "nursery" in subsection (a)(234) hereof.
- (175) "Gross floor area". See "floor area (gross)" in subsection (a)(160) hereof.
- (176) "Gross habitable floor area". See "floor area (net)" in subsection (a)(161) hereof.
- (177) "Ground cover" means grasses or other plants grown to keep soil from being blown or washed away.
- (178) "Ground coverage". See "lot coverage" in subsection (a)(204) hereof.
- (179) "Halfway house". See "community oriented residential social service facilities" in subsection (a)(71) hereof.

- (180) "Health care facility" means a facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary and home health care agency.
- (181) "Home occupation" means any occupation conducted in its entirety within a dwelling unit, provided that no person other than members of the family residing on the premises shall be engaged in such occupation and the use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to use for residential purpose by its occupants, provided that:
- A. Such occupation does not require a State or local license and/or inspection;
 - B. It does not occupy more than 200 square feet of floor area within the dwelling unit and does not require alteration of the structure;
 - C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding two (2) square feet in area, nonilluminated, and mounted flat against the wall of the principal building;
 - D. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in this Zoning Code and shall not be located in a required front yard; and
 - E. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment which causes fluctuations in line voltage off the premises.
- (182) "Homeowners association" means a community association, other than a condominium association, which is organized in a development in which individual owners share common interests in open space or facilities.

- (183) "Animal hospital" means any building or other enclosed structure containing space for any animals not belonging to the operator of such facility which allows for overnight or continuous care, diagnosis and treatment of animal illnesses or injuries.
- (184) "Human hospital" means any building or other structure containing beds for at least four (4) patients allowing for overnight or continuous care, diagnosis and treatment of ailments.
- (185) "Housing for the elderly and handicapped" means a building or buildings containing dwellings and related facilities, such as dining, recreational services or therapy uses, where the occupying of the dwellings is restricted to elderly or handicapped persons as defined herein. Such use may include facilities for independent or semi-independent living, day care, personal care nursing facilities or services to the elderly of the community when it is an ancillary part of one of the above.
- (186) "Inclusionary zoning" means a positive and active policy and program of a community to attract racial minorities or low and moderate income residents. Such policies, analogous to affirmative action in job recruitment, go beyond the avoidance of techniques which discourage certain classes of people from moving into an area; they actively seek to invite such groups. Inclusionary zoning devices usually include offering incentives or bonuses to developers for building low to moderate cost housing or exception to traditional controls. Such practices are rare, but they are being experimented with in a number of places. While some courts have accepted the idea of inclusionary incentives, they have generally invalidated the techniques. Inclusionary policies are a response to the challenges being levied at exclusionary zoning.
- (187) "Ingress" means access or entry.
- (188) "Institutional use" means a nonprofit or quasi-public use or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purpose.
- (189) "Inverse condemnation" means the taking of private property as a result of governmental activity without any formal exercise of eminent domain.
- (190) "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, rubber or junked, dismantled or wrecked motor vehicles or parts thereof; iron, steel and other old or scrap ferrous or nonferrous materials which are not held for sale or remelting purposes by an establishment having facilities for processing such materials.

- (191) "Junk yard" means an establishment or place of business (other than an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal product is scrap iron and steel or nonferrous scrap for sale for remelting purposes), which is maintained or operated for the purpose of storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, except an establishment or place where automobiles, wrecked or otherwise, are held or impounded for a period not to exceed ninety (90) days exclusively for storage, repair or resale without alteration.
- (192) "Kennel" means any lot, building, structure, enclosure or premises whereupon or wherein are kept five (5) or more dogs of six (6) months of age or older for more than five (5) days.
- (193) "Landfill (hard fill)" means a site for solid waste disposal restricted to the deposit of fill which is generally of an inorganic nature which does not pose a threat to the community through decomposition or other resources and does not therefore require regular covering with soil.
- (194) "Landfill (sanitary landfill)" means a site for solid waste disposal in which the solid waste is spread in thin layers compacted to the smallest practical volume, and covered with soil at the end of each working day.
- (195) "Land use" means a description of how land is occupied or utilized.
- (196) "Land use plan" means the land use element of the comprehensive plan showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, education and other public and private purposes or combination of purposes.
- (197) "Leapfrog development" means the development of relatively cheap land on the urban fringe by jumping over the more expensive land located immediately adjacent to existing development. Land located in the expected path of development, that is with good access to transportation or utilities or next to existing build-up areas, tends to sell at a premium price. Developers often find that they can skip this expensive land and buy up other land, usually farms, at some distance, sometimes several miles out. While the houses may be cheaper, the result may be serious problems for both the new residents and the public. Not only may there be inadequate access to transportation and utilities, but other public services, shopping and other support services may be lacking, and they may cost much more to provide. Urban limit lines, acreage zoning and a variety of other growth management techniques may be imposed to prevent such development.

- (198) "Live entertainment" means any entertainment, provided in eating and/or drinking places, other than music mechanically produced by juke boxes or other devices for the dissemination of recorded music, not to include adult entertainment.
- (199) "Loading space" means an off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials; and which abuts upon a street, alley or other appropriate means of access.
- (200) "Lodge" means:
- A. A building or group of buildings under single management, containing both rooms and dwelling units available for temporary rental to transient individuals or families;
 - B. The place where members of a local chapter of an association hold their meetings; and the local chapter itself.
- (201) "Lot" means, for purposes of this Zoning Code, 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 the minimum required frontage on an improved public street, or on an approved private street, and may consist of a single parcel of land or a combination of parcels of land when the parcels of land are adjacent to one another, and used as one (1), provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Zoning Code. Each parcel of land shall be described by either metes and bounds on a document recorded at the County Recorder's office or a plat recorded at the County Recorder's office.
- A. "Corner lot" means a lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street, and in either case forming an interior angle of 135 degrees or less. See Figure I.
 - B. "Double frontage lot" means a lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot. See Figure I.
 - C. "Flag lot" means a lot not fronting on or abutting a public right of way and where access to the public right of way is by a narrow, private strip of land. See Figure I.
 - D. "Interior lot" means a lot other than a corner lot with only one (1) frontage on a street. See Figure I.
 - E. "Zoning" means a parcel of land not separated by street or alley that is designated by its owner or developer at the time of applying for a zoning certificate, as a tract all of which is to be used, developed, or built upon as a unit under single ownership. As long as it satisfied the above requirements, such lot may consist of:

1. A single lot of record; or
 2. A portion of a lot of record; or
 3. A combination of complete lots and portions of lots of record, or portions of lots of record.
- (202) "Lot area" means the computed area contained within the lot lines.
- (203) "Net lot area" means the total horizontal net area within the lot lines of a lot or parcel exclusive of existing or proposed public streets, highways, roads and alleys, or proposed streets and highways as shown on the circulation plan, general plan or community plan.
- (204) "Lot coverage" means that 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.
- (205) "Lot depth" means the distance measured from the front lot line to the rear lot line. See Figure I.
- (206) "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. See Figure I.
- (207) "Lot lines":
- A. "Front lot line" means a street right-of-way line forming the boundary of a lot. On a corner lot, the street right-of-way lines with the least amount of street frontage shall be the front lot line. See Figure I.
 - B. "Rear lot line" means that lot line which is parallel to and most distant from the front lot line of the lot; in the case of an irregular, triangular or gore shaped lot, a line twenty (20) feet in length, entirely within the lot, parallel to and at the maximum possible distance from, the front line shall be considered to be the rear lot line. In the case of lots which have frontage on more than one (1) street, the rear lot line shall be opposite the lot line along which the lot takes access to a street. See Figure I.
 - 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. See Figure I.
 - D. "Street line" means, in the case of a lot abutting only one (1) street, the street line separating such lot from such street; in the case of a double frontage lot, each street line separating each lot from a street shall be considered to be the front lot lines, except where the rear yard requirement is greater than the front yard requirement in which case one (1) of two (2) opposing yards shall be a rear yard.

Figure I: Diagram Illustrating the Various Types of Lots

- (208) "Lot of record" means a lot which is part of a subdivision, the plat of which has been recorded in the office of the Recorder of Montgomery County; or a parcel or tract of land, and the deed to which was on record as of the effective date of this Zoning Code.
- (209) "Manufactured/mobile home park" means a parcel of land under single ownership on which three (3) or more manufactured and/or mobile homes are located.
- (210) "Manufactured/mobile home subdivision" means a subdivision designed and/or intended for the sale of lots for siting manufactured and/or mobile homes.
- (211) "Manufacturing" means establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.
- (212) "Heavy manufacturing" means manufacturing, processing, assembling, storing, testing and similar industrial uses which are generally major operations and extensive in character; require large site, open storage and service areas, extensive services and facilities, ready access to regional transportation; and normally generate some nuisances such as noise, vibration, dust, glare, but not beyond the district boundary.

- (213) "Light manufacturing" means manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet and free of objectionable or hazardous elements such as smoke, noise, odor or dust; operated and stored within enclosed structures; and generate little industrial traffic and no nuisances.
- (214) "Extractive manufacturing" means any mining, quarrying, excavating, processing, storing, separating, cleaning or marketing of any mineral natural resources.
- (215) "Base map" means a map showing the important natural and man-made features of an area. Such maps are used to establish consistency when maps are used for various purposes, that is reproductions of the same base map could be used to show natural resource limitations, public facilities, and land use and as the basis for the official zoning map. The scale and degree of detail shown on the base map depends on the size of the area.
- (216) "Marquee" means any hood, canopy or awning of permanent construction which projects from a wall of a building, usually above an entrance.
- (217) "Master plan". See "comprehensive development plan" in subsection (a)(72) hereof.
- (218) "Median" means a strip of land, centered in a roadway, that is used to separate vehicular traffic traveling in opposite directions.
- (219) "Metes and bounds" means a system of describing and identifying land by measures (metes) and direction (bounds) from an identifiable point of reference such as a monument or other marker, the corner of intersecting streets, or, in rural areas, a tree or other permanent feature. It is the most precise of the three (3) most common forms of urban land description, the others are by street number of house and by blocks and lots in tract subdivision. It is used with precision where land values are high and, more loosely, in rural areas.
- (220) "Mining" means the extraction of minerals including: solids, such as gravel and/or sand; liquids, such as crude petroleum; and gases, such as natural gases. The term includes the functions of quarrying; well operation; milling, such as crushing, screening, washing and flotation; and other preparation customarily done at the mine with or as part of the mining activity.
- (221) "Mini-warehouse" means a structure containing separate storage spaces of varying sizes leased or rented on an individual basis.
- (222) "Mixed use development (MXD)" means the development of a tract of land or building or structure with two (2) or more different uses such as but not limited to, residential, office, manufacturing, retail, public or entertainment, in a compact urban form.

- (223) "Modular/industrialized housing" means a factory-built housing consisting of one (1) or more units designed to be assembled at the building site, and which meets the standards for industrialized units, as provided for by the Ohio Basic Building Code as may be hereafter amended, and as authorized by the State of Ohio Board of Building Standards pursuant to Ohio R.C. 3781.01 et seq. as amended. A "manufactured home dwelling" or "mobile home dwelling" shall not be included in this definition.
- (224) "Moratorium" means a temporary halting or severe restriction on specified development activities. Moratoriums on the issuance of building permits or on sewer hookups, for example, may be imposed to allow the community to build the necessary utilities to accommodate the new development. Interim zoning can be considered a form of moratorium which gives time for the Zoning Code to be changed (or a new one prepared) to allow for changing conditions and needs. Moratoriums are increasingly common and are generally considered to be legal when not abused.
- (225) "Municipality" means the City of Moraine, Ohio.
- (226) "National Flood Insurance Program" means a Federal program which authorizes the sale of Federally subsidized flood insurance in communities where such flood insurance is not available privately.
- (227) "National Historic Preservation Act" means a 1966 Federal law that established a National Register of Historic Places, the Advisory Council on Historic Preservation and authorizing grants in aid for historic properties preservation.
- (228) "National Register of Historic Places" means the official list, established by the National Historic Preservation Act, of sites, districts, buildings, structures and objects significant in the nation's history or whose artistic or architectural value is unique.
- (229) "Nonconforming lot" means a lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of this Zoning Code, but which fails by reasons of such adoption, revision or amendment to conform to the present requirements of the zoning district.
- (230) "Nonconforming sign" means any sign lawfully existing on the effective date of an ordinance, or an amendment thereto, which renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.
- (231) "Nonconforming structure or building" means a structure or building the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to this Zoning Code, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

- (232) "Nonconforming use" means a use or activity which was lawful prior to the adoption, revision or amendment of a Zoning Code, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.
- (233) "Nuisance" means anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses. There are many types of nuisances, and the law can be invoked to determine when, in fact, a nuisance exists and should be abated. Nuisance law forms part of the basis for zoning. The separation of uses through zoning, for example, industrial from residential, helps to foster the enjoyment of residential areas free from pollution, noise, congestion and the other characteristics of industrial areas. Performance standards, which are better able to measure degree of nuisance, have been developed as a way of dealing with activities by the way they perform, rather than as classes.
- (234) "Nursery" means a form of agriculture whose chief function is the growing of plants, shrubs and trees.
- (235) "Nursing home, rest home or convalescent home" means a place, residence or home used for the boarding and care, for a consideration, of not less than three (3) persons, not members of the immediate family operating such facilities, who by reason of age or infirmity are dependent upon the services of others.
- (236) "Occupancy or occupied" means the residing of an individual or individuals overnight in a dwelling unit, or the installation, storage or use of equipment, merchandise or machinery in any public, commercial or industrial building.
- (237) "Occupancy permit" means a required permit allowing occupancy of a building or structure after it has been determined that the building meets all the requirements of applicable ordinances.
- (238) "General office" means an office for the use of professional persons such as doctors, lawyers, accountants, etc.; or general business office such as insurance companies, trade associations, manufacturing companies, investment concerns, banks and trust companies, real estate companies, etc., but not including any kind of retail or wholesale store or warehouse, except as otherwise provided herein.
- (239) "Opaque" means completely screened from view through the use of a man-made screen and/or natural landscaping which serves to visually shield or obscure an abutting or nearby area from another.
- (240) "Open space" means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

- (241) "Common open space" means land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and may include such complimentary structures and improvements as are necessary and appropriate.
- (242) "Green open space" means an open space area not occupied by any structures or impervious surfaces.
- (243) "One (1) year capture area" means the area around the public water supply wellfields delineated by the one (1) year travel time contour.
- (244) "Open space ratio" means the total area of open space divided by the total site area in which the open space is located.
- (245) "Outbuilding" means a separate accessory building or structure not physically connected to the principal building.
- (246) "Overhang" means:
- A. The part of a roof or wall which extends beyond the facade of a lower wall;
 - B. The portion of a vehicle extending beyond the wheel stops or curb.
- (247) "Owner" means any person who, alone or jointly or severally with others, shall have legal title to any land or structure, with or without accompanying actual possession thereof; or shall have charge, care or control of any land or structure as owner or agent of the owner; or an executor, administrator, conservator, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this Zoning Code and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.
- (248) "Parcel" means a lot or tract, or contiguous groups or portions of such lots and/or tracts shown on the assessor's roll of Montgomery County, or contiguous area of land under legal control of any one (1) person, partnership, firm, corporation, syndicate, agency or institution. See also "lot" in subsection (a)(201) hereof; and "tract" in subsection (a)(421) hereof.
- (249) "Off-street parking space" means an area of definite length and width; such area shall be exclusive of drives, aisles or entrances giving access thereto and shall be fully accessible for the storage or parking of permitted vehicles. Such area shall be located totally outside of any street or alley right of way.
- (250) "Public parking space" means an off-street parking area publicly or privately owned available for public use whether free, for compensation or as an accommodation for clients or customers.
- (251) "Paved surface" means a hard, smooth surface made principally of asphaltic concrete, Portland cement or brick that will bear travel.

- (252) "Peak business cycle" means the periodic maximum activity level of a business resulting in the highest inventory levels of regulated substances.
- (253) "Performance bond" or "surety bond" means an agreement by a subdivider or developer with the City of Moraine 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 agreements.
- (254) "Performance standards" means a minimum requirement or maximum allowable limit on the effects or characteristics of a use, usually written in the form of regulatory language. A building code, for example, might specify a performance standard referring to the fire resistance of a wall, rather than specifying its construction materials. Performance standards in zoning might describe allowable uses with respect to smoke, odor, noise, heat, vibration, glare, traffic generation, visual impact and so on, instead of the more traditional classifications of "light" or "heavy" lists of uses. It is a more precise way of defining compatibility and at the same time is intended to expand developer's options. The performance standards have been in the area of industrial emissions. (Local requirements in many fields, especially pollution control, have now been superseded by Federal or State regulations.) Because such measures require technical skill and often some expensive equipment, small communities have tended to prefer the more traditional specification standard approach. In such places, clear statements of purpose or intent often are substituted for precise measurable standards.
- (255) "Perimeter" means the boundaries or borders of a lot, tract or parcel of land.
- (256) "Permit" means written governmental permission issued by an authorized official, empowering the holder thereof to do an act not forbidden by law, but not allowed without such authorization.
(Ord. 995-92. Passed 1-14-93.)
- (257) "Permitted use" means a use by right which is specifically authorized in a particular zoning district. It is contrasted with special uses which are authorized only if certain requirements are met and after review and approval by the Board of Zoning Appeals.
(Ord. 1019-93. Passed 5-27-93.)
- (258) "Person" means a corporation, company, association, society, firm, partnership or joint stock company, as well as an individual, a state, and all political subdivisions of a state or any agency or instrumentality thereof.

- (259) "Personal services" means a use providing services of a personal convenience nature, cleaning, repair, or sales incidental thereto, and including art, dance or music studios, beauty and barber shops, shoe repair, self-service laundry and cleaning service, laundry and cleaning service, laundry and cleaning pick-up stations (where bulk cleaning and servicing is done elsewhere), repair and fitting of clothes and personal accessories, copying and similar services.
- (260) "Planning" means the decision-making process in which goals and objectives are established, existing resources and conditions analyzed, strategies developed, and controls enacted to achieve the goals and objectives to which they relate.
- (261) "Planned Unit Development (PUD)" means:
- A. Land under unified control, planned and developed as a whole; and
 - B. In a single development operation or a definitely programmed series of development operations including all lands and buildings; and
 - C. According to comprehensive and detailed plans which include only streets, utilities, lots or building sites and the like, but also site plans and design principles for all buildings as intended to be located, constructed, used and related to each other; and detailed plans for other uses and improvements on the land as related to buildings; and
 - D. With a program of provision, operation and maintenance of such areas, improvements and facilities necessary for common use by some or all of the occupants of the development, but which will not be provided, operated or maintained at general public expense.
- While a PUD has most commonly been used for housing development, it also is frequently applied to other forms of development such as shopping centers, industrial and office parks, and to mixed-use developments. Planned unit development allows the unified, and hence potentially more desirable and attractive development of an area, based on a comprehensive site plan. PUD can have a number of advantages over conventional lot-by-lot development including: mixing building types and uses to create more heterogeneous and "alive" communities; combining often unusable yard space on individual lots into larger common open spaces; offering greater opportunities for incentives to building lower cost housing; lower street and utility costs resulting from reduced frontage; and the possibility of increasing the density of a development while keeping desired amenities.
- (262) "Planning Commission" means the Planning Commission of the City of Moraine, Ohio.

- (263) "Plat" means a map, generally, or a subdivision, showing the location, boundaries and ownership of individual properties. A plat may simply be the device for officially recording ownership changes or lot division; in communities which have subdivision regulations, submission and approval of a plat is a prerequisite to building. Approval of a preliminary plat, usually by the Planning Commission, involves a determination that the subdivision conforms to the regulations and to the lot-size requirements of the Zoning Code. To plat means to subdivide; where subdivision regulations are in effect this in turn may mean to obtain the necessary approvals without necessarily intending to improve or build, or, where they are not, to record. Property is frequently platted as a speculative venture; platted, but undeveloped property, may require public purchase or other action to bring it up to current regulatory standards.
- (263.1) "Plot" means:
- A. A single unit parcel of land; or
 - B. A parcel that can be identified and referenced to a recorded plat or map.
- (264) "Police power" means the authority of government to exercise controls to protect the public's health, safety, morals and general welfare. As distinct from eminent domain powers, in which government takes property, no compensation need be paid for the imposition of police power controls. The degree to which such exercise becomes, in effect, a taking of property, is a question of long standing and has arisen again lately in connection with the restrictive growth management controls being imposed by some communities.
- (265) "Policy plan" means a plan adopted by Council to serve as a guide for public decision-making in regards to future development by establishing goals, objectives and policies for the City.
- (266) "Preapplication conference" means the discussion held between developers and public officials, usually members of the Planning Commission before formal submission of an application for a permit or for subdivision plat approval. This meeting allows the staff to:
- A. Acquaint the applicant with the comprehensive area or precise plans that apply to this tract, as well as the zoning and other codes that affect the proposed development;
 - B. Suggest improvements to the proposed design on the basis of a review of the sketch plan;
 - C. Advise the applicant on ways to reduce unnecessary costs and encourage the applicant to get financial advice early;

- D. Encourage the applicant to consult appropriate authorities on the character and placement of public utility services;
 - E. Help the applicant to understand the steps to be taken to receive approval; and
 - F. Give the applicant a reading on the likelihood of acceptance of these plans based on appropriate laws and ordinances.
- (267) "Potable water" means water suitable for drinking and cooking purposes.
- (268) "Preliminary approval" means the conferral of certain rights, prior to final approval, after specific elements of a development or site plan have been approved by the proper reviewing authority and agreed to by the applicant.
- (269) "Premises" means a lot, parcel, tract or plot of land together with the buildings and structures therein.
- (270) "Principal use" means the primary predominant use of any lot.
- (271) "Private educational facility" means a privately owned school, including schools owned and operated by religious organizations, offering instruction in the several branches of learning and study required to be taught in the public schools by the State of Ohio.
- (272) "Private club". See subsection (a)(61) hereof.
- (273) "Private street" means a street that is not dedicated to the City.
- (274) "Protected public water supply" means a public water system which serves at least fifteen (15) service connections used by year round residents or regularly serves at least twenty-five (25) year round residents, and having a one (1) year capture area defined through appropriate hydrologic studies.
- (275) "Public hearing" means a meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate.
- (276) "Public improvement" means any improvement, facility or service together with its associated public site or right of way necessary to provide transportation, drainage, public or private utilities, energy or similar essential services.
- (277) "Public notice" means the advertisement of a public hearing in a paper of general circulation in the area, and through other media sources, indicating the time, place and nature of the public hearing.
- (278) "Public sewer and water system" means any system other than an individual septic tank, tile field or individual well, that is operated by a Municipality, governmental agency, or a public utility for the collection, treatment and disposal of wastes and the furnishing of potable water.
- (279) "Public utility" means a closely regulated private enterprise with an exclusive franchise for providing a public service.

- (280) "Public utility facility" means telephone, electric and cable television lines, poles, equipment and structures; water or gas pipes, mains, valves or structures, sewer pipes, valves or structures; pumping stations; telephone exchanges and repeater stations; and all other facilities, equipment and structures necessary for conducting a service by a government or a public utility.
- (281) "Public water supply" shall include but not be limited to county and municipal water supplies, their successors and assigns.
- (282) "Public way" means an alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right of way, road, sidewalk, street, tunnel, viaduct, walk, bicycle path; or other ways on which the general public or a public entity have a right, or which are dedicated, whether improved or not.
- (283) "PUD". See "planned unit development" in subsection (a)(261) hereof.
- (284) "Quasi-public use" means churches, Sunday schools, parochial schools, colleges, hospitals and other facilities of an educational, charitable, philanthropic or nonprofit nature.
- (285) "Quarry" means any operation, including accessory structures and roads, involving the extraction of clay, sand, gravel, limestone, shale or other mineral resources, including all the contiguous property used or owned in reserve by the person, firm or corporation involved with such operation.
- (286) "Rear yard". See subsection (a)(465) hereof.
- (287) "Reasonable use doctrine" means a common law principle that no one has the right to use his property in a way which deprives others of the lawful enjoyment of their property.
- (288) "Active recreation" means leisure time activities, usually of a more formal nature and performed with others, often requiring equipment and taking place at prescribed places, sites or fields.
- (289) "Recreation facility" means a place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities.
- (290) "Commercial recreational facility" means a recreation facility operated as a business and open to the public for a fee.
- (291) "Private recreational facility" means a recreation facility operated by a nonprofit organization, and open only to bona fide members and guests of such nonprofit organization.
- (292) "Public recreational facility" means a recreation facility operated by a governmental agency and open to the general public.
- (293) "Recharge lagoon" means a body of water designed and maintained by man to add water to the groundwater at a rate greater than that occurring naturally.

- (294) "Recreational vehicle" means a vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational or sporting purposes. The term "recreational vehicle" includes, but is not limited to, travel trailers, pick-up campers, camping trailers, motor coach homes, converted trucks and buses, and boats and boat trailers. Such vehicles shall have a body width of no more than eight (8) feet and a body length of no more than thirty-two (32) feet when factory equipped for the road.
- (295) "Recreational vehicle park" means an area of land on which two (2) or more travel trailers, campers, tents or other similar temporary recreational structures are regularly accommodated with or without charge, including any building, structure, fixture or equipment that is used or intended to be used in connection with providing such accommodations.
- (296) "Recycling center" means a facility which is not a junkyard and in which recoverable resources, such as newspaper, glassware and metal cans, are collected, stored, flattened, crushed or bundled, essentially by hand or within a completely enclosed building.
- (297) "Recycling collection point" means an incidental use which serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items would be allowed. This facility would generally be located in a shopping center parking lot or in other public/quasi-public areas such as churches or schools.
- (298) "Recycling plant" means a facility which is not a junkyard and in which recoverable resources such as newspapers, magazines, books, and other paper products, glass, metal cans, and other products are recycled, reprocessed and treated to return such products to a condition in which they may again be used for production.
- (299) "Refinery" means an industrial plant for purifying a crude substance, such as petroleum or methane gas.
- (300) "Regulated substances" means substances to be regulated, and mixtures of chemicals which are health hazards. Regulated substances include:
- (1) 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 nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes or mucous membranes.
 - (2) Mixtures of chemicals which have been tested as a whole and have been determined to be a health hazard.

- (3) 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.
 - (4) Ingredients of mixtures prepared within the WO Wellhead Operation District and 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) is noncarcinogenic; and
 - (5) Petroleum and nonsolid petroleum derivatives (except non-PCB dielectric fluids).
- (301) "Residential density" means the number of dwelling units per acre of residential land.
- (302) "Restaurant" means an establishment where food and drink is prepared, served and consumed primarily within the principal building. See also subsections (a)(303), (304), (304.1) and (305) hereof.
- (303) "Carry out restaurant" means an establishment offering food or beverages, which may include liquor, beer and wine, if licensed by the State of Ohio, where the food and beverages are dispensed at the counter for consumption within the building or off the premises.
- (304) "Drive-in restaurant" means an establishment offering food and beverages which are sold within the building, or to persons while in motor vehicles in an area designated for drive-in service, and may be consumed on or off the premises.
- (304.1) "Fast food restaurant" means an establishment where principal business is the sale of food and/or beverages in a ready-to-consume state for consumption:
- A. Within the restaurant building;
 - B. Within a motor vehicle parked on the premises; or
 - C. Off the premises as carry-out orders;
- and whose principal method of operation includes the following characteristics: food and/or beverages are usually served in edible containers or in paper, plastic or other disposable containers.
- (305) "Standard restaurant" means an establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes one (1) or both of the following characteristics:
- A. Customers, normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; and/or

- B. A cafeteria-type operation where food and beverages generally are consumed within the restaurant building.
- (306) "Restrictive covenant" means a restriction on the use of land usually set forth in the deed.
- (307) "Retail" means sale to the ultimate consumer for direct consumption and/or use and not for resale.
- (308) "Retail services" means establishments providing services or entertainment, as opposed to products, to the general public, including eating and drinking places, hotels and motels, finance, real estate and insurance, personal services, motion picture, amusement and recreation services, health, educational and social services, museums and galleries.
- (309) "Rezoning" means an amendment to or a change in the Zoning Code. Rezoning can take three (3) forms:
- A. A comprehensive revision or modification of the zoning text and map;
- B. A text change in zone requirements; and
- C. A change in the map, that is the zoning designation of a particular parcel or parcels.
- The last, so-called small-parcel rezoning, has often been used to add flexibility to the zoning process, usually unintentionally. One (1) form of text change, the importance of which may be unrecognized, is a change in a definition. For example, changing the definition of townhouses to include them under multi-family or single-family dwellings may significantly affect where and how they are permitted. Rezoning, like enactment of the original ordinance, are legislative acts that, except under rare and specifically defined circumstances, cannot be delegated to administrative officials.
- (310) "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. No permanent structure of any type shall be constructed or placed in the right of way.
- (311) "Right-of-way lines" means the lines that form the boundaries of a right of way.
- (312) "Ringelmann chart" means a device used to measure the opacity of smoke emitted from stacks and other sources.
- (313) "Gable roof" means a ridge roof forming a gable at both ends of the buildings.
- (314) "Gambrel roof" means a gabled roof with two (2) slopes on each side, the lower steeper than the upper.
- (315) "Hip roof" means a roof with sloping ends and sides.
- (316) "Mansard roof" means a roof with two (2) slopes on each of four (4) sides, the lower steeper than the upper.

- (317) "Shed roof" means a roof with one (1) slope.
- (318) "Habitable room" means a room occupied or designed to be occupied by one (1) or more persons for living, sleeping, eating or cooking, including kitchens serving a dwelling unit; but not including bathrooms, toilet compartments, laundries, pantries, cellars, attics for storage and other similar spaces.
- (319) "Rooming house". See "boarding house" in subsection (a)(28) hereof.
- (320) "Row house". See "row dwelling" in subsection (a)(116) hereof.
- (321) "Run with the land" means a covenant or restriction to the use of land contained in a deed and binding on the present and all future owners of the property.
- (322) "Salvage" means the utilization of waste materials.
- (323) "School" means the use of a premises for the frequent instruction, education or part-time care of five (5) or more persons simultaneously. The number five (5) shall not include any member of a family residing on the premises.
- A. "Part-time care", as used in this definition, means the part-time care of children twelve (12) years of age or younger who do not reside on the premises.
- B. "Frequent", as used in this definition, means school sessions occurring more than five (5) times during any thirty (30) day period.
- (324) "Nursery, kindergarten, day care school" means a school providing general daytime care and/or instruction for children twelve (12) years of age or younger which conducts no instructional programs certified by the State Board of Education as meeting the minimum educational requirements of the Ohio Revised Code for compulsory-age children, ages six (6) to eighteen (18) years. Hours of operation shall be limited to the daytime hours between 6:00 a.m. and 9:00 p.m.
- (325) "Compulsory (grades 1 to 12) school" means a public or private, for-profit or not-for-profit school whose primary use is to conduct regular academic instruction and/or special substitute educational programs which are certified by the State Board of Education as meeting the minimum educational requirements of the Ohio Revised Code for compulsory-age children attending the school. As a secondary use, the school may conduct optional community programs and activities involving persons of any age, such as but not limited to child day care, pre-kindergarten, evening classes, summer programs, recreational and cultural programs and special events. The Ohio Revised Code requires the education of all children of compulsory-age, six (6) to eighteen (18) years of age.

- (326) "College, university or seminary school" means public or other not-for-profit schools conducting regular academic instruction at the college level, including graduate schools, universities, community and junior colleges, colleges, nonprofit research institutions, seminaries and religious institutions, and including related instructional and recreational uses with or without living quarters, dining rooms, restaurants, heating plants and other incidental facilities for students, teachers and employees. Such schools shall either:
- A. Offer general academic instruction equivalent to the standards prescribed by the State of Ohio, Board of Education; or
 - B. Confer degrees as college or university, junior college or community college with undergraduate or graduate standing; or
 - C. Conduct research; or
 - D. Give religious instruction.
- This definition does not include schools, academies or institutions, incorporated or otherwise, which operate for profit, nor does it include commercial, trade or business schools.
- (327) "Trade, business or other school" means a school operated for profit which teaches business, professional or technical trades or skills, or a school not otherwise included within the provisions of this Zoning Code.
- (328) "Fine arts school". See "commercial studio" and "instructional studio" in subsections (a)(402) and (403).
- (329) "Vocational school" means a school offering training and instruction in vocations including, but not limited to, medical, dental and animal health technicians, barbers and beauty operators.
- (330) "Screening" means a physical barrier of living or nonliving material that separates and/or obscures vision from a higher intensity land use to a residential use.
- (331) "Service clubs" means an association organized and operated not-for-profit for persons who are bona fide members paying annual dues, which owns, hires or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting.
- Food, meals and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests, provided such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all applicable Federal, State, County and local laws.

- (332) "Service station". See "vehicular service station" in subsection (a)(448) hereof.
- (333) "Services" means establishments primarily engaged in providing services for individuals, business and government establishments and other organizations; including hotels and other lodging places; establishments providing personal, business, repair and amusement services; health, legal, engineering and other professional services; educational institutions; membership organizations, and other miscellaneous services. See "business services" in subsection (a)(50) hereof, "personal services" in subsection (a)(259) hereof and "retail services" in subsection (a)(308) hereof.
- (334) "Setback line" means that line which is the required minimum distance as measured from the street right-of-way line as identified on the City's official thoroughfare plan or any other lot line that establishes the area within which the principal structure shall be erected or placed. See also "building line" in subsection (a)(39) hereof.
- (335) "Central or group sewers" means 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.
- (336) "On-site sewers" means a septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process and equally satisfactory process for the elimination of the sewage, and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.
- (337) "Shared housing" means a housing arrangement for more than three (3) independent elderly persons who pool their resources to maintain a single housekeeping unit.
- (338) "Shopping center" means a group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements. Comment: Shopping centers are further defined by size and the area their shoppers come from:
- A. A super regional center includes retail, office and service uses, occupies over 100 acres, has four (4) or more anchor stores and contains over 1,000,000 square feet of gross leasable space;
 - B. A regional shopping center contains a wide range of retail and service establishments, occupies fifty (50) to 100 acres of land, has at least one (1) or more anchor stores and contains over 400,000 square feet of gross leasable space. It draws its clientele from as much as a forty-five (45) minute drive away;

- C. Community shopping centers shall feature a junior department store with approximately 150,000 square feet of gross leasable area, and have a site area of ten (10) to twenty-five (25) acres. Its clientele will come a radius of a ten (10) minute drive from the center;
- D. Neighborhood shopping centers generally sell goods necessary to meet daily needs, occupies up to ten (10) acres, has up to 100,000 square feet of gross leasable area, and draws its clientele from a five (5) minute radius from the center.
- (339) "Side yard". See subsection (a)(466) hereof.
- (340) "Sight triangle" means a triangular shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.
- (341) "Sign" means any words, lettering, figures, numerals, phrases, sentences, devices, designs, pictures, symbols or trade marks by which anything is made known, such as are used to designate a firm, an association, a corporation, a business, a service of a commodity or product, or any type of publicity, whether placed on natural objects or on a building, fence or other man-made structure, which are visible from any public street or public road right of way.
- (342) "Advertising sign" means a sign which directs attention to a business, product, activity or service which is not conducted, sold or offered upon the premises where such sign is located.
- (343) "Animated sign" means any sign having a conspicuous and intermittent variation in the physical position of any part of the sign.
- (344) "Sign area" means the entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem or any figure of similar character together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed. The necessary supports or uprights on which such sign is placed, not being advertising matter, shall not be included in computation of surface area.
- (345) "Awning, canopy or marquee sign" means a sign that is mounted on or painted on or attached to an awning, canopy or marquee.
- (346) "Business sign" means a sign which directs attention to a business, profession, service, product or activity sold or offered upon the premises where such sign is located.
- (347) "Bulletin board sign" means a structure containing a surface upon which is displayed the name of a religious institution, school or library, auditorium, stadium, athletic field or area of similar use for the announcement of services or activities to be held therein.
(Ord. 995-92. Passed 1-14-93.)

- (347.1) "Commercial advertising sign" means any sign which describes, touts or offers for sale a product or service either directly or indirectly. Commercial advertising signs also include signs advertising the availability of real estate for sale, lease or rent when such signs are not located on the parcel or real estate being advertised and signs which identify or promote a business or institution.
(Ord. 1039-93. Passed 10-14-93.)
- (348) "Construction sign" means a sign advertising the development or improvement of a property by a builder, contractor or other person furnishing services, material or labor to such premises, which sign is intended for a limited period of display and erected on the same lot as the work being done.
- (349) "Directional sign" means a sign directing vehicular or pedestrian movement onto a premise or within a premise.
- (350) "Domestic advertising sign" means a sign advertising the sale of household goods previously used by an individual or his family, when such sign is located at the place of residence of the individual or family.
- (351) "Sign face" means the surface of the sign upon, against or through which the message of the sign is exhibited.
- (352) "Flashing sign" means any sign having a conspicuous and intermittent variation in the illumination of the sign.
- (353) "Free-standing sign" means a sign which is supported by one (1) or more uprights, poles, or braces in or upon the ground.
- (354) "Governmental sign" means a sign erected and maintained pursuant to and in discharge of any governmental functions, or required by law, ordinance or other governmental regulation.
(Ord. 995-92. Passed 1-14-93.)
- (355) "Ground sign" means a free-standing sign supported by one (1) or more uprights, braces or pylons located in or upon the ground, or something requiring location on the ground. (Ord. 1209-97. Passed 10-9-97.)
- (356) "Sign height" means the vertical distance from the uppermost point used in measuring the area of the sign to the crown of the road on which the property fronts.
- (357) "Holiday decoration sign" means temporary signs, in the nature of decorations, clearly incidental to and customarily and commonly associated with any national, local or religious holiday.
- (358) "Identification sign" means a sign which is limited to the name, address and number of a building, institution or person and to the activity carried on in the building or institution, or the occupancy of the person.
- (359) "Sign illumination" means any sign illuminated by electricity, gas or other artificial light including reflecting or phosphorescent light.
- A. "Indirect illumination" means a light source not seen directly.
- B. "Internal illumination" means a light source concealed or contained within the sign, and which becomes visible in darkness through a translucent surface.

- (360) "Interior sign" means signs located within a structure not intended to be seen from the exterior. Signs affixed to a window or the walls enclosing the display area behind a window, which are obviously intended for viewing from the exterior, shall be considered exterior signs.
- (361) "Sign light device" means any light, string of lights or group of lights located or arranged so as to cause illumination on a sign.
- (362) "Memorial sign" means a sign, tablet or plaque memorializing a person, event, structure or site.
- (363) "Name plate sign" means a sign designating only the name and address or the name and professional occupation and address of a person or persons residing in or occupying such building or premises.
- (364) "On-premises sign" means any sign related to a business or profession conducted, or a commodity or service sold or offered, upon the premises where such sign is located.
- (365) "On-site informational sign" means a sign commonly associated with, and not limited to, information and directions necessary or convenient of visitors coming on the property, including signs marking entrances and exits, parking areas, circulation direction, rest rooms and pick-up and delivery areas.
- (366) "Painted bulletin sign" means an advertising structure on which advertising design is painted, or painted and posted, and which may incorporate the use of cutouts and/or other embellishments.
- (367) "Pole sign" means a sign that is mounted on a free standing pole or other support so that the bottom edge of the sign face is six (6) feet or more above grade.
- (368) "Political sign" means a sign which promotes, identifies, announces, opposes or otherwise offers for the public consideration any political candidate or issue, partisan or nonpartisan.
- (369) "Portable sign" means a sign that is attached to wheels, skids or other forms of mounting which is not permanently affixed in or to the ground.
- (370) "Poster panel sign" means an advertising structure measuring not more than twelve (12) feet by twenty-five (25) feet overall on which posters are displayed.
- (371) "Projecting sign" means a sign which is affixed to any building or part thereof, or structure, which extends beyond the building wall or parts thereof, or structure, by more than twelve (12) inches. A projecting sign shall not include a ground sign as herein defined.

- (372) "Real estate sign" means a sign advertising for sale, lease or rent the parcel of real estate on which the sign is located. Also temporary directional signs less than four (4) square feet in message area displayed during the hours in which an "open house" showing of real property for sale, lease or rent is actually being conducted shall be considered "real estate signs", even though they may not be located on the parcel of real estate being advertised. "Sold" signs shall be considered commercial advertising signs.
- (373) "Roof sign" means a sign erected upon or above a roof or parapet wall of a building or structure.
- (374) "Sign structure" means the supports, uprights, bracing or framework for signs.
- (375) "Subdivision sign" means a sign advertising the sale or development of subdivision lots, parcels or tracts and erected upon the property being subdivided and advertised for sale.
- (376) "Temporary sign" means a banner, pennant, poster, display or illustration which is affixed to or painted upon or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, place, person, institution, organization or business and is constructed of cloth, canvas, plastic sheet, cardboard or other like materials and which is intended to be displayed for a limited period of time as determined by the Planning Commission.
- (377) "Wall sign" means any sign painted on, attached to or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of such wall and extending not more than fifteen (15) inches from the face of the wall.
- (378) "Warning sign" means any sign indicating danger or a situation which is potentially dangerous.
- (379) (Reserved for future legislation.)
- (380) "Window permanent sign" means any sign visible from the exterior of a building or structure which is painted, attached, glued or otherwise affixed to a window or depicted upon a card, paper or other material and placed on, taped on or hung immediately behind the window or displayed from a window for the specific purpose of identifying the proprietor or name of business to the passer-by.
- (381) "Window temporary sign" means a sign visible from the exterior of a building or structure which is painted on a window; depicted upon a card, paper or other material or placed on, taped on, or hung immediately behind the window, or displayed from a window for the specific purpose of attracting attention of the passer-by to a sale, or to promotional items, or other products or services.
- (382) "Single-family dwelling". See subsection (a)(118) hereof.

- (383) "Site" means a plot of land intended or suitable for development; also the ground or area on which a building or town has been built. See also "parcel" in subsection (a)(248) hereof, "plot" in subsection (a)(263.1) hereof and "site plan" in subsection (a)(384) hereof.
- (384) "Site plan" means the development plan for one (1) or more lots on which is shown the existing and proposed conditions of the lot including; topography, vegetation drainage, floodplains, marshes and waterways; open spaces, walkways, means of ingress and egress, utility services, landscaping, structures and signs, lighting and screening devices; any other information that reasonably may be required in order that an informed decision can be made by the approving authority.
- (385) "Sketch (concept; outline) plan or plat" means a generalized map that is prepared by a developer, usually before the preapplication conference, to let the developer/subdivider save time and expense in reaching agreement with the Planning Commission as to the form of the plan and the purposes of the regulation. Its purpose is simply to serve as a basis for discussion without either side making commitments.
- (386) "Soil erosion and sediment" means a plan that indicates necessary land treatment measures, including a schedule for installation, which shall effectively minimize soil erosion and sedimentation.
- (387) "Special District" means a particular zoning designation and related provisions applied to certain areas of the City which are characterized by unique physical attributes and/or circumstances. Two (2) examples of such districts are Floodplain designation and Historic Districts.
- (388) "Special use". See subsection (a)(441) hereof.
- (389) "Spot zoning" means zoning a relatively small area differently from the zoning of the surrounding area, usually for an incompatible use and to favor the owner of a particular piece or pieces of property. "Spot zoning" is invalidated by the courts when it violates "in accordance with a Comprehensive Plan" requirements of State enabling legislation. The "spotness" is in the arbitrary and inappropriate nature of the change rather than, as is commonly believed, in the size of the area.
- "Spot zoning" often is a reason why many flexible techniques such as floating zones or conditional rezoning have been prohibited, the argument being that conferring narrow development permission is a form of "spot zoning". Special small-area zoning districts, however, have been upheld where the comprehensive plan demonstrates a special need, such as for an historic area or to preserve a sensitive natural area. "Spot zoning", in sum, can be legal or illegal, but laymen generally think that it always is illegal and use the term loosely, and disparaging at public hearings when they oppose the change.

- (390) "Stable" means a structure that is used for the shelter or maintenance of horses and cattle.
- (391) "Standards", while often used loosely to refer to all requirements in a Zoning Code, usually means site design regulations such as lot area, height limits, frontage, landscaping, yards and floor area ratio, as distinguished from use restrictions.
- (392) "Statement of intent (statement of purpose)" means a statement of policy or objectives, often incorporated in a Zoning Code, which outlines the broad purpose of the Zoning Code and its relationship to the comprehensive plan; frequently, a statement preceding regulations for individual districts, which helps to characterize the districts, and their legislative purpose. When the application of particular district requirements is challenged in court, the courts rely on the intent statement in deciding whether the application is reasonable and related to a defensible public purpose. As Zoning Codes become more complex, with numerous special districts and flexible applications, statements of intent, which guide users, administrative officials, and the courts, are making more frequent appearances.
- (393) "Steep slopes" means land area where the inclination of the land's surface from the horizontal is twelve percent (12%) or greater. Slope is determined from on-site topographic surveys prepared with a two (2) foot contour interval.
- (394) "Strip zoning" means a zone normally consisting of a ribbon of uses fronting both sides of an arterial roadway and extending inward for half a block. Strip commercial development is the most common form and occurs naturally everywhere. In suburban areas or along well-traveled roads, is usually characterized by an assortment of gas stations, drive-in and fast food restaurants, motels, tourist shops, and some automobile sales and service operations. In fringe areas, such uses may be interspersed with a few farms and farm service outlets like feed distributors and large equipment sales; unlimited highway access to such uses severely reduces road carrying capacity. And in other cities, strips of convenience stores and other retail stores are found scattered within residential neighborhoods. "Strip zoning" is a recognition that since such development will not go away, its most irksome characteristics should be controlled. These include access, use limitations, parking, signs, some development standards, and occasionally, though seldom successfully, clustering requirements and aesthetic controls.

- (395) "Story" means that part of a building, except a mezzanine, included between the surface of one (1) floor and the surface of the next floor, or if there is not a floor above, then the ceiling next above. A story thus defined shall not be counted as a story when more than fifty percent (50%), by cubic content, is below the height level of the adjoining ground.
- (396) "Half story" means an uppermost story lying under a sloping roof, the usable floor area of which, at a height of four (4) feet above the floor does not exceed two-thirds (2/3) of the floor area in the story directly below, and the height above at least 200 square feet of floor space is seven (7) feet, six (6) inches.
- (397) "Street". See "thoroughfare, street or road" in subsection (a)(419) hereof.
- (398) "Structural alteration" means any change in the supporting members of a building, such as the bearing walls, beams or girders, or any change in the dimension or configuration of the roof or exterior walls.
- (399) "Structure" means anything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences and billboards.
- (400) "Studio" means a building or portion of a building used as a place of work by an artist, photographer or artisan, or used for radio or television broadcasting.
- (401) "Studio apartment". See "efficiency dwelling unit" in subsection (a)(123) hereof.
- (402) "Commercial studio" means a commercial operation which includes the sale of, and may include the instruction in, arts and crafts, dance, music and instruments, commercial photography and other similar commercially oriented operations.
- (403) "Instructional studio" means an operation involving fine arts and crafts, oriented primarily to instruction, such as the studio of an artist, sculptor, ceramics teacher or other similar person teaching arts and crafts, not including dance or music lessons.
- (404) "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 (2) or more parcels, sites or lots any one (1) of which is less than five (5) 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 (5) 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 (1) or more parcels of land for residential, commercial or industrial structures or groups or 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 space 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 also "minor subdivision" in subsection (a)(405) hereof.
- (405) "Minor subdivision" means a division of a parcel of land that has the following characteristics:
- A. Land is located along an existing public road;
 - B. No opening, widening or extension of any road is involved;
 - C. No more than five (5) lots, after the original tract is completely subdivided, are involved; and
 - D. The request for division is not contrary to platting, subdividing or zoning regulations.
- (406) "Supermarket" means a single owner large self-service retail food and household-goods store, which provides on-site customer and employee parking, provision for goods delivery separated from customer access. Supermarkets may also be a part of a group of commercial establishments constructed and managed as a total entity. See "neighborhood shopping centers" in subsection (338)D. hereof.
- (407) "Supply yards" means a commercial establishment storing and offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods.
- (408) "Surveyor" means any person registered to practice surveying.
- (409) "Swale" means a depression in the ground which channels run-off.
- (410) "Swimming pool" means a pool, pond, lake or open tank containing over eighteen (18) inches of water at any point and maintained by the owner or manager.
- A. "Private swimming pool" is exclusively used without paying an additional charge for admission by the residents and guests of a single household, a multi-family development, or a community, the members and guests of a club, or the patrons of a motel or hotel; an accessory use.
 - B. "Community swimming pool" is operated by the City of Moraine with a charge for admission, a primary use.
- (411) "Taking" means to take, expropriate, acquire or seize property without compensation. See "eminent domain" in subsection (a)(133) hereof.
- (412) "Tank farm" means an open air facility containing a number of above-ground, large containers for the bulk storage of material in gaseous, liquid, powder or pellet form.
- (413) "Tavern" means an establishment used primarily for the serving of liquor by the drink to the general public and where food or packaged liquors may be served or sold only as accessory to the primary use.
(Ord. 995-92. Passed 1-14-93.)

(413.1)"Telecommunication Definitions".

- A. "Personal Wireless Services" means commercial mobile radio services (CMRS), unlicensed wireless services, common carrier wireless exchange services and functionally equivalent services.
 - B. "Personal Wireless Service Facility" means monopole and lattice towers, antennas, telephone switching equipment, wires, fibers, conduits, vaults, equipment cabinets or buildings such as mobile telephone switching offices and mobile switching centers utilized within a Personal Wireless Service network.
 - C. "Radio and Television Service Facility" means, but is not limited to a tower or structure utilized for the transmission, reception and relaying of radio and television services.
 - D. "Telecommunications Network" means all sites, present and future, utilized by a carrier for the purpose of providing their service.
 - E. "Functionally Equivalent Service" means services of equal functioning value, more specifically in terms of CMRS: Cellular services, Personal Communication Services (PCS), Specialized Mobile Radio (SMR), Enhanced Specialized Mobile Radio (ESMR), Paging services, Multichannel and/or Multipoint Distribution Services (MDS) and Direct Broadcast Satellite (DBS).
 - F. "Co-location" means the technique of installing facilities for multiple (two or more) uses at one location. Locations can be vertically co-located on existing buildings structures or horizontally co-located on the same or proximate site.
 - G. "Mounts, on Existing Telecommunications Facilities" means locating telecommunications facilities, excluding towers, on an existing monopole, lattice tower, guyed tower, roof or side of building, or mounting on a structure other than those mentioned.
 - H. "Antennas" mean panels, whips, commercial microwave dishes, or cross/dual-polarized.
 - I. "Carrier" means the company owning the facility, or designee of the company. Carriers include, but are not limited to, licensed, non-licensed, and governmental services providers and users.
 - J. "Tall Structures" mean any structure or building, including but not limited to, smoke stacks, water towers, buildings over thirty-five (35) feet in height, or antenna mounts.
 - K. "Intrusive" means interrupting, or having the effect of interrupting, the general motif of the area surrounding the site in question. This regards issues including, but not limited to, aesthetics, safety, visibility, etc.
 - L. "Micro Antennas" mean any telecommunication antenna which consist solely of the antenna and which do not have any supporting structures other than brackets, including micro cells.
- (Ord. 1203-97. Passed 7-10-97.)

- (414) "Temporary structure" means a structure without any foundation or footings and which is removed when the designated time period, activity or use for which the temporary structure was erected has ceased.
- (415) "Temporary use" means a use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.
- (416) "Terminal" means:
- A. A place where transfer between modes of transportation takes place; or
 - B. A terminating point where goods are transferred from a truck to a storage area or to other trucks, or picked up by the same or other forms of transportation.
- (417) "Topography" means the configuration of a surface area showing relative elevations.
- (418) "Thoroughfare plan" means the official thoroughfare plan of, and as adopted by the Planning Commission and Council of the City of Moraine, Ohio, establishing the location and official right-of-way widths of principal highways and streets in the City, on file in the offices of the Recorder and MVRPC, together with all subsequent amendments. All required setbacks shall be measured from the proposed right-of-way lines indicated within the thoroughfare plan.
- (419) "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 and designated as follows:
- A. "Principal arterial" system involves major thoroughfares serving the major activity centers of the metro area. Principal arterials carry a high proportion of the total urban area travel on a minimum of mileage.
 - B. "Minor arterial" system involves major thoroughfares of a lesser scale than principal arterials. Such facilities may carry local bus routes and provide intra-community continuity but usually do not penetrate identifiable neighborhoods.
 - C. "Major collector" typically contains seventy (70) feet of right of way while a minor collector generally contains sixty (60) feet of right of way. Both primarily carry traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.
 - D. "Cul-de-sac or court" means a local street of relatively short length with one (1) end open to traffic and the other end terminating in a vehicular turnaround.
 - E. "Dead-end street" means a street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.
 - F. "Local street" system comprises all facilities not on one (1) of the higher systems. It serves primarily to provide direct access to abutting land and access to the high order systems. Service to through traffic movement usually is deliberately discouraged.

- G. "Loop street" means a type of local street, each end of which terminates at an intersection with the same arterial or collector street, and whose principal radius points of the 180 degree system of turns are not more than 1,000 feet from such arterial or collector street, nor normally more than 600 feet from each other.
- H. "Marginal access street" means a local or collector street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets (also called frontage streets).
- I. "Alley" means a service way providing a secondary means of public access to the rear of abutting property and not intended for general traffic circulation.
- (420) "Townhouse". See "townhouse dwelling" in subsection (a)(119) hereof.
- (421) "Tract" means an area, parcel, site, piece of land or property which is the subject of a development application.
- (422) "Trailer" means a structure standing on wheels, towed or hauled by another vehicle and used for short-term human occupancy, carrying materials, goods or objects, or as a temporary office.
- (423) "Trailer court". See "manufactured/mobile home park" in subsection (a)(209) hereof.
- (424) "Transfer of development rights (TDR)" means the removal of the right to develop or build, expressed in dwelling units per acre, from land in one (1) zoning district to land in another district where such transfer is permitted.
- (425) "Transition zone" means a zoning district permitting transitional uses.
- (426) "Transitional lot" means a specified lot, or lots, adjoining a specified lot, or lots, in another district. The "transitional" identification is used when special transitional regulations are applied to deal with possible conflicts of uses at district boundaries. Transitional yard requirements may be imposed at these locations to act as a sort of buffer zone.
- (427) "Transitional use" means a use permitted under the Zoning Code, which, by its nature or level and scale of activity, acts as a transition or buffer between two (2) or more incompatible uses.
- (428) "Trash containers" means:
- A. "Can-type trash and refuse receptacles" means that type of refuse container not exceeding forty (40) gallon capacity which can be manually lifted and dumped.
- B. "Metal dumpster" means that type of trash and refuse containers which exceed forty (40) gallon capacity, and are self-dumping by means of a specially designed front, side or rear loading vehicle.
- (429) "Travel time contour" means a locus of points from which water takes an equal amount of time to reach a given destination such as a well or well field.
- (430) "Truck camper" means a structure designed to fit into the bed of a pick-up truck and used for temporary shelter and sleeping.

- (431) "Truck stop " means any building, premises or land in which or upon which a business, service or industry involving the maintenance, servicing, storage or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into motor vehicles, the sale of accessories or equipment for trucks and similar commercial vehicles. A "truck stop" also may include overnight accommodations and restaurant facilities solely for the use of truck crews.
- (432) "Truck terminal" means premises which are used for loading or unloading of trucks upon which storage of cargo is incidental to the primary function of motor freight shipment or shipment point, and which is designed to accommodate the simultaneous loading or unloading of two (2) or more trucks.
- (433) "Two-family dwelling" or "duplex". See subsection (a)(121) hereof.
- (434) "Usable open space" means outdoor or unenclosed area on the ground, or on a roof, balcony, deck, porch or terrace, designed and accessible for outdoor living, recreation, pedestrian access or landscaping, but excluding parking facilities, driveways, utility or service areas, or any required front or street side yard, and excluding any space with a dimension of less than eighty (80) square feet.
- (435) "Usable floor area" means, for the purpose of computing parking, that area used for or intended to be used for the sale of merchandise or services or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, or for utilities, shall be excluded from this computation of "usable floor area". Measurement of floor area shall be the sum of gross horizontal area of the several floors of the building, measured from the interior faces of the exterior walls.
- (436) "Use" means the specific purpose for which land or a building is designated, arranged, intended or for which it is or may be occupied or maintained.
- (437) "Accessory use" means one which:
- A. Is subordinate to and serves a principal structure or a principal use;
 - B. Is subordinate in area, extent and purpose to the principal structure or use served;
 - C. Is located on the same lot as the principal structure or use served except as otherwise expressly authorized by provisions of this Zoning Code; and
 - D. Is customarily incidental to the principal structure or use.
- (438) "Nonconformance use" means a use which lawfully occupied a building or land at the time this Zoning Code or an amendment hereto became effective and which does not now conform with the use regulations applicable in the zone district in which it is located.
- (439) "Principal use" means a use which fulfills a primary function of a household, establishment, institution or other entity.

- (440) "Permitted use" means a use listed by the regulations of any particular district as a permitted use within that district, and permitted therein as a matter of right when conducted in accord with the regulations established by this Zoning Code. (Ord. 995-92. Passed 1-14-93.)
- (441) "Special use" means a use permitted within a district other than a use by right, requiring specific approval by City Council following their review of the proposed plan. (Ord. 1203-97. Passed 7-10-97.)
- (442) "Temporary use". See subsection (a)(415) hereof.
- (443) "Transitional use". See "transitional use" in subsection (a)(427) hereof.
- (444) "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. Flow-through process tanks and septic tanks approved by the Health Department or Ohio Environmental Protection Agency, as applicable, are excluded from the definition of underground storage tanks.
- (445) "Van" means:
- A. A closed vehicle with a capacity of approximately eight (8) to twelve (12) passengers; or a similar subject vehicle modified for commercial program;
 - B. A self-propelled recreational vehicle containing sleeping facilities but no bathroom or cooking facilities; or
 - C. A large truck for carrying furniture or freight.
- (446) "Variance" means a modification of the strict terms of the relevant regulations where such modification shall 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, literal enforcement of the regulations would result in unnecessary and undue hardship.
- (447) "Vehicle repair garage" means a place where the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; painting and undercoating of automobiles.
- (448) "Vehicular service station" means a place where gasoline or any other automobile engine fuel (stored only in underground tanks), kerosene or motor oil and lubricants or grease (for operation of automobiles) are retailed directly to the public on the premises; including sale of minor accessories and services for automobiles. These facilities are distinguished from "truck stops" which are primarily established to service trucks.

- (449) "Vested right" means a right that has become absolute and fixed and cannot be defeated or denied by subsequent conditions or change in regulations, unless it is taken and paid for. There is no "vested right" to an existing zoning classification or to have zoning remain the same forever. However, once development has been started or has been completed, there is a right to maintain that particular use regardless of the classification given the property. In order for a nonconforming use to earn the right to continue when the zoning is changed, the right shall have been vested before the change. If the right to complete the development has not been vested, it may not be built, no nonconforming use shall be established, and the new regulations shall have to be complied with.
- Vested rights are often established by showing that some development permit has been obtained and substantial construction on the project started. How much construction or land improvements shall have been completed before the rights are vested varies among the states. In some states application for a building permit or other development approval may be sufficient to establish a "vested right" to complete a project. Others may require substantial investment and beginning of construction on the land, with completion of structures that are unique to the planned project.
- (450) "Veterinary animal hospital or clinic" means a place used for the care, grooming, diagnosis and treatment of sick, ailing, infirm or injured animals, and those who are in need of medical or surgical attention and may include overnight accommodations on the premises for the treatment, observation and/or recuperation. It may also include boarding that is incidental to the primary activity.
- (451) "Vicinity map" means a drawing located on a 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 within the general area in order to better locate and orient the area in question.
- (452) "Vocational school". See subsection (a)(329) hereof.
- (453) "Walkup" means an apartment building of more than two (2) stories that is not equipped with an elevator.
- (454) "Warehouse" means a building or portion thereof used and appropriated by the occupancy:
- A. For the deposit and safekeeping or selling of his own goods at wholesale or by mail order; or
 - B. For the purpose of storing the goods of others placed there in the regular course of commercial dealing and trade, to be again removed or reshipped.
- (455) "Wastewater" means water carrying wastes from homes, businesses and industries that is a mixture of water and dissolved or suspended solids, or excess irrigation water that is run-off to adjacent land.

- (456) "Watercourse" means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or flood water.
- (457) "Well field" means a tract of land that contains a number of wells for public water supply.
- (458) "Wholesale trade" means establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.
- (459) "Woodland" means an area of planted material covering one (1) acre or more and consisting of thirty percent (30%) or more canopy trees having an eight (8) inch or greater caliper, or any grove consisting of eight (8) or more trees having a ten (10) inch or greater caliper.
- (460) "Mature woodland" means an area of plant material covering one (1) acre or more and consisting of thirty percent (30%) or more canopy trees having a sixteen (16) inch or greater caliper, or any grove consisting of eight (8) or more trees having an eighteen (18) inch or greater caliper.
- (461) "Young woodland" means an area of plant material covering one (1) acre or more and consisting of seventy percent (70%) or more canopy trees having a two and one-half (2-1/2) inch caliper or greater, or a tree plantation for commercial or conservation purposes where seventy percent (70%) or more of the canopy trees have a two and one-half (2-1/2) inch or greater caliper.
- (462) "Wrecking yard". See "junk yard" in subsection (a)(191) hereof.
- (463) "Yard" means a required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from three (3) feet above the general ground level of the graded lot upward, provided accessories, ornaments and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility. (Ord. 995-92. Passed 1-14-93.)
- (464) "Front yard" means an open space extending the full width of the lot between a building and the front lot line, except as hereinafter specified. See Figure II. A through lot shall be required to have a front yard on each street abutting the lot. On a corner lot, the street right-of-way line with the least amount of street frontage shall be the front lot line, however:
- A. "Front yard (least depth)" means the shortest distance, measured horizontally, between any part of the building, and the front lot line.
- B. "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 is designated on such Thoroughfare Plan.

- (465) "Rear yard" means an open space extending the full width of the lot between a building and the rear lot line, except as hereinafter specified. See Figure II.
- A. "Rear yard (least depth)" means the average distance measured horizontally between any part of a building and the nearest rear lot line.
- (466) "Side yard" means an open space extending from the front yard to the rear yard between a building and the nearest side lot line except as hereinafter specified. See Figure II.
- A. "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.
- B. "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. 1019-93. Passed 5-27-93.)

Figure II: Diagram illustrating the various types of yards

- (467) "Zone". See "zoning district" in subsection (a)(474) hereof.
- (468) "Zone of influence" means a zone delineated by iso-travel time contours around wellfields. The zone is calculated, based on the rate of movement of groundwaters in the vicinity of wells with an allowance for the dispersion of a pollutant entering into and moving with the groundwater.
- (469) "Zoning" means a police power measure, enacted primarily by general purpose units of local government, in which the community is divided into districts or zones within which permitted and special uses are established as are regulations governing lot size, building bulk, placement and other development standards. Requirements vary from district to district, but they shall be uniform within districts. The Zoning Code consists of two (2) parts; a definition of zoning still applies, but recent innovations in flexible zoning, for example, floating zones and expansion of special use permit controls, have begun to blur some of the Zoning Code's neatness and clarity.
- (470) "Zoning Administrator" means employee(s) of the City of Moraine, Ohio, empowered by the City Manager to administer, enforce and interpret the provisions, regulations and requirements of the Zoning Code. Decisions of the official usually are appealable to the Board of Zoning Appeals.
- (471) "Zoning amendment". See "rezoning" in subsection (a)(309) hereof.
- (472) "Zoning Board of Appeals". See "Board of Appeals" in subsection (a)(27) hereof.
- (473) "Certificate of zoning compliance" means a document issued by the City of Moraine stating that a development is in compliance with all conditions, requirements, and provisions of the Zoning Code.
- (474) "Zoning district" means a section of a Municipality or county designated in the Zoning Code text and (usually) delineated on the zoning map, in which requirements for the use of land and building and development standards are prescribed. Within each district, all requirements shall be uniform.
- (475) "Zoning envelope" means the three (3) dimensional space within which a structure is permitted to be built on a lot and which is defined by maximum height regulations, yard setbacks and sky exposure plane regulations.
- (476) "Zoning map" means the map delineating the boundaries of districts which, along with the zoning text, comprises the Zoning Code.

- (477) "Zoning permit" means a document signed by the Zoning Inspector, as required by this Zoning Code, as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, alteration, conversion or installation of a structure or building, which complies with the provisions of the Zoning Code or authorized variance therefrom.
- (478) "Zero lot line" means a development approach in which a building is sited on one (1) or more lot lines with no yard. Conceivably, three (3) of the four (4) sides of the building could be on the lot lines. The intent is to allow more flexibility in site design and to increase the amount of usable open space on the lot. Virtually all zoning developments have been permitted, they have been handled through variances or planned unit development procedures, or other devices which allow for site plan review. The few ordinances which specifically authorize the zero lot line approach do so as an exception to prevailing regulations and under clearly defined circumstances. (Ord. 995-92. Passed 1-14-93.)

**CHAPTER 1117
Special Uses**

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| <p>1117.01 Specific uses to comply with requirements.</p> <p>1117.02 Application, review, approval and termination of special use permits.</p> <p>1117.03 General standards and specific requirements for special uses.</p> | <p>1117.04 General standards.</p> <p>1117.05 Special requirements for special uses and selected permitted uses.</p> |
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CROSS REFERENCES

Special use defined - see P. & Z. 1115.03(a)(441)
 Enforcement; penalty - see P. & Z. Ch. 1123
 Temporary uses - see P. & Z. Ch. 1183

1117.01 SPECIFIC USES TO COMPLY WITH REQUIREMENTS.

It is recognized that an increasing number of new kinds of uses are appearing daily, and that many of these and some other more conventional uses pose characteristics of such unique and special nature relative to location, design, size, method of operation, circulation and public facilities that each specific use shall be considered individually. These special or specific uses as they are specially permitted under the provisions of Title Five of this Zoning Code, shall follow the procedures and requirements set forth in this chapter.
 (Ord. 1203-97. Passed 7-10-97.)

1117.02 APPLICATION, REVIEW, APPROVAL AND TERMINATION OF SPECIAL USE PERMITS.

(a) Pre-application Conference. Any person intending to apply for a special use permit shall first schedule a pre-application conference with the City Manager and the Technical Review Committee, which can consist of the Building and Zoning Administrator, City Engineer and City Planner.

(b) Application Contents. An application shall be submitted to the Building and Zoning Administrator and it shall contain the following data and fees:

- (1) Name, address and phone number of applicant;
- (2) Legal description of property;
- (3) Description of existing use;
- (4) Zoning district;
- (5) Description of proposed special use;

- (6) The location and dimensions of all proposed drives, service and access roads, sidewalks, curb openings, signs, exterior lighting, parking lot areas (showing dimensions of a typical parking space), unloading areas, walls, fences and landscaping;
- (7) Proposed land uses and proposed height, bulk and location of principal structures sufficient to permit an understanding of the style of the development. In this regard, typical elevation views of the front and side of each type of building shall be provided. Proposals containing residential units shall specify the number of housing units by size, type and respective location upon the site;
- (8) A narrative statement evaluating the effects on adjoining property; the effect of such elements as noise, glare, odor, fumes and vibration on adjoining property with adjacent and other properties in the district; and the relationship of the proposed use to the Zoning District Map;
- (9) The fee payment for special zoning permits; and
- (10) The Zoning Administrator may waive certain required submission items identified in subsections (b)(6) and (7) hereof if he/she determines that their inclusion in any individual application is unnecessary.

(c) City Council. The City Council shall review the proposed development as presented on the submitted plans and specification in terms of the standards established in this Zoning Ordinance. Such review shall be completed and a public hearing shall be held. Council shall fix a reasonable time for the hearing of the appeal, shall give ten days' notice to the parties in interest, all property owners within a radius of two hundred feet, and decide the same within a reasonable time after it is submitted. The Zoning Administrator shall invoice the applicant for costs of sending certified mail notices to owners of land within 200 feet of the property, publishing a notice in the Dayton Daily News, and reproduction of application documents. At the hearing, any party may appear in person or by attorney.
(Ord. 1203-97. Passed 7-10-97.)

(d) City Council. Within thirty (30) days after the public hearing described in subsection (c) hereof, the Council shall either approve, approve with modifications, or disapprove the application as presented. If the application is approved or approved with modifications, the City Council shall direct the Zoning Administrator to issue a special use permit listing the specific conditions specified by Council for approval. The decisions of the City Council shall be final. Any party adversely affected by a final decision of City Council may appeal to the Court of Common Pleas, Montgomery County, Ohio as provided by law. The following language shall appear at the end of all formal orders and/or decisions of the City Council under Chapter 1117 Special Uses:

"Notice of Final Appealable Order or Decision. The foregoing Order and/or Decision of the City Council of the City of Moraine, Ohio, is a Final Appealable Order and/or Decision that may be appealed to the Court of Common Pleas, Montgomery County, Ohio as provided for by Ohio R.C. Chapters 2505 and 2506. You are advised that after entry of a final Order or Decision, the period of time within which an appeal shall be perfected is thirty days."

(Ord. 1226-98. Passed 4-23-98.)

(e) Issuance and Revocation. Only upon conclusion of review procedures relative to a particular application may Council issue a special use permit. The breach of any condition, safeguard or requirement shall automatically invalidate the permit granted, and shall constitute a violation of this Zoning Ordinance. Such violation shall be punishable as specified in Section 1123.99.

(f) Expiration. A special use permit shall be deemed to authorize only one (1) particular special use and such permit shall automatically expire if, for any reason, the special use shall cease for more than two (2) years.

(g) Reapplication. No application for a special use permit which has been denied wholly or in part by Council shall be resubmitted until the expiration of one (1) year or more from the date of such denial, conditions which would be sufficient to justify reconsideration by Council, as determined by the Zoning Administrator. (Ord. 1203-97. Passed 7-10-97.)

1117.03 GENERAL STANDARDS AND SPECIFIC REQUIREMENTS FOR SPECIAL USES.

(a) The City Council shall establish by preponderance of the evidence that both the general standards and the specific requirements pertinent to each special use indicated herein shall be satisfied by the establishment and operation of the proposed special use.

(b) Wherever no specific areas, frontage and setback requirements are specified in provisions for specific special uses, then the area, frontage and setback requirements in the applicable zone shall apply; provided, that Council shall be authorized to waive or modify certain requirements as necessary to achieve compatible development with adjacent land areas as well as in the interest of the community in general. Council may also impose such additional conditions, guarantees and safeguards as it deems necessary for the general welfare, for the protection of individual property rights and for ensuring that the intent and objectives of this Zoning Code shall be observed.

Council shall have exclusive jurisdiction to hear and consider special use applications. To the extent any applicant wants to vary the specific requirements of a special use as set forth in Section 1117.05 the applicant shall make such request as part of its initial application. The applicant may also request a variance from the provisions of Chapter 1117. Any such variance request shall be heard exclusively by Council. Any such questions about the interpretation of Chapter 1117, Special Uses, shall be heard and determined exclusively by Council. (Ord. 1203-97. Passed 7-10-97; Ord. 1221-98. Passed 3-12-98.)

1117.04 GENERAL STANDARDS.

Council shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence that such use on the proposed location:

- (a) Is in fact a special use as established under the provisions of this Zoning Code for the zoning district involved.
- (b) Shall be harmonious with and in accordance with the general objectives, or with any specific objectives of the City and/or Zoning Code and Comprehensive Plan;

- (c) Shall be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity that such use shall not change the essential character of the same area. Structures to be constructed, reconstructed or altered pursuant to special uses in residential districts shall, whenever practicable, have the exterior appearance of residential buildings of the type otherwise permitted and shall have suitable landscaping, screen planting and fencing wherever deemed necessary by City Council;
- (d) Shall not be hazardous or disturbing to existing or future neighboring uses;
- (e) Shall be served adequately by essential public facilities and services such as highways, streets, police and fire protections, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;
- (f) Shall not create excessive additional requirements at public cost for public facilities and services and shall not be detrimental to the economic welfare of the community;
- (g) Shall not involve uses, activities, processes, materials, equipment and conditions of operation that shall be detrimental to any persons, property or the general welfare by reason of excessive production of traffic noise, smoke, fumes, glare or odors;
- (h) Shall have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares; and
- (i) Shall not result in the destruction, loss or damage of the natural, scenic or historic feature of importance. (Ord. 1413-01. Passed 7-26-01.)

1117.05 SPECIFIC REQUIREMENTS FOR SPECIAL USES AND SELECTED PERMITTED USES.

Following is a list of specific requirements for special and permitted uses as specified in the respective district regulations contained within Title Five of this Zoning Code. These requirements shall be used in conjunction with other standards as are required in the respective zoning district in which the special use is proposed. In the event of conflicting provisions, the special use requirement shall prevail.

- (a) Adult Entertainment Facility.
 - (1) No adult entertainment facility shall be established within 1,000 feet of any area zoned for or used as a residential use.
 - (2) No adult entertainment facility shall be established within a radius of 1,000 feet of any licensed day care center, school, library or teaching facility, whether public or private, governmental or commercial, which day care center, school, library or teaching facility is attended by persons under eighteen (18) years of age.
 - (3) No adult entertainment facility shall be established within a radius of 1,000 feet of any park or recreational facility attended by persons under eighteen (18) years of age.

- (4) No adult entertainment facility shall be established within a radius of 1,000 feet of any other adult entertainment facility or within a radius of 1,000 feet of any two (2) of the following establishments (or of any one establishment which combines any two of the following activities):
 - A. Establishments that have been issued a permit from the Ohio Department of Liquor Control to sell alcoholic beverages on the premises of such business establishment;
 - B. Pawn shops;
 - C. Pool or billiard halls;
 - D. Pinball palaces, halls or arcades; or
 - E. Dance halls or discotheques.
 - F. Video arcades or establishments known by other descriptions but which provide video game and/or other games or entertainment attended or participated in by persons under eighteen (18) years of age.
- (5) No adult entertainment facility shall be established within a radius of 1,000 feet of any church, synagogue or permanently established place of religious services which is attended by persons under eighteen (18) years of age.
- (6) 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 from other areas public or semi-private.
- (7) All building openings, entries, windows, etc., for adult uses shall be located, covered or screened in such a manner as to prevent a view into the interior from any public or semi-public areas.
- (8) No employees of the subject establishment shall conduct themselves outside the confines of the structure in such attire and/or by actions, in a manner distracting, distasteful and/or detrimental to adjacent business interests, residents or passers-by.
- (9) No screens, loudspeakers or sound equipment shall be used for adult motion picture theaters, enclosed or drive-in, that can be seen or discerned by the public from public or semi-public areas.
- (10) For the purposes of this section, distances shall be measured from the property line of any lot or parcel of land which includes, or which is operated or used in connection with, a building in which an adult entertainment facility is located or in which any activity described or referred to in this section is located.
- (11) In granting any such special use, City Council may prescribe any conditions that it deems necessary in the public interest. However, no special use shall be approved by Council unless it finds that the use for which such approval is sought, is not likely to be dangerous or detrimental to nearby properties, that the use shall not be contrary to any program of conservation or improvement, either residential or nonresidential or be contrary to the public safety, morals and general welfare of the City.

- (b) Animal Hospitals. Veterinary Clinics and Kennels.
- (1) Principal permitted uses:
 - A. The care of ill and/or household animals;
 - B. The overnight boarding of ill and/or injured household animals; and
 - C. The sale of goods used in the care of household animals.
 - (2) Care and boarding shall be limited to small animals and may not include cattle, horses or swine.
 - (3) All activities other than off-street parking and loading/unloading shall be conducted within a fully enclosed structure. Outside runs shall be permitted only in a Business District where they shall be at least 200 feet from any lot in a Residential District.
 - (4) Structures shall be designed and maintained in a manner to prevent the development of unsanitary conditions which could result in unpleasant odor or vermin nuisance.
 - (5) Rooms intended to accommodate animals shall be insulated, or otherwise soundproofed and vented so that animal noises shall not be audible at any point on the perimeter of the property.
 - (6) A solid wood fence or masonry wall six (6) feet high shall be constructed where an animal hospital, veterinary clinic or kennel is located adjacent to a Residential District.
- (c) Body Shop.
- (1) Any building used for service and repair work shall be located a minimum of fifty (50) feet from any adjacent residential property.
 - (2) Entrances and exits shall be screened by six (6) foot high gates which have a minimal of eighty percent (80%) opacity.
 - (3) Such entrance gates shall be set back a minimum of fifty (50) feet from the right of way of the adjacent thoroughfare to facilitate turning movements into the facility.
 - (4) Unsafe storage of waste or hazardous material that creates a pollution threat or a fire hazard, or is an attraction to rodents or insects, is not permitted.
 - (5) The height of the stored materials may not exceed the height of the screening;
 - (6) A solid wood fence, louvered fence, masonry wall, solidly constructed decorative fence or any combination of which has eighty percent (80%) opacity shall be provided along the perimeter of any outdoor storage area unless entirely screened visually by an intervening structure or existing conforming buffer from an abutting property;
 - (7) Exterior lighting shall be directed inward and away from abutting properties.
 - (8) All outdoor storage area shall be placed to the rear of the property.
 - (9) All vehicles which are awaiting repair or estimating of repair services shall be placed within a screened area within two (2) hours of delivery to the site.

- (d) Condominium.
- (1) The minimum land area per family or family unit shall be 2,000 square feet.
 - (2) The minimum yard area per family or family unit, which shall include parking squares and driveways, shall be 1,000 square feet.
 - (3) The minimum living area of the living unit, if one (1) story, shall be 450 square feet, and if more than one (1) story shall be 800 square feet.
 - (4) The minimum distance between any building and the established or proposed right of way as shown on the City's Official Thoroughfare Plan shall be twenty-five (25) feet and no parking shall be permitted closer than ten (10) feet to such right of way.
 - (5) The minimum distance between any building and the perimeter of the residential development plan area shall be ten (10) feet, and no parking shall be permitted within this area.
 - (6) The minimum distance between any two (2) buildings shall be the height of the higher building, but in no case shall be less than twenty-five (25) feet.
 - (7) The minimum width of any automobile driveway shall be twenty (20) feet.
 - (8) The minimum number of parking spaces shall be one and one-half (1.5) per family unit and shall be off-street parking.
 - (9) Subdivision. Unless there is to be created public roads within the proposed development plan, the land need not be platted and individual lots need not be created as provided in Ohio R.C. Chapter 711. Utility easements to be owned and maintained by the City or Council shall be created by separate grants of easements. Any roadway or other utility easements along the perimeter of the property and necessary for the development of the land will be dedicated by the developer.
- (e) Telecommunications: Commercial Mobile Radio, Television, Radio Service and Personal Wireless Service Facilities.
- (1) Co-location. Carriers shall be required to construct new telecommunication mounts to accommodate at least one (1) future carrier antenna. Towers seventy-five (75) feet and below shall be designed to support one (1) or more carrier antennas. Towers greater than seventy-five (75) feet in height shall be designed to support two (2) or more carrier antennas. Towers one hundred fifty (150) feet and above shall be designed to support three (3) or more carrier antennas. If these scenarios are not feasible the carrier shall provide the City with an inventory of existing telecommunication facilities with one-half (1/2) mile of the proposed site for the purpose of co-location with an existing carrier. If it is not feasible to locate within one-half (1/2) mile radius, the carrier shall exhibit through technical means this inability.
 - (2) The City shall require use of underground equipment vaults for storage of equipment cabinets.
 - (3) Set backs. There shall be established a set back which shall surround the perimeter of mount equal to the mount's full height from any commuter and arterial street per the City's Thoroughfare Plan. Towers shall be subject to the underlying zoning district in which they are located in regards to minimum yard requirements. Mounts, except micro antenna mounts, shall be set back a minimum of the mount's full height from any residential structure.

- (4) Abandonment. Carrier shall contact the City annually in writing to report on issues such as maintenance of the facility and continuing operation of the facility. Facilities whose operation has ceased for a period of twelve (12) months shall be removed unless the carrier communicates in writing that the facility will be reutilized. Per such notification, a fee for each additional week over said reutilization shall be assessed the carrier by the City.
 - (5) Aesthetics. The facility and all elements thereof shall be aesthetically and architecturally compatible with its surroundings. Artificial and/or natural means of disguise shall be utilized in order to conceal facilities which are intrusive. Techniques for this include, but are not limited to tree buffers, seclusion behind billboards, hidden in structures, disguise as natural environment feature, etc.
 - (6) Technical and environmental standards. Carriers shall express in writing from a professional engineering that their facility(s) meet all technical and environmental standards, such as RF health hazards as structural integrity, from the Federal Aviation Administration (FAA), Federal Communication Commission (FCC), Ohio Department of Transportation (ODOT), Ohio Environmental Protection Agency (OEPA) or other governmental agencies with jurisdiction.
 - (7) Storage. Vehicles, supplies, or equipment related to the operation of the facility shall not be stored on the facility site except in the M-1 and M-2 zoning districts.
 - (8) Illumination and design. Lights, strobes, beacons, illuminations, paintings, or signage on tower shall be prohibited unless required by the FAA or other governmental agency for general public safety. Towers and equipment cabinets shall be painted in a gray/neutral tone. Access ways shall be of minimal paving standards such as a paved asphalt drive, grass pavers, etc. Parking shall be limited to one (1) space per carrier.
(Ord. 1413-01. Passed 7-26-01.)
- (f) Temporary and/or Outdoor Sales of Plants and Garden Supplies.
- (1) Such uses shall not be placed within the street right of way, within an interior drive, or in a location which shall interfere with vehicle sight distance.
 - (2) Placement of the use shall not result in the reduction of the number of parking spaces required to serve the principal use(s) on the site.
 - (3) The subject use shall be maintained in good order and appearance.
 - (4) Signage shall be controlled by the provisions of the specific zoning district in which located.
 - (5) A specific schedule of operation shall be filed and approved as part of the submitted application for special use.

- (g) Special Uses in Any Commercial or Industrial District Not Previously Listed.
- (1) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, its size, layout and its relation to street giving access to it shall be such that vehicular traffic to and from the use shall not be more hazardous than the normal traffic of the district, both at the time and as the same may be expected to increase with increasing development of the City taking into account prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationships of one (1) type of use to another, and characteristic groupings of uses in a commercial or industrial district.
(Ord. 1203-97. Passed 7-10-97.)

**CHAPTER 1121
Interpretation**

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| <p>1121.01 Short title.</p> <p>1121.02 Conflict; greater restrictions to control.</p> | <p>1121.03 Severability.</p> |
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CROSS REFERENCES

Plat and subdivision defined - see Ohio R.C. 711.001
 Subdivision definitions - see P. & Z. 1111.03
 Zoning Map interpretation - see P. & Z. 1131.03

1121.01 SHORT TITLE.

Titles Five, Seven and Nine of Part Eleven - Planning and Zoning Code shall be known as the "Moraine Zoning Code" or this "Zoning Code". (Ord. 82. Passed 11-14-60.)

1121.02 CONFLICT; GREATER RESTRICTIONS TO CONTROL.

In their interpretation and application, the provisions of this Zoning Code shall be held to be the minimum requirements. Where this Zoning Code imposes a greater restriction than is imposed or required by other provisions of law, or by other City ordinances, rules, regulations or resolutions, the provisions of this Zoning Code shall apply. (Ord. 82. Passed 11-14-60.)

1121.03 SEVERABILITY.

If any section, subsection, paragraph, sentence or phrase of this Zoning Code is, for any reason, held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Zoning Code, and all uses illegal under prior zoning ordinances and the zoning resolution of Moraine Township, and existing at the effective date of this Code (November 14, 1960) are not validated hereby, except in such cases where specifically amended or changed. (Ord. 82. Passed 11-14-60.)

**CHAPTER 1123
Enforcement and Penalty**

1123.01	Enforcement by Zoning Inspector.	1123.04	Injunction or mandamus against illegal actions.
1123.02	Plans to be submitted with application.	1123.05	Control of potential public water supply pollutants.
1123.03	Zoning certificate; temporary certificate.	1123.99	Penalty.

CROSS REFERENCES

Violation of zoning ordinances - see Ohio R.C. 713.13

Zoning certificate of compliance defined - see P. & Z. 1115.03(a)(473)

Pending application for building permits - see P. & Z. 1185.02

1123.01 ENFORCEMENT BY ZONING INSPECTOR.

The City Manager, subject to confirmation of Council, shall appoint a Zoning Inspector, together with such assistants as Council deems necessary, shall fix compensation for such positions and make disbursements therefor. The Zoning Inspector shall enforce the Zoning Code in accordance with its literal terms, and shall not use independent discretion that may violate the terms thereof. The Zoning Inspector shall issue zoning certificates whenever, in his opinion, the applicant has fulfilled the terms of this Zoning Code.

(Ord. 82. Passed 11-14-60.)

1123.02 PLANS TO BE SUBMITTED WITH APPLICATION.

(a) Every application for a zoning certificate shall be accompanied by plans in duplicate, drawn to scale in black line or blueprint, showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part, the exact location, size and height of any building or structure to be erected or altered, the existing and intended use of each building or structure, or part thereof, the number of families or housekeeping units the building is designed to accommodate and, when no buildings are involved, the location of the present use and proposed use to be made of the lot, and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Zoning Code. One copy of such plans shall be returned to the owner when such plans shall have been approved by the Zoning Inspector, together with such zoning certificate, as may be granted. All dimensions shown on these plans relating to the location and size of the lot to be built upon, shall be based on actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

(Ord. 82. Passed 11-14-60.)

(b) Plans to Include Curb, Gutter and Sidewalks. The Zoning Inspector shall not issue a certificate for any construction unless the plans thereof include the construction of curbs, gutters and sidewalks, as provided in Chapter 901 of the Codified Ordinances, together with storm sewers, if needed, with the grade and position for same first approved by the City Engineer in writing.
(Ord. 1019-93. Passed 5-27-93.)

1123.03 ZONING CERTIFICATE; TEMPORARY CERTIFICATE.

(a) Zoning Certificate Required. No owner shall use or permit the use of any building or land or part thereof hereafter created, erected, changed, converted or enlarged, wholly or partly, until a zoning certificate has been issued by the Zoning Inspector. The zoning certificate shall show that such building or premises or a part thereof and the proposed use thereof, are in conformity with the provisions of this Zoning Code. No permit for excavation or construction shall be issued by the Zoning Inspector unless the plans, specifications and the intended use conform to the provisions of this Zoning Code.

(b) Temporary Certificate. Under such rules as may be adopted by the Planning Commission, the Zoning Inspector may issue a temporary zoning certificate for a part of a building.

(c) Request for Inspection and Certificate. Under written request from the owner or tenant, the Zoning Inspector shall issue a zoning certificate for any building or premises existing at the time of enactment of this Zoning Code, certifying, after inspection, the extent and kind of use made of the building or premises and whether such use conforms to the provisions of this Code.

(d) Building Permit Issuance. No building permit shall be issued by the City for the construction of a dwelling or other structure unless there has been presented by the applicant or his representative a zoning certificate duly signed and certified by the Zoning Inspector.
(Ord. 82. Passed 11-14-60.)

1123.04 INJUNCTION OR MANDAMUS AGAINST ILLEGAL ACTIONS.

In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used, or any land is, or is proposed to be used, in violation of this Zoning Code, or any amendment or supplement thereto, the City or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action, actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use. (Ord. 82. Passed 11-14-60.)

1123.05 CONTROL OF POTENTIAL PUBLIC WATER SUPPLY POLLUTANTS.**(a) Public Water Supply Regulations and Penalty.**

- (1) Purpose. The purpose of this section is to safeguard the public health, safety and welfare and to provide for the protection and availability of existing and future potable water supply by instituting rational and objective requirements, standards and criteria for the control of toxic or otherwise hazardous substances within the Well Field Protection Overlay District as established by the Zoning Code for the territory in and around the present and future public wells and well fields of Montgomery County, and/or other protected public water supplies, thereby enhancing the protection of the public potable water supply from contamination.
- (2) Scope.
 - A. The provisions of this section shall be effective within the Well Field Protection Overlay District. This section provides for pollution control pertaining to the public water supply.
 - B. Nothing contained in this section 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 section.
- (3) Administration. Except as otherwise provided herein, the Zoning Officer for the City of Moraine or his/her designee, hereinafter referred to as the Zoning Officer, shall administer, implement and enforce the provisions of this section.
- (4) Notice of violation.
 - A. Any person found in violation of any provision of this section or any order, requirement, rule or regulation issued under the authority of such section will 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 (c)(2) hereof and provided further, that if the Zoning Officer 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 Zoning Officer 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 due 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.

- (5) Inspections. The Zoning Officer or authorized designee, bearing proper identification, and authorized by the City Manager may request permission to enter private property at any reasonable time for the purposes of inspection, observation, measurement, sampling and records examination pertaining to the requirements of this section to ensure that activities are in accordance with the provisions of this section. Information obtained as a result of such inspections shall be subject to the Ohio Public Records Law in accordance with Ohio R.C. Chapter 149. If the owner or tenant does not consent to the entry of the Zoning Officer or the authorized designee for the above stated purposes, the Zoning Officer with authorization from the City Manager may apply to a court of competent jurisdiction for an appropriate warrant or other authority to enter said property.
 - (6) Severability. A finding by any court or other jurisdiction that any part or provision of this section is invalid shall not affect the validity of any other part or provision of this section which can be given effect without the invalid parts or provisions.
 - (7) Subject area.
 - A. The area subject to the provisions of this section is the Well Field Protection Overlay District as shown on the Official Zoning Map of the City of Moraine.
 - B. Maps designating the Well Field Protection Overlay District shall be included as part of the Official Zoning Map for the City of Moraine.
 - (8) Determination of applicability. It shall be the responsibility of any person owning real property or owning or operating a business within such Overlay District to make a determination of the applicability of this section as it pertains to the property or business and failure to do shall not excuse any violations of such sections.
- (b) Management of Regulated Substances.
- (1) Handling to be in conformance. No person shall place, deposit, or permit to be deposited, stored, processed, used, produced, disposed of, transported or discharged, hereinafter referred to as "handled", any regulated substance on public or private property within the Well Field Protection Overlay District in violation of this section.
 - (2) Violation to be nuisance. Any violation of subsection (b)(1) hereof is hereby determined to be a nuisance. Penalties for such nuisances are administered under Section 1123.99(b).

(c) Reporting and Protection Requirements.

(1) Regulated substances activity inventory.

A. Applicability.

1. Except as provided in subsection (c)(1)B. hereof, any owner or occupant of any land in the Well Field Protection Overlay District at the effective date of this section, shall file a Regulated Substance Activity Inventory Report with the Zoning Officer. Such report shall be filed within 180 days from the effective date of this section and at twenty-four (24) month intervals thereafter.
2. Except as provided in subsection (c)(1)B. hereof, any new owner or occupant of any land in the Well Field Protection Overlay District shall file a Regulated Substance Activity Report prior to receipt of a certificate of occupancy and at twenty-four (24) month intervals following the date of occupancy. For purposes of this section, new shall be defined as subsequent to the effective date of this section.
3. Where a person owns, operates or occupies more than one location, Regulated Substances Activity Reports shall be made for each location.

B. Exclusions to Activity Inventory Reporting.

1. 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 (c)(2) hereof. Any exclusions granted herein shall not remove or limit the liability and responsibility of any person or activity involved.
2. 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:
 - a. The aggregate of Regulated Substances in use may not exceed twenty (20) gallons or 160 pounds at any time for each location.
 - b. The total use of regulated substances may not exceed fifty-five (55) gallons or 450 pounds in any twelve (12) month period for each location.
3. A limited exclusion from Regulated Substance Activity Inventory Reporting is hereby authorized for non-routine maintenance or repair of property in the Well Field Protection Overlay District provided the uses are limited as follows:
 - a. The aggregate of regulated substances in use may not exceed fifty-five (55) gallons or 450 pounds at any time for each location.

- b. The total use of regulated substances may not exceed 110 gallons or 900 pounds in any twelve (12) month period for each location.
4. 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 110 gallons or 900 pounds at any time at each location. In no case shall regulated substances claimed under the exclusion include hydrocarbon or halogenated hydrocarbon solvents.
5. A limited exclusion from Regulated Substance Activity Inventory Reporting is hereby authorized for medical and research laboratory uses in the Well Field Protection Overlay District, provided, however, regulated substances shall be stored, handled or used in containers not to exceed five (5) gallons or forty (40) pounds of each substance and the aggregate inventory of regulated substances shall not exceed 250 gallons or 2,000 pounds at each location.
6. A limited exclusion from Regulated Substance Activity Inventory Reporting is hereby authorized for the transportation of regulated substances through the Well Field Protection Overlay District provided that the transporting vehicle is in compliance with applicable City ordinances and Federal and Ohio laws and regulations, and provided that the regulated substance is fueling the transportation vehicle or the transportation vehicle is in continuous transit, making delivery, or is stopped for a period of time not to exceed twenty-four (24) hours.
7. A limited exclusion from Regulated Substance Activity Inventory Reporting is hereby authorized for owners and occupants of single, two-family, or multi-family residences provided, however, the storage and use of regulated substances are related to the maintenance of the residence or vehicles under the 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.

- (2) Spills, leaks or discharges.
- A. Any person with direct knowledge of a spill, leak or discharge of a regulated substance within the Well Field Protection Overlay District shall, if such a spill, leak or discharge escapes containment, contacts a non-impervious ground surface and is not immediately and completely remediated, give immediate notice to the operator on duty at the City of Moraine Police and Fire Dispatch Center, and the Director of the Montgomery County Sanitary Engineering Department or the operator on duty at the Montgomery County Sanitary Engineering Department Water Division, and the land owner of record, agent and lessee. 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.
- B. Any entity or person who spills, leaks or discharges a regulated substance within the Well Field Protection Overlay District shall be liable for any reasonable expense, loss or damage in response to such an incident incurred by Montgomery County, the City of Moraine, and other protected public water supply utilities operating within the City of Moraine, in addition to the amount of any fines imposed on account thereof under Ohio and federal law. Such 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.
- (3) Underground storage tanks.
- A. Underground Storage Tanks Declared to Constitute Dangerous Nuisances.
1. With the exception of the residential use of home heating fuel in tanks having a capacity equal to or less than 500 gallons, and underground storage systems for accessory vehicle fuel, vehicle lubricants, fuel for building heating and fuel for process heating, any storage of Regulated Substances in underground storage tanks within the Well Field Protection Overlay District shall be deemed to constitute a dangerous nuisance. Every such nuisance must and shall be abated no later than five (5) years from the effective date of this section.

2. 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 accessory vehicle fuel and lubricants and fuel for building and/or process heating which are not currently monitored in accordance with State statute within the Well Field Protection Overlay District must be removed within five (5) years from the effective date of this section and must be secondarily contained and monitored in accordance with plans submitted to and approved by the Zoning Officer.
- (4) Falsifying information. 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 section.
- (d) Public Water Supply Protection Authorities.
- (1) Application. If any activity or use of a regulated substance in the Well Field Protection Overlay District is deemed by the Zoning Officer to pose a real and present danger of contaminating surface and/or ground water which would normally enter the public water supply, the Zoning Officer is authorized to use the nuisance abatement and control authority granted by Ohio R.C. 715.44 to:
 - A. Cause cessation of such activity or use of the regulated substance;
 - B. Require the provision of administrative controls and/or facilities sufficient to mitigate such danger; and/or
 - C. Cause the provision of pollution control and/or abatement activities.
 - (2) Considerations. When considering the exercise of any of the above authorities or actions, the Zoning Officer shall first consult with the City Manager and 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 future. The Zoning Officer 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.
 - (3) Exemption of certain regulated substances. The Zoning Officer is authorized to exclude certain regulated substances that pose no threat to groundwater from the provisions of this section. Prior to authorizing the exemption of any regulated substance, the Zoning Officer shall have such request for exemption reviewed by a designated review board as selected by Council. The recommendation of the board shall be binding on the Zoning Officer.

- (4) Technical consultants. Upon application for a Zoning Certificate and/or Occupancy Permit for a use within the WP Well Field Protection Overlay District, the Zoning Officer may employ such technical expertise as needed to ensure compliance with the provisions of this section. 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 a zoning certificate and/or occupancy permit.
- (e) Well Field Protection Appeals Board.
- (1) Appeals. Any person may appeal an action of the Zoning Officer in subsection (d) hereof, by filing with the Council Clerk a notice of appeal within twenty (20) days of such action. Failure to do so shall be deemed a waiver of the right to appeal. The notice of appeal shall include all information contained on such notice of appeal and not limited to name; address; telephone number; date; and a statement of intent to appeal. In addition a description of the nature of the appeal, and any pertinent documentation shall be filed with such appeal.
- (2) Appeals Board. The Board of Zoning Appeals of the City is hereby appointed to hear Well Field Protection Appeals. The Board is authorized to consult with and obtain technical assistance, when in the Board's sole discretion, it deems assistance to be necessary, from technical experts. The decision of the Board shall constitute a final administrative order that may be appealed by the City or by any aggrieved party to the Court of Common Pleas of Montgomery County as provided by law.
(Ord. 1025-93. Passed 6-10-93.)

1123.99 PENALTY.

- (a) Except as otherwise provided, whoever locates, erects, constructs, reconstructs, enlarges, changes, maintains or uses any building or land in violation of any provision of this Zoning Code, or any amendment or supplement thereto, shall be fined not more than one hundred dollars (\$100.00) for each offense. Each day's violation shall be considered a separate offense.
(Ord. 82. Passed 11-14-60.)
- (b) No person shall violate or continue to violate any provision of Section 1123.05. Any such violation shall constitute a fourth degree misdemeanor punishable by a fine of not more than two hundred fifty dollars (\$250.00) or imprisonment of not more than thirty (30) days or both. A second violation and every violation thereafter shall constitute a third degree misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00) or imprisonment of not more than sixty (60) days or both. (Ord. 1025-93. Passed 6-10-93.)
- (c) Whoever erects or maintains any sign or advertising device in violation of Chapter 1189 shall be fined not more than one hundred dollars (\$100.00) for the first offense and not more than one thousand dollars (\$1,000) for a second or any subsequent offense. Each day's violation shall constitute a separate offense.
(Ord. 1069-94. Passed 4-28-94.)

CHAPTER 1125
Board of Zoning Appeals

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| 1125.01 Charter provisions. | 1125.04 Appeals procedure. |
| 1125.02 Organization and rules. | |
| 1125.03 Powers; special exceptions, appeals and variances. | |

CROSS REFERENCES

Charter provisions - see CHTR. 7.4, 7.5
Temporary uses - see P. & Z. Ch. 1183
Special exceptions - see P. & Z. Ch. 1193

1125.01 CHARTER PROVISIONS.

The creation, composition, term and duties of the Board of Zoning Appeals shall be governed by City Charter Sections 7.4 and 7.5.

1125.02 ORGANIZATION AND RULES.

(a) Meetings and Rules. The Board of Zoning Appeals shall organize and adopt rules in accordance with the provisions of this Zoning Code. Meetings of the Board shall be held at the call of the chairman, and at such other times as the Board may determine. The Chairperson, or in that person's absence, the acting chairperson, may administer oaths and the Board may compel the attendance of witnesses. All meetings of the Board shall be held as provided in Chapter 128 of the Codified Ordinances. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Clerk of Council and shall be a public record. (Ord. 961-92. Passed 2-13-92.)

(b) Quorum and Voting. Three members of the Board shall constitute a quorum. The Board shall act by resolution and the concurring vote of three members of the Board shall be necessary to reverse any order or determination of the Zoning Inspector, or to decide in favor of an applicant in any matter over which the Board has original jurisdiction under this Zoning Code; or to grant any variance from the requirements stipulated in this Code.

(c) Departmental Assistance. The Board may call upon City departments for assistance in the performance of its duties, and it shall be the duty of such departments to render such assistance to the Board as may reasonably be required. (Ord. 82. Passed 11-14-60.)

1125.03 POWERS; SPECIAL EXCEPTIONS, APPEALS AND VARIANCES.

(a) General. In exercising its powers, the Board of Zoning Appeals may, in conformance with the provisions of this Zoning Code, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may take such order, requirement, decision or determination as ought to be made, and, to that end, shall have all powers of the office from whom the appeal is taken.

(b) Special Exceptions. The Board shall have the power to permit, upon appeal, special exceptions specifically provided for in this Zoning Code, for which, in special situations, the Board has authority, in conformance with general rules, to grant zoning certificates, subject to such safeguards as the Board may consider appropriate in order to adequately protect the public interest and prevent impairing the intended purpose of this Zoning Code. The right of the Board to consider special exceptions shall not apply to any action taken by Council pursuant to Title 5, Chapter 1117.

(c) Appeals. The Board shall have the powers to hear and decide any appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Code. The right of the Board to consider appeals shall not apply to any action taken by Council pursuant to Title 5, Chapter 1117.

(d) Variances. The Board shall have powers to authorize, upon appeal in specific cases, such variances from the terms of this Zoning Code as will not be contrary to public interest, where owing to special conditions, a literal enforcement of this Code will result in unnecessary hardships. The right of the Board to consider variances shall not apply to any action taken by Council pursuant to Title 5, Chapter 1117.

(Ord. 82. Passed 11-14-60; Ord. 1221-98. Passed 3-12-98.)

1125.04 APPEALS PROCEDURE.

(a) Notice. Appeals to the Board of Zoning Appeals for special exceptions or variances may be taken by any person aggrieved or by any officer of the City affected by any decision of the administrative officer. Such appeal shall be taken within twenty days after the decision by filing with the Zoning Inspector and with the Board, a notice of appeal specifying the grounds thereof. The Zoning Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(b) Hearings. The Board shall fix a reasonable time for the hearing of the appeal. Notice of the hearing shall be given at least ten days prior to the hearing to all parties in interest as herein below provided. The Board shall decide the issue appealed within a reasonable time after the hearing. Notice of the time, place and nature of the appeal shall be posted by the City at least ten days prior to the hearing on a placard in the front yard of the affected property stating the nature of the appeal and the time and place of the hearing of the appeal. Notice of the appeal including the information set forth on the placard notice shall also be given by the City (1) to all contiguous property owners by certified mail return receipt requested, and (2) by publication in a newspaper of general circulation, which notices shall be posted and published by the City no later than ten days prior to the hearing. Each application shall be accompanied by a check, payable to the Municipal Clerk or a cash payment sufficient in amount to cover the cost of publishing and/or posting, and mailing the notices of the hearing or hearings. At the hearing, any party may appear in person or by attorney. (Ord. 1284-99. Passed 2-25-99.)

(c) Appeals to Court. The decisions of the Board shall be final. Any party adversely affected by a final decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas of Montgomery County as provided by law. The following language shall appear at the end of all formal orders and/or decisions of the Board.

Notice of Final Appealable Order or Decision

The foregoing order and/or decision of the Board of Zoning Appeals of the City of Moraine, Ohio is a final appealable order and/or decision and may be appealed to the Court of Common Pleas of Montgomery County, Ohio as provided for by Chapters 2505 and 2506 of the Ohio Revised Code. You are advised that after entry of a final order or decision, the period of time within which an appeal shall be perfected is thirty days.

Clerk

(Ord. 961-92. Passed 2-13-92.)

CHAPTER 1127
District Changes and Code Amendments

1127.01	Initiation of changes and amendments.	1127.03	Change application to list property owners.
1127.02	Change and amendment procedure.	1127.04	Fees.

CROSS REFERENCES

Rezoning procedure - see CHTR. 7.2

Council may amend districting or zoning - see Ohio R.C. 713.10

Council to hold public hearings - see Ohio R.C. 713.12

1127.01 INITIATION OF CHANGES AND AMENDMENTS.

Whenever the public necessity, convenience, general welfare or good zoning practice require, Council may, after recommendation thereon by the Planning Commission, and subject to the procedure provided in this section, amend, supplement or change the regulation, district boundaries or classifications of property, now or hereafter established by this Zoning Code, or amendments thereto. It shall be the duty of the Planning Commission to submit its recommendations regarding all applications or proposals for amendments or supplements to Council. An amendment, supplement, reclassification or change may be initiated by the Planning Commission on its own motion or by a verified application of one or more of the owners or lessees of property within the area proposed to be changed or affected by this Zoning Code. (Ord. 82. Passed 11-14-60.)

1127.02 CHANGE AND AMENDMENT PROCEDURE.

(a) Application. Applications for any change of district boundaries or classifications of property, as shown on the zoning maps, shall be submitted to the Planning Commission at its public office, upon such forms and shall be accompanied by such data and information as may be prescribed for that purpose by the Commission so as to assure the fullest practicable presentation of facts for the permanent record. Each application shall be verified by at least one of the owners or lessees of property within the area proposed to be reclassified, attesting the truth and correctness of all facts and information presented with the application. Applications for amendments of the text or requirements of this Zoning Code shall likewise be submitted to the Planning Commission on forms prescribed by it and shall be verified by the person or persons preparing such amendment. Applications for amendments initiated by the Planning Commission shall be accompanied by its motion setting forth such proposed amendment.

(b) Public Hearing by Commission. Before submitting its recommendations on a proposed amendment to Council, the Planning Commission shall hold a public hearing and give notice as provided in Charter Section 7.2.

(c) Council's Hearing. After receiving the certification of such recommendations on the proposed amendment from the Planning Commission and before adoption of such amendment, Council shall hold a public hearing thereon, at least thirty days' notice of the time and place of which shall be given by one publication in a newspaper of general circulation in the City. No change in or departure from the proposed amendment as certified and recommended by the Planning Commission, shall be made unless the same is submitted to the Commission for its approval, disapproval or suggestions. If such changes are disapproved by the Commission, the changes so disapproved shall receive the favorable vote of a majority of the membership of Council in order to be adopted. (Ord. 1418-01. Passed 7-26-01.)

(d) Vote. After receiving certification of the recommendations on the proposed amendment from the Commission, and after holding the public hearing provided for, Council shall consider such recommendations and vote upon the adoption of the proposed amendment. (Ord. 82. Passed 11-14-60.)

1127.03 CHANGE APPLICATION TO LIST PROPERTY OWNERS.

Any person desiring a change in the zoning classification of property shall file with the application for such change, a statement giving the names and addresses of owners of all properties located in the City lying within 200 feet of any part of the property proposed to be changed. (Ord. 82. Passed 11-14-60.)

1127.04 FEES.

Each application for an amendment, except those initiated by the Planning Commission, shall be accompanied by a check, payable to the Municipal Clerk or a cash payment sufficient in the amount to cover the cost of publishing, posting and mailing the notices of the hearings required by the foregoing provisions. (Ord. 82. Passed 11-14-60.)

TITLE SEVEN - Zoning District Regulations

- Chap. 1131. Official Zoning Map.
- Chap. 1133. Districts Established; Compliance.
- Chap. 1135. A-1 Agricultural District.
- Chap. 1137. R-2 Single-Family Residential District.
- Chap. 1141. R-2A Single-Family Residential District.
- Chap. 1143. R-3 One and Two Family Residential District.
- Chap. 1145. R-4 Multi-Family Residence District.
- Chap. 1151. B-1 Neighborhood Business District.
- Chap. 1153. B-2 General Business District.
- Chap. 1157. M-1 Light Industrial District.
- Chap. 1159. M-2 General Industrial District.
- Chap. 1171. C Conservation District.
- Chap. 1177. WO Wellhead Operation District.
- Chap. 1179. WP Well Field Protection Overlay District.

**CHAPTER 1131
Official Zoning Map**

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| <p>1131.01 Adoption.</p> <p>1131.02 Identification.</p> <p>1131.03 Interpretation of district boundaries.</p> | <p>1131.04 Zoning of annexed land.</p> |
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CROSS REFERENCES

- Definitions - see P. & Z. Ch. 1115
- Districts established - see P. & Z. 1133.01

1131.01 ADOPTION.

The districts established in Chapter 1133 as shown on the Official Zoning Map which, together with all explanatory matter thereon, are hereby adopted as part of this Zoning Code. (Ord. 1069-94. Passed 4-28-94.)

1131.02 IDENTIFICATION.

The Official Zoning Map shall be identified by the signature of the Mayor, and attested by the Municipal Clerk.

- (a) The Official Zoning Map shall be identified by the signature of the Mayor, attested by the Municipal Clerk, and bearing the seal of the City and the following words: "This is to certify that this is the Official Zoning Map referred to in Chapter 1131 of the Zoning Code of Moraine, Ohio," together with the date of the adoption of this Zoning Code.
- (b) If, in accordance with the provisions of this Zoning Code and Ohio R.C. Chapter 713, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the effective date of the amendment approved by Council, with an entry on the Official Zoning Map including the amending ordinance number, the date of passage of the ordinance, and the initials of the Municipal Clerk. The Zoning Map shall be annually certified for currency and accuracy.
- (c) No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Zoning Code. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Zoning Code and punishable as provided under the provisions of the Zoning Code.
- (d) Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the Division of Community Development shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the City. (Ord. 1069-94. Passed 4-28-94.)

1131.03 INTERPRETATION OF DISTRICT BOUNDARIES.

The Board of Zoning Appeals may authorize adjustments of district boundaries as follows:

- (a) Where the street or lot layout actually on the ground, or as recorded, differs from the street and lot lines as shown on the Zoning Map, the Board, after notice to the owners of the property and after public hearing, shall interpret the maps in such a way as to carry out the intent and purpose of this Zoning Code for the particular section or district in question.
- (b) To permit the extension of a district where the boundary line of a district divides a lot held in a single ownership on the effective date of this Zoning Code.
- (c) To permit, where the boundary line of a district divides a tract of more than ten (10) acres under a single ownership, adjustment of such a line to conform with the topography of the ground where such a tract is being subdivided and when the preliminary plat of the subdivision has been officially approved; provided such a variation does not extend for a distance of more than 500 feet and does not come closer than 300 feet to any boundary of the tract. (Ord. 1069-94. Passed 4-28-94.)

1131.04 ZONING OF ANNEXED LAND.

Whenever any area is annexed to the City, one (1) of the following conditions shall apply:

- (a) Land that is zoned prior to annexation shall be classified as being in whichever district most closely conforms with the zoning that existed prior to annexation. Such classification shall be recommended for an interim period by the Planning Commission to Council, and Council shall approve the same after public hearing.
- (b) Land not zoned prior to annexation shall be classified in the same manner into whichever district of this Zoning Code most closely conforms with the existing use of the annexed area, or in accordance with the master plan in the case of vacant land.
- (c) In all cases, within three (3) months after the effective date of annexation, the Planning Commission shall recommend the appropriate permanent zoning districts for such area to Council, and the Map shall be amended according to the prescribed procedure set forth in Chapter 1127. (Ord. 1069-94. Passed 4-28-94.)

CHAPTER 1133
Districts Established; Compliance

1133.01 Establishment of zoning districts.	1133.02 Compliance with regulations. 1133.03 Essential services exempted.
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CROSS REFERENCES

Definitions - see P. & Z. Ch. 1115
Zoning Map - see P. & Z. 1131.02
Boundary interpretation - see P. & Z. 1131.03
Zoning annexed land - see P. & Z. 1131.04

1133.01 ESTABLISHMENT OF ZONING DISTRICTS.

For the purpose of promoting the public health, safety, morals, convenience, comfort, prosperity and general welfare of the Municipality, the following districts are hereby established:

- A-1 Agricultural District.
- R-2 Suburban Residential Single-Family Residence District.
- R-2A Suburban Residential Single-Family Residence District.
- R-3 One and Two Family Residence District.
- R-4 Multi-Family Residence District.
- B-1 Neighborhood Business District.
- B-2 General Business District.
- M-1 Light Industrial District.
- M-2 General Industrial District.
- C Conservation District.
- WO Wellhead Operation District.
- WP Well Field Protection Overlay District.

(Ord. 1203-97. Passed 7-10-97.)

1133.02 COMPLIANCE WITH REGULATIONS.

The regulations for each district set forth by this Zoning Code shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

- (a) No building, structure or land shall be used or occupied and no building or structure or part thereof shall be structurally altered except in conformity with all of the regulations herein specified for the district in which it is located;

- (b) No building or other structure shall be erected or altered:
- (1) To provide for greater height or bulk;
 - (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 be contrary to the provisions of this Zoning Code.
- (c) No yard or lot existing at the time of passage of this Zoning Code shall be reduced in dimension 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 set forth herein.
- (d) No land, building or structure 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 hazard; noise, brilliant light, vibration; smoke, dust, fumes, odor or other form of air pollution; heat, cold, dampness, electrical or electronic disturbances; nuclear radiation, or any other condition, substance or element, to any person or property outside of the premises on which such building, structure or use is located; such uses when lawfully permitted under the provisions of this Zoning Code shall be operated in a manner so as to ensure that the property rights of all other parcels of land shall not be adversely affected to the extent of reducing the enjoyment of property rights thereon.
- A use not listed within the use provisions of a zoning district shall be considered to be a prohibited use within that zoning district unless otherwise interpreted by the Zoning Inspector or the Board of Zoning Appeals.
- (e) In any district, no more than one (1) primary structure and its customary accessory use shall be located on a single lot except as specifically provided elsewhere in this Zoning Code.
- (f) Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure or part thereof, for which official approvals and required building permits have been granted before the enactment of this Zoning Code, the construction of which conforms with such plans and has been started prior to the effective date of this Zoning Code, and completion thereof carried on in a normal manner and not discounted for reasons other than those beyond the builders' control.
- (Ord. 1203-97. Passed 7-10-97.)

1133.03 ESSENTIAL SERVICES EXEMPTED.

The erection, construction, alteration or maintenance by public utilities or Municipal departments or commissions, of overhead, surface or underground gas, electrical, steam or water, distribution or transmission systems, collection, supply or disposal systems, including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, poles, electrical substation, gas regulator stations and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or Municipal department or commission or for the public health, safety or general welfare, shall be exempt from the regulations of this Zoning Code. Provided, however, that the installation shall conform to Federal Communications Commission and Federal Aviation Agency rules and regulations, and those of other authorities having jurisdiction.

(Ord. 1203-97. Passed 7-10-97.)

**CHAPTER 1135
A-1 Agricultural District**

1135.01 Purpose.
1135.02 Uses.

**1135.03 Site development regulations;
permitted uses only.**

CROSS REFERENCES

Definitions - see P. & Z. Ch. 1115

Accessory buildings and uses - see P. & Z. 1181.01, 1181.04

Supplemental regulations - see P. & Z. Ch. 1185

1135.01 PURPOSE.

This district is intended to provide area suitable for agricultural uses as defined and large lot single family residential development reflecting a very low density, open space character, generally located within the peripheral areas of the City. This District is further intended to discourage concentrated development within areas of unique physical characteristics such as woodlands, irregular topography, adjacency to street corridors, etc.
(Ord. 1203-97. Passed 7-10-97.)

1135.02 USES.

(a) Permitted Uses.

- (1) Agriculture, and the usual agricultural buildings and structures;
- (2) Single-family dwelling;
- (3) Churches and parish houses;
- (4) Schools and colleges for academic instruction;
- (5) Cemeteries, provided they are distant 400 feet from adjacent property and streets and provided, also, that the same shall contain not less than forty (40) acres;
- (6) Commercial kennels for the raising, breeding and boarding of dogs or other animals, provided that all buildings, including runways, are at least 200 feet from all property lines;
- (7) Commercial dairies and riding academies, provided all buildings connected therewith shall be 200 feet distant from any lot in any R district;
- (8) Hospitals and sanitoriums;
- (9) Publicly owned or operated buildings, parks, facilities, playgrounds and community centers, swimming pools, golf courses; public and private forests and wildlife preserves and similar conservation areas;

- (10) Home occupation (See Chapter 1181 for home occupation requirements); and
- (11) Accessory buildings and uses incidental to the principal use; living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling; stable; the keeping of roomers or boarders by a resident family; roadside stands, offering for sale only neighborhood agricultural products or other products produced on the premises. Regulations governing accessory facilities and uses are specified in Chapter 1181.

(b) Special Uses. The following special uses are subject to review and regulation in accordance with Chapter 1117:

- (1) Micro Antenna or wireless communication antenna attached to a permitted agricultural, institutional, recreational, or public building or non-residential structure provided the separate antenna structure does not exceed more than 20 feet above the highest point of the structure and the transmission and receiving equipment is stored outside the building or structure. Also provided that said facilities meet all standards as set in Chapter 1117 for "Telecommunications: Commercial Mobile Radio, Television and Radio Service Facilities"
- (2) Alterations and conversions of single-family dwellings into two-family dwellings, provided that there be no enlargement of the existing building, that one (1) of the units contains at least 820 square feet of floor area and that the other contain at least 700 square feet, and provided that the lot area, frontage and yard requirements be not less than the minimum specified for single-family dwellings;
- (3) Institutions for the insane, liquor or drug addicts;
- (4) Inns, dining places, commercial summer gardens and outdoor theaters along principal highways;
- (5) Commercial swimming pools, fishing lakes, gun clubs, skeet shooting ranges and similar uses;
- (6) Public or privately owned and operated airports or landing fields; and
- (7) Disposal of garbage or refuse by a county, township or Municipality. (Ord. 1203-97. Passed 7-10-97.)

1135.03 SITE DEVELOPMENT REGULATIONS; PERMITTED USES ONLY.

(a) Lot Requirements.

- | | | |
|-----|------------------------------------|--------------------|
| (1) | <u>Minimum lot area</u> | |
| | A. Dwellings | 20,000 square feet |
| | B. Other permitted uses | 1 acre |
| (2) | <u>Minimum lot area per family</u> | |
| | A. Dwellings | 20,000 square feet |
| | B. Other permitted uses | 20,000 square feet |
| (3) | <u>Minimum lot frontage</u> | |
| | A. Dwellings | 100 feet |
| | B. Other permitted uses | 100 feet |

- (b) Yard Requirements.
- | | | |
|-----|---|-----------|
| (1) | <u>Minimum front yard depth</u> | |
| | A. Dwellings | 40 feet* |
| | B. Other permitted uses | 40 feet** |
| (2) | <u>Minimum rear yard depth</u> | |
| | A. Dwellings | 50 feet |
| | B. Other permitted uses | 50 feet** |
| (3) | <u>Minimum side yard width on each side</u> | |
| | A. Dwellings | 15 feet |
| | B. Other permitted uses | 25 feet** |
- (c) Structural Requirements.
- | | | |
|-----|-------------------------------|---------|
| (1) | Maximum building height | 30 feet |
| (2) | Maximum 2 1/2 story structure | |
- (d) Parking and Loading Requirements.
- (1) See Chapter 1187 for off-street parking and loading space requirements.
- (e) Signs.
- (1) See Chapter 1189 for size and location of permitted signs.

*The front yard depth shall be measured from the established right-of-way lines as shown on the Official Thoroughfare Plan.

**Or greater as may be specified.
(Ord. 1203-97. Passed 7-10-97.)

CHAPTER 1137
R-2 Single-Family Residence District

1137.01 Purpose.
1137.02 Uses.

**1137.03 Site development regulations;
permitted uses only.**

CROSS REFERENCES

Definitions - see P. & Z. Ch. 1115

Accessory buildings and uses - see P. & Z. 1181.01, 1181.04

Supplemental regulations - see P. & Z. Ch. 1185

1137.01 PURPOSE.

The R-2 Single-Family Residence District is provided to accommodate single family residential development of a moderately low density character within areas of similar development and within areas of similar physical character generally located within the peripheral areas of the City. (Ord. 1203-97. Passed 7-10-97.)

1137.02 USES.

(a) Permitted Uses.

- (1) Single-family dwellings;
- (2) Nursery schools and child care centers are permitted accessory uses when located not less than twenty (20) feet from any other lot in any R District; provided there is established and maintained in connection therewith, a completely fenced and screened play lot; and
- (3) All permitted and accessory uses as provided within the A-1 District, but not including animal and poultry husbandry on any lands used or platted for residential purposes. Regulations governing accessory facilities and uses are specified in Chapter 1181.

(b) Special Uses. The following special uses are subject to review and regulation in accordance with Chapter 1117.

- (1) Micro Antenna or wireless communication antenna attached to a pole located in the right-of-way provided the antenna does not exceed more than twenty feet above the highest point of the separate antenna structure and the transmission and receiving equipment is limited to five cubic feet and located in an underground vault and positioned parallel to the road, and is situated on the non-road way side of the pole. Also provided that said facilities meet all standards as set in Chapter 1117 for "Telecommunications: Commercial Mobile Radio, Television and Radio Service Facilities". (Ord. 1203-97. Passed 7-10-97.)

1137.03 SITE DEVELOPMENT REGULATIONS; PERMITTED USES ONLY.**(a) Lot Requirements.****(1) Minimum lot area**

A.	1 and 1 1/2 stories	7,500 square feet
B.	2 and 2 1/2 stories	7,500 square feet
C.	Mobile/Manufactured home subdivision	6,000 square feet

(2) Minimum lot area per family

A.	1 and 1 1/2 stories	7,500 square feet
B.	2 and 2 1/2 stories	7,500 square feet
C.	Mobile/Manufactured home subdivision	6,000 square feet

(3) Minimum lot frontage

A.	1 and 1 1/2 stories	60 feet
B.	2 and 2 1/2 stories	60 feet
C.	Mobile/Manufactured home subdivision	45 feet

(b) Yard Requirements.**(1) Minimum front yard depth**

A.	1 and 1 1/2 stories	25 feet*
B.	2 and 2 1/2 stories	25 feet*
C.	Mobile/Manufactured home subdivision	25 feet*

(2) Minimum rear yard depth

A.	1 and 1 1/2 stories	40 feet
B.	2 and 2 1/2 stories	40 feet
C.	Mobile/Manufactured home subdivision	20 feet

(3) Minimum side yard least width

A.	1 and 1 1/2 stories	8 feet
B.	2 and 2 1/2 stories	10 feet
C.	Mobile/Manufactured home subdivision	5 feet

(4) Minimum side yard sum of least width

A.	1 and 1 1/2 stories	20 feet
B.	2 and 2 1/2 stories	25 feet
C.	Mobile/Manufactured home subdivision	15 feet

(c) Structural Requirements.

(1)	Maximum building height	30 feet
(2)	Maximum 2 1/2 story structure	

(d) Parking Requirements.

(1)	See Chapter 1187 for off-street parking and loading space requirements.
-----	---

(e) Signs.

(1) See Chapter 1189 for size and location of permitted signs.

*The front yard depth shall be measured from the established right-of-way lines as shown on the Official Thoroughfare Plan. (Ord. 1203-97. Passed 7-10-97.)

CHAPTER 1141
R-2A Single-Family Residence District

1141.01 Purpose.
1141.02 Uses.

**1141.03 Site development regulations;
permitted uses only.**

CROSS REFERENCES

Definitions - see P. & Z. Ch. 1115

Accessory buildings and uses - see P. & Z. 1181.01, 1181.04

Supplemental regulations - see P. & Z. Ch. 1185

1141.01 PURPOSE.

The R-2A Single-Family Residence District is provided to accommodate single family residential development at a somewhat higher density than the R-2 District, generally within the expansion areas of the City as well as within areas of similar residential character. (Ord. 1203-97. Passed 7-10-97.)

1141.02 USES.

(a) Permitted Uses.

- (1) All permitted and accessory uses as permitted within the R-2 District. Regulations governing accessory facilities and uses are specified in Chapter 1181.

(b) Special Uses. The following special uses are subject to review and regulation in accordance with Chapter 1117.

- (1) All special uses as provided within the R-2 District.
- (2) Micro Antenna or wireless communication antenna attached to a pole located in the right-of-way provided the antenna does not exceed more than twenty feet above the highest point of the separate antenna structure and the transmission and receiving equipment is limited to five cubic feet and located in an underground vault and positioned parallel to the road, and is situated on the non-road way side of the pole. Also provided that said facilities meet all standards as set in Chapter 1117 for "Telecommunications: Commercial Mobile Radio, Television and Radio Service Facilities". (Ord. 1203-97. Passed 7-10-97.)

1141.03 SITE DEVELOPMENT REGULATIONS; PERMITTED USES ONLY.(a) Lot Requirements.

- | | | |
|-----|------------------------------------|-------------------|
| (1) | <u>Minimum lot area</u> | |
| | A. 1 and 1 1/2 stories | 7,000 square feet |
| | B. 2 and 2 1/2 stories | 7,000 square feet |
| (2) | <u>Minimum lot area per family</u> | |
| | A. 1 and 1 1/2 stories | 7,000 square feet |
| | B. 2 and 2 1/2 stories | 7,000 square feet |
| (3) | <u>Minimum lot frontage</u> | |
| | A. 1 and 1 1/2 stories | 60 feet |
| | B. 2 and 2 1/2 stories | 60 feet |

(b) Yard Requirements.

- | | | |
|-----|---|----------|
| (1) | <u>Minimum front yard depth</u> | |
| | A. 1 and 1 1/2 stories | 25 feet* |
| | B. 2 and 2 1/2 stories | 25 feet* |
| (2) | <u>Minimum rear yard depth</u> | |
| | A. 1 and 1 1/2 stories | 40 feet |
| | B. 2 and 2 1/2 stories | 40 feet |
| (3) | <u>Minimum side yard least width</u> | |
| | A. 1 and 1 1/2 stories | 7 feet |
| | B. 2 and 2 1/2 stories | 8 feet |
| (4) | <u>Minimum side yard sum of least width</u> | |
| | A. 1 and 1 1/2 stories | 16 feet |
| | B. 2 and 2 1/2 stories | 18 feet |

(c) Structural Requirements.

- | | | |
|-----|-------------------------------|---------|
| (1) | Maximum building height | 35 feet |
| (2) | Maximum 2 1/2 story structure | |

(d) Parking and Loading Requirements.

- | | |
|-----|---|
| (1) | See Chapter 1187 for off-street parking and loading space requirements. |
|-----|---|

(e) Signs.

- | | |
|-----|--|
| (1) | See Chapter 1189 for size and location of permitted signs. |
|-----|--|

*The front yard depth shall be measured from the established right-of-way lines as shown on the Official Thoroughfare Plan.

(Ord. 1203-97. Passed 7-10-97.)

CHAPTER 1143
R-3 One and Two Family Residence District

1143.01 Purpose.
1143.02 Uses.

**1143.03 Site development regulations;
permitted uses only.**

CROSS REFERENCES

Definitions - see P. & Z. Ch. 1115

Accessory buildings and uses - see P. & Z. 1181.01, 1181.04

Supplemental regulations - see P. & Z. Ch. 1185

1143.01 PURPOSE.

The R-3 One and Two Family Residence District is provided to accommodate single family development at a relatively high density, reflecting the present density of the majority of single family development within the City. These Districts would be located within the intermediate and originally developed neighborhoods of the City.

Provision is also made within this District for the construction of two (2) family units. (Ord. 1203-97. Passed 7-10-97.)

1143.02 USES.

(a) Permitted Uses.

- (1) One and two-family dwellings;
- (2) Alterations and conversions into two-family dwellings in accordance with the lot area, frontage and yard requirements, as required in Chapter 1143 to 1171; and
- (3) All permitted and accessory uses as provided within the R-2A District. Regulations governing accessory facilities and uses are specified in Chapter 1181.

(b) Special Uses. The following special uses are subject to review and regulation in accordance with Chapter 1117.

- (1) Micro Antenna or wireless communication antenna attached to a pole located in the right-of-way provided the antenna does not exceed more than twenty feet above the highest point of the separate antenna structure and the transmission and receiving equipment is limited to five cubic feet and located in an underground vault and positioned parallel to the road, and is situated on the non-road way side of the pole. Also provided that said facilities meet all standards as set in Chapter 1117 for "Telecommunications: Commercial Mobile Radio, Television and Radio Service Facilities". (Ord. 1203-97. Passed 7-10-97.)

1143.03 SITE DEVELOPMENT REGULATIONS; PERMITTED USES ONLY.(a) Lot Requirements.(1) Minimum lot area

A. One-Family

- | | | |
|----|---------------------|-------------------|
| 1. | 1 and 1 1/2 stories | 6,000 square feet |
| 2. | 2 and 2 1/2 stories | 6,000 square feet |

B. Two-Family

- | | | |
|----|---------------------|-------------------|
| 1. | 1 and 1 1/2 stories | 8,000 square feet |
| 2. | 2 and 2 1/2 stories | 8,000 square feet |

(2) Minimum lot area per family

A. One-Family

- | | | |
|----|---------------------|-------------------|
| 1. | 1 and 1 1/2 stories | 6,000 square feet |
| 2. | 2 and 2 1/2 stories | 6,000 square feet |

B. Two-Family

- | | | |
|----|---------------------|-------------------|
| 1. | 1 and 1 1/2 stories | 4,000 square feet |
| 2. | 2 and 2 1/2 stories | 4,000 square feet |

(3) Minimum lot frontage

A. One-Family

- | | | |
|----|---------------------|---------|
| 1. | 1 and 1 1/2 stories | 50 feet |
| 2. | 2 and 2 1/2 stories | 50 feet |

B. Two-Family

- | | | |
|----|---------------------|---------|
| 1. | 1 and 1 1/2 stories | 65 feet |
| 2. | 2 and 2 1/2 stories | 65 feet |

(b) Yard Requirements.(1) Minimum front yard depth

A. One-Family

- | | | |
|----|---------------------|----------|
| 1. | 1 and 1 1/2 stories | 25 feet* |
| 2. | 2 and 2 1/2 stories | 25 feet* |

B. Two-Family

- | | | |
|----|---------------------|----------|
| 1. | 1 and 1 1/2 stories | 25 feet* |
| 2. | 2 and 2 1/2 stories | 25 feet* |

(2) Minimum rear yard depth

A. One-Family

- | | | |
|----|---------------------|---------|
| 1. | 1 and 1 1/2 stories | 35 feet |
| 2. | 2 and 2 1/2 stories | 35 feet |

B. Two-Family

- | | | |
|----|---------------------|---------|
| 1. | 1 and 1 1/2 stories | 35 feet |
| 2. | 2 and 2 1/2 stories | 40 feet |

(3) Minimum side yard least width

A. One-Family

- | | | |
|----|---------------------|--------|
| 1. | 1 and 1 1/2 stories | 7 feet |
| 2. | 2 and 2 1/2 stories | 8 feet |

B. Two-Family

- | | | |
|----|---------------------|---------|
| 1. | 1 and 1 1/2 stories | 8 feet |
| 2. | 2 and 2 1/2 stories | 10 feet |

- (4) Minimum side yard sum of least widths
- | | | |
|----|---------------------|---------|
| A. | One-Family | |
| 1. | 1 and 1 1/2 stories | 16 feet |
| 2. | 2 and 2 1/2 stories | 18 feet |
| B. | Two-Family | |
| 1. | 1 and 1 1/2 stories | 18 feet |
| 2. | 2 and 2 1/2 stories | 22 feet |
- (c) Structural Requirements.
- | | | |
|-----|-------------------------------|---------|
| (1) | Maximum building height | 30 feet |
| (2) | Maximum 2 1/2 story structure | |
- (d) Parking Requirements.
- (1) See Chapter 1187 for off-street parking and loading requirements.
- (e) Signs.
- (1) See Chapter 1189 for size and location of permitted signs.

*The front yard depth shall be measured from the established right-of-way lines as shown on the official Thoroughfare Plan.

(Ord. 1203-97. Passed 7-10-97.)

CHAPTER 1145
R-4 Multi-Family Residence District

1145.01 Purpose.
1145.02 Uses.

**1145.03 Site development regulations;
permitted uses only.**

CROSS REFERENCES

Definitions - see P. & Z. Ch. 1115

Accessory buildings and uses - see P. & Z. 1181.01, 1181.04

Supplemental regulations - see P. & Z. Ch. 1185

1145.01 PURPOSE.

The R-4 Multi-Family Residence District is intended to accommodate both new and existing conventional multi-family housing as well as selected types of higher density housing types at a "suburban apartment density" similar to most of the City's existing multi-family development. This District reflects most developed multi-family areas as well as areas which could serve a transitional function between single family neighborhoods and commercial areas. Certain areas located in proximity to larger open space areas would be suitable for this zoning classification as well. (Ord. 1203-97. Passed 7-10-97.)

1145.02 USES.

(a) Permitted Uses.

- (1) Multiple-family dwellings;
- (2) Boarding and lodging houses;
- (3) Hospitals and clinics for human care; and
- (4) All permitted and accessory uses as provided within the R-3 District; other accessory uses not otherwise prohibited, customarily incidental to any permitted principal use; storage garages, where the lot is occupied by a multiple-dwelling, hospital or institutional building.

(b) Special Uses. The following special uses are subject to review and regulation in accordance with Chapter 1117:

- (1) All special uses as provided within the R-3 District.
- (2) Micro Antenna or wireless communication antenna attached to a pole located in the right-of-way provided the antenna does not exceed more than twenty feet above the highest point of the separate antenna structure and the transmission and receiving equipment is limited to five cubic feet and located in an underground vault and positioned parallel to the road, and is situated on the non-road way side of the pole. Also provided that said facilities meet all standards as set in Chapter 1117 for "Telecommunications: Commercial Mobile Radio, Television and Radio Service Facilities".

- (3) Condominiums. (Ord. 1203-97. Passed 7-10-97.)

1145.03 SITE DEVELOPMENT REGULATIONS; PERMITTED USES ONLY.

(a) Lot Requirements.

(1) Minimum lot area.

- | | | |
|----|---------------------------------------|--------------------|
| A. | One-family dwellings | |
| 1. | 1 and 1 1/2 stories | 6,000 square feet |
| 2. | 2 and 2 1/2 stories | 6,000 square feet |
| B. | Two-family dwellings | |
| 1. | 1 and 1 1/2 stories | 6,500 square feet |
| 2. | 2 and 2 1/2 stories | 6,500 square feet |
| C. | Multi-family and Other Permitted Uses | |
| 1. | 1 and 1 1/2 stories | 10,000 square feet |
| 2. | 2 and 2 1/2 stories | 10,000 square feet |
| 3. | 3 stories | 10,000 square feet |

(2) Minimum lot area per family.

- | | | |
|----|---------------------------------------|-------------------|
| A. | One-family dwelling | |
| 1. | 1 and 1 1/2 stories | 6,000 square feet |
| 2. | 2 and 2 1/2 stories | 6,000 square feet |
| B. | Two-family dwelling | |
| 1. | 1 and 1 1/2 stories | 3,250 square feet |
| 2. | 2 and 2 1/2 stories | 3,250 square feet |
| C. | Multi-family and other permitted uses | |
| 1. | 1 and 1 1/2 stories | 2,500 square feet |
| 2. | 2 and 2 1/2 stories | 2,500 square feet |
| 3. | 3 stories | 2,500 square feet |

(3) Minimum lot frontage.

- | | | |
|----|---------------------------------------|---------|
| A. | One-family dwelling | |
| 1. | 1 and 1 1/2 stories | 50 feet |
| 2. | 2 and 2 1/2 stories | 50 feet |
| B. | Two-family dwelling | |
| 1. | 1 and 1 1/2 stories | 55 feet |
| 2. | 2 and 2 1/2 stories | 55 feet |
| C. | Multi-family and other permitted uses | |
| 1. | 1 and 1 1/2 stories | 75 feet |
| 2. | 2 and 2 1/2 stories | 75 feet |
| 3. | 3 stories | 80 feet |

(b) Yard Requirements.

(1) Minimum front yard depth.

- | | | |
|----|---------------------|----------|
| A. | One-family dwelling | |
| 1. | 1 and 1 1/2 stories | 25 feet* |
| 2. | 2 and 2 1/2 stories | 25 feet* |

- | | | | |
|-----|-----|---|----------|
| | B. | Two-family dwelling | |
| | 1. | 1 and 1 1/2 stories | 25 feet* |
| | 2. | 2 and 2 1/2 stories | 25 feet* |
| | C. | Multi-family and other permitted uses | |
| | 1. | 1 and 1 1/2 stories | 25 feet* |
| | 2. | 2 and 2 1/2 stories | 25 feet* |
| | 3. | 3 stories | 25 feet* |
| (2) | | <u>Minimum rear yard depth.</u> | |
| | A. | One-family dwelling | |
| | 1. | 1 and 1 1/2 stories | 35 feet |
| | 2. | 2 and 2 1/2 stories | 35 feet |
| | B. | Two-family dwelling | |
| | 1. | 1 and 1 1/2 stories | 35 feet |
| | 2. | 2 and 2 1/2 stories | 35 feet |
| | C. | Multi-family and other permitted uses | |
| | 1. | 1 and 1 1/2 stories | 40 feet |
| | 2. | 2 and 2 1/2 stories | 40 feet |
| | 3. | 3 stories | 50 feet |
| (3) | | <u>Minimum side yard least width.</u> | |
| | A. | One-family dwelling | |
| | 1. | 1 and 1 1/2 stories | 7 feet |
| | 2. | 2 and 2 1/2 stories | 8 feet |
| | B. | Two-family dwelling | |
| | 1. | 1 and 1 1/2 stories | 7 feet |
| | 2. | 2 and 2 1/2 stories | 8 feet |
| | C. | Multi-family and other permitted uses | |
| | 1. | 1 and 1 1/2 stories | 8 feet |
| | 2. | 2 and 2 1/2 stories | 8 feet |
| | 3. | 3 stories | 10 feet |
| (4) | | <u>Minimum side yard sum of least widths.</u> | |
| | A. | One-family dwelling | |
| | 1. | 1 and 1 1/2 stories | 16 feet |
| | 2. | 2 and 2 1/2 stories | 18 feet |
| | B. | Two-family dwelling | |
| | 1. | 1 and 1 1/2 stories | 16 feet |
| | 2. | 2 and 2 1/2 stories | 18 feet |
| | C. | Multi-family and other permitted uses | |
| | 1. | 1 and 1 1/2 stories | 18 feet |
| | 2. | 2 and 2 1/2 stories | 20 feet |
| | 3. | 3 stories | 25 feet |
| (c) | | <u>Structural Requirements.</u> | |
| | (1) | Maximum building height | 40 feet |
| (d) | | <u>Parking Requirements.</u> | |
| | (1) | See Chapter 1187 for off-street parking requirements. | |

(e) Signs.

(1) See Chapter 1189 for size and location of permitted signs.

* The front yard depth shall be measured from the established right-of-way line as shown on the Official Thoroughfare Plan.

(Ord. 1203-97. Passed 7-10-97.)

CHAPTER 1151
B-1 Neighborhood Business District

1151.01 Purpose.
1151.02 Uses.

1151.03 Site development regulations.

CROSS REFERENCES

Definitions - see P. & Z. Ch. 1115

Accessory buildings and uses - see P. & Z. 1181.02, 1181.05

Supplemental regulations - see P. & Z. Ch. 1185

1151.01 PURPOSE.

The B-1 Neighborhood Business District is intended to provide for relatively small business and service establishments in suitable locations primarily to serve the daily staple needs of residents. (Ord. 1203-97. Passed 7-10-97.)

1151.02 USES.

(a) Permitted Uses.

- (1) Minor B-1 District which is entirely surrounded by R Districts and which district, including the streets, contains less than five acres.
 - A. Any use permitted and as regulated in the R-4 District;
 - B. Retail sales and services including any local convenience retail and for service uses including: grocery, fruit or vegetable store, meat market, drug store, shoe repair shop, hardware and paint stores, barber and beauty shops, dry cleaning and laundry pickup stations, laundromats;
 - C. Business and professional offices, supplying commodities or performing services primarily for residents of the neighborhood;
 - D. Restaurant, cafe, not including dancing or live entertainment;
 - E. Automobile service station, minor repair and storage garages; and
 - F. Commercial parking lots for passenger vehicles except as otherwise provided in the Zoning Code;
 - G. Accessory building incidental to the principal use. Regulations governing accessory facilities and uses are specified in Chapter 1181.

- (2) Major B-1 District. The following uses are allowed, provided no such use shall be permitted in a minor B-1 District.
- A. Any local retail business or service establishment such as an electrical appliance shop, plumbing and heating shop, printing shop, furniture shop, interior decorating shop, and upholstery shop including automobile, boat and like upholstery;
 - B. Theaters, not including drive-ins;
 - C. Hotel; and
 - D. Garage for general automobile repair; but not including major body and fender work, overall painting and steam cleaning;
 - E. Accessory buildings incidental to the principal use. Regulations governing accessory facilities and uses are specified in Chapter 1181.

(b) Special Uses. The following special uses are subject to review in accordance with Chapter 1117.

- (1) Micro Antenna or wireless communication antenna attached to a pole located in the right-of-way provided the antenna does not exceed more than twenty feet above the highest point of the separate antenna structure and the transmission and receiving equipment is limited to five cubic feet and located in an underground vault and positioned parallel to the road, and is situated on the non-road way side of the pole. Also provided that said facilities meet all standards as set in Chapter 1117 for "Telecommunications: Commercial Mobile Radio, Television and Radio Service Facilities". (Ord. 1203-97. Passed 7-10-97.)

1151.03 SITE DEVELOPMENT REGULATIONS.

(a) Lot Requirements.

- | | | |
|-----|----------------------|-------------------|
| (1) | Minimum lot area | 5,000 square feet |
| (2) | Minimum lot frontage | 60 feet |

(b) Yard Requirements.

- (1) Minimum front yard depth.
- A. Dwellings: Same as permitted in R-4 District.
 - B. Permitted Uses: 40 feet*
- (2) Minimum rear yard depth.
- A. Dwellings: Same as permitted in R-4 District.
 - B. Permitted Uses: 40 feet
- (3) Minimum side Yard width.
- A. Dwellings: Same as permitted in R-4 District.
 - B. Permitted Uses: None required except adjoining any R-District in which case, not less than 10 feet.

- (c) Structural Requirements.
 - (1) Maximum building height shall be forty (40) feet.
- (d) Parking and Loading Requirements.
 - (1) See Chapter 1187 for off-street parking and loading requirements.
- (e) Signs.
 - (1) See Chapter 1189 for size and location of permitted signs.
- (f) Supplementary Regulations.
 - (1) All permitted businesses, services or processing shall be conducted wholly within a completely enclosed building except for the sale of automotive fuel, lubricants and fluids at service stations and except for off-street automobile parking and loading.
 - (2) Within a major B-1 District all principal permitted buildings shall be located at least fifty (50) feet from any lot in any R District.
 - (3) In any B-1 District fronting directly across the street from any R-2 or R-3 District, the parking and loading facilities shall be distant at least twenty-five (25) feet from the established right-of-way line, and the buildings or the structures at least seventy-five (75) feet from the established right of way.
 - (4) Goods shall consist primarily of new merchandise.
 - (5) Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas fumes, noise, vibration, refuse matter or water-carried waste.
- (g) See Chapter 1185 for additional provisions for commercial facilities.
- (h) Special uses shall comply with all pertinent development standards contained in Chapter 1117.

*The front yard depth shall be measured from the established right-of-way line as shown on the Official Thoroughfare Plan.

(Ord. 1203-97. Passed 7-10-97.)

**CHAPTER 1153
B-2 General Business District**

1153.01 Purpose.
1153.02 Uses.

1153.03 Site development regulations.

CROSS REFERENCES

Definitions - see P. & Z. Ch. 1115

Accessory buildings and uses - see P. & Z. 1181.02, 1181.05

Supplemental regulations - see P. & Z. Ch. 1185

1153.01 PURPOSE.

The B-2 General Business District is intended to provide for a variety of retail, service and administrative establishments required to satisfy the needs of the overall community. This District is also intended to accommodate retail trade establishments in the community which cannot be practically provided for in a neighborhood commercial district development.
(Ord. 1203-97. Passed 7-10-97.)

1153.02 USES.

(a) Permitted Uses.

- (1) All permitted uses as provided within the B-1 Neighborhood Business District.
- (2) Department stores;
- (3) Establishments engaged in the retail trade of: drugs, book and stationery stores, apparel stores, jewelry stores, optical goods stores, furniture, home furnishings, cameras-photo supplies, hardware, hobby shops, music, musical instruments, pet sales and supplies, radio and television sales and service, sporting goods, newsstands and similar retail activities, bakery shops, dry cleaning and laundry pick-up station, laundromats, etc.;
- (4) Office equipment and office supply stores;
- (5) Establishments engaged primarily in the fields of finance, insurance and real estate such as banks, credit agencies, investment firms, real estate and insurance offices;
- (6) Miscellaneous business services such as advertising, news syndicates, employment agencies, travel bureaus and ticket offices;
- (7) Engineering and architectural services, legal services, accounting, auditing and bookkeeping services;

- (8) Nonprofit, professional, service, charitable and labor organizations;
- (9) Business schools or private schools operated for a profit;
- (10) Theaters, not including drive-ins;
- (11) Restaurants, including drive-in or fast food;
- (12) Post office and governmental office buildings;
- (13) Automobile service stations;
- (14) Auto and truck rental; new and used car, truck, bicycle or motorcycle sales and services; boat and marine equipment sales, rental and service; trailer sales and rentals; tire sales and repair;
- (15) Cultural institutions including public libraries, public art galleries and public museums;
- (16) Bowling alleys, indoor skating rinks and similar recreational uses;
- (17) Building supplies, garden supplies; commercial greenhouses;
- (18) Commercial baseball fields; swimming pools; golf driving ranges, or similar open air recreational uses and facilities;
- (19) Carpenter, sheet metal and sign painting shops;
- (20) Medical and dental offices, clinics, health centers and hospitals;
- (21) Wholesale sales, warehouses and distribution firms; and
- (22) Accessory buildings and uses incidental to the principal use and as regulated in the B-1 District, except of a type which is prohibited in the M-1 District as a principal use.

(b) Special Uses. The following special uses are subject to review in accordance with Chapter 1117.

- (1) Adult entertainment facilities, as defined in Chapter 1115;
- (2) Animal hospitals and/or kennels;
- (3) Body Shop;
- (4) Manufactured/mobile home parks;
- (5) Night clubs, discotheques, etc;
- (6) Temporary and/or outdoor sales of plants and garden supplies; and
- (7) Micro Antenna or wireless communication antenna attached to a pole located in the right-of-way provided the antenna does not exceed more than twenty feet above the highest point of the separate antenna structure and the transmission and receiving equipment is limited to five cubic feet and located in an underground vault and positioned parallel to the road, and is situated on the non-road way side of the pole. Also provided that said facilities meet all standards as set in Chapter 1117 for "Telecommunications: Commercial Mobile Radio, Television and Radio Service Facilities". (Ord. 1203-97. Passed 7-10-97.)

1153.03 SITE DEVELOPMENT REGULATIONS.

(a) Lot Requirement.

- | | | |
|-----|----------------------|--------------------|
| (1) | Minimum lot area | 10,000 square feet |
| (2) | Minimum lot frontage | 80 feet |

- (b) Yard Requirements.
- (1) Minimum front yard depth.
 - A. Dwellings: Same as permitted in R-4 District.
 - B. Permitted Uses: 40 feet*
 - (2) Minimum rear yard depth.
 - A. Dwelling: Same as permitted in R-4 District.
 - B. Other Permitted Uses: 40 feet
 - (3) Minimum side yard width.
 - A. Dwelling: Same as permitted in R-4 District.
 - B. Other Permitted Uses:
None except adjacent to an R District in which case not less than 20 feet.
- (c) Structural Requirements.
- (1) Maximum building height 40 feet (3 stories)
- (d) Parking and Loading Requirements.
- (1) See Chapter 1187 for off-street parking and loading requirements.
- (e) Signs.
- (1) See Chapter 1189 for size and location of permitted signs.
- (f) Supplementary Regulations.
- (1) A request to rezone land to B-2 General Business District shall be substantiated with evidence that:
 - A. Such a use shall not conflict with the intended function of a major street to carry traffic; and
 - B. That the capacity of the street(s) shall not be materially reduced by the additional commercial facilities.Where necessary to achieve these conditions, the developer may be requested to provide special thoroughfare improvements such as dedication of right-of-way and/or easement.
 - (2) All merchandise, new and used, with the exception of boat, automobile, truck or farm implements and plants and garden supplies when approved as special uses, shall be stored within a completely enclosed building. Open storage may be permitted if located behind the principal structure and if visually screened from the street and adjacent properties by a landscaped screen, fence or wall as defined in Chapter 1185.
- (g) See Chapter 1185 for additional provisions for commercial facilities.
- (h) Special uses shall comply with all pertinent development standards contained in Chapter 1117.

* The front yard depth shall be measured from the established right-of-way lines as shown on the Official Thoroughfare Plan.
(Ord. 1203-97. Passed 7-10-97.)

**CHAPTER 1157
M-1 Light Industrial District**

1157.01 Purpose.
1157.02 Uses.

1157.03 Site development regulations.

CROSS REFERENCES

Definitions - see P. & Z. Ch. 1115

Accessory buildings and uses - see P. & Z. 1181.02, 1181.05

Supplemental regulations - see P. & Z. Ch. 1185

1157.01 PURPOSE.

The M-1 Light Industrial District is intended to provide for industrial uses having a minimum impact upon the surrounding environment in areas that are suitable for industrial development by reason of location and the availability of adequate utility and transportation systems. Uses that can be operated in a clean and quiet manner, subject only to those regulations and performance standards necessary to prohibit congestion and for the protection of adjacent residential business activities, are permitted. Uses which may present problematic characteristics are administered as special uses. (Ord. 1203-97. Passed 7-10-97.)

1157.02 USES.

(a) Permitted Uses.

- (1) Any uses permitted and as regulated in the B-2 District;
- (2) Automobile assembly and major repair;
- (3) Creamery, bottling, ice manufacturing and cold storage plant;
- (4) Manufacturing, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals and food products, except fish and meat products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils;
- (5) Manufacturing, compounding, assembling or treatment of articles or merchandise from previously prepared materials such as cork, tobacco, wax, yarns and wood;
- (6) Manufacture of musical instruments;

- (7) Manufacture or assembly of electrical appliances, instruments and devices;
- (8) Manufacture of pottery or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas;
- (9) Laboratories, experimental or testing;
- (10) Manufacture and repair of electric signs, advertising structures, light sheet metal products, including heating and ventilating equipment;
- (11) Blacksmith, welding or other metal shop, excluding punch presses over twenty tons rated capacity, drop hammers and the like;
- (12) Foundry casting lightweight nonferrous metals or electric foundry not causing noxious fumes or odors;
- (13) Bag, carpet and rug cleaning;
- (14) Enameling, lacquering or japanning;
- (15) Concrete mixing, concrete products manufacture;
- (16) Sawmill, planing mill, including manufacture of wood products not involving chemical treatment;
- (17) Building material sales yards, retail lumber yards, contractor's equipment storage yard of plant, or rental of equipment commonly used by contractors;
- (18) Feed and/or fuel, and storage yards for vehicles of a delivery or draying service;
- (19) Inflammable liquids, underground storage only, not to exceed 25,000 gallons, if located not less than 400 feet from any R District;
- (20) Any other use of the same general character as the above permitted uses, as determined by the Board; and
- (21) Accessory buildings and uses incidental to the principal use. Regulations governing accessory facilities and uses are specified in Chapter 1181.

(b) Special Uses. The following special uses are subject to review in accordance with Chapter 1117.

- (1) Micro Antenna or wireless communication antenna attached to a pole located in the right-of way provided the antenna does not exceed more than twenty feet above the highest point of the separate antenna structure and the transmission and receiving equipment is limited to five cubic feet and located in an underground vault and positioned parallel to the road, and is situated on the non-road way side of the pole. Also provided that said facilities meet all standards as set in Chapter 1117 for "Telecommunications: Commercial Mobile Radio, Television and Radio Service Facilities".
- (2) Personal wireless service facility. Also provided that said facilities meet all standards as set in Chapter 1117 for "Telecommunications: Commercial Mobile Radio, Television and Radio Service Facilities".
(Ord. 1203-97. Passed 7-10-97.)

1157.03 SITE DEVELOPMENT REGULATIONS.

- (a) Lot Requirements.
- | | | |
|-----|----------------------|--|
| (1) | Minimum lot area | 20,000 square feet |
| (2) | Minimum lot frontage | 100 feet (or such lesser frontage as shall permit compliance with the side yard and off-street parking requirements) |
- (b) Yard Requirements.
- (1) Minimum front yard depth.
- | | | |
|----|----------------|--|
| A. | Dwellings: | Same as permitted in the R-4 District. |
| B. | Permitted Use: | 40 feet* |
- (2) Minimum rear yard.
- | | | |
|----|----------------|--|
| A. | Dwelling: | Same as permitted in the R-4 District. |
| B. | Permitted Use: | |
| | 1. | 1 story 30 feet |
| | 2. | 2 stories 40 feet |
| | 3. | 3 stories 50 feet |
- (3) Minimum side yard.
- | | | |
|----|----------------|--|
| A. | Dwelling: | Same as permitted in the R-4 District. |
| B. | Permitted Use: | None required except adjacent to an R District in which case, not less than 50 feet. |
- (c) Structural Requirements.
- | | | |
|-----|-------------------------|---------|
| (1) | Maximum building height | 50 feet |
|-----|-------------------------|---------|
- (d) Parking and Loading Requirements.
- (1) See Chapter 1187 for off-street parking and loading requirements.
- (e) Signs.
- (1) See Chapter 1189 for size and location of permitted signs.
- (f) Supplementary Regulations.
- (1) Necessary equipment shall be installed and operated for the effective precipitation or recovery of dust.
- (g) See Chapter 1185 for additional provisions for commercial and industrial facilities.
- (h) Special uses shall comply with all pertinent development standards contained in Chapter 1117.

*The front yard depth shall be measured from the established right-of-way lines as shown on the Official Thoroughfare Plan.

(Ord. 1203-97. Passed 7-10-97.)

CHAPTER 1159
M-2 General Industrial District

1159.01 Purpose.
1159.02 Uses.

1159.03 Site development regulations.

CROSS REFERENCES

Definitions - see P. & Z. Ch. 1115

Accessory buildings and uses - see P. & Z. 1181.02, 1181.05

Supplemental regulations - see P. & Z. Ch. 1185

1159.01 PURPOSE.

The intent of the M-2 General Industrial District is to accommodate a broad range of industrial activities diverse in products, operational techniques and size which have a greater potential impact upon their environment than those permitted in the M-1 Light Industrial District. Uses which may present particular problematic characteristics are administered as special uses. (Ord. 1203-97. Passed 7-10-97.)

1159.02 USES.

(a) Permitted Uses.

- (1) All permitted and special uses as provided within the M-1 Light Industrial District with the exception of those uses defined as special uses within the District and any schools, hospitals, clinics or other institutions for human care except where incidental to a permitted principal use.
- (2) Accessory buildings and uses incidental to the principal use. Regulations governing accessory facilities and uses are specified in Chapter 1181.

(b) Special Uses. The following special uses are subject to review in accordance with Chapter 1117.

- (1) Manufacturing of acid, plaster of Paris, or wholesale storage of acids, cement, lime, gypsum, plaster of Paris;
- (2) Distillation of bones.
- (3) Manufacture or storage of explosives, fat rendering, fertilizer, gas or glue manufacture, garbage, offal or dead animal reduction or dumping, petroleum or petroleum products refining.

- (4) Smelting or reduction of ores or metallurgical products.
- (5) Race tracks and courses for the conduct of seasonal or periodic racing meets of aircraft, horses, dogs, automobiles, motorcycles and the like.
- (6) Slaughterhouses, or poultry processing plants.
- (7) Junk yards.
- (8) Construction of a new structure or addition, over any landfill site (active or inactive), with the exception of landfill sites previously approved by Council.
- (9) Micro Antenna or wireless communication antenna attached to a pole located in the right-of way provided the antenna does not exceed more than twenty feet above the highest point of the separate antenna structure and the transmission and receiving equipment is limited to five cubic feet and located in an underground vault and positioned parallel to the road, and is situated on the non-road way side of the pole. Also provided that said facilities meet all standards as set in Chapter 1117 for "Telecommunications: Commercial Mobile Radio, Television and Radio Service Facilities".
- (10) Personal wireless service facility. Also provided that said facilities meet all standards as set in Chapter 1117 for "Telecommunications: Commercial Mobile Radio, Television and Radio Service Facilities".
(Ord. 1203-97. Passed 7-10-97.)

1159.03 SITE DEVELOPMENT REGULATIONS.

(a) Lot Requirements.

- (1) Minimum lot area 1 acre
- (2) Minimum lot frontage 150 feet (or such lesser frontage as shall permit compliance with the side yard and off-street parking requirements)

(b) Yard Requirements.

- (1) Minimum front yard depth.
 - A. Dwellings: Same as permitted in the R-4 District.
 - B. Permitted Uses:
 - 1. 1 story 40 feet*
 - 2. 2 stories 40 feet*
 - 3. 3 stories 40 feet*
- (2) Minimum rear yard depths.
 - A. Dwellings: Same as permitted in the R-4 District.
 - B. Permitted Uses:
 - 1. 1 story 30 feet
 - 2. 2 stories 40 feet
 - 3. 3 stories 50 feet

- (3) Minimum side yard depths.
- A. Dwelling:
Same as permitted in the R-4 District.
 - B. Permitted Uses:
 - 1. Not required except adjoining any R District in which case, not less than 200 feet.
- (c) Structural Requirements.
- (1) Maximum building height:
No structure shall exceed in height the distance measured to the center line of the street except as otherwise provided in the Zoning Code.
- (d) Parking and Loading Requirements.
- (1) See Chapter 1187 for off-street parking and loading requirements.
- (e) Signs.
- (1) See Chapter 1189 for size and location of permitted signs.
- (f) Supplementary Regulations.
- (1) The best practical means known for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise or similar nuisance shall be employed.
 - (2) All principal buildings and all accessory buildings or structures, including loading and unloading facilities shall be located at least 400 feet from any R District and not less than 100 feet from any other district except an M-1 District.
- (g) Special uses shall comply with all pertinent development standards contained in Chapter 1117.

*The front yard depth shall be measured from the established right-of-way lines shown on the Official Thoroughfare Plan.

(Ord. 1203-97. Passed 7-10-97.)

CHAPTER 1171
C Conservation District

1171.01 Purpose.
1171.02 Uses.

**1171.03 Site development regulations;
permitted uses only.**

CROSS REFERENCES

Definitions - see P. & Z. Ch. 1115

Accessory buildings and uses - see P. & Z. 1181.02, 1181.05

Supplemental regulations - see P. & Z. Ch. 1185

1171.01 PURPOSE.

The C Conservation District is established for the following purposes:

- (a) To protect undeveloped land located outside the present limits of urban services from indiscriminate development until urban services can be extended, enabling growth to be preplanned in a coordinated and efficient manner; and
- (b) To extend protection from urban encroachment to active agricultural enterprises and areas particularly suitable for preservation of an open space environment in the case of those areas possessing distinctive geologic and/or scenic values.
(Ord. 1203-97. Passed 7-10-97.)

1171.02 USES.

(a) Permitted Uses.

- (1) Agricultural activities (excluding animal sales lots and feed lots).
- (2) Greenhouses.
- (3) Public parks, playgrounds and community center.
- (4) Private or public recreation areas and facilities including country clubs, golf courses, fishing lakes and bathing beaches.
- (5) Gravel pits, as regulated in Chapter 1185; and
- (6) Accessory buildings incidental to the principal use which do not include any activity conducted as a business. Regulations governing accessory facilities and uses are specified in Chapter 1181.

(b) Special Uses. The following special uses are subject to review in accordance with Chapter 1117.

- (1) Micro Antenna or wireless communication antenna attached to a pole located in the right-of-way provided the antenna does not exceed more than twenty feet above the highest point of the separate antenna structure and the transmission and receiving equipment is limited to five cubic feet and located in an underground vault and positioned parallel to the road, and is situated on the non-road way side of the pole. Also provided that said facilities meet all standards as set in Chapter 1117 for "Telecommunications: Commercial Mobile Radio, Television and Radio Service Facilities". (Ord. 1203-97. Passed 7-10-97.)

1171.03 SITE DEVELOPMENT REGULATIONS; PERMITTED USES ONLY.

- (a) Lot Requirements.
 - (1) Minimum lot area 10 acres
 - (2) Minimum lot width 300 feet
- (b) Yard Requirements.
(RESERVED)
- (c) Structural Requirements.
(RESERVED)
- (d) Parking Requirements.
 - (1) See Chapter 1187 for off-street parking requirements.
- (e) Signs.
 - (1) See Chapter 1189 for size and location of permitted signs.
- (f) Supplementary Regulations.
(RESERVED)
(Ord. 1203-97. Passed 7-10-97.)

CHAPTER 1177
WO Wellhead Operation District

1177.01 Purpose.	1177.04 Groundwater protection standards.
1177.02 Determination of applicability.	1177.05 Site development regulations; permitted uses only.
1177.03 Uses.	

CROSS REFERENCES

Definitions - see P. & Z. Ch. 1115
Control of potential public water supply pollutants - see P. & Z. 1123.05
WO Well Field Protection Overlay District - see P. & Z. Ch. 1179
Supplemental regulations - see P. & Z. Ch. 1185

1177.01 PURPOSE.

The WO Wellhead Operation District is designed to safeguard the public health, safety and welfare of the customers of protected public water supplies by regulating the land use and the storage, handling, use and/or production of regulated substances. This District will be shown on the City's Zoning Map at the location of any existing or proposed public wells. The intent of this designation is to protect the community's potable water supply against contamination. (Ord. 1203-97. Passed 7-10-97.)

1177.02 DETERMINATION OF APPLICABILITY.

It shall be the responsibility of any person owning real property or owning or operating a business within the City of Moraine to make a determination of the applicability of this Section as it pertains to the property or business or operation and failure to do so shall not excuse any violations of this section. (Ord. 1203-97. Passed 7-10-97.)

1177.03 USES.

(a) Permitted Uses.

- (1) Public water supply, treatment and operations facilities.
- (2) Public parks and playgrounds.
- (3) Public wastewater treatment, conveyance and operation facilities owned, operated and maintained by Montgomery County.
- (4) Public and Private Air Strips for take off and landing only.

(b) Special Uses. The following special uses are subject to review in accordance with Chapter 1117.

- (1) Public utility uses as follows:
 - A. Electric and telephone substations.
 - B. Gas regulator and meter station buildings.
 - C. Electric and communication transmission towers and structures.
- (2) Existing residences.
- (3) Micro Antenna or wireless communication antenna attached to a pole located in the right-of way provided the antenna does not exceed more than twenty feet above the highest point of the separate antenna structure and the transmission and receiving equipment is limited to five cubic feet and located in an underground vault and positioned parallel to the road, and is situated on the non-road way side of the pole. Also provided that said facilities meet all standards as set in Chapter 1117 for "Telecommunications: Commercial Mobile Radio, Television and Radio Service Facilities".

(c) Nonconforming Uses.

- (1) If a nonconforming use of any land, building or structure is discontinued for six months or more, any further use shall be in conformity to this District. (Ord. 1203-97. Passed 7-10-97.)

1177.04 GROUNDWATER PROTECTION STANDARDS.

(a) Use of regulated substances in conjunction with Municipal water supply and treatment activities shall not be restricted by this section. Storage of regulated substances in conjunction with municipal water supply and treatment activities shall not be restricted by this section. The use and storage of regulated substances in conjunction with public wastewater treatment, conveyance and operation facilities owned, operated and maintained by Montgomery County or the public water supply purveyor which these standards are designed to protect shall not be restricted by this section.

(b) Use of regulated substances in conjunction with special uses in this district shall be limited, per special use, to:

- (1) The aggregate of regulated substances in use may not exceed twenty (20) gallons or 160 pounds at any time.
- (2) The total use of regulated substances may not exceed fifty-five (55) gallons or 450 pounds in any twelve (12) month period.

(c) A limited exclusion from the provisions of subsection (b) hereof is authorized for nonroutine maintenance or repair of property or equipment. The use of regulated substances under this exclusion shall be limited, per special use, to:

- (1) The aggregate of regulated substances in use may not exceed fifty-five (55) gallons or 450 pounds at any time.
- (2) The total use of regulated substances may not exceed 110 gallons or 900 pounds in any twelve (12) month period.

(d) 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.

(e) Notwithstanding other provisions of this section, 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 (d) 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.

(f) Storage of regulated substances other than fuel and lubricants for vehicle operations in conjunction with permitted and special uses in this district is prohibited.

(g) As part of the findings required under Section 1123.05(d), the Zoning Officer shall utilize the Hazard Potential Ranking System, in Section 1179.05 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.

(h) All uses within this District shall be connected to the public wastewater disposal system or have a City-approved wastewater disposal plan within a three (3) year period of the establishment of the District. (Ord. 1203-97. Passed 7-10-97.)

1177.05 SITE DEVELOPMENT REGULATIONS; PERMITTED USES ONLY.

(a) Lot Requirements.

- | | | |
|-----|----------------------|--------------------|
| (1) | Minimum lot area | 10,000 square feet |
| (2) | Minimum lot frontage | 60 feet |

(b) Yard Requirements.

- | | | |
|-----|--------------------------------------|----------|
| (1) | Minimum front yard depth. | |
| | A. Permitted and Special Uses | 25 feet* |
| (2) | Minimum rear yard depth | |
| | A. Permitted and Special Uses | 40 feet |
| (3) | Minimum side yard least width | |
| | A. Permitted and Special Uses | 8 feet |
| (4) | Minimum side yard sum of least width | |
| | A. Permitted and Special Uses | 20 feet |

(c) Structural Requirements.

- | | | |
|-----|-------------------------------|---------|
| (1) | Maximum building height | 30 feet |
| (2) | Maximum 2 1/2 story structure | |

(d) Parking Requirements.

- (1) See Chapter 1187 for off-street parking and loading space requirements.

(e) Signs.

- (1) See Chapter 1189 for size and location of permitted signs.

*The front yard depth shall be measured from the established right-of-way lines as shown on the Official Thoroughfare Plan. (Ord. 1203-97. Passed 7-10-97)

CHAPTER 1179
WP Well Field Protection Overlay District

1179.01 Purpose.	1179.05 Hazard potential ranking system for nonconforming uses.
1179.02 Determination.	Table 1 Contaminant source.
1179.03 Uses.	Table 2 Contaminant type.
1179.04 Groundwater protection standards.	

CROSS REFERENCES

Definitions - see P. & Z. Ch. 1115
Control of potential public water supply pollutants - see P. & Z. 1123.05
WO Wellhead Operation District - see P. & Z. Ch. 1177
Supplemental regulations - see P. & Z. Ch. 1185

1179.01 PURPOSE.

The "WP" Well Field Protection Overlay District is designed to safeguard the public health, safety and welfare of the customers of protected public water supplies by regulating the land use and the storage, handling, use and/or production of regulated substances. The area of the Well Field Protection Overlay is described on the Official Zoning Map and includes existing and proposed protected public water supply wells and their one (1) year capture area. The intent of this designation is to protect the community's potable water supply against contamination. (Ord. 1069-94. Passed 4-28-94.)

1179.02 DETERMINATION.

(a) Applicability of Well Field Protection Overlay District to Underlying Zoning Districts.

- (1) 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 Official Zoning Map and shall be supplemental to the regulations of the underlying zoning district. Where the requirements of this section are in conflict with the regulations of the underlying district, the more restrictive regulations shall apply.

(b) Determination of Applicability.

- (1) It shall be the responsibility of any person owning real property or owning or operating a business within the City of Moraine to make a determination of the applicability of this Section as it pertains to the property or business or operation and failure to do so shall not excuse any violations of this section. (Ord. 1069-94. Passed 4-28-94.)

1179.03 USES.

(a) Permitted Uses, Bulk and Yard Regulations.

- (1) The permitted uses, bulk and yard regulations within the WP Well Field Protection Overlay District shall be those of the underlying zoning district, subject to any more restrictive regulations of this Overlay District.

(b) Special Uses.

- (1) The special uses within the WP Well Field Protection Overlay District shall be those of the underlying zoning districts subject to any more restrictive regulations of this Overlay District.

(c) Prohibited Uses.

- (1) Sanitary landfills, hardfills, and junkyards are prohibited within the WP Well Field Protection Overlay District.

(d) Nonconforming Uses.

- (1) If a nonconforming use of any land, building or structure is discontinued for two (2) years or more, any further use shall be in conformity with this District. (Ord. 1069-94. Passed 4-28-94.)

1179.04 GROUNDWATER PROTECTION STANDARDS.

(a) Use, storage, handling and/or production of regulated substances in conjunction with permitted and special uses in this District shall be limited as to each use, to:

- (1) The aggregate of regulated substances in use, storage, handling and/or production may not exceed twenty (20) gallons or 160 pounds at any time.

(b) A limited exclusion from the provisions of subsection (a) hereof is authorized for nonroutine maintenance or repair of property or equipment. The use, storage, handling and/or production of regulated substances under this exclusion shall be limited as to each use, to:

- (1) The aggregate of regulated substances in use, storage, handling and/or production may not exceed fifty-five (55) gallons or 450 pounds at any time.
- (2) The total use, storage, handling and/or production of regulated substances may not exceed 110 gallons or 900 pounds in any twelve (12) month period.

(c) 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 (5) gallons or forty (40) pounds of each substance and the aggregate inventory of regulated substances shall not exceed 250 gallons or 2,000 pounds.

(d) 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 as to any use shall not exceed 110 gallons or 900 pounds at any time. In no case shall regulated substances claimed under this exclusion include hydrocarbon or halogenated hydrocarbon solvents.

(e) With the exception of a 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 a permitted use in this District shall be in secondarily contained and monitored tanks. Such installations shall be subject to approval by the Zoning Officer.

(f) Notwithstanding other provisions of this section, 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 (e) 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.

(g) No substitutions of a nonconforming use shall be permitted which result in an increase of the hazardous potential ranking system on a parcel within this District. If the hazardous potential ranking decreases for a non-conforming use for a period of one (1) year or more, the nonconforming right to the higher hazardous potential ranking shall be deemed to have been lost through nonuse for that period of time.

(h) The use and storage of regulated substances in conjunction with public water and wastewater treatment, conveyance and operation facilities owned, operated and maintained by Montgomery County or the public water supply purveyor which these standards are designed to protect shall not be restricted by this section.

(i) The use and storage of regulated substances in conjunction with environmental projects monitored by US and or Ohio EPA shall not be restricted by this section.
(Ord. 1069-94. Passed 4-28-94)

1179.05 HAZARD POTENTIAL RANKING SYSTEM FOR NONCONFORMING USES.

(a) Any existing uses legally storing, handling, using and/or producing regulated substances in amounts equal to or less than the requirements under Section 1179.04 are considered conforming uses and this section does not apply. Any new use or change of use shall maintain the conforming status of the property.

Existing nonconforming uses shall be permitted to maintain the reported maximum quantity for each reportable regulated substance, as determined by peak business cycle. Existing uses and maximum quantities, in combination with a hazard potential rating shall run with the land and be administered in conformance with all other applicable nonconforming provisions of this Zoning Code.

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.

Table 1 lists the site hazard potential by land use activity on a scale of one (1) to nine (9), with one (1) being a low hazard and nine (9) a very high hazard. This rating is based on the intrinsic hazards posed by different land uses and is related to the materials commonly discharged.

Table 2 lists the hazard potential determined on the basis of material known to be used, stored, or disposed of at a specific site.

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. (Ord. 1069-94. Passed 4-28-94.)

Table 1

CONTAMINANT HAZARD POTENTIAL RANKING CLASSIFIED BY SOURCE

SIC NO.	DESCRIPTION OF WASTE SOURCE	HAZARD POTENTIAL INITIAL RATING
01	AGRICULTURAL PRODUCTION-CROPS	1-2
02	AGRICULTURAL PRODUCTION-LIVESTOCK	
021	Livestock, except Dairy, Poultry and Animal Specialities	(5 for feedlots)
024	Dairy Farms	4
025	Poultry and Eggs	4
027	Animal Specialities	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 Mining Services	4
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	Variable, Depending on Activity
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	2-5
147	Minerals	4-7
148	Chemical and Fertilizer Mineral Mining	1-7
149	Nonmetallic Minerals Services	
	Miscellaneous Nonmetallic Minerals, except Fuels	2-5

Table 1 (Continued)

CONTAMINANT HAZARD POTENTIAL RANKING CLASSIFIED BY SOURCE

SIC NO.	DESCRIPTION OF WASTE SOURCE	HAZARD POTENTIAL INITIAL RATING
16	CONSTRUCTION OTHER THAN BUILDING CONSTRUCTION	
1629	Heavy Construction, not elsewhere classified (Dredging, especially 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
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	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	6
263	Paperboard Mills	6

Table 1 (Continued)

CONTAMINANT HAZARD POTENTIAL RANKING CLASSIFIED BY SOURCE

SIC NO.	DESCRIPTION OF WASTE SOURCE	HAZARD POTENTIAL INITIAL RATING
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 Nonvulcanizable Elastomers	6-8
2822	Synthetic Rubber (Vulcanizable Elastomers)	6-8
2823	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
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

Table 1 (Continued)

CONTAMINANT HAZARD POTENTIAL RANKING CLASSIFIED BY SOURCE

SIC NO.	DESCRIPTION OF WASTE SOURCE	HAZARD POTENTIAL INITIAL RATING
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 (Remaining Three-Digit Codes)	8 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
35	MACHINERY, EXCEPT ELECTRICAL	5-7

Table 1 (Continued)

CONTAMINANT HAZARD POTENTIAL RANKING CLASSIFIED BY SOURCE

SIC NO.	DESCRIPTION OF WASTE SOURCE	HAZARD POTENTIAL INITIAL RATING
36	ELECTRICAL AND ELECTRONIC MACHINERY, EQUIPMENT AND SUPPLIES (Except and noted below)	
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	ELECTRICAL, 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

(Ord. 1069-94. Passed 4-28-94.)

Table 2

CONTAMINANT HAZARD POTENTIAL RANKING CLASSIFIED BY TYPE

DESCRIPTION	HAZARD POTENTIAL INITIAL READING	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 Wastes	2 - 4	1704
Dead Animals	5	1705
Edible Fruit and Vegetable Remains - Putrescibles	2 - 3	1800

Table 2 (Continued)

CONTAMINANT HAZARD POTENTIAL RANKING CLASSIFIED BY TYPE

DESCRIPTION	HAZARD POTENTIAL INITIAL READING	ID* NUMBER
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 (benzene derivatives)	4 - 6	2005
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
Pyridines	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 2 (Continued)

CONTAMINANT HAZARD POTENTIAL RANKING CLASSIFIED BY TYPE

DESCRIPTION	HAZARD POTENTIAL INITIAL READING	ID* NUMBER
Other Chemical Process Waters 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

* ID Number is for identification of waste types in the Reporting Form.

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. (Ord. 1069-94. Passed 4-28-94.)

TITLE NINE - Zoning General Provisions

- Chap. 1181. Accessory Uses.
 Chap. 1183. Temporary Uses.
 Chap. 1185. Supplemental Regulations.
 Chap. 1187. Off-Street Parking and Loading; Access Control and Traffic.
 Chap. 1189. Signs and Advertising Devices.
 Chap. 1191. Nonconforming Lots, Structures and Uses.
 Chap. 1193. Special Exceptions.

**CHAPTER 1181
Accessory Uses**

- | | |
|--|--|
| <p>1181.01 Permitted accessory buildings and uses in Residential and Agricultural Districts.</p> <p>1181.02 Permitted accessory buildings and uses in Conservation, Business and Industrial Districts.</p> <p>1181.03 Accessory buildings and uses not permitted in Residential and Agricultural Districts.</p> | <p>1181.04 Standards for accessory buildings and uses in Residential and Agricultural Districts.</p> <p>1181.05 Standards for accessory buildings and uses in Conservation, Business and Industrial Districts.</p> |
|--|--|

CROSS REFERENCES

Accessory use defined - see P. & Z. 1115.03(a)(4)

1181.01 PERMITTED ACCESSORY BUILDINGS AND USES IN RESIDENTIAL AND AGRICULTURAL DISTRICTS.

The following accessory uses are permitted in each Residential District.

- (a) The maximum number of private garages, carports or structures for storage incidental to a permitted use on any one residential lot less than 20,000 square feet shall be two buildings, excluding a detached garage. The maximum number of private garages, carports, or structures for storage incidental to a permitted use on any one residential lot equal to or greater than 20,000 square feet shall be three buildings, excluding a detached garage.

- (b) On any one residential lot, the maximum allowable combined floor area of all accessory buildings shall be limited to the following criteria:
- (1) Any accessory buildings shall be at least three feet from all lot lines.
 - (2) All detached accessory buildings must be a minimum of ten (10) feet from the principal permitted use and must be a minimum of ten (10) feet from each other.
 - (3) All accessory buildings must be able to be served by the same curb cut servicing the principal permitted use.
 - (4) No accessory buildings shall be built over or upon any existing easements.
 - (5) No business or commercial activity shall be conducted from any accessory building, except as provided under 1181.04(f), Home Occupations. (Ord. 1279-99. Passed 1-28-99.)
 - (6) All accessory buildings must be constructed so as to comply with all safety, health and fire codes applicable thereto.
 - (7) No detached accessory building shall be erected in any required yard except a rear yard.
 - (8) Notwithstanding any other provision of this Section 1181.01(b) to the contrary no accessory building or, in the aggregate, accessory buildings, that meet all of the other provisions of this section, shall be larger than 2,400 square feet on any one residential lot. (Ord. 1265-98 Passed 10-22-98.)
- (c) A swimming pool, not located within a completely enclosed building, and containing or normally capable of containing water to a depth at any point greater than one and one-half (1 1/2) feet; bath house; and other recreational facilities intended and used solely for the enjoyment of the occupants of the principal use of the property on which it is located and subject to required provisions under Section 1181.04(g);
- (d) Patios and open porches subject to required provisions under Section 1181.04(e);
- (e) Earth satellite stations as regulated under Section 1181.04(i);
- (f) A child's playhouse, a tree house, birdhouse or doghouse;
- (g) Statuary, arbors, trellises, barbecue equipment, flag poles, fences, play equipment, nonmechanical laundry drying equipment, walls and hedges;
- (h) Fallout shelters;
- (i) Any other structure or use customarily found in conjunction with and required for full utilization and enjoyment of the principal use; and which meets the definition of accessory use as stated in this Zoning Code; and
- (j) Recreational vehicle subject to the following conditions:
- (1) Parked or stored camping and recreational vehicle shall not be connected to electricity, water, gas or sanitary sewer facilities; and at no time shall this equipment be used for living or housekeeping purposes.
 - (2) All camping and recreational vehicles shall be kept in good repair and carry a current year's license and/or registration. The ground area under and immediately surrounding where such camping and recreational vehicle is stored shall be maintained free of noxious weeds or overgrowth and debris.
- (k) Home occupation subject to the following general provisions.
- (1) Permitted home occupations shall be of a personal service nature limited to domestic crafts and professional service, including but not limited to:
 - A. Such domestic crafts as dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, custom home furnishings work, carpentry work, and furniture repair provided that not more than one quarter (1/4) of the area of one (1) floor shall be used for such purpose; or

- B. Such professions as law, medicine, architecture, engineering, planning, real estate, insurance, notary public, manufacturer's agent, clergy, writing, painting, photography and tutoring, provided however, the service is limited to advice and consultation and the premises are not used for the general practice of the profession, provided that not more than one-half (1/2) of the area of one (1) floor shall be used for such purpose.
- (2) For the purpose of this Zoning Code, real estate and insurance offices, clinics, doctor's offices, barber shops and beauty parlors, dress shops millinery shops, tourists homes, animal hospitals and kennels, trailer rentals, among others, shall not be deemed to be permitted home occupations unless such home occupations meet the requirements of this subsection.
 - (3) Permitted home occupations shall be subject to all the regulations of the applicable zone district.
 - (4) Permitted home occupations shall not affect adversely the residential character of the zoning district or interfere with the reasonable enjoyment of adjoining properties
- (1) Day Care centers subject to the following general provisions.
- (1) Day care centers for seven (7) or more children shall have a minimum lot area of 7,500 square feet, or 500 square feet per child, whichever is greater. Home child care of six (6) or fewer children is considered to be a home occupation and is regulated in Section 1181.04(f).
 - (2) There shall be provided a minimum of 100 square feet of fenced outdoor play area per child.
 - (3) All outdoor play areas shall be enclosed by a fence or wall a minimum of five (5) feet in height except that a minimum six (6) foot high wall, solid wood fence, or chain link fence planted with a continuous evergreen screen shall be provided around all outdoor play areas abutting a residential property.
(Ord. 1103-95. Passed 2-9-95.)

1181.02 PERMITTED ACCESSORY BUILDINGS AND USES IN CONSERVATION, BUSINESS AND INDUSTRIAL DISTRICTS.

The following accessory uses are permitted in Conservation, Business and Industrial Districts.

- (a) In a Conservation, Business or Industrial District, any use which is customarily found in conjunction with and required for the full utilization and economic viability of the principal use which meets the definition of accessory use as stated in the Zoning Code, and which complies with the applicable standards of the district in which it is located as permitted. See Section 1181.05(a) for additional standards for ground satellite stations within nonresidential areas;
- (b) Outdoor vending machines, facilities for recycled goods or materials, etc. operated by nonprofit or public agencies; and
- (c) These facilities may be permitted in all business and industrial districts upon obtaining a certificate of use subject to the following requirements.
 - (1) No such use or facility shall be placed with the street right of way, within an interior drive, or in a location which will interfere with required driveway site distance.

- (2) Placement of the facility will not result in the reduction of the number of parking spaces required to serve the principal use(s) on the site.
- (3) The subject facility or use shall be maintained in good operating order and appearance.
(Ord. 1103-95. Passed 2-9-95.)

1181.03 ACCESSORY BUILDINGS AND USES NOT PERMITTED IN RESIDENTIAL AND AGRICULTURAL DISTRICTS.

None of the following shall be permitted as an accessory use in a Residential or Agricultural District:

- (a) Outdoor storage, unless specifically permitted by the specific zoning district regulations.
(Ord. 1103-95. Passed 2-9-95.)

1181.04 STANDARDS FOR ACCESSORY BUILDINGS AND USES IN RESIDENTIAL AND AGRICULTURAL DISTRICTS.

(a) An accessory building may be erected as an integral part of a principal building or it may be connected thereto by a breeze way or other similar structure, provided that no such accessory building may be erected or used as a stable or primarily for the keeping of animals or birds except where the use is specifically permitted by the specific zoning district.

(b) An accessory building may be erected detached from the principal building. No detached accessory building shall be erected in any required yard except a rear yard.

(c) A detached accessory building shall not exceed fifteen (15) feet in height in Residential Districts.

(d) On a corner lot abutting in the rear or side lot in a Residential District, any accessory building or part thereof within twenty-five (25) feet of the common lot line shall not be closer to the side street lot line than the least depth of the front yard required on such other lot fronting the side street, and in no case shall any part of such accessory building be closer to the side street lot lines than the least width of the side yard required for the principal building to which it is accessory.

(e) No accessory use or structure in any Residential District except an off-street parking area shall be permitted nearer to any front lot line than sixty (60) feet, unless such use or structure is contained within or constitutes an integral part of the principal building. However, if the owner of a corner lot, with approval of the Board of Zoning Appeals designates the longer street lot line as the front lot line, then the requirement of this section shall apply to establish the permitted distance of an accessory building from only the shorter street lot line.

Patios, open porches and carports may be located in side and rear yards provided they are not closer than three (3) to any adjacent property line. If located closer than eight (8) feet, they shall be screened by an evergreen hedge or fence not less than four (4) feet in height and maintained in good condition. In case of a corner lot, no patios or porches shall be closer to the side street lot line than the least depth required for such side yard.

(f) Home Occupations. No home occupation shall be allowed in any Residential District, except as an accessory use, and unless it complies with the following conditions and requirements:

- A. The primary use of the structure or dwelling unit shall remain residential and the operator or the home occupation shall remain a resident in the dwelling unit.
- B. The operator conducting the home occupation shall be the sole entrepreneur, and he shall not employ any other person other than a member of the immediate family residing on the premises.
- C. No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted; nor the use of mechanical equipment not customary in dwellings.
- D. Such home occupations shall be conducted entirely within the primary building or dwelling unit used as a residence.
- E. No additional and separate entrance incongruent with the residential structural design shall be constructed for the purpose of conducting the home occupation.
- F. No provision for extra off-street parking or loading facilities, other than the requirements and permitted facilities of the zone district, shall be permitted. No part of a minimum required setback distance shall be used for off-street parking or loading facilities, and no additional driveway to serve such home occupations shall be permitted.
- G. No display of goods or external evidence of the home occupation shall be permitted, except for one (1) nonanimated, nonilluminating, nonflashing announcement plate, indicating not more than the name and address of the resident. Such plate shall be attached flat against the wall of the residence and shall not exceed two (2) square foot in total surface area.
- H. No stock in trade or commodities, other than those prepared, produced or created on the premises by the operator of the home occupation, shall be kept or sold on the premises.

(g) Swimming Pools. No private swimming pool, exclusive of pools less than one and one-half (1 1/2) feet in depth and portable swimming pools with a diameter less than twelve (12) feet or with an area of less than 100 square feet, shall be allowed in any Residential District, except as an accessory use and located in the rear yard, and unless it complies with the following conditions and requirements.

- (1) The pool is intended and is to be used solely for the enjoyment of the occupants and guests of the principal use of the property on which it is located.
- (2) The pool may not be located closer than ten (10) feet to any property line, and such location shall be in accordance with all pertinent provisions of Section 1181.01 hereof and shall be measured from the water line. Accessory buildings shall maintain the minimum side yard required. Any walks or paved areas adjacent to the pools shall be considered as patios for the purpose of this Zoning Code and shall conform to the provisions of subsection (e) hereof.
- (3) The swimming pools, or the entire rear yard of the property on which it is located, shall be walled or fenced to prevent uncontrolled access by children from the street or from adjacent properties. Such fence or wall shall be six (6) feet in height and maintained in good condition with a gate and lock.

(h) Tennis Courts. Tennis courts and other similar playing courts may be located in any rear yard with the fence located no closer than five (5) feet of any property line, provided the location of such courts are in accordance with all pertinent provisions of this section. Such courts may be fenced with a chain link fence located around the perimeter of the court, but any fence over six (6) feet in height shall be planted with large shrubs in sufficient quantities to screen and filter the view of the fence from neighboring properties.

(i) Earth Satellite Stations in Residential Districts. Within Residential Districts, the following provisions shall apply to ground satellite stations:

- (1) Such ground stations or antennas shall be for the personal use of such residents;
- (2) Such ground stations or antennas shall contain no graphic message or advertising;
- (3) Ground-mounted stations or antennas shall be considered accessory structures and shall comply with the following conditions and requirements:
 - A. Such stations or antennas not mounted on the roof of a primary or accessory structure shall be located in the rear yard only and shall not exceed an above grade height of fourteen (14) feet.
 - B. Such stations or antennas shall have a three (3) foot setback observed from all property lines. This distance shall be measured horizontally from the perpendicular to that part of the structure nearest the property line; and

- (4) Roof mounted stations or antennas shall be considered accessory structures and shall comply with the following conditions and requirements:
 - A. Such stations or antennas shall be mounted directly on the roof of a primary or accessory structure and shall not be mounted on appurtenances such as chimneys, towers or spires.
 - B. Such stations or antennas mounted on the roof of a primary or accessory structure shall not exceed a height of greater than four (4) feet above the roof on which they are mounted nor extend beyond the edge of the roof line. The height shall be measured vertically from the point at which such station or antenna is mounted on the roof.
 - C. The diameter of any dish antenna mounted upon the roof of a primary or accessory structure shall not exceed four (4) feet.
- (5) No more than one (1) dish-type antenna will be permitted on any one lot.

(j) Accessory Fences, Walls and Hedges. The intent of these provisions is to outline the regulations for accessory fences, walls and hedges in residential districts. Such structures are permitted in order to: provide for orderly transition between land uses; protect and screen private property; give security and privacy to residents; and provide a physical and visual barrier; reduce wind and modify climate; define property lines; create and define outdoor living space; and generally improve the aesthetic appearance of a site.

- (1) Front Yards.
 - A. Hedges not to exceed four (4) feet in height may be located in any front yard.
 - B. An ornamental fence or ornamental wall may be located in any front yard or court as follows:
 1. The height of any ornamental fence or wall may not exceed three (3) feet above the ground at any point.
 2. Any ornamental fence or wall, as permitted in the subsection, shall be so constructed as to provide a ratio of solid portion to open portion not to exceed one to one, the proportion of solid area to open area to be determined in elevation.
 3. Such fence or wall may not be located closer than three (3) feet to the front lot lines.
 4. The total length may not exceed fifty percent (50%) of the lot frontage.
 5. No wire-type fence may be used.
- (2) Rear and side yards. A fence, wall or hedge may be located in any rear or side yard, provided that:
 - A. The height of the fence, wall or hedge may not exceed six (6) feet above the ground at any point.

- B. A fence or wall not to exceed ten (10) feet in height may be permitted surrounding tennis courts in any rear yard, provided the provisions of subsection (1) hereof are met
- (3) Retaining walls. Retaining walls shall not project more than one (1) foot above the surface of the ground supported by such walls, unless such projection exceeding one (1) foot complies with the applicable requirements of this section.
- (4) Security fences. No barbed wire, other sharp-pointed material or electrically charged material shall be used in the construction of a fence allowed agricultural uses and only upon approval of the Police Department. (Ord. 1103-95. Passed 2-9-95; Ord. 1279-99. Passed 1-28-99.)

1181.05 STANDARDS FOR ACCESSORY BUILDINGS AND USES IN CONSERVATION, BUSINESS AND INDUSTRIAL DISTRICTS.

(a) Earth Satellite Stations in Nonresidential Districts. Within nonresidential districts, the following shall apply to ground satellite stations:

- (1) Such ground stations or antennas shall contain no graphic message or advertising.
- (2) Ground-mounted stations or antennas shall be considered accessory structures and shall comply with the following conditions and requirements:
- A. Such stations or antennas not mounted on the roof of a primary or accessory structure shall be located in the rear yard only and shall not exceed an above-ground height of fourteen (14) feet.
- B. Such stations or antennas not be located within fifty (50) feet of a public right of way or within thirty (30) feet of a rear or side lot line and shall be not closer than fifty (50) feet from a lot line or a Residential District.
- (3) Roof-mounted stations or antennas shall comply with the following conditions and requirements:
- A. Such stations or antennas shall be mounted directly on the roof of a primary or accessory structure and shall not be mounted on appurtenances such as chimneys, towers or spires.
- B. Such stations or antennas mounted on the roof of a primary or accessory structure shall not exceed a height of greater than twelve (12) feet above the roof on which they are mounted. The height shall be measured vertically from the point at which such station or antenna is mounted on the roof.
- (4) No more than one (1) dish-type antenna will be permitted on any one (1) lot.

(b) Accessory Fences, Walls and Hedges. The intent of these provisions is to outline the regulations for accessory fences, walls and hedges in nonresidential districts. Such structures are permitted in order to: provide for orderly transition between land uses; protect and screen private; give security and privacy; and provide a physical and visual barrier; reduce wind and modify climate; define property lines; create and define outdoor storage space; and generally improve the aesthetic appearance of a site.

- (1) Other permissible locations. Fences, walls or hedges may be erected on public recreation areas, school grounds and in Industrial Districts, and are not subject to the requirements of this section, but no such fence, structure or planting shall be erected or maintained with twenty (20) feet of the corner so as to interfere with traffic visibility across the corner.
- (2) Security fences. No barbed wire, other sharp-pointed material or electrically charged material shall be used in the construction of a fence, except to fence potentially hazardous areas or for security purposes in high risk areas, and only upon approval of the Police Department.
(Ord. 1103-95. Passed 2-9-95.)

CHAPTER 1183
Temporary Uses

1183.01 Intent.

1183.02 General provisions.

1183.03 Board permit issuance.

1183.04 Permitted temporary uses.

CROSS REFERENCES

Temporary use defined - see P. & Z. 1115.03(a)(415)

1183.01 INTENT.

Temporary uses shall be permitted in applicable zone districts by the grant of a zoning permit issued by the City in accordance with the approval of such temporary use by the Board of Zoning Appeals or as specifically allowed by Section 1183.04. (Ord. 1170. Passed 6-27-96.)

1183.02 GENERAL PROVISIONS.

(a) The duration of the temporary period is stated hereinafter, provided, however, renewal of such permit may be requested.

(b) Temporary uses shall be subject to all the regulations of the applicable zone district. (Ord. 1170. Passed 6-27-96.)

1183.03 BOARD PERMIT ISSUANCE.

The Board of Zoning Appeals may authorize the temporary use of a building or premises in any district for a purpose or use that does not conform to the regulations described by this Zoning Code for the district in which it is located; provided that such use be of a temporary nature and does not involve the erection of substantial buildings. Such certificates shall be granted in the form of a temporary and revocable permit for a period of time determined by the Board, subject to such conditions as will safeguard the public health, safety, convenience and general welfare. (Ord. 1170. Passed 6-27-96.)

1183.04 PERMITTED TEMPORARY USES.

Zoning permits may be issued by the City for the following temporary uses, provided that they meet these requirements and are not otherwise in conflict with the provisions of this Zoning Code.

(a) Uses.

(1) Contractor's office and construction facilities are permitted in any district where use is incidental to a construction project. The structure shall be located on the lot on which construction takes place and shall be removed once construction ceases.

- (2) Real estate sales offices and/or model homes shall be permitted in any district provided that a final plat for such development has been approved by the Planning Commission and filed at the Office of the Recorder for Montgomery County and no change in title takes place. Any such unit shall conform to all requirements for residential uses for the district in which it is located. Maximum length of permit shall be one (1) year. Offices shall be removed upon completion of the development of the subdivision. (Ord. 1170. Passed 6-27-96.)

**CHAPTER 1185
Supplemental Regulations**

<p>1185.01 Intent.</p> <p>1185.02 Pending application for building permits.</p> <p>1185.03 Unsafe buildings.</p> <p>1185.04 Speakers, amplifiers and sound equipment.</p> <p>1185.05 Transitional uses.</p> <p>1185.06 Minimum ground floor area requirements.</p> <p>1185.07 Heights measured.</p> <p>1185.08 Height limit.</p> <p>1185.09 Stories.</p> <p>1185.10 Street frontage required.</p> <p>1185.11 Front yards on lots running through block.</p>	<p>1185.12 Double frontage lots.</p> <p>1185.13 Front yard depths measured.</p> <p>1185.14 Required yard may not be reduced.</p> <p>1185.15 Court requirements.</p> <p>1185.16 Lots of record.</p> <p>1185.17 Filling stations and public garages.</p> <p>1185.18 Trailers and trailer parks.</p> <p>1185.19 Excavations and quarries.</p> <p>1185.20 Rear and side yards; architectural projections.</p> <p>1185.21 Sale of motor vehicles, boats, recreational vehicles.</p>
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CROSS REFERENCES

Condominiums, State provisions - see Ohio R.C 5311.01 et seq.
 Definitions - see P. & Z. Ch. 1115
 Zoning districts - see P. & Z. Ch. 1135 - 1179
 Special exceptions - see P. & Z. Ch. 1193

1185.01 INTENT.

In addition to all regulations specified in Chapters 1135 to 1179 and in other chapters of this Zoning Code, the provisions of this chapter shall be used for interpretation and clarification. (Ord. 1069-94 Passed 4-28-94.)

1185.02 PENDING APPLICATION FOR BUILDING PERMITS.

Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure or part thereof, for which official approvals and required building permits have been granted before the enactment of this Zoning Code, the construction of which conforms with such plans and has been started prior to the effective date of this Zoning Code, and completion thereof carried on in a normal manner and not discounted for reasons other than those beyond the builders' control. (Ord 1069-94. Passed 4-28-94.)

1185.03 UNSAFE BUILDINGS.

Nothing in this Zoning Code shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.
(Ord. 1069-94. Passed 4-28-94.)

1185.04 SPEAKERS, AMPLIFIERS AND SOUND EQUIPMENT.

The commercial use for advertising purposes of loud speakers, including sound equipment mounted on trucks or aircraft within or above any R district, is hereby prohibited.
(Ord. 1069-94. Passed 4-28-94.)

1185.05 TRANSITIONAL USES.

In any R-3 District, a transitional use shall be permitted on a lot the side lot line of which adjoins, either directly or across an alley, a B or M district. The permitted transitional uses for any such lot in an R-3 District shall be of any use permitted in the R-4 District. In such case, the requirements governing lot area per family, off-street parking, yards and other open spaces, shall be the same in an R-3 District as in an R-4 District. Any transitional use shall not extend more than seventy-five (75) feet from the side lot line of the lot which adjoins the district boundary line.
(Ord. 1069-94. Passed 4-28-94.)

1185.06 MINIMUM GROUND FLOOR AREA REQUIREMENTS.

(a) A one-floor dwelling shall contain not less than 720 square feet of usable ground floor area, except for lots of record, prior to the adoption of this Zoning Code, having less than 7,500 square feet lot area the usable ground floor area shall contain not less than ten percent (10%) of the existing lot area, exclusive of open porches, garages or steps.

(b) A story and a half or two-story dwelling, shall contain not less than 650 square feet of ground floor area, exclusive of open porches, garages or steps. (Ord. 1069-94. Passed 4-28-94.)

1185.07 HEIGHTS MEASURED.

On a corner or interior lot, the height shall be the vertical distance from the average established curb grade, or from the average finished grade at the building line if higher.
(Ord. 1069-94. Passed 4-28-94.)

1185.08 HEIGHT LIMIT.

(a) The building height limitation for this Zoning Code shall not apply to penthouses or roof structures for housing stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, fire or parapet walls, towers, steeples, flag poles, silos, smoke stacks, masts, water tanks, monuments or other superstructures that project into the air; except where the height of such structure will constitute a hazard to the safe landing and take-off of aircraft within the military or public aircraft approach and airspace areas, as designated on the zoning plan in accordance with current Air Force regulations.

(b) In such case, the height limit thus imposed shall be determined by the Board. In so doing, the Board shall consult with the appropriate military or C.A.A. aeronautical authorities so as to bring about general conformity to their respective regulations. (Ord. 1069-94. Passed 4-28-94.)

1185.09 STORIES.

(a) The lowest story, or the ground story, or first story of any building is the lowest story, the floor of which is not more than three and one-half (3-1/2) feet below the average contact ground level at the exterior walls of the building; except that any basement used for residence purposes, other than for a janitor, or caretaker, or his family, shall be deemed a ground or first story.

(b) A mezzanine story shall be deemed a full story in case it covers more than one-third (1/3) of the area of the ground story. (Ord. 1069-94. Passed 4-28-94.)

1185.10 STREET FRONTAGE REQUIRED.

Except as permitted by this Zoning Code, no lot shall contain any building used in whole or in part for residence purposes unless such lot abuts for its full frontage on a street; and there shall be not more than one (1) single-family dwelling for such frontage. (Ord. 1069-94. Passed 4-28-94.)

1185.11 FRONT YARDS ON LOTS RUNNING THROUGH BLOCK.

In any district where a lot runs through a block from street to street, and where a front yard is required, such front yard shall be provided along each street lot line, not a side street lot line. (Ord. 1069-94. Passed 4-28-94.)

1185.12 DOUBLE FRONTAGE LOTS.

(a) Buildings on through lots and extending through from street to street may waive the lot requirements for a rear yard by furnishing an equivalent open space in lieu of such required rear yard. (Ord. 1069-94. Passed 4-28-94.)

1185.13 FRONT YARD DEPTHS MEASURED.

(a) The minimum front yard depths, as specified, shall be measured from the established right-of-way lines as shown on the Official Thoroughfare Plan.

(b) On corner lots fronting two thoroughfares, the front yard depth shall be measured from the established right-of-way lines of each thoroughfare. (Ord. 1069-94. Passed 4-28-94.)

1185.14 REQUIRED YARD MAY NOT BE REDUCED.

No lot shall be reduced in area as to make any yard or any other open space less than the minimum required by this Zoning Code. No part of a yard or other open space provided about any building or structure, for the purpose of complying with the provisions of this Zoning Code shall be included as part of a yard or other open space required under this Zoning Code for another building or structure. (Ord. 1069-94. Passed 4-28-94.)

1185.15 COURT REQUIREMENTS.

Where a court is provided for the purpose of furnishing light and air to rooms, such court shall be an outer court, the least dimensions of which shall be as follows:

- (a) Least Width: Sum of heights of building wings opposite one (1) another, but not less than fifty (50) feet.
- (b) Maximum Length: One and one-half (1-1/2) times the width.
(Ord. 1069-94. Passed 4-28-94.)

1185.16 LOTS OF RECORD.

(a) In any district where dwellings are permitted, a single-family dwelling may be located on any lot or plot of official record as of the effective date of this Zoning Code (November 14, 1960).

(b) The sum of the side yard widths of any such lot or plot need not exceed thirty percent (30%) of the width of the lot but in no case less than ten percent (10%) of the width of the lot for any one (1) side yard.

(c) The depth of the rear yard of any such lot need not exceed twenty percent (20%) of the depth of the lot, but in no case less than ten (10) feet. (Ord. 1069-94. Passed 4-28-94.)

1185.17 FILLING STATIONS AND PUBLIC GARAGES.

(a) Entrances and Exits; Oil Storage.

(1) Entrances and Exits.

A. No gasoline filling station or a commercial customer or employee parking lot for twenty-five (25) or more motor vehicles or a parking garage or automobile repair shop, shall have an entrance or exit for vehicles within 200 feet along the same side of a street of any school, public playground, church, hospital, public library or institution for dependents or for children, except where such property is in another block or on another street which the lot in question does not abut.

(2) Appliance Pit Location.

A. No gasoline filling station or public garage shall be permitted where any oil draining pit or visible appliance for any such purpose other than filling caps, is located within twelve (12) feet of any street lot line or within twenty-five (25) feet of any R district, except where such appliance or pit is within a building.

- (3) Setback for Corner.
A. On all corner lots, all vehicular entrances to, or exits from, and curb openings, shall be set back a minimum of twenty-five (25) feet from the corner property lines extended or from the established right-of-way lines as shown on the Official Thoroughfare Plan. All curb openings whether on a corner lot or not, shall not exceed forty (40) feet in width at the curb line, and thirty (30) feet at the property line. There shall be a minimum of twenty (20) feet measured along the property line, between any series of driveways.
(Ord. 1069-94. Passed 4-28-94.)

1185.18 TRAILERS AND TRAILER PARKS.

- (a) Districts where trailers may park; general rules.
(1) Parking .
A. Parking of a trailer in any A, R-2, R-2A, R-3, R-4, B-1, C, or WO District shall be prohibited except that one (1) trailer may be parked or stored in an enclosed garage, or accessory building provided that no living quarters shall be maintained, that no business is conducted in connection therewith while such trailer is parked or stored, and provided further that it is permitted by the Board.
(2) Standards.
A. The sanitary regulations prescribed by the County Board of Health, the provisions of the Codified Ordinances of Moraine and all State regulations shall be complied with.
(3) Vehicular Entrances and Exits.
A. No vehicular entrance to or exit from any tourist or trailer park, wherever such park may be located, shall be within 200 feet along streets from any school, public playground, church, hospital, library or institution for dependents or for children.
- (b) Enlarging or Extending Trailer Park's Limits.
(1) All enlargements or extensions to existing parks shall require application for a zoning certificate as if it were a new establishment.
(2) Enlargements or extensions to any park shall be permitted in accordance with requirements of park construction and operation as contained in Ohio R.C. Chapter 3733. (Ord. 1069-94. Passed 4-28-94.)

1185.19 EXCAVATIONS AND QUARRIES.

- (a) Permit required for excavation or quarry.
(1) No new excavation, quarry or earth removal for the purpose of removing gravel or other natural products shall be carried on in any district unless the same is permitted by the Board of Zoning Appeals subject to such conditions and safeguards as it may determine for the protection of the health, morals, safety and general welfare of the City.

- (b) Prohibited Location.
- (1) The opening of any new excavation or quarry, and the removal of earth for the purpose of excavating gravel and other natural deposits and the erection of any building or structure for the processing, treating or refining of gravel or other natural deposits, within 300 feet of any A-1, R-2, R-3, R-4, B-1, B-2 or M-1 District, is hereby declared and determined to be detrimental to the health, morals, safety and general welfare of the City and such actions are hereby prohibited.
- (c) Dumping of refuse and wastes.
- (1) Dumping of refuse or waste materials and burning of such in existing quarries or excavations shall be and the same is hereby prohibited in all zoning districts, except in an M -2 District and then, only upon application to Council. If Council permits the same to be done, Council shall establish the conditions and limitations deemed necessary so that such processes will not be detrimental to the health, safety, welfare and general good of the City. (Ord. 1069-94. Passed 4-28-94.)

1185.20 REAR AND SIDE YARDS; ARCHITECTURAL PROJECTIONS.

(a) Computing Yard Depth and Width. In computing the depth of a rear yard or the width of a side yard where the rear or side yard opens on an alley, one-half (1/2) of the alley width may be included as a portion of the rear or side yard as the case may be.

(b) Projections and Fences. The following architectural features may project into required side yards or courts as hereinafter set forth:

- (1) Into any required front yard or required side yard adjoining a street side lot line.
- (2) Cornices, canopies, eaves or other architectural features may project a distance not exceeding two (2) feet six (6) inches.
- (3) Fire escapes may project a distance not exceeding four (4) feet six (6) inches.
- (4) An uncovered stair and necessary landings may project a distance not to exceed six (6) feet, provided that such stair and landing shall not extend above the entrance floor of the building except for a railing not to exceed three (3) feet in height.
- (5) Bay windows, balconies and chimneys may project a distance not to exceed three (3) feet, provided that such features do not occupy, in the aggregate, more than one-third (1/3) of the length of the wall on which they are located.
- (6) Subject to the conditions specified above, the above named features may project into any required side yard adjoining an interior side lot line, a distance not to exceed one-fifth (1/5) of the required least width of such side yard, but not to exceed three (3) feet in any case.

- (7) Subject to the conditions specified above, the above named features may project into any required rear yards or into any required outer court the same distances they are allowed to project into a front yard.
- (8) Fences, walls and hedges, not exceeding at any point four (4) feet in height above the elevation of the surface of the ground at such point, may be located in any yard or court.
- (9) Fences, walls and hedges not exceeding at any point six (6) feet in height above the elevation of the surface of the ground at such point, may be located in any rear yard area or side yard area; provided, that on a reversed corner lot, no such fence, wall or hedge shall be closer to the street side lot line than a distance equal to the least width of the side yard required adjacent to such lot line for a one-story building.
(Ord. 1069-94. Passed 4-28-94.)

1185.21 SALE OF MOTOR VEHICLES, BOATS, RECREATIONAL VEHICLES.

No person, firm or corporation shall display for sale a motor vehicle, boat or recreational vehicle except that such provision shall not apply in the following specific instances:

- (a) No more than one motor vehicle, boat or recreational vehicle at a time may be displayed for sale on a lot or parcel and no more than a total of four such motor vehicles, boats or recreational vehicles may be displayed for sale on any lot or parcel during any consecutive twelve month period, provided that any such motor vehicle, boat or recreational vehicle which is displayed for sale under this subsection (a) must be titled in the name of an occupant of the property and provided further that any boat on a trailer may be displayed for sale together and shall be considered one unit under this subsection (a).
- (b) Such motor vehicles, boats and recreational vehicles are displayed by duly and proper licensed dealers and such display occurs in areas properly zoned to conduct such a business.
- (c) Limited exception is granted to subsection (a) hereof for one time estate sales and public auctions.
- (d) Display of a motor vehicle, boat or recreational vehicle shall not exceed ninety days at any one time. A minimum of sixty days must pass after the termination of any ninety day display period before a motor vehicle, boat or recreational vehicle can be displayed.
(Ord. 1185-97. Passed 1-23-97.)

CHAPTER 1187
Off-Street Parking and Loading; Access Control and Traffic

<p>1187.01 Purpose.</p> <p>1187.02 Scope.</p> <p>1187.03 Off-street parking location.</p> <p>1187.04 Off-street parking facilities size and design.</p> <p>1187.05 Off-street parking landscaping requirements.</p> <p>1187.06 Computation of off-street parking requirements.</p> <p>1187.07 Number of parking spaces required.</p> <p>1187.08 Off-street loading spaces required generally.</p> <p>1187.09 Off-street loading space design standards.</p>	<p>1187.10 Utilization of off-street loading spaces.</p> <p>1187.11 Computation of off-street loading space requirements.</p> <p>1187.12 Specific off-street loading spaces required.</p> <p>1187.13 Screening and landscaping of off-street parking and loading areas.</p> <p>1187.14 Lighting of off-street parking and loading areas.</p> <p>1187.15 Maintenance of off-street parking and loading areas.</p>
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CROSS REFERENCES

Access defined - see P. & Z. 1115.03(a)(3)
Loading space defined - see P. & Z. 1115.03(a)(199)
Off-street parking space defined - see P. & Z. 1115.03(a)(249)
Public parking space defined - see P. & Z. 1115.03(a)(250)
Off-street parking special exception - see P & Z. 1193.01

1187.01 PURPOSE.

The standards and requirements of this chapter are intended to minimize the traffic impacts of development and to assure that all developments adequately and safely provide for the storage and movement of vehicles in a manner consistent with good site design and engineering practices Included in this chapter are standards regulating off-street parking and loading, access control to and from public streets, and the assessment of the overall traffic impact of a development. (Ord 1069-94 Passed 4-28-94.)

1187.02 SCOPE.

(a) For all buildings and structures erected and all uses of land established after the effective date of this Zoning Code, accessory parking and loading facilities shall be provided as required by the regulations of the district in which such buildings or uses are located. However, where a building permit has been issued prior to the effective date of this Zoning Code and provided that construction is begun within six (6) months of such effective date and diligently pursued to completion, parking and loading facilities in the amounts as are required for the issuance of such building permit may be provided in lieu of any different amounts required by this Zoning Code.

(b) When the intensity of use of any building, structure or premises shall be increased through the addition of dwelling units, gross floor area, seating capacity or other units of measurement specified herein for required parking or loading facilities, parking and loading facilities as required herein shall be provided for such increase in intensity of use and for at least fifty percent (50%) of any existing deficiency in parking or loading facilities.

(c) Whenever the existing use of a building or structure shall hereafter be changed to a new use, parking or loading facilities shall be provided as required for such new use. However, if such building or structure was erected prior to the effective date of this Zoning Code, additional parking or loading facilities are mandatory only in the amount by which the requirements for the new use would exceed those for the existing use, if the latter were subject to the parking and loading provisions of this Zoning Code.

(d) Off-street parking and loading facilities in existence on the effective date of this Zoning Code and located on the same lot as the building or use served shall not hereafter be reduced below, or if already less than, shall not be further reduced below, the requirements for a similar new building or use under the provisions of this Zoning Code.

(e) Any area once designated as required off-street parking or loading shall never be changed to any other use unless equal facilities are provided elsewhere.
(Ord. 1069-94. Passed 4-28-94.)

1187.03 OFF-STREET PARKING LOCATION.

(a) One and Two-Family Dwellings. The off-street parking facilities required for one- and two-family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve, but shall not be considered a parking lot under the provisions of this chapter.

(b) Multi-Family Dwellings. The off-street parking facilities for multifamily dwellings shall consist of a parking lot as specified in Section 1187.04(c)(2). In no event shall any uncovered parking space in a multi-family district be located nearer than ten (10) feet to any main building.

(c) Mobile Home Parks. The off-street parking required may be located on each site or in parking lots conveniently located and readily accessible to each site.

(d) Other Land Uses. The off-street parking required may be located on each site or in parking lots conveniently located and readily accessible to each site. (Ord. 1069-94. Passed 4-28-94.)

1187.04 OFF-STREET PARKING FACILITIES SIZE AND DESIGN.

Off-street parking facilities shall meet the following standards:

(a) Size of Spaces. The minimum size for an off-street parking space shall be nineteen (19) feet in length by nine (9) feet wide. However, compact car spaces, with minimum dimensions of eight (8) feet by sixteen (16) feet, may be substituted for up to fifteen percent (15%) of the required spaces, provided that such spaces are readily identified.

(b) Width of Parking Area Aisles and Driveways.

(1) Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

Aisle Width	Parking Angle			
	0°	45°	60°	90°
One-Way Traffic	13	13	18	24
Two-Way Traffic	25	22	23	24

(2) Driveways shall be not less than thirteen (13) feet in width for one-way traffic and twenty-one (21) feet in width for two-way traffic, except that thirteen (13) feet-wide driveways are permissible for two-way traffic when the driveway is not longer than fifty (50) feet, it provides access to not more than six (6) spaces, and sufficient turning space is provided so that vehicles need not back into a public street.

(c) Design and Construction Standards.

(1) Off-street parking may be open to the side, or enclosed in a building or structure, either above or below ground. Off-street parking areas shall meet acceptable engineering standards as set forth by the City Engineer for such things as driveway widths, island design, curbs, barriers, grades, radii, vertical clearance, stacking and waiting areas and drainage.

A. Each off-street parking space shall open directly onto an aisle or driveway of such width and design to provide safe and efficient means of vehicular access to the parking space, and which, except for single-family and two-family residences (not fronting upon a major collector or arterial thoroughfare), does not require a vehicle to back into a public street.

B. Such aisle or driveway shall not be used for parking of other vehicles, except that the driveway of a single-family or two-family residence shall be counted as parking spaces for such dwelling unit, the number of spaces being dependent on a determination by the Zoning Administrator based on the size and accessibility of such driveway.

C. Any new driveway opening onto a public street requires a driveway permit from the City Engineer.

- D. No part of any parking space except for single-family and two family residence shall be closer than ten (10) feet to any established street right of way or alley line as shown on the Official Thoroughfare Plan.
- (2) Surfacing and curbing. Except for temporary parking permitted pursuant to the provisions of Chapter 1183, or the expansion of existing parking areas for single-family residential uses, all open off-street parking areas shall be graded and provided with a hard surface of bituminous or Portland cement concrete. Except for parking areas for single-family residential uses, all parking areas shall be bounded by curbs six (6) inches in height. Such curbs may be made of concrete, stone, timber or similar material, but shall not be made of asphalt.
 - (3) Wheel stops. Wheel stops shall be installed at least thirty (30) inches from an adjacent sidewalk, fence or wall. Such stops shall be either a concrete piece at least thirty-six (36) inches long and permanently affixed to a foundation; a continuous concrete curb, or other appurtenance or design features that prohibit a vehicle from obstructing a sidewalk or making contact with a wall or fence. However, a sidewalk adjacent to a building may be used for vehicle overhang if such sidewalk is a minimum of five and one-half (5-1/2) feet in width.
 - (4) Drainage. All off-street parking areas shall meet the standards for stormwater run-off control as provided and administered by the City Engineer.
 - (5) Marking. Designated parking spaces shall be marked on the surface of the parking area with paint or permanent marking materials and maintained in clearly visible condition. Where approaches contact the public right of way, the paint lines dividing vehicle paths and other pavement markings shall be in accordance with the Ohio Uniform Traffic Control Manual.
(Ord. 1069-94. Passed 4-28-94.)

1187.05 OFF-STREET PARKING LANDSCAPING REQUIREMENTS.

The following provisions are to be considered minimum landscaping requirements for the conditions defined herein. In cases in which respective zoning districts require greater yard setbacks, and/or landscaping, those requirements shall prevail.

Wherever in any zoning district off-street facilities are provided for parking or any other vehicular uses as provided in Section 1187.02, such off-street facilities and land shall conform to the minimum landscaping requirements set forth in this section, except, that single and two-family residential uses on individual platted lots and multi-level parking structures shall be exempt from such requirements. All landscaped areas shall be protected from vehicular encroachment by curbs, wheel stops and other similar devices. Existing trees, as defined herein, may be used to meet the requirements of this section.

- (a) Plant Material.
- (1) Trees. All trees shall be species having an average mature spread or crown of greater than fifteen (15) feet in the Miami Valley area and having trunk(s) which can be maintained in a clean condition over five (5) feet of clear wood. Trees having an average mature spread or crown less than fifteen (15) feet may be substituted by grouping the same so as to create the equivalent of a fifteen (15) foot crown spread. Tree species shall be a minimum of eight (8) feet overall height immediately after planting. Trees of species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than six (6) feet to such public works, unless the tree root system is completely separated by a barrier.
- (2) Shrubs and hedges. Shrubs shall be a minimum of two (2) feet in height when measured immediately after planting. Hedges, where required, shall be planted and maintained so as to form a continuous, unbroken, solid visual screen within a maximum of one (1) year after time of planting. Plant spacing will be three (3) feet on center at installation.
- (b) Development Standards.
- (1) Required landscaping adjacent to public right of way. On any parcel providing an off-street parking area or other vehicular use area in excess of three thousand (3,000) square feet or ten (10) spaces, where such area will not be entirely screened visually by an intervening building or structure from any abutting right of way, excluding alleys, there shall be provided landscaping between such area and such right of way as follows:
- A. A strip of land at least ten (10) feet in depth located between the abutting right of way and the off-street parking area or other vehicular use area which is exposed to an abutting right of way shall be landscaped to include an average of one (1) tree for each fifty (50) linear feet or fraction thereof. Such trees shall be located between the abutting right of way and off-street parking area or other vehicular use area.
- B. In addition, a hedge, wall or other opaque durable landscape barrier of at least two (2) feet in height shall be placed along the entire length of such landscaped area. If such opaque durable barrier is of nonliving material, for each ten (10) feet thereof, an average of one (1) shrub or vine shall be planted abutting such barrier but need not be spaced ten (10) feet apart. Such shrubs or vines shall be planted along the street side of such barrier unless they are of sufficient height at the time of planting to be readily visible over the top of such barrier. The remainder of the required landscaped areas shall be landscaped with grass, ground cover or other landscape treatment.

- (2) Required landscaping adjacent to interior property lines. On any parcel providing an off-street parking area or other vehicular use area, there shall be provided landscaping between such area and such property line as follows:
- A. Where such area abuts property zoned or, in fact, used primarily for residential or institutional purposes that portion of such area not entirely screened visually by an intervening structure or existing conforming buffer from an abutting property, there shall be provided a landscaped buffer. Such landscaped buffer shall be located between the common lot line and the off-street parking area or other vehicular use area exposed to the abutting property so that the purpose of screening the off-street parking area or other vehicular use area is accomplished. The vertical requirement for such landscaped buffer area may be reduced to not less than three (3) feet where the only vehicular use area to be screened is a driveway not exceeding ten (10) feet in width.
 - B. In addition, an average of one (1) tree shall be provided for each fifty (50) lineal feet of such interior property line or fractional part thereof. Such trees shall be located between the common lot line and the off-street parking area or other vehicular use area. Each such tree shall be planted in at least 150 square feet of planting area with a minimum dimension of at least eight (8) feet. Each such planting shall be landscaped with grass, ground cover or other landscape material excluding paving in addition to the required tree.
 - C. Where such area abuts a dedicated alley or property zoned and, in fact, used for office, commercial or industrial purposes and exceeds 3,000 square feet or ten (10) spaces, only the tree provision with its planting area as prescribed in this subsection shall be required.
- (3) Required vehicular use area interior landscaping.
- A. Off-street parking areas in excess of 3,000 square feet or ten (10) spaces shall have at least ten (10) square feet of interior landscaping for each parking space excluding those spaces abutting a perimeter for which landscaping is required by other sections thereof.
 - B. Each separate landscaped area shall contain a minimum of 150 square feet and shall have a minimum dimension of at least eight (8) feet and shall include at least one (1) tree, with the remaining area adequately landscaped with shrubs, ground cover or other landscaping material. The total number of trees shall not be less than one (1) for each 100 square feet or fraction thereof of required interior landscaping area. Such landscaped areas shall be located in such a manner as to divide and break up the expanse of paving and at strategic points to guide traffic flow and direction.

- C. The front of a vehicle may encroach upon any interior landscaped area or walkway when such area is at least three and one-half (3-1/2) feet in depth per abutting parking space and protected by motor vehicle stops or curbing. Two (2) feet of such landscaped area or walkway may be part of the required depth of each abutting parking space.
- (4) Sight distance for landscaping adjacent to public rights of way and points of access. When an accessway intersects a public right of way, all landscaping shall provide unobstructed cross-visibility at a level between two and one-half (2-1/2) and six (6) feet within the areas of property on both sides of an accessway formed by the intersection of each side of the accessway and public right-of-way lines with two (2) sides of each triangle being ten (10) feet in length from the point of intersection and the third side being a line connecting the ends of the two (2) other sides; provided that trees having limbs and foliage trimmed in such a manner that no limbs or foliage extend into the cross visibility area shall be allowed, and further provided they are located so as not to create a traffic hazard. Landscaping, except required grass or ground cover, shall not be located closer than three (3) feet from the edge of any accessway pavement.
- (c) Applicability. The provisions of this section shall apply to all new off-street parking or other vehicular use area. At such time as existing off-street parking or other vehicular use areas are enlarged or expanded, such provisions shall apply to the previous existing areas as well as the new area. Any appeal from an administrative determination relating to these regulations shall be to the Board of Zoning Appeals. Prior to issuing occupancy permits for new construction, implementation and completion of landscaping requirements in off-street vehicular facilities shall be required. Where a conflict exists between the strict application of this section and the requirements for number of off-street parking spaces or requirements for off-street loading facilities as found in the schedule of off-street parking and loading requirements, the requirements of this section shall supersede the Schedule.
- (d) Time of Completion. All tree plantings and planting screens required by this Zoning Code shall be installed prior to occupancy or commence of use. Where compliance with the preceding sentence is not possible because of the season of the year, the Zoning Administrator shall grant an appropriate delay, but shall issue no permanent zoning compliance certificate or certificate of occupancy until completion of all required plantings. Any zoning compliance permit or certificate of occupancy may be revoked, after thirty (30) days written notice to the person assessed for taxes on the affected lot and to the occupant, whenever planting screens or required tree plantings are not maintained as required by this Zoning Code. (Ord. 1069-94. Passed 4-28-94.)

1187.06 COMPUTATION OF OFF-STREET PARKING REQUIREMENTS.

(a) Number of Spaces. When determination of the number of off-street parking spaces required by this section results in a fractional space, the fraction of one-half (1/2) or less may be disregarded and a fraction in excess of one-half (1/2) shall be counted as one (1) parking space.

(b) Units of Measurement. For the purpose of determining off-street parking requirements, the following units of measurement shall apply:

- (1) Floor area. Floor area for nonresidential purposes shall be the sum of the gross horizontal area of all floors of a building measured from the exterior faces of the exterior walls.
- (2) Hospital beds. In hospitals, bassinets shall not be counted as beds.
- (3) Places of public assembly.
 - A. Benches. In stadiums, sports areas, churches and other places of assembly in which those in attendance occupy benches, pews or other similar seating facilities, each twenty (20) inches of such seating facilities shall be counted as one (1) seat.
 - B. Fixed seats and assembly areas. 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.
- (4) Employees on the largest work shift. Employees on the largest work shift means the maximum number of employees which could be employed at a facility, regardless of the time period during which this occurs and regardless of whether any such person is a full-time employee. The largest work shift may be a particular day of the week or a lunch or dinner period in the case of a restaurant.
- (5) Capacity. Capacity means the maximum number of persons which may be accommodated by the use as determined by its design or by fire code regulations, whichever is greater. (Ord. 1069-94. Passed 4-28-94.)

1187.07 NUMBER OF PARKING SPACES REQUIRED.

(a) Residential Uses.

- (1) Single-family or two-family residential detached and semi-detached, two (2) off-street parking spaces (a garage may be counted for one (1) of these spaces), two-family, single-family attached and multi-family: two (2) spaces per dwelling unit.
- (2) Apartments: two (2) spaces per dwelling unit.

(b) Special Residential Uses.

- (1) Dormitories, convents and monasteries: one (1) space per six (6) residents plus one (1) space per employee.
- (2) Corporate guest houses: one (1) space per two (2) bedrooms, plus one (1) space per employee.

- (3) Residential social service facilities: one (1) space per four (4) residents plus one (1) space per employee.
- (4) Retirement villages and senior citizen housing: three-fourths (3/4) space per dwelling unit, plus one (1) space per employee.

(c) Institutional and Recreational Uses.

- (1) Cemeteries: one (1) space per employee, plus one (1) space per four (4) seats in any chapel.
- (2) Community centers, libraries, museums, art galleries, botanical gardens and other establishments of historical, education and cultural interest: one (1) space per two hundred fifty (250) square feet of gross floor area, plus one (1) space per employee on the largest work shift.
- (3) Day care centers and nursery schools: one (1) space per employee, plus one (1) space per five (5) children at capacity, plus a drop-off area consistent with the provisions of Section 1187.12.
- (4) Elementary and junior high schools: one (1) space per employee, plus one (1) space per two (2) classrooms.
- (5) High schools: one (1) space per employee, plus one (1) space per six (6) students at capacity.
- (6) Hospitals and medical centers: one (1) space for every two (2) beds, plus one (1) space for every staff and employee on the largest work shift.
- (7) Junior colleges, colleges and universities: one (1) space for every three (3) student classroom seats, plus one (1) space per employee.
- (8) Places of worship: one (1) space per four (4) seats at maximum capacity.
- (9) Public offices and buildings: one (1) space for every two hundred fifty (250) square feet of gross floor area.
- (10) Nursing and personal care facilities, including nursing homes, extended care facilities, rest homes and convalescent homes: one (1) space per six (6) beds, plus one (1) space for each staff and employee on the largest work shift.
- (11) Recreational uses, indoor and outdoor: all such uses shall provide the total number of spaces required for the specific combination of recreation facilities provided, based on the following:
 - A. Auditoriums, arenas, stadiums, gymnasiums, and playing fields with stands: one (1) space for every four (4) seats at capacity.
 - B. Golf courses: ten (10) spaces per hole, plus fifty percent (50%) of the spaces otherwise required for any accessory uses (e.g., bars, restaurants, pro shops).
 - C. Parks, playgrounds, nature areas and other open space: one (1) space for every five (5) users at maximum capacity, except that the Zoning Enforcement Officer may waive the parking requirements for neighborhood parks under five (5) acres in size.
 - D. Recreation centers: one (1) space for every two hundred fifty (250) square feet of floor area, except those designed for use exclusively by senior citizens or youth under age sixteen (16), in which case there shall be one (1) space for every seven hundred fifty (750) square feet.

- E. Skating rinks: one (1) space per three hundred (300) square feet of gross floor area.
 - F. Swimming pools: one (1) space for every seventy-five (75) square feet of water surface area.
 - G. Tennis, racquetball and handball courts: indoor - four (4) spaces for each playing court; outdoor tennis courts - two (2) spaces for each court. In addition to the above requirements, all recreational uses shall provide one (1) space for every two (2) employees on the largest work shift.
- (d) Business and Professional Offices.
- (1) Business and professional offices and associations: one (1) space per three hundred (300) square feet of gross floor area, but not less than two (2) spaces per office.
 - (2) Medical offices and clinics: three (3) spaces per treatment or examination room or chair, plus one (1) space per staff and employee, but not less than five (5) spaces per practitioner.
- (e) Retail Commercial and Service Uses.
- (1) Animal hospitals and veterinary clinics: three (3) spaces for each treatment area, plus one (1) space for each staff and employee, except that pet stores shall provide parking pursuant to subsection (i) below.
 - (2) Commercial schools and studios: one (1) space for every three (3) students at capacity and one (1) space for each employee.
 - (3) Financial establishments, banks and savings and loan associations: one (1) space per two hundred (200) square feet of gross floor area, plus one (1) space per employee on the largest work shift, plus five (5) off-street waiting spaces per drive-in window or drive-through teller machine.
 - (4) Funeral homes and mortuaries: one (1) space for every fifty (50) square feet of public floor area, plus one (1) space for each employee, plus one (1) space for each business vehicle.
 - (5) General merchandise stores and supermarkets: one (1) space for each one hundred fifty (150) square feet of gross floor area used for sales and display and one (1) space for every two hundred fifty (250) square feet of storage, warehouse and office area.
 - (6) Home furnishings, home improvements and equipment stores: one (1) space for each four hundred (400) square feet of indoor and outdoor sales and display area and one (1) space for each eight hundred (800) square feet of office, storage and warehouse area.
 - (7) Nurseries and garden supply stores: one (1) space for each employee on the largest shift, one (1) space for each two hundred (200) square feet of gross floor area of inside sales or display and one (1) space for each one thousand (1,000) square feet of exterior sales and display area.

- (8) Restaurant, standard: one (1) space per one hundred (100) square feet of gross floor area, plus one (1) space per employee on the largest work shift.
- (9) Specialty retail commercial, specialty food stores, personal services and commercial centers: one (1) space for every two hundred (200) square feet of gross floor area less than two thousand (2,000) and one (1) space for every two hundred fifty (250) square feet of gross floor area greater than two thousand (2,000) square feet, except that commercial entertainment uses in commercial centers shall provide additional parking as required in the following pertinent provisions, and no use shall have less than five (5) spaces.
- (10) Business and cleaning services: one (1) space for every three hundred (300) square feet of sales and office area, plus one (1) space for every employee on the largest work shift, plus one (1) space for every company or service vehicle regularly stored on the premises.
- (11) Automobile accessories sale and installation: two (2) spaces for every service bay, plus one (1) space for each employee, plus one (1) space for every four hundred (400) square feet of sales area.
- (12) Automobile service stations and auto repair, painting and body shops: two (2) spaces for each service bay, plus one (1) space for each employee and service vehicle, with a minimum of six (6) spaces.
- (13) Automobile washing facilities: six (6) waiting spaces and two (2) storage spaces for each car washing device or stall; or ten (10) off-street waiting spaces for an assembly line type washing establishment where vehicles await entrance to the washing process. Two (2) employee parking spaces for every three (3) employees. Two (2) parking spaces at the exit end of each washing bay for drying and hand finishing of vehicles.
- (14) Dance halls, bingo halls, assembly and exhibition halls: one (1) space for every fifty (50) square feet of floor area.
- (15) Drive-in theatre: one (1) space for each automobile station, plus one (1) space per employee.
- (16) Game rooms and pool halls: one (1) space for every two (2) patrons at maximum capacity, plus one (1) space for every two (2) employees on the largest work shift.
- (17) Golf driving range: one (1) space per tee, plus one (1) space per employee on the largest work shift.
- (18) Miniature golf: one and one-half (1/2) spaces per hole, plus one (1) space per employee on the largest work shift.
- (19) Other outdoor commercial entertainment: one (1) space for every four (4) patrons at maximum capacity, plus one (1) space for every two (2) employees on the largest work shift.
- (20) Theaters, concert halls and meeting and banquet halls: one (1) space for every two and one-half (2-1/2) seats at capacity.
- (21) Convenience food stores, mini-markets and carry-outs: one and one-half (1-1/2) spaces for every two hundred (200) square feet of floor area, plus one (1) space for each employee.

- (22) Drive-through stores, including photo kiosks and freestanding automatic teller machines: one (1) space for each employee, plus off-street stacking space for five (5) vehicles, plus one (1) space for each two hundred (200) square feet of sales area open to the public.
 - (23) Fraternal and social associations and private clubs: one (1) space for every fifty (50) square feet of floor area in assembly or meeting rooms, plus one (1) space for every two hundred (200) square feet of other floor area.
 - (24) Hotels and motels: one (1) space per room or suite, plus one (1) space for every three (3) employees on the largest work shift, plus one (1) space per three (3) persons to the maximum capacity of each public meeting and/or banquet room, plus fifty percent (50%) of the spaces otherwise required for accessory uses (e.g., restaurants and bars).
 - (25) Restaurants, fast food: one (1) space per fifty (50) gross square feet of floor area, plus one (1) space per employee on the largest shift with a minimum of twenty-five (25) total spaces and with off-street stacking space for eight (8) vehicles for each drive-in window, with such stacking spaces to be located behind the point where a drive-in order is placed.
 - (26) Taverns, bars and nightclubs: one (1) space for every fifty (50) square feet of gross floor area, plus one (1) space for each employee on the largest work shift.
 - (27) Vehicle sales and service: one (1) parking space for each eight hundred (800) square feet of floor area, plus one (1) space for each three thousand (3,000) square feet of open lot area devoted to the sale and display of motor vehicles.
- (f) Light Industrial Uses.
- (1) Construction trades and contractor offices and industrial craft shops: one (1) space for every three hundred (300) square feet of floor area, plus one (1) space for every business vehicle.
 - (2) Lumberyards and building materials sales: one (1) parking space for eight hundred (800) square feet of floor area, plus one (1) space for every three thousand (3,000) square feet of lot area devoted to the storage and display of building materials.
 - (3) Manufacturing, printing and publishing establishments and laundry and dry cleaning plants: one (1) space for each employee on the largest work shift, plus one (1) visitor parking space for every ten thousand (10,000) square feet of floor area, plus one (1) space for every company vehicle regularly stored on the premises.
 - (4) Recycling centers: one (1) space for each employee or volunteer on the largest work shift, plus one (1) parking space for each collection vehicle and two (2) drop-off spaces for each bay and/or collection vehicle and container.

- (5) Warehouses and mini-warehouses: one (1) space for every four thousand (4,000) square feet of gross floor area, plus one (1) space per employee on the largest work shift.
 - (6) Wholesaling facilities: one (1) space for every three hundred (300) square feet of office and sales area, plus one (1) space for every four thousand (4,000) square feet of warehouse and storage area, plus one (1) space per employee on the largest work shift.
- (g) Heavy Industrial Transportation and Utility Uses.
- (1) Heavy equipment rental, sales and storage: one (1) space for every eight hundred (800) square feet of floor area, plus one (1) space for every three thousand (3,000) square feet of lot area devoted to the sale and display of vehicles.
 - (2) Heavy industry: one (1) space for each employee on the large work shift, plus one (1) space for each company vehicle normally stored on the premises, plus one (1) space for every ten thousand (10,000) square feet of lot area and floor area in industrial use.
 - (3) Public service yards and garages: one (1) space for each employee on the largest work shift, plus one (1) space for each business vehicle.
 - (4) Public transit stations: one (1) space per employee, plus one (1) space per three (3) patrons to capacity.
 - (5) Public utilities: one (1) space for every two hundred fifty (250) square feet of floor area, plus one (1) for each business vehicle, where applicable, with a minimum of two (2) spaces.
 - (6) Transportation terminals: one (1) space for every five (5) seats in the waiting area, plus one (1) space for every employee on the largest shift, plus one (1) space for every company vehicle normally parked on the premises. (Ord. 1069-94. Passed 4-28-94.)

1187.08 OFF-STREET LOADING SPACES REQUIRED GENERALLY.

In any zoning district every building or structure built, structurally altered, enlarged or having a change of use, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, shall be provided with off-street loading spaces or berths as required in this chapter. (Ord. 1069-94. Passed 4-28-94.)

1187.09 OFF-STREET LOADING SPACE DESIGN STANDARDS.

(a) Dimension. Each off-street loading space shall be at least ten (10) feet in width by twenty-five (25) feet in length with a vertical clearance of fifteen (15) feet or more and adequate area for ingress and egress.

(b) Access.

- (1) Each required loading berth shall be served by access to a street, service drive or alley in a manner that will not interfere with traffic or parking lot circulation.

- (2) No loading space shall be located in such a manner as to allow a vehicle to back onto a public street or to extend into the right of way while being loaded or unloaded.

(c) Surface and Drainage. All loading areas shall be graded as necessary and improved with bituminous or Portland cement and shall be provided with adequate drainage as determined by the City Engineer upon his review of the submitted plan.

(d) Location. Off-street loading areas shall not be located in any front yard, street side yard or within twenty-five (25) feet of any street right of way, except for area used for the occasional drop-off or pick-up of goods in vans, step-vans or panel trucks. No loading space shall be located within a required front or side yard when adjacent to any "R" District. No permitted or required loading space shall be closer than fifty (50) feet to any lot in any "R" District unless wholly enclosed within a building.

(e) Marking. Designated loading areas shall be marked as such on the surface of the loading area with paint or permanent marking materials and maintained in clearly visible condition. (Ord. 1069-94. Passed 4-28-94.)

1187.10 UTILIZATION OF OFF-STREET LOADING SPACES.

(a) No storage, motor vehicles repair work or service of any kind other than for an emergency shall be permitted within any required loading berth.

(b) Space allocated to be a required loading berth shall not be used to satisfy any requirement of this Zoning Code for off-street parking spaces. (Ord. 1069-94. Passed 4-28-94.)

1187.11 COMPUTATION OF OFF-STREET LOADING SPACE REQUIREMENTS.

(a) The term "floor area" is used for computation purposes as defined in Section 1187.06(b)(1).

(b) Fractions of spaces shall be computed as described in Section 1187.09(a). (Ord. 1069-94. Passed 4-28-94.)

1187.12 SPECIFIC OFF-STREET LOADING SPACES REQUIRED.

(a) Institutional, Public Assembly and Residential Buildings.

(1) Schools, hospitals, nursing homes and other similar institutional uses and mid and high rise residential uses: one (1) loading space for twenty thousand to two hundred thousand (20,000 to 200,000) square feet of gross floor area and one (1) space for each additional two hundred thousand (200,000) square feet or fraction thereof.

(2) Auditoriums, gymnasiums, stadiums, theaters, convention centers and other buildings for public assembly: one (1) space for ten thousand to twenty thousand (10,000 to 20,000) square feet of gross floor area and one (1) space for each additional one hundred thousand (100,000) square feet.

(b) Offices and Financial Institutions. One (1) space for the first twenty-five hundred to seventy-five thousand (2,500 to 75,000) square feet of gross floor area and one (1) space for additional twenty-five thousand (25,000) square feet.

(c) Retail Commercial Service, Road Service and Commercial Entertainment Uses. For each establishment, one (1) space for the first ten thousand (10,000) square feet of gross floor area and one (1) space for each additional twenty thousand (20,000) square feet.

(d) Industrial Uses. One (1) space for every ten thousand (10,000) square feet of gross floor area. (Ord. 1069-94. Passed 4-28-94.)

1187.13 SCREENING AND LANDSCAPING OF OFF-STREET PARKING AND LOADING AREAS.

Screening and landscaping of off-street parking and loading areas shall be consistent with the provisions of Section 1187.05. (Ord. 1069-94. Passed 4-28-94.)

1187.14 LIGHTING OF OFF-STREET PARKING AND LOADING AREAS.

All illumination for or on all such parking lots and loading areas shall be deflected away from adjacent residential areas and shall be installed in such a manner as to allow the reduction of the amount of light in other than normal parking hours each day. The source of illumination in all parking lots abutting a residential area shall not be more than sixteen (16) feet above the parking lot surface. (Ord. 1069-94. Passed 4-28-94.)

1187.15 MAINTENANCE OF OFF-STREET PARKING AND LOADING AREAS.

Parking and loading facilities shall be kept free from refuse and debris and in good structural condition through periodic maintenance by the owner or his agent, who shall also be responsible for snow removal. (Ord. 1069-94. Passed 4-28-94.)

CHAPTER 1189
Signs and Advertising Devices

1189.01 Purpose.	1189.13 Construction signs.
1189.02 Scope of regulations.	1189.14 Political advertising signs.
1189.03 Signs near interstate highways.	1189.15 Temporary signs.
1189.04 Prohibited signs.	1189.16 Identification signs.
1189.05 Existing signs.	1189.17 Directional signs.
1189.06 Permits.	1189.18 Warning signs.
1189.07 Commercial advertising signs.	1189.19 Responsibility for maintenance and removal.
1189.08 Wall signs.	1189.20 Garage sale signs.
1189.09 Free standing signs.	1189.21 Supplementary regulations.
1189.10 Protruding signs.	1189.22 Enforcement.
1189.11 Roof signs.	1189.23 Variances.
1189.12 Real estate signs.	

CROSS REFERENCES

Power to regulate advertising - see Ohio R.C. 715.65

Sign defined - see P. & Z. 1115.03(a)(341)

Sign definitions - see P. & Z. 1115.03(a)(342) et seq.

1189.01 PURPOSE.

It is the intent of this chapter to establish reasonable regulations governing the size, character and location of signs within the City of Moraine, in the interest of safety and general welfare of its citizens, business concerns and other affected sectors of the community. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community and preserve the scenic and natural beauty of designated areas. It is further intended to reduce sign distractions and sight obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights of way, provide more open space, and curb the deterioration of the natural environment and enhance community development.

(Ord. 1209-97. Passed 10-9-97.)

1189.02 SCOPE OF REGULATIONS.

The regulations herein set forth shall apply to and govern signs in all zoning districts. No sign shall be erected or maintained unless it is in compliance with the regulations governing location and bulk of structures for the district in which it is located, unless such sign is otherwise specifically regulated by special use provisions relating to variances.

Any sign already established on the effective date of this section, and which sign is rendered nonconforming by the provisions herein, and any sign which, as a result of subsequent amendments hereto, shall be rendered nonconforming.

(Ord. 1209-97. Passed 10-9-97.)

1189.03 SIGNS NEAR INTERSTATE HIGHWAYS.

No advertising device shall be erected or maintained which violates any State or Federal laws or regulations concerning advertising on or near interstate highway systems.
(Ord. 1209-97. Passed 10-9-97.)

1189.04 PROHIBITED SIGNS.

The following signs are prohibited:

- (a) No sign shall be erected at or near any intersection of any streets, or any railway and any street, in such a manner as to obstruct free and clear vision, or at any location whereby reason of position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device, or which makes use of the words "stop," "look," "danger," or other word, phrase or symbol in such manner as to interfere with, mislead or confuse traffic.
- (b) Light sources for illuminated signs shall not be of such brightness as to constitute a hazard to pedestrian or vehicular traffic. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.
- (c) No rotation beam, beacon or flashing illumination resembling an emergency light shall be used in connection with any sign display, nor shall any illuminated device designed to attract attention of users of the street be permitted unless it is an integral part of the sign as herein defined.
- (d) Illumination for signs shall be directed or shaded downward so as to not interfere with the vision of persons on the adjacent highways or adjacent property.
- (e) All advertising signs, painted bulletins, ground signs as they apply to billboards, billboards and poster panels. (Ord. 1209-97. Passed 10-9-97.)

1189.05 EXISTING SIGNS.

Any advertising device existing at the time of the enactment of this section may remain subject to the following provisions:

- (a) No such advertising device shall be structurally improved, altered or relocated in violation of any provision of this chapter, specifically, but not limited to subsection (c) hereof and Section 1189.07.
- (b) Normal maintenance of an existing advertising device shall be allowed provided such maintenance does not involve structural improvement, alteration or relocation in violation of this chapter. If the appearance and safety of the advertising device cannot be maintained, then it shall be removed or eliminated.
- (c) The safety or structural soundness of any advertising device shall be determined by the City Building and Zoning Inspector using normally accepted building and structural specifications for safety.
- (d) If any existing advertising device is found to be structurally unsafe, notice shall be given to the owner and repairs shall be made within sixty days. If repairs are not made then the advertising device shall be removed.
(Ord. 1209-97. Passed 10-9-97.)

1189.06 PERMITS.

Permits, when required by this chapter, shall be issued by the Building and Zoning Inspector only after drawings or sketches identifying the type of advertising device to be used, and identifying the dimensions and location of the device are submitted and found to be in accordance with the provisions of this chapter. (Ord. 1209-97. Passed 10-9-97.)

1189.07 COMMERCIAL ADVERTISING SIGNS.

Commercial advertising signs shall be regulated as follows:

- (a) Awning signs shall be affixed flat to the surface thereof; shall not extend vertically or horizontally beyond the limits of the awning; and shall not be illuminated and shall indicate names of occupant only.
- (b) Marquee signs shall be affixed to the face or top thereof; shall not exceed four feet in vertical measurement above the marquee; and shall not extend horizontally or vertically below the marquee.
- (c) Sign Size Limitations per District.
 - (1) M2 and M1 Districts.
 - A. Building or premises under 10,000 square feet: Total message area of all commercial advertising signs on premises may not exceed ten (10) square feet for each 1,000 feet of floor area of the portion of the structure or structures housing the activity being advertised. Any sign or signs exceeding this above formula shall not be permitted unless approved by variance.
 - B. Building or premises over 10,000 square feet: Total message area of all commercial advertising signs on premises may not exceed 100 square feet plus five (5) square feet for each 1,000 square feet of floor area or over 10,000 square feet of the portion of the structure or structures housing the activity being advertised. Any sign or signs exceeding this above formula shall not be permitted unless approved by variance.
 - (2) Business Districts B1 and B2. Total message area of all commercial signs on premises may not exceed one and one-half (1-1/2) square feet for each linear foot of building or premises frontal width. Such signs may be free standing (maximum of one) or attached to or painted on a building or premises. In no case, however, shall any part of the sign be allowed to project above the top of the wall nor extend beyond the ends of the wall to which they are attached, except for an approved roof sign. Any sign or signs exceeding this above formula shall not be permitted.
 - (3) Office District. Total message area for all commercial advertising signs may not exceed one and one-half (1-1/2) square feet for each linear foot of building or premises frontal width. Such signs may be free standing (maximum of one) or attached or painted on a building or premises. In this district commercial advertising signs shall be only for advertising of the business being conducted on the lot on which the sign is located. Any sign or signs exceeding this above formula shall not be allowed unless approved by variance.

- (4) Agricultural District. Total message area for all commercial advertising signs may not exceed one and one-half (1-1/2) square feet for each linear foot of building or premises frontal width. Such signs may be free standing (maximum of one) or attached or painted on a building or premises. In this district commercial advertising signs shall be only for advertising of the business being conducted on the lot on which the sign is located. Any sign or signs exceeding this above formula shall not be allowed unless approved by variance.
- (5) R Districts. No commercial advertising signs shall be permitted except:
- A. Sign less than two (2) square feet attached flat against building, which states only the name and occupation of persons engaged in a legal home occupation. Only one (1) sign per building shall be allowed.
 - B. Signs associated with churches, schools or other permitted nonresidential uses. Such signs shall conform to regulations applicable to them listed in other areas of this chapter.
(Ord. 1209-97. Passed 10-9-97.)

1189.08 WALL SIGNS.

In addition to any other provisions in this chapter, the following provisions apply to each building or premises:

- (a) Wall signs shall not exceed ten percent (10%) of the total square feet of the wall of a building or premises. The total square feet shall be determined by measuring the smallest rectangle which would enclose the entire sign. Any sign exceeding the above formula shall not be permitted unless approved by variance.
- (b) Only one (1) wall sign shall be permitted on each wall of a building or premises facing a thoroughfare.
- (c) The top of the wall sign shall be limited to the wall height.
- (d) Wall signs may be illuminated.
- (e) Wall signs may exist as long as they are usable and maintained.
- (f) Wall signs are permitted subject to zoning laws in B-1, B-2, M-1 and M-2 Districts.
- (g) A permit is required. (Ord. 1209-97. Passed 10-9-97.)

1189.09 FREE STANDING SIGNS.

In addition to any other provisions of this chapter, the following provisions apply:

- (a) Free standing signs shall not exceed fifty square feet in sign area. Any sign or signs exceeding this above formula shall not be permitted unless approved by variance.
- (b) Only one free standing sign per business shall be allowed.
- (c) The height of a free standing sign shall not exceed 100 feet.
- (d) Free standing signs may be illuminated.
- (e) Free standing signs may exist as long as they are usable and maintained.
- (f) Free standing signs are permitted subject to zoning laws in B-1, B-2, M-1 and M-2 Districts.
- (g) A permit is required. (Ord. 1209-97. Passed 10-9-97.)

1189.10 PROTRUDING SIGNS.

In addition to any other provisions of this chapter, the following provisions apply:

- (a) Protruding signs shall not exceed fifty (50) square feet in sign area. Any sign or signs exceeding this above formula shall not be permitted unless approved by variance.
- (b) Only one (1) protruding sign per business shall be allowed.
- (c) A protruding sign may be illuminated.
- (d) A protruding sign may exist as long as it is usable and maintained.
- (e) Protruding signs are permitted subject to zoning laws in B-1, B-2, M-1 and M-2 Districts.
- (f) A permit is required. (Ord. 1209-97. Passed 10-9-97.)

1189.11 ROOF SIGNS.

In addition to any other provisions of this chapter, the following provisions apply:

- (a) No roof sign shall be permitted unless approved by variance with the approval of a registered architect. However, in no case shall a roof sign extend beyond or overhang any exterior wall of the building upon which it is secured.
- (b) Only one (1) roof sign per business shall be allowed.
- (c) A roof sign may be illuminated.
- (d) A roof sign may exist as long as it is usable and maintained.
- (e) Roof signs are permitted subject to zoning laws in B-2, M-1 and M-2 Districts.
- (f) A permit is required. (Ord. 1209-97. Passed 10-9-97.)

1189.12 REAL ESTATE SIGNS.

In addition to any other provisions of this chapter, the following provisions apply:

- (a) Real estate signs are permitted in all zoning districts. In manufacturing and business districts, the maximum total message area for real estate signs shall be computed in the same manner as that for commercial advertising signs. In residential districts, the total message area of real estate signs located on one lot may not exceed ten (10) square feet/per face. Real estate signs less than ten square feet in area have no setback requirements, but shall not be located within the right of way of any public street or on any public lands or easements nor in any location which would create a public hazard. Real estate signs larger than ten (10) square feet in area shall meet the setback requirements of the district wherein located as if the sign were a building.
- (b) Real estate signs for new construction shall be considered temporary signs and may be established during the period of construction and for a duration of not more than three (3) months after the construction is complete according to the following provisions:
 - (1) Signs for single-family dwellings shall not be illuminated; shall not exceed ten (10) square feet/per face in total sign area; and with a "SOLD" sign attached, shall be removed after seven (7) days.
 - (2) Signs for multiple-family dwellings shall not be illuminated; shall not exceed sixty-four (64) square feet in total sign area; and shall be located on the premises to which the sign pertains.
 - (3) Real estate signs shall not be illuminated.
 - (4) Real estate signs are permitted subject to zoning laws in all areas.
 - (5) A permit is not required. (Ord. 1209-97. Passed 10-9-97)

1189.13 CONSTRUCTION SIGNS.

In addition to any other provisions of this chapter, the following provisions apply:

- (a) One (1) construction sign of not more than sixty-four (64) square feet in total area per face shall be permitted at each permanent public access to a residential subdivision or commercial or industrial building which is actively under development. Construction signs shall not be illuminated and shall be permitted only during the period beginning with actual construction and ending ninety (90) days after completion of the building or subdivision. Construction signs shall be maintained in good repair and appearance by the owner at all times.
- (b) Construction signs shall meet the setback requirements of the district wherein located as if the sign were a building. Construction signs may state the name and type of development, names of architects and contractors, addresses and drawings of the development under construction; however, no prices for purchase, lease or rental may be stated on a construction sign.
- (c) A permit is required. (Ord. 1209-97. Passed 10-9-97.)

1189.14 POLITICAL ADVERTISING SIGNS.

In addition to any other provisions of this chapter, the following provisions apply:

- (a) Political advertising signs are permitted in all zoning districts without limitation as to location, except that no such sign may be located on the street right of way or other public lands or easements nor in any location which would create a public hazard. Political advertising signs are permitted only during the period beginning 100 days before the election in which the issue or candidate is to be voted upon and ending ten (10) days after such election. The total message area of political advertising signs on developed property shall not exceed thirty-two (32) square feet per face in B-2, M-1 and M-2 Districts and six (6) square feet per face in others.
- (b) Political signs shall not be illuminated.
- (c) A permit is not required. (Ord. 1209-97. Passed 10-9-97.)

1189.15 TEMPORARY SIGNS.

In addition to any other provisions of this chapter, the following provisions apply:

- (a) Temporary signs may be erected with permits for up to a maximum period of sixty (60) days. A temporary sign shall not exceed thirty-two (32) square feet per face in size and shall not create a hazard to either auto or pedestrian travel.
- (b) If necessary, temporary signs may be illuminated with permission of the City Manager, and Building and Zoning Inspector.
- (c) The location of temporary signs is permitted subject to the approval of the City Manager, and Building and Zoning Inspector.
- (d) A permit issued by the City Manager and Building and Zoning Inspector is required. The duration of such permit shall not exceed twenty (20) days. (Ord. 1209-97. Passed 10-9-97.)

1189.16 IDENTIFICATION SIGNS.

In addition to any other provisions of this chapter, the following provisions apply: Identification signs shall be governed as follows:

- (a) Identification signs and bulletin boards for the following uses shall not exceed thirty-two (32) square feet per face and sixty-four (64) square feet per sign.
 - (1) Cemeteries.
 - (2) Place of worship.
 - (3) Public parks, playgrounds and community centers.
 - (4) Publicly owned and operated buildings and facilities.
 - (5) Schools and colleges where academic instruction takes place.
 - (6) Private noncommercial golf courses but not including driving ranges, miniature golf courses and pitch and put courses; swimming pools and tennis courts; and accessory uses.
 - (7) Governmental signs and private traffic control signs, provided that: Governmental traffic control and other governmental signs are legally established under those Federal, State and local laws, regulations and orders governing their use. Privately established vehicular and pedestrian traffic control signs are located entirely on premises and are properly subdued in size and color so as to be compatible with the character of the neighborhood wherein located. Such signs may include "private drive," "employee parking only," "use other door," "in," "out," "reserved," "(name of business) parking," and the like. Unnecessary sign or signs which are promotional in nature shall not be permitted under this section.
 - (8) Eleemosynary Signs. Signs which are customary and incidental to the conduct of a bona fide nonprofit charitable, religious, philanthropic or civic organization, when such signs are located on premises owned by such organization. Such signs shall be sufficiently subdued in size, color and design so as to be compatible with the neighborhood wherein located.
 - (9) Corporate Limit Signs. Signs established by the City designating its boundaries and providing information which may be useful to persons traveling into the community. Corporate limit signs may include the signs of nonprofit churches, civic organizations and the like, provided such signs are established in accord with regulations established by the City Manager.
- (b) Identification signs for dwellings shall be regulated as follows:
 - (1) Single-family dwellings, two-family dwellings, together with accessory uses, home occupations and temporary buildings shall not exceed one and one-half (1-1/2) square feet in sign area per face and three (3) square feet per sign.
 - (2) Multiple-family dwellings shall be computed on the basis of one (1) square foot per each dwelling unit not to exceed thirty-two (32) square feet in sign area per face and sixty-four (64) square feet in total sign area.
- (c) Identification signs may exist as long as they are usable and maintained.
- (d) A permit is required for other than governmental identification signs.
(Ord. 1209-97. Passed 10-9-97.)

1189.17 DIRECTIONAL SIGNS.

In addition to any other provisions of this chapter, the following provisions apply:

- (a) Nongovernmental directional signs are permitted as needed provided they do not exceed the two (2) square feet in sign area per face.
- (b) Nongovernmental directional signs are permitted in all areas subject to zoning laws.
- (c) Permits are required if the sign is to be used for more than seven (7) days.
(Ord. 1209-97. Passed 10-9-97.)

1189.18 WARNING SIGNS.

In addition to any other provisions of this chapter, the following provisions apply:

- (a) Warning signs shall be permitted as needed but they shall not exceed thirty-two (32) square feet in sign area and shall not create a hazard to either auto or pedestrian travel.
- (b) If necessary, warning signs shall be illuminated.
- (c) A permit is not required. (Ord. 1209-97. Passed 10-9-97.)

1189.19 RESPONSIBILITY FOR MAINTENANCE AND REMOVAL.

The responsibility for the maintenance and removal of signs shall be as follows:

- (a) The owner of the sign shall be held responsible for the maintenance, repair and upkeep of his sign.
- (b) If any sign reaches a state of disrepair and is deemed unsightly or unsafe by the Building and Zoning Inspector, and is not properly renovated, notice shall be given to the owner and repairs shall be made within sixty (60) days at the expense of the sign owner or building owner.
- (c) The sign owner shall be held responsible for the removal and dismissal of all abandoned signs, including the complete stocking out of painted wall signs.
- (d) Signs which are no longer functional, no longer serve the purpose for which they were intended or are abandoned shall be removed or relocated in compliance with the provision of this chapter, within sixty (60) days following such malfunction or nonfunction.
- (e) If the sign owner cannot be determined, located or legally held responsible, the building owner or land owner where no building exists, shall be held responsible.
(Ord. 1209-97. Passed 10-9-97.)

1189.20 GARAGE SALE SIGNS.

Notwithstanding any other provisions of the Codified Ordinances, garage sale signs may be permitted to be displayed within the City under the following regulations:

- (a) As used in this section, a "garage sale sign" means any self-supporting sign, display device, placard, poster or any other contrivance designed, intended or used to advertise or to give information regarding a sale of items owned by a resident to be sold at public sale at the residence of the owner of such items.
- (b) One (1) garage sale sign with a maximum of sixteen (16) square feet per face and two (2) faces, may be placed on the premises where the sale is to take place.

- (c) Not more than twenty (20) additional signs may be placed at locations other than on the premises where the sale is to take place, provided that the owner/manager of such property grants permission, and provided further that such signs do not exceed two (2) faces per sign, four (4) square feet per face and do not exceed thirty (30) inches above grade. Such signs may be placed in City right-of-way, but not over pavement or traffic islands or in a location where they constitute a line-of-sight obstruction as determined by the City Engineer.
- (d) All garage sale signs shall show the sale's address and dates of sale which cannot exceed three (3) consecutive days of sale.
- (e) All garage sale signs may be erected the day before the sale commences and shall be removed the day after the sale is completed. (Ord. 1209-97. Passed 10-9-97.)

1189.21 SUPPLEMENTARY REGULATIONS.

The following supplementary regulations shall apply:

- (a) Signs Over a Pedestrian Walkway. No sign projecting or hanging over a pedestrian walkway may at its lowest point be less than ten (10) feet above the sidewalk or ground level.
- (b) Signs Over a Street, Alley or Driveway. No sign projecting or hanging over a street, alley or driveway may at its lowest point be less than fourteen (14) feet above the pavement surface.
- (c) Hazardous Signs. No sign shall be established or allowed to remain which creates or contributes to a safety hazard, even though such sign may be in conformance with the specific requirement of this chapter in all other aspects.
- (d) Signs on Undeveloped Property. No sign shall be permitted on any lot within the City which is not occupied by a building except the following:
 - (1) Real estate, construction and political advertising signs may be established on any undeveloped lot in an M-2 and M-1 Zoning District. The total message area of all permitted signs on an undeveloped lot more than one (1) acre in size shall not exceed ten (10) square feet. The total message area of all permitted signs on an undeveloped lot more than one (1) acre in size shall not exceed ten (10) square feet for each acre or fraction thereof, to a maximum of 300 square feet. Any sign or signs exceeding this above formula shall not be allowed unless approved by variance.
- (e) Signs Associated with Nonconforming Uses. In the case of legal nonconforming land uses, such as a business located in a residentially zoned district, the total sign area of all signs associated with such land use shall be no greater than that which would be allowed if the business were located in the most restrictive zoning district allowing such land use. Further, no new signs associated with nonconforming land uses may be erected, except replacements which are the same or smaller in size than the sign being replaced. If a sign associated with a nonconforming land use is moved, its new location shall conform to the setback requirements of the district in which it is located, as if it were a building.
- (f) Design Standards. Signs shall be designed as to be similar in character with regard to materials, color and size to conforming signs designed or located on the same building and on adjoining buildings in order to equalize the attention they are meant to attract, and to produce an overall unified effect all in accordance with the other requirements of this chapter. (Ord. 1209-97. Passed 10-9-97)

1189.22 ENFORCEMENT.

The City Manager shall cause this chapter to be enforced, through the office of the Building and Zoning Inspector of the City. Such Building and Zoning Inspector may proceed, with the approval of Council, to issue a notice to remove, alter or relocate any sign in violation of this chapter and that does not fall within the provision of Section 1319.04. The Building and Zoning Inspector may remove, or cause to be removed, with or without notice, any prohibited sign which is within the right of way of any interstate system or otherwise prohibited by this chapter, and he shall, at the direction of the City Manager, request the Law Director to commence legal proceedings for the removal of any sign which is in violation of this chapter. (Ord. 1209-97. Passed 10-9-97.)

1189.23 VARIANCES.

Variations to this chapter shall be granted by the Board of Zoning Appeals on variance requests based only on hardship. (Ord. 1209-97. Passed 10-9-97)

CHAPTER 1191
Nonconforming Lots, Structures and Uses

1191.01 Nonconformance prior to effective date of Code.

1191.02 Nonconforming use of land.

1191.03 Nonconforming use of building.

CROSS REFERENCES

Board of Zoning Appeals - see CHTR. 7.4; P. & Z. Ch. 1125

Nonconforming uses, retroactive measures - see Ohio R.C. 713.15

Nonconforming lot defined - see P. & Z. 1115.03(a)(229)

Nonconforming structure and use defined - see P. & Z. 1115.03
(a)(231), (232)

Signs for nonconforming uses - see P. & Z. 1189.21(e)

Issuance of zoning certificate for nonconforming uses - see
P. & Z. 1193.02

1191.01 NONCONFORMANCE PRIOR TO EFFECTIVE DATE OF CODE.

Any lawful use, building or structure existing at the time of the enactment of the ordinance comprising this Zoning Code may be continued, even though such building or structure may not conform with the provisions of this Zoning Code for the district in which such building or structure is located.

(Ord. 1069-94. Passed 4-28-94.)

1191.02 NONCONFORMING USE OF LAND.

(a) No extension, substitution, relocation, enlargement or alteration shall be made on a tract, site or parcel of land where a nonconforming use is maintained, unless the extension, substitution, relocation, enlargement or alteration is in full compliance with all the provisions of this Zoning Code.

(b) The removal of earth for the purpose of enlarging or extending a nonconforming use, gravel pit or quarry; and the extension or enlargement of any nonconforming use, gravel pit, excavation or quarry; and the extension or enlargement of any nonconforming use, structure or building for the processing, treating or refining of gravel or other material deposits, when located in or within 200 feet of any R-2, R-3, R-4 or B-1 District, is hereby declared and determined to be detrimental to the health, morals, safety and general welfare of the City, and shall not be permitted.

(c) If a nonconforming use of land is discontinued for two (2) years or more, any further use thereof shall be in conformity with all the provisions of this Zoning Code. (Ord. 1069-94. Passed 4-28-94.)

1191.03 NONCONFORMING USE OF BUILDING.

(a) Where no structural alterations are made in any building containing a nonconforming use, such use may be changed to one of a similar or higher classification, but no building in which a nonconforming use has been changed to a more restricted use shall be devoted to a less restricted use.

(b) The lawful use of a building at the time of the enactment of this Zoning Code, although the use of such building does not conform to the provisions of this Zoning Code, may be extended throughout the building provided no structural alterations are made except those required by law and provided it is permitted by the Board of Zoning Appeals.

(c) No conforming use may be re-established in any building where such nonconforming use has been discontinued for a period of two (2) years. (Ord. 1069-94. Passed 4-28-94.)

**CHAPTER 1193
Special Exceptions**

1193.01 Off-street parking.

**1193.02 Issuance of zoning certificate
for nonconforming uses.**

CROSS REFERENCES

Board of Zoning Appeals - see CHTR. 7.4
Appeals procedure - see P. & Z. 1125.04
Zoning districts - see P. & Z. Ch. 1133
Nonconforming uses - see P. & Z. Ch. 1191

1193.01 OFF-STREET PARKING.

The Board of Zoning Appeals may authorize the establishment and operation of off-street parking areas in any A, R or C district that adjoins a B or M district subject to the following conditions and limitations:

- (a) It shall provide parking space for twenty-five (25) or more self-propelled vehicles.
- (b) Such parking shall be accessory to and for use of one (1) or more business or industrial establishments located in the adjoining B or M district.
- (c) It shall be located on premises having an area of not less than 10,000 square feet, which shall abut at least fifty (50) feet on a B or M district.
- (d) No charge shall be made for parking or storage of vehicles.
- (e) Entrances and exits shall be located within the adjoining business or industrial districts.
- (f) The application shall be accompanied by the names and addresses of all property owners within 200 feet of the premises in question so they may be given the opportunity to be heard in connection with the consideration of such application.
- (g) In addition to the above, the Board may prescribe further requirements or conditions deemed necessary or desirable in respect to surfacing, marking, lighting, walling, fencing or planting for protection of the adjacent property.
- (h) A zoning certificate issued for such accessory parking areas under the above provisions shall be revocable, subject to continued compliance with the requirements and conditions. (Ord. 1069-94. Passed 4-28-94.)

1193.02 ISSUANCE OF ZONING CERTIFICATE FOR NONCONFORMING USES.

The Board of Zoning Appeals may authorize issuance of a zoning certificate after public hearing for the following:

- (a) The substitution for a nonconforming use of another nonconforming use, if no structural alterations, except those required by law or regulation are made; provided, however, that in any R district, no change shall be permitted to any use prohibited in a B district, and in any B district no change shall be permitted to any use prohibited in an M district.
- (b) The completion of a building devoted to a nonconforming use upon a lot occupied by such building, or on a lot adjoining, provided that such lot was under the same ownership as the lot in question on the date such building became nonconforming, and where such extension is necessary and incidental for the existing use of such building.
- (c) The extension of a nonconforming use throughout those parts of a building which were manifestly designed or arranged for such use prior to the effective date of this Zoning Code if no structural alterations, except those required by law, are made therein.

(Ord. 1069-94. Passed 4-28-94.)

