CHAPTER 158: ZONING CODE

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GENERAL PROVISIONS

• 158.001 SHORT TITLE.

All of the zoning ordinances of the city, together with all amendments and supplements thereto, shall be known as and may be cited as the "Zoning Code."
(Ord. 09-21, passed 7-27-09)

• 158.002 INTENT AND PURPOSE.

(A) *Regulating lots, uses and structures.* This chapter is for regulating the location, height, area, number and size of buildings and other structures, percentages of lot area which may be occupied, size of yards, courts, and other open spaces, density of population, uses of buildings and other structures and the uses of land; and for such purposes dividing the area of the city into districts and zones of such number, shape and area as are deemed best suited to carry out the purposes, providing a method of administration and prescribing penalties and proceedings for administration and enforcement of this chapter.

(B) *Promoting health, safety and general welfare.* The City Council in accordance with enabling legislation for city zoning as provided in R.C. Chapter 713 provides this chapter is adopted for the purpose of promoting the public health, safety, convenience, comfort, prosperity and general welfare; conserving and protecting property and facilitating adequate but economical provision of public improvements.

(C) *General intent.* The City Council is adopting the zoning resolution for The City of Beavercreek, Greene County, Ohio, with appropriate changes to allow compliance with R.C. Title 7 and is adopted pursuant to the provisions of R.C. • 713.14.
(Ord. 09-21, passed 7-27-09)

• 158.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.

ACTUAL START OF CONSTRUCTION. Either the first placement of an integral part of, or permanent construction of, a structure on a site, such as the pouring of slab footings or the installation of piles. The following shall not be construed as or be interpreted as constituting the ***ACTUAL START OF CONSTRUCTION***: land preparation, such as clearing, grading and filling; the installation of streets and/or walkways; the excavation for a basement, footings, piers, foundations or the erection of temporary forms; the installation upon the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of a principal structure.

ADDITION. Any increase in the gross square footage of a structure. Additions shall be architecturally compatible with the existing principal structure with respect to materials used, height and scale.

ADMINISTRATIVE SITE PLAN REVIEW APPROVAL (ASRA). A site plan review process, performed by City Council and Planning Commission which ensures that the general design plan and detailed site plan for the authorized and approved use or uses on the subject property will protect or enhance the public interest, will provide a suitable and desirable arrangement of use or uses on the subject property, and the use(s) of the subject property provides favorable relationships with one another, the major natural features of the property, and surrounding properties.

ADULT DAY CARE CENTER. A facility which provides supervision, assistance, protection, medical or personal care for adults for a time period of less than 24 hours per day.

ADULT ENTERTAINMENT FACILITY. A facility having a significant portion of its function as adult entertainment which includes the following listed categories:

(1) ***ADULT BOOK STORE.*** An establishment having a substantial or significant portion of its stock in trade, books, magazines, or 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.

(2) ***ADULT ENTERTAINMENT BUSINESS.*** Any establishment involved in the sale of services or products characterized by salacious conduct appealing to prurient interest for the observation or participation in by patrons, the exposure or presentation of "specified sexual activities" and/or "specified anatomical areas" and/or physical contact of live males or females, and which is characterized and/or portrayed by either photography, dancing, stripping, reading, massage, male or female impersonation, or similar activity or medium.

(3) For the purpose of the definition of ***ADULT ENTERTAINMENT FACILITY***, "specified sexual activities" shall mean: human genitals in a state of sexual stimulation or arousal; acts, real or simulated, of human masturbation, sexual intercourse, sodomy, cunnilingus, or fellatio; and/or fondling or other erotic touching of human genitals, pubic region, buttock or female breasts.

(4) For the purpose of the definition of ***ADULT ENTERTAINMENT FACILITY***, "specified anatomical areas" shall mean: less than completely and opaquely covered human genitals, pubic region, buttock, and female breasts below a point immediately above the top of the areola; and/or human male genitals in a discernibly turgid state even if completely and opaquely covered.

(5) ***ADULT MINI MOTION PICTURE THEATER.*** A facility with a capacity for less than 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.

(6) ***ADULT MOTION PICTURE THEATER.*** A facility with a capacity of 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.

ADVERTISING MESSAGE. The copy on a sign describing products or services being offered to the public.

AGRICULTURAL ACTIVITY, or ***FARM.*** The use of land for farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, the care and/or husbandry of agricultural animals, and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals. Such activities, with the exception of a private, non-commercial garden, are not permitted in residential districts.

AGRICULTURAL ANIMAL. Animals commonly raised or kept in an agricultural rather than an urban or suburban environment including, but not limited to chickens, pigs, sheep, goats, horses, cattle, llamas, emus, ostriches, donkeys and mules.

ALLEY. Any public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

ALTERATION. Any change, addition, or modification in construction, type of occupancy, increase in floor space, the consummated act of which may be referred to herein as altered or reconstructed.

ANIMAL DAY CARE. Any permitted commercially zoned lot or premises on which three or more dogs, cats or other household animals more than six months of age are kept for supervision, assistance, protection, or personal care, and/or grooming for a time period of less than 24 hours per day. Excludes overnight care. Such uses are not permitted in residential districts.

ANNUALS. Plant materials that complete their life cycle in one growing season.

ANTENNA SUPPORT STRUCTURE. Any building or structure other than a tower which can be used for location of wireless telecommunication facilities.

APARTMENT. A suite of rooms or a room in a multi-family building arranged and intended for a place of residence of a single family or a group of individuals living together as a single housekeeping unit.

APARTMENT HOTEL. A building designed for or containing both dwelling units and individual guest rooms or suites of rooms, which may include accessory uses such as gift shops, coffee shops, and the like, when such accessory uses are accessible only from the lobby.

APPROVED LANDSCAPE PLAN. Landscape drawings reviewed, approved, and stamped as such by the city. See also ***LANDSCAPE PLAN.***

ASSISTED LIVING FACILITY. A residential facility of which the occupancy is typically persons of special needs because of age, or of mental and/or physical challenges, and includes assistance with personal daily activities such as dressing, grooming and bathing. Such facilities regularly provide 24 hour per day care, food, lodging, training, education supervision, habilitation, rehabilitation and treatment, as needed by the residents, who cannot care for themselves.

AWNING. Shelter supported entirely from the exterior wall of a building and composed of non-rigid materials except for the supporting framework.

BANKING SERVICES. A bank, savings and loan, credit union, or other financial institution that provides retail financial services to individuals and businesses. These uses include only those institutions engaged in the on-site circulation of cash money.

(1) ***CHECK CASHING FACILITY.*** A person or business that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders of other commercial paper serving the same purpose. This does not include a state or federally charted bank, savings association, credit union, or industrial loan company. Also, this does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cash checks or issue money orders incidentally to its principal purpose or business.

(2) ***PAYDAY LOAN FACILITY.*** An establishment providing loans to individuals in exchange for personal or employment checks as collateral.

BANQUET HALL. A room or building, with on-site cooking facilities, used for social gatherings such as receptions, reunions, parties, and business events.

BAR, TAVERN or ***NIGHT CLUB.*** Any establishment where the principal business is the serving of alcoholic beverages to patrons for consumption on the premises.

BASEMENT. The portion of a building which is partly or entirely 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. A basement shall not be counted as a story, except as provided in ***STORY*** and ***HALF STORY***.

BED AND BREAKFAST. A one family unit in which the principal use is the permanent residential quarters of the residential owner, and in which a maximum of four bedrooms in the principal structure are made available for transient occupancy for a fee, such occupancy to be for generally less than seven consecutive days per person in a 30-day period, with breakfast being served upon the premises as part of the accommodation.

BILLIARD ROOM or ***POOL HALL.*** Any public place wherein the game of billiards is the principal use and includes any place where a fee is charged, which is directly or indirectly conditioned upon or related to the playing of the game of billiards. Billiards means any of the several games played on a table, surrounded by an elastic ledge or cushions, with balls which are impelled by cues and shall include all forms of a game known as pool.

BLOCK. The property abutting one side of a street and lying between the two nearest intersecting streets, (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, river or live stream; or between any of the foregoing and any other barrier to the continuity of development, or corporate lines of the city.

BOARD OF ZONING APPEALS. The Board of Zoning Appeals for the City of Beavercreek, State of Ohio.

BREEZEWAY. A roofed passageway, whether fully enclosed or not, less than ten feet wide, in cases where fully enclosed from exterior wall to the opposite exterior wall, or in cases where not enclosed from drip edge to drip edge, constructed for the purposes of connecting and accessing a detached garage or other accessory structure to the principal structure.

BREWERY. A business that brews 15,000 or more barrels of ales, beers, meads and/or similar beverages annually on site.

BREWERY, MICRO. A business that brews less than 15,000 barrels of ales, beers, meads and/or similar beverages annually on site.

BREW PUB. A commercial business which conducts the retail sale of beer (malt beverages with alcohol content as defined by federal law) which is brewed on the premises, no more than 5,000 barrels annually. Such establishments may also include restaurants as an accessory use.

BUFFER. A strip of land, with natural or planted vegetation located between any improved area of a site, including temporary and or permanent structures and parking areas and a rear or side property line, intended to separate and partially or completely obstruct the view of two adjacent land uses or properties from one another. A buffer area may contain any required screening such as mounds and fences or stormwater detention facilities for the site.

BUILDING. Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter, or enclosure of persons, animals, chattels, or property of any kind; excepting any type of manufactured housing unit.

(1) ***ACCESSORY BUILDING*** or ***ACCESSORY STRUCTURE.*** A building on the same lot with, and of a nature customarily incidental and subordinate to, those of the principal building. This definition also includes buildings and structures attached to the principal structures by breezeways not meeting the conditions of • 158.104(F).

(2) ***NONCONFORMING BUILDING.*** See ***NONCONFORMING STRUCTURE.***

(3) ***PRINCIPAL BUILDING*** or ***PRINCIPAL STRUCTURE.*** A building in which is conducted the principal use of the lot where the building is situated and includes areas such as garages and storage areas that are attached to such building or structure. This term shall not include buildings or structures in which accessory uses are conducted.

(4) ***TEMPORARY BUILDING.*** A building permitted to exist during periods of construction of the principal building, or for special events, but is not inhabitable. Semi truck trailers used as portable warehouses are considered to be temporary buildings and a permit shall be required when used for more than 30 days.

BUILDING FACE or ***WALL***. All window and wall area of a building in one plane or elevation.

BUILDING FRONTAGE. The linear length of a building facing the right-of-way. In the case where an individual occupant would have no roadway frontage, the building frontage shall be the linear length of the building fronting the parking lot, or the maximum horizontal width of the portion of the building where that occupant's main entrance is located shall be considered that occupant's separate and distinct building frontage. In the case where the ground floor of a building is occupied by two or more different tenants, the portion of the building frontage occupied by each tenant shall be considered a separate and distinct building frontage.

BUILDING LINE. See ***LOT SETBACK LINE***.

CALIPER. Measurement of nursery grown trees at time of planting at one foot above base of tree.

CANOPY. A roof-like structure or cover that projects from the wall of a building over a door, entrance, window, or a free-standing cover above an outdoor service area, such as an automobile service station.

CARPORT. A roofed structure, permanently open on at least two sides, designed for or occupied by vehicles.

CITY COUNCIL. The Council of the City of Beavercreek, State of Ohio.

CLUB. An organization of persons for a special purpose or for the promulgation of sports, arts, sciences, literature, politics, or the like, including civic, social and fraternal associations.

COMMUNITY. The physical environs and area located either totally or partially within the boundaries of the city.

CONVENIENCE STORE or ***CARRY-OUT***. Any retail establishment offering for sale a limited line of groceries and household items intended for the convenience of the neighborhood.

COUNTY PLANNING COMMISSION. The Regional Planning and Coordinating Commission of Greene County, State of Ohio.

CROWN SPREAD. The greatest distance of a diameter of a plant.

DBH. Diameter at breast height. Measurement of tree trunk at four and a half feet above base of tree.

DECIDUOUS. Plants characterized by having leaves that fall off or shed at a specific season or stage of growth typically when the color of their leaves changes (usually from green to a brighter color, such as red, yellow or orange).

DECK. An open platform, projecting from the wall of a building, surrounding a pool, or free standing, which is supported by structural pillars or posts at grade, or by the principal building structure itself.

DENSITY. The number of dwelling units per acre of land.

DEVELOPMENT. Any building, construction, renovation, mining, extraction, dredging, filling, excavation, or drilling activity or operation; any material change in the use or appearance of any structure or in the land itself; any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use.

DISTRICT. A portion of the incorporated area of the city within which certain regulations and requirements or various combinations thereof apply under the provisions of this chapter.

DRIP LINE. The outer perimeter of the crown of a plant projected onto the ground plane.

DRIVE-THRU. A business establishment other than a restaurant, so developed that its retail or service character, which is to provide a limited line of groceries or household items, is dependent on providing a drive-way approach to provide for sales and/or services to patrons who remain in their vehicles. May also include a small, walk-in convenience store.

DRIVEWAY. An area used as means of ingress and egress to a property.

DRUG, CHEMICAL AND ALCOHOL ADDICTION REHABILITATION CLINIC. An establishment for outpatient services for treatment and counseling for chemical addiction with no overnight or extended stay facilities.

DWELLING, MULTI-FAMILY. A building or residential structure containing three or more dwelling units.

DWELLING, ONE-FAMILY. A building or residential structure containing one dwelling unit.

DWELLING, TWO-FAMILY. A building or residential structure containing two dwelling units.

DWELLING UNIT. A unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

EARTHEN BERM. Solid earth mound shaped in a curvilinear form with a slope no greater than 3:1, typically for the purposes of screening adjacent properties with landscape plantings.

EASEMENT. A legal interest in real property generally established in a real estate document or on a recorded plat to reserve, convey or dedicate a use of land for a specialized or limited purpose without the transfer of fee title.

ERECTED. Includes attached, built, constructed, reconstructed, enlarged, moved upon, or any physical operations on the premises which are required for construction. Includes painting of wall signs, but does not include any copy changes on any sign. Excavation, fill, drainage and the like shall be considered a part of erection.

ESSENTIAL SERVICES. The underground, surface or overhead gas, electrical, telephone, television, steam, 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 accessories in connection therewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or governmental departments for the general health, safety or welfare.

EVERGREEN or ***CONIFEROUS***. Plant characterized by needle-like foliage that remains green and functional throughout the year.

EXCAVATION. Any breaking of ground, except common household gardening and ground care.

FAMILY. One or two persons or parents, with their direct lineal descendants and legal or foster children together with no more than two persons not so related, or a group of unrelated persons living together as a single housekeeping unit in a dwelling unit performing the social function of child-rearing.

FARM. See ***AGRICULTURAL ACTIVITY.***

FARM VACATION ENTERPRISES. Farms adapted for use as vacation farms, picnicking, sports areas, fishing waters, camping, scenic vistas, nature recreation areas, watershed environmental projects, horse riding, and similar activities.

FARMER'S MARKET. The seasonal selling or offering for sale at retail of locally grown vegetables or produce, occurring in an area where such uses are permitted. Seasonal Christmas tree sales are considered farmer's markets.

FEED LOT, COMMERCIAL. Fenced lots not directly associated with a bona fide agricultural operation and used solely for the feeding of animals for marketing purposes.

FENCE. An artificially constructed barrier of wood, masonry, stone, chain-link, metal or any other manufactured material or combination of materials, intended to prevent straying from within or intrusion from outside the fenced area, as well as to provide screening.

FENCE, DECORATIVE. A maximum of two connected permanent or temporary standard fence sections designed primarily for aesthetic appeal and not intended for screening or as a method of prohibiting entry to a property.

FENCE, SHADOWBOX. A fence that is considered opaque by construction, but designed so that wind may flow through the fence through alternating panels on each side.

FLOODPLAIN. As defined by the Federal Emergency Management Agency (FEMA). Floodplains are typically riparian (along streams), coastal, or lacustrine (ocean, lakes).

FLOOR AREA, COMMERCIAL.

(1) ***GROSS FLOOR AREA, COMMERCIAL.*** Measurements of floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the exterior walls.

(2) ***NET FLOOR AREA, COMMERCIAL.*** The 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, hallways, stairways and elevator shafts, or for utilities or sanitary facilities, shall be excluded from this computation of floor area.

FLOOR AREA, RESIDENTIAL. The sum of the horizontal areas of each story of the building that is measured from the exterior walls. The floor area measurement is exclusive of unfinished basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches, except basement areas designed and used for dwelling or business purposes. This definition shall be used for the purposes of computing the minimum floor area per unit in a residential dwelling unit.

FOOTPRINT, ACCESSORY STRUCTURE. The outline of the exterior/perimeter of an accessory structure, regardless if enclosed or unenclosed.

FOOTPRINT, PRINCIPAL STRUCTURE. The outline of the exterior/perimeter of the principal structure including attached garages but excluding all other areas incapable of year round dwelling use, such as patios and/or unenclosed porches. Used primarily for the purposes of computing the maximum allowable accessory structure square footage in a residential district.

FRONTAGE. The distance between the side lot lines measured along a public or private road, except in the case of a cul-de-sac or other curved street where frontage shall be measured along the required front setback line; and in the case of a corner lot or other multiple frontage lots where frontage shall be measured along all adjacent roadways.

GARAGE, PARKING. A space or structure or series of structures for the temporary storage or parking of motor vehicles.

GARAGE, PRIVATE. An accessory building or portion of a principal building designed or used primarily for the storage of motor-driven vehicles, boats and similar vehicles owned or used by the occupants of the building.

GARAGE, TEMPORARY. An accessory building, with or without walls, designed for the storage of motor-driven vehicles, boats and similar vehicles owned or used by the occupants of the building, which is a movable, tent-like shelter. This would include inflatable and portable garages. Such temporary, portable or inflatable garages are constructed of a plastic, canvas, or similar type of material, supported by a metal or wood frame, or designed so as to be filled with air.

GARDEN, NON-COMMERCIAL. An area used for the growing of vegetables, flowers, etc., not for commercial sale.

GARDEN CENTER. Any premises including accessory buildings or structures, or a combination thereof, used for the storage of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening or landscaping.

GRADE or ***GROUND LEVEL.*** The average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the above ground level shall be measured at the sidewalk, unless otherwise defined herein.

GRADING. The alteration of soils and landforms and topography usually through earthwork construction.

GRADING LIMIT or ***NO GRADE ZONE.*** Area of a lot or parcel which is designated not to be graded, built upon, altered or stripped of natural vegetation or features, during the grading and/or construction of a building on said lot or parcel.

GREEN SPACE EASEMENT, NO CUT ZONE or ***LANDSCAPE BUFFER.*** An open space landscape area that is not ***WOODLAND EASEMENT*** in a legal form that is acceptable to both the city and the Law Director that includes the legal description of the area that is to remain as green space. This

area may be a lawn, contain landscaping and fencing, may be used for recreation activities (active or passive), be part of the storm water detention plan and/or landscape screen buffer, if and only if existing vegetation (in the form of trees in excess of four inches in caliper) does not need to be removed to provide area for said function, unless written permission is expressly granted beforehand by the City of Beavercreek. No accessory buildings or structures (except fences) shall be permitted within areas so designated on the subdivision record plan, or on the approved specific site plan of a PUD.

GROUND COVER. Grass, sod, or creeping vines, and low growing shrubs, that do not exceed ten inches in height. Ground cover shall be planted at the appropriate spacing to achieve a full green mat on the surface area in approximately two years from time of planting.

GROWING SEASON. The last spring frost to the first fall frost.

HAZARDOUS WASTE. A waste with properties that make it dangerous or potentially harmful to human health or the environment. Hazardous wastes can be liquids, solids, contains gases, or sludges. They can be the by-products of manufacturing processes or simply discarded commercial products, like cleaning fluids or pesticides, as defined by the United States Environmental Protection Agency.

HEALTH CLUB. A place or building where passive or active exercises and related activities are performed for the purpose of physical fitness, improved circulation or flexibility, and/or weight control. The activities shall be conducted entirely within an enclosed building.

HEIGHT, ACCESSORY BUILDING. The vertical distance from the adjacent grade to the highest point of the building. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the front of the building wall.

HEIGHT, PRINCIPAL BUILDING. The vertical distance measured from the established grade to the highest point of roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average, ground level of the grade at the front of the building wall.

HOME OCCUPATIONS or ***HOME BUSINESSES.*** Any lawful commercial activity conducted within a residential dwelling unit in a residential zoning district which is clearly subordinate to the property's residential use and which meets the requirements of •158.133 of this code.

HOSPITAL or ***SANATORIUM***. An institution where sick or injured persons are given medical care and, in the course of same, are housed overnight, fed, and provided nursing and related services. This definition shall not include drug rehabilitation facilities, halfway houses, convalescent or nursing homes, institutions for mentally ill individuals, or other similar facilities.

HOTEL. A building occupied as a temporary abiding place for individuals who are lodged with or without meals in which there are ten or more sleeping rooms and no provision made for a cooking facility in any individual room, apartment, or suite. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms and/or meeting rooms.

HOTEL, EXTENDED STAY. A hotel which includes all facilities specified under ***HOTEL***, as well as extended stay units which cater to longer-term occupancy and which have kitchen/cooking facilities within each unit.

IMPERVIOUS SURFACE. Any material that prevents absorption of stormwater into the ground. For the purposes of this chapter, impervious surface shall be interpreted to include but not be limited to the area covered by all buildings, all parking areas, all sidewalks, and all driveways, but shall not include existing streets or rights-of-way.

IMPROVED SURFACE. A permanent and continuous hard surface constructed of the either one or more of following: Portland cement concrete, bituminous/asphalt concrete, or a solid brick paver surface, excluding grass pavers, for the purpose of accommodating vehicular parking, and ingress and egress to the property.

INDIVIDUAL ESTABLISHMENT. A separate and distinct commercial operation.

INSTITUTIONAL USES. Colleges, universities, schools with any of first through twelfth grades, seminaries, places of religious assembly, public or governmental libraries, hospitals and medical centers, museums, governmental or public offices and buildings, public community centers, public recreation centers, cemeteries, or uses of similar character.

JUNK or ***INOPERABLE VEHICLE.*** A vehicle shall be deemed a junk or inoperable vehicle whenever any one of the following occurs:

(1) The vehicle is without a valid current registration and/or license plate;

(2) The vehicle is without fully inflated tires and/or has any type of support under it;

(3) The vehicle has a substantially damaged or missing windshield, door(s), motor, transmission, or other similar major part;

(4) The vehicle is being used only for the purpose of storage;

(5) The vehicle is not operable and drivable within 24 hours after notification.

JUNKYARDS or ***SALVAGE YARDS.*** An open area where waste, used or second hand materials are bought and sold, exchanged, stored, baled, packaged, disassembled or handled including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. A junkyard or salvage yard includes automobile wrecking yards and includes any area in a commercial district of more than 200 square feet for storage, keeping or abandonment of junk but does not include uses established entirely within enclosed buildings. Two or more junk or inoperable vehicles shall be considered a junk yard.

KENNEL or ***CATTERY***. Any permitted commercially zoned lot or premises, on which four or more dogs, cats or other domesticated household animals more than six months of age are bred and/or

boarded for commercial purposes. Such uses are not permitted on lots used or zoned for residential purposes.

LANDSCAPE CONTRACTOR. A contractor primarily responsible for providing landscaping materials and installation of materials for residential and/or nonresidential projects. A landscape contractor's services may include, but are not limited to the following:

(1) Site grading

(2) Drain tile

(3) Sodding or seeding

(4) Landscape planting

(5) Paved driveways, walkways and patios

(6) Wood decks

(7) Irrigation and water features

(8) Wood garden structures (i.e., arbors, trellises, wood fencing)

(9) Mulch and topsoil sales

LANDSCAPE ISLAND. One of three types of islands that is required to be planted per parking lot interior requirements.

(1) ***INTERIOR (PARKING LOT) ISLAND.*** The landscape island between terminal islands, constructed with barrier curb, separating parking bays.

(2) ***STANDARD LANDSCAPE ISLAND.*** Islands that are parallel with parked cars and perpendicular to interior islands. These islands are useful for providing separation for long strips of parking and additional tree plantings as required.

(3) ***TERMINAL LANDSCAPE ISLAND.*** Landscape islands at the ends of parking bays, usually at the edge of an intersection of aisles. These islands are required at the terminus of all parking bays.

LANDSCAPE PLAN. The drawings submitted to the city for review illustrating the design layouts, species, quantities, and construction details for installing landscape planting materials, and other information as required by • 158.135.

LANDSCAPE STRIP. The area between parking lots and public rights-of-way required to be planted with trees and other plantings.

LATCH KEY PROGRAM. Program providing care and oversight of children, primarily between the close of the school day and the end of the business day. Such programs require licensing by the state and are intended to provide an alternative to children returning to an empty house after school is over; also known as "Schoolchild Day Care Center".

LOADING AREA. An area other than a street, public right-of-way, or required parking space, the principal use of which is loading and unloading of trucks and/or trailers, to avoid undue interference of vehicular traffic circulation on streets, parking stalls and drive aisles.

LOADING SPACE. An off-street space marked as dedicated for the loading and unloading of vehicles containing materials necessary to the functioning of the business contained therein and located on the same lot with a building, or a group of buildings and accessory buildings.

LOT. A parcel of land, the dimensions of which are shown on a document or map filed with the Greene County Recorder's Office, and which actually exists as so shown, or any part of such parcel held in a record of ownership separate from that of the remainder thereof.

LOT AREA. The computed area contained within the lot lines.

LOT, CORNER. A lot which has two contiguous sides, each abutting upon a street for its full length.

LOT COVERAGE. The percentage of the lot occupied by a building or buildings, including accessory buildings.

LOT, DOUBLE AND OTHER MULTIPLE FRONTAGE. A lot which fronts on more than one public or private road. All frontages of such lots shall comply with required setbacks from adjacent roadways for the zoning district in which they are located.

LOT, INTERIOR. Any lot other than a corner, double or multiple frontage lot.

LOT LINES. The lines bounding a lot.

(1) ***FRONT LOT LINE.*** In the case of an interior lot, the front lot line is that line separating the lot from the rights-of-way. In the case of a corner lot and double or multiple frontage lots, front lot lines are those lines separating the lot from all rights-of-way immediately abutting the lot.

(2) ***REAR LOT LINE.*** For interior lots, the lot line opposite the front lot line shall be the rear lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line and wholly within the lot. In the case of a corner lot, the rear lot line is a point most distant from the front lot lines at which the two interior lot lines intersect. In the case of a double or multiple frontage lot, there is no rear lot line.

(3) ***SIDE LOT LINE.*** Any lot line other than the front lot line or rear lot line.

LOT SETBACK LINE. A line parallel to a lot line, thoroughfare, road or street, or right-of-way line at any story level of a building which represents the distance which the exterior wall of a building or structure is to be set back from said lot line, street, or right-of-way. See also • 158.110, Projections into Required Yards.

(1) ***FRONT SETBACK LINE.*** An imaginary line parallel to the front lot line extending the full width of the lot, representing the distance which the nearest point of the exterior wall of any structure or building is to be set back from the front lot line. In the event that the front lot line does not fall along a right-of-way line, then the front setback line shall be measured from a line parallel to the centerline of the street, road or thoroughfare at the edge of the right-of-way nearest to the property.

(2) ***REAR SETBACK LINE.*** An imaginary line parallel to any rear lot line representing the distance which the nearest point of the exterior wall of any building is to be set back from the rear lot line. In the case of a corner lot, the rear setback line is an imaginary line on an arc from a point most distant from the front lot lines at which the two side lot lines intersect.

(3) ***SIDE SETBACK LINE.*** An imaginary line parallel to any side lot line representing the distance which the nearest point of the exterior wall that a building is to be set back from a side lot line.

LOT WIDTH. The horizontal distance between the side lot lines measured at the two points where the building line, or setback line intersects the side lot lines.

LOT YARDS. The open spaces on the same lot with a principal building unoccupied and unobstructed from the ground upward except as otherwise provided in this chapter.

(1) ***FRONT YARD.*** Any open space extending the full width of the lot, the depths of which are the minimum horizontal distances between the front lot line and nearest points of the principal building. In the case of a corner lot and a double or multiple frontage lot, the front yard is the minimum horizontal distance between the nearest part of the principal building and the front lot lines.

(2) ***REAR YARD.*** An open space extending the full width of the lot the depths of which are the minimum horizontal distances between the rear lot line and the nearest points of the principal building. In the case of a corner lot, the rear yard is an area bounded by the side lot lines and an imaginary line on an arc from a point most distant from the front lot lines at which the side lot lines intersect.

(3) ***SIDE YARD.*** An open space between a principal building and the side lot line, extending from the front yard to the rear yard, the widths of which are the minimum horizontal distances from the nearest point of the side lot line to the nearest point of the principal building.

(4) ***REQUIRED YARD.*** Area located within the minimum front, side or rear yard setback, as defined in the individual zoning district in which it is located.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term ***MANUFACTURED HOME*** does not include a recreational vehicle. For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in R.C. Chapter 3733 and is subject to review and approval by the United States Department of Housing and Urban Development (HUD).

MANUFACTURED HOME PARK. Any tract of land upon which two or more manufactured homes used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of the park. This term does not include any tract of land used solely for the storage or display for sale of manufactured homes or solely as a temporary park or camp.

MARQUEE. Any permanent structure which provides shelter to multiple tenants and projects from a wall of a building over a walkway or entranceway to a shopping center and plaza generally ten feet or more above a walkway.

MEDICAL CLINIC. An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or similar medical professionals.

MEETING or ***PARTY ROOM.*** A room or building, without on-site cooking facilities, used for social gatherings such as receptions, reunions, parties, and business events.

MEZZANINE. An intermediate floor in any story occupying no greater than two-thirds of the floor area of such story.

MODULAR HOME. A home built indoors and in a controlled environment (factory), which is transported on a flat bed tractor trailer, and must comply with the State Building Code of Ohio as distinguished from a manufactured home built under Federal HUD regulations.

MOTEL. A series of attached, semi-detached or detached rental units containing bedroom, bathroom and closet space. Units shall provide for overnight lodging, offered to the public for compensation, and cater primarily to the public traveling by motor vehicle. It may include all facilities specified under ***HOTEL***.

MOTHER-IN-LAW SUITE. Accommodation for relatives of the principal owner/occupant of a house, including bathroom facilities, and which utilizes the same principal access point to the home. Also known as a "granny flat".

MULCH. Any organic product used for soil retention, erosion control, and weed control.

NONCONFORMING LOT OF RECORD. A lot which is part of a subdivision, which has been recorded in the office of the Greene County Auditor; or a non-platted parcel of land, the deed to which was of record prior to the effective date of this chapter, or amendments thereto; neither of which conforms to the current minimum area, width, or frontage requirements of this chapter.

NONCONFORMING STRUCTURE. A structure lawfully existing prior to the effective date of this chapter or amendments thereto and that no longer conforms to the provisions of the chapter for the district in which it is located.

NONCONFORMING USE. A use which lawfully occupied a building or land prior to the effective date of this chapter or amendments thereto and that no longer conforms to the use regulations of the district in which it is located.

NURSERY. A space including accessory buildings or structures for the principal purpose of growing or the storing of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening or landscaping.

NURSERY GROWN. Trees that have been grown in a nursery recognized by the American Association of Nurserymen for the past two years under climate controlled conditions similar to those in Southwest Central Ohio.

NURSERY SCHOOL or ***DAY CARE CENTER.*** Any premise where care is provided for seven or more children (except for family members) who do not reside in the facility, are present primarily during daytime hours, and who do not stay overnight, with or without compensation, except as exempted under the Child Day Care Licensing Law (R.C. •• 5104.01 through 5104.99) of this state. This definition includes private schools for preschool children and ***LATCH KEY PROGRAM.***

NURSING HOME or ***CONVALESCENT HOME.*** A facility used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care as defined in the Ohio Revised Code, or a facility for individuals who require personal care services as defined in the Ohio Revised Code but no skilled nursing care. For the purposes of this chapter, nursing home or convalescent home shall include the Ohio Revised Code definitions for "Nursing Home", "Residential Care Facility" and "Home for Aging".

OFF-STREET PARKING LOT. A facility providing vehicular parking spaces along with adequate landscaping, drives, and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than two vehicles.

OPAQUE. Ninety percent to 100% blocked view usually required for screening purposes. Opacity can be achieved by one or more of the following: fences, walls, earthen berms, or densely planted massings of coniferous shrubs or trees.

OPEN SPACE. Any area or areas within a development not covered by structures, parking lots, asphalt and/or concrete pavement. Areas within PUDs other than those listed may be considered as Open Space, to be determined within the PUD process.

OPEN SPACE (COMMON). The area either dedicated to the public or commonly owned and/or available to all the residents of a development area.

ORDINARY PUBLIC VIEW. Readily visible by a person on a public or private street, sidewalk, or lot adjacent to the property.

ORNAMENTAL TREES. Typically deciduous woody trees, usually with ornamental characteristics. These trees usually have one single stem with branching stems occurring several feet above the base of the tree or multiple stems branching near the base of the tree.

OWNER. Any legal entity, person or otherwise who holds superior title to and can evidence superior title in real or personal property.

PARAPET or ***PARAPET WALL.*** The portion of a building wall that rises above the roof level.

PARCEL. A distinct portion or tract of land as is recorded and distinguished in the Greene County Auditor's Property Tax Atlas.

PARK GRADE TREE. Trees that have branching defects or abnormal growth and do not meet the American Standards for Nursery Stock.

PARKING AREA. Any pad not meeting the definition of ***DRIVEWAY*** and/or is being used to park or store vehicles.

PARKING LOT INTERIOR. The total area of any parking lot encompassing all areas within the perimeter of the parking lot including planting islands, curbed areas, corner areas, parking spaces, and all interior driveways and aisles.

PARKING SPACE. A space for the temporary storage or parking of a motor vehicle within a public or private parking area that is directly accessible to an access aisle or that is located in a dedicated street right-of-way.

PATIO. An uncovered outdoor floor, usually made of concrete, brick or other masonry material, no more than 12 inches higher than the adjacent grade, which is intended for outdoor lounging, dining or like uses.

PERENNIALS. Herbaceous ornamental plants which persist throughout the year and repeat or renew themselves for several years.

PERSON. Any individual, corporation, association, firm, partnership, LLC, LPA and the like, singular or plural.

PERVIOUS SURFACE. Penetrable and permeable surface area such as grass, open green space, or landscape areas where water is usually capable of reaching the underground water table.

PLACE OF RELIGIOUS ASSEMBLY. A building, including accessory buildings and uses, where persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship. Nursery schools, kindergarten, day care, and compulsory (grades 1-12) schools may be permitted as conditional use(s) accessory to the principal place of religious assembly.

PLANNED UNIT DEVELOPMENT (PUD). Land under unified control, planned and developed as a whole according to comprehensive and detailed plans. Development may be a single operation or a definite sequential series of development operations including all lands and buildings, with a program for provisions, operation and maintenance of such areas, improvements and facilities necessary for common use by the occupants of the development.

PLANNED UNIT DEVELOPMENT (PUD) AGREEMENT. An agreement, entered into between the city and the developer, property owner, or business owner intended to assure the completion of certain improvements, either not usually included in a Subdivider's Contract and bonded or in the absence of a Subdivider's Contract and bonding, which may not otherwise be completed in a timely and satisfactory manner. Such improvements may include, but are not limited to, landscaping, erosion control, roadway improvements, and detention facilities.

PLANNING COMMISSION. The Planning Commission of the City of Beavercreek, State of Ohio.

PREMISES. An area of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.

PRESERVED TREE. An existing tree indicated on the "Approved Landscape Plan" designated to be saved. Guidelines must be followed for the preservation of existing trees. See •158.135.

PUBLIC UTILITY. Any person, firm, corporation, or governmental agency, board or commission duly authorized to furnish and furnishing under state, county or city regulations to the public gas, steam, electricity, sewage disposal, communication, Wi-Fi, cable or satellite television, telephone, transportation or water.

RECREATION CLUB or ***ASSOCIATION.*** Any private organization, corporation, club or association formed principally for the purpose of the operation of recreation programs and/or facilities for the benefit of their members and guests.

RECREATIONAL FACILITY. A private or commercial facility or park used for the purpose of the operation of active or passive recreation programs, such as golf courses, miniature golf courses, sporting facilities, boating facilities, fishing facilities and/or swimming facilities.

RECREATIONAL VEHICLE. Includes the following:

(1) ***TRAVEL TRAILER.*** A vehicle built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses.

(2) ***PICK-UP CAMPER.*** A portable dwelling designed primarily to be mounted on a pick-up truck chassis or in a truck bed and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation uses.

(3) ***MOTOR HOME.*** A portable dwelling designed and constructed as a self-mounted vehicle on wheels and designed for travel, recreational and vacation uses.

(4) ***BOAT*** and ***BOAT TRAILER.*** Includes floats, rafts and personal water craft, plus the normal equipment to transport the same on the highway.

(5) ***FOLD-OUT TENT TRAILER.***

RECYCLING CENTER. A place where secondhand, discarded or scrap materials are bought, sold, exchanged, stored, processed or handled. Materials may include scrap metal, structural steel, rags, rubber tires, discarded goods, equipment, appliances or machinery. The term also includes a site for collection, sorting, storing and processing of paper products, glass, plastics, aluminum or tin cans prior to shipment for remanufacture into new materials. This definition does not include ***HAZARDOUS WASTE***, as defined by this chapter.

RESTAURANT. An establishment whose principal business is serving food and beverages to patrons either inside or through a drive-thru window for consumption on the premises or to take away from the premises.

RESTAURANT, DRIVE-IN. A building and adjoining parking area used for the purpose of serving food and beverages to the public primarily for consumption in vehicles parked upon the premises, which also may include seating or other accommodations provided for its patrons.

RETIREMENT COMMUNITY. An age-restricted development providing housing for the elderly in conformance with 42 USC Section 3607(b)(2), which may include detached and attached dwelling units and apartments for independent living, and may also have a nursing home component.

RIGHT-OF-WAY. A strip of land dedicated for use as a public roadway or dedicated for public use. In addition to the roadway, a right-of-way normally incorporates the curbs, lawn strips, sidewalks, lighting, drainage facilities and utilities and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

RIGHT-OF-WAY, FUTURE. A line or width indicating or otherwise describing the limit to which future rights-of-way will be required, based on roadway improvements or upgrades planned in the City of Beavercreek Thoroughfare Plan.

ROOF LINE. The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

ROW HOUSE or ***TOWN HOUSE.*** A row of three or more attached one-family dwelling units, of which each unit is separated by a vertical wall, extending through the trusses to the roof.

SCHOOL, PRIVATE. Any building or group of buildings, the use of which meets the Ohio Department of Education requirements for primary, secondary or higher education and which does not secure the major part of its funding from any governmental agency.

SCHOOL, TECHNICAL TRAINING. A school established to provide for the teaching of a specific industrial, clerical, managerial or artistic skill. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete educational curriculum, including, but not limited to beauty schools, bartending schools, truck driving schools and the like.

SELF STORAGE WAREHOUSE. A structure containing separate, individual, and private storage spaces of varying sizes, leased or rented on individual leases generally for storage of items, provided that there is no storage outside of a warehouse facility and no retail sales (including onsite auctions, and vehicle rental) other than limited sales to tenants of products and supplies incidental to the principal use such as packing materials, labels, tape, rope, locks and chains.

SENIOR HOUSING FACILITY. A residential facility of which the occupancy is limited to persons 55 years of age or older, and such facilities may include a congregate meal program in a common dining area, but exclude institutional care such as medical or nursing care.

SERVICE STRUCTURE. Dumpsters, trash pads, trash collection storage areas or other structures that are required to be screened.

SHADE TREES. Large, usually deciduous woody trees with a large crown and overhead canopy typical at maturity. These trees usually have one trunk with branching stems occurring several feet above the base of the tree.

SHRUB. Deciduous or evergreen perennial with multiple woody stems or branches, generally bearing branches from or near its base. Shrubs generally do not exceed 15 feet at mature height.

SIGN. A name, identification, description, display or illustration which is affixed to or painted upon or represented directly or indirectly upon a building, structure or piece of land or affixed to the glass on the outside or inside of a window so as to be seen from the outside of a building and which directs attention to an object, product, place, activity, person, institution, organization or business. For the purpose of removal, signs shall also include all supporting structures.

(1) ***SIGN AREA.*** The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem, corporate logo, or any figure or 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 sign area. In the event a sign is of irregular shape, calculations of sign area shall be made by super-imposing an imaginary rectangle large enough to enclose the entire copy area. The area of a sign having more than one display surface shall be computed as the total of the exposed exterior display surface.

(a) ***BACKGROUND AREA.*** The entire sign area on which copy could be placed, as opposed to the copy area, when referred to in connection with wall signs.

(b) ***COPY AREA.*** The area in square feet of the smallest rectangle which describes the area enclosed by the actual copy of a sign. For wall signs, the copy area is determined by the smallest single rectangle enclosing the entire copy area and change panel where the copy is located.

(c) ***DISPLAY SURFACE.*** The area made available by the sign structure for the purpose of displaying a message.

(d) ***FACE OF SIGN.*** The entire area of sign on which copy could be placed.

(2) ***SIGN HEIGHT.*** The vertical distance measured from the adjacent street grade or upper surface of the nearest street curb excluding any elevated roadway, which permits the greatest height to the highest point of the sign. (See Appendix C).

(3) ***SIGN ILLUMINATION.***

(a) ***DIRECTLY ILLUMINATED.*** Any sign designed to provide artificial light either through exposed lighting on the sign face or through transparent or translucent material from a light source within the sign.

(b) ***INDIRECTLY ILLUMINATED.*** Any sign which reflects light from a source intentionally directed upon it for example, by means of floodlights, gooseneck reflectors or externally mounted fluorescent light fixtures.

(c) ***INDIRECT LIGHTING.*** A source of external illumination located a distance away from the sign, which lights a sign but is itself not visible to persons viewing the sign from any normal position.

(d) **INTERNAL LIGHTING.** A source(s) of illumination entirely within the sign which makes the sign content visible at night but is itself not visible to persons viewing the sign from any normal position.

(e) ***LIGHTING DEVICE.*** Any light, string of lights or group of lights located or arranged so as to cause illumination of a sign.

SIGN, ABANDONED. All signs on premises including, but not limited to monument, pylon, wall, canopy or other signs related to a commercial space which has been vacated.

SIGN, ACTION. Any sign which, in part or total, rotates, revolves or otherwise is in motion. This would include the apparent movement of any light used in connection with the sign such as blinking, traveling, changing of intensity or any movement other than burning steadily.

SIGN, ANIMATED OR MOVING . Any sign which includes action or motion. For purposes of this chapter, this term does not refer to ***SIGN, FLASHING,*** which is separately defined.

SIGN, AWNING. A permanent sign that is mounted or painted on or attached to a seasonal or permanent awning structure.

SIGN, BANNER. Temporary sign composed of lightweight material secured or mounted so as to allow movement of the sign caused by movement of the atmosphere.

SIGN, BLADE. A small, pedestrian-oriented sign which projects perpendicularly from a structure or is hung beneath a canopy. A blade sign which projects more than 30 inches from the structure is considered a ***PROJECTING SIGN*** and is prohibited.

SIGN, BUILDING. Sign lettered to give the name of a building itself, as opposed to the name of occupants or services.

SIGN, BULLETIN BOARD. Any sign located on the property of a public, institutional, religious or charitable organization which is used to announce its activities.

SIGN, BUSINESS. Any sign which directs attention to a business, profession, commodity or entertainment conducted, sold or offered upon the same lot.

SIGN, CANOPY. Any permanent sign attached to or constructed in or on a canopy.

SIGN, CHANGEABLE COPY. Sign on which copy is changed manually or electronically in the field such as reader boards with changeable letters or changeable pictorial panels.

SIGN, COMMEMORATIVE. A sign which identifies a site of memorable public interest.

SIGN, CONSTRUCTION. A freestanding, temporary ground-mounted sign installed on the site of a commercial or residential development which is currently under construction.

SIGN, DIGITAL DISPLAY. Signs which utilize monitors, such as LCD television screens or Plasma televisions screens as a means to display advertising messages.

SIGN, DIRECTIONAL. Any sign which serves solely to designate the location or direction of any place or area.

SIGN, ELECTRICAL. Any sign containing electrical wiring which is attached or intended to be attached to an electrical energy source.

SIGN, EXEMPT. A sign exempted from normal permit requirements.

SIGN, FLASHING. Any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, or an externally mounted intermittent light source.

SIGN, GOVERNMENTAL. A sign erected and maintained pursuant to and in discharge of any governmental functions, or required by law, ordinance or other governmental regulation for the purpose of informing or guiding the public.

SIGN, GROUND. A sign which is supported by one or more upright poles or braces in or upon the ground, which are not part of the building, and which does not exceed eight feet in height, also known as a monument sign.

SIGN, IDENTIFICATION. A sign bearing only the building name or addresses of occupants of the premises and bearing no commercial message other than that of the use identified.

SIGN, ILLEGAL. Any sign which is contrary to the requirements of this code and does not satisfy the nonconforming specifications stated in this code.

SIGN, MARQUEE. Any permanent sign attached to or constructed in or on a marquee.

SIGN, MENU BOARD. A ground or wall mounted sign, located adjacent to a restaurant's drive-thru lane or pick-up window, displaying text and/or graphics not intended to be legible from a public right-of-way.

SIGN MESSAGE. The wording, copy, logo, or similar identifying form on a sign.

SIGN, NEON OR NEON-TYPE. Any arrangement of exposed and visible illuminated neon or neon tubes, fiber optics, light emitting diodes, or similar technology, excluding banding around any part of the perimeter of the building.

SIGN, NONCONFORMING. Any sign lawfully existing prior to the effective date of this chapter or amendments thereto, which no longer conforms to all standards and regulations of the current chapter. See also ***NONCONFORMING USE.***

SIGN, OFF-PREMISE. A sign which directs attention to a use, commodity or service not related to the premises on which the sign is located.

SIGN, OFF-PREMISE ELECTRONIC VARIABLE MESSAGE SIGN or ***DIGITAL BILLBOARD.*** A sign that directs attention to a business, commodity, services, or entertainment conducted, sold or offered at a location other than the premises on which the sign resides, and, other than the supporting structure, is constructed so that the entire face of the sign is an electronic screen, display or device that changes the message or copy of the sign electronically.

SIGN, ON-PREMISE. Any sign identifying or advertising a business, person, activity, goods, products or services located on the premises where the sign is installed and maintained.

SIGN, PERMANENT. A sign permitted by this code to be located on the premises for an unlimited period of time.

SIGN, POLITICAL. Any sign identifying and urging voter support for or against a particular election issue, political party or candidate for public office.

SIGN, PUBLIC SERVICE INFORMATION. Any sign intended primarily to promote items of general interest to the community.

SIGN, PYLON. A permanent sign that is mounted on a free-standing pole or other support, and exceeds eight feet in height.

SIGN, RACEWAY. Any sign which contains individual letters that are mounted on a common aluminum channel box, known as a raceway or ballast box. The lettering typically contains all electrical components including wiring and transformers needed for the operation of the sign. The raceway itself is attached to the wall, rather than the individual letters.

SIGN, REAL ESTATE. A temporary sign pertaining only to the sale, rent or lease of the property on which it is located.

SIGN, ROOF. Any sign erected upon, against, or directly above a roof or on top of or above the parapet of a building.

SIGN, ROTATING. Any sign or portion of a sign which moves in a revolving or similar manner, but not including multi-prism indexing signs.

SIGN, SCROLLING ELECTRONIC. A sign such as an electronically controlled public service time, temperature and date sign, message center or reader board where different copy changes are shown on the same lamp bank. See also ***SIGN, CHANGEABLE COPY***.

SIGN STRUCTURE. Any structure which supports, has supported or is capable of supporting a sign, including decorative cover.

SIGN, TEMPORARY. A sign which is not permanently affixed. All devices such as banners, pennants, flags, (not intended to include a flag of any nation) searchlights, twirling or sandwich type signs, sidewalk or curb signs and balloons or other air or gas filled figures.

SIGN, TEMPORARY GROUND. A sign that is not permanently affixed to a stand or the ground (e.g. A-Frame or portable sign).

SIGN, TEMPORARY WINDOW. A sign painted on the interior of a window or constructed of paper, cloth or other like material and attached to the interior side of a window for a sale of merchandise or a change in the status of the business.

SIGN, UNDER CANOPY. A sign suspended below the ceiling or roof of a canopy or marquee.

SIGN, WALL. Sign attached to a wall of a building, with the face horizontally or vertically parallel to the building wall.

SIGN, WINDOW. Signs affixed to the glass on the inside of a window, or erected within three feet of a window on the inside of a building, so as to be seen from the outside of a building.

SLOPE. The relationship between the change in elevation of land (rise) and the horizontal distance over which that change in elevation occurs (run). Slope may be calculated by dividing the rise by the run, multiplied by 100, and expressed as a percentage, or shown as a ratio.

SOLAR ENERGY. Radiant energy (direct, diffused, and reflected) received from the sun.

SPECIFIC SITE PLAN. A detailed development plan for a part of, or all of, a planned unit development indicating the specific proposed locations of structures, signs, parking areas, means of vehicular access and movement, pedestrian walkways, landscaping and open space, lighting plans, buffering and screening devices, utility services, drainage and runoff control systems, and other details.

STORY. The part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. If the floor level directly above a basement is more than six feet above grade, such basement shall be considered a story.

STORY, HALF. An uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet six inches. For the purpose of this chapter, the usable floor area is only that area having at least four feet clear height between floor and ceiling.

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

SUPPLEMENTARY CONDITIONS. The Board of Zoning Appeals, the Planning Commission or City Council conditions that modify or alter proposed PUD zoning classification application, specific site plan applications, ASRAs, variances, or conditional uses.

SWIMMING POOL. A structure exceeding 100 square feet in water surface area or 12 feet in diameter, constructed or placed below ground or above ground, which is suitable or utilized for swimming or wading.

TALL STRUCTURES. Telecommunication towers, smoke stacks, water towers, buildings 35 feet and higher, light standards and roadway lighting poles, steeples for places of religious assembly, electric transmission towers, and similar structures.

TAXICAB BUSINESS. A service that offers motor vehicles, other than limousines, to the public for the purpose of carrying or transporting passengers for a charge or a fee. The business may include facilities for storing, servicing, repairing and fueling the taxicabs or vans used by the business.

TEEN CLUB. A social club for teenagers, providing meeting space, recreational games, music and other supervised activities, where the sale of alcohol is not permitted on such premises. Such facilities may operate until midnight unless special permission is granted by the City Manager. Supervision by an adult(s) at least 21 years of age is required at all times.

TEMPORARY STORAGE UNIT. Any container that is designed to be transportable and used primarily for temporary storage of building materials, household goods, personal items and other materials for use for a predetermined amount of time, or after being filled is commercially transported for long-term, off-site storage.

TENT. Any structure used for living or sleeping purposes, or for sheltering a public or private gathering, constructed wholly or in part from canvas, tarpaulin, or other similar materials and shall include shelter provided for circuses, carnivals, side shows, revival meetings, camp meetings and all similar meetings or exhibitions in temporary structures.

THOROUGHFARE PLAN. The official plan of the major highways and streets, on file in the office of the City of Beavercreek Engineering Department, including all amendments and supplements subsequently adopted. *Road classification.* The assignment of roads into categories according to the level of service they provide in relations to the total road network. The categories included in the *City of Beavercreek Thoroughfare Plan* include ***ARTERIALS, MAJOR ARTERIALS, PRINCIPAL ARTERIALS, COMMERCIAL COLLECTORS, RESIDENTIAL COLLECTORS, CUL-DE-SACS, EXPRESSWAYS*** or ***FREEWAYS,*** and ***LOCAL STREETS.***

(1) ***ARTERIALS***. This class of street serves as a through connector. Residential properties should be serviced by side streets with these intersections employing a variety of traffic controls. These streets usually have carrying capacity of 2,000 to 10,000 daily trips. See also *The City of Beavercreek Thoroughfare Plan.*

(2) ***ARTERIALS, MAJOR.*** This class of street has little frontage facing commercial or residential properties. These roads are ideally served by the collectors and arterial roads with entrances and exits controlled. Speeds of 35 mph to 45 mph are typical for this class of road with daily volumes ranging from 10,000 to 15,000. See also the *City of Beavercreek Thoroughfare Plan.*

(3) ***ARTERIALS, PRINCIPAL.*** This class of street brings traffic to and from expressways and other high speed interurban connectors. Principal arterials interconnect the principal traffic generators within the city as well as trips between different areas of the city and should be part of a reasonably integrated system. The typical trip on this class of road usually exceeds one mile. This class of road can carry from 15,000 to 20,000 daily trips. See also *The City of Beavercreek Thoroughfare Plan.*

(4) ***COLLECTORS, COMMERCIAL.*** This class of street serves major commercial developments. Of necessity, this class of road is short but should have a long term heavy weight capacity. Concrete construction is usually a prerequisite. Signalized access to arterial roads is usually required in the best interest of safety. See also *The City of Beavercreek Thoroughfare Plan.*

(5) ***COLLECTORS, RESIDENTIAL.*** This class of street serves internal traffic movements within areas of the city, such as subdivisions, and acts as feeders to the arterial system. These streets are usually short, **.** to 1 mile, and are not designed to handle through trips. This class of street does not usually have signalized intersection control and handles less than 2,000 daily trips. See also *The City of Beavercreek Thoroughfare Plan.*

(6) ***CUL-DE-SAC.*** A local street of relatively short length with one end open to traffic and the other end permanently closed with a vehicular turnaround. See also *The City of Beavercreek Thoroughfare Plan.*

(7) ***EXPRESSWAYS*** or ***FREEWAYS.*** This class of roadway is designed for the high speed movement of a variety of vehicular traffic. It is characterized by fully controlled access points with complete grade separations at intersections. Expressways may have four to eight lanes of traffic with an

expected carrying capacity of 1,500 vehicles per hour per lane. See also *The City of Beavercreek Thoroughfare Plan.*

(8) ***LOCAL STREETS.*** These streets serve as direct access to adjacent land, are usually less than . mile in length and are utilized predominately by privately owned vehicles. These roads do not serve as connectors and have speed of 25 mph or less. See also *The City of Beavercreek Thoroughfare Plan.*

TOWER, AMATEUR RADIO. Any outdoor structure designed and constructed to be used exclusively by licensed amateur radio operators for transmitting or receiving radio frequency signals.

TOWER, GUYED WIRE. A tower that is supported by the use of cables (guyed wires) that are permanently anchored to the ground.

TOWER, LATTICE. A type of tower that is self-supporting with multiple legs and cross-bracing of structural steel.

TOWER, MONOPOLE. A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

TOWER, WIRELESS TELECOMMUNICATION. Any freestanding structure including a lattice, monopole or guywire tower, used to support a wireless telecommunication antenna, but not including amateur radio operator equipment as licensed and required by the FCC.

TRAILER. A structure standing on wheels which is intended to be towed or hauled by a motorized vehicle and used for carrying of materials, goods or objects, or as a temporary office.

UNDERWRITER'S LABORATORIES. A non-profit organization which establishes standards for electrical equipment and mechanical equipment and materials and commonly referred to as "UL". The electrical section is known as "Underwriters Laboratories".

USE. A purpose for which land, a building, lot, sign or other structure is arranged, intended, designed, occupied or maintained.

(1) ***ACCESSORY USE.*** A use on the same lot with, and customarily incidental and subordinate to that of the principal use or building.

(2) ***CONDITIONAL USE.*** A use permitted within a district other than a permitted principal use, requiring a conditional use approval by the Planning Commission. Additional uses permitted in each district are listed in the Schedule of Principal Permitted Uses.

(3) ***NONCONFORMING USE.*** A use which lawfully occupied a building or land at the effective date of this chapter or amendments thereto and that no longer conforms to the use regulations of the district in which it is located.

(4) ***PRINCIPAL USE.*** The main use to which the premises is devoted and the principal purpose for which the premises exist.

(5) ***TEMPORARY USE.*** A use established for a fixed period of time with the intent that such use will terminate automatically upon expiration of the fixed time period unless permission to conduct the use is renewed.

VARIANCE. A modification of the literal provisions of this chapter granted when strict enforcement of this chapter would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The crucial points of a variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case as defined in • 158.172(H)(5).

VEHICLE. Any device used for transportation of people or goods over land, air or water surfaces, and/or licensed as a vehicle by the State of Ohio. This term includes without limitation, automobile, truck, trailer, bus, recreational vehicle, motorcycle, farm tractor, boat, airplane or helicopter.

VEHICLE BODY WORK. Any activity involving the repair, modification, replacement of, or application of paint or epoxy or similar application to affect modifications to a significant portion of a vehicle and/or repair, removal or replacement of any major exterior body part such as but not limited to a bumper, fender, door panel, glass or windows, or roof.

VEHICLE, COMMERCIAL. Vehicles including, but not limited to, step up vans, heavy trucks, semi trailers, truck tractors, tractor trailers, moving vans, delivery trucks, box trucks, dump trucks, tow trucks, wreckers, buses, school buses, cranes, draglines, earthmovers, bulldozers, backhoes, trenchers or similar vehicles. The term also applies to any recreational vehicles converted from a commercial vehicle and any vehicles used as a platform for a hoist, crane, compressor, tank(s), ladder trucks, or similar equipment or as a means of transporting or storing a commercial vehicle.

VEHICLE DEALERSHIP. Any business establishment that sells new or used automobiles, trucks, vans, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles. A vehicle dealership may also provide on-site facilities for body work, and the repair and service of vehicles sold or leased by the dealership, whether directly or by another automobile dealer.

VEHICLE, MAJOR DISREPAIR. Any vehicle which is in such condition so as to require major repair in order to be operated on public streets or waterways. Major repair shall be the same as defined in this section. See ***VEHICLE REPAIR, MAJOR.***

VEHICLE PAINT AND BODY SHOP. A place where major and minor vehicle repair and body work is performed. Major repair is the same as defined in this section. See ***VEHICLE REPAIR, MAJOR AND VEHICLE REPAIR, MINOR.***

VEHICLE REPAIR, MAJOR. Heavy mechanical repair services including, but not limited to, internal engine or transmission repair or replacement and body work or painting services.

VEHICLE REPAIR, MINOR. Includes repair of the secondary systems within vehicle such as A/C system service, braking system service, fluid maintenance service, scheduled maintenance service, tune-ups, fuel injection system service, cooling system service, and air induction service. Included in these are the replacement of oil and oil filters, fluids, spark plugs, belts, hoses, brakes, tires and tire rotation.

VEHICLE REPAIR STATION. A place where, along with minor vehicle repair, gasoline, or any other vehicle engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease (for operation of motor vehicles) may be retailed directly to the public on the premises, including the sale of minor accessories.

VEHICLE SERVICE STATION. A place where gasoline, or any other vehicle engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease (for operation of motor vehicles) is retailed directly to the public on the premises, including the sale of minor accessories, but not including storage of inoperable vehicles. May include convenience stores.

WETLANDS. Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. United States Army Corps of Engineers (USACE) [33 CFR 328.3(b); 40 CFR 230.3(t)].

WIND ENERGY CONVERSION SYSTEM. Any device which converts wind energy to a form of useable energy, including windmills or wind turbines.

WIRELESS TELECOMMUNICATION ANTENNA. Any structure or device used to receive or transmit electromagnetic waves between cellular phones, pagers, commercial mobile services, wireless services and ground-wired telecommunication systems including, but not limited to, directional antennas, such as panels, microwave dishes, satellite dishes less than two meters in diameter and omni-directional antennas, such as whip antennas.

WIRELESS TELECOMMUNICATION FACILITY. Any cables, wires, lines, wave guides, antennas, cabinets, switching equipment cabinets and any other equipment or facilities associated with the transmission or reception of telecommunication as authorized by the FCC which a person seeks to locate or have installed upon a tower or antenna support structure. However, the term ***WIRELESS TELECOMMUNICATION FACILITIES*** shall not include:

(a) Any satellite dishes two meters in diameter or less.

(b) Antennas used by amateur radio operators.

(c) Television receiving antennas.

WIRELESS TELECOMMUNICATION FACILITY SITE. A tract, lot or parcel of land that contains the wireless telecommunication tower, antenna, support structures, equipment structures, accessory facilities, parking and any other uses associated with and ancillary to wireless telecommunication transmissions.

WIRELESS TELECOMMUNICATION SERVICES. Any personal and/or commercial cellular or digital mobile services.

WIRELESS TELECOMMUNICATION SUPPORT STRUCTURE. Any building or structure accessory to, but necessary for, the proper functioning of the wireless telecommunication antenna.

WIRELESS TELECOMMUNICATION TOWER. Any freestanding structure including a lattice, monopole or guywire tower, used to support a wireless telecommunication antenna.

WIRELESS TELECOMMUNICATION TOWER HEIGHT. The height from the base of the structure to its top, including any antenna located thereon.

WOODLANDS. Vegetative community comprised of trees and shrubs and ground cover. Woodlands are defined by the predominant tree species in an area.

WOODLANDS EASEMENT. A conservation easement that, when required by the city or offered to the city, specifies in a legal form and is so designated on the subdivision record plan or on the approved specific site plan that is acceptable to both the city and the Law Director, and includes the legal description of the boundaries and the activities that are prohibited within the protected woodland easement area. These prohibited activities include actions such as removal of trees, understory vegetation, and ground cover. Also prohibited is any dumping, digging, compaction of soil or any construction. A woodlands easement remains in place until such time as both the city and the property owner agree to remove the easement. With permission from both the city and the property owner, a limited amount of activities, such as creation of a woodchip pathway or a forest management plan may be approved within the woodlands easement.

YARDS. See ***LOT YARDS.***
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-02, passed 2-13-12)

• 158.004 INTERPRETATION AND CONFLICT.

In its interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, convenience, comfort, prosperity and the general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standard, shall govern.
(Ord. 09-21, passed 7-27-09)

ZONING DISTRICTS AND MAPS

• 158.015 DISTRICTS.

In order to carry out the intent and purpose of this Zoning Code, the city is divided into the following districts:

R-1AA One-Family Residential District
R-1A One-Family Residential District
R-1B One-Family Residential District
R-2 Two-Family Residential District - one- and two-family
R-3 Multi-Family Residential District - three- and four-family
R-4 Multi-Family Residential District - five or more families
R-5 Manufactured Home Residential District
B-1 Neighborhood Business District
B-2 Community Business District
B-3 General Business District
B-4 Highway Business District
O-1 Office Building District
ORP-1 Office Research Park District
RP-1 Research Park District
RO-1 Residential/Office District
I-1 Light Industrial District
I-2 Heavy Industrial District
A-1 Agricultural District

(Ord. 09-21, passed 7-27-09)

• 158.016 DISTRICT BOUNDARIES.

(A) *Boundaries.* The boundaries of the zoning districts listed in • 158.015 are shown on the "Zoning Map of City of Beavercreek, Greene County, Ohio." This map together with all explanatory data thereon including all changes thereof as hereinafter provided, shall be incorporated and made part of this chapter.

(B) *Zoning Map.* This official zoning map shall be identified by the signature of the Mayor attested by the Clerk of Council and bearing the seal of the city under the following words: This is to certify that this is the official zoning map referred to in • 158.018 of the Zoning Ordinance of the City of Beavercreek, Greene County, Ohio (including date of adoption). If, in accordance with the provisions of this chapter, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be made on the official zoning map within 30 - 35 days after the amendment has been approved by the Council together with an entry on the official zoning map as follows: "On (date), by official action of the Council the following change(s) were made" (brief description with reference number to Council proceedings).

(C) *Location of Official Map.* The original and one copy of the official map are to be maintained and kept current - one copy on public display in the City Building, and one copy in the Clerk's office - accessible to the public, and shall be final authority as to the current zoning status of lands, buildings and other structures in the city.
(Ord. 09-21, passed 7-27-09)

• 158.017 UNCERTAINTY OF BOUNDARY LOCATION.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, the following rules shall apply:

(A) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such center lines;

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lines;

(C) Boundaries indicated as approximately following city limits shall be construed as following city limits;

(D) Boundaries indicated as following railroad lines shall be construed to be the midway between the main tracks;

(E) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of a natural change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines;

(F) Boundaries indicated as parallel to or extension of features indicated in divisions (A) through (E) of this section be so construed. Distances not specifically indicated on the official map shall be determined by the scale of the map;

(G) Where physical features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by divisions (A) through (F) of this section, the Board of Appeals shall interpret the district boundaries.
(Ord. 09-21, passed 7-27-09)

• 158.018 ZONING MAP ADOPTED.

The zoning map attached to Ordinance 80-19 as Exhibit "A" is adopted by reference as the zoning map of the City of Beavercreek.
(Ord. 09-21, passed 7-27-09)

SPECIFIC DISTRICT REGULATIONS

• 158.030 A-1 AGRICULTURAL DISTRICT.

(A) *Intent*. To encourage and preserve agricultural uses as part of a balanced and diversified economy in the city, as well as to provide a district for properties within the city which are currently being used for agricultural purposes and/or which may be in a transitional stage with regard to development, due to the lack of urban facilities and services. It is also intended to provide a low density rural atmosphere which will accommodate the growing demand for residential development, while still protecting scenic and ecologically sensitive areas within the City of Beavercreek. Parcels which are zoned A-1, are less than five acres, and are classified as "Residential" under "class" by the Greene County Auditor's Office, shall be considered as a residential use.

(B) *Maximum occupancy*. No more than four unrelated persons shall be permitted to live in an individual dwelling unit.

(C) *Permitted principal uses.*

(1) Agricultural (Farm) Activities. See • 158.003.

(2) Home occupations. See • 158.133.

(3) One-family dwellings.

(4) Sale of farm products grown or raised on the premises.

(5) Nursery (no retail structure).

(D) *Accessory uses.*

(1) Any use customarily accessory or incidental to the permitted uses.

(2) Farm vacation enterprises.

(3) Private swimming pools. See • 158.121.

(4) Sleeping rooms (the renting or leasing of rooms by a resident family, provided the number of roomers does not exceed two in any dwelling unit.)

(5) If a conditional use has been approved, those accessory buildings and accessory uses customarily incidental to the conditionally permitted uses in these districts.

(E) *Conditional uses.* The following uses are allowed in any A-1 Agricultural District provided conditional use approval is granted by the Planning Commission as provided in • 158.171(C) of this chapter:

(1) Airports or landing strips.

(2) Cemeteries.

(3) Extraction of soil, sand, gravel, stone or rock.

(4) Public or private recreation facilities such as parks, playgrounds, golf courses, boat docks, driving ranges, swimming pools and customary accessory buildings.

(5) Places of religious assembly.

(6) Nursery schools/day care centers in accordance with • 158.127.

(7) Wireless telecommunication facilities.

(8) Landscape contractors.

(9) Nursery (with a retail structure).

(F) *Lot size and width.* The minimum lot area shall not be less than five acres, with minimum lot width of 250 feet.

(G) *Yard requirements.* The following minimum yard areas shall be provided:

(1) *Front yards.* Front yards shall be a minimum of 50 feet.

(2) *Side yards.* Side yards shall be a minimum of 20 feet.

(3) *Rear yards.* Rear yards shall be a minimum of 40 feet.

(H) *Building height regulations.* No structure shall exceed 35 feet in height.

(I) *Accessory structures.*

(1) Accessory structures located on parcels greater than five acres, or on parcels less than five acres that are classified as "Agricultural" under "class" by the Greene County Auditor's Office, shall be 50 feet from the front property line, 20 feet from any side property line, and 20 feet from the rear property line.

(2) Accessory structures located on parcels less than five acres that are classified as "Residential" under "class" by the Greene County Auditor's Office shall be allowed in accordance with • 158.104.

(J) *Parking*. Parking shall be provided in accordance with • 158.114, Off-Street Parking Regulations.

(K) *Signs*. See •• 158.145 through 158.158 for size and location of permitted signs.

(L) *Trash receptacles*. Any A-1 district, which has a non-conforming multi-family residential building in use, shall have all trash receptacles screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(1) Said trash receptacle shall be located on the property so as to be accessible for trash collection by sanitation vehicles, and shall not be located within the public right-of-way or alley.

(2) Screening on three sides of the trash receptacle shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. The open end of the enclosure shall have a 100% solid opaque metal, vinyl, PVC, or wooden gate that includes stop pins to lock the gates open for servicing and which are not readily degradable due to sunlight, moisture, or wind, with self closing hinges. Said gates shall remain closed at all times, except while being serviced by the refuse company.

(3) All exterior sides of the enclosure, except the gate, shall be landscaped pursuant to • 158.135, Landscaping, Screening and Buffering.

(4) Trash receptacle enclosures shall not be located any closer to the road than the front of the principal structure.

(5) All trash receptacle enclosures shall be a minimum of six feet high, and large enough to enclose all trash receptacles used by the principal use of the property.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.031 R-1AA, R-1A, R-1B ONE-FAMILY RESIDENTIAL DISTRICT.

(A) *Intent*. To provide for an environment of predominantly low-density, one-family dwellings plus certain other facilities which serve the residents living in the district. These districts are the most restrictive of the residential districts. These districts shall have no more than one address associated with an individual lot. The use of suite addresses is also prohibited.

(B) *Maximum occupancy*. No more than four unrelated persons shall be permitted to live in an individual dwelling unit.

(C) *Permitted principal uses.*

(1) One-family dwellings, not including trailer or tent dwellings.

(2) Public community center buildings, parks, playgrounds.

(D) *Accessory uses and accessory buildings.*

(1) Private garages for storage of vehicles of residents.

(2) Home occupations. See • 158.133.

(3) Pools - private. Private swimming pools for use by residents and guests only. See • 158.121.

(4) Rooms- sleeping. The renting or leasing of rooms by a resident family, provided the number of roomers does not exceed two in any dwelling unit.

(5) Signs permitted as accessory uses. See •• 158.145 - 158.158.

(6) Accessory buildings and carports - See • 158.104.

(7) If a conditional use has been approved, those accessory buildings and accessory uses customarily incidental to the conditionally permitted uses in these districts.

(E) Conditional uses. The following uses are allowed, provided conditional use approval is granted by the Planning Commission as provided in • 158.171(C) of this chapter.

(1) Recreation areas or buildings operated by recreation clubs or associations for the benefit of their members and guests and not for profit provided that:

(a) Any building shall not be located closer than 100 feet from any adjoining residential use.

(b) The property containing the recreation area or building must be located on and have at least 200 feet of frontage along an arterial roadway.

(c) The amount of property to be developed and utilized for recreation purposes must be a minimum of two acres in size.

(d) Any portion of the property that is adjacent to a residential district shall be screened by an eight-foot high solid wall, wooden fence, or combination of mounding and/or fencing or landscaping installed along the property line of the adjacent residential district or use.

(e) Exterior lighting shall be compliant with • 158.136, Standards for Exterior Lighting.

(f) No parking area shall be allowed within 50 feet of any adjacent residential district or use.

(g) No recreation structures, facilities, or equipment of any sort may be located within 100 feet of any adjoining residential district or use.

(h) No conditional use approval shall be granted until the Planning Commission has approved a site plan showing the exact location of all structures and facilities and the proposed development of the property.

(i) Community or club swimming pools are exempt from the requirements of this section and shall be governed by the requirements of • 158.121.

(j) The above requirements shall not apply to any recreation area or building owned, operated, or sponsored by the city.

(2) Publicly owned or leased buildings, public utility buildings, telecommunication exchanges, transformer stations and sub-stations.

(3) Private academic schools and institutions of higher learning.

(4) Convents and/or monasteries in conjunction with places of religious assembly or schools.

(5) Cemeteries, when extension of existing cemeteries.

(6) Places of religious assembly.

(7) Nursery schools/day care centers in accordance with • 158.127.

(8) Bed and Breakfast residences in accordance with • 158.132.

(9) Wireless telecommunication facilities, when the antennae are located inside another structure, such as a steeple used for a place of religious assembly, or have been designed to be camouflaged, and all support facilities are completely enclosed within a soundproof structure.

(F) *Lot requirements.*

(1) See Appendix A: Schedule of Yard and Lot Requirements.

(2) Where R-1B adjoins R-1AA or R-1A without intervening secondary or major thoroughfare, the adjoining lots shall be a minimum of 20,000 square feet.

(G) *Building height regulations.* No building shall exceed 35 feet in height.

(H) *Parking.* Two car spaces for each dwelling unit. Parking for other uses - See • 158.114.

(I) *Signs*. See •• 158.145 through 158.158 for size and location of permitted signs.

(J) *Trash receptacles.* All trash receptacles, including dumpsters, totes and recycling bins shall be permanently stored immediately adjacent the principal structure, except in the course of normal trash pickup operations. Any R-1AA, R-1A or R-1B district, which has a non-conforming multi-family residential building in use, shall have all trash receptacles screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(1) Said trash receptacle shall be located on the property so as to be accessible for trash collection by sanitation vehicles, and shall not be located within the public right-of-way or alley.

(2) Screening on three sides of the trash receptacle shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. The open end of the enclosure shall have a 100% solid opaque metal, vinyl, PVC, or wooden gate that includes stop pins to lock the gates open for servicing and which are not readily degradable due to sunlight, moisture, or wind, with self closing hinges. Said gates shall remain closed at all times, except while being serviced by the refuse company.

(3) All exterior sides of the enclosure, except the gate, shall be landscaped pursuant to • 158.135, Landscaping, Screening and Buffering.

(4) Trash receptacle enclosures shall not be located any closer to the road than the front of the principal structure.

(5) All trash receptacle enclosures shall be a minimum of six feet high, and large enough to enclose all trash receptacles used by the principal use of the property.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.032 R-2 TWO-FAMILY RESIDENTIAL DISTRICT.

(A) *Intent*. To allow for the construction of new two-family residences where slightly greater densities are permitted. This district also recognizes the existence of older residential areas of the city where larger houses have been or can be converted from single-family to two-family residences in order to extend the economic life of these structures and allow the owners to justify the expenditures for repairs and modernization.

(B) *Maximum occupancy*. No more than four unrelated persons shall be permitted to live in an individual dwelling unit.

(C) *Permitted principal uses.*

(1) Two-family dwellings.

(2) Those principal uses permitted in R-1 districts.

(D) *Accessory uses and accessory buildings.* Those accessory buildings and accessory uses customarily incidental to the permitted principal uses permitted in the R-1 district. If a conditional use has been approved, those accessory buildings and accessory uses customarily incidental to the conditionally permitted uses in these districts.

(E) *Conditional uses.* The following uses are allowed, provided conditional use approval is granted by the Planning Commission as provided in • 158.171(C) of this chapter. Those conditional uses permitted in R-1 districts.

(F) *Lot requirements.*

(1) See Appendix A: Schedule of Yard and Lot Requirements.

(2) Where R-2 adjoins R-1AA or R-1A, without intervening secondary or major thoroughfare, the adjoining lots shall be a minimum of 20,000 square feet, or an intervening permanent 50-foot buffer shall be provided.

(G) *Building height regulations.* No building shall exceed 35 feet in height.

(H) *Parking*.

(1) Four parking spaces for each two-family dwelling.

(2) Two parking spaces for each one-family dwelling.

(3) All other uses. See • 158.114.

(I) *Signs*. See •• 158.145 through 158.158 for size and location of permitted signs.

(J) *Exterior lighting.* See • 158.136, Standards for Exterior Lighting.

(K) *Trash receptacles.* All trash receptacles located in any R-2 district shall be located on the property so as to be accessible for trash collection by sanitation vehicles, and shall not be located within the public right-of-way or alley.

(1) All trash receptacles shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the trash receptacle shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block or other decorative masonry, and shall be consistent with

the architectural character of the development or principal building or structure. The open end of the enclosure shall have a 100% solid opaque metal, vinyl, PVC, or wooden gate that includes stop pins to lock the gates open for servicing and which are not readily degradable due to sunlight, moisture, or wind, with self closing hinges. Said gates shall remain closed at all times, except while being serviced by the refuse company.

(3) All exterior sides of the enclosure, except the gate, shall be landscaped pursuant to • 158.135, Landscaping, Screening and Buffering.

(4) Trash receptacle enclosures shall not be located any closer to the road than the front of the principal structure.

(5) All trash receptacle enclosures shall be a minimum of six feet high, and large enough to enclose all trash receptacles used by the principal use of the property.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.033 R-3, R-4 MULTI-FAMILY RESIDENTIAL DISTRICT.

(A) *Intent*. To provide for medium and/or higher density residential areas and related uses.

(B) *Permitted principal uses.*

(1) One-family dwellings (in R-3 only).

(2) Two-family dwellings.

(3) Multiple-family dwellings. See number of family units in Appendix A: Schedule of Yard and Lot Requirements.

(4) Boarding houses.

(5) Public community center buildings, parks, playgrounds, golf courses.

(6) Public libraries.

(7) Row houses.

(8) Town houses.

(C) *Accessory uses and accessory buildings.*

(1) Garages shall be permitted for storage purposes only, with no commercial repair facilities.

(2) Those accessory buildings and accessory uses customarily incidental to the permitted principal uses in these districts.

(3) If a conditional use has been approved, those accessory buildings and accessory uses customarily incidental to the conditionally permitted uses in these districts.

(D) *Conditional uses*. The following uses are allowed, provided conditional use approval is granted by the Planning Commission as provided in • 158.171(C) of this chapter.

(1) Those conditional uses permitted in R-2.

(2) Nursing homes, assisted living facilities, adult day care and/or retirement communities.

(3) Dormitories and group housing.

(4) Fraternities, sororities, clubs, lodges, social or recreational buildings or properties not for profit.

(5) Places of religious assembly, or parish houses and convents in conjunction with places of religious assembly.

(6) Publicly owned or leased buildings, public utility buildings, telephone exchanges, transformer stations and sub-stations.

(7) Private academic schools and institutions of higher learning.

(E) *Lot requirements.*

(1) See Appendix A: Schedule of Yard and Lot Requirements.

(2) Where R-3 or R-4 adjoins R-1AA or R-1A without intervening secondary or major thoroughfares, the adjoining lots shall be a minimum of 20,000 square feet, or an intervening permanent 50-foot buffer shall be provided.

(F) *Building height regulations.* In any R-3 districts, no building shall exceed 35 feet in height. In any R-4 district, no building shall exceed 50 feet in height.

(G) *Parking*. Parking requirements in other residential uses, see • 158.114, Off Street Parking Regulations.

(H) *Signs*. See •• 158.145 through 158.158 for size and location of permitted signs.

(I) *Planned unit development requirements.* Developments which are ten acres or more in size shall be developed under •• 158.060 through 158.084. Developments of less than ten acres or less than 100

dwelling units shall be developed under •• 158.060 through 158.084, if the proposed development deviates from the requirements of R-3, R-4 Multi-Family Residential District or the development falls under the criteria of • 158.061(A) and (B), or • 158.075(B).

(J) *Sewer and water.* In the R-3 and R-4 districts connections must be made to public water and sewer facilities.

(K) *Traffic arteries.* R-4 districts must be adjacent to a principal traffic artery (four-lane) or MVRPC proposed, four-lane artery.

(L) *Landscaping and screening.* See • 158.135, Landscaping, Screening and Buffering.

(M) *Exterior lighting.* See • 158.136, Standards for Exterior Lighting.

(N) *Trash receptacles.* All trash receptacles located in any R-3 or R-4 district shall be located on the property so as to be accessible for trash collection by sanitation vehicles, and shall not be located within the public right-of-way or alley.

(1) All trash receptacles shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the trash receptacle shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. The open end of the enclosure shall have a 100% solid opaque metal, vinyl, PVC, or wooden gate that includes stop pins to lock the gates open for servicing and which are not readily degradable due to sunlight, moisture, or wind, with self closing hinges. Said gates shall remain closed at all times, except while being serviced by the refuse company.

(3) All exterior sides of the enclosure, except the gate, shall be landscaped pursuant to • 158.135, Landscaping, Screening and Buffering.

(4) Trash receptacle enclosures shall not be located any closer to the road than the front of the principal structure.

(5) All trash receptacle enclosures shall be a minimum of six feet high, and large enough to enclose all trash receptacles used by the principal use of the property.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.034 R-5 MANUFACTURED HOME RESIDENTIAL DISTRICT.

(A) *Intent.* To provide for manufactured homes in manufactured home parks. All R-5 developments, regardless of total acreage shall be submitted as planned unit developments (PUDs) under

•• 158.060 through 158.074. It is intended that manufactured home parks be located along streets of sufficient width to provide easy access without traffic congestion and without creating traffic hazards in surrounding areas.

(B) *Permitted principal uses.*

(1) Manufactured homes (a.k.a. mobile homes), and manufactured home parks.

(2) No manufactured home shall be used for any purpose other than a single family residence.

(C) *Accessory uses.*

(1) Recreational facilities for residents of manufactured home parks.

(2) Accessory uses customarily incidental to the permitted principal use.

(D) *Development standards.*

(1) The minimum acreage of the manufactured home development shall not be less than ten acres with a minimum of 30 home sites.

(2) Each lot in the manufactured home development shall be served by a public sewer and water system.

(3) Landscaping and screening shall be as specified in • 158.135, Landscaping, Screening and Buffering.

(4) Manufactured home sites shall be a minimum of 5,000 square feet exclusive of roadways, parkways, laundry facilities or other park service buildings.

(5) Each manufactured home site shall have minimum dimensions of 40 feet along shortest lot line.

(6) Manufactured homes and accessory buildings shall be so positioned on each space so that there is at least a 15-foot clearance between manufactured homes at all points and a minimum of five feet from all site lines.

(7) No manufactured home or accessory building shall be located nearer than 70 feet from a major thoroughfare and shall not have direct access thereto.

(8) No manufactured home or accessory building shall be positioned nearer than 15 feet from an interior roadway.

(9) Each manufactured home site shall provide a paved stand (pad) under each manufactured home consisting of concrete and of sufficient size to provide for placement of all manufactured home supports on the pad. The pad must be of sufficient thickness and size to support the maximum anticipated loads during all seasons. It must be positioned at an angle in relation to the access street to make placement and removal of the manufactured home practical. In place of a pad, two concrete ribbons of sufficient dimension for placement of all manufactured home supports and of sufficient thickness and size to support maximum anticipated loads during all season, may be utilized.

(10) Each manufactured home stand shall be provided with anchors and tie-downs such as eyelets imbedded in the concrete at least at each corner of the manufactured home stand to secure the stability of the manufactured home.

(11) Each manufactured home shall be equipped and maintained with a skirt around the base, covering all of the undercarriage and running gear. Such skirting shall consist of aluminum or equivalent solid materials.

(12) Each manufactured home site shall provide two paved parking spaces off the roadway. Each parking space shall have an area of not less than 200 square feet either in the manufactured home site behind the front setback area or in a common parking area within the manufactured home development.

(13) On a side other than that used for the parking spaces, a patio made of concrete a minimum of 10 feet by 30 feet shall be provided.

(14) All areas of the manufactured home site not covered by the manufactured home, a patio, or a paved area, shall be covered and maintained by grass or other landscaping material and suitably maintained.

(15) A three-foot concrete walk shall be provided along each side of all interior streets.

(16) All internal drives shall maintain a free width, exclusive of parking, of 20 feet with a 40-foot inside radius on all curves. Curb and gutter shall be provided on all internal drives.

(17) A minimum of one acre or 10% of the manufactured home development, whichever is larger, shall consist of open recreation areas. Streets, parking areas and park service facility areas shall not be considered as part of the required recreational area.

(18) Where fuel is stored in outdoor storage tanks, they shall be supported by a concrete base and screened from the view of surrounding manufactured home spaces and adjoining properties.

(19) All trash receptacles shall be screened from view of surrounding manufactured home spaces and the street.

(20) All utilities in the manufactured home development shall be constructed underground.

(21) Appropriate lighting shall be required along all interior streets and walkways and shall be so positioned and shaded to avoid a glare on adjoining properties.

(22) No manufactured home shall be located nearer than 200 feet from a side or rear yard of any other residentially zoned district.

(23) All manufactured home developments shall be located along a major street with sufficient frontage to provide at least two well spaced access points.

(24) Each manufactured home site shall be so constructed to provide adequate storm water drainage from ramps, patios and all walls and foundations of the manufactured home to the storm sewer.

(25) Commercial sale of manufactured home units shall be prohibited in the manufactured home development.

(26) The manufactured home development shall be developed as a planned unit development except that the style and type of manufactured home shall not be required to be specified.

(27) No building shall exceed 25 feet in height.

(28) Minimum width of all corner lots shall be 50 feet.

(E) *Exterior lighting.* See • 158.136, Standards for Exterior Lighting.

(F) *Trash receptacles.* All trash receptacles located in any R-5 district shall be located on the property so as to be accessible for trash collection by sanitation vehicles, and shall not be located within the public right-of-way or alley.

(1) All trash receptacles shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the trash receptacle shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. The open end of the enclosure shall have a 100% solid opaque metal, vinyl, PVC, or wooden gate that includes stop pins to lock the gates open for servicing and which are not readily degradable due to sunlight, moisture, or wind, with self closing hinges. Said gates shall remain closed at all times, except while being serviced by the refuse company.

(3) All exterior sides of the enclosure, except the gate, shall be landscaped pursuant to • 158.135, Landscaping, Screening and Buffering.

(4) Trash receptacle enclosures shall not be located any closer to the road than the front of the principal structure.

(5) All trash receptacle enclosures shall be a minimum of six feet high, and large enough to enclose all trash receptacles used by the principal use of the property.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.035 RO-1 RESIDENTIAL/OFFICE DISTRICT.

(A) *Intent*. To provide areas in which a mixture of residential uses and small-scale office and professional service establishments may occur. It is intended that this district be used to act as a transition between established residential neighborhoods and nonresidential uses. It is also intended that the physical appearance of such areas including all buildings and structures within such areas be residential in nature and design, and the conduct of permitted uses not create or generate traffic or noise detrimental to adjoining neighborhoods.

(B) *Permitted principal uses.*

(1) One-family dwellings.

(2) Two-family dwellings.

(3) Home occupations operated in accordance with the provisions of this district in addition to • 158.133, Home Occupations.

(4) Services provided by a practitioner or practitioners of a specific profession, occupation, vocation or calling in which a professed knowledge of some department of science or learning, not purely commercial, mechanical or agricultural, is used in its practical application to the affairs of others, either by advising or by guiding them in serving their interests or welfare. Such professional services include services provided by medical doctors, massage therapists, physical therapists, dentists, engineers, surveyors, city planners, lawyers, real estate brokers, insurance agents, architects, accountants, landscape architects, optometrists, chiropractors, and similar recognized professionals.

(5) Nonresidential uses whose principal business is the sale of goods and not the provision of services are not permitted within this district. The sale of goods is permitted so long as such activity is incidental and subordinate to the principal service activity.

(C) *Accessory uses.* Uses, buildings, structures and appurtenances customarily permitted in the residential districts.

(D) *Conditional uses.* The following uses are allowed, provided conditional use approval is granted by the Planning Commission as provided in • 158.171(C) of this chapter.

(1) Those conditional uses permitted in R-1 districts.

(2) Nursery school/day care centers, including adult day care, in accordance with • 158.127.

(3) Public owned or leased buildings, public utility buildings, telephone exchanges, transformer stations and sub-stations.

(4) Private academic schools and institutions of higher learning.

(5) Places of religious assembly or convents in conjunction with places of religious assembly.

(6) Those accessory buildings and accessory uses customarily incidental to the conditionally permitted uses in these districts, if the conditional use has been approved.

(E) *Lot size and width.* The minimum lot size shall be 16,000 square feet. The minimum lot width for this district shall be 100 feet.

(F) *Yard requirements.* The following minimum yard areas shall be provided:

(1) *Front yards.* A minimum front yard of 40 feet shall be provided except on major roads where the front yard shall be a minimum of 70 feet. Such yard shall be measured from the existing public right-of-way or any proposed right-of-way, and shall apply to buildings and structures but not parking areas. All parking areas shall be located and landscaped as specified in • 158.135, Landscaping, Screening and Buffering. Where there is no officially established public right-of-way, all buildings and structures shall be set back at least 95 feet from the centerline of the roadway. If all the necessary right-of-way needed for future roadway improvements has been acquired, per the approval of the City Engineer, the minimum front yard setback shall be 40 feet. Major roads shall be all roads considered arterials, major arterials and principal arterials (See definition of ***THOROUGHFARE PLAN*** in • 158.003).

(2) *Side yards.* A minimum side yard of ten feet for any one side yard, totaling no less than 25 feet for both side yards, shall be provided. Such yard shall apply to buildings and structures but not parking areas. All parking areas shall be located and landscaped as specified in • 158.135, Landscaping, Screening and Buffering.

(3) *Rear yards.* A minimum rear yard of 40 feet shall be provided. Such yard shall apply to buildings and structures but not parking areas. All parking areas shall be located and landscaped as specified in • 158.135, Landscaping, Screening and Buffering. In the case of a corner lot, the rear yard is the area between the rear property line and the rear setback line which is an imaginary line on an arc 40 feet from a point most distant from the front lot lines at which the two side lot lines intersect.

(4) *Side and rear yard requirement for nonresidential uses abutting residential districts or uses.* See • 158.135 Landscaping, Screening and Buffering.

(G) *Building height regulations.* No structure shall exceed 35 feet in height.

(H) *Required standards.* No zoning certificate shall be issued for any use within the RO-1 District, until the applicant shall have demonstrated to the Planning and Zoning Department that:

(1) Any and all buildings used for nonresidential purposes shall front onto or have access from a collector or arterial street as such collector or arterial street is identified in the Beavercreek Thoroughfare Plan.

(2) No uses conducted in this district shall create a nuisance, including but not limited to, any nuisance resulting from noise, smoke, electrical interference, odor or glare.

(3) No alteration of any building or structure located in this district shall be made which results in changing the essential appearance thereof as a residential dwelling unit.

(4) Construction of a new structure, or an addition to an existing structure, shall have the appearance of a single-family residential dwelling and shall be designed to a residential scale and proportion through the use of construction materials and other design elements, as determined by the Planning and Zoning Department. The following examples, which are not intended to be an exhaustive list, illustrate architectural features which define a single-family residential dwelling for the purposes of construction within this district:

(a) Natural construction materials consistent with quality residential construction, such as brick and stone.

(b) Roof lines with vertical elements such as chimneys, dormers, and gables to reduce the visual mass of the roof.

(c) Windows with mullions, double-paned, and of residential quality.

(d) Six-paneled doors, preferably wood and not glass.

(e) Features such as porches, entryways, and residential-style landscaping.

(5) See •• 158.145 through 158.158 for size and location of permitted signs.

(6) Screening and buffering shall be provided as required in • 158.135, Landscaping, Screening and Buffering.

(7) Parking shall be provided in accordance with • 158.114, Off-Street Parking Regulations. To the maximum extent possible, parking should be located to the rear of any building in this district and as far as possible from residential property lines. The parking area shall comprise no more than 40% of the area of the property.

(8) Lighting shall comply with • 158.136, Standards for Exterior Lighting, except that lighting shall not exceed eight feet in height to the top of fixture. Lights in the parking lot shall be reduced to no greater than 25% illumination level within one hour after closing.

(9) The hours of operation of any nonresidential use within this district shall be limited to 8:00 a.m. to 8:00 p.m. This restriction applies to any external activity such as client visitations and deliveries, but not to activity within the structure which creates no external effect detectable to normal senses off the property.

(I) *Planned unit developments.* All developments proposed in any RO-1 district which satisfy the requirements of •• 158.060 through 158.084 of this code shall be developed in accordance with those planned unit development provisions.

(J) *Architectural review.* In order to ensure that new non-residential construction or the alteration of the exterior of an existing structure meets the purpose and intent of this district and is residential in nature and design, the owner of any property which is zoned RO-1 Residential/Office District shall submit an application to the Planning Commission for architectural review of any new non-residential building to be constructed on such property or the alteration of the exterior of an existing structure on said property. This approval is required prior to issuance of any zoning permit for construction of new non-residential structures or the alteration of the exterior of an existing structure on the property.

(K) *Land use intensity.* The maximum land use intensity shall be as follows:

Maximum Coverage by All Buildings	*Maximum Coverage by all Buildings and Impervious Surfaces*
35%	75%

(L) *Trash receptacles.* All trash receptacles located in any RO-1 district shall be located on the property so as to be accessible for trash collection by sanitation vehicles, and shall not be located within the public right-of-way, or alley.

(1) All trash receptacles shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the trash receptacle shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. The open end of the enclosure shall have a 100% solid opaque metal, vinyl, PVC, or wooden gate that includes stop pins to lock the gates open for servicing and which are not readily degradable due to sunlight, moisture, or wind, with self closing hinges. Said gates shall remain closed at all times, except while being serviced by the refuse company.

(3) All exterior sides of the enclosure, except the gate, shall be landscaped pursuant to • 158.135, Landscaping, Screening and Buffering.

(4) Trash receptacle enclosures shall not be located any closer to the road than the front of the principal structure.

(5) All trash receptacle enclosures shall be a minimum of six feet high, and large enough to enclose all trash receptacles used by the principal use of the property. At the option of the property owner, the overall square footage of the trash receptacle enclosure may be increased an additional 80 square feet to allow for outdoor storage of property.

(M) *Accessory structures.* See •158.104, Accessory Buildings, Structures, Appurtenances, and Carports within Residential and Commercial Districts.

(N) *Mechanical equipment.*

(1) All mechanical equipment, such as HVAC systems and the like, shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the mechanical equipment shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block, vinyl, PVC, or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. Landscaping material, such as shrubs or evergreen trees can be used in lieu of, or in combination with, the aforementioned materials, provided the design results in the required opaque enclosure.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.036 B-1 NEIGHBORHOOD BUSINESS DISTRICT.

(A) *Intent.* To provide for a limited range of goods and services for the convenience of those living in the immediate vicinity.

(B) *Permitted principal uses.* See Appendix B.

(C) *Accessory uses.* Uses customarily accessory to the permitted uses.

(D) *Lot size.* Minimum lot size shall be equal to the adjacent residential district with an absolute minimum of 16,000 square feet.

(E) *Yard requirements.* The following minimum yard areas shall be provided:

(1) *Front yards.* A minimum front yard of 40 feet shall be provided except on major roads where the setback shall be a minimum of 70 feet. Such setback shall be from the existing right-of-way or any proposed right-of-way. If all necessary right-of-way needed for future roadway improvements have been acquired, per the approval of the City Engineer, the minimum front yard setback shall be 40 feet. Where there is no officially established public right-of-way all buildings shall be set back at least 95 feet from the centerline of the roadway. Major roads shall be all roads considered arterials, major arterials and principal arterials (See definition of ***THOROUGHFARE PLAN*** in • 158.003.)

(2) *Side yards.* Side yards shall be a minimum of 15 feet on each side.

(3) *Rear yards.* Rear yards of 30 feet shall be provided. In the case of a corner lot, the rear yard is the area between the rear property line and the rear setback line which is an imaginary line on an arc 30 feet from a point most distant from the front lot lines at which the two side lot lines intersect.

(4) *Side and rear yard requirement for nonresidential uses abutting residential districts or uses.* See • 158.135, Landscaping, Screening and Buffering (E).

(5) All buildings longer than 150 feet in length must have a clearance of 20 feet on three sides for fire lanes. High hazard buildings shall have a separation of 50 feet between buildings. This area shall be reasonably level and solid enough to support fire equipment year round.

(F) *Building height regulations.* No building shall exceed 25 feet in height.

(G) *Parking.* Parking shall be provided in accordance with • 158.114, Off-Street Parking Regulations.

(H) *Off-street loading.* Spaces shall be provided in accordance with • 158.113, Off-Street Loading Regulations.

(I) *Signs.* See •• 158.145 through 158.158 for size and location of permitted signs.

(J) *Landscaping and screening.* Landscaping and screening shall be as specified in • 158.135 Landscaping, Screening and Buffering.

(K) *Planned unit development requirement.* Developments which are ten acres or more in size shall be developed under •• 158.060 through 158.084. Developments of less than ten acres in size shall be developed under •• 158.060 through 158.084 if the proposed development deviates from the requirements of this section or the development falls under the criteria of •• 158.060 or 158.084.

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(L) *Maximum permitted floor area.* No single business establishment in the Neighborhood Business District shall contain a total floor area of more than 1,000 square feet except for retail stores engaged primarily in the sale of foods for home preparation and consumption, in which case the total floor area shall not be more than 2,000 square feet.

(M) *Conditional uses.* See Appendix B for allowed uses, provided conditional use approval is granted by the Planning Commission as provided in • 158.171(C) of this chapter.

(N) *Exterior lighting.* See • 158.136, Standards for Exterior Lighting.

(O) *Land use intensity.* The maximum land use intensity shall be as follows:

Maximum Coverage by All Buildings	*Maximum Coverage by all Buildings and Impervious Surfaces*
35%	75%

(P) *Trash receptacles.* All trash receptacles located in any B-1 district shall be located on the property so as to be accessible for trash collection by sanitation vehicles, and shall not be located within the public right-of-way or alley.

(1) All trash receptacles shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the trash receptacle shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. The open end of the enclosure shall have a 100% solid opaque metal, vinyl, PVC, or wooden gate that includes stop pins to lock the gates open for servicing and which are not readily degradable due to sunlight, moisture, or wind, with self closing hinges. Said gates shall remain closed at all times, except while being serviced by the refuse company.

(3) All exterior sides of the enclosure, except the gate, shall be landscaped pursuant to • 158.135, Landscaping, Screening and Buffering.

(4) Trash receptacle enclosures shall not be located any closer to the road than the front of the principal structure.

(5) All trash receptacle enclosures shall be a minimum of six feet high, and large enough to enclose all trash receptacles used by the principal use of the property. At the option of the property owner, the overall square footage of the trash receptacle enclosure may be increased an additional 80 square feet to allow for outdoor storage of property.

(Q) *Accessory structures.* See •158.104, Accessory Buildings, Structures, Appurtenances and Carports within Residential and Commercial Districts.

(R) *Mechanical equipment.*

(1) All mechanical equipment, such as HVAC systems and the like, shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the mechanical equipment shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block, vinyl, PVC, or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. Landscaping material, such as shrubs or evergreen trees can be used in lieu of, or in combination with, the aforementioned materials, provided the design results in the required opaque enclosure.
(Ord. 09-21, passed 7-27-09)

• 158.037 B-2 COMMUNITY BUSINESS DISTRICT.

(A) *Intent*. To provide an integrated collection of structures and uses designed to provide for a limited variety of retail stores and related activities and for office buildings and service establishments which serve the convenience and service needs of a consumer population in the immediate vicinity. The district regulations are designed to provide for properly located small to medium size shopping complexes which will be served with conveniently located off-street parking areas and safe pedestrian movement. Excluded are major shopping complexes, retail businesses requiring support of a consumer population more than those within the immediate vicinity and non-retail uses which generate a large volume of truck traffic.

(B) *Permitted principal uses.* See Appendix B.

(C) *Conditional uses.* See Appendix B for allowed uses, provided conditional use approval is granted by the Planning Commission as provided in • 158.171(C) of this chapter.

(1) Nonconforming residential uses located within a B-2 District and being the principal use of the property may continue in conjunction with a permitted commercial use of the property upon approval by Planning Commission. Planning Commission shall not approve the proposed combined use unless all of the following, without exception, are met.

(a) The lot must be at least 30,000 square feet.

(b) The property and the proposed use must meet all requirements of the B-2 District regarding setbacks, parking, drainage, screening and all other requirements.

(c) The residential structure may not be expanded or added to nor shall any accessory structure be utilized for any portion of the business operation.

(d) The provision of this amendment shall apply only to B-2 zoned parcels sharing a side lot line with a residential zoning district, and only to property utilized for residential use at the time of passage of this amendment. A corner lot cannot be utilized for these purposes if the adjoining residential zoning district exists behind the B-2 parcel rather than beside the parcel.

(2) *Wireless telecommunication towers and facilities.* See • 158.130, Wireless Telecommunication Facilities.

(D) *Accessory uses.* Uses customarily accessory to the permitted uses.

(E) *Lot size.* The minimum lot size in this district shall be 30,000 square feet.

(F) *Yard requirements.* The following minimum yard areas shall be provided:

(1) *Front yards.* A minimum front yard of 40 feet shall be provided except on major roads where the setback shall be a minimum of 70 feet. Such setback shall be from the existing right-of-way or any proposed right-of-way. If all necessary right-of-way needed for future roadway improvements have been acquired, per the approval of the City Engineer, the minimum front yard setback shall be 40 feet. Where there is no officially established public right-of-way, all buildings shall be set back at least 95 feet from the centerline of the roadway. Major roads shall be all roads considered arterials, major arterials and principal arterials (See definition of ***THOROUGHFARE PLAN*** in • 158.003.)

(2) *Side yards.* Side yards shall be a minimum of 15 feet on each side.

(3) *Rear yards.* Rear yards of 30 feet shall be provided. In the case of a corner lot, the rear yard is the area between the rear property line and the rear setback line which is an imaginary line on an arc 30 feet from a point most distant from the front lot lines at which the two side lot lines intersect.

(4) Side and rear yard requirement for nonresidential uses abutting residential districts or uses. See • 158.135, Landscaping, Screening and Buffering.

(5) All business and commercial buildings longer than 150 feet in length must have a clearance of 20 feet on three sides for fire lanes. High hazard buildings shall have a separation of 50 feet between buildings. This area shall be reasonably level and solid enough to support fire equipment year round.

(G) *Building height regulations.* No building shall exceed 35 feet in height.

(H) *Parking.* Parking shall be provided in accordance with • 158.114, Off-Street Parking Regulations.

(I) *Off-street loading.* Spaces shall be provided in accordance with • 158.113, Off-Street Loading Regulations.

(J) *Signs.* See •• 158.145 through 158.158 for size and location of permitted signs.

(K) *Landscaping and screening.* Landscaping and screening shall be as specified in • 158.135, Landscaping, Screening and Buffering.

(L) *Planned unit development requirement.* Developments of ten acres or more shall be developed under •• 158.060 through 158.084. Developments of less than ten acres in size shall be developed under •• 158.060 through 158.084 if the proposed development deviates from the requirements of this section or the development falls under the criteria of •• 158.061 or 158.075.

(M) *Exterior lighting.* See • 158.136, Standards for Exterior Lighting.

(N) *Land use intensity.* The maximum land use intensity shall be as follows:

Maximum Coverage by All Buildings	*Maximum Coverage by all Buildings and Impervious Surfaces*
35%	75%

(O) *Trash receptacles.* All trash receptacles located in any B-2 district shall be located on the property so as to be accessible for trash collection by sanitation vehicles, and shall not be located within the public right-of-way or alley.

(1) All trash receptacles shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the trash receptacle shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. The open end of the enclosure shall have a 100% solid opaque metal, vinyl, PVC, or wooden gate that includes stop pins to lock the gates open for servicing and which are not readily degradable due to sunlight, moisture, or wind, with self closing hinges. Said gates shall remain closed at all times, except while being serviced by the refuse company.

(3) All exterior sides of the enclosure, except the gate, shall be landscaped pursuant to • 158.135, Landscaping, Screening and Buffering.

(4) Trash receptacle enclosures shall not be located any closer to the road than the front of the principal structure.

(5) All trash receptacle enclosures shall be a minimum of six feet high, and large enough to enclose all trash receptacles used by the principal use of the property. At the option of the property owner, the overall square footage of the trash receptacle enclosure may be increased an additional 80 square feet to allow for outdoor storage of property.

(P) *Accessory structures.* See •158.104, Accessory Buildings, Structures, Appurtenances and Carports within Residential and Commercial Districts.

(Q) *Mechanical equipment.*

(1) All mechanical equipment, such as HVAC systems and the like, shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the mechanical equipment shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block, vinyl, PVC, or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. Landscaping material, such as shrubs or evergreen trees can be used in lieu of, or in combination with, the aforementioned materials, provided the design results in the required opaque enclosure.
(Ord. 09-21, passed 7-27-09)

• 158.038 B-3 GENERAL BUSINESS DISTRICT.

(A) *Intent.* To provide an integrated collection of structures and uses designed to provide for a large variety of retail stores and related activities and for office buildings and service establishments which serve the convenience and service needs of the general community. The district regulations are designed to provide for properly located major shopping complexes which will be serviced with conveniently located off-street parking areas and safe pedestrian movement, but to exclude non-retail uses which generate a large volume of truck traffic.

(B) *Permitted principal uses.* See Appendix B.

(C) *Conditional uses.* See Appendix B for allowed uses, provided conditional use approval is granted by the Planning Commission as provided in • 158.171(C) of this chapter. Wireless telecommunication towers and facilities, see • 158.130, Wireless Telecommunication Facilities.

(D) *Accessory uses.* Uses customarily accessory to the permitted uses.

(E) *Lot size.* The minimum lot size for this district shall be two acres (87,120 square feet).

(F) *Yard requirements.* The following minimum yard areas shall be provided:

(1) *Front yards.* A minimum front yard of 40 feet shall be provided except on major roads where the setback shall be a minimum of 70 feet. Such setback shall be from the existing right-of-way

or any proposed right-of-way. If all necessary right-of-way needed for future roadway improvements have been acquired, per the approval of the City Engineer, the minimum front yard setback shall be 40 feet. Where there is no officially established public right-of-way all buildings shall be set back at least 95 feet from the centerline of the roadway. Major roads shall be all roads considered arterials, major arterials and principal arterials. (See definition of ***THOROUGHFARE PLAN*** in • 158.003.)

(2) *Side yards.* Side yards shall be a minimum of 15 feet on each side.

(3) *Rear yards.* Rear yards of 30 feet shall be provided. In the case of a corner lot, the rear yard is the area between the rear property line and the rear setback line which is an imaginary line on an arc 30 feet from a point most distant from the front lot lines at which the two side lot lines intersect.

(4) *Side and rear yard requirement for nonresidential uses abutting residential district.* See • 158.135, Landscaping, Screening and Buffering (E).

(5) All commercial buildings longer than 150 feet in length must have clearance of 20 feet on three sides for fire lanes. High hazard buildings shall have a separation of 50 between buildings. This area shall be reasonably level and solid enough to support fire equipment year round.

(6) Landscaping and screening shall be as specified in • 158.135, Landscaping, Screening and Buffering.

(G) *Parking*. Parking shall be provided in accordance with • 158.114, Off Street Parking Regulations.

(H) *Off-street loading.* Spaces shall be provided in accordance with • 158.113, Off-Street Loading Regulations.

(I) *Signs.* See •• 158.145 through 158.158 for size and location of permitted signs.

(J) *Planned unit development requirements.* Developments which are ten acres or more in size shall be developed under •• 158.060 through 158.084. Developments of less than ten acres in size shall be developed under •• 158.060 through 158.084 if the proposed development deviates from the requirements of this section or the development falls under the criteria of •• 158.061 or 158.084.

(K) *Building height regulations.* No building shall exceed 35 feet in height.

(L) *Exterior lighting.* See • 158.136, Standards for Exterior Lighting.

(M) *Land Use Intensity.* The maximum land use intensity shall be as follows:

Maximum Coverage by All Buildings	*Maximum Coverage by all Buildings and Impervious Surfaces*
35%	75%

(N) *Trash receptacles.* All trash receptacles located in any B-3 district shall be located on the property so as to be accessible for trash collection by sanitation vehicles, and shall not be located within the public right-of-way, or alley.

(1) All trash receptacles shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the trash receptacle shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. The open end of the enclosure shall have a 100% solid opaque metal, vinyl, PVC, or wooden gate that includes stop pins to lock the gates open for servicing and which are not readily degradable due to sunlight, moisture, or wind, with self closing hinges. Said gates shall remain closed at all times, except while being serviced by the refuse company.

(3) All exterior sides of the enclosure, except the gate, shall be landscaped pursuant to • 158.135, Landscaping, Screening and Buffering.

(4) Trash receptacle enclosures shall not be located any closer to the road than the front of the principal structure.

(5) All trash receptacle enclosures shall be a minimum of six feet high, and large enough to enclose all trash receptacles used by the principal use of the property. At the option of the property owner, the overall square footage of the trash receptacle enclosure may be increased an additional 80 square feet to allow for outdoor storage of property.

(O) *Accessory structures.* See •158.104, Accessory Buildings, Structures, Appurtenances, and Carports within Residential and Commercial Districts.

(P) *Mechanical equipment.*

(1) All mechanical equipment, such as HVAC systems, service ladders and the like, shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the mechanical equipment shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block, vinyl, PVC, or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. Landscaping material, such as shrubs or evergreen trees can be used in lieu of, or in combination with, the aforementioned materials, provided the design results in the required opaque enclosure.
(Ord. 09-21, passed 7-27-09)

• 158.039 B-4 HIGHWAY BUSINESS DISTRICT.

(A) *Intent*. To encompass those businesses which by their nature generate a large volume of truck traffic and which require special consideration in their placement so to prohibit possible traffic congestion and protect the residential community.

(B) *Permitted principal uses.* See Appendix B.

(C) *Conditional uses.* See Appendix B for allowed uses, provided conditional use approval is granted by the Planning Commission as provided in • 158.171(C) of this chapter. Wireless telecommunication towers and facilities, see • 158.130, Wireless Telecommunication Facilities.

(D) *Accessory uses.* Uses customarily accessory to the permitted uses.

(E) *Lot size.* The minimum lot size in this district shall be three acres (130,680 square feet).

(F) *Yard requirements.* The following minimum yard areas shall be provided:

(1) *Front yards.* A minimum front yard of 40 feet shall be provided, except on major roads where the setback shall be a minimum of 70 feet. Such setback shall be from the existing right-of-way or any proposed right-of-way. If all necessary right-of-way needed for future roadway improvements has been acquired, per the approval of the City Engineer, the minimum front yard setback shall be 40 feet. Where there is no officially established public right-of-way, all buildings shall be set back at least 95 feet from the centerline of the roadway. Major roads shall be all roads considered arterials, major arterials and principal arterials. (See definition of ***THOROUGHFARE PLAN*** in • 158.003.)

(2) *Side yards.* Side yards shall be a minimum of 15 feet on each side.

(3) *Rear yards.* Rear yards of 30 feet shall be provided. In the case of a corner lot, the rear yard is the area between the rear property line and the rear setback line which is an imaginary line on an arc 30 feet from a point most distant from the front lot lines at which the two side lot lines intersect.

(4) Side and rear yard requirement for nonresidential uses abutting residential districts or uses, See • 158.135, Landscaping, Screening and Buffering (E).

(5) All commercial buildings longer than 150 feet in length must have a clearance of 20 feet on three sides for fire lanes. High hazard buildings shall have a separation of 50 feet between buildings. This area shall be reasonably level and solid enough to support fire equipment year round.

(6) Landscaping and screening shall be as specified in • 158.135, Landscaping, Screening and Buffering.

(G) *Building height regulations.* No building shall exceed 45 feet in height.

(H) *Parking.* Parking shall be provided in accordance with • 158.114, Off-Street Parking Regulations.

(I) *Off-street loading.* Spaces shall be provided in accordance with • 158.113, Off-Street Loading Regulations.

(J) *Signs.* See •• 158.145 through 158.158 for size and location of permitted signs.

(K) *Planned unit development requirements.* Developments which are ten acres or more in size shall be developed under •• 158.060 through 158.084. Developments of less than ten acres in size shall be developed under •• 158.060 through 158.084 if the proposed development deviates from the requirements of this section or the development falls under the criteria of •• 158.061 or 158.084.

(L) *Exterior lighting.* See • 158.136, Standards for Exterior Lighting.

(M) *Land Use Intensity.* The maximum land use intensity shall be as follows:

Maximum Coverage by All Buildings	*Maximum Coverage by all Buildings and Impervious Surfaces*
35%	75%

(N) *Trash receptacles.* All trash receptacles located in any B-4 district shall be located on the property so as to be accessible for trash collection by sanitation vehicles, and shall not be located within the public right-of-way, or alley.

(1) All trash receptacles shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the trash receptacle shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. The open end of the

enclosure shall have a 100% solid opaque metal, vinyl, PVC, or wooden gate that includes stop pins to lock the gates open for servicing and which are not readily degradable due to sunlight, moisture, or wind, with self closing hinges. Said gates shall remain closed at all times, except while being serviced by the refuse company.

(3) All exterior sides of the enclosure, except the gate, shall be landscaped pursuant to • 158.135, Landscaping, Screening and Buffering.

(4) Trash receptacle enclosures shall not be located any closer to the road than the front of the principal structure.

(5) All trash receptacle enclosures shall be a minimum of six feet high, and large enough to enclose all trash receptacles used by the principal use of the property. At the option of the property owner, the overall square footage of the trash receptacle enclosure may be increased an additional 80 square feet to allow for outdoor storage of property.

(O) *Accessory Structures.* See •158.104, Accessory Buildings, Structures, Appurtenances and Carports within Residential and Commercial Districts.

(P) *Mechanical Equipment.*

(1) All mechanical equipment, such as HVAC systems and the like, shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the mechanical equipment shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block, vinyl, PVC, or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. Landscaping material, such as shrubs or evergreen trees can be used in lieu of, or in combination with, the aforementioned materials, provided the design results in the required opaque enclosure.
(Ord. 09-21, passed 7-27-09)

• 158.040 O-1 OFFICE BUILDING DISTRICT.

(A) *Intent.* To provide an area for office and professional buildings.

(B) *Permitted principal uses.* See Appendix B.

(C) *Accessory uses.* Those uses and buildings customarily incidental to the principal uses permitted in this district.

(D) *Conditional uses.* The following uses are allowed in any O-1 District provided conditional use approval is granted by the Planning Commission as provided in • 158.171(C) of this chapter. See Appendix B.

(E) *Lot size and width.* The minimum lot size shall be 30,000 square feet, and the minimum lot width shall be 125 feet.

(F) *Yard requirements.* The following minimum yard areas shall be provided.

(1) *Front yards.* A minimum front yard of 40 feet shall be provided except on major roads where the setback shall be a minimum of 70 feet. Such setback shall be from the existing right-of-way or any proposed right-of-way. If all necessary right-of-way needed for future roadway improvements have been acquired, per the approval of the City Engineer, the minimum front yard setback shall be 40 feet. Where there is no officially established public right-of-way, all buildings shall be set back at least 95 feet from the centerline of the roadway. Major roads shall be all roads considered arterials, major arterials and principal arterials. (See definition of ***THOROUGHFARE PLAN*** in • 158.003.)

(2) *Side yards.* Side yards shall be a minimum of 15 feet on each side.

(3) *Rear yards.* A minimum rear yard of 30 feet shall be provided. In the case of a corner lot, the rear yard is the area between the rear property line and the rear setback line which is an imaginary line on an arc 30 feet from a point most distant from the front lot lines at which the two side lot lines intersect.

(4) Side and rear yard requirement for nonresidential uses abutting residential districts or uses. See • 158.135 Landscaping, Screening and Buffering (E).

(5) All commercial buildings longer than 150 feet in length must have clearance of 20 feet on three sides for fire lanes. High-hazard buildings shall have a separation of 50 feet between buildings. This area shall be reasonably level and solid enough to support fire equipment year round.

(6) From the right-of-way line, there shall be a ten-foot deep landscaped area to be maintained in grass and plantings. No plantings shall be higher than three feet.

(G) *Land use intensity.* The maximum land use intensity shall be as follows:

Maximum Coverage by All Buildings	Maximum Coverage by all Buildings and Impervious Surfaces
35%	75%

(H) *Building heights regulations.* No building shall exceed 35 feet in height.

(I) *Parking.* Parking shall be provided in accordance with • 158.114, Off-Street Parking Regulations.

(J) *Off-street loading.* Spaces shall be provided in accordance with • 158.113, Off-Street Loading Regulations.

(K) *Signs.* See •• 158.145 through 158.158 for size and location of permitted signs.

(L) Landscaping and screening. Landscaping and screening shall be as specified in • 158.135, Landscaping, Screening and Buffering.

(M) *Planned unit development requirements.* Developments which are ten acres or more in size shall be developed under •• 158.060 through 158.084. Developments of less than ten acres in size shall be developed under •• 158.060 through 158.084 if the proposed development deviates from the requirements of this section or the development falls under the criteria of •• 158.060 or 158.084.

(N) *Exterior lighting.* See • 158.136, Standards for Exterior Lighting.

(O) *Trash receptacles.* All trash receptacles located in any O-1 district shall be located on the property so as to be accessible for trash collection by sanitation vehicles, and shall not be located within the public right-of-way, or alley.

(1) All trash receptacles shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the trash receptacle shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. The open end of the enclosure shall have a 100% solid opaque metal, vinyl, PVC, or wooden gate that includes stop pins to lock the gates open for servicing and which are not readily degradable due to sunlight, moisture, or wind, with self closing hinges. Said gates shall remain closed at all times, except while being serviced by the refuse company.

(3) All exterior sides of the enclosure, except the gate, shall be landscaped pursuant to • 158.135, Landscaping, Screening and Buffering.

(4) Trash receptacle enclosures shall not be located any closer to the road than the front of the principal structure.

(5) All trash receptacle enclosures shall be a minimum of six feet high, and large enough to enclose all trash receptacles used by the principal use of the property. At the option of the property owner, the overall square footage of the trash receptacle enclosure may be increased an additional 80 square feet to allow for outdoor storage of property.

(P) *Accessory structures.* See •158.104, Accessory Buildings, Structures, Appurtenances and Carports within Residential and Commercial Districts.

(Q) *Mechanical equipment.*

(1) All mechanical equipment, such as HVAC systems and the like, shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the mechanical equipment shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block, vinyl, PVC, or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. Landscaping material, such as shrubs or evergreen trees can be used in lieu of, or in combination with, the aforementioned materials, provided the design results in the required opaque enclosure.
(Ord. 09-21, passed 7-27-09)

• 158.041 ORP-1 OFFICE RESEARCH PARK DISTRICT.

(A) *Intent.* To provide an area where certain office and professional uses can coexist with research and development type facilities. This includes offices and professional services that generally do not generate a large number of walk-in customers, and laboratories, engineering offices, prototype fabrication capabilities, test facilities, and the like, arranged in a campus or park-type setting with large open spaces to provide an environment for scientific and engineering personnel working on technical projects. A minimal amount of related prototype development and related accessory manufacturing is permitted.

(B) *Permitted principal uses.* See Appendix B. A maximum of 35% of the gross floor area of the principal building on a lot may be used for prototype development facilities and related accessory manufacturing.

(C) *Accessory uses.* Those uses customarily incidental to the principal uses permitted in this district.

(D) *Conditional uses.* See Appendix B for allowed uses, provided conditional use approval is granted by the Planning Commission as provided in • 158.171(C) of this chapter.

(E) *Lot size and width.* The minimum lot size shall be 43,000 square feet. The minimum lot width for this district shall be 125 feet.

(F) *Land Use Intensity.* The maximum land use intensity shall be as follows:

Maximum Coverage by All Buildings	*Maximum Coverage by all Buildings and Impervious Surfaces*
35%	75%

(G) *Yard requirements.* The following minimum yard areas shall be provided:

(1) *Front yards.* The front yard shall be a minimum of 50 feet if parking is not permitted in the front yard of the building or a minimum of 70 feet if parking is allowed in the front yard of the building. The required building setback shall be from the existing right-of-way or any proposed right-of-way where there is not established right-of-way. All buildings shall be set back at least 90 feet from the centerline of the roadway or 75 feet if no parking is allowed in the front yard. If all the necessary right-of-way needed for future roadway improvements has been acquired, per the approval of the City Engineer, the minimum front yard setback shall be 50 feet or a minimum of 70 feet if parking is allowed in the front of the building. Major roads shall be all roads considered arterials, major arterials and principal arterials. (See definition of ***THOROUGHFARE PLAN*** in • 158.003.) If the location of the development is across the street from any "R" District, the nearest 50 feet to the right-of-way within the development shall be landscaped and neither off-street parking nor buildings shall be permitted in such areas.

(2) *Side yards.* A minimum of 20 feet on each side of the building shall be provided as side yards. If the location of the development site is adjacent to or contiguous with a district zoned R-1, no nonresidential uses (including buildings and/or parking lots) shall be constructed or permitted within 100 feet of the existing R-District and screening as specified in • 158.135 Landscaping, Screening and Buffering shall be required, except that the nonresidential uses shall not be located nor conducted closer than 100 feet to the R-district.

(3) *Rear yards.* A minimum of 40 feet of rear yard shall be required. In the case of a corner lot, the rear yard is the area between the rear property line and the rear setback line which is an imaginary line on an arc 40 feet from a point most distant from the front lot lines at which the two side lot lines intersect. If the development site is adjacent or contiguous to any R District, the requirements of •158.135, Landscaping, Screening and Buffering, shall apply.

(4) All commercial buildings longer than 150 feet in length must have clearance of 20 feet on three sides for fire lanes. High-hazard buildings shall have a separation of 50 feet between buildings. This area shall be reasonably level and solid enough to support fire equipment year round.

(H) *Building height regulations.* No building shall exceed 45 feet in height. Exception to this height limitation requires site plan approval by the Board of Zoning Appeals, Planning Commission, and/or City Council, but in no case shall height exceed 70 feet.

(I) *Parking.* Parking shall be provided in accordance with • 158.114, Off-Street Parking Regulations.

(1) No on-street parking shall be credited to the number of spaces required.

(2) Parking and driveway areas located between the building and the street shall be paved and also guttered with concrete at all perimeters.

(3) Parking lot landscaping shall be installed as required by • 158.135, Landscaping, Screening and Buffering.

(4) Parking area shall be set back a minimum of ten feet from all property lines in the front yard.

(J) *Off-street loading.* Spaces shall be provided in accordance with • 158.113, Off-Street Loading Regulations. No loading areas shall be permitted to face or front on any street. All such loading docks and doors shall be screened from public view by appropriate plantings or screening which is compatible with the building design and materials.

(K) *Outside storage and waste disposal.* Outdoor storage shall be governed by • 158.109 with the exception and/or addition that storage of articles, goods and/or materials shall be limited to the rear of the structure. All outside storage of refuse and waste shall be stored in closed containers. The storage area and the containers shall be screened from public view as required by • 158.135, Landscaping, Screening and Buffering. In case of conflict between this section and • 158.109, the requirements of this section apply.

(L) *Landscaping and screening.* Landscaping and screening shall be as specified in • 158.135, Landscaping, Screening and Buffering.

(M) *Utilities.* Except for any elevated high voltage electrical utilities, all utilities including telecommunication and electrical systems shall be underground. Elevated high voltage utilities shall not be permitted to front any street.

(N) *Planned unit development requirements.* All developments may be developed under planned unit development procedures in accordance with •• 158.060 through 158.084.

(O) *Exterior lighting.* See • 158.136, Standards for Exterior Lighting.

(P) *Trash receptacles.* All trash receptacles located in any ORP-1 district shall be located on the property so as to be accessible for trash collection by sanitation vehicles, and shall not be located within the public right-of-way or alley.

(1) All trash receptacles shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the trash receptacle shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. The open end of the enclosure shall have a 100% solid opaque metal, vinyl, PVC, or wooden gate that includes stop pins to lock the gates open for servicing and which are not readily degradable due to sunlight, moisture, or wind, with self closing hinges. Said gates shall remain closed at all times, except while being serviced by the refuse company.

(3) All exterior sides of the enclosure, except the gate, shall be landscaped pursuant to • 158.135, Landscaping, Screening and Buffering.

(4) Trash receptacle enclosures shall not be located any closer to the road than the front of the principal structure.

(5) All trash receptacle enclosures shall be a minimum of six feet high, and large enough to enclose all trash receptacles used by the principal use of the property. At the option of the property owner, the overall square footage of the trash receptacle enclosure may be increased an additional 80 square feet to allow for outdoor storage of property.

(Q) *Accessory structures.* See •158.104, Accessory Buildings, Structures, Appurtenances and Carports within Residential and Commercial Districts.

(R) *Mechanical equipment.*

(1) All mechanical equipment, such as HVAC systems and the like, shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the mechanical equipment shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block, vinyl, PVC, or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. Landscaping material, such as shrubs or evergreen trees can be used in lieu of, or in combination with, the aforementioned materials, provided the design results in the required opaque enclosure.
(Ord. 09-21, passed 7-27-09)

• 158.042 RP-1 RESEARCH PARK DISTRICT.

(A) *Intent.* The purpose of this district is to provide an area dedicated to research and development type facilities. This includes offices and professional services that generally do not generate a large number of walk-in customers, and laboratories, engineering offices, prototype fabrication capabilities, test facility, and the like, arranged in a campus or park type setting with large open spaces to provide an environment for scientific and engineering personnel working on technical projects. A small amount of related production is permitted.

(B) *Permitted principal uses.* See Appendix B. A maximum of 60% of the gross floor area of the principal building on a lot may be used for prototype development facilities and related accessory manufacturing.

(C) *Accessory uses.* Those uses and structures customarily incidental to the principal uses permitted in this district.

(D) *Conditional uses.* See Appendix B for allowed uses, provided conditional use approval is granted by the Planning Commission as provided in • 158.171(C) of this chapter.

(E) *Lot size and width.* The minimum lot size shall be 43,000 square feet. The minimum lot width for this district shall be 125 feet.

(F) *Land Use Intensity.* The maximum land use intensity shall be as follows:

Maximum Coverage by All Buildings	*Maximum Coverage by all Buildings and Impervious Surfaces*
35%	75%

(G) *Yard requirements.* The following minimum yard areas shall be provided:

(1) *Front yards.* The front yard shall be a minimum of 50 feet if parking is not permitted in the front yard of the building or a minimum of 70 feet if parking is allowed in the front yard of the building. The required building setback shall be from the existing right-of-way or any proposed right-of-way where there is not established right-of-way. All buildings shall be set back at least 90 feet from the centerline of the roadway or 75 feet if no parking is allowed in the front yard. If all the necessary right-of-way needed for future roadway improvements has been acquired, per the approval of the City Engineer, the minimum front yard setback shall be 50 feet or a minimum of 70 feet if parking is allowed in the front of the building. Major roads shall be all roads considered arterials, major arterials and principal arterials. (See definition of ***THOROUGHFARE PLAN*** in • 158.003.) If the location of the development is across the street from any "R" District, the nearest 50 feet to the right-of-way within the development shall be landscaped and neither off-street parking nor buildings shall be permitted in such areas.

(2) *Side yards.* A minimum of 20 feet on each side of the building shall be provided as side yards. If the location of the development site is adjacent to or contiguous with a district zoned R-1, no nonresidential uses (including buildings and/or parking lots) shall be constructed or permitted within 100 feet of the existing R-District and screening as specified in • 158.135 Landscaping, Screening and Buffering shall be required, except that the nonresidential uses shall not be located nor conducted closer than 100 feet to the R-district.

(3) *Rear yards.* A minimum of 40 feet of rear yard shall be required. In the case of a corner lot, the rear yard is the area between the rear property line and the rear setback line which is an imaginary line on an arc 40 feet from a point most distant from the front lot lines at which the two side lot lines intersect. If the development site is adjacent or contiguous to an R District, the requirements of •158.135, Landscaping, Screening and Buffering, shall apply.

(4) All commercial buildings longer than 150 feet in length must have clearance of 20 feet on three sides for fire lanes. High-hazard buildings shall have a separation of 50 feet between buildings. This area shall be reasonably level and solid enough to support fire equipment year round.

(H) *Building height regulations.* No building shall exceed 45 feet in height. Exception to this height limitation requires site plan approval by the Board of Zoning Appeals or Planning Commission, but in no case shall height exceed 70 feet.

(I) *Parking.* Parking shall be provided in accordance with • 158.114, Off-Street Parking Regulations.

(1) No on-street parking shall be credited to the number of spaces required.

(2) Parking and driveway areas located between the building and the street shall be paved and also guttered with concrete at all perimeters.

(3) Parking lot landscaping shall be installed as required by • 158.135, Landscaping, Screening and Buffering.

(4) Parking area shall be set back a minimum of ten feet from all property lines in the front yard.

(J) *Off-street loading.* Spaces shall be provided in accordance with • 158.113, Off-Street Loading Regulations. No loading areas shall be permitted to face or front on any street. All such loading docks and doors shall be screened from public view by appropriate plantings or screening which is compatible with the building design and materials.

(K) *Outside storage and waste disposal.* Outdoor storage shall be governed by • 158.109 with the exception and/or addition that storage of articles, goods and/or materials shall be limited to the rear of the structure. All outside storage of refuse and waste shall be stored in closed containers. The storage area and the containers shall be screened from public view as required by • 158.135, Landscaping, Screening and Buffering. In case of conflict between this section and • 158.109, the requirements of this section apply.

(L) *Landscaping and screening.* Landscaping and screening shall be as specified in • 158.135, Landscaping, Screening and Buffering.

(M) *Utilities.* Except for any elevated high voltage electrical utilities, all utilities including telecommunication and electrical systems shall be underground. Elevated high voltage utilities shall not be permitted to front any street.

(N) *Planned unit development requirements.* All developments may be developed under planned unit development procedures in accordance with •• 158.060 through 158.084.

(O) *Exterior lighting.* See • 158.136, Standards for Exterior Lighting.

(P) *Trash receptacles.* All trash receptacles located in any RP-1 district shall be located on the property so as to be accessible for trash collection by sanitation vehicles, and shall not be located within the public right-of-way or alley.

(1) All trash receptacles shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the trash receptacle shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. The open end of the enclosure shall have a 100% solid opaque metal, vinyl, PVC, or wooden gate that includes stop pins to lock the gates open for servicing and which are not readily degradable due to sunlight, moisture, or wind, with self closing hinges. Said gates shall remain closed at all times, except while being serviced by the refuse company.

(3) All exterior sides of the enclosure, except the gate, shall be landscaped pursuant to • 158.135, Landscaping, Screening and Buffering.

(4) Trash receptacle enclosures shall not be located any closer to the road than the front of the principal structure.

(5) All trash receptacle enclosures shall be a minimum of six feet high, and large enough to enclose all trash receptacles used by the principal use of the property. At the option of the property owner, the overall square footage of the trash receptacle enclosure may be increased an additional 80 square feet to allow for outdoor storage of property.

(Q) *Accessory structures.* See •158.104, Accessory Buildings, Structures, Appurtenances and Carports within Residential and Commercial Districts.

(R) *Mechanical equipment.*

(1) All mechanical equipment, such as HVAC systems and the like, shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the mechanical equipment shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block, vinyl, PVC, or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. Landscaping material, such as shrubs or evergreen trees can be used in lieu of, or in combination with, the aforementioned materials, provided the design results in the required opaque enclosure.
(Ord. 09-21, passed 7-27-09)

• 158.043 I-1 LIGHT INDUSTRIAL DISTRICT.

(A) *Intent*. To provide for industrial uses with limited objectionable external effects in areas that are suitable for industrial development by reason of location, topography, soil conditions and the availability of adequate utilities and transportation systems. The intent is to permit most manufacturing, wholesaling and warehousing activities that can be operated in a clean and quiet manner, subject only to those regulations necessary to prohibit congestion and the protection of adjacent residential and business activities.

(B) *Permitted principal uses.* See Appendix B.

(C) *Accessory uses.* Uses customarily accessory to the permitted uses.

(D) *Conditional uses.* The following uses may be permitted by the Planning Commission upon application for conditional use approval under the provisions of • 158.171(C).

(1) Excavation, storage, separation, clearing and marketing of sand and gravel.

(2) Television and radio broadcasting towers and wireless telecommunication facilities.

(3) Recreational facilities and customary buildings.

(4) Heliports.

(E) *Yard requirements.* The following yards shall be required:

(1) *Front yards.* Front yards shall be not less than 50 feet in depth, excepting where an industrial district is adjacent or across a street from any residential district, the required front yard shall be not less than 100 feet.

(2) *Side yards.* The required side yard shall be 20 feet, except in the case where the side yard abuts a residential district, the building and uses shall be set back a minimum of 100 feet.

(3) *Rear yards.* Rear yards shall be not less than 50 feet in depth except where the rear yard abuts a residential district, it shall be not less than 100 feet. Side and rear yard requirement for nonresidential uses abutting residential districts or uses. See • 158.135 Landscaping, Screening and Buffering.

(4) All commercial buildings in excess of 150 feet in length must have a clearance of 20 feet on three sides for fire lanes. High hazard buildings shall have a separation of 50 feet between buildings. This area shall be reasonably level and solid enough to support fire equipment year round.

(F) *Lot size.* The minimum lot size shall be two acres (87,120 square feet).

(G) *Building height regulations.* No structure shall exceed 45 feet in height.

(H) *Parking.* Parking shall be provided in accordance with • 158.114, Off-Street Parking Regulations.

(I) *Off-street loading.* Space shall be provided in accordance with • 158.113, Off-Street Loading Regulations.

(J) *Signs.* See •• 158.145 through 158.158 for size and location of permitted signs.

(K) *Landscaping and screening.* Landscaping and screening shall be as specified in • 158.135, Landscaping, Screening and Buffering. See • 158.135 (E) for screening regulations for uses adjoining residential district.

(L) *Planned unit development requirements.* Developments which are ten acres or more in size shall be developed under •• 158.060 through 158.084. Developments of less than ten acres in size shall be developed under •• 158.060 through 158.084 if the proposed development deviates from the requirements of this section or the development falls under the criteria of •• 158.061 or 158.084.

(M) *Exterior lighting.* See • 158.136, Standards for Exterior Lighting.

(N) *Land Use Intensity*. The maximum land use intensity shall be as follows:

Maximum Coverage by All Buildings	*Maximum Coverage by all Buildings and Impervious Surfaces*
40%	75%

(O) *Trash receptacles.* All trash receptacles located in any I-1 district shall be located on the property so as to be accessible for trash collection by sanitation vehicles, and shall not be located within the public right-of-way, or alley.

(1) All trash receptacles shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the trash receptacle shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. The open end of the enclosure shall have a 100% solid opaque metal, vinyl, PVC, or wooden gate that includes stop pins to lock the gates open for servicing and which are not readily degradable due to sunlight, moisture, or wind, with self closing hinges. Said gates shall remain closed at all times, except while being serviced by the refuse company.

(3) All exterior sides of the enclosure, except the gate, shall be landscaped pursuant to • 158.135, Landscaping, Screening and Buffering.

(4) Trash receptacle enclosures shall not be located any closer to the road than the front of the principal structure.

(5) All trash receptacle enclosures shall be a minimum of six feet high, and large enough to enclose all trash receptacles used by the principal use of the property. At the option of the property owner, the overall square footage of the trash receptacle enclosure may be increased an additional 80 square feet to allow for outdoor storage of property.

(P) *Accessory structures.* Accessory structures shall be permitted by the Planning Commission upon application for conditional use approval under the provisions of • 158.171(C).

(Q) *Mechanical equipment.*

(1) All mechanical equipment, such as HVAC systems and the like, shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the mechanical equipment shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block, vinyl, PVC, or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. Landscaping material, such as shrubs or evergreen trees can be used in lieu of, or in combination with, the aforementioned materials, provided the design results in the required opaque enclosure.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.044 I-2 HEAVY INDUSTRIAL DISTRICT.

(A) *Intent.* To provide for industrial and other uses that by virtue of their external effects such as: noise, glare, fumes, smoke, dust, odors, truck and/or rail traffic should be isolated from residential uses. These uses perform essential functions for the community, including employment, and should be provided for in areas that are best suited for heavy industrial development by reason of location, topography, soil conditions and the availability of adequate utilities and transportation system.

(B) *Permitted principal uses.* See Appendix B.

(C) *Accessory uses.* Uses customarily accessory to the permitted uses.

(D) *Conditional uses.* The following uses may be permitted by the Planning Commission upon application for conditional use approval under the provisions of • 158.171(C).

(1) Excavation, storage, separation, clearing and marketing of sand and gravel.

(2) Television and radio broadcasting towers and wireless telecommunication facilities.

(3) Recreational facilities and customary buildings.

(4) Heliports.

(E) *Yard requirements.* The following yards shall be required:

(1) *Front yards.* Front yards shall be not less than 50 feet in depth, excepting where an industrial district is adjacent or across a street from any residential district, the required front yard shall be not less than 100 feet.

(2) *Side yards.* The required side yard shall be 20 feet, except in the case where the side yard abuts a residential district, the building and uses shall be set back a minimum of 100 feet.

(3) *Rear yards.* Rear yards shall be not less than 50 feet in depth except where the rear yard abuts a residential district, it shall be not less than 100 feet. Side and rear yard requirement for nonresidential uses abutting residential districts or uses. See • 158.135 Landscaping, Screening and Buffering.

(4) All commercial buildings in excess of 150 feet in length must have a clearance of 20 feet on three sides for fire lanes. High hazard buildings shall have a separation of 50 feet between buildings. This area shall be reasonably level and solid enough to support fire equipment year round.

(F) *Lot size.* The minimum lot size shall be three acres (130,860 square feet).

(G) *Building height regulations.* No structure shall exceed 60 feet in height.

(H) *Parking.* Parking shall be provided in accordance with • 158.114, Off-Street Parking Regulations.

(I) *Off-street loading.* Space shall be provided in accordance with • 158.113, Off-Street Loading Regulations.

(J) *Signs.* See •• 158.145 through 158.158 for size and location of permitted signs.

(K) *Landscaping and screening.* Landscaping and screening shall be as specified in • 158.135, Landscaping, Screening and Buffering. See • 158.135 (E) for screening regulations for uses adjoining residential district.

(L) *Planned unit development requirements.* Developments which are ten acres or more in size shall be developed under •• 158.060 through 158.084. Developments of less than ten acres in size shall be developed under •• 158.060 through 158.084 if the proposed development deviates from the requirements of this section or the development falls under the criteria of •• 158.061 or 158.084.

(M) *Exterior lighting.* See • 158.136, Standards for Exterior Lighting.

(N) *Land Use Intensity.* The maximum land use intensity shall be as follows:

Maximum Coverage by All Buildings	Maximum Coverage by all Buildings and Impervious Surfaces
40%	75%

(O) *Trash receptacles.* All trash receptacles located in any I-2 district shall be located on the property so as to be accessible for trash collection by sanitation vehicles, and shall not be located within the public right-of-way, or alley.

(1) All trash receptacles shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the trash receptacle shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. The open end of the enclosure shall have a 100% solid opaque metal, vinyl, PVC, or wooden gate that includes stop pins to lock the gates open for servicing and which are not readily degradable due to sunlight, moisture, or wind, with self closing hinges. Said gates shall remain closed at all times, except while being serviced by the refuse company.

(3) All exterior sides of the enclosure, except the gate, shall be landscaped pursuant to • 158.135, Landscaping, Screening and Buffering.

(4) Trash receptacle enclosures shall not be located any closer to the road than the front of the principal structure.

(5) All trash receptacle enclosures shall be a minimum of six feet high, and large enough to enclose all trash receptacles used by the principal use of the property. At the option of the property owner, the overall square footage of the trash receptacle enclosure may be increased an additional 80 square feet to allow for outdoor storage of property.

(P) *Accessory structures.* Accessory structures shall be permitted by the Planning Commission upon application for conditional use approval under the provisions of • 158.171(C).

(Q) *Mechanical equipment.*

(1) All mechanical equipment, such as HVAC systems and the like, shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

(2) Screening on three sides of the mechanical equipment shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block, vinyl, PVC, or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. Landscaping material, such as shrubs or evergreen trees can be used in lieu of, or in combination with, the aforementioned materials, provided the design results in the required opaque enclosure.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

PLANNED UNIT DEVELOPMENT (PUD) DISTRICTS; ADMINISTRATIVE SITE PLAN REVIEW APPROVAL (ASRA) PROCESS

• 158.060 INTENT.

To provide a comprehensive development plan that is flexible and innovative when the development of a site by standard, more rigid, conventional zoning district regulations may produce less efficient use of the land and less amenities and benefits for the community and users of the development. Development under planned unit development provisions provides a means for encouraging ingenuity, imagination and flexibility on the part of land owners, engineers, architects, site planners and developers in the planning and design of land areas. It is not the intent of the planned unit development provisions to allow applicants to circumvent the intent of this Zoning Code or to allow development of land not in conformance with the Land Use Plan of the city.
(Ord. 09-21, passed 7-27-09)

• 158.061 MANDATORY PUD APPLICABILITY.

Proposals for development shall be developed under PUD district provisions when the Planning Director determines the development proposal exhibits one or more of the following listed characteristics or a characteristic of similar magnitude or nature:

(A) The total gross area of the proposed development is ten acres or more in size, except;

(1) Detached single-family developments submitted for development under R-1AA, R-1A and/or R-1B zoning district requirements;

(2) Developments submitted under RP-1 and/or ORP-1 zoning district requirements;

(3) Developments proposed for A-1 zoned property and all of the uses proposed for the development are permitted by A-1 zoning; or

(4) Developments in which the zoning designation of the subject property is appropriate for the proposed development and such zoning designation was in effect and approved prior to March 25, 1993.

(B) The proposed development involves uses permitted by standard zoning districts in accordance with the provisions of •• 158.030 through 158.043 of this chapter, and such uses are permitted by one or more PUD districts, and without PUD district zoning classification the development would normally require the approval of more than one standard zoning district.
(Ord. 09-21, passed 7-27-09)

• 158.062 VOLUNTARY PUD APPLICABILITY.

Applicants of proposals for development in which the development is determined, as per • 158.061, do not meet the conditions of mandatory PUD applicability may voluntarily request to be considered for PUD zoning classification and development under PUD district provisions. Approval for consideration shall not be construed or interpreted as approval of the requested PUD zoning.
(Ord. 09-21, passed 7-27-09)

• 158.063 TYPES OF PLANNED UNIT DEVELOPMENT DISTRICTS.

Types of planned unit development districts include R-PUD (Residential Planned Unit Development), C-PUD (Commercial Planned Unit Development), MX-PUD (Mixed Use Planned Unit Development), and I-PUD (Industrial Planned Unit Development). Each PUD district shall be governed by the requirements specified for each respective PUD district and the general provisions governing Planned Unit Developments.
(Ord. 09-21, passed 7-27-09)

• 158.064 GENERAL PROVISIONS GOVERNING PLANNED UNIT DEVELOPMENTS.

(A) *Project control and ownership.* Planned Unit Development district designation is intended to apply to development sites that are under single ownership or unified control to any comprehensive design, planning and development of the site. The project land may be owned, leased, or controlled by either one or more persons, partnerships, corporations or other appropriate business associations capable of satisfying the objectives and requirements of the planned unit development district. The city shall require proof of ownership, covenants, easements, and other forms of property rights or control to ensure satisfactory compliance with PUD objectives and requirements.

(B) *PUD Agreement.* Upon approval of a specific site plan, the city, at its sole discretion, may require the PUD developer to enter into a PUD agreement with the city, and to furnish a performance bond for the purposes of assuring satisfactory completion of all requirements for site improvements such

as landscaping and drainage control facilities and any conditions and safeguards as may be set by the City Council and the adopted ordinance approving the specific PUD. At its discretion, the city may accept a letter of credit or other form of performance guarantee and security in lieu of a performance bond. In all cases the sufficiency and adequacy of such bond, letter of credit or other form of guarantee or security shall be at the sole determination of the city.

(C) *Utility requirements.* All initial and all future expanded utility systems within the limits of all planned unit development districts are required to be placed underground. Utility systems subject to this requirement shall be those that primarily serve the development within the PUD district and shall include, but not be limited to telephone, cable television, and electrical systems. Appurtenances of these systems which can be effectively screened may be excluded from this requirement if the City Council determines that such appurtenances are essential for utility service to other areas of the community and that such exclusion will not violate the intent or character of the proposed planned unit development or any conditions, restrictions or other requirements imposed upon the development.

(D) *Application process and sequence.* Due to the flexible and special character of planned unit development districts and projects, and to assist the city in evaluating the merits and making findings of proposed PUD projects, the full PUD approval process generally involves either a two stage review or a single stage/concurrent review. The applicant may select either the two stage review process or the single stage/concurrent review process. Unless the applicant informs the Planning Director at the time of submission of the PUD zoning classification application of selection of the single stage/concurrent review process, the applicant shall be considered to have selected the two stage review process.

(1) *Two-stage review process.*

(a) *First stage.* The first stage of the two-stage review process generally consists of submission of an application for PUD zoning classification in accordance with division (F) of this section and •• 158.065(A) - (C). The Planning Commission then reviews and makes a recommendation on the PUD zoning classification application in accordance with •• 158.065 (D) - (F). The City Council then, in accordance with • 158.065(G) and (H), reviews the PUD zoning classification application and makes a decision to either approve as submitted, approve with supplementary conditions or disapprove the application. Approval of PUD zoning classification constitutes only approval of PUD district zoning for the subject property. A specific site plan shall be submitted and approved prior to the issuance of a city zoning permit for the subject property.

(b) *Second stage.* Unless the applicant selects the single stage/concurrent review process as per division (D)(2) of this section, the second stage of the two-stage PUD approval process begins at the initiation of the applicant and is effective only if the PUD zoning classification application submitted in the first stage was approved or approved with supplementary conditions by City Council. The second stage generally consists of submission of a specific site plan for the subject property in accordance with division (F) of this section and • 158.066(A), (B), (F), and (G). An administrative review and recommendation upon the specific site plan application is then conducted by the Planning Commission in accordance with •• 158.066(H)-(J). The City Council then, in accordance with • 158.066(K) and (L),

reviews the specific site plan application and makes an administrative decision to either approve the application as submitted, approve with supplementary conditions or disapprove.

(2) *Single stage/concurrent review process.* At the applicant's option the first and second stage of the two-stage review process may be combined for a single stage/concurrent review process. If the applicant elects such option, a PUD zoning classification application and a related specific site plan application, in accordance with • 158.065(C) and • 158.066(B), shall be simultaneously submitted by the applicant and both applications shall together proceed through a single stage/concurrent review process. In such case, the Planning Commission shall concurrently review both applications, but shall first make a recommendation upon the PUD zoning classification prior to making a recommendation upon the specific site plan application. The City Council then shall concurrently review both applications, but shall first act upon the PUD zoning classification prior to taking administrative action upon the specific site plan application.

(E) *Application completeness and officially filed status.* Planned unit development and specific site plan applications shall not be considered officially filed until the applicant has submitted all applicable filing fees, and submitted all information as may be required by the Planning and Zoning Department. Completeness of an application and submission of all necessary information is the responsibility of the applicant. Only after an application is determined by the Planning Director to be complete and officially filed will application review procedures begin. Applications for specific site plan approval that do not adhere to the substantial conformance requirements of • 158.066(G) may be considered to be incomplete, not officially filed, and not subject to city review procedures.

(F) *Site arrangement requirements.* The buildings, circulation, open space, landscaping and other elements of the proposed PUD shall be arranged, planned and designed on the site to produce:

(1) Favorable relationships with the existing natural topography, bodies of water or water courses, existing desirable vegetation, exposure to significant views and exposure to sunlight and wind;

(2) Safety, convenience and ease of pedestrian and vehicular movement on, about and throughout the site and between the site and the community;

(3) An overall positive visual quality throughout, into and from the development site;

(4) An efficient, functionally organized, and cohesive development;

(5) All areas designed for future expansion or not intended for immediate improvements or development shall be landscaped or otherwise maintained in a neat and orderly manner; and

(6) Landscaping and screening shall be as specified in • 158.135, Landscaping, Screening and Buffering.

(G) *Zoning map identification.* Areas approved as a planned unit development district will be clearly marked and identified on the zoning map by indicating the specific PUD district upon which approval was granted, either R-PUD, C-PUD, MX-PUD or I-PUD; followed by the appropriate case number (Example: "C-PUD 90-5").

(H) *Multiple PUD projects.* A proposed PUD project, either voluntary or mandatory, shall be considered a "multiple PUD project" when each individual use proposed for the project is permitted by at least one of the various PUD zoning districts (Example: R-PUD), while at the same time all of the proposed uses for the project are not permitted by only one, single PUD zoning district (Example: R-PUD and C-PUD). A multiple PUD project requires differing PUD district zoning classifications for respective, contiguous portions of the property proposed for development. When the proposed development is a multiple PUD project the applicant shall file a single PUD zoning application, identifying each specific PUD zoning district, incorporating a functional and general location phasing plan for each individual PUD, a functional and general locational sequencing schedule for the full multiple PUD project, and all other necessary application materials as per • 158.065 (C). A multiple PUD differs from a MX-PUD (• 158.073) in that the differing uses (such as, residential vis-a-vis commercial) are located in the distinctive appropriate PUD District.

(I) *Transition of PUD provisions and regulations.*

(1) *Effective date of •• 158.060 through 158.084 revisions.* The provisions and regulations of this Zoning Code pertaining to planned unit developments, •• 158.060 through 158.084, have been substantially revised by Ordinances No. 90-36, effective 11-12-90 and as further amended by Ordinance 09-21 effective, August 26, 2009. As used in this section, the effective date of the revised planned unit development provisions and regulations is the same as the effective date of Ordinance No. 90-36, effective 11-12-90 and as further amended by Ordinance 09-21 effective, August 26, 2009.

(2) *Previous PUD approvals.* All PUD approvals, including any approved modifications, amendments or conditions, approved by the city prior to the effective date and where any time limitation for such approvals has not expired, shall be governed by the planned unit development provisions and regulations in effect immediately prior to the adoption of Ordinances 90-36, effective 11-12-90 and Ordinance 09-21, effective August 26, 2009. If any time limitation attached to an approval of a PUD, modification, amendment or condition has expired, such approval shall be governed by the current provisions and regulations of •• 158.060 through 158.084 and this Zoning Code.

(3) *Applications filed prior to effective date.* All PUD applications and all requests to modify, change, amend or alter a PUD that are officially filed, but not approved prior to the effective date shall be governed by the PUD provisions and regulations in effect on the official filing date of the application or request.

(4) *Applications filed after effective date.* On and after the effective date, all PUD applications and all requests to modify, change or alter a PUD shall be governed by the PUD provisions and regulations in effect at that time.

(J) *Appeal of Planning Director determination.* In order to assure that Planning Commission and City Council have all information pertinent to the decision making process contained within this section, the Planning Director has been given the responsibility to require additional information as necessary in order for Planning Commission and City Council to make an informed decision. Any applicant who objects to the provision of additional information may request a determination by Planning Commission at its next regularly scheduled meeting. No further action shall take place regarding the application and submission until the Planning Commission has rendered its decision, which shall be final.
(Ord. 09-21, passed 7-27-09)

• 158.065 APPROVAL PROCEDURES FOR PLANNED UNIT DEVELOPMENT (PUD) ZONING CLASSIFICATION.

(A) *Notice to applicants.* Notice is hereby provided to all applicants that:

(1) Approval of PUD zoning classification shall not be deemed approval of a specific site plan or approval of a zoning permit;

(2) The issuance of a city zoning permit for all or any portion of a PUD project requires City Council approval of a specific site plan; and

(3) In accordance with • 158.066(C) and (D), unless an extended approval period is granted by City Council, approval of any specific site plan shall expire if actual construction has not started in the area of approval for the respective specific site plan within two years from the effective date of City Council approval of the plan. All PUD site plans approved prior to the passage of Ordinance 09-21, effective August 26, 2009, shall not expire for five years from the date of approval.

(B) *Pre-application meeting.* Prior to filing an application for a Planned Unit Development, the applicant or his agent is strongly encouraged to meet with the Planning Director or the director's designee. The purpose of this meeting is to informally and generally discuss the proposed development and the purpose, criteria and standards of the Planned Unit Development provisions and this code, and to provide the prospective applicant an opportunity to ask questions about PUD requirements and the PUD review and approval process. The applicant shall note that no statement or representation of the Director, the director's designee or any representative of the city during this pre-application meeting and any subsequent pre-application meetings shall be binding upon the Planning Commission, the City Council or the city. In addition, the applicant is encouraged to engage in informal consultation with the City Engineer, entities providing energy or utility services necessary for the proposed PUD, and such other individuals, entities or organizations as suggested by the Director or his designee.

(C) *Application requirements.* The applicant shall officially file, in accordance with • 158.064(D), an application for planned unit development district classification with the Planning and Zoning Department and shall make payment to the city in an amount equal to the established filing fee applicable to the PUD application for the proposed development. The application shall contain an original and

copies of all application materials, as required on the checklist on file at the time of application with the Planning and Zoning Department in a quantity specified by the Planning and Zoning Department.

(D) *Planning Commission public hearing and notice.* Notwithstanding • 158.175(F), the Planning Commission shall hold a public hearing on an officially filed planned unit development zoning application within 45 days after the application's official filing date. Before holding such public hearing, notice of the hearing shall be given in accordance with • 158.175(G). Notwithstanding • 158.175(H), notice shall also be provided by first class mail at least 15 days prior to the date of the hearing, and such notice shall be deemed given on the date of mailing. Mailed notices shall be provided to all owners of property within 500 feet from the exterior boundaries of the area associated with the proposed PUD zoning classification or PUD amendment proposal. The city, at its discretion, may provide notice by other alternative means such as hand delivery, newspaper publication, electronic media, and any forms of notice utilized in lieu of mailed notice, to owners outside of the 500-foot boundary. The notice shall set forth the time and place of the public hearing and the nature of the proposed development. The failure to deliver the notice as provided in this section, so long as it is not intentional, shall not invalidate the public hearing or any decision on the application.

(E) *Planning Commission review and recommendation of PUD application.* After a planned unit development application has been determined to be officially filed in accordance with • 158.064(F), the Planning Commission shall review and study the application and any accompanying materials. In the course of its study, the Commission may confer with other agencies of government, request additional information or clarification from the applicant, and request additional study and comments from the Planning and Zoning Department staff. The Planning Commission shall, by resolution, recommend to the City Council that the request for planned unit development zoning classification be approved as presented, approved with supplementary conditions or modifications, or disapproved. The Commission shall then transmit to the City Council all papers constituting the record and the resolution containing the Commission's recommendation. If the Commission recommends approval with supplementary conditions, such conditions shall be fully expressed in the recommendation resolution. Any normally permitted or accessory use that is recommended to be included in the specific planned unit development shall be fully identified and expressed in the Commission's resolution and based upon findings in accordance with •• 158.071(B), 158.072(B), 158.073(B), and 158.074(B). If the Planning Commission determines, in order to conduct a sufficient review and make its recommendation, that additional information is required from the applicant or additional study is required, the Commission may table consideration of the application until such additional information is received by the Commission or the Commission's study is complete.

(F) *Criteria for Planning Commission recommendation.* Before making a recommendation for approval or approval with supplementary conditions or modifications, as per division (E) of this section, the Planning Commission shall find that the facts submitted with the application and presented at the public hearing, and any modifications, amendments or supplementary conditions, satisfy the standards and criteria for planned unit development approval as per division (I) of this section.

(G) *City Council public hearing and notice.* Within 45 days after the receipt of the Planning Commission recommendation and resolution, the Clerk of City Council shall set a date for a City Council

public hearing, notify the applicant the date set, and such hearing, notwithstanding • 158.175(J), shall be held as soon as reasonably possible thereafter, unless the applicant requests additional time. Before holding such public hearing, notice of the hearing shall be given in accordance with • 158.175(K). Notwithstanding • 158.175(L), notice shall also be provided by first class mail at least 15 days prior to the date of the hearing, and such notice shall be deemed given on the date of mailing. Mailed notices shall be provided to all owners of property within 500 feet from the exterior boundaries of the area associated with the proposed PUD zoning classification or PUD amendment proposal. The city, at its discretion, may provide notice by other alternative means such as hand delivery, newspaper publication, electronic media and/or any other forms of notice utilized in lieu of mailed notice, to owners outside of the 500 foot boundary. The notice shall set forth the time and place of the public hearing and the nature of the proposed development. The failure to deliver the notice as provided in this section, so long as it is not intentional, shall not invalidate the public hearing or any decision on the application.

(H) *Action by City Council.* City Council shall, by an affirmative vote of at least four of its members, either deny the recommendation of the Planning Commission or introduce and hold the first reading of an ordinance adopting or modifying such recommendation. Following the third reading of the ordinance, a planned unit development zoning classification request shall be either approved, approved with supplementary conditions, or disapproved by at least four members of City Council. In the event the City Council approves the Planned Unit Development, with or without supplementary conditions, the Council shall find, by ordinance, that the facts submitted with the application and presented at the public hearing, and any modifications, amendments or supplementary conditions satisfy the standards and criteria for Planned Unit Development approval as per division (I) of this section. If City Council approves the Planned Unit Development zoning classification, the approval ordinance shall fully set forth any and all supplementary conditions for approval, and all standard district permitted or accessory uses excluded from the specific PUD shall be fully expressed in the approval ordinance and based upon findings in accordance with •• 158.071(B), 158.072(B), 158.073(B) and 158.074 (B). If the City Council determines in order to conduct a sufficient review and make its recommendation that additional information is required from the applicant or additional study is required, the Council may table consideration of the application until such additional information is received by the Council or the Council's study is complete.

(I) *Standards and criteria for Planned Unit Development zoning approval.* A planned unit development zoning classification shall only be approved when the following standards and criteria are satisfied.

(1) The planned unit development complies with the purpose and intent of this Zoning Code;

(2) The proposed development promotes the health, safety and general welfare of the present and future inhabitants of the city;

(3) The proposed zoning and the conditions and requirements incorporated within the ordinance approving the PUD zoning district provide for minimizing impacts on the surrounding development;

(4) The site will be accessible from current or planned public thoroughfares adequate to carry traffic which will be imposed upon them by the proposed development;

(5) Potential impacts on public services and facilities can be mitigated by site and building design and the benefits which will accrue to the city and the public;

(6) Existing and proposed utility services for the proposed residential population densities and nonresidential uses are or will be available to the project;

(7) The proposed development complies with applicable requirements and conditions of • 158.064;

(8) Each individual section or subarea of the development, as well as the total development, can exist as a functionally independent environment. In the alternative and at the discretion of the city, adequate assurance has been provided by the applicant and to the satisfaction of the city that such objective will be achieved;

(9) Any permitted, conditional, or accessory uses excluded from the specific proposed planned unit development are based upon findings in accordance with •• 158.071(B), 158.072(B), 158.073(B), and 158.074(B); and

(10) The planned unit development can be substantially completed within the time specified in the schedule of development submitted by the applicant.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.066 APPROVAL PROCEDURES FOR SPECIFIC SITE PLAN.

(A) *Notice to applicants.* Notice is hereby provided to all applicants that:

(1) Approval of PUD zoning classification shall not be deemed approval of a specific site plan or approval of a zoning permit;

(2) The issuance of a city zoning permit for all or any portion of a PUD project requires City Council approval of a specific site plan; and

(3) In accordance with divisions (C) and (D) of this section, unless an extended approval period is granted by City Council, approval of any specific site plan shall expire if actual construction has not started in the area of approval for the respective specific site plan within two years from the effective date of City Council approval of the plan.

(B) *Required specific site plan application.* Prior to the issuance of a city zoning permit for any PUD project, a specific site plan application shall be officially filed in accordance with • 158.064 (F),

proceed through the review and approval process as per divisions (G) - (K) of this section, and shall be approved by City Council. All specific site plan applications shall incorporate a minimum area of five acres. In cases in which the total gross area of the property approved for PUD zoning classification is less than five acres, the specific site plan shall incorporate 100% of the PUD property. In all cases the area incorporated in a specific site plan shall be contiguous.

(C) *Expiration of specific site plan approval.* Unless an extended approval period is granted in accordance with division (D) of this section, approval or approval with supplementary conditions of any specific site plan shall expire if, in the judgment and determination of the city, the actual start of construction has not begun in the approved area of the respective specific site plan within two years from the effective date of City Council approval of the respective plan. In the event of expiration of an approved specific site plan, the applicant shall start afresh, submit a specific site plan application in accordance with •• 158.064(F) and division (E) of this section, and the application shall proceed through the review and approval process as per divisions (G) - (K) of this section. All PUD site plans approved prior to the passage of this section shall not expire for five years from the date of approval.

(D) *Extension of specific site plan approval period.* Upon request by the owner, a one-time only, administrative extension of the two-year approval period for a specific site plan may be granted by the City Council. In the event such an extension is granted, the period of extension shall not exceed one year. The owner shall submit a written request for an extended site plan approval period to the Planning Director. The written request shall be submitted no sooner than nine months prior to, but no later than 90 days prior to the expiration date of the approved specific site plan which is the subject of the request for approval period extension. The written request shall include the necessity for the extension; submission of documentation and evidence that the owner has made a reasonable effort to begin the actual start of construction; the reason(s) why construction has not actually started to date and will not start prior to expiration of the specific site plan; the requested length of time to extend the specific site plan approval period (not to exceed one year); a description of the impact and major effects upon the full PUD project if the requested extension is not approved; a description of the major effects upon the full PUD project if the requested extension is approved, including changes in phasing or staging plans; and a revised time schedule showing the dates when construction will actually start for the area of the specific site plan and, if applicable, the remaining areas of the complete PUD project. Within 45 days from the Planning Director's receipt of the owner's written request the Director shall forward the owner's request and the Director's comments and recommendation to the City Council. Within 45 days after City Council receives the request and the Planning Director's comments and recommendation, the Council shall take administrative action upon the request. The City Council shall, by resolution and administrative action, either deny the request for extension, approve the request for extension as submitted, or approve the request for extension for a lesser period of time than requested by the owner. Any extension of approval period for a specific site plan shall become effective and begin to run on the date of Council approval of such extension. Council shall approve an extended approval period for a specific site plan only when the following conditions are satisfied:

(1) The owner has submitted a written request for an extended approval period for the specific site plan;

(2) The subject property currently has a PUD zoning classification;

(3) The approval period for the specific site plan has not been previously extended by City Council;

(4) An extension of approval period for the specific site plan will not cause the city to breach any PUD Agreement made with the owner;

(5) The owner, in the judgment of the Council, has taken reasonable steps and made reasonable efforts to actually start construction;

(6) An extended approval period for the specific site plan will not violate the purpose and intent of •• 158.060 through 158.084 and this Zoning Code;

(7) An extended approval period for the specific site plan promotes the health, safety and general welfare of the present and future inhabitants of the city; and

(8) The period of extension for the specific site plan does not exceed one year.

(E) *Previously approved specific site plans.* A specific site plan approved by City Council shall be deemed null and void upon approval of a subsequent specific site plan for all or part of the same property, unless otherwise conditioned by City Council.

(F) *Application requirements.* The applicant shall, in accordance with • 158.064 (G), officially file an application for a specific site plan with the Planning and Zoning Department, and shall make payment to the city in an amount equal to the established filing fee applicable to the specific site plan application for the proposed development. As per division (G) of this section, the specific site plan shall substantially conform to the PUD zoning plans, concepts, schedules, development information and conditions as approved or as approved with conditions by City Council. The application shall contain an original and copies of all application materials as required on the checklist on file at the time of application with the Planning and Zoning Department in a quantity specified by the Planning and Zoning Department.

(G) *Specific site plan conformance with approved PUD.*

(1) An officially filed specific site plan shall substantially conform to the PUD zoning plans, concepts, schedules and development information as approved by City Council. If the Planning Director or the Planning Commission determines that the officially filed specific site plan does not substantially conform, the applicant may either modify the specific site plan to the extent necessary for substantial conformance and resubmit for review, or start afresh and submit a new specific site plan for review, or apply for an amendment to the PUD zoning classification ordinance. Notwithstanding • 158.064(F), a submitted specific site plan shall not be considered officially filed if the Planning Director determines

prior to Planning Commission review that the submitted specific site plan does not adhere to the substantial conformance requirement.

(2) At the discretion of the Planning Commission, a submitted specific site plan that contains modifications to the plans, concepts, schedules and development information as approved by City Council, may be determined to substantially conform. In no event shall a specific site plan be determined to substantially conform if the specific site plan involves changes in permitted uses as per • 158.068, or changes which result in exceeding any limitation or any maximum amount imposed by an ordinance originally granting or amending the PUD zoning classification for the subject property.

(H) *Planning Commission public hearing and notice.* The Planning Commission shall hold a public hearing on an officially filed specific site plan application within 45 days after the application's official filing date. Before holding such public hearing, notice of the hearing shall be given in accordance with • 158.175(G). Notwithstanding • 158.175(H), notice shall also be provided by first class mail at least 15 days prior to the date of the hearing, and such notice shall be deemed given on the date of mailing. Mailed notices shall be provided to all owners of property within 500 feet from the exterior boundaries of the area proposed for specific site plan or modification approval. The city, at its discretion, may provide notice by other alternative means such as hand delivery, newspaper publication, electronic media and/or any other forms of notice utilized in lieu of mailed notice, to owners outside of the 500 foot boundary. The notice shall set forth the time and place of the public hearing and the nature of the proposed specific site plan. The failure to deliver the notice as provided in this section, so long as it is not intentional, shall not invalidate the public hearing or any decision on the application.

(I) *Recommendation by Planning Commission.* Planning Commission shall take administrative action and, by resolution, recommend to the City Council that the submitted specific site plan be approved as presented, or approved with supplementary conditions or modifications, or disapproved. The Commission shall then transmit all papers constituting the record and the resolution containing the Commission's recommendation to the Council. All resolutions for specific site plan recommendations to City Council shall indicate the Commission is taking administrative action, and if the Commission's recommendation is for approval with supplementary conditions, the resolution shall fully express such conditions. If the Planning Commission determines in order to conduct a sufficient review and make its recommendation that additional information is required from the applicant or additional study is required, the Commission may table consideration of the application until such additional information is received by the Commission or the Commission's study is complete.

(J) *Criteria for Planning Commission recommendation.* Before making a recommendation for approval or approval with supplementary conditions in accordance with division (I) of this section, the Planning Commission shall find, by resolution, that the facts submitted with the specific site plan application and presented at the public hearing, and any modifications, amendments or supplementary conditions, satisfy the standards and criteria for specific site plan approval as per division (M) of this section.

(K) *City Council public hearing and action.* Within 45 days after the receipt of the Planning Commission recommendation, the Clerk of the City Council shall set a date for a public hearing and such

hearing, notwithstanding • 158.175(J), shall be held as soon as reasonably possible thereafter, unless the applicant requests additional time. The public hearing shall be for the purposes of taking administrative action on the proposed specific site plan. Following the scheduled hearing the City Council shall, by motion, either approve, approve with supplementary conditions, or disapprove the proposed specific site plan. Approval of such motion requires a vote of at least four members of the Council. If the Council approves the specific site plan with supplementary conditions, the motion for approval shall fully set forth such conditions and be fully recorded in the meeting minutes. As the basis for City Council approval of a specific site plan, with or without supplementary conditions, Council shall find that the facts submitted with the application and any accompanying materials, and any modifications, amendments or supplementary conditions satisfy the standards and criteria for specific site plan approval as per division (M) of this section. If the standards and criteria of division (M) of this section are not satisfied, Council shall disapprove the specific site plan and shall make findings of fact indicating which particular standards and criteria are not satisfied. If the City Council determines in order to conduct a sufficient review and make its decision that additional information is required from the applicant or additional study is required, the Council may table consideration of the application until such additional information is received by the Council or the Council's study is complete.

(L) *Notice of City Council public hearing.* Before holding the public hearing specified in division (K) of this section, notice shall be provided in accordance with • 158.175(K). Notwithstanding • 158.175(L), notice shall also be provided by first class mail at least 15 days prior to the date of the hearing, and such notice shall be deemed given on the date of mailing. Mailed notices shall be provided to all owners of property within 500 feet from the exterior boundaries of the area proposed for specific site plan or modification approval. The city, at its discretion, may provide notice by other alternative means such as hand delivery, newspaper, electronic media and/or any other forms of notice utilized in lieu of mailed notice, to owners outside of the 500-boundary. The notice shall set forth the time and place of the public hearing and the nature of the proposed specific site plan. The failure to deliver the notice as provided in this section, so long as it is not intentional, shall not invalidate the public hearing or any decision on the application.

(M) *Standards and criteria for specific site plan approval.* A specific site plan shall only be approved when the following standards and criteria are satisfied.

(1) The specific site plan complies with the purpose and intent of the specific PUD zoning;

(2) The proposed development carries out the purpose and intent of the City's Land Use Plan;

(3) The proposed development promotes the health, safety and general welfare of the present and future inhabitants of the city;

(4) The specific site plan substantially complies with the substantial conformance requirement of division (G);

(5) The proposed development has no significant detrimental impact that outweighs the development's benefits to the community;

(6) The proposed streets and driveways on the site of the proposed development will be adequate to serve the residents, occupants or users of the proposed development, and the specific site plan, along with any necessary off-site vehicular circulation improvements, provides adequate vehicular ingress and egress and will be accessible from current or planned public thoroughfares adequate to carry traffic which will be imposed upon them by the proposed development;

(7) The proposed development minimizes conflicts between vehicular, pedestrian and bicycle circulation patterns and movement;

(8) The benefits of the proposed development mitigate any burden on public services and facilities, including fire and police protection;

(9) Existing and proposed utility services for residential population densities and nonresidential uses are adequate for the projected demand during all phases of development and at full completion of development;

(10) The proposed development complies with applicable requirements and conditions of • 158.064;

(11) Each individual section or subarea of the development, as well as the total development, can exist as a functionally independent environment. In the alternative and at the discretion of the city, adequate assurance has been provided by the applicant and to the satisfaction of the city that such objective will be achieved;

(12) The design and other amenities incorporated in the proposed development will provide increased benefits to the residents, occupants, users and the community and such design and other amenities are in accord with the planned unit development provisions of this Zoning Code and other applicable ordinances of the city; and

(13) The proposed development contains such covenants, easements, and other such forms of property rights and control as may reasonably be required for the maintenance and care of common, private facilities and for the public health, safety and welfare. If governmental ownership of common open space, recreational facilities, or other common facilities is planned, a copy of its acceptance has been filed with the application.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-02, passed 2-13-12)

• 158.067 PLANNED UNIT DEVELOPMENT OBLIGATIONS AND BINDING AND ENFORCEABLE CONDITIONS.

If any portion of property included in a planned unit development is sold or leased, the PUD zoning classification and specific site plan obligations shall continue to be binding upon all subsequent owners or lessees, regardless of the acreage involved in the sale or lease. As a matter of procedure, all terms and conditions of any planned unit development zoning classification and specific site plan that were approved by the City Council in the past or may be approved in the future shall remain binding upon and

enforceable against the subject tract of land, except to the extent modified in accordance with • 158.070(A) through (C).
(Ord. 09-21, passed 7-27-09)

• 158.068 MODIFICATIONS TO PUD PERMITTED USES.

The permitted uses for an approved PUD include all uses identified as permitted and accessory uses for the type of PUD district under which the PUD was approved, except those uses expressly identified as excluded uses in the ordinance granting PUD zoning approval for the subject property. Upon PUD zoning approval, an applicant is not required to develop all uses permitted for the applicant's specific PUD, however, an applicant shall only develop those uses permitted for the specific PUD. Any request to modify or change the permitted uses of a specific PUD, as such uses are identified in •• 158.071(B), 158.072(B), 158.073(B) and 158.074(B), and as may be conditioned by the original ordinance granting PUD zoning classification for the subject property, requires an amendment to such ordinance. Upon a request to modify or change the permitted uses for a specific PUD, the city, at its discretion, shall require the applicant to either submit a new, full application in accordance with • 158.065(C), or submit a modified PUD zoning application, or submit supplementary materials to accompany the original PUD zoning application materials. In all cases, proposed amendments to the original zoning ordinance shall be subject to review and approval procedures in accordance with •• 158.065(D) - (I).
(Ord. 09-21, passed 7-27-09)

• 158.069 SIMILARITY OF USES AND CONDITIONAL USES.

(A) *Similarity of uses.* Notwithstanding • 158.172(H)(2), the Planning Commission shall have the appropriate power and duty to determine if uses not specifically mentioned in this Zoning Code are similar to uses permitted in planned unit development districts. In no event shall a determination of similarity of use by the Planning Commission overrule a City Council determination of exclusion of uses from a specific PUD, and the ordinance originally granting or amending PUD zoning classification shall govern. If a PUD zoning classification application includes a list of intended uses which requires a determination of similarity, the Planning Commission shall make such determination before its review and recommendation on the PUD zoning application or concurrently to its review and recommendation on the PUD zoning application.

(B) *Conditional uses within PUDs.* Planning Commission shall have the appropriate power and duty to hear and decide upon applications for conditional uses which are requested to be approved uses within a PUD. The Planning Commission shall approve, deny, or approve with conditions for PUD conditional use applications. Approval of a conditional use application shall expire one year after the effective date of Planning Commission approval unless approval of a specific site plan for that conditional use has been approved. Upon approval of a specific site plan, the conditional use will expire with the expiration of the specific site plan.
(Ord. 09-21, passed 7-27-09)

• 158.070 MODIFICATIONS TO APPROVED SPECIFIC SITE PLANS.

Requests to modify an approved specific site plan, when such requested modification does not involve a change of permitted uses for the specific PUD, may be approved by administrative action. Requests to modify shall be in writing and signed by the property owner. The Planning Director shall determine the type and amount of any additional information necessary for consideration of the modification. Modifications shall be considered either major, minor or incidental, and shall be approved or disapproved by administrative action in accordance with divisions (A), (B) and (C) of this section. Requests to modify an approved specific site plan which involve a change of PUD permitted uses shall be considered a modification to PUD permitted uses and shall comply with • 158.068.

(A) *Major modifications.* Major modifications are defined as modifications which do not change the PUD's permitted uses and do not exceed any of the limitations and conditions of the PUD's approval ordinance, and which result in an increase of 5% or more in building coverage; a 5% or greater increase in dwelling unit density; a significant redesign of roadways, or drainage; major redesign of a building which significantly alters the central architectural design or theme of the building; or modifications not considered to be of minor or incidental character. Major modifications to an approved specific site plan require resubmission of a specific site plan application in accordance with • 158.066(F). At its discretion and in lieu of compliance with • 158.066(F), the Planning Commission may require the applicant to either submit a modified application or submit supplementary materials to accompany the original specific site plan application materials. In all cases major modifications to approved specific site plans shall be subject to review and approval procedures in accordance with • 158.066(G) - (M).

(B) *Minor modifications.* Minor modifications are defined as modifications which do not change the PUD's permitted uses and do not exceed any of the limitations and conditions of the PUD's approval ordinance, and which result in an increase of less than 5% in building coverage; an increase of less than 5% in dwelling unit density; changes not exceeding 25 feet in building location not affecting front yard setbacks from streets or setbacks from exterior property lines of the PUD; an increase of more than five feet in the height of a building or structure; minor redesign of a building such as significant alterations to exterior materials or colors, provided the redesign does not significantly alter the central architectural design or theme of the building; or changes not considered to be of major or incidental modification character. The Planning Commission shall, by motion, approve or disapprove minor modifications to approved specific site plans. Such approval shall be based on a Commission determination that the modifications are not in conflict with the intent and character of the approved specific site plan and such modifications do not change the permitted uses for the specific PUD. Minor modifications do not require a public hearing and Planning Commission's decision shall be final.

(C) *Incidental modifications.* Incidental modifications are defined as modifications which do not change the PUD's permitted uses and do not exceed any of the limitations and conditions of the PUD's approval ordinance, and which result in less building coverage due to decreasing the size of structures; a decrease in the number of structures; a decrease in the number of dwelling units in a R-PUD or MX-PUD; minor redesign of PUD streets, such as adjustments in a turning radius; minor redesign, such as a realignment, of pedestrian circulation facilities or parking or loading areas; changes in landscaping

or screening materials that do not alter the intended function of the landscaping or screening; an increase of five feet or less in the height of a building or structure; minor revisions of building elevations such as realignment of major building entrances or window placement, or significant alterations to exterior building materials or colors, provided the revisions do not alter the central design or architectural theme of a building; or changes not considered to be of minor or major modification character. The Planning Director shall approve or disapprove incidental modifications to approved specific site plans. Such approval shall be based on the Director's determination that the modifications are not in conflict with the intent and character of the approved specific site plan and such modifications do not change the permitted uses for the specific PUD. In the alternative and at the discretion of the Planning Director, the Director may request that incidental modifications be approved by the Planning Commission.
(Ord. 09-21, passed 7-27-09)

• 158.071 R-PUD RESIDENTIAL PLANNED UNIT DEVELOPMENT DISTRICTS.

(A) *Intent*. To provide flexibility in the arrangement and design of residential dwellings based upon a unified development plan conceived and carried out for the entire PUD tract. Within this district, appropriate and reasonable population density is maintained while a variety of dwelling unit types is permitted. Developers are to retain, natural features such as topography, trees, and drainage ways. Such developments are generally characterized by a significant proportion of usable open space, a unified design concept with particular attention devoted to the periphery of the development, with the objective of compatibility of the development with its surroundings.

(B) *Permitted, accessory and conditional uses.*

(1) The permitted, conditional and accessory uses in R-PUD districts are those uses included as permitted and accessory uses in residential districts, excluding manufactured home developments. One or more of these permitted and accessory uses may be excluded from the specific R-PUD when the City Council determines that the specific permitted or accessory use normally allowed in the listed residential districts is inappropriate for the specific R-PUD. Such exclusion(s) shall be based upon at least one of the following findings that the specific excluded use:

(a) Cannot be serviced by adequate public utilities; or presents the potential for significant environmental damage and a satisfactory plan of mitigation has not been provided by the applicant; or is inconsistent with the overall character and other uses of the proposed PUD; or is inappropriate for the topography of the site; or is incompatible with surrounding legal land uses or other approved land uses; or is inconsistent with the City's Land Use Plan or other approved plans of the city; or will create hazardous traffic conditions; or will impose an unmitigated burden on public services and facilities, such as fire and police protection; or

(b) Will not promote the purpose and objectives of the planned unit development provisions of this code; or

(c) Does not advance the general welfare of the community and the immediate vicinity and will adversely affect or impact adjoining or surrounding development.

(2) Upon approval by City Council in accordance with • 158.069(B) those uses included as conditional uses in residential districts are allowed in a R-PUD.

(C) *Land use intensity.* For R-PUDs, the coverage of the total gross area of the development shall not exceed 45% of the entire development. For the purposes of this section, coverage shall be interpreted to include the area covered by all buildings, all parking areas, all driveways, and all public and private streets and paved rights-of-way. Structures and other impervious surfaces included within, and developed as an integral part of an area of open space may, at the sole discretion of the Planning Commission and City Council, be excluded from the coverage of the total gross area percentage. Developers of R-PUDs are encouraged to achieve an approximate equal distribution of coverage for each individual phase or subarea of the total PUD.

(D) *Land use density.*

(1) The overall density of a R-PUD shall not exceed the maximum density allowed in the Land Use Plan for dwelling units per acre. When calculating density, the acreage portion of the calculation shall not include undevelopable areas where the natural or environmental conditions (i.e. steep slopes, floodways, wetlands, etc.) would prevent the construction of residential structures without an unreasonable investment to overcome these natural constraints, or areas dedicated as or to be dedicated as public rights-of-way and private streets.

(2) Lot requirements:

(a) The minimum lot width, in one-family R-PUDs shall be 80 feet.

(b) When designing site plans for proposed, one-family R-PUDs which will abut existing residential developments, the lot size for the proposed lots which are directly adjacent to the existing residential lots shall be, at a minimum, the same area as the minimum lot size requirement of the existing adjacent residential lots, or 20,000 square feet, whichever is less (i.e. if adjacent to R-1B, then minimum lot is size shall be 16,000 square feet).

(E) *Building height regulations.* No building shall be erected in excess of 50 feet in height, except, at the discretion of the City Council, the maximum height may be increased when such increase is determined to improve site design and the overall aesthetic quality of the development, does not adversely affect surrounding neighborhoods and public facilities, does not obscure light and air sources to immediately surrounding structures, and satisfies applicable fire and safety regulations.

(F) *Landscaping and screening.* See • 158.135, Landscaping, Screening and Buffering. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that

are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(1) New residential development proposed to be located adjacent to U.S. 35 or I-675 shall provide noise barriers consisting of an earthen mound, solid masonry walls, permanent engineered sound barriers, or other similarly effective methods or materials along the entire length of the right-of-way abutting the project. The height of the barrier shall protect all residential structures to a point at least ten feet above ground level. A sound study may be required, which shall be provided by the applicant, to ensure engineered sound barriers protect residential structures.

(2) If any habitable area of the residential structures would not be completely screened by the noise barriers, the project developer shall either extend the height of the barrier to provide such protection or incorporate noise reduction measures in the residential structures. Such measures include but are not limited to increased setback of structures from highway right-of-way, utilizing materials that increase sound resistance, using construction methods to provide air space and reduce vibration, sealing cracks around doors and windows, reducing window sizes and installing double glazed windows. In preparing plans for the above described noise reduction, developers shall be guided by the U.S. Department of Housing and Urban Development Noise Guide Book.

(G) *Exterior lighting.* See • 158.136, Standards for Exterior Lighting. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(H) *Parking.* Parking shall be provided in accordance with • 158.114, Off-Street Parking Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(I) *Off-street loading.* Spaces shall be provided in accordance with • 158.113, Off-Street Loading Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(J) *Signs*. In conjunction with and at the same time as submission of a specific site plan application, the applicant may submit a proposed sign limitation and control package specifically fashioned for the PUD. The applicant may submit a proposed sign limitation and control package specifically fashioned for the PUD for separate approval as a minor modification to be considered and decided upon by the Planning Commission.

(K) *Variances*. Variances within R-PUD districts shall be applied for in accordance with • 158.172(5). They shall be considered on a case-by-case basis for individual parcels. The granting of a variance for an individual parcel shall not be considered approval of a variance for any other parcel within the same or any other district.
(Ord. 09-21, passed 7-27-09)

• 158.072 C-PUD COMMERCIAL PLANNED UNIT DEVELOPMENT DISTRICTS.

(A) *Intent*. To provide for the development of business, office and commercial establishments within a unified commercial area and plan of development. Within this district, business, office and commercial establishments can be flexibly located to achieve compatible exterior physical design, to utilize the site more efficiently than allowed by standard zoning regulations, to take advantage of natural features of the site, to achieve a higher degree of pedestrian and vehicular separation, to eliminate undesirable features of strip commercial development, to reduce vehicular traffic conflicts within the site and with public rights-of-way, and to enhance compatibility of the development with its surroundings.

(B) *Permitted, accessory, and conditional uses.*

(1) The permitted, conditional and accessory uses in C-PUD zoning districts are those uses included as permitted and accessory uses in residential-office (RO-1), commercial and light industrial zoning districts. One or more of these permitted and accessory uses may be excluded from the specific C-PUD when the City Council determines that the specific permitted or accessory use is inappropriate for the specific C-PUD. Such exclusion(s) shall be based upon at least one of the following findings that the specific excluded use:

(a) Cannot be serviced by adequate public utilities; or presents the potential for significant environmental damage and a satisfactory plan of mitigation has not been provided by the applicant; or is inconsistent with the overall character and other uses of the proposed PUD; or is inappropriate for the topography of the site; or is incompatible with surrounding legal land uses or other approved land uses; or is inconsistent with the City's Land Use Plan or other approved plans of the city; or will create hazardous traffic conditions; or will impose an unmitigated burden on public services and facilities, such as fire and police protection; or

(b) Will not promote the purpose and objectives of the planned unit development provisions of this code; or

(c) Does not advance the general welfare of the community and the immediate vicinity and will adversely affect or impact adjoining or surrounding development without satisfactory mitigation measures.

(2) Upon approval by City Council in accordance with • 158.069 (B) those uses included as conditional uses in commercial and light industrial zoning districts are allowed in a C-PUD. Wireless telecommunication facilities shall automatically be a conditional use permitted in a C-PUD district.

(C) *Land use intensity.* For C-PUDs, the maximum land use intensity and lot coverage by all buildings, and by buildings and all other impervious surfaces is as follows:

Maximum Coverage by All Buildings	*Maximum Coverage by all Buildings and Impervious Surfaces*
35%	75%

(D) *Building height regulations.* The maximum height of any building in a C-PUD District shall be 70 feet, except, at the discretion of the City Council, the maximum height may be increased when such increase is determined to improve site design and the overall aesthetic quality of the development, does not adversely affect surrounding neighborhoods and public facilities, does not obscure light and air sources to immediately surrounding structures, and satisfies applicable fire and safety regulations.

(E) *Landscaping and screening.*

(1) See • 158.135, Landscaping, Screening and Buffering. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(2) Any commercial development proposed to be located within 1,000 feet of any existing or proposed residential district or project shall present and implement plans for providing a barrier from noise generated by the activities of the commercial development. These activities include but are not limited to loading dock and delivery activities, truck movements, idling and parking, waste collection, compactor or shredding activities, roof mounted and ground mounted mechanical equipment, and parking lots and driveways. Methods which may be utilized include earthen mounding, solid masonry walls, permanent engineered sound barriers, or other methods or materials of equal affect as those listed above. The noise barrier shall be tall enough to exceed the height of any noise source such as truck engines and exhaust stacks.

(F) *Exterior lighting.* See • 158.136, Standards for Exterior Lighting. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(G) *Parking.* Parking shall be provided in accordance with • 158.114, Off-Street Parking Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(H) *Off-street loading.* Spaces shall be provided in accordance with • 158.113, Off-Street Loading Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(I) *Signs*. In conjunction with and at the same time as submission of a specific site plan application, applicants may submit a proposed sign limitation and control package specifically fashioned for the PUD. The applicant may also submit a proposed sign limitation and control package specifically fashioned for the PUD for separate approval as a minor modification to be considered and decided upon by the Planning Commission. Any C-PUD in existence prior to the passage of Ordinance 09-21, effective August 26, 2009 , where a sign limitation and control package has not been approved, shall comply with all B-2 sign regulations, unless a separate sign limitation and control package is approved by Planning Commission. (Ord. 09-21, passed 7-27-09)

• 158.073 MX-PUD MIXED USE PLANNED UNIT DEVELOPMENT DISTRICT.

(A) *Intent.* To provide for the development of business, office and commercial establishments, and varied residential living opportunities within a unified plan of development. Within the planned development, selected residential uses may be integrated with commercial, business and office establishments, or developed as a subarea with residential neighborhood characteristics. This district provides for flexibility in locating uses, allows for utilization of the site more efficiently than standard zoning regulations, allows for advantageous use of natural features of the site, and allows for residential uses to be selectively integrated with or separated from business, commercial or office establishments.

(B) *Permitted, accessory and conditional uses.*

(1) The permitted, conditional and accessory uses in MX-PUD zoning districts are those uses included as permitted and accessory uses in residential, commercial and light industrial districts, excluding manufactured home developments. One or more of these permitted and accessory uses may be excluded from the specific MX-PUD when the City Council determines that the specific permitted or accessory use is inappropriate for the specific MX-PUD. Such exclusion(s) shall be based upon at least one of the following findings that the specific excluded use:

(a) Cannot be serviced by adequate public utilities; or presents the potential for significant environmental damage and a satisfactory plan of mitigation has not been provided by the applicant; or is inconsistent with the overall character and other uses of the proposed PUD; or is inappropriate for the topography of the site; or is incompatible with surrounding legal land uses or other approved land uses; or is inconsistent with the City's Land Use Plan or other approved plans of the city; or will create hazardous traffic conditions; or will impose an unmitigated burden on public services and facilities, such as fire and police protection; or

(b) Will not promote the purpose and objectives of the planned unit development provisions of this code; or

(c) Does not advance the general welfare of the community and the immediate vicinity and will adversely affect or impact adjoining or surrounding development without satisfactory mitigation measures.

(2) Upon approval by City Council in accordance with • 158.069(B), those uses included as conditional uses in residential, commercial and light industrial districts are allowed in a MX-PUD.

(C) *Land use intensity.* For MX-PUDs, the maximum land use intensity and lot coverage by all buildings, and by buildings and all other impervious surfaces is as follows:

Maximum Coverage by All Buildings	*Maximum Coverage by all Buildings and Impervious Surfaces*
35%	75%

(D) *MX-PUD residential uses.* Residential uses in MX-PUD Districts are intended to be developed as separate, residential subareas of the MX-PUD. Residential uses shall only be developed in MX-PUD Districts when the following conditions are satisfied.

(1) If a non-residential use is planned or developed within a horizontal distance of less than 100 feet from a residential use, residential uses shall be developed only at the second story or higher of buildings in which grade level use is a business, office or commercial MX-PUD District permitted, or accessory or approved conditional use.

(2) The overall density of an MX-PUD shall not exceed the maximum density allowed in the Land Use Plan for dwelling units per acre. When calculating density, the acreage portion of the calculation shall not include undevelopable areas where the natural or environmental conditions (i.e. steep slopes, floodways, wetlands, etc.) would prevent the construction of residential structures without an unreasonable investment to overcome these natural constraints, or areas dedicated as or to be dedicated as public rights-of-way and private streets.

(3) The minimum lot width in one-family portions of MX-PUDs, shall be 80 feet.

(4) When designing site plans for proposed, one-family portions of MX-PUDs which will abut existing residential developments, the lot size for the proposed lots which are directly adjacent to the existing residential lots shall be, at a minimum, the same size as the existing residential lots, or 20,000 square feet, whichever is less.

(E) *Building height regulations.* The maximum height of any building in a MX-PUD District shall be 50 feet, except, at the discretion of the City Council, the maximum height may be increased when

such increase is determined to improve site design and the overall aesthetic quality of the development, does not adversely affect surrounding neighborhoods and public facilities, does not obscure light and air sources to immediately surrounding structures, and satisfies applicable fire and safety regulations.

(F) *Landscaping and screening.*

(1) See • 158.135, Landscaping, Screening and Buffering. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, will not adversely affect surrounding neighborhoods and public facilities.

(2) Any commercial development proposed to be located within 1,000 feet of any existing or proposed residential district or project shall present and implement plans for providing a barrier from noise generated by the activities of the commercial development. These activities include but are not limited to loading dock and delivery activities, truck movements, idling and parking, waste collection, compactor or shredding activities, roof mounted and ground mounted mechanical equipment, and parking lots and driveways. Methods which may be utilized include earthen mounding, solid masonry walls, permanent engineered sound barriers, or other methods or materials of equal affect as those listed above, which shall be approved by the Planning Department prior to installation. The noise barrier shall be tall enough to exceed the height of any noise source such as truck engines and exhaust stacks.

(G) *Exterior lighting.* See • 158.136, Standards for Exterior Lighting. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(H) *Parking.* Parking shall be provided in accordance with • 158.114, Off-Street Parking Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(I) *Off-street loading.* Spaces shall be provided in accordance with • 158.113, Off-Street Loading Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(J) *Signs.* In conjunction with and at the same time as submission of a specific site plan application, applicants may submit a proposed sign limitation and control package specifically fashioned for the PUD. The applicant may also submit a proposed sign limitation and control package specifically fashioned to the PUD for separate approval as a minor modification to be considered on a case-by-case basis for individual parcels.

(K) *Variances*. Variances of MX-PUD districts (in the residential portions only) shall be applied for in accordance with • 158.172(5). They shall be considered on a case-by-case basis for individual parcels. The granting of a variance for an individual parcel shall not be considered approval of a variance for any other parcel within the same or any other district.
(Ord. 09-21, passed 7-27-09)

• 158.074 I-PUD INDUSTRIAL PLANNED UNIT DEVELOPMENT DISTRICT.

(A) *Intent*. To provide for the development of varied or similar industrial establishments within a unified industrial area and plan of development. Within this district, industrial establishments can be flexibly located to achieve compatible exterior physical design, to utilize the site more efficiently than allowed by conventional development standards, to take advantage of natural features of the site, to achieve a higher degree of pedestrian and vehicular separation, to comprehensively provide for necessary services and facilities in accordance with a predetermined plan, to reduce vehicular traffic conflicts within the site and with public rights-of-way, and to enhance compatibility of the development with its surroundings.

(B) *Permitted, accessory and conditional uses.*

(1) Those uses included as permitted, conditional and accessory uses in industrial zoning districts are permitted in an I-PUD District. One or more of these permitted and accessory uses may be excluded from the specific I-PUD when the City Council determines that the specific permitted or accessory use normally allowed in the I-1 Zoning District is inappropriate for the specific I-PUD. Such exclusion(s) shall be based upon at least one of the following findings that the specific excluded use:

(a) Cannot be serviced by adequate public utilities; or presents the potential for significant environmental damage and a satisfactory plan of mitigation has not been provided by the applicant; or is inconsistent with the overall character and other uses of the proposed PUD; or is inappropriate for the topography of the site; or is incompatible with surrounding legal land uses or other approved land uses; or is inconsistent with the City's Land Use Plan or other approved plans of the city; or will create hazardous traffic conditions; or will impose an unmitigated burden on public services and facilities, such as fire and police protection; or

(b) Will not promote the purpose and objectives of the planned unit development provisions of this code; or

(c) Does not advance the general welfare of the community and the immediate vicinity and will adversely affect or impact adjoining or surrounding development without satisfactory mitigation measures.

(2) Upon approval by City Council in accordance with • 158.069(B) those uses included as conditional uses in industrial zoning districts are allowed in an I-PUD. Wireless telecommunication facilities shall automatically be a conditional use permitted in all I-PUD districts.

(3) Upon approval by the City Council, specifically listed permitted and accessory uses allowed in commercial districts may be permitted as conditional uses in an I-PUD.

(C) *Land use intensity.* For I-PUDs, the maximum land use intensity and lot coverage by all buildings, and by buildings and all other impervious surfaces is as follows:

Maximum Coverage by All Buildings	*Maximum Coverage by all Buildings and Impervious Surfaces*
40%	75%

(D) *Building height regulations.* The maximum height of any building in an I-PUD district shall be 50 feet, except, at the discretion of the City Council, the maximum height may be increased when such increase is determined to improve site design and the overall aesthetic quality of the development, does not adversely affect surrounding neighborhoods and public facilities, does not obscure light and air sources to immediately surrounding structures, satisfies applicable fire and safety regulations, and is necessary for the operation of a proposed industrial use.

(E) *Landscaping and screening.*

(1) See • 158.135, Landscaping, Screening and Buffering. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(2) Any industrial development proposed to be located within 1,000 feet of any existing or proposed residential district or project shall present and implement plans for providing a barrier from noise generated by the activities of the industrial development. These activities include but are not limited to loading dock and delivery activities, truck movements, idling and parking, waste collection, compactor or shredding activities, roof mounted and ground mounted mechanical equipment, and parking lots and driveways. Methods which may be utilized include earthen mounding, solid masonry walls, permanent engineered sound barriers, or other methods or materials of equal affect as those listed above. The noise barrier shall be tall enough to exceed the height of any noise source such as truck engines and exhaust stacks.

(F) *Exterior lighting.* See • 158.136, Standards for Exterior Lighting. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(G) *Parking.* Parking shall be provided in accordance with • 158.114, Off-Street Parking Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the

community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(H) *Off-street loading.* Spaces shall be provided in accordance with • 158.113, Off-Street Loading Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(I) *Signs.* In conjunction with and at the same time as submission of a specific site plan application, applicants may submit a proposed sign limitation and control package specifically fashioned for the PUD. The applicant may submit a proposed sign limitation and control package specifically fashioned to the PUD for separate approval as a minor modification to be considered on a case-by-case basis for individual parcels.
(Ord. 09-21, passed 7-27-09)

• 158.075 ADMINISTRATIVE SITE PLAN REVIEW APPROVAL (ASRA) PROCESS.

(A) *Intent.* To insure that the general design plan and detailed site plan for the authorized and approved use or uses on the subject property will protect or enhance the public interest, will provide a suitable and desirable arrangement of use or uses on the subject property, and the use(s) of the subject property provides favorable relationships with one another and the major natural features of the property.

(B) *Applicability.* Proposals for development shall require ASRA review and approval pursuant to •• 158.075 through 158.084 when the Planning Director determines the development proposal exhibits one or more of the following listed characteristics or a characteristic of similar magnitude or nature:

(1) The total gross area of the proposed development is ten acres or more in size, and if the proposed development is not subject to PUD applicability pursuant to •• 158.061 or 158.062, excluding detached single-family developments submitted for development under R-1AA, R-1A and/or R-1B zoning district requirements and such R-1AA, R-1A and/or R-1B zoning was in effect and approved prior to March 25, 1993.

(2) The total gross area of the proposed development is less than ten acres in size, and if the proposed development is not subject to PUD applicability pursuant to •• 158.061 or 158.062, and if the proposed development site exhibits limited points or areas for vehicular access, or opportunities for vehicular access to and from the proposed development site are limited or constrained by other vehicular access points or areas previously designated by the city.

(3) If the total gross area of the proposed development is less than ten acres in size, and if the proposed development is not subject to PUD applicability pursuant to •• 158.061 or 158.062, and if all or any portion of the proposed development site is located within an area indicated on the City's Land Use Plan as a Planned Development Area or an Indian Ripple Planning Area, or the redevelopment of

an existing site located within an area indicated on the City's Land Use Plan as a Planned Development Area or an Indian Ripple Planning Area where the proposed redevelopment includes significant alterations to the exterior of an existing building or significant alteration to the layout of the site.

(a) If the redevelopment of an existing site or building does not involve significant alterations to the building or site, such as the replacement of dilapidated building materials, without expansion or change in the architectural look of the building, and a previous general or detailed ASRA site plan has not been approved by City Council, the owners of the parcel may be eligible to apply to the Planning Department for approval of a zoning permit, without being subject to the application, review and approval provisions of •• 158.076(A) through 158.083. If a new use is proposed in a building or on a site where adequate parking is not available, then prior to the issuance of a zoning permit, the owners of the site shall be subject to the review and approval provisions of •• 158.076(A) through 158.083 before the zoning permit can be approved.

(4) The proposed non-residential development involves more than one principal building on a lot. (Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.076 ASRA APPLICATION AND APPROVAL PROCESS.

The ASRA approval process generally involves applicant submission of either an ASRA detailed site plan, pursuant to • 158.077, for the entire site subject to ASRA approval, or in accordance with • 158.077, submission of an ASRA detailed site plan for a portion of the site, plus submission of an ASRA general design plan, in accordance with • 158.077, for the remaining balance of the site not included in the ASRA detailed site plan. If the applicant submits an ASRA detailed site plan for the entire property subject to ASRA approval, the applicant is not required to submit an ASRA general design plan. If an applicant receives, pursuant to the provisions of this Zoning Code, city approval of an ASRA detailed site plan for an area of an ASRA property or site that is less than the area of such site or property, the applicant is required to submit an additional ASRA application for ASRA detailed site plan approval for development on or within any portion of the ASRA site that is not included in the area of the approved ASRA detailed site plan. Such additional application shall be subject to the application, review and approval provisions of •• 158.076(A) through 158.083. For the purposes of •• 158.076(A) through 158.084(C) the "site subject to ASRA approval," "ASRA property," "ASRA site," or "ASRA property or site," shall mean the entirety of that land or real property that received the approved zoning designation under which the applicant proposes to develop the property.

(A) *Notice to ASRA applicants.* Notice is hereby provided to all applicants that:

(1) Approval of an ASRA general design plan shall not be deemed approval of an ASRA detailed site plan or approval of a zoning permit;

(2) The issuance of a city zoning permit for any portion of a property or project requiring compliance with the ASRA provisions of this Zoning Code also requires City Council approval of an

ASRA detailed site plan for that area of the ASRA property or site for which a city zoning permit is requested;

(3) In accordance with •• 158.081 and 158.082, unless an extended approval period is granted by City Council, approval of any ASRA detailed site plan shall expire if actual construction had not started in the area of approval for the respective ASRA detailed site plan within two years from the effective date of City Council approval of the ASRA detailed site plan.

(B) *Pre-application meeting.* Prior to filing an application for administrative an ASRA, the applicant or developer is strongly encouraged to meet with the Planning Director or the Director's designee. The purpose of this meeting is to informally and generally discuss the proposed development and the purpose; criteria and standards of the ASRA provisions and this code, and to provide the prospective applicant an opportunity to ask questions about ASRA requirements and the ASRA review and approval process. The applicant shall note that no statement or representation of the Director, the Director's designee or any representative of the city during this pre-application meeting and any subsequent pre-application meetings shall be binding upon the Planning Commission, the City Council or the city. In addition, the applicant is encouraged to engage in informal consultation with the City Engineer, entities providing energy or utility services necessary for the property and development proposed for ASRA approval, and such other individuals, entities or organizations as suggested by the Director or his designee.

(C) *Application completeness and officially filed status.*

(1) An application for an ASRA shall not be considered officially filed until the applicant has submitted all applicable filing fees, and submitted to the Planning and Zoning Department all information as may be required by this Zoning Code. Completeness of an application and submission of all necessary information is the responsibility of the applicant. Only after an ASRA application is determined by the Planning Director to be complete and officially filed will application review procedures begin.

(2) Applications for ASRA detailed site plan approval that do not substantially conform to a previously submitted ASRA general design plan pursuant to the requirements of • 158.083 may be considered to be incomplete, not officially filed, and not subject to city review procedures.
(Ord. 09-21, passed 7-27-09)

• 158.077 ASRA APPLICATION.

The applicant shall officially file, in accordance with • 158.076(C), an application for ASRA approval with the Planning and Zoning Department and shall make payment to the city in an amount equal to the established filing fee applicable to the ASRA application for the proposed development. The application shall contain an original and copies of all application materials as required on the checklist on file at the time of application with the Planning and Zoning Department in a quantity specified by the Planning and Zoning Department.
(Ord. 09-21, passed 7-27-09)

• 158.078 PLANNING COMMISSION PUBLIC HEARING AND NOTICE.

The Planning Commission shall hold a public hearing on an officially filed ASRA application within 45 days after the application's official filing date. Before holding such public hearing, notice of the hearing shall be given in accordance with • 158.175(G). Notwithstanding • 158.175(H), notice shall also be provided by first class mail at least 15 days prior to the date of the hearing, and such notice shall be deemed given on the date of mailing. Mailed notices shall be provided to all owners of property within 500 feet from the exterior boundaries of the area associated with the proposed ASRA or ASRA modification. The city, at its discretion, may provide notice by other alternative means such as hand delivery, newspaper publication, electronic media and/or any other forms of notice utilized in lieu of mailed notice to owners outside of the 500-foot boundary. The notice shall set forth the time and place of the public hearing and the nature of the proposed development. The failure to deliver the notice as provided in this section, so long as it is not intentional, shall not invalidate the public hearing or any decision on the application.

(A) *Planning Commission review and recommendation of ASRA application.* After an ASRA application has been determined to be officially filed in accordance with • 158.076(C), the Planning Commission shall review and study the application and any accompanying materials. In the course of its study, the Commission may confer with other agencies of government, request additional information or clarification from the applicant, and request additional study and comments from the Planning and Zoning Department staff. Planning Commission shall, by resolution, recommend to the City Council that the request for administrative site plan review approval be approved as presented, or approved with supplementary conditions or modifications, or disapproved. The Commission shall then transmit to the City Council all papers constituting the record and the resolution containing the Commission's recommendation. If the Commission recommends approval with supplementary conditions, such conditions shall be fully expressed in the recommendation resolution. If the Planning Commission determines, in order to conduct a sufficient review and make its recommendation, that additional information is required from the applicant or additional study is required, the Commission may table consideration of the application until such additional information is received by the Commission or the Commission's study is complete.

(B) *Criteria for Planning Commission recommendation.* Before making a recommendation for approval or approval with supplementary conditions or modifications, as per division (A) of this section, the Planning Commission shall find that the facts submitted with the application and presented at the public hearing, and any modifications, amendments or supplementary conditions, satisfy the standards and criteria for ASRA approval as per • 158.080.
(Ord. 09-21, passed 7-27-09)

• 158.079 CITY COUNCIL PUBLIC HEARING AND ACTION.

(A) *Public hearing guidelines.* Within 45 days after the receipt of the Planning Commission recommendation, the Clerk of the City Council shall set a date for a public hearing, notify the applicant of the date of the hearing, and such hearing, unless the applicant requests additional time,

notwithstanding • 158.175(J), shall be held as soon as reasonably possible thereafter. The public hearing shall be for the purposes of taking administrative action on the proposed ASRA application. Following the scheduled hearing the City Council shall, by motion, either approve, approve with supplementary conditions, or disapprove the proposed ASRA application. Approval of such motion requires a vote of at least four members of the Council. If the Council approves the ASRA application with supplementary conditions, the motion for approval shall fully set forth such conditions and be fully recorded in the meeting minutes. As the basis for City Council approval of an ASRA application, with or without supplementary conditions, Council shall find that the facts submitted with the application and any accompanying materials, and any modifications, amendments or supplementary conditions satisfy the ASRA standards and criteria as per • 158.080. If the standards and criteria of • 158.080 are not satisfied, Council shall disapprove the ASRA application and shall make findings of fact indicating which particular standards and criteria are not satisfied. If the City Council determines in order to conduct a sufficient review and make its decision that additional information is required from the applicant or additional study is required, the Council may table consideration of the application until such additional information is received by the Council or the Council's study is complete.

(B) *Notice of City Council public hearing.* Before holding the public hearing specified in • 158.079, notice shall be provided in accordance with • 158.175(J). Notwithstanding • 158.175(K), notice shall also be provided by first class mail at least 15 days prior to the date of the hearing, and such notice shall be deemed given on the date of mailing. Mailed notices shall be provided to all owners of property within 500 feet from exterior boundaries of the area associated with the proposed ASRA or ASRA modification. The city, at its discretion, may provide notice by other alternative means such as hand delivery, newspaper, electronic media and/or any other forms of notice utilized in lieu of mail notice to owners outside of the 500-foot boundary. The notice shall set forth the time and place of the public hearing and the nature of the proposed detailed site plan. The failure to deliver the notice as provided in this section, so long as it is not intentional, shall not invalidate the public hearing or any decision on the application.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.080 STANDARDS AND CRITERIA FOR ASRA APPROVAL.

An ASRA application shall only be approved when the following standards and criteria are satisfied:

(A) *Compliance with Zoning Code.* The development of the ASRA site complies with the purpose and intent of this Zoning Code;

(B) *Promotes health, safety and general welfare.* The proposed development of the ASRA site promotes the health, safety and general welfare of the present and future inhabitants of the city;

(C) *Detailed site plan complies with general design plan.* If applicable, the ASRA detailed site plan complies with the substantial conformance requirements of • 158.083;

(D) *Traffic safety and separation of users.* The proposed development minimizes conflicts between vehicular, pedestrian and bicycle circulation patterns and movement;

(E) *Adequate accessibility to public thoroughfares.* The site will be accessible from current or planned public thoroughfares adequate to carry traffic which will be imposed upon them by the proposed development;

(F) *Existing public services and facilities impact mitigation.* Potential impacts on public services and facilities can be mitigated by site and building design and the benefits which will accrue to the city and the public;

(G) *Adequate public facilities available.* Existing and proposed utility services for the proposed residential population densities and nonresidential uses are or will be available to the project;

(H) *General design practices.* The buildings, circulation, open space, landscaping and other elements of an ASRA detailed site plan shall be arranged, planned and designed on the site to produce:

(1) Favorable relationships with the existing natural topography, bodies of water or water courses, existing desirable vegetation, exposure to significant views and exposure to sunlight and wind;

(2) Safety, convenience and ease of pedestrian and vehicular movement on, about and throughout the site and between the site and the community;

(3) An overall positive visual quality throughout, into and from the development site;

(4) An efficient, functionally organized and cohesive development; and

(5) All areas designed for future expansion or not intended for immediate improvements or development shall be landscaped or otherwise maintained in a neat and orderly manner.

(I) *Appropriate easements and acceptance of dedicated land.* The proposed development contains such covenants, easements, and other such forms of property rights and control as may reasonably be required for the maintenance and care of common, private facilities and for the public health, safety and welfare. If governmental ownership of common open space, recreational facilities, or other common facilities is planned, proper arrangements have been made for acceptance of such ownership.
(Ord. 09-21, passed 7-27-09)

• 158.081 EXPIRATION OF ASRA DETAILED SITE PLAN APPROVAL.

Unless an extended approval period is granted in accordance with • 158.082, approval or approval with supplementary conditions of any ASRA detailed site plan shall expire if, in the judgment and determination of the city, the actual start of construction has not begun in the approved area of the respective ASRA detailed site plan within two years from the effective date of City Council approval of the respective ASRA detailed site plan. In the event of expiration of an approved ASRA detailed site plan, the applicant shall start afresh, submit an ASRA application in accordance with •• 158.075(A) through 158.077, and the application shall proceed through the review and approval process as per

•• 158.078 through 158.079(A). All ASRA site plans approved prior to the passage of this section shall not expire for five years from the date of approval.
(Ord. 09-21, passed 7-27-09)

• 158.082 EXTENSION OF ASRA DETAILED SITE PLAN APPROVAL PERIOD.

Upon request by the applicant or agent, a one-time only, administrative extension of the two-year approval period for an ASRA detailed site plan may be granted by the City Council for an additional one year. Within 45 days from the Planning Director's receipt of the owner's written request the Director shall forward the owner's request and the Director's comments and recommendation to the City Council. Within 45 days after City Council receives the request and the Planning Director's comments and recommendation, the Council shall take administrative action upon the request. City Council shall, by motion and administrative action, either deny the request for extension, approve the request for extension as submitted, or approve the request for extension for a lesser period of time than requested by the owner. Any extension of approval period for an ASRA detailed site plan shall become effective and begin to run on the date of City Council approval of such extension.

(A) *Information included in request.* The written request shall include:

(1) The necessity for the extension, submission of documentation and evidence that the owner has made a reasonable effort to begin the actual start of construction.

(2) The reason(s) why construction has not actually started to date and will not start prior to expiration of the detailed site plan.

(3) The requested length of time to extend the detailed site plan approval period, not to exceed one year.

(4) A description of the impact and major effects upon the full project and any approved ASRA general design plan if the requested extension is not approved.

(5) A description of the major effects upon the full project and the approved ASRA general design plan if the requested extension is approved, including changes in phasing or staging plans.

(6) A revised time schedule for the area of the detailed site plan and, showing the dates when construction will actually start for the area of the detailed site plan, and if applicable, the remaining or undeveloped areas of the complete and full approved ASRA general design plan property.

(B) *Approval criteria.* Council shall approve an extended approval period for a detailed site plan only when the following conditions are satisfied:

(1) The applicant or agent has submitted a written request for an extended approval period for the ASRA detailed site plan;

(2) If applicable, the subject property currently has an approved ASRA general design plan;

(3) The approval period for the ASRA detailed site plan has not been previously extended by City Council;

(4) The applicant or agent, in the judgment of the Council, has taken reasonable steps and made reasonable efforts to actually start construction;

(5) An extended approval period for the detailed site plan will not violate the purpose and intent of this Zoning Code;

(6) An extended approval period for the detailed site plan promotes the health, safety and general welfare of the present and future inhabitants of the city; and

(7) The period of extension for the ASRA detailed site plan does not exceed one year, and the applicant or agent shall be granted no more than one, one-year extension period.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.083 ASRA DETAILED SITE PLAN CONFORMANCE WITH APPROVED ASRA GENERAL DESIGN PLAN.

(A) *Conformance required.* If applicable, an officially filed ASRA detailed site plan shall substantially conform to and with any previously city approved ASRA general design plan, schedules and development information for the same ASRA property or site, or substantially conform to and with the general design plan, schedules and development information submitted simultaneously with the ASRA detailed site plan for the same ASRA property or site.

(1) If the Planning Director or the Planning Commission determines that the officially filed ASRA detailed site plan does not substantially conform, the applicant may either:

(a) Modify the detailed site plan to the extent necessary for substantial conformance and resubmit for review, or

(b) Start afresh and submit a new ASRA detailed site plan for review, or

(c) Apply for a modification to the ASRA general design plan previously approved by City Council.

(2) Notwithstanding • 158.075(B), a submitted ASRA detailed site plan shall not be considered officially filed if the Planning Director determines prior to Planning Commission review that the submitted ASRA detailed site plan does not adhere to this substantial conformance requirement.

(B) *Planning Commission's discretion of conformance.* At the discretion of the Planning Commission, a submitted ASRA detailed site plan that contains modifications to the ASRA general

design plan and ASRA plans, concepts, schedules and development information as approved by City Council, may be determined to substantially conform.

(C) *Exceeding imposed limitations.* In no event shall an ASRA detailed site plan be determined to substantially conform if the detailed site plan involves changes which result in exceeding any limitation or any maximum amount imposed by City Council in its approval of the ASRA general design plan for the subject ASRA property or site.
(Ord. 09-21, passed 7-27-09)

• 158.084 MODIFICATIONS TO APPROVED ASRA DETAILED SITE PLANS.

Requests to modify an approved ASRA detailed site plan, when such requested modification does not involve a change of permitted uses for the ASRA site or property, may be approved by administrative action. Requests to modify shall be in writing and signed by the property owner(s). The Planning Director shall determine the type and amount of any additional information necessary for consideration of the modification. Modifications shall be considered either major, minor or incidental, and shall be approved or disapproved by administrative action in accordance with divisions (A), (B), and (C) of this section.

(A) *Major modifications.* Major modifications are defined as modifications which do not change the permitted uses for the ASRA property or site and do not exceed any of the limitations and conditions of the ASRA approval, and which result in an increase of 5% or more in building coverage; a 5% or greater increase in dwelling unit density; a significant redesign of roadways, or drainage; major redesign of a building which significantly alters the central architectural design or theme of the building; or modifications not considered to be of minor or incidental character. Major modifications to an approved ASRA detailed site plan require resubmission of an ASRA application in accordance with •• 158.076 through 158.080. At its discretion and in lieu of compliance with • 158.077, the Planning Commission may require the applicant to either submit a modified application or submit supplementary materials to accompany the original ASRA application materials. In all cases major modifications to approved ASRA detailed site plans shall be subject to review and approval procedures in accordance with •• 158.078 through 158.080.

(B) *Minor modifications.* Minor modifications are defined as modifications which do not change the permitted uses of the ASRA property or site and do not exceed any of the limitations and conditions of the ASRA approval, and which result in an increase of less than 5% in building coverage; an increase of less than 5% in dwelling unit density; changes not exceeding 25 feet in building location not affecting front yard setbacks from streets or setbacks from exterior property lines of the ASRA property or site; an increase of more than five feet in the height of a building or structure; minor redesign of a building such as significant alterations to exterior materials or colors, provided the redesign does not significantly alter the central architectural design or theme of the building; or changes not considered to be of major or incidental modification character. The Planning Commission shall, by motion, approve or disapprove minor modifications to approved ASRA detailed site plans. Such approval shall be based on a Commission determination that the modifications are not in conflict with the intent and character of the

approved ASRA detailed site plan and such modifications do not change the permitted uses for the specific ASRA property or site. Minor modifications do not require a public hearing and Planning Commission's decision shall be final.

(C) *Incidental modifications.* Incidental modifications are defined as modifications which do not change the permitted uses of the ASRA property or site and do not exceed any of the limitations and conditions of the ASRA approval, and which result in less building coverage due to decreasing the size of structures; a decrease in the number of structures; minor redesign of street layout, such as adjustments in a turning radius; minor redesign, such as a realignment, of pedestrian circulation facilities or parking or loading areas; changes in landscaping or screening materials that do not alter the intended function of the landscaping or screening; an increase of five feet or less in the height of a building or structure; minor revisions of building elevations such as realignment of major building entrances, or window replacement, or insignificant alterations to exterior building materials or colors, provided the revisions do not alter the central design or architectural theme of a building; or changes not considered to be of minor or major modification character. The Planning Director shall approve or disapprove incidental modifications to ASRA detailed site plans. Such approval shall be based on the Director's determination that the modifications are not in conflict with the intent and character of the approved ASRA detailed site plan and such modifications do not change the permitted uses for the specific ASRA property or site. In the alternative and at the discretion of the Planning Director, the Director may request that incidental modifications be approved by the Planning Commission.
(Ord. 09-21, passed 7-27-09)

GENERAL REGULATIONS

• 158.100 CONFORMANCE REQUIRED.

Except as provided in this subchapter, no building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or land be used:

(A) Except for a purpose permitted in the district in which the building or land is located;

(B) Except in conformance to the height, lot coverage, or bulk limits established herein for the district in which the building or use is located;

(C) Except in conformance to the yard and lot regulations of the district in which the building or use is located;

(D) Except in conformance to the off-street parking and off-street loading space regulations of the district in which the building or use is located; and/or

(E) Unless such building or structure is located on a lot as defined in this division and in no case shall there be more than one principal structure on a lot except as specifically provided in this subchapter. (Ord. 09-21, passed 7-27-09)

• 158.101 WIND ENERGY CONVERSION SYSTEMS.

(A) *Conditional use approval.* All ground-mounted wind energy conversion systems (WECS) in commercial PUD districts, including related structures, shall be reviewed by the Planning Commission through the conditional use approval process. All ground-mounted wind energy conversion systems (WECS) in straight zoning districts, including related structures, shall be reviewed by the Board of Zoning Appeals through the conditional use approval process. All roof-mounted wind energy conversion systems in a residential PUD district, or any straight zoning district, projecting more than 15 feet above the roof of the structure, shall be reviewed by the Board of Zoning Appeals through the conditional use approval process. All roof-mounted wind energy conversion systems in commercial PUDs, projecting more than 15 feet above the roof of the structure, shall be reviewed by the Planning Commission through the conditional use approval process.

(B) *Total tower height.* The height above grade of the fixed portion of the tower, excluding the turbine. Tower height shall be measured from the lowest adjacent grade, and shall include the height of the structure it is located on, if not ground-mounted.

(1) For parcels less than one acre, all WECS towers must be mounted to the roof of a structure and shall not project more than 15 feet above the roof of the structure unless otherwise approved by the Planning Commission or Board of Zoning Appeals as outlined in division (A) in this section.

(2) For parcels between one and five acres in size, ground-mounted tower height shall be no greater than 65 feet. If mounted to the roof of a structure the tower shall not project more than 15 feet above the roof of the structure unless otherwise approved by the Planning Commission or Board of Zoning Appeals as outlined in division (A) in this section.

(3) For parcels greater than five acres, ground-mounted tower height shall be no greater than 120 feet. If mounted to the roof of a structure the tower shall not project more than 15 feet above the roof of the structure unless otherwise approved by the Planning Commission or Board of Zoning Appeals as outlined in division (A) in this section.

(C) *Minimum setbacks.* At a minimum, any ground-mounted WECS shall be set back from any property line a distance equal to the maximum tower height of the system.

(D) *Prohibited placement.* No WECS may be located within any front or side yard.

(E) *Permit required.* An accessory structure permit must be approved by the Planning and Zoning Department prior to the installation of any WECS or related equipment.

(F) *Materials used.* Within all residential districts, because of electronic wave interference, the blades of WECS shall be constructed of wood, fiberglass or plastic.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.102 SOLAR ENERGY.

Solar panels, as defined in this section, shall be permitted, provided that the panels conform to the following provisions:

(A) *General provisions for panels visible from street.* Solar panels and related equipment mounted on roofs clearly visible from the street shall conform to the following:

(1) The collectors shall be generally mounted parallel with the roof pitch;

(2) The distance between the roof and the uppermost portion of the solar panels shall not exceed 18 inches; and

(3) Roof penetration shall be used to conceal supply/return heating/cooling water lines and/or electrical wiring from public visibility.

(B) *General provisions for panels not visible from street.* Solar panels and related equipment mounted on roofs not clearly visible from the street shall conform to the following:

(1) The collectors shall be generally mounted parallel with the roof pitch;

(2) The distance between the roof and uppermost portion of the collectors shall not exceed 24 inches; and

(3) Exposed supply/return heating/cooling lines shall be permitted provided:

(a) The covering insulation is colored to match that of the roof and wall surfaces to which they are attached; and

(b) Eave penetration is used for perpendicular descent of heating/cooling lines from the roof to the exterior building wall surfaces.

(C) *General provisions for all panels.*

(1) All mounting brackets and related structural supports extending more than three inches above the roof surface shall be covered in a manner architecturally compatible with the building to screen from public visibility and/or abutting properties.

(2) All solar equipment, except portions of the collectors that must be black or clear glass or plastic to allow light transmission or heat absorption, including mounting brackets and/or screening materials, shall match the abutting surface color.

(3) No portion of any roof-mounted solar equipment may extend above the ridge line or below the gutter line.

(D) *Ground mounted panels.* Ground-mounted panels shall conform to the following:

(1) The collectors and all related mechanical equipment shall be located in the side or rear yard only;

(2) Shall not exceed eight feet in height above the adjacent grade; and

(3) All related mechanical equipment, other than the actual photoelectric panels, shall be fully screened from the adjacent properties by fencing or a combination of evergreen and deciduous plantings.

(E) *Permit required.* An accessory structure permit must be approved by the Planning and Zoning Department prior to the installation of any solar panels or related equipment.

(F) *Rights to access.*

(1) *Purpose.* To establish the rights of those persons that have elected to use solar energy for heating/cooling their homes, heating their hot water supplies and/or heating their swimming pools.

(2) *Designation of solar access areas.* Hereafter, in new developments or sections of new developments that have been designated by the developer as being solar access areas, the property owners are required to consider the effects of the location of structures and trees on their property in relation to the property of those neighbors to the east, north and west of them to insure that the structures and trees do not block the neighbors' houses from direct access to the sun's energy.

(3) *Determination of field of view.* For purposes of determining the location of the field of view of the house, it can be assumed that the area to be provided access to the sun's energy is an area located in elevation ten feet above the normal ground level, hereafter referred to as "the plane," 40 feet from the front property line, 50 feet from the rear property line and ten feet from the side property lines for lots 100 to 140 feet wide or a width not to exceed plus 50 feet from a point midway between the side property lines for lots in excess of 140 feet wide.

(4) *Obstruction of sunlight.* Incidental sunlight shall not be obstructed in the field of view defined in division (3) of this section more than 10% between the hours of 9:00 a.m. to 3:00 p.m. during the month of December.
(Ord. 09-21, passed 7-27-09)

• 158.103 LOTS ADJOINING ALLEYS.

For the purpose of applying lot area requirements of this Zoning Code, one-half the width of any alley abutting the lot shall be considered as part of such lot.
(Ord. 09-21, passed 7-27-09)

• 158.104 ACCESSORY BUILDINGS, STRUCTURES, APPURTENANCES AND CARPORTS WITHIN RESIDENTIAL AND COMMERCIAL DISTRICTS.

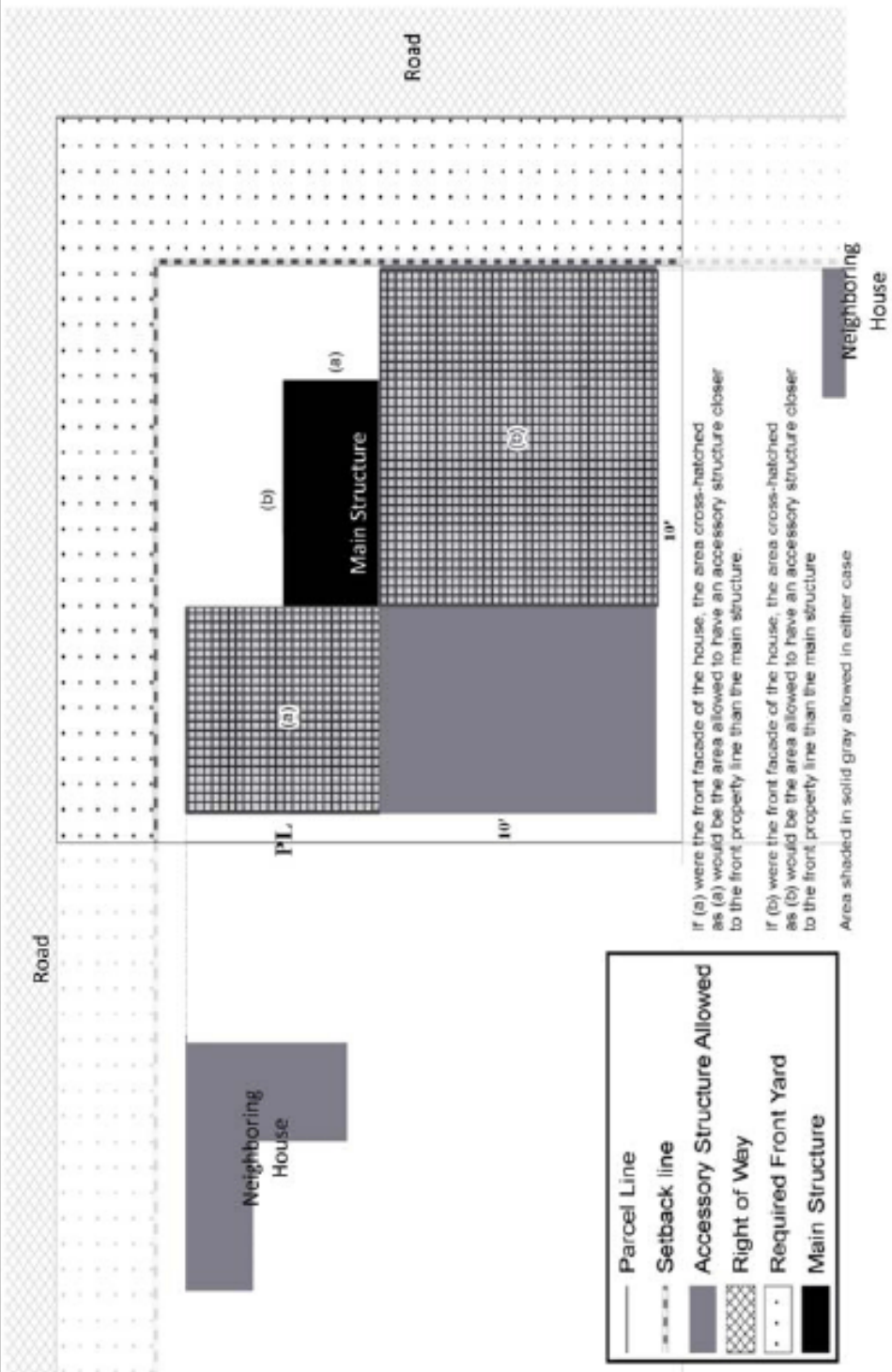
(A) *Not permitted in front yard or side yards.* In any residential district, except as provided under divisions (B), (F), (G) and (H) of this section, no structure or appurtenances other than a fence shall be erected within the front yard or side yard. In no event shall any detached accessory structure be located nearer than ten feet from side and rear property lines.

(B) *Exceptions.*

(1) Detached garages may not be located nearer the front property line than the principal dwelling and shall not be located within the required side yard, as defined in the district in which the property is located. All other accessory structures shall be located completely to the rear of the principal structure. In no event shall any detached accessory structure be located nearer than ten feet from side and rear property lines. When access to a garage is from an alley, such garage shall be located not less than ten feet from an alley.

(2) In the case of a corner, double or multiple frontage lot, an accessory structure may be allowed in the yard opposite the front façade (i.e. main entrance) of the principal structure provided that said structure does not encroach into the required front or required side yard and is no closer to the front property line than the closest adjacent neighboring home. If the adjacent neighboring home to said structure is set back further than the required setback, the accessory structure may not extend closer to the front property line than the principal structure. This exception shall be applied at the discretion of the Planning and Zoning Department. See Figure 1.

Figure 1


Road
Road
Neighboring House
Neighboring House
PL
10'
10'
(a)
(b)
(a)
(b)
Main Structure
Parcel Line
Setback line
Accessory Structure Allowed
Right of Way
Required Front Yard
Main Structure
If (a) were the front facade of the house, the area cross-hatched as (a) would be the area allowed to have an accessory structure closer to the front property line than the main structure.
If (b) were the front facade of the house, the area cross-hatched as (b) would be the area allowed to have an accessory structure closer to the front property line than the main structure
Area shaded in solid gray allowed in either case

(C) *Requirement of a principal structure.* A zoning permit for an accessory structure may be issued only where the lot or parcel on which the accessory building is proposed to be placed or constructed contains an existing principal structure or if a principal structure is under construction on the lot or parcel.

(D) *Building height regulations.* A detached accessory building or structure shall not exceed 16 feet in height, as measured from the adjacent grade to the peak of the roof. See also • 158.003 Definitions - ***HEIGHT, ACCESSORY BUILDING***.

(E) *Maximum size.*

(1) Residential districts.

(a) Within any residential district where the footprint of the principal structure is less than 1,200 square feet, the sum of the footprint of all accessory buildings shall not exceed 600 square feet. In the case where the footprint of the principal structure is greater than 1,200 square feet, the sum of the footprint of all accessory buildings shall not exceed 50% of the footprint of the principal structure, or 900 square feet, whichever is less.

(b) In cases where the lot size is one acre or greater, the sum of the footprint of all accessory buildings shall not exceed 50% of the footprint of the principal structure, or 900 square feet, whichever is greater.

(2) Within any commercial district, excluding I-1 and I-2 districts, there shall be no more than one accessory building, which shall not have a footprint greater than 100 square feet.

(F) *Breezeways.* If an accessory structure is attached to a principal structure by a breezeway, it shall not be considered part of the principal structure, unless said breezeway meets all of the following criteria:

(1) The accessory structure and the principal structure are no more than 15 feet apart.

(2) The breezeway and the accessory structure are constructed of building materials and color consistent with the principal structure.

(3) The breezeway and the accessory structure are designed, in terms of height and roof pitch, consistent with the principal structure.

(4) If the structure does not meet the above criteria, it shall not be considered part of the principal structure, and must meet all setbacks and size requirements of accessory structures.

(5) Breezeways that are longer than 15 feet, or are not architecturally compatible with the principal structure, shall be considered an accessory structure, and will be counted toward maximum accessory structure square footage.

(G) *Carports*.

(1) Carports which are permanently affixed to the principal structure shall be located in the rear or side yards, but outside of the required rear or required side yards.

(2) Carports which are not permanently affixed to the principal structure shall be located in the rear yard only, and the square footage of such carport is to be considered as, and counted toward, allowed accessory structure square footage and shall be located on the property in accordance with this division.

(3) Carports must be constructed of a rigid material. Carports attached to the existing principal structure must be architecturally compatible with said principal structure.

(H) *Propane tanks.* A maximum of two propane tanks may be permitted within the side yards in any residential district. Said tanks shall not exceed five feet in height and the capacity shall not exceed 24 gallons each. Said tanks must be completely screened from view from both the adjacent roadway and from the adjoining property to the side. Screening may be accomplished through the use of either landscaping materials or fencing. One 48 gallon tank, not to exceed five feet in height, may be permitted in the side yard in lieu of two 24 gallon tanks. Said tank must be completely screened from view from both the adjacent roadway and from the adjoining property to the side. Tanks between 48 and 1,000 gallons shall only be permitted in the rear yard of any residential or commercial district and shall be placed outside the required side and rear yard setbacks for accessory structures. Said tanks must be completely screened from view from both the adjacent roadway (in the case of corner lots) and from the adjoining property to the side and rear. Screening may be accomplished through the use of either opaque evergreen landscaping materials or fencing. No lot shall contain more than a combined 1,000 gallons of propane unless approved by the Board of Zoning Appeals.

(I) *Prohibited accessory structures.* Quonset huts, steel arch buildings, inflatable garages, and portable garages, temporary garages, portable carports, temporary carports, portable containers, converted storage or shipping containers, and semi tractor trailers used for storage (with or without wheels) except as in • 158.112(D), are prohibited accessory structures in residential and commercial districts. All carports shall be prohibited in commercial districts.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-02, passed 2-13-12)

• 158.105 ACCESSORY FENCES, WALLS AND PLANTINGS.

(A) *Fences and walls in side and rear yards.* Fences or walls constructed within a side or rear yard shall not be higher than six feet except as provided in this section. Tennis court fences are permitted to a maximum height of ten feet around the tennis court.

(B) *Structural supporting members.* All horizontal structural supporting members for fences shall be on the interior side of the fence. For solid wood or vinyl fences, the supporting members shall not

be visible from adjacent properties or public streets, except shadowbox fencing where both sides shall be considered the interior side of the fence.

(C) *Height of hedges, fences and walls in required front yards.* No fence, wall or hedge shall rise over 42 inches in height within any required front yard. In the case where the principal structure falls within the required front yard, fences up to six feet high shall be permitted in the required front yard as long as said fence is no closer to the public right-of-way than the principal structure.

(D) *Front yard setback and visibility requirements.* Fences, walls or hedges shall be prohibited:

(1) Closer than 12 feet from the back of curb;

(2) Closer than 25 feet from the center line of streets without curbs and gutters;

(3) Within a public right-of-way;

(4) Closer than 25 feet from the intersection of any existing or future right-of-way; and/or

(5) Which interfere with visibility from driveways or at intersections.

(E) *Decorative fences.* No permit shall be required for decorative fences. Decorative fences shall adhere to the height and location regulations for fences in the district in which they are located. See also • 158.003 Definitions - ***FENCE, DECORATIVE.***

(F) *Security fences.* Security fences up to eight feet high are permitted in business and industrial districts.

(G) *Prohibited fences.* Chain link fencing, cyclone fencing or similar appurtenances shall be prohibited in the front yard. Electric fences, barbed wire fences, snow fences or other temporary fences shall not be permitted within residential districts. Except for the use as backing of a split-rail fence, wire mesh fencing, chicken wire fencing and welded wire fencing shall not be permitted within residential districts.
(Ord. 09-21, passed 7-27-09; Am. Ord. 12-02, passed 2-13-12)

• 158.106 REMOVAL OF SOIL, SAND, GRAVEL OR STONE FROM A LOT.

(A) *Temporary conditional use approval required.* The removal or extraction, storage and processing of soil, sand, gravel or stone from any lot shall only be conducted in accordance with the requirements of this section and is permitted only in those districts where such use is specifically listed as a conditional use. The temporary conditional use request may be denied or approved in appropriate cases after the filing of an application accompanied by an agreement secured by a bond, with the terms and amount of such agreement and bond acceptable to the city. Such agreement and bond shall assure

that such removal will not result in poor drainage or leave the surface of the land, at the expiration of such permit, in an unstable condition, or unfit for the growing of turf or for other land uses permitted in the district in which such removal occurs.

(B) *Extraction and processing of sand, gravel, stone, or subsoils.* All mineral extraction and processing operations shall be in accordance with the following provisions:

(1) *Extraction less than six feet in depth adjacent to residential districts.* Extraction involving the removal of any material to a depth not exceeding six feet may be conducted up to 100 feet from a residential district, provided the operation is conducted over a temporary period not to exceed 12 months and operation of equipment is limited to the extraction process between the hours of 7:00 a.m. and 7:00 p.m. Temporary operational roads shall not be closer than 200 feet to a residential district.

(2) *Setback from existing residential districts or uses.* Extraction which exceeds six feet in depth and processing activities shall not be conducted closer than 500 feet from any residential district so zoned prior to the issuance of conditional use approval, nor closer than 200 feet from any structure used for human occupancy within any district.

(3) *Setback from subsequently created residential districts.* Permitted uses shall not be located closer than 500 feet from any residential district except in cases when residential districts are so zoned after the construction of the plant and in these cases no new building or structure to support the extraction and processing function may be located closer than 200 feet from any residential dwelling.

(4) *Removal of unused buildings or structures.* Buildings and structures for which no future use is contemplated and for which no other acceptable use is practicable or feasible shall be demolished and removed upon the expiration of conditional use approval.

(5) *Required map for application.* At the time of application for a temporary permit for extraction purposes the applicant shall file with the Planning Commission a detailed map drawn in standard engineering scale at one inch equals 200 feet, which clearly shows areas to be excavated and the location of adjacent properties, roads, and natural features.

(6) *Erosion control plan required.* The applicant shall submit an erosion control plan. Such plan shall comply with the requirements of the Runoff Control and Sediment Abatement Ordinance.

(7) *Information on water table required.* The applicant shall submit information on the anticipated depth of excavations and on the depth of and the probable effect on the existing water table. The operator shall provide proof that the source of community water supply shall not be adversely affected due to lowering the water table or contaminating the supply before the conditional use approval is granted. If the processing function causes the water table to drop and prevents an adequate supply of water to the homes in the area or causes existing wells to become contaminated, the owner and/or the operator of the extraction process shall be responsible for the cost of drilling new wells or for providing a source of water to the homes deprived of water.

(8) *Restoration plan required.* The applicant shall also file with the Planning Commission a detailed plan drawn in standard engineering scale at one inch equals 200 feet, for the restoration of the areas to be excavated which includes the anticipated future use of the restored land, the proposed final topography indicated by contour lines of no greater interval than five feet. The following shall apply and be incorporated in the restoration plan:

(a) All earthen banks shall be left with a slope no greater than two feet horizontal to one foot vertical, all rock banks may be left at a one to one slope.

(b) The type and number per acre of trees, the type of ground cover to be planted, and the growing medium shall be determined in consultation with the Planning and Zoning Department.

(c) The location of future roads, drives, drainage courses, or other improvements or changes contemplated shall be shown as determined in consultation with the City Engineer and approved by the Planning and Zoning Department.

(d) The applicant and/or operator shall be required to restore areas within 500 feet of a residential district within a period of one year from the date of completion of the extraction operations.

(9) *Bond required for restoration plan.* The operator is required to file a bond in such form and with such surety as may be acceptable to the city, payable to the city and conditioned on the faithful performance of all requirements contained in the approved restoration plan. The bond amount shall be determined by the type and extent of restoration required, excluding that portion already required and bonded by the state. The bond shall be released upon written certification of the Planning and Zoning Department that the restoration is complete and in compliance with the restoration plan.

(C) *Removal or excavation of topsoil.* Removal or excavation of topsoil to a depth of not more than three feet shall be permitted as a conditional use only in those districts where such conditional use is specifically permitted and shall be in accordance with the following provisions:

(1) *Removal or excavation of topsoil adjacent to residential districts or uses.* Removal or excavation of topsoil shall not be conducted closer than 100 feet to a residential district. Excavation operations within 500 feet of a residential district shall be completed within one year after the commencement of operations.

(2) *Accessory buildings or structures.* Accessory buildings and structures shall not be constructed within 500 feet of any residential district or any structure used for human occupancy within any other district.

(3) *Required map for application.* At the time of application to the Planning Commission for temporary conditional use approval for removal of topsoil, the applicant shall submit a detailed map drawn in standard engineering scale at one inch equals 200 feet, which clearly shows areas where topsoil will be removed, the location of adjacent properties, roads, and natural features.

(4) *Erosion control plan required.* The applicant shall submit an erosion control plan. Such plan shall comply with the requirements of the Runoff Control and Sediment Abatement Ordinance.

(5) *Information on water table required.* Information on the anticipated depth of excavations and on depth and probable effect on the existing water table shall be submitted as part of the conditional use application. The applicant shall provide proof that the water table will not be affected, due to lowering the water table or contaminating the supply before permission for removal of topsoil is given. If the removal of topsoil causes the water table to drop and prevents an adequate supply of water to the homes in the area or if existing wells are contaminated the owner and/or operator of the removal operation shall be responsible for the cost of drilling new wells or for providing a source of water to the homes deprived of safe drinking water.

(6) *Restoration plan required.* The applicant shall also file with the Planning Commission, a detailed plan drawn in standard engineering scale at 1 inch equals 200 feet, for the restoration of areas where topsoil will be removed. The plan will include the anticipated future use of the restored land, the proposed final topography indicated by contour lines of no greater intervals than five feet. The following shall apply and be incorporated in the restoration plan:

(a) If ponds of water are created by the removal of the topsoil, the plan shall show how the water will be drained off to the nearest stream.

(b) All earthen banks shall be left with a slope no greater than two feet horizontal to one foot vertical. All rock banks may be left one to one slope.

(c) The type and number per acre of trees, the type of ground cover to be planted, and the growing medium shall be determined in consultation with the City Engineer and approved by the Planning and Zoning Department.

(7) *Time period for restoration.* The applicant and/or operator shall be required to restore areas within 100 feet of a residential district within a period of one year from the date of completion of the extraction operations.

(8) *Bond required for restoration plan.* The operator is required to file a bond in such form and with such surety as may be acceptable to the city, payable to the city and conditioned on the faithful performance of all requirements contained in the approved restoration plan. The bond amount shall be determined by the type and extent of restoration required, excluding that portion already required and bonded by the state. The bond shall be released upon written certification of the Planning and Zoning Department that the restoration is complete and in compliance with the restoration plan.
(Ord. 09-21, passed 7-27-09)

• 158.107 ESSENTIAL SERVICES.

Essential services shall be allowed in any district insofar as permitted, authorized or regulated by law or other ordinance.
(Ord. 09-21, passed 7-27-09)

• 158.108 EXTERNAL EFFECTS.

No land, building or structure in any district shall be used or occupied in any manner so as to negatively affect the health, safety and welfare of the citizens of the city.
(Ord. 09-21, passed 7-27-09)

• 158.109 OUTDOOR STORAGE AND WASTE DISPOSAL.

Every use shall be operated in accordance with the following provisions:

(A) *Flammable or explosive substances.* No highly flammable or explosive liquids, solids or gasses shall be stored in bulk above ground, except in an industrial district. In an industrial district, storage of such materials shall be prohibited within 1,000 feet of a residential district. Tanks or drums of fuel directly connected with heating devices or appliances located on the same lot as the tanks or drums of fuel are excluded from this provision. In addition fuel products stored for use on farms are excluded from the provision.

(B) *Screening required.* All outdoor storage facilities for fuel, raw materials and products shall be enclosed by a fence, wall or planting to conceal such facilities from adjacent residential districts or uses. Tanks or drums of fuel directly connected with heating devices or appliances located on the same lot as the heating devices are excluded from this provision. Screening shall be provided per • 158.135 Landscaping, Screening and Buffering.

(C) *Securing of materials or wastes required.* No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by wind, flood or natural causes or forces.

(D) *Closed containers required.* All materials or wastes which might cause fumes, dust or which constitute a fire hazard or which may be edible or attractive to rodents or insects must be stored only in closed containers constructed of impervious material.

(E) *Discharge of wastes.* No discharge at any point into any public sewer, private storage disposal system or stream or into or onto the ground of any materials of such nature or temperature as can contaminate any water supply, interfere with bacterial processes in sewage treatment, or otherwise cause the emission of dangerous or offensive elements shall be permitted. All nonresidential sewer customers shall be in conformance with the requirements of the local Publicly Owned Treatment Works Pretreatment Program.

(F) *Burial or disposal of wastes.* At no time shall private or public property be used for the disposal by abandonment, burial, burning, or other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, toxic waste and/or nontoxic wastes of any kind.
(Ord. 09-21, passed 7-27-09)

• 158.110 PROJECTIONS INTO REQUIRED YARDS.

(A) *Projection into required yard.* Chimneys, flues, sills, pilasters, cornices, eaves, gutters, down spouts, windows, and other similar features may project into a required yard a maximum of 24 inches.

(B) *Front and rear yards.* Unenclosed porches, patios, roofed or unroofed decks and steps may project from the dwelling into the required front and rear yard a maximum of ten feet.

(C) *Nonconforming lot of record.* No structure may project into a required side yard except that, where a single lot under one ownership existed in a residential district at the time of passage of this resolution, and such lot is of insufficient width to meet the side yard requirements of this Zoning Code, the Board of Zoning Appeals may grant a minimum variance to permit the construction of a one-family residence.
(Ord. 09-21, passed 7-27-09; Am. Ord. 12-02, passed 2-13-12)

• 158.111 EXCEPTIONS TO HEIGHT LIMITATIONS.

(A) *Non-occupied appurtenances.* The height limitations contained in the specific schedule of district regulations do not apply to spires, belfries, cupolas, antennae, water tanks, ventilators, chimneys or other appurtenances, excluding wireless telecommunication and WECS facilities, and not intended for human occupancy except where the height of such structures will constitute a hazard to the safe landing

and take-off of aircraft at an established airport. Exceptions to height limitations shall not exceed 90 feet, unless approved by the Board of Zoning Appeals, or as further provided elsewhere in this code.

(B) *Ham or amateur radio towers.* Towers located on parcels less than five acres in total area shall not exceed 65 feet in height, whether ground mounted or mounted to a residential structure. On parcels five acres or larger in total area, said Ham radio towers shall not exceed 90 feet in height, whether ground mounted or mounted to a residential or accessory structure.

(1) Any guy wire anchor supporting the tower must be located on the same property as the tower. The anchor must be set back a minimum of ten feet from any property line, and shall not be located in the front yard.

(2) The horizontal antenna, typically on the top of the tower, must be set back a minimum of ten feet from any property line.
(Ord. 09-21, passed 7-27-09)

• 158.112 TEMPORARY USES.

In any district, subject to the conditions stated below, the Planning and Zoning Department may issue a permit for the following temporary uses:

(A) *Construction.*

(1) Temporary building or yard for the development of commercial or residential properties used as a construction office, or storage of material or equipment, provided such use is adjacent to the construction site and removed when construction is completed. Each permit shall be valid for six months and may be renewed if construction is underway and shall be removed when construction is completed or discontinued for more than 30 days, and shall not contain signage.

(2) Location subject to Planning and Zoning Department approval. Temporary building and yard location shall be subject to such conditions and safeguards as the Planning and Zoning Department may deem necessary to preserve the character of the surrounding area.

(B) *Real estate sales.* Temporary office incidental and necessary to real estate sales and rentals. Each permit shall be valid for one year and may be renewed for one additional year if conditions warrant such renewal.

(C) *Gatherings under canvas or in open.* Included in these regulations are religious services, show meetings, exhibitions, bazaars, carnivals, festivals or circuses. If such events are to be located within 400 feet of any residential area, no permit will be issued unless there is first filed with the Planning and Zoning Department the written consent of the owners of at least 60% of all residentially used property within 400 feet from the place of such meeting. The permit shall indicate the specific use and extent of

time covered by the permit. *Exception.* Tents or awnings used for a period of five days or less are not required to obtain a permit.

(D) *Temporary storage units.* Temporary storage units for a homeowner, business or other entity may be placed on a paved driveway or parking lot as follows:

(1) For properties located in residential and agricultural districts, a maximum of one temporary storage unit shall be permitted at any given time for each parcel, for a maximum of 30 consecutive days, not to exceed 60 days per calendar year.

(2) For properties located in commercial and industrial districts, a maximum of one temporary storage unit at a given time for each store or tenant, for a maximum of 45 consecutive days, not to exceed 90 days per calendar year. No person or entity shall obtain more than two such permits in any calendar year. (Ord. 09-21, passed 7-27-09)

• 158.113 OFF-STREET LOADING REGULATIONS.

On the same premises with every building or structure or part thereof, erected and occupied for commerce, industry, public assembly or other uses involving the receipt or distribution by vehicles of materials or merchandise, there shall be provided and permanently maintained adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets or alleys in conformance with the following:

(A) *General provisions.*

(1) *Screening.* Whenever a loading dock is located adjacent to or across a street or alley from a residential district it shall be effectively screened on all sides which adjoin or face any property used or zoned for residential purposes, by an acceptably designed wall, fence and/or planting and mounding screen, the design of which shall be reviewed and approved by the Planning and Zoning Department prior to the release of the zoning permit. Any fence or wall shall be not less than four feet nor more than eight feet in height and shall be maintained in good condition. If landscaping is used, the materials must be evergreen (coniferous), so as to provide year-round screening. The space between such fence, wall or planting screen and the parcel line of the adjoining premises in any residential district shall be landscaped with grass, hardy shrubs or evergreen ground cover and maintained in good condition. Required landscaping and screening shall be subject to the provisions set forth in • 158.135, Landscaping, Screening and Buffering.

(2) *Entrances and exits.* Off-street loading spaces shall be provided with entrances and exits not less than 12 feet in width and so located as to minimize traffic congestion.

(3) *Dimensions.* Each off-street loading space shall be not less than 12 feet in width, 50 feet in length and 15-foot height clearance, exclusive of access drives.

(4) *Projection into yards.* Off-street loading space may only be located in any side or rear yard space, and shall not occupy any front yard.

(B) *Number of loading spaces required.* The minimum number of off-street loading spaces shall be provided according to the table below. An area adequate for maneuvering, ingress and egress shall be provided in addition to required loading space.

Number of Loading Spaces Required	
Square Feet of Gross Floor Area	Required No. of Spaces
Up to 50,000	1
50,001 to 150,000	2
Each additional 50,000 over 150,000	1 additional loading space (5 spaces total max)

(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.114 OFF-STREET PARKING REGULATIONS.

(A) *Establishment of standards.* It is in the interest of the public health, safety and welfare of the City of Beavercreek to minimize the vehicle-related impacts of development, both on and off site, and to design off-street parking areas in such a manner consistent with good engineering and site design practices. Therefore it is necessary to establish standards regulating off-street parking. Off-street parking and loading are necessary for the public safety and convenience and for the economic viability of the residential and business community within the city. Every land use shall be provided with off-street parking to accommodate motor vehicles of residents, employees, visitors or customers of a land use at the time any building is erected or modified, or at the time that any land use is extended or changed.

(B) *Off-street parking required.*

(1) No building shall be erected or altered unless adequate off-street parking space or spaces together with means of ingress or egress for the needs of tenants, personnel and patrons are provided.

(2) No Certificate of Use Compliance shall be issued for any new or altered building, until adequate parking is provided for the proposed use, at the discretion of the Planning Director, or his or her designee.

(C) *Parking plan required.* A parking plan shall be submitted with any application involving the construction, expansion, or elimination of any off-street parking space. All parking plans shall be subject

to review by the Planning and Zoning Department prior to approval of such applications. Parking plans shall show, as necessary, the following:

(1) Boundaries of the property;

(2) Parking, loading, and/or drive-through spaces;

(3) Access driveways and circulation pattern;

(4) All structures on the premises;

(5) Drainage facilities;

(6) Landscaping and screening shall be as specified in • 158.135 ;

(7) Storm drainage, utility and/or access easements;

(8) On-site water supply and wastewater disposal system;

(9) Fire lanes and access points; and

(10) Any other information necessary to determine compliance with this section.

(D) *Minimum parking space and driveway aisle dimensions.* The following minimum dimensions shall apply to all parking spaces and driveway aisles approved by the city after the effective date of this section as amended:

(1) *Handicap spaces.* Pursuant to R.C. • 4511.69, any parking area to be used by the general public shall provide parking spaces designed and located to adequately accommodate disabled persons and those parking spaces shall be marked as such. The standards for such parking with regard to number, design, location, marking and signage shall be in accordance with the Americans with Disabilities Act Accessibility Guidelines (ADAAG), published in the Federal Register, Vol. 56, No. 144, July 26, 1991, or as revised.

(2) *Standard width and length.* Parking spaces for retail or similar stores where packages are customarily placed in cars and parking spaces located adjacent to building areas and characterized by short duration and high turnover shall not be less than ten feet in width and 20 feet in length, to be measured from center of the line which designates the parking space.

(3) *Reduced width permitted.* Parking spaces for employees and spaces located at a distance of at least 200 feet from the front of the building and characterized by medium-to-low use may have a minimum width of nine feet and a minimum length of 20 feet, to be measured from the center of the line which designates the parking space.

(4) *Overhang permitted.* Any parking space adjoining a landscaped area of the parking lot may include a two-foot overhang into the landscaped area as part of the required 20-foot length, provided curbing is used.

(5) *Driveway aisles.* Driveway aisles shall have the following dimensions, at a minimum:

0° Parking (parallel) and 30° parking		60° Parking	
One-way	12 feet	One-way	18 feet
Two-way	25 feet	Two-way	25 feet
45° Parking		90° Parking	
One-way	13 feet	One-way	25 feet
Two-way	25 feet	Two-way	25 feet

(E) *Reduction or change in existing parking area.* Any area once designated as required off-street parking shall never be changed to any other use unless and until equal facilities are provided elsewhere. Off-street parking existing at the effective date of this section in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.

(F) *Special provisions for collective and off-site parking areas.* The following special provisions shall be applicable to all collective and off-site parking areas serving nonresidential uses:

(1) The total requirement for off-site parking facilities for properties containing a mixture of different uses or for parking areas shared by two or more buildings shall be the sum of the requirements for the various uses computed separately.

(2) The Planning and Zoning Department may authorize a reduction in the total number of required parking spaces for two or more nonresidential uses jointly providing off-site parking when their respective hours of operation do not normally overlap. Reduction of joint use parking shall be subject to the following conditions:

(a) No more than 50% of the parking spaces required for a building or use may be supplied by parking facilities required for any other building or use.

(b) The applicant shall submit data to indicate that there are no substantial conflicts in the principal operating hours of the uses proposed, to make joint use of the parking facilities.

(c) The property owner(s) involved in the joint use of off-site parking facilities shall submit a legal agreement approved by the City Law Director guaranteeing the parking spaces shall be

maintained so long as the use requiring parking is in existence or unless the required parking is provide elsewhere in accordance with the provisions in this section. Such instrument shall be recorded by the property owner in the office if the Greene County Auditor and a copy filed with the city.

(G) *Other uses within required parking areas.* No motor vehicle repair work or service, shall be permitted in or associated with any off-street parking area, except for emergency repairs, occasional auto washing, and minor routine maintenance of vehicles owned by the occupant of the premises. Display, sales, or storage of any merchandise within any required parking area shall not be permitted unless otherwise specifically provided within this Zoning Code. Display of vehicles for sale in conjunction with the operation of an automobile or truck sales facility is permitted, provided sufficient off-street parking for such use is provided per • 158.114 (S)(7).

(H) *Access to public or private streets.* All parking lots shall be designed in such manner that any vehicle entering or exiting the parking lot via a public or private street shall be traveling in a forward motion. Access roads or driveways for parking areas shall be located in such a way that any vehicle entering or leaving such lot shall be clearly visible for a reasonable distance to any pedestrian or motorist approaching the access road or driveway from a public or private street. Access roads shall have a minimum width as specified in the City of Beavercreek Subdivision Regulations or City of Beavercreek Construction Standards. Parking areas having more than one access road shall have directional signs or markings in each aisle or driveway. City Council, Planning Commission or the Board of Zoning Appeals may require the owner to provide acceleration and/or deceleration lanes where traffic volumes indicate the need.

(I) *Curb required for interior access lanes.* All access lanes within a parking lot that serve two or more driveway aisles shall have a barrier curb meeting the City of Beavercreek Construction Standards and City of Beavercreek Subdivision Regulations.

(J) *Required surfacing.* All parking lots shall be constructed of a minimum four-inch compacted stone base and covered with at least one and one-half inches of asphaltic concrete or some other comparable all-weather dustless material approved by the Planning and Zoning Department.

(K) *Marking required.* All parking spaces and driveway aisles shall be marked with all-weather paint. White paint shall be used to mark the edges of parking stalls, and yellow paint shall be used to mark the centerline of any drive aisle. Such markings shall be maintained in a clearly visible condition and be in accordance with the approved parking plan.

(L) *Permanent perimeter and landscape barriers required.* Concrete barrier curb, meeting the City of Beavercreek Construction Standards, shall be provided for all boundaries of the parking lot and landscaped areas within the lot itself, to prevent encroachment of vehicles into non-parking or landscaped areas. Extruded curb shall not be permitted within the city.

(M) *Exterior lighting.* Lighting in parking areas shall comply with • 158.136, Standards for Exterior Lighting.

(N) *Drainage.* All parking areas shall provide for drainage of surface water in accordance with the Runoff Control and Sediment Abatement Ordinance. Parking spaces may be located within drainage easements subject to approval by the Planning and Zoning Department.

(O) *Landscaping and screening.* See • 158.135, Landscaping, Screening and Buffering.

(P) *Sidewalk overhang.* Where a parking space abuts a sidewalk or walkway, a minimum of four feet of clear walking space shall be maintained for pedestrians. Such four feet of clear walking space shall be provided by either constructing a six-foot sidewalk, or constructing a four-foot sidewalk and installing parking or bumper blocks in all parking spaces abutting the sidewalk.

(Q) *Maintenance of off-street parking areas.* All off-street parking areas shall be well maintained, free of potholes, broken curb, debris and weeds, clearly striped, and with all lighting in working condition, pursuant to the provisions of the sections within this chapter and of the City of Beavercreek's Property Maintenance Code.

(R) *Reduction of nonresidential parking requirements.* In order to prevent the establishment of a greater number of parking spaces than is actually required to serve the needs of nonresidential uses, a conditional reduction of required parking may be permitted. The authority to grant this reduction rests with the City Council and/or Planning Commission.

(S) *Number of parking spaces required.* The following minimum number of parking spaces shall be provided on the same lot as the use or building they are intended to serve, or may be provided on adjacent lots subject to other provisions of this section.

(1) For the purposes of this section, employees on the largest shift means the maximum number of employees which could be employed at a facility during a given shift, regardless of the time period during which this occurs and regardless of whether any such person is a full-time or part-time employee, including a reasonable estimate for the overlap of employees between shifts.

(2) When determination of the number of off-street parking spaces required by this section results in a fractional space, a fraction of less than one-half may be disregarded, while a fraction of equal to or greater than one-half shall be counted as one parking space.

(3) As permitted within the definition of floor area for the purpose of computing parking requirements, floor area shall be that area 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, hallways, stairway and elevator shafts, or for utilities or sanitary facilities, shall be excluded from this computation. Measurements of useable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

(4) *Residential and institutional.*

Type of Use	***Parking Spaces Required***
One-family dwelling	Two spaces
Two-family dwelling	Two spaces for each unit
Multiple-family dwelling	Two spaces for each unit, plus one space for each employee, plus one space for each five units
Apartment hotel	Three spaces for each two units, plus one space for each employee
Assisted Living Facilities	One space for every four units plus one space for each employee
Hospital	Two spaces for each three beds, plus one space for each full-time employee on the largest shift
Hotel or motel	One space for each guest room, plus one space per 20 rooms (to accommodate hotel staff), plus one space per 250 square feet of public meeting area and/or restaurant space
Senior Housing Facility	Two spaces for each three units, plus one space for each employee on the largest shift, plus one space for each vehicle used for the complex which is maintained on the premises
Mobile or manufactured home	Two spaces for each mobile or manufactured home
Nursing or convalescent home or similar use	One space for each two beds, plus one space for each employee on the largest shift
Golf course	Five spaces for each hole, plus one space for each employee on the largest shift, plus one space for each four seats within an accessory restaurant
Library, museum, or art gallery	One space for each 400 square feet of floor area, plus one space for each employee on the largest shift
Private club, lodge, or similar use	One space for each three persons capacity, plus one space for each employee on the largest shift
Tennis facility, racquetball facility or similar use	Two spaces for each court, plus one space for each employee on the largest shift

(5) *Schools and Places of Religious Assembly.*

Type of Use	***Parking Spaces Required***
Business, technical, trade school, college, or university	One space for each two student classroom seats, plus one space for each employee on the largest shift
Place of religious assembly	One space for each three seats in the principal assembly area plus one space for each vehicle owned by the place of religious assembly
Nursery school or day care center (animal, children and/or adult day care)	One space for each five persons or animals under supervised care, plus one space for each employee on the largest shift, plus one space for each vehicle owned by the nursery school or day care center
Elementary or junior high school	Two spaces for each classroom or one space for every eight seats in auditoriums or assembly halls, whichever is greater
High school	One space for each three seats of the largest assembly area, or a total of one space for every six students, one space for every teacher, plus one space for every other employee; whichever is greater

(6) *Recreational.*

Type of Use	***Parking Spaces Required***
Auditorium, sport arena, theater, or similar use	One parking space for each four persons allowed by the fire code up to 1,000 seats, plus one parking space for each three persons allowed by the fire code over 1,000 seats, plus one space for each employee on the largest shift
Bowling alley	Five spaces for each alley or lane plus one additional space for each four seats within an accessory restaurant
Dance hall, skating rink	One space for each three persons capacity
Swimming pool, recreation club	Two spaces for each three member families, or one for each five persons capacity, whichever is greater

(7) *Commercial.*

Type of Use	***Parking Spaces Required***
Vehicle service station	One space for each 100 square feet floor area, plus one space for each employee on the largest shift
Vehicle repair station	One space for each 500 square feet of floor area, plus one space for each employee on the largest shift, plus one space for each vehicle used in the business and kept on the premises
Vehicle paint and body shop	One space for each 100 square feet of floor area, plus one space for each accessory service bay, plus one space for each employee on the largest shift, plus one for each vehicle used in the business and kept on the premises
New and used automobile dealership	One parking space for each 200 square feet of floor area in the principal display room, plus one space for each 1500 square feet of outdoor display area, plus one space for each employee on the largest shift
Automobile washing facility	One space for each employee on the largest shift
Bank services	One space for each 250 square feet of floor area, plus one space for each employee on the largest shift
Barber or beauty shop	Three spaces for each barber or beauty chair
Contractor	One space for each employee on the largest shift, plus one adequately sized space for each vehicle and machine used in the business and kept on the premises
Funeral parlor, mortuary, or similar use	One space for each 50 square feet of floor area in slumber rooms, parlors, or service rooms, plus one space for each vehicle used in the businesses and kept on the premises
Grocery store or specialty food store	One space for each 250 square feet of floor area, plus one space for each employee on the largest shift
Health club	One space for each 200 square feet of floor area
Laundromat	One space for each 200 square feet of floor area

Type of Use	***Parking Spaces Required***
Restaurant, bar, tavern or nightclub	One space for each 100 square feet of indoor floor area, plus one space for each employee on the largest shift, plus one space for each 200 square feet of outdoor dining area
Retail store solely for the sale of furniture, large appliances, or similar large items	One space for each 800 square feet of floor area, plus one space for each employee on the largest shift
Retail stores not specified elsewhere such as consumer electronic stores, book stores, video stores or other stores with similar small items	One space for each 250 square feet of gross floor area
Warehouse store, building material store, motorcycle sales, or similar store for large items	One space for each 800 square feet of floor display area, plus one space for each employee on the largest shift

(8) *Office*.

Type of Use	***Parking Spaces Required***
Medical, dental, or veterinary office or clinic	Three spaces for every examination or treatment room, plus one space for each employee on the largest shift
Office/manufacturing combination	One space for each 300 square feet of office floor area, plus two spaces for each three employees on the largest shift within the manufacturing floor area portion
Professional and/or administrative office	One space for each 300 square feet of floor area, or one space for each employee, whichever is greater, plus one space for each vehicle used in the business and kept on the premises
Real estate, insurance, legal, finance or similar type of office	One space for each 200 square feet of floor area plus one space for each employee on the largest shift

(9) *Industrial*.

Type of Use	***Parking Spaces Required***
Manufacturing plant, warehouse, parcel delivery, freight terminal or similar use	Two spaces for each three employees on the largest shift for which the building is designed, plus one for each motor vehicle used in the business and maintained on the premises

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(10) *Uses not specifically mentioned.* The requirements for off-street parking facilities shall be in accord with a use which City Council, Planning Commission or the Board of Zoning Appeals considers as being similar in type.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-02, passed 2-13-12)

• 158.115 DROP-OFF CONTAINERS FOR SECONDHAND ARTICLES.

(A) *Intent*. Unless regulated, second-hand drop-off containers are a site for the accumulation of junk, rags, and other articles within and outside the container and unless regulated, second-hand drop-off containers and the accumulation of articles outside the container may impede pedestrian and vehicular traffic.

(B) *General provisions.* Any receptacle or box used to collect second-hand articles shall conform to the following provisions:

(1) There shall be a maximum of eight approved containers permitted in the City of Beavercreek at any given time.

(2) The Planning and Zoning Department shall approve all such containers and the applicant shall provide all requested information in order for approval to be considered.

(3) No articles shall be permitted to accumulate outside of the container.

(4) The container must not block any public road or sidewalk.

(5) The container must not block an access way, drive-aisle, and/or required parking spaces. The Planning and Zoning Department shall determine the required number of parking spaces.

(6) No flammable or hazardous materials or perishable items shall be placed or kept in containers.

(7) The container must not impede motorists' line-of-sight and must be located near the front façade of the building away from the street.

(8) The container shall be no larger than 150 cubic feet.

(9) The container shall be anchored to the ground or designed in such a manner that movement cannot easily occur.

(10) The container and the immediate surrounding area shall be kept clean and free from trash and debris, and must be emptied on a regular schedule to prevent overflow.

(11) The container must be kept free of rust.

(12) The container shall be equipped with a lid and/or door that will automatically close after the articles are deposited.

(13) The owner of the container shall be identified on the container along with applicable contact information, a pick-up schedule and a list of items to be collected.

(14) Containers must be located at least 2500 feet apart throughout the city.

(15) An accessory structure permit is required to be reviewed and approved by the Planning and Zoning Department prior to the placement of any container within the city.
(Ord. 09-21, passed 7-27-09)

• 158.116 CONVERSION OF DWELLING TO MORE UNITS.

A residence may not be converted to accommodate an increased number of dwelling units unless:

(A) *Appropriate zoning requirement.* The district is zoned for two-family or multi-family use as applicable.

(B) *Appropriate yard dimension requirement.* The yard dimensions still meet the yard dimensions required by new structures in that district.

(C) *Appropriate lot area requirement.* The lot area per family equals the lot area requirements for new structures in that district.

(D) *Appropriate floor area requirement.* The floor area per dwelling unit is not reduced to less than that which is required for new construction in that district.

(E) *General compliance requirement.* The conversion is in compliance with all other relevant codes and ordinances.
(Ord. 09-21, passed 7-27-09)

• 158.117 SEPTIC TANKS OR WELLS.

Any residential construction utilizing wells and/or septic tanks shall be situated on a lot having a minimum area not less than one acre. The Greene County Combined Health District may require a larger minimum lot size for sanitary purposes.
(Ord. 09-21, passed 7-27-09)

• 158.118 USE, PARKING AND STORAGE OF VEHICLES AND RECREATIONAL VEHICLES.

(A) *Agricultural uses.* This section does not apply to those parcels classified as "Agricultural" under "class" by the Greene County Auditor's Office.

(B) *Commercial, construction and industrial vehicles and equipment.* The overnight parking or storage outside a fully enclosed building of any commercial vehicle is prohibited within any residentially zoned districts or on any lot used for residential purposes. Commercial vehicles include step up vans, heavy trucks, semi trailers, truck tractors, tractor trailers, moving vans, delivery trucks, box trucks, dump trucks, tow trucks, wreckers, buses, school buses, cranes, draglines, earthmovers, bulldozers, backhoes, trenchers or similar vehicles. The term also applies to any commercial vehicles which are used or licensed as a recreational vehicle and any vehicles used as a platform to hoist cranes, compressors, tank(s), ladder trucks, or similar equipments or as a means of transporting or storing a commercial vehicle.

(C) *Recreational vehicles.* All recreational vehicles stored or parked within the city, other than those districts in which the commercial storage of recreational vehicles is permitted, shall be in accordance with the following regulations:

(1) No recreational vehicle shall be used for living or sleeping when parked or stored on a residential lot.

(2) No more than two recreational vehicles are permitted to be located on a lot outside of a fully enclosed building.

(3) Recreational vehicles parked or stored shall not be connected to any utilities other than for maintenance purposes.

(4) All recreational vehicles, visiting or otherwise, shall be wholly parked in a parking area or driveway of Portland cement concrete, bituminous/asphalt concrete or continuous brick paver surface and in a manner so as to not obstruct the view of traffic.

(D) *Yard parking.*

(1) No person shall park or leave unattended, or cause to leave parked or unattended, any vehicle wholly or partially within any yard of any residential or commercial property unless such vehicle is wholly within a driveway or parking area.

(2) Driveways and/or parking areas must be constructed of an improved surface and shall be maintained in a good state of repair. All driveways and/or parking areas must be constructed by using standard engineering practices for the purposes of accommodating vehicular parking, ingress and egress to the property. Existing driveways and/or parking areas of gravel or similar materials constructed prior to July 25, 2005 may be maintained as a gravel driveway so long as the area of the driveway and/or

parking area is not expanded. If any part of the driveway and/or parking area is expanded, the full driveway and/or parking area shall be constructed of an improved surface and shall be maintained in a good state of repair.

(3) Driveways or combination of driveways and parking areas shall not occupy over 35% of the total front yard, as defined in • 158.003, Definitions.

(4) In the event that frequent trips through any yard created an unpaved driveway, evidenced by the creation of a drive path, the activity must cease and the lawn repaired, or said area must be paved in compliance with this section.

(5) This section does not apply during times of emergency due to acts of nature, as determined by the City Manager; to accommodate vehicles of persons visiting a home for not more than 72 hours; during the time that a resident is moving in or out of a residence.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-02, passed 2-13-12)

• 158.119 DRIVE-THRU SERVICE ESTABLISHMENTS.

(A) *Stacking of vehicles required for specific establishments.* Establishments that by their nature create periodic lining up of customers in automobiles waiting to be served shall provide off-street areas for these waiting customers. These include but are not limited to such activities as:

Vehicle gasoline pumps
Drive-in banks
Drive-thru and Restaurants' drive-thru lanes
Drive-in retail outlets
Drive-in service and repair drop stations for such items as clothing, appliances, equipment, and the like
Automatic auto washes

(B) *Spaces required.* Those establishments that can normally serve their customers in three minutes or less shall provide at least five off-street waiting spaces from first drive-in point of service. An automatic vehicle wash shall provide at least ten off-street spaces. Where normal customer servicing time is greater than three minutes per car, additional spaces shall be provided on the basis of one additional space per additional minute of waiting time.
(Ord. 09-21, passed 7-27-09)

• 158.120 BARRIERS TO ENCROACHMENT BY VEHICLES.

Any lot used for parking, storage or display of vehicles for sale or rent, including boats, trailers, recreational vehicles or trucks, where such use is permitted to come within three feet of any property line separating the lot from any property held by any other ownership including public land, shall be

protected from encroachment by the installation of wheel stops, bumper guards or fencing so placed and erected as to prevent vehicles from projecting over the lines except at approved points of ingress and egress.
(Ord. 09-21, passed 7-27-09)

• 158.121 SWIMMING POOLS AND PONDS.

(A) *Private swimming pools.* No private swimming pool, excluding permanent or temporary swimming pools with a diameter less than 12 feet or with an area of less than 100 square feet, shall be allowed in any commercial or residential district, except as an accessory use 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 of the property on which it is located and their guests.

(2) It may not be located closer than ten feet to any property line including any pool apron and/or decking.

(3) Except as provided in • 158.121 (A)(5), the swimming pool shall be walled by a brick or solid block wall or permanently fenced to prevent uncontrolled access by children from the street or from adjacent properties. Any fence shall be six feet in height and any solid wall shall not be less than five feet and no greater than six feet in height and maintained in good condition with a gate and a lock which shall be engaged at any time of inactivity.

(a) On lots at least one acre in size, the required fence need not be taller than 42 inches, so long as the pool is at least 50 feet from the rear and side property lines, and is equipped with an automated cover capable of being locked and having a load capacity at least equal to that set forth in the "Standard performance specification for safety covers and labeling requirements for all covers for swimming pools, spas and hot tubs" published by the American Society for Testing and Materials (ASTM) International and designated as F 1346-91, or as modified which standard is incorporated herein by reference as if fully rewritten.

(b) On lots two acres or larger, there is no requirement for fencing, so long as the pool is at least 50 feet from the rear and side property lines, and is equipped with an automated cover capable of being locked and having a load capacity at least equal to that set forth in the "Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs" published by the ASTM International and designated as F 1346-91, or as modified which standard is incorporated herein by reference as if fully rewritten.

(c) Pool covers referenced in 3(a) and 3(b) must be kept locked when the pool is not in actual use or when it is unattended.

(4) Swimming pools shall not be located in any front yard except on double or triple frontage lots, excluding corner lots, where pools shall be permitted to the rear of the principal structure, outside of the required front yard. See Figure 1 from • 158.104 (B).

(5) Above ground pools.

(a) The top rim of an above ground pool, top of railing, or a deck surrounding the pool shall be no less than six feet above the highest point of the adjacent grade.

(b) The stairs leading up to the deck and pool shall be secured by a locked gate at the rim of the pool. Said gate shall be no less than six feet in height to the top of the gate, and shall have swing out/swing up stairs that shall be secured within the locked gate or removed and secured away from the pool, in a manner so as to prevent the use of the stairs whenever the pool is not being used.

(c) Where the principal access point to the above-ground pool is from an abutting deck that is attached to or is immediately adjacent to the principal dwelling unit, there shall be a minimum six-foot high solid fence barrier as measured from the adjacent grade that shall completely enclose the entire deck and pool in order to prevent access to the deck and pool from the adjacent yard except through a gate located in the six-foot high fence. Said six-foot high fence must also enclose any secondary access points from the yard to the deck as well as the pool by connecting said fence to the house.

(6) Approved pools shall not be filled with water until the required fence, deck or railing is installed in accordance with this chapter.

(B) *Community or club swimming pools.* Community and club swimming pools shall comply with the following conditions and requirements:

(1) The pool is intended solely for the enjoyment of the members and families and guests of members of the association or club under whose ownership or jurisdiction the pool is operated;

(2) The swimming pool and all of the areas used by bathers shall be walled or fenced to prevent uncontrolled access by children from the streets or adjacent properties. The fence or wall shall not be less than six feet in height and maintained in good condition with a lock and gate, which shall be engaged any time of inactivity.

(3) If the property upon which the pool is located is used for any other purpose other than open green space, and the property is adjacent to residential property, the owners of the property shall install and maintain screening as defined in • 158.135, Landscaping, Screening and Buffering.

(C) *Commercially operated swimming pools.* Commercial swimming pools shall comply with the requirements of divisions (B)(2) and (3) of this section.

(D) *Natural or man-made ponds.* Natural or man-made lakes, ponds, including those created for stormwater detention shall not be considered swimming pools under these provisions except for the following: Man made ponds, constructed after the passage of Ordinance 09-21 effective, August 26, 2009, excluding stormwater retention and detention ponds, with a diameter of 12 feet or more, or greater than 100 square feet of surface area, within a residentially zoned district, located on a parcel less than two acres. Such ponds shall adhere to the fencing requirements of this section and shall be set back at least 50 feet from any adjacent residentially zoned property.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-02, passed 2-13-12)

• 158.122 JUNK OR INOPERABLE VEHICLES IN RESIDENTIAL DISTRICTS.

(A) *General prohibition.* Except as expressly provided by law, no person shall deposit, store, maintain, collect or permit the deposit, storage, maintenance or collection of junk vehicle(s) on his or her premises or on any premises under his or her control unless such vehicle is stored out of ordinary public view by means of storage inside a completely enclosed building. A junk vehicle which is covered by a vehicle cover specifically designed to cover the vehicle(s) and parked under a covered carport is sufficiently screened for the purposes of this provision. See • 158.003 for definition of ***JUNK OR INOPERABLE VEHICLE.***

(B) *Exceptions to general prohibitions.*

(1) Businesses regulated by the provisions of • 158.123 (B) are exempt from this section.

(2) Routine maintenance of vehicle(s), such as oil changes, cleaning, changing a flat tire, minor rust repairs, and similar activities.

(C) Nothing within this section shall be construed as impairing the city's right to take appropriate action under any provision in R.C. Chapter 4513.
(Ord. 09-21, passed 7-27-09)

• 158.123 JUNK VEHICLES IN COMMERCIAL DISTRICTS.

(A) *General prohibitions.*

(1) No person, firm or corporation shall deposit, store, maintain, or collect or permit the deposit, storage, maintenance or collection of any junk vehicle(s) on his or her premises or on any premises under his or her control, or in any other place within the city, unless such vehicle(s) is located out of ordinary public view by means of storage inside a completely enclosed building, by solid opaque screening, or by other means acceptable to the city. Vehicle covers shall not constitute a means of compliance with this requirement.

(2) No person, firm or corporation shall park, store, keep or have outdoors on any property any vehicle(s) in the state of major disrepair, or in the process of being stripped or dismantled, unless such vehicle(s) is located out of ordinary public view by means of storage inside a completely enclosed building, by solid opaque screening, or by means acceptable to the city. Vehicle covers shall not constitute a means of compliance with this requirement.

(3) Except as may otherwise be permitted by other codes and regulations of the city, no person shall paint, or perform major vehicle repair or body work on any vehicle(s) unless such vehicle(s) is located out of ordinary public view, by means of storage inside a completely enclosed building, by solid opaque screening, or by other means acceptable to the city. Vehicle covers shall not constitute a means of compliance with this requirement.

(B) *Exceptions.* The provisions of this section shall not apply to:

(1) Authorized automotive paint and body shops, junk yards, and scrap metal processing facilities. Authorized automotive paint and body shops, junk yards and scrap metal processing facilities and automobile repair facilities shall be exempted from the requirements of this section insofar as vehicle(s), which would violate this section, are completely screened from public streets and adjoining property. Such screening shall consist of mounding, fence, wall and/or vegetation. Any screening shall be in accordance with the following requirements:

(a) Fences or walls shall be neatly constructed of opaque material and maintained to insure their opaqueness.

(b) Vegetation and/or mounding shall be designed and grown to an opaque state and maintained as such.

(c) Screening shall not be less than six feet in height above grade.

(d) Screening shall be maintained in a condition so as to insure its opaqueness.

(e) Screening shall not contain advertising.

(2) A business or businesses lawfully operating as auto repair stations, and similar businesses lawfully operating when the condition of a vehicle(s), which would otherwise constitute a violation of this section, is in the process of being remedied or will be remedied within a reasonable period of time not to exceed ten days.

(C) *Rights reserved.* Nothing within this section shall be construed as impairing the city's right to take appropriate action under any provision in R.C. Chapter 4513.
(Ord. 09-21, passed 7-27-09)

• 158.124 BEEKEEPING.

(A) *General provisions.* The keeping of honeybees in single family residential and agricultural areas is permitted under the following conditions:

(1) Beehives shall not be permitted on lots less than 7,500 square feet. No more than four hives shall be kept on lots between 7,500 and 15,000 square feet. Additional hives may be added on lots greater than 15,000 square feet, at the rate of one additional hive per 5,000 square feet. On larger lots, so long as all hives are situated at least 200 feet from any property line, there shall be no maximum number of hives.

(2) Hives shall not be located within 20 feet of any property line and must be located in the rear yard. Where a hive is situated within 50 feet of a property line, the beekeeper shall establish and maintain a flyway barrier, which must be six feet in height from adjacent grade, consisting of a solid wall, privacy fence, or dense shrubs, that is parallel to the property line so that all bees are forced to fly at an elevation of at least six feet above ground level over the property lines in the vicinity of the hive. Hives that are situated ten feet or more above the grade of the nearest property line is exempted from the required flyway. All hives shall be situated on the property so the front of the hive faces away from the nearest adjacent property.

(3) The owner/operator of the hive(s) must be a resident in a dwelling located on the same lot on which the hive(s) are registered and operated.

(B) *Colony registration required.* All colonies must be registered with the Ohio Department of Agriculture pursuant to ORC 909.02 and/or all applicable state and other governmental agencies. Each hive shall be marked with the owner’s approved apiary identification number, as assigned by the Ohio Department of Agriculture, clearly visible on the outside of the hive, without having to move or lift the hive.

(C) *Maintenance of colonies.* The maintenance of each colony shall meet the following

conditions:

(1) Colonies shall be maintained in movable frame hives;

(2) Adequate space shall be maintained in the hive to prevent overcrowding and swarming;

(3) Colonies shall be re-queened following any swarming or aggressive behavior. No Africanized Bees shall be intentionally introduced into the hives. Should Africanized Bees be found dwelling in any hive, the owner/operator shall take immediate action to eradicate the Africanized Bees as swiftly as possible.

(4) A convenient source of water shall be made available to the bees at all times and shall be located within 15 feet of all hives on the property. This will reduce their dependence on other water sources where they may interfere or have unnecessary contact with humans, birds or domestic pets.

(D) *Enforcement.* Enforcement of this provision shall commence immediately with all existing hives to be brought into conformance within 12 months of the date of this section. See also • 91.05, Harboring of Bees; Bee Removals.
(Ord. 09-21, passed 7-27-09)

• 158.125 NONCONFORMITIES.

(A) *Intent*. Within the districts established by this section or amendments that may later be adopted there exist lots, structures, and uses of land and structures which were lawful before this section was passed but which would be prohibited, regulated, or restricted under the terms of this section for future amendment. It is the intent of this section to permit these nonconformities to continue until they are removed, but not to encourage their continuance. Such uses are declared by this section to be incompatible with permitted uses in the districts involved. It is further the intent of this section that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except upon application to the Board of Zoning Appeals for approval of specific plans. Expansions of existing nonconforming uses, where allowed by the Board of Zoning Appeals, may be made only on property owned by the applicant as of the effective date of this section. A nonconforming use of a structure, nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this section by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved. To avoid undue hardship, nothing in this section shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this section and upon which actual building construction has been diligently carried out. Actual start of construction is hereby defined as either the first placement or permanent construction of a structure on a site, such as the pouring of slab footings or the installation of piles. The following shall not be construed as or be interpreted as constituting the actual start of construction: land preparation, such as clearing, grading and filling; the installation of streets and/or walkways; the excavation for a basement, footings, piers, foundations or the erection of temporary forms; the installation upon the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of a principal structure.

(B) *Nonconforming lots of record.*

(1) *Single nonconforming lots of record.* In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this section, notwithstanding limitations imposed by other provisions of this section. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Zoning Appeals.

(2) *Nonconforming lots of record in combination.* If two or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this section and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purpose of this section and no portion of the parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this section, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements stated in this section.

(C) *Nonconforming use of land.* Where, at the effective date of adoption of this section, lawful use of land exists that is made no longer permissible under the terms of this section as enacted or amended, such use may be continued, so long as it remains otherwise lawful and is not enlarged or increased nor extended beyond area designated nonconforming at the effective date of amendment of this section except as elsewhere provided and in accordance with the following provisions:

(1) Where the use of land involves a processing operation the operation may be continued in the entire area utilized thereby. Modifications in processing operations by rearrangement of facilities or changes in methods shall be considered as part of such use.

(2) If any such nonconforming use of land is voluntarily discontinued or abandoned for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this section for the district in which such land is located; and

(3) No additional structure not conforming to the requirements of this section shall be erected in connection with such nonconforming use of land.

(D) *Nonconforming structures.* Where a lawful structure exists at the effective date of this section or any amendment that could not be built under the terms of this section or amendment by reasons of restrictions on area, lot coverage, height, yards, its location on the lot, bulk, or other requirements concerning the structure, such structure may remain as long as it is otherwise lawful, subject to the following provisions:

(1) No such nonconforming structure may be enlarged or altered in any way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(a) If the cause of the nonconformity of a principle residential structure is that it is located within a required front yard, an addition to the principle structure may be constructed with a setback the same as or greater than the existing nonconforming principle structure, but may not be located any closer to the front lot line than the existing nonconforming principle structure.

(2) Should such nonconforming structure or nonconforming portion of structure be destroyed by any means, to an extent of more than 60% of the structure is destroyed, it shall not be reconstructed except in conformity with the provisions of this section (see • 158.172(H)(5)).

(3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(E) *Nonconforming uses of structures or structures and premises in combination.* If a lawful use involving individual structures, or of a structure and premises in any combination, exists at the effective date of this section or any amendment that would not be allowed, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a use not permitted by this section or amendment in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located, except as provided in • 158.172(H)(4).

(2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of enactment of this section or amendment, but no such use shall be extended to occupy any land outside such building;

(3) If no structural alterations are made, any nonconforming use of a structure or structure and premises may, upon submission of an application as a conditional use in accordance with • 158.171(C), be changed to another nonconforming use provided that the Planning Commission finds that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Planning Commission may require appropriate conditions and safeguards in accord with other provisions of this section;

(4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;

(5) When a nonconforming use of a structure or structure and premises in combination is voluntarily discontinued or abandoned for a period of more than one year (except when government action impedes access to the premises) the structure or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(6) When nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(F) *Repairs and maintenance.* On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content existing when it became nonconforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(G) *Uses under conditional use provision not nonconforming uses.* Any use which is permitted as a conditional use in a district under the terms of this chapter shall not be deemed a nonconforming use in such a district, but shall without further action be considered a conforming use.

(H) *Restoring buildings.* When a building or structure the use of which does not conform to the provisions of this section has been damaged by explosion, fire or act of God, to the extent of 60% or more of its reproduction value at the time of damage, it shall not be restored or reconstructed or in any way used except in conformity with the district regulations of the district in which the building is situated. The Board of Zoning Appeals may grant an exception under the provisions of • 158.172(H)(4).

(I) *Violations not rendered nonconforming.* A use, structure or lot in violation of the provisions of this Zoning Code subsequently amended shall not become nonconforming upon the adoption of an amendment, but shall continue as violations.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-02, passed 2-13-12)

• 158.126 RESERVED.

• 158.127 NURSERY SCHOOL/DAY CARE CENTER.

(A) *License required.* The nursery school/day care center shall secure a valid license from the Ohio Department of Human Services to operate such facility in the city.

(B) *Required outdoor play space.* The site shall have an outdoor play space which is located behind the required front yard setback, enclosed by a fence or wall a minimum of 42 inches high, and possess a minimum of 60 square feet for each child expected to use the play space at any one time.

(C) *Screening of play space.* Any part of the play space abutting an existing residential district or a parking lot shall be screened by a hedge or other screening at least four feet in height acceptable to the Planning Commission and/or City Council. Landscaping and screening shall be as specified in • 158.135, Landscaping, Screening and Buffering.

(D) *Agricultural and residential district locations.* Nursery schools and day care centers within agricultural and residential districts shall be accessory to a place of religious assembly located along a major street and have immediate access to such street without requiring traffic to pass through a residential neighborhood.

(E) *Maximum enrollment.* The Planning Commission may establish a maximum enrollment based upon neighborhood impact. In no instance may the maximum enrollment exceed the number allowed by the state-issued child day care license.
(Ord. 09-21, passed 7-27-09)

• 158.128 ADULT ENTERTAINMENT FACILITIES.

An adult entertainment facility is a conditional use within the B-4 Highway Business District. Conditional use shall not be authorized unless the following conditions and the provisions of • 158.171(C), at a minimum, shall be complied with:

(A) *Minimum setback from residential district.* No adult entertainment facility shall be established within 1,000 feet of any residential use.

(B) *Minimum setback from library and schools.* No adult entertainment facility shall be established within a radius of 2,000 feet from any school, library, or teaching facility, whether public or private, governmental or commercial, which school, library or teaching facility is attended by persons under 18 years of age.

(C) *Minimum setback from park or recreation facility.* No adult entertainment facility shall be established within a radius of 2,000 feet from any park or recreational facility.

(D) *Minimum setback from places of religious assembly.* No adult entertainment facility shall be established within a radius of 2,000 feet from any place of religious assembly which is attended by persons under 18 years of age.

(E) *Minimum setback from other adult entertainment facilities.* No adult entertainment facility shall be established within a radius of 2,000 feet of any other adult entertainment facility.

(F) *Prohibited public display.* No advertisements, displays or other promotional materials shall be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other public or semi-public areas.

(G) *Public view to be prevented.* All building openings, entries, windows, and the like for adult uses shall be located, covered, or serviced in such a manner as to prevent a view into the interior from any public or semi-public area, sidewalk or street. For new construction, the building shall be oriented so as to minimize any possibility of viewing the interior from public or semi-public areas.

(H) *External audio and visual impact.* No screens, loudspeakers or sound equipment shall be used for motion picture theaters (enclosed or drive-in) that can be seen or discerned by the public from public or semi-public areas.
(Ord. 09-21, passed 7-27-09)

• 158.129 FARMER'S MARKETS AND TEMPORARY SALES AT BUSINESS ESTABLISHMENTS.

(A) *Intent*. It is the intent of this section to permit and regulate two types of retail sales not conducted in permanent buildings or structures which are part of a business establishment, as follows:

(1) Farmer's markets.

(2) Temporary sales, conducted from within a tent, any other temporary structure, truck, trailer, or similar vehicle or structure.

(B) *Farmer's markets.*

(1) *Permit required.*

(a) A farmer's market may not be conducted without a permit having been issued for that particular sale by the Planning and Zoning Department. An application for a permit shall be made upon a standard form provided by the city and shall contain the information required in that form.

(b) The permit shall be displayed clearly so as to be easily visible from the nearest adjoining public street.

(2) *General requirements.* The following requirements shall apply to all farmer's markets:

(a) *Permitted uses.* Farmer's markets shall be deemed to be permitted uses within any business zoning district, but only to the extent the products or services sold fall within a use that is specifically permitted for the business zoning district in question under this Zoning Code. As a further restriction, farmer's markets shall be permitted only for seasonal, non-manufactured items typically sold out-of-doors.

(b) *Permitted sale period.* Farmer's markets permits shall be permitted to remain in operation anytime starting May 1st so long as it ends operation by September 30th in the same calendar year and the owner or operator has obtained a Farmer's Market permit.

(c) *Other permits required.* Any person or entity having a farmer's market, must obtain all state, county, health and other applicable permits, licenses, and vendor numbers for that specific use and location.

(d) *Setback and yard requirements.* Farmer's markets shall conform to the setback and yard requirements of the zoning district in which the site is located.

(e) *Signs.* Each farmer's market shall be permitted one sign not more than 24 square feet in area.

(f) *Traffic obstruction prohibited.* A farmer's market shall not obstruct or impede the movement of traffic within the established right-of-way, or obstruct or impede traffic movement on private property going to or from such public street.

(g) *Traffic pattern on the business lot.* The lanes of travel, turning radius, parking locations and other aspects of the traffic pattern on the business lot that will result from a farmer's market must conform to requirements applicable to other off-street parking lots.

(3) *Compliance with law.* Both the person holding the permit for a farmer's market and the owner of the business zoned lot will be responsible to the city for compliance by such sale with all applicable laws, ordinances and regulations, including but not limited to health code and property maintenance requirements. The application shall require the permit holder and the property owner to acknowledge such responsibility.

(4) *Required plot plan.* The permit applicant shall submit a plot plan for each proposed farmer's market location containing, at a minimum, the following information:

(a) The exact location of each building already existing on the business zoned lot, showing the number of feet involved in measurements of setbacks and in the distance from all property lines.

(b) Location of the area to be used for the farmer's market, and the number of feet involved as measurements of yard and setbacks from those locations and to the right-of-way and property lines from those locations.

(c) Size, type and location of the sign.

(d) Parking layout and internal traffic circulation pattern for the existing principal use on the lot and also for the outdoor sale and/or display.

(e) The plot plan shall be accurate, and shall be drawn to scale as required by the Planning and Zoning Department.

(5) *Fees*. A non-refundable fee in accordance with the approved fee schedule shall be paid by the applicant with the submission of an application for any farmer's market permit.

(6) *Exemption for special five day events.* The provisions of this section shall not apply to farmer's markets to the extent that:

(a) No part of any such special event, including the set-up and clean-up, extends for more than five consecutive days.

(b) No person or entity may hold more than two such special events in any calendar year, nor may any business zoned lot be used for such special events more than twice in any calendar year. Further, both the opening and closing days of any such special event must be separated by at least 90 days from any other such event conducted by the same person or entity within the city.

(C) *Temporary sales.*

(1) *Permit required.*

(a) Temporary sales may not be conducted without a permit having been issued for that particular sale by the Planning and Zoning Department. An application for a permit shall be made upon a standard form provided by the city and shall contain the information required in that form.

(b) Temporary sale permits shall be displayed clearly on part of the tent, vehicle or other enclosure and in such a manner as to be easily visible from the nearest adjoining public street.

(2) *General requirements.* The following requirements shall apply to all temporary sales:

(a) *Permitted uses.* Temporary sales shall be deemed to be permitted uses within any business zoning district, but only to the extent the products or services sold fall within a use that is specifically permitted for the business zoning district in question under this Zoning Code.

(b) *Permitted sale period.* Temporary sale permits shall be granted for a period not to exceed ten days. No person or entity may obtain more than two such permits in any calendar year.

(c) *Other permits required.* Any person or entity having a temporary sale must obtain all state, county, health and other applicable permits, licenses, and vendor numbers for that specific use and location.

(d) *Setback and yard requirements.* All temporary sales shall conform to the setback and yard requirements of the zoning district in which the site is located.

(e) *Signs*. Each temporary sale shall be permitted one sign not more than 24 square feet in total area.

(f) *Traffic obstruction prohibited.* Temporary sales shall not obstruct or impede the movement of traffic within the established right-of-way, or obstruct or impede traffic movement on private property going to or from such public street.

(g) *Traffic pattern on the business lot.* The lanes of travel, turning radius, parking locations and other aspects of the traffic pattern on the business lot that will result from temporary sales must conform to requirements applicable to other off-street parking lots.

(3) *Compliance with law.* Both the person holding the permit for a temporary sale and the owner of the business zoned lot will be responsible to the city for compliance by such sale with all applicable laws, ordinances and regulations, including but not limited to health code and property maintenance requirements. The application shall require the permit holder and the property owner to acknowledge such responsibility.

(4) *Required plot plan.* The permit applicant shall submit a plot plan for each proposed temporary sale location containing, at a minimum, the following information:

(a) The exact location of each building already existing on the business zoned lot, showing the number of feet involved in measurements of setbacks and in the distance from all property lines.

(b) Type and size of enclosure to be used for temporary sales, and the number of feet involved as measurements of yard and setbacks from those locations and to the right-of-way and property lines from those locations.

(c) Size, type and location of the sign.

(d) Parking layout and internal traffic circulation pattern for the existing principal use on the lot and also for the temporary sale.

(e) The plot plan shall be accurate, and shall be drawn to scale as required by the Planning and Zoning Department.

(5) *Fees*. A non-refundable fee in accordance with the approved fee schedule shall be paid by the applicant with the submission of an application for any temporary sale permit.

(6) *Exemption for special five day events.* The provisions of this section shall not apply to special temporary sales events to the extent that:

(a) No part of any such special event, including the set-up and clean-up, extends for more than five consecutive days.

(b) No person or entity may hold more than two such special events in any calendar year. Further, both the opening and closing days of any such special event must be separated by at least 90 days from any other such event conducted by the same person or entity within the city.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.130 WIRELESS TELECOMMUNICATION FACILITIES.

(A) *Intent*. The purpose and intent of the cellular, digital or wireless telecommunication regulations is to establish standards for the review and approval of antennae, towers, support structures and facilities for the following to:

(1) Accommodate the need for wireless telecommunication antennae, towers, support structures and facilities for the provision of wireless services while regulating their location and number in the city;

(2) Protect residential areas and avoid potential damage to adjacent properties from telecommunication antennae, towers, support structures and facility failure;

(3) Minimize the adverse visual effects of telecommunication antennae, towers, support structures and facilities; and

(4) Encourage the joint use of any new and existing telecommunication towers, support structures and facilities in order to minimize the number of such structures.

(B) *Regulations within A-1 and I-1 Districts.* Conditions for approval of wireless telecommunication facilities in an A-1 or I-1 District shall include, but not be limited to the following:

(1) Setbacks from property boundaries and abutting residential or commercial structures shall be at least 300 feet, unless otherwise established by the Board of Zoning Appeals.

(2) No tower may exceed 199 feet in total height.

(3) No tower may be located within 2,500 feet of an existing, approved, or proposed wireless telecommunication facility site.

(4) All towers shall be designed and constructed to accommodate the antennae of at least two additional wireless telecommunication providers.

(5) All wireless telecommunication towers shall be designed and constructed as monopole structures unless otherwise allowed by the Board of Zoning Appeals for aesthetic or technical reasons.

(6) No application for conditional use approval of a wireless telecommunication tower shall be approved unless and until the applicant has met the "Standards for Approval of Wireless Telecommunication Antennae, Towers and Sites", contained in division (F).

(7) No application for conditional use in the A-1 and I-1 Districts shall be approved for a parcel or lot that does not meet the minimum lot size requirements for the district in which it is to be located unless the antennae are located inside another structure and the support facilities are completely enclosed within a sound proof structure.

(C) *Regulations within C-PUD, MX-PUD and I-PUD Districts.*

(1) Applications for approval of wireless telecommunication facilities in C-PUD, MX-PUD and I-PUD Districts shall require specific site plan approval under • 158.066 of the Zoning Code.

(2) The maximum height of wireless telecommunication towers shall not exceed 199 feet.

(3) Wireless telecommunication towers must be located at least 2,500 feet from any existing, approved, or proposed tower location, unless otherwise approved by Planning Commission.

(4) Setbacks from property boundaries shall be at least 300 feet unless otherwise established by Planning Commission. The tower and facilities must be located at least 300 feet from the nearest residential structure or property line unless the facilities and antennae are located inside another structure or the facilities are camouflaged in a manner acceptable to the Planning Commission.

(5) All towers shall be designed and constructed to accommodate the antennae of at least two other providers.

(6) All wireless telecommunication towers shall be designed and constructed as monopole structures unless allowed by Planning Commission for aesthetic or technical reasons.

(7) No application for approval of a wireless telecommunication tower shall be approved unless and until the applicant has met the ■Standards for Approval of Antennae, Towers and Sites•, contained in division (F).

(D) *Regulations for facilities on publicly owned property and/or public rights-of-way.*

(1) Wireless telecommunication facilities may be permitted to be located as a conditional use on a publicly owned property in any zoning district upon approval by the Board of Zoning Appeals, subject to the following requirements and standards:

(a) The applicant shall submit a letter of preliminary agreement, signed by the authorizing official of the public body, stipulating that the public entity has approved, in principle, the location of the facility on its property, along with any pertinent terms and conditions that may effect the location and construction of such facilities.

(b) Whenever possible, the tower shall be concealed among trees to partially shield the facilities from view.

(c) The applicant shall make every effort possible to reduce visual impacts by camouflage, color, and other appropriate measures.

(d) All accessory building and structures shall be aesthetically and architecturally compatible with the surrounding environment and adjacent buildings and structures.

(e) No variance from height limitations is required. However, no tower may exceed 199 feet.

(f) The tower and facilities must be located at least 300 feet from the nearest residential structure or property line unless the facilities and antennae are located inside another structure or the facilities are camouflaged in a manner acceptable to the Board of Zoning Appeals.

(g) All towers shall be designed and constructed to accommodate the antennae of at least two additional providers.

(h) All wireless telecommunication towers shall be designed and constructed as monopole structures unless otherwise allowed by the Board of Zoning Appeals for aesthetic or technical reasons.

(i) No application for approval of a wireless telecommunication tower shall be approved unless and until the applicant has met the ■Standards for Approval of Antennae, Towers and Sites•, contained in division (F).

(E) *Regulations for facilities on existing tall structures.*

(1) Antennae of wireless telecommunication providers proposed for location on existing tall structures may be permitted in any zoning district upon submission of and approval of an application for zoning permit and building permit.

(2) Any wireless telecommunication antenna permitted on the roof of a building shall be set back one foot from the edge of the roof for each one foot in height of the wireless telecommunication facility. However, this setback requirement shall not apply to antennae that are less than two inches in thickness mounted to the sides of antenna support structures and do not protrude more than six inches from the side of such an antenna support structure. The tip height of antennae shall not extend more than ten feet above the top of the building or structure.

(3) Panel antennae may be located on the sides of tall structures so long as the panel does not extend above the top of the structure.

(F) *Standards for approval of antennae, towers, and sites.* The following standards shall apply to all wireless telecommunication antennae and towers.

(1) *Network plan.* The applicant shall be required to submit, along with all other required information, a map drawn to scale showing the wireless telecommunications provider's existing, approved and proposed facility sites within the corporate limits of Beavercreek and within 2,500 feet of the city boundaries.

(2) *Necessity of location.* The applicant shall be required to demonstrate, using the latest technological evidence, that the antenna and/or tower must be placed as proposed in order to satisfy a necessary function in the company's grid system.

(3) *Effort to co-locate.* Whenever feasible, the use of an existing, approved, or proposed tower, owned either by the applicant or another entity, shall be utilized. The applicant shall demonstrate by clear and convincing evidence that its antenna cannot be located on any other telecommunication tower or tall structure in the vicinity and that it has undertaken all reasonable means to avoid any undue negative impact caused by multiple towers within an area. The applicant must demonstrate that it has

contacted the owners of nearby telecommunication towers or tall structures, requested permission to install its antenna on those structures, and was denied permission. The city may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the antenna on existing structures.

(4) *Accommodation of city needs.* The applicant shall agree to make every reasonable effort to accommodate the telecommunication antennae of the local police, fire and other public agencies.

(5) *Agreement to shared use.* In the event of the construction of new facilities by the applicant, the applicant shall agree to the shared use of the tower and support structures by other cellular telecommunication companies where technologically feasible upon payment of reasonable fees, provided such shared use does not violate any state or federal law. Applicants are required to bear an equitable share of capital operating and other expenses in connection with such shared use.

(6) *Wireless telecommunication antenna and/or tower safety.* The applicant shall demonstrate that the proposed wireless telecommunication antenna and/or tower is safe and that the surrounding properties will not be negatively affected by tower failure, falling ice or other debris and must meet all Federal Communications Commission standards.

(7) *Color and appearance standards.* All wireless telecommunication facilities shall be designed or painted to portray a non-contrasting gray or similar color minimizing its visibility, unless otherwise required by the Federal Communications Commission or Federal Aviation Administration. All appurtenances shall be aesthetically and architecturally compatible with the surrounding environment by the means of camouflage deemed acceptable by the city.

(8) *Landscaping*. Landscaping shall be required in order to screen the support structure and any other ground level features. In general, landscaping should soften the appearance of the wireless telecommunication site. Existing vegetation on and around the site shall be preserved to the greatest extent possible. The city may permit a combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping.

(9) *Licensing*. The applicant must demonstrate to the city that it is licensed by the Federal Communications Commission.

(10) *Required parking.* If the wireless telecommunication site is fully automated, adequate parking shall be required for maintenance workers. If the site is not fully automated, the number of required parking spaces shall equal the number of employees working on the largest shift. All parking specifications and requirements shall be consistent with the applicable parking requirements as established in the Zoning Code.

(11) *Lighting/signage prohibited.* Unless required by the Federal Aviation Administration, no artificial lighting shall be permitted on any wireless telecommunication towers, antennae, equipment or

structures. No wireless telecommunication tower or antenna shall contain any signage containing a commercial, political or personal message.

(12) *Other*. Wireless telecommunication towers and antennae shall meet all Federal Aviation Administration regulations.

(13) *Identification.* Each facility shall be clearly identified by a two square foot sign listing the owner of the facility with service and emergency phone numbers.

(14) *Photo simulations required.* Photo simulations of the proposed wireless telecommunication facility from affected residential properties and public rights-of-way taken at designated locations shall be provided.

(15) *Fencing required.* Unless approved otherwise, the applicant shall be required to install a minimum six-foot fence around the base and enclosing all wireless telecommunication towers, antennae, equipment and/or structures.

(G) *Site plan requirements.* A full site plan is required for all applications for proposed wireless telecommunication antennae, towers or sites indicating the following:

(1) The total area of the site.

(2) The existing zoning of the subject property and of all adjacent properties, including existing structures and uses.

(3) All public and private right-of-way and easement lines located on or adjacent to the property which is proposed to be continued, created, relocated or abandoned.

(4) Existing topography with two-foot contour intervals.

(5) The proposed finish grade of development shown by contours not exceeding two-foot intervals.

(6) The proposed location of the wireless telecommunication tower, antenna and support structures, including guy wires, and dimensions, heights, and where applicable, the gross floor area of the buildings. Distance of the proposed tower from adjacent property lines and adjacent structures shall be shown on the drawing. All materials for buildings and structures shall be specified on the plan.

(7) The location and dimension of all curb cuts, driving lanes, off-street parking and loading areas, including the number of spaces, grades, surfacing materials, drainage plans and illumination.

(8) All existing and proposed sidewalks and open area.

(9) The location of proposed fences, screening and walls.

(10) Landscape plan.

(11) The location of all existing and proposed streets.

(12) All existing and proposed utilities, including types and grades.

(13) The schedule of any phasing of the project.

(14) A written statement by the applicant as to the visual and aesthetic impacts of the proposed wireless telecommunication antenna and/or tower on all adjacent residential zoning districts along with submission of the photo simulation required under division (F)(14).

(15) Proof by the applicant in a form satisfactory to the city that the proposal has been approved by the Ohio Department of Transportation, the Federal Aviation Administration, and the Federal Communications Commission, as applicable.

(16) Any other information that may be required by city staff, the Planning Commission or the Board of Zoning Appeals to determine impacts and conformance with this Zoning Code.

(H) *Maintenance*. Any owner of property used as a wireless telecommunication site shall maintain such property and all structures in good condition and free from trash, outdoor storage, weeds and other debris.

(I) *Removal*. Any wireless telecommunication tower or antenna that has discontinued its service for a period of 12 continuous months or more shall be removed, along with its tower and support structures, if any. ***DISCONTINUED*** means that the structure has not been properly maintained, has been abandoned, has become obsolete, has been unused or has ceased its daily activities or operation. The applicant, its successors, and the owners of the real estate, will be jointly and severally responsible for the removal and costs thereof within 12 months after discontinued service.

(J) *Variances*. Under the following circumstances, the applicant may make application for, and the Board of Zoning Appeals may grant, a variance from the provisions of these regulations:

(1) The required 2,500-foot separation between existing, approved and proposed tower locations if all other remedies such as co-location on an existing tower or location on a tall structure have been exhausted or the proposed location is on publicly owned property or within a public right-of-way; and

(2) The required 300 feet setback from any abutting residential or commercial structures or property boundaries provided the variance is the minimum variance possible and all other remedies have

been exhausted. The Board of Zoning Appeals may attach conditions to the approval of the variance in order to mitigate impacts created on the abutting district or use.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.131 DEMOLITION PERMITS.

(A) *Demolition permit.* No building with a total square footage in excess of 1,000 square feet shall be demolished until a demolition permit has been issued by the Planning and Zoning Department. No demolition permit shall be issued except in conformity with the provisions of this chapter.

(B) *Restoration of lot.* After demolition, the building lot must be cleared of all debris resulting from the demolition. The removal of any existing footers or slabs is also required. If new construction is not to begin in 30 days following demolition, the lot must be restored to an acceptable condition, as determined by the enforcing officer. This may include, but is not limited to backfilling, seeding, mulching or grading. A bond, sufficient to cover the cost of restoration, may be required until improvements have been made to the satisfaction of the Planning and Zoning Department, at which time the bond may be released.

(C) *Fees for demolition permit.* A fee shall accompany each application for a demolition permit in accordance with the fee schedule of the City of Beavercreek.

(D) *Period of validity.* A demolition permit shall become null and void six months after the date on which it is issued unless within such a six-month period demolition of the structure is commenced.
(Ord. 09-21, passed 7-27-09)

• 158.132 BED AND BREAKFASTS.

A bed and breakfast residence shall be permitted as a conditional use in A-1, R-1AA, R-1A, R-1B and R-PUD zoning districts. Conditional use approval shall not be granted by the Planning Commission unless the following conditions and the provisions of • 158.171(C) are met:

(A) *Minimum parking spaces.* One parking space per guest room is required in addition to the parking otherwise required for the principal structure. All guest parking areas are to be screened from adjoining properties. Off-site parking may also be considered when reviewing the application.

(B) *Screening.* Screening must comply with • 158.135, Landscaping, Screening and Buffering. Additional screening may be required by Planning Commission.

(C) *Principal structure.* All bed and breakfast activities are to take place within the principal dwelling and not within a garage or accessory building located upon the premises.

(D) *Number of rooms.* The maximum number of rooms available for rent shall not exceed four bedrooms.

(E) *New construction.* Bed and breakfast facilities shall be prohibited in residences less than three years old.

(F) *Exterior appearance.* There shall be no change in the outside appearance of the building or premises that detracts from the residential character of the residence or from the residential character of the neighborhood, or other visible evidence of the conduct of such bed and breakfast residence other than one sign, not to exceed two square feet in area, non-illuminated and mounted flat against the wall of the principal building.

(G) *Number of employees.* The number of non-resident employees is limited to two.

(H) *Compliance*. The activities occurring within the facility shall be conducted in accordance with all applicable city, county, and state laws and licensing requirements prior to operation.
(Ord. 09-21, passed 7-27-09)

• 158.133 HOME OCCUPATIONS/HOME BUSINESSES.

(A) *Statement of intent.* While most commercial activities may be incompatible in a residential neighborhood, the city recognizes that some home-based commercial operations may benefit the community and can be conducted with little to no impact on surrounding residential property. These regulations prescribe minimum standards which must be met by a home occupation/home business in order to preserve the character of residential neighborhoods, to guarantee residents freedom from nuisance related to such activities, and to ensure the proper utilization of public services. A home occupation/home business which fails to meet the requirements of this section shall be deemed to be in violation of the Zoning Code.

(B) *Uses allowed.* The following categories of uses are those allowed within any residential district. Any other uses are strictly prohibited.

(1) *Educational uses.* Including, but not limited to, music lessons, tutoring, religious instruction and nursery school/day care.

(a) For instruction purposes, the number of students shall be limited to no more than two at one time.

(b) For nursery school/day care purposes, the maximum enrollment may not exceed the number allowed by the state issued child day care license in accordance with R.C. •• 5104.01 through 5104.99.

(2) *Office/Studio*. Including, but not limited to business consultation, computer/internet business, dress making/tailoring business, recording studio, and artist studio. This may also include a business that maintains an office within a dwelling, but conducts business activity at another location away from the dwelling (i.e. landscaping and lawn care service, interior decorating, cleaning services, direct sale of consumer products,) provided that all of the operating standards listed below are met.

(C) *Operating standards.* In order to operate a home occupation in the City of Beavercreek, the following operating standards must be met:

(1) *Location*. A home occupation shall be conducted entirely within the principal residential structure. No home occupation shall be conducted in any accessory structure, nor shall the storage of equipment related to the home occupation be contained within any accessory structure.

(2) *External appearance*. There shall be no change in the external appearance of the building or premises resulting from the home occupation. There shall be no entrance or exit way specifically provided in the dwelling unit or on the premises for the conduct of a home occupation, nor shall there be any display of products or equipment visible in any manner other than one sign, not to exceed two square feet in area, non-illuminated and mounted flat against the wall of the principal building.

(3) *External effects.* No equipment or process shall be used in a home occupation which produces heat, creates noise, vibration, light, glare, dust, smoke, fumes or odor detectable to normal sensory perception by a person located off the premises or beyond the walls if the dwelling unit is part of a multi-family building.

(4) *Hours of operation.* In no case shall a home occupation be open to the general public at times earlier than 8:00 a.m. or later than 6:00 p.m. Beyond these hours, the operator of the home may schedule appointments with students, clients or customers, but no more than two students, clients or customers per hour. An exception to this requirement is for direct sale of consumer products or services where parties for the purpose of taking orders or selling merchandise may be held.

(5) *Traffic and parking.*

(a) *Traffic*. Traffic generated by the home occupation shall not create safety hazards nor be substantially greater in vehicular size nor exceed on any continual basis the average number of vehicle trips that would normally be expected for a residence in a residential neighborhood.

(b) *Parking*. No area on the residential property may be created to park any vehicles or equipment related to the home occupation. Any home occupation business which requires the creation of parking in addition to the parking area already provided for the single-family residence shall not be operated within a residential zoning district. The conduct of a home occupation shall not reduce or render unusable areas provided for required off-street parking for the dwelling unit.

(c) *Deliveries*. Deliveries and shipping to and/or from a vehicle having a cargo area greater than 22 feet in length or have dual rear axles are prohibited.

(6) *Employees*. Only members of the household residing on the premises where the home occupation occurs may be employed full or part-time in the home occupation.

(7) *Hazards*. A home occupation shall not create a hazard to any person or property, or become a nuisance. Storage of hazardous or toxic materials in quantities that could have a potentially significant environmental impact on the property or the surrounding community is strictly prohibited.

(8) *Usable area*. A home occupation shall be incidental to the use of a dwelling unit for residential purposes.

(a) No more than 25% of the total floor area or no more than 500 square feet of the dwelling unit, whichever is less, may be used in connection with a home occupation.

(b) The uninhabitable areas of a dwelling unit, including unfinished basements, attics and attached garages may only be used for storage of incidental items related to the home occupation not to exceed 50 square feet of total floor area.

(c) No changes shall be made to the interior of the residence that will make it impractical to revert the building back to purely residential use.

(9) *Conformity*. Home occupations shall be conducted in accordance with all other city regulations and state and federal laws and licensing requirements.
(Ord. 09-21, passed 7-27-09)

• 158.134 PUBLIC TRANSIT STOPS.

(A) *Public transit stops within PUDs*. Any public transit stop, as defined in the City of Beavercreek Design Criteria for Public Transit Stops manual, which is proposed to be installed on private property within any Planned Unit Development (PUD) in the city shall be classified as a PUD major modification. These facilities shall comply with the requirements of • 158.070 (A) and all design criteria specified in the City of Beavercreek Design Criteria for Public Transit Stops.

(B) Public transit stops not within PUDs.

(1) Any proposed public transit stop that is in the city, not within a PUD or public right-of-way, shall comply with all design criteria specified in the City of Beavercreek Design Criteria for Public Transit Stops.

(2) Applications for approval of the proposed public transit stop shall be submitted to the Planning and Zoning Department for review and recommendation by the Planning Commission.

(3) The Planning Commission shall hold a public hearing on said application within 45 days after the application's official filing date. At least 15 days in advance, the Planning Commission shall give notice of the hearing, by at least one publication, in one or more newspapers of general circulation in the city. The published notice shall set forth: the time and place of the public hearing; and a statement that, after its conclusion, the matter will be referred to Council for further determination.

(4) Within 45 days after the public hearing required by • 158.134(B)(3), the Planning Commission shall recommend to the Council that the request be: granted as requested, granted with modifications, or not granted. This recommendation shall be based upon review of the compatibility of the proposal with both the surrounding environment and the design criteria manual.

(5) Within 45 days after the receipt of the Planning Commission's recommendation, the City Council shall schedule a public hearing, which shall take place not more than 45 days after the receipt of the Planning Commission's recommendation. At least 15 days in advance, the City Council shall give notice of the hearing, by at least one publication, in one or more newspapers of general circulation in the city. The published notice shall set forth the time and place of the public hearing, and the nature of the proposed amendment.

(6) As soon as reasonably possible after completion of the public hearing required in • 158.134 (B)(5), the City Council, by a vote of a majority of four votes of its membership, shall pass a motion to adopt, amend, return or deny the Planning Commission's recommendation. In the event of either a tie vote or a failure to reach a four-vote majority, only the motion fails. An additional motion (or motions) must be brought to a vote until the required majority is reached and the issue is finally resolved.

(7) The applicant shall bear the costs of all public notices.

(C) *Public transit stops within public right-of-way.* Any public transit stop which is proposed for installation in a public right-of-way in the city shall comply with the requirements of Chapter 96 of Title IX, General Regulations.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.135 LANDSCAPING, SCREENING AND BUFFERING.

(A) *General information.*

(1) *Intent*. To promote and protect the public health, safety and welfare through the preservation, protection and enhancement of the environment by recognizing the vital importance of tree growth in the ecological system and by fully utilizing the benefits of landscaping in development. It is further the purpose of this chapter to: promote the preservation, replacement and augmentation of major

trees removed in the course of land development and mitigate the impact of development, promote and utilize appropriate landscaping, screening and buffering between land uses, soften the appearance of building masses and paved areas and reduce generation of heat and storm water runoff.

(2) *Applicability.* The requirements outlined in this section are applicable to all new developments and redevelopments, within the City of Beavercreek, except on properties used for residential purposes located in residential (R-1AA, R-1A, R-1B) districts and properties in agricultural (A-1) districts, unless said property is a non-conforming multi-family residential structure in an R-1AA, R-1A, R-1B or A-1 districts.

(3) *Application process.* For PUD applications, general buffering and screening requirements shall be included with the concept plan and a detailed landscape plan, including a plant schedule shall be provided at the specific site plan stage. For permits issued in straight zoning districts, a detailed landscape plan shall be submitted with the zoning permit application.

(4) *Alternative compliance.* It is not the intent of landscape regulations to establish arbitrary regulations or to inhibit creative solutions to land-use problems. It is recognized that, under certain conditions, a strict interpretation of the requirements may be either physically impossible or economically impractical. These landscape regulations require certain elements that meet certain objectives within the site plan. Requests for use of alternative landscaping schemes are justified only when either the sites involved have space limitations or unusually shaped parcels; when topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical, due to a change of use of an existing site, the required buffer yard is larger than can be provided; or other safety considerations are involved.

(B) *Plan preparation and submittal requirements.* Landscape plans for development must have the following information before the approval process begins. The plan must be to scale between 1 inch = 10 feet and 1 inch = 40 feet and must be drawn on a separate sheet of paper. The plan must include the following:

(1) Property lines.

(2) Zoning and use of all abutting properties, location of buildings on abutting properties within 100 feet of property line; and zoning and use of properties directly across any collector, primary, or secondary street adjacent to the subject property.

(3) Name, location, and right-of-way of all public and private streets.

(4) Natural features such as ponds, lakes and streams.

(5) Delineation of 100-year floodplain and wetlands, and 50-year floodplain information may be required for certain project areas.

(6) Existing and proposed storm water management ponds.

(7) Required yard depths/widths (i.e., setbacks from all lot lines).

(8) Location, height, dimensions, and use of all existing and proposed buildings and other structures (including parking lots, sidewalks, and other paved areas; fences and walls; and recreational equipment) of subject property.

(9) Proposed grading in two-foot contours or better with any slope at 3:1 or steeper indicated. Storm water management ponds shall be indicated.

(10) Location of existing and proposed utilities and utility easements, including water, storm drain, and sanitary sewer pipes; overhead wires; utility poles and boxes; and signs if available.

(11) Location, size and description of all elements required to be screened.

(12) Show existing vegetation, including existing trees equal to or greater than eight inches DBH, measured at four and a half feet above base of the tree. Existing trees must be shown at approximate size. It will not be necessary for the owner/developer to survey trees of this size in large areas where woodland preservation is shown on the plan. Existing trees are to be shown in plan view with the circle diameter, a.k.a. crown spread, the approximate size of the existing tree canopy.

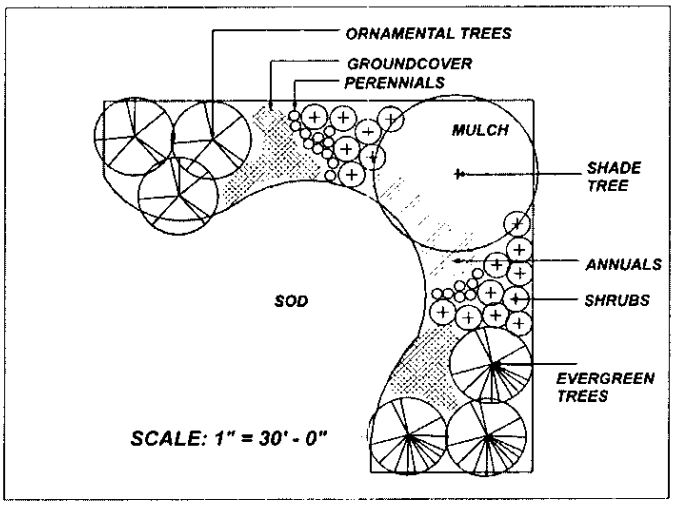
(13) Site tabulations including site square footage, open green space square footage, parking lot interior, and quantity of trees required. Required landscape strip width for front, side, and rear lot lines.

(14) Plant Schedule indicating key, quantity, scientific name, common name, size, condition, and spacing of all plants shown on the plan. See Figure 9 in division 158.135 (C)(5) for an example of a plant schedule.

(15) Landscape plan symbols for proposed plants must be drawn at approximate mature sizes specified in the chart below. The following table shall be used in determining size of landscape symbols to be drawn on the plan. Symbols or hatching patterns must be unique for each of the following categories. See Figures 1 and 2 below.

Landscape Plan Symbols *Figure 1*	
Shade trees	30 feet diameter
Ornamental trees	10-15 feet diameter
Evergreen trees	10-15 feet diameter
Shrubs	2-5 feet diameter
Perennials	Plant massing
Annuals	Hatching pattern
Groundcovers	Hatching pattern
Grass/sod	Label as such (sod, grass) in appropriate areas

Landscape Plan Symbol Example
Figure 2



(C) *Landscape regulations and requirements.*

(1) *Requirements.* The following are minimum requirements for landscape plans. Creative landscape planning and design is encouraged provided it meets the minimal requirements set forth in this section. Refer to • 158.135 (C)(2) below for design guidelines and recommendations on how to approach the planning of the landscape. PUD proposals allow flexibility provided they meet these minimum requirements.

(a) *Residential requirements.*

1. *Multi-family dwellings; Subdivision (R-3, R-4, and R-PUD, or non-conforming R-1AA, R-1A, R-1B or A-1).* A minimum of one shade tree is required per 2,500 square feet or fraction of open green space provided. One-half of the number of required shade trees may be satisfied on a 2:1 basis by the use of ornamental trees (not to exceed one-fourth of the required number of shade trees) and evergreen trees (not to exceed one-fourth of the required number of shade trees). Lakes or other water areas, any required parking lot landscaped strip adjacent to a public right-of-way, and any required interior parking lot green area shall be excluded when determining the total amount of green area provided. This requirement is separate from parking and screening requirements. Trees shall be located so as to best fulfill the design guidelines set forth in • 158.135(C)(2).

2. *Townhouses (R-2, or non-conforming R-1AA, R-1A, R-1B or A-1).* There shall be a minimum total of one and one-half shade trees required per 2,500 square feet or fraction of open green space provided, and one ornamental or evergreen tree per dwelling unit, to be located on individual lots, and in common open space, so as to best fulfill the design guidelines set forth in • 158.135(C)(2).

3. *Manufactured Homes (R-5).* In all manufactured home developments, screening shall be provided along all rear and side property lines which abut other residential districts. See buffering and screening requirements in • 158.135(E). Such screening shall be in accordance with the schedule of required buffers between zoning districts, as described in • 158.135 (E). For each unit there shall be one shade tree located between the unit and the street, while not blocking vehicle ingress and egress or creating a line of sight hazard onto the lot.

(b) *Neighborhood Business District (B-1).* For neighborhood business districts, the following shall be required. A minimum total of one shade tree is required per 1,600 square feet or fraction of green space provided. This requirement is separate from parking and screening requirements.

(c) *Commercial and industrial developments (B-2, B-3, B-4, O-1, ORP-1, RP-1, RO-1, I-1, I-2).* In all commercial and industrial districts, and in the case of all nonresidential uses in residential districts, one shade tree is required per 2,000 square feet or fraction of open green space provided. A landscaped strip, as described in • 158.135(C)(2) , shall be provided on the property adjacent to all public rights-of-way. New commercial and industrial planned unit developments (PUD) or major modifications to a PUD have a minimum requirement of maintaining 25% green space of the total open space provided on the site. See •• 158.072 - 158.074. Interior streets in nonresidential districts shall be landscaped such that there is at least one canopy deciduous or evergreen tree per 35 linear feet of frontage along the road right-of-way, three ornamental trees per 40 feet of frontage along the road right-of-way, the landscape strip within the subdivision shall be planted in grass and there shall be a massing of ornamental grasses, perennials, and/or annuals or bulbs are required at the entrance to individual lots.

(d) *Mixed Use Planned Unit Development (MX-PUD).* In all PUDs where commercial and residential uses coexist, the areas that are commercial must comply with the commercial and industrial requirements in this section. The residential areas must comply with the residential requirements of this section. The boundaries between different uses in a MX-PUD must be shown on the landscape plan.

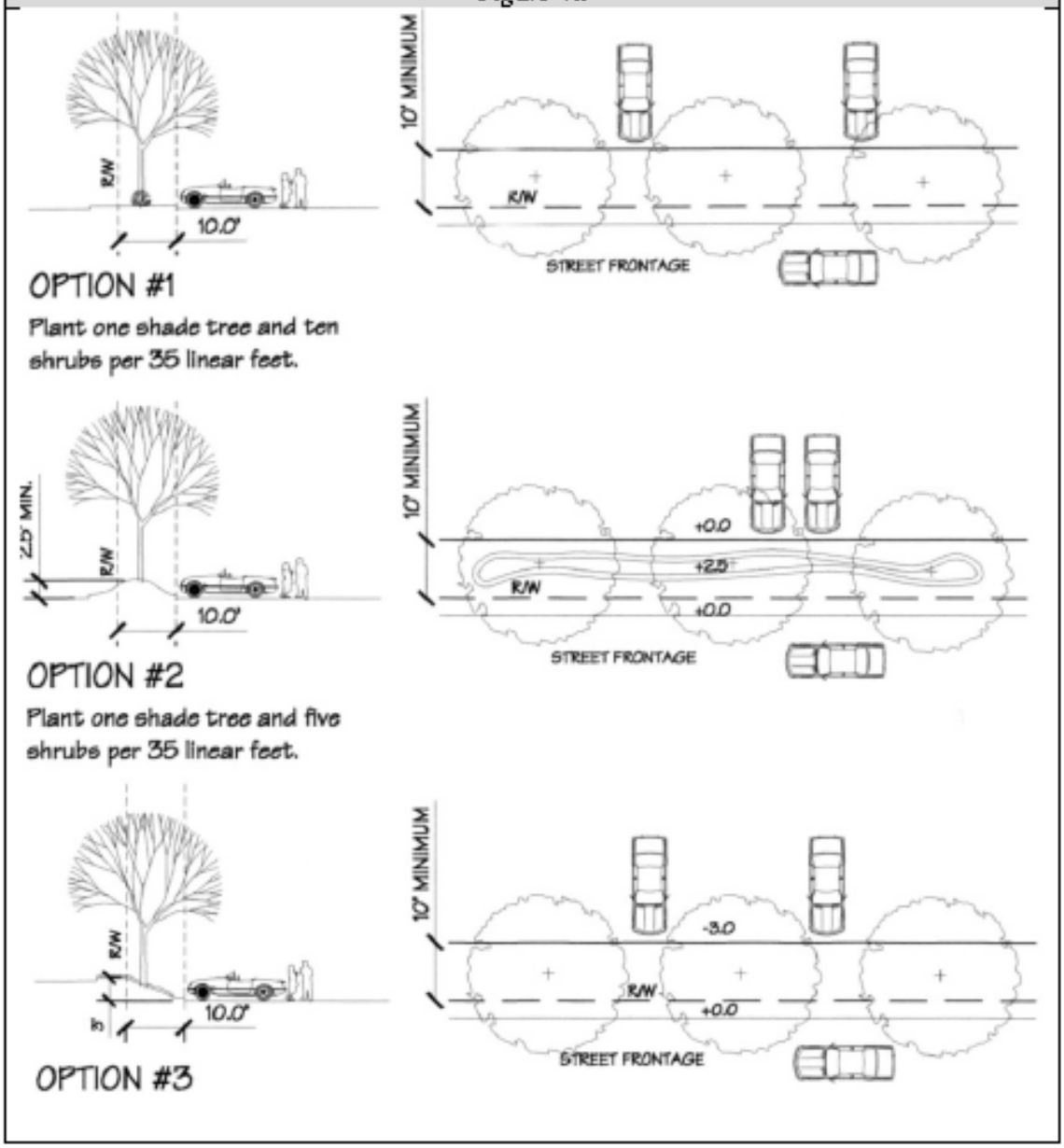
(2) *Parking lot requirements.*

(a) *Landscape strip requirements.* When a parking lot in any zone is located adjacent to a public right-of-way, a landscaped strip as described in Figure 3 shall be provided on the property between the parking lot and the right-of-way. The landscape strip may not include any paved area except pedestrian sidewalks or trails perpendicular to the roadway, which cross the landscaped strip. In the R-PUD or in other circumstances where greater parking lot setbacks are required than those listed in Figure 3, the greater requirement shall apply. Any of the following landscape strip treatments may be used singly or in combination:

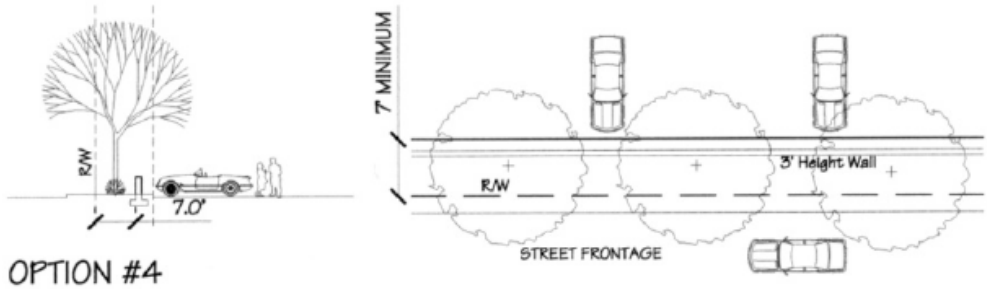
Landscape Strip Options *Figure 3*	
Option #1	Provide a minimum ten-foot wide landscaped strip between the right-of-way and the parking lot to be planted with a minimum of one shade tree and ten shrubs per 35 linear feet of frontage, excluding driveway openings.
Option #2	Provide a berm, the top of which is at least two and one-half feet higher than the elevation of the adjacent parking lot pavement. The slope of the berm or any other areas on the plan shall not exceed 33% (3:1). Berms should be graded to appear as smooth, rounded, naturalistic forms with varying heights, not linear in design. Avoid narrow bumps that result from creating too much height for the width of space. Plant with a minimum of one shade tree and five shrubs per 35 linear feet of frontage, excluding driveway openings.
Option #3	Provide a minimum ten-foot wide landscaped strip and a minimum three-foot grade drop from the right-of-way line to the adjacent parking lot pavement. Plant the resulting embankment with a minimum of one shade tree and five shrubs per 35 linear feet of frontage, excluding driveway openings.
Option #4	Provide a minimum seven-foot wide landscaped strip between the right-of-way line and the parking lot, with a minimum three-foot high brick, stone or finished wall, matching the architecture, construction materials, and colors of the principal building, to screen the parking lot. The wall shall be located adjacent to but entirely outside the seven-foot landscaped strip. Plant with a minimum of one shade tree per 35 linear feet of frontage, excluding driveway openings. Drawing elevations of the proposed wall must be submitted with the landscape plan.
Option #5	Provide a minimum 25-foot wide strip of existing woodlands. Existing woodlands, if preserved, may be used in conjunction with other forms of screening. Where the plantings required in • 158.135 (C)(2)(a) would result in an inappropriate or impractical design due to underground utilities, overhead wires, or other factors, the following will apply then either two ornamental trees may be substituted for one shade tree, two evergreen trees may be substituted for one shade tree or one evergreen tree may be substituted for five shrubs.

Landscape Strip Options Diagram

Figure 4a

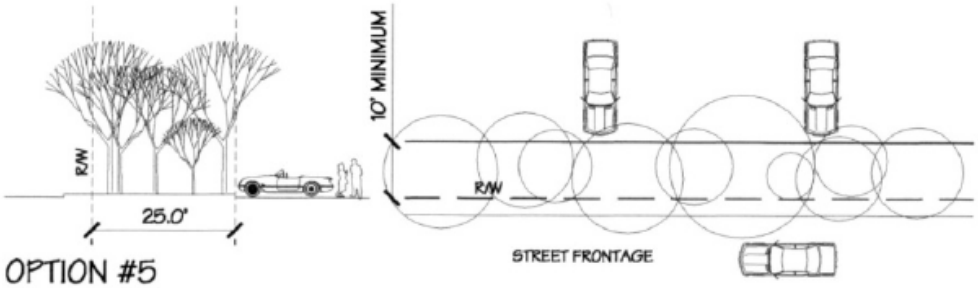


Landscape Strip Options Diagram
Figure 4b



OPTION #4

Plant one shade tree per 35 linear feet.



OPTION #5

Existing woodlands may be preserved and/or used in conjunction with the requirements of screening

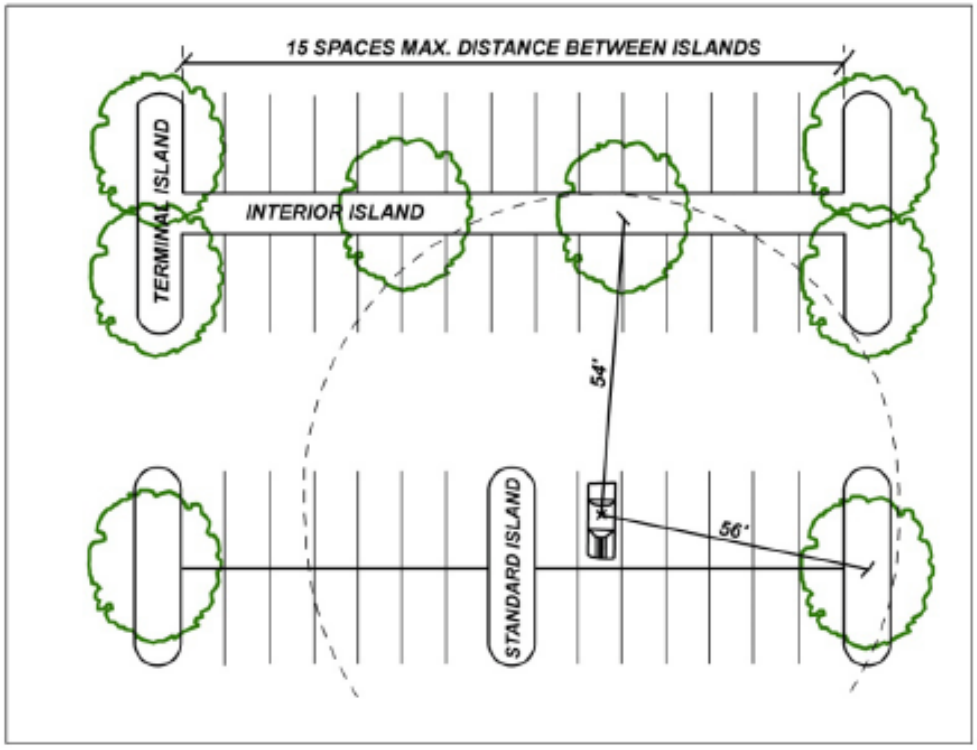
(b) *Perimeter parking landscape requirements.* The following two options may be used individually or in combination for perimeter parking landscaping. The first option is to provide a landscaped strip between the parking lot and any adjacent property line, that shall be a minimum of ten feet wide for sites over 20,000 square feet and a minimum of five feet wide for sites less than 20,000 square feet. Within this landscaped strip, provide one tree and three shrubs per 35 linear feet of parking lot perimeter adjacent to a property line. (This does not mean that shade trees must be located 35 feet on center.) Any shade tree planted to fulfill another requirement of these regulations, which is located within 15 feet of the edge of the parking lot, or any existing shade tree exceeding four inches caliper, which is located within 15 feet of the edge of the parking lot, may count toward fulfillment of this requirement. A second option is to provide a minimum 25-foot wide strip of existing woodlands. If more than the minimum 25-foot width of existing woodlands are preserved, the Planning Commission may waive part or all of the requirements for landscape strip or perimeter parking lot requirements.

(c) *Parking lot interior requirements.* A minimum of 4% pervious area of the total vehicular use area is required for parking lot interiors. This requirement is separate from perimeter parking requirements, and shall provide pervious areas devoted to landscape. Greater than 4% may be

required in large vehicular use areas at the discretion of the Planning Director or his or her designee. When designing a landscape plan for the interior of a parking lot, there shall be at least two shade trees which shall be located within 60 feet of every parking space, measured from the trunk of the tree to the center of the parking space. See Figure 5.

Parking Lot Interior Requirements

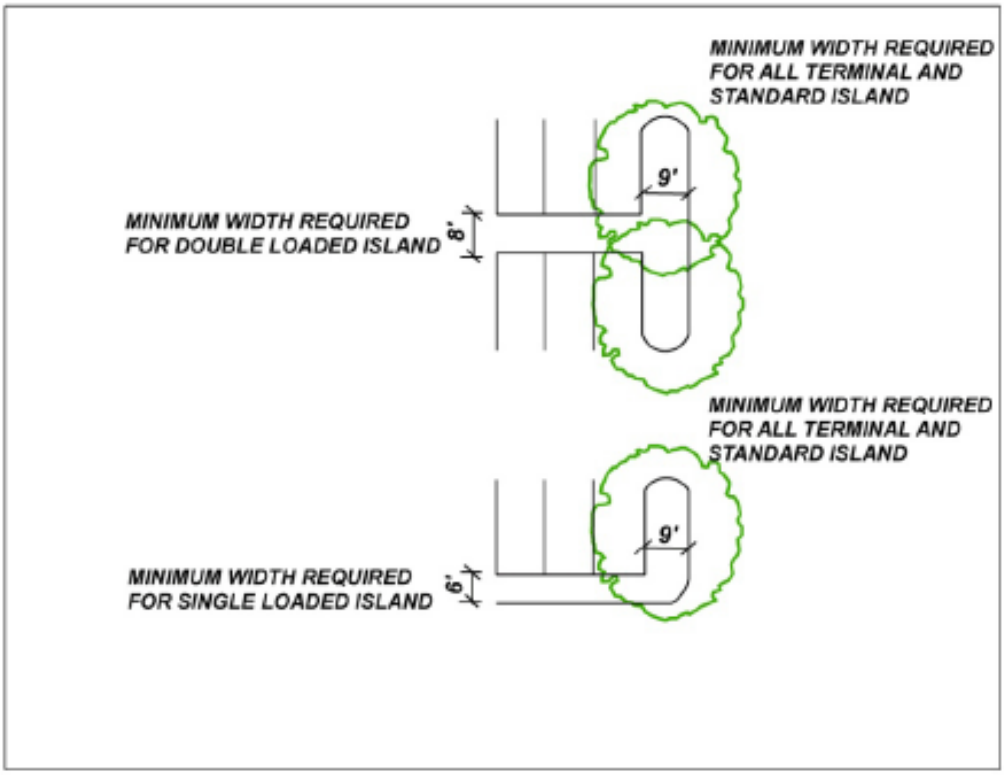
Figure 5



1. There are three types of parking islands found in a parking lot. Terminal islands are located and required at the ends of parking bays. These islands shall be a minimum of nine feet wide. At a minimum, 75% of terminal islands shall be planted with perennials and shrubs, not exceeding two feet in height so as to not create a line-of-sight hazard. The remaining 25% may be covered with grass or mulch. Standard Islands are located between terminal islands, these islands shall be a minimum of nine feet wide. At a minimum 75% of standard islands shall be planted with perennials and shrubs, not exceeding two feet in height so as to not create a line-of-sight hazard. The remaining 25% may be covered with grass or mulch. Interior parking islands are located between bays, these islands shall be a minimum of eight feet wide for double loaded spaces and six feet wide for single loaded spaces. At a minimum 75% of interior islands shall be planted with perennials and shrubs. The remaining 25% must be planted with groundcovers. See Figures 6 and 7.

Terminal Island Requirements

Figure 6



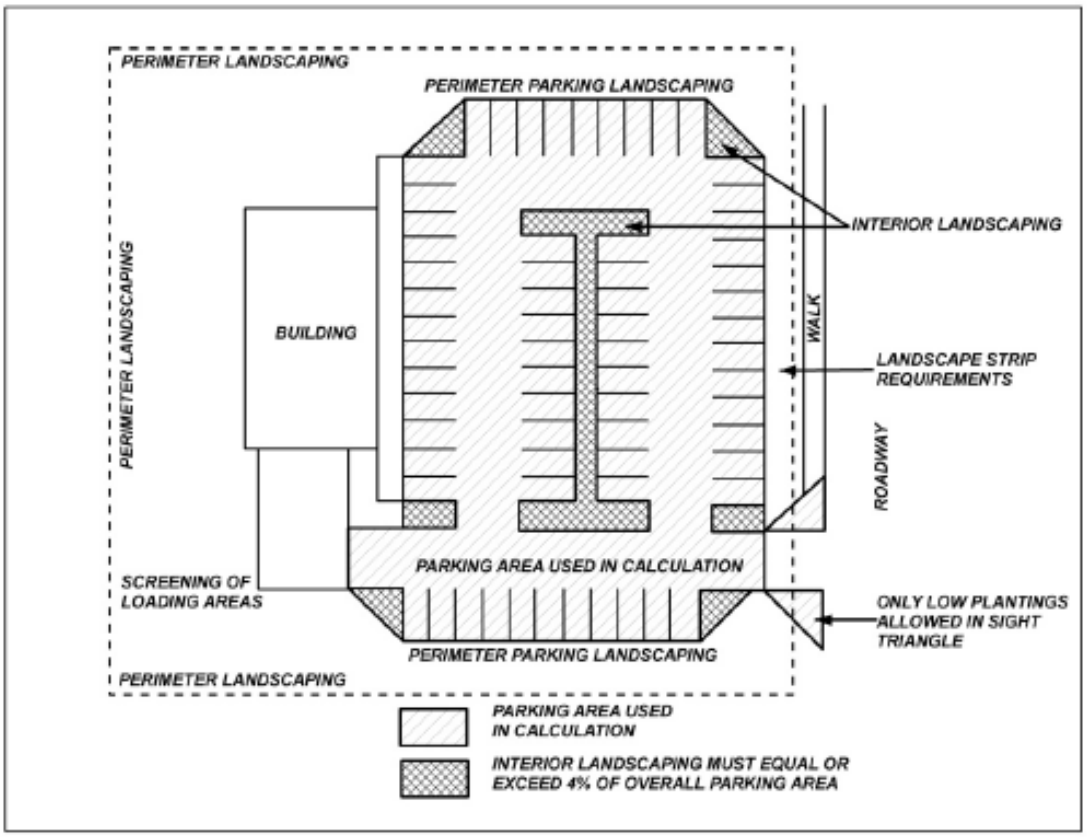
2. For the purposes of computing the total area of any parking lot, all areas within the perimeter of the parking lot shall be counted, including planting islands, curbed areas, corner areas, parking spaces, and all interior driveways and aisles except those with no parking spaces located on either side. Landscaped areas situated outside of the parking lot, such as peripheral areas and areas surrounding buildings, may not be counted as interior planting areas. See Figure 7.

3. If a parking lot less than 10,000 square feet is built without interior landscaping and then later, additional spaces are added so that the total of the lot is greater than 10,000 square feet, then the interior landscaping shall be provided for the entire parking lot.

4. Planting spaces must be large enough to allow for healthy tree growth and must be protected from car overhangs and opening car doors. Each space shall have a minimum of 60 square feet of continuous pervious land area provided for each tree. No tree planting area shall be less than six feet wide in any dimension and curbs shall be provided for all parking spaces adjacent to planting or pedestrian areas to protect those areas from overhanging by parked vehicles. In the case where planting islands are parallel to parking spaces, they shall be a minimum of nine feet wide. In cases where a planting island is perpendicular to parking spaces and the spaces head into the planting island on both

sides, the island shall be a minimum of eight feet wide to allow for bumper overhang. If parking spaces are located on only one side of such a planting island, the island shall be a minimum of six feet wide.
See Figure 6. For all buildings requiring site plan review, wherever practical, landscaped planting beds shall be placed adjacent to the building on front and sides, and have a minimum width of four feet. Creativity of the bed shape and dimension is encouraged. For the front and any facades visible from a public street, a minimum of 60% of the exterior building perimeter shall be planted in the planting bed adjacent to the building façade with a combination of small ornamental trees, shrubs, groundcovers, perennials, ornamental grasses, annuals, and/or bulbs. Planters with the above plant materials may be accepted for a portion of the requirement.

Parking Lot Area Calculation
Figure 7



(d) *Credit for preserving existing trees.* Credit may be received on the parking lot interior landscape by preserving existing trees capable of tolerating adjacent construction. In order to maintain any tree deemed eligible for credit, the ground area under and within the drip line of the tree shall be preserved from the trunk out to the edge of the drip line and shall be maintained in existing vegetative landscape material or existing pervious surface cover. The Planning Director or his or her designee may

determine that lesser areas will provide sufficient nourishment for the continued growth of the preserved tree based on its species and specific conditions. A certified arborist or a licensed Landscape Architect, at the owner's expense, may be required to examine the condition of existing trees to be preserved when technical issues beyond the scope of the Planning and Zoning Department arise. The developer is required to contact the Planning and Zoning Department for a tree preservation inspection prior to any grading or earth movement near existing trees to ensure that proper tree preservation measures are taken. See Figure 14 in • 158.135 (D)(6) for tree preservation measures. Grading under the drip line of the tree or any disturbance including the movement of heavy equipment within said dripline at any time during development is not permissible and will void tree credits given by saving existing trees. Existing trees which were preserved in the approved plan, but do not survive or exhibit characteristics of dying must be replaced by the same number of trees credited toward the existing preserved tree according to the Schedule of Credit for Preserving Existing Trees, Figure 8. The required number of new trees may be reduced in accordance with the following schedule in exchange for preserving existing trees:

Schedule of Credit for Preserving Existing Trees *Figure 8*		
Diameter of Existing Crown Spread of Preserved Tree	***Diameter of Tree Trunk of Preserved Tree***	***Number of Shade Trees Credited***
60-89 feet	30 inches or greater	8
50-59 feet	26-29 inches	7
40-49 feet	20-25 inches	6
30-39 feet	13-19 inches	4
20-29 feet	8-12 inches	3
16-19 feet	4-7 inches	2
Rounded off to the nearest whole foot measured at a height of four and one-half feet above the natural grade (DBH) and rounded off to the nearest whole inch		

(3) *Buffering and screening requirements.* Screening shall be provided in order to create a visual barrier that partially or completely obstructs the view of structures or activities in order to minimize or prevent nuisances. Additionally, it is to provide an acoustic screen to aid in absorbing or deflecting noise, and to contain ambient debris and litter.

(a) *Loading areas.* All loading areas consisting of two or more loading spaces, loading docks, vehicular lanes providing access to the above, and service or maintenance areas shall be screened from residential zones and all adjacent public roads. Either a minimum six feet high opaque wall or fence that matches the architecture, materials, and colors of the principal building; a six feet high earthen berm with plantings sufficiently high enough to screen the loading area from adjacent property; or a

screen of six feet (at the time of planting) evergreen trees or shrubs, minimum of 15 feet on center, double staggered row shall be used to screen loading areas. Greater than ten feet high walls or fences may be required in areas where additional screening is needed as determined by the Planning Director or his or her designee.

(b) *Trash Receptacles.* All trash receptacles shall be located on the property so as to be accessible for trash collection by sanitation vehicles, and shall not be located within the public right-of-way, or alley.

1. All trash receptacles shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

2. Screening on three sides of the trash receptacle shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. The open end of the enclosure shall have a 100% solid opaque metal, vinyl, PVC, or wooden gate that includes stop pins to lock the gates open for servicing and which are not readily degradable due to sunlight, moisture, or wind, with self closing hinges.

3. All exterior sides of the enclosure, except the gate, shall be landscaped pursuant to • 158.135, Landscaping, Screening and Buffering.

4. Trash receptacle enclosures shall not be located any closer to the road than the front of the principal structure.

5. All trash receptacle enclosures shall be a minimum of six feet high, and large enough to enclose all trash receptacles used by the principal use of the property. At the option of the property owner, the overall square footage of the trash receptacle enclosure may be increased an additional 80 square feet to allow for outdoor storage of property.

(c) *Mechanical Equipment.*

1. All mechanical equipment, such as HVAC systems and the like, shall be screened from public view, from public streets, public rights-of-way, and from abutting or adjacent properties.

2. Screening on three sides of the mechanical equipment shall consist of a solid, opaque enclosure constructed of brick, concrete, concrete block, vinyl, PVC, or other decorative masonry, and shall be consistent with the architectural character of the development or principal building or structure. Landscaping material, such as shrubs or evergreen trees can be used in lieu of, or in combination with, the aforementioned materials, provided the design results in the required opaque enclosure.

(4) *Landscaping bonding requirements.* Prior to the issuance of any zoning permit for development in any district other those exempted by this section, the developer/applicant shall submit to the city a performance bond, cash bond, or letter of credit to insure the installation of landscaping as approved. The bond or letter of credit shall be in an amount equal to the applicant's estimate of the cost of installation as approved by the Planning and Zoning Department and shall remain in effect until such time as the landscaping has been completed as determined by the city. Upon completion of the installation of landscaping, the applicant may request, in writing, the release of the performance bond or letter of credit. Following an inspection by the city and upon determination by the city that the landscaping has been completed in accordance with the approved landscaping plan, 80% of the performance bond or letter of credit may be released. However, the remaining 20% of the performance bond or letter of credit will not be released until a maintenance bond lasting three growing seasons, or letter of credit equal to 20% of the initial performance bond or letter of credit to ensure maintenance of the landscaping is submitted to and accepted by the city.

(5) *Administration and enforcement.* The Planning and Zoning Department is responsible for the administration of the landscape plan review process, and for the enforcement of these ordinances. The Department shall maintain a checklist that lists the requirements set in this section in order to ensure completeness of a submitted landscape plan. The Planning Director or his or her designee shall work with the developer to make certain that all of the requirements in this section are met, and shall approve a landscape plan and bond amount that meets these requirements, and may enforce the requirements of this section, before, during, or after construction of a project.

Plant Schedule Example
Figure 9

Key	***Quantity***	***Scientific Name***	***Common Name***	***Size***	***Condition***	***Spacing***
AC	13	Abies concolor	White Fir	6-7' hgt.	B&B	As shown
AR	9	Acer rubrum ♣Autumn Flame♠	Autumn Flame Red Maple	3" cal.	B&B	As shown
BM	27	Buxus microphylla v. Koreana	Boxwood	18"	No. 3	As shown
CH	3	Chamaecyparis pistifera ♣Squarrosa♠	Sawara False Cypress	3' hgt.	B&B	As shown
CP	5	Crataegus phaenopyrum ♣Winter King♠	Winter King Hawthorn	2" cal.	B&B	As shown
FV	28	Forsythia viridissima ♣Bronxensis♠	Bronx Forsythia	18"	No. 3	As shown

Plant Schedule Example *Figure 9*						
Key	***Quantity***	***Scientific Name***	***Common Name***	***Size***	***Condition***	***Spacing***
PS	2	Prunus subhirtella ♣Pendula♠	Weeping Higan Cherry	2" cal.	B&B	As shown
TM	20	Taxus x. media ♣densiformis♠	Anglojap Yew	18"	B&B	As shown
Note: all disturbed grass area should be re-seeded.						

(D) *Plant lists, details, specifications, and tree preservation measures.*

(1) *Landscape standards and specifications.* Plants shall be nursery grown in accordance with good horticultural practices, and grown under climatic conditions similar to those in Southwest Central Ohio for a minimum of two years. Trees shall meet current standards set by the American Association of Nurserymen and shall be freshly dug, have outstanding form and be free of disease, insects and/or damage. Park grade or environmental grade trees are not considered sufficient. All planting areas shall be irrigated. Intent to provide a sprinkler system should be shown on the landscape plan. A mixture of plant materials is to be used; however the use of native plant materials is encouraged. Two inches of processed, shredded mulch shall be applied to the soil around the tree to help conserve moisture. Mulching is not considered as a replacement for landscaping. Depth shall be a minimum of four inches for all trees and shrubs and a maximum of two inch depth for groundcovers, perennials, and bulbs. Mulch shall be placed at least three inches from the trunks of trees and shrubs.

(2) *Landscape specifications shall be as outlined as shown in Figure 10.* Any item or procedure not described in Figure 10 shall be as specified in the Landscape Contractors Association (latest edition).

(a) *Plant materials.* The landscape contractor shall furnish and install and/or dig, ball, burlap and transplant all of the plant materials called for on the drawings and/or listed in the plant schedule. Plant names used in the plant schedule shall be identified by scientific name and common name. All plant materials shall be equal to or better than the requirements of the American Standard for Nursery Stock, American Association of Nurserymen (hereafter referred to as AAN Standards). All plants shall be typical of their species and variety, shall have a normal habit of growth, and shall be first quality, sound, vigorous, well-branched and with healthy, well-furnished root systems. They shall be free of disease, insect pests and mechanical injuries. Caliper measurements shall be taken 12 inches above grade. Minimum branching height for all shade trees shall be six feet, and the minimum sizes for plant material at time of planting shall be as shown in Figure 10.

Minimum Sizes for Plant Material at Time of Planting *Figure 10*	
Type	***Minimum Size***
Shade Tree	2." - 3" cal.
Ornamental Tree	1." - 2" cal.
Evergreen Tree	6' height
Shrubs	24" height
Ornamental Grasses	Clump no. 2-no. 5 container
Perennials	Clump no. 2 container
Groundcovers	Flat (12" triangle spacing)

(b) *Planting guidelines.* A professional horticulturist/nurseryman shall be consulted to determine the proper time, to move and install particular plant material in order to minimize stress to the plant. Planting of deciduous material may be continued during the winter months, provided there is no frost in the ground and frost-free topsoil planting mixtures are used. All plant material shall be dug, balled and burlap (B&B) or bare root in accordance with the AAN Standards. The landscape contractor shall excavate all plant pits, vine pits, hedge trenches and shrub beds as follows. All pits shall be circular in outline, with vertical sides. The tree pit shall be deep enough to allow one-eighth of the ball to be above the existing grade. Plants shall rest on undisturbed existing soil or well-compacted backfill. The tree pit must be a minimum of nine inches larger on every side than the ball of the tree. If areas are designated as shrub beds or hedge trenches, they shall be cultivated to at least 18 inches depth minimum. Areas designated for ground covers and vines shall be cultivated to at least 12 inches depth minimum. Each tree, shrub or vine shall be pruned in an appropriate manner to its particular requirements, in accordance with accepted standard practice. Broken or bruised branches shall be removed with clean cuts made on an angle from the bark ridge to the branch collar, no flush cuts, to minimize the area cut. All cuts shall be made with sharp tools. Trim all edges smooth. No tree wound dressings shall be applied. All trenches and shrub beds shall be edged and cultivated to the lines shown on the drawing. The areas around isolated plants shall be edged and cultivated to the full diameter of the pit. Sod that has been removed and stacked shall be used to trim the edges of all excavated areas to the neat lines of the plant pit saucers, the edges of shrub areas, hedge trenches and vine pockets. After cultivation and eventual routine maintenance, all plant materials and plant beds shall be mulched with a four-inch to three-inch layer of finely shredded, processed, dark hardwood mulch of uniform texture and size. Large shredded twigs and branches are not considered mulch. Mulch is not considered as landscaping or as a substitute for plant materials.

(3) *Acceptable tree list.* The acceptable tree list for the city, as highlighted in the City's Landscape Guidelines, is designed to encourage an imaginative selection of landscape trees. Careful selection will prevent an over-dependence on a few species. Alternative species may be used on the site, but list represents acceptable trees that will not be questioned. Planting and maintaining a diverse urban forest is one of the goals of the creation of this list. Deviations from the acceptable tree list are permitted with the approval of Planning and Zoning Department.

(4) *Landscape Plan modification.* An approved landscape plan in need of minor revisions to plant materials due to seasonal planting problems or lack of plant availability may be revised so long as there is no reduction in the quantity of plant materials, no significant change in size or location of plant materials, new plant materials fall within the same general functional category of plants (shade trees, ornamental trees, evergreens, etc.). The proposed new plant materials must be considered appropriate with respect to elements necessary for good survival and continued growth.

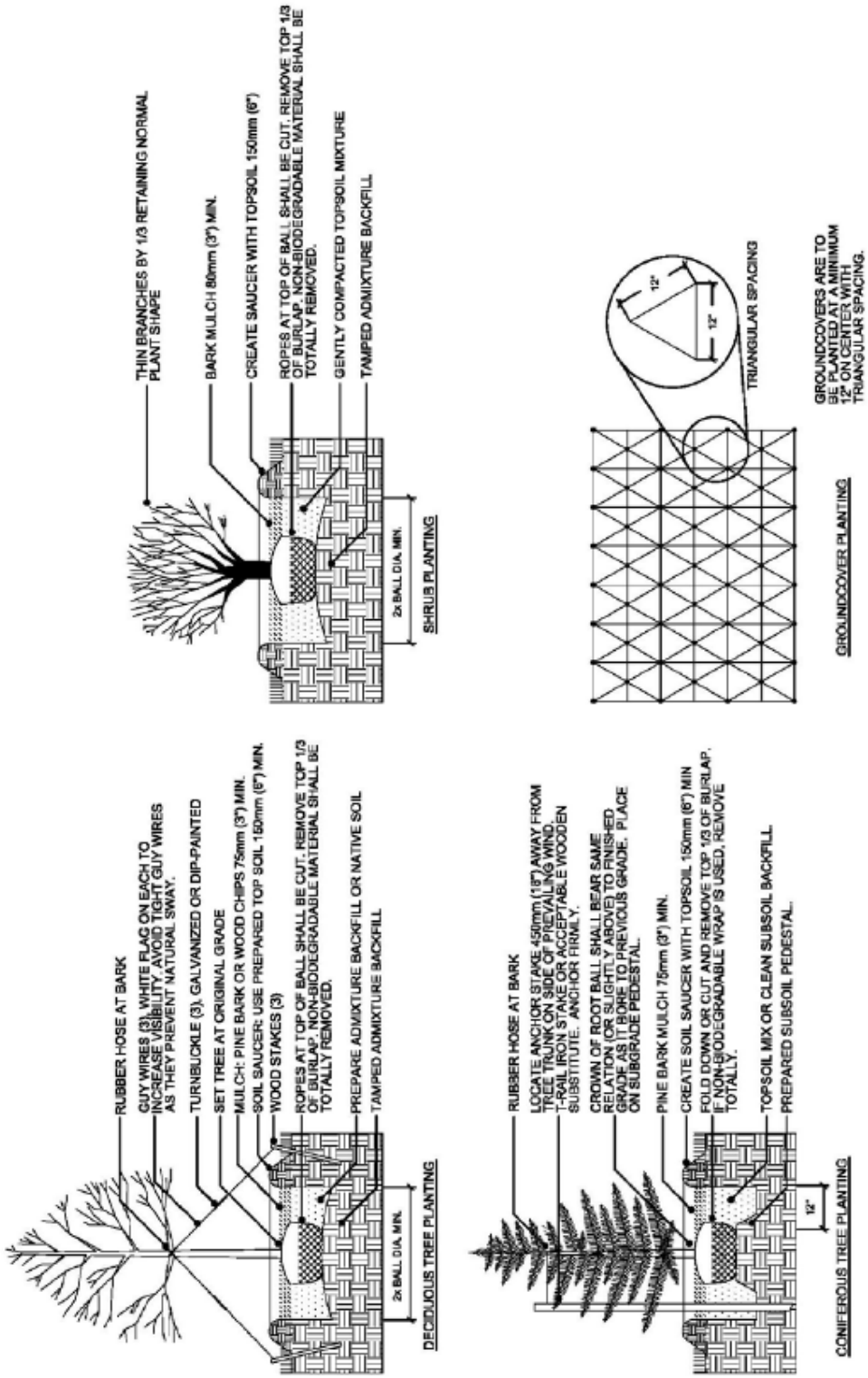
(a) A letter shall be submitted to the Planning Director or his or her designee requesting a minor revision for plant substitution. The letter shall include a list of the quantities, types and sizes of the original plants and the proposed substitutions, locations of the substitute plants on the plan, reference to the approved permit number, and the name and telephone number of a contact individual, and any other information deemed necessary by the Planning Director or his or her designee. The Planning Director or his or her designee will notify the applicant in a timely manner whether or not the proposed plant materials meet the criteria listed above. If the substitutions are approved, the applicant will be informed of any additional actions or information required to finalize and document the plant substitutions. If the plant substitutions requested are not approved, the Planning Director or his or her designee will supply the applicant with specific recommendations for changes that will make the plant substitutions approvable. If the requested revisions to the landscape plan do not fulfill the four criteria listed above, they may not be approved in accordance with the plant substitution process. In this case the Planning Director or his or her designee will inform the applicant of procedures necessary for a formal revision to the plan.

(5) *Planting methods and details.* Planting methods shall be as highlighted as follows:

[See next page]

Planting Methods

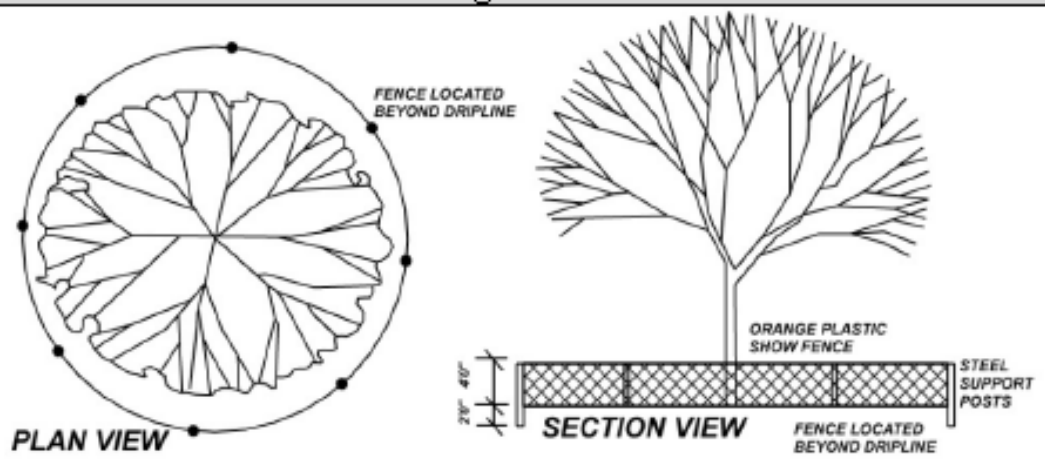
Figure 12



(6) *Tree preservation measures.* Orange fencing shall be placed around preserved trees on site prior to any grading or earthworks. See Figure 13. The Planning and Zoning Department shall be notified to inspect fencing around trees to be saved prior to grading or excavation.

Tree Preservation Measures

Figure 13



(7) *Maintenance*. Regular maintenance is necessary of all required landscape areas. Plant materials shall be kept in a vigorous and healthy condition, free from diseases, pests, weeds, and litter. This maintenance shall include weeding, watering, fertilization, pruning, mowing, edging, mulching or other needed maintenance, in accordance with generally accepted horticultural practice. Repair or replacement of required landscape structures (walls, fences, and the same) to a structurally sound and aesthetic condition, the regular maintenance, repair, or replacement, where necessary, of any screening or buffering required by the zoning code is also required. Failure to regularly maintain plant materials shall constitute a violation and shall be enforced by up to and including the calling the bond or letter of credit. Owner will be notified by the Planning and Zoning Department in order to inform him or her of the nature of the maintenance problems. Owner will be given a maximum of six months from the time of notification, or until ten days prior to bond or letter of credit expiring, whichever comes first, to bring landscaping to a satisfactory condition as by this section. All plants to be replaced must be done accordingly in the same amount of time. Required plant materials or preserved existing trees that are dead, diseased or severely damaged, shall be removed by the owner as soon as possible, but no later than 60 days after notification. Replacement

plants must be the same size and species as shown on the approved landscape plan or must be equivalent in terms of quality and size to any existing trees on site of the same species at time of planting. Such replacement will not be considered an amendment to the approved plan. Dead trees may be required to be removed by the owner. The Planning Director or his or her agent may require owner to hire a certified arborist to examine the condition of a tree that may cause hazardous safety conditions. The Planning Director or his or her designee must authorize the removal of any existing preserved tree.

(E) *Screening and Buffering.* No buildings or structures shall be erected, altered or enlarged nor shall land be used for any nonresidential use, excluding agricultural uses (see • 158.030 Agricultural Districts) on a lot that adjoins or faces any residential district until a plan for screening has been submitted and approved by the Planning and Zoning Department and/or the Planning Commission and/or City Council. For purposes of this section, a residentially zoned property shall mean property zoned R-1AA, R-1A, R-1B, R-2, R-3, R-4, RO-1, R-PUD and approved residential portions of a MX-PUD.

(1) *Purposes for screening.* Screening shall be provided for one or more of the following purposes:

(a) A visual barrier to partially or completely obstruct the view of structures, lighting, or activities in order to minimize or prevent nuisances;

(b) As an acoustic screen to aid in absorbing or deflecting noise; and

(c) For the containment of ambient debris and litter.

(2) *Types of screening permitted.* Screening may be one of the following or a combination of two or more:

(a) A solid masonry wall;

(b) A solidly constructed decorative fence;

(c) A louvered fence;

(d) Dense evergreen plantings; and/or

(e) Landscaped mounding with ground cover.

(3) *Side and rear yard requirements for nonresidential uses abutting residential districts or uses.* Nonresidential uses shall not be located closer than 50 feet to any lot line of a residential district or use, except for buildings and uses located on property in an RO-1 district which shall meet the setback requirements as specified in • 158.035. Buildings and uses located on property in an A-1 district shall meet the setback requirements as specified in • 158.030. Greater setbacks may be required for specific uses elsewhere in this Zoning Code. Screening shall be required along such mutual boundaries. Such screening shall have a minimum height of five feet, six inches and be of sufficient density or opaqueness to accomplish the above stated purposes.

(4) *Front yard screening requirements for parking lots across the street from residential districts or uses.* All parking lots located within any required front yard across the street from any residential district shall be separated from the street right-of-way according to the requirements of • 158.135(C)(2). Screening three feet in height shall be provided along all sides of parking areas facing residential districts or uses, except where the Planning and Zoning Department determines that a sight distance hazard would be created.

(5) *Mounding specifications.* Mounding provided in lieu of or in combination with walls, fences, and/or evergreen plantings shall consist of a strip of land as wide as necessary to obtain a maximum slope of 3 to 1 (angle or repose) for the required height. Mounding shall be planted with a ground cover suitable to prevent erosion.

(6) *Required depth for noise screening.* Screening for the purpose of absorbing or deflecting noise shall have a depth of at least 15 feet of mounding with plantings or ground cover or be a solid masonry wall in combination with decorative plantings.

(7) *Protection and maintenance of screening*. Whenever required screening is adjacent to parking areas or driveways such screening shall be protected by bumper blocks, posts or curbing to avoid damage by vehicles. All screening shall be trimmed and maintained in good condition and remain free of all advertising or other signs.

(8) *Required buffers between zoning districts.* All development within the city shall provide and maintain the required buffers between zoning districts as shown in the Schedule of Required Buffers Between Non-PUD Zoning Districts.

[See next page.]

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(Am. Ord. 10-12, passed 9-13-10)

• 158.136 STANDARDS FOR EXTERIOR LIGHTING.

(A) *Intent*. This section intends to regulate outdoor lighting in order to establish appropriate minimum levels of illumination, prevent unnecessary glare, and reduce both spill-over onto adjacent properties and unnecessary transmission of light into the night sky, sometimes referred to as "light pollution". It is not intended to eliminate the need for an applicant to seek professional assistance to determine appropriate lighting for the use and design proposed.

(B) *Approved lighting plan.* Whenever the installation or modification of outdoor lighting is proposed or, for a commercial, industrial, multi-family or conditional use of a site plan approval, the Planning and Zoning Department shall review and approve all proposed lighting as part of the approval process. These standards shall also apply to modifications to existing lighting fixtures, whether or not site plan approval is required.

(1) A lighting plan submitted for review shall contain the following:

(a) A site plan showing the location of all existing and proposed buildings, landscaping, streets, drives, parking areas and exterior lighting fixtures;

(b) Specifications for all proposed and existing lighting fixtures. These include: photometric data, fixture height, mounting and design, glare control devices, type and color rendition of lamps, and hours of operation. A photometric plan illustrating the levels of illumination at ground level shall account for all light sources that impact the subject site, including spill-over illumination from neighboring properties; and

(c) Relevant building elevation drawings showing all fixtures, the portions of the walls to be illuminated, illuminance levels of walls and the aiming of points of any remote fixtures.

(2) A proposed lighting plan shall be reviewed based upon the following considerations:

(a) Whether the lighting is designed to minimize glare;

(b) Whether light will be directed beyond the boundaries of the area to be illuminated or onto adjacent properties or streets;

(c) Whether the lighting will cause negative impacts on residential districts and uses;

(d) Whether the plan will achieve appropriate levels of illumination for the use proposed;

(e) Whether the lighting is in harmony with the character of the surrounding area and the illumination levels of neighboring properties; and

(f) Whether the lighting is in keeping with the city's goal of prohibiting unnecessary illumination of the night sky.

(C) *Required conditions.* When site plan or zoning permit approval is required for the installation or modification of exterior lighting, the following conditions shall apply:

(1) Light fixtures shall not be mounted in excess of the maximum height limitation of the district in which they are located. For lighting in residential districts and for uses adjacent to residential districts or uses, light fixtures located on private property shall not be mounted in excess of 16 feet above grade. Fixture height shall be measured from the grade of the illuminated surface to the bottom of the fixture.

(2) Electrical service to light fixtures shall be placed underground.

(3) No flashing lights shall be permitted.

(4) Glare control shall be accomplished primarily through the proper selection and application of lighting equipment. Only after those means have been exhausted shall landscaping, fencing and similar screening methods be considered acceptable means for reducing glare.

(5) Outdoor lighting shall be designed to achieve uniform illumination levels. The ratio of the average light level of the surface being lit to the lowest light level of the surface being lit, measured in foot-candles, shall not exceed 4:1. One foot-candle is equal to the amount of light generated by one candle shining on a square foot surface one foot away. The average illumination is determined by: adding the foot-candle value of all the points in the photometric grid, and dividing the sum by the total number of points.

(6) The use of true color rendering lamps, such as metal halide, is preferred over high and low pressure sodium lamps.

(7) Only necessary lighting for security purposes and limited operations shall be permitted after a site's hours of operation.

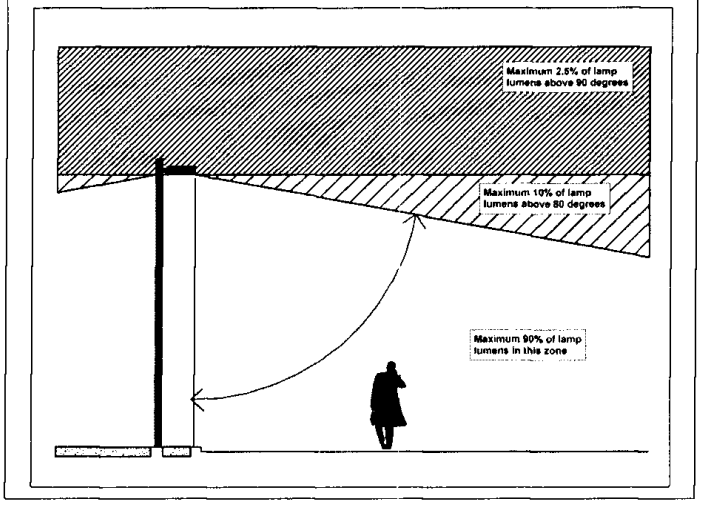
(8) Lighting for security purposes shall be directed only onto the area to be secured.

(a) All fixtures shall be located, shielded and aimed so that light is not cast toward adjacent properties or streets or unnecessarily transmitted into the night sky.

(b) Fixtures mounted on the building and designed to illuminate the facade are preferred.

(9) Parking lot lighting shall be designed to provide the minimum illumination necessary to ensure adequate vision and comfort in parking areas. Full cut-off fixtures shall be used to prevent glare and direct illumination away from adjacent properties and streets. Designs that result in even levels of illumination across a parking area are preferred.

Cut-off fixture as defined bu IESNA

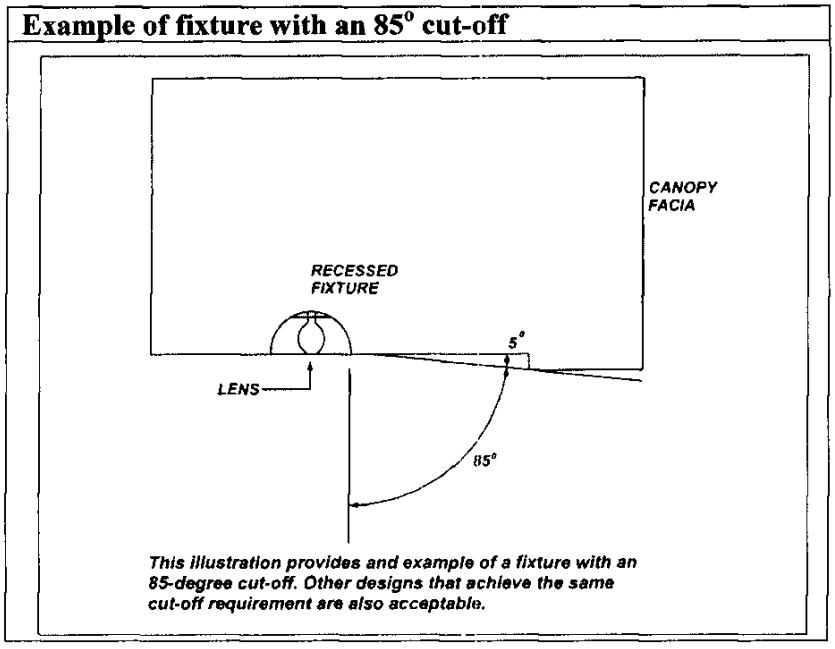


(10) The illumination of gasoline service stations and convenience stores shall be the minimum level necessary to facilitate such uses. Excessive lighting for the purposes of attraction and advertising shall not be permitted.

(a) Areas away from gasoline pump islands that are used for parking and vehicle storage shall be illuminated in accordance with the parking area requirements of division (C)(9) above.

(b) Light fixtures mounted on canopies shall be recessed or flush with the bottom of the canopy. Where a drop-down fixture is used, the lens shall be flush with (i.e., no more than one inch beyond) the casing so that light is directed down and not sideways. All canopy lighting shall be shielded to provide a cut-off angle of 85 degrees. Fixtures shall not be mounted on the top or sides of canopies.

Example of fixture with an 85° cut-off



(c) The illumination of canopy sides is prohibited.

(11) The following illumination levels shall act as minimum standards for all exterior lighting. Maximum lighting will be governed by the 4:1 ratio of average to minimum illumination of the surface being lit. Where a site abuts a nonresidential district, maximum illumination at the property line shall not exceed one (1) foot-candle. The city may modify these levels if such modifications are deemed necessary and appropriate for the use and surrounding area.

Minimum Standards for all Exterior Lighting	
Use	Minimum Illumination (footcandles)*
Parking Areas	0.2
Loading and Unloading Areas	0.4
Walkways	0.2
Building Entrances - Frequent Use	1.0
Building Entrances - Infrequent Use	0.2
*The minimum light measured in foot-candles at the point of least illumination when measured at ground level.	

(12) Where a site abuts a residential district or use, the following special conditions shall apply:

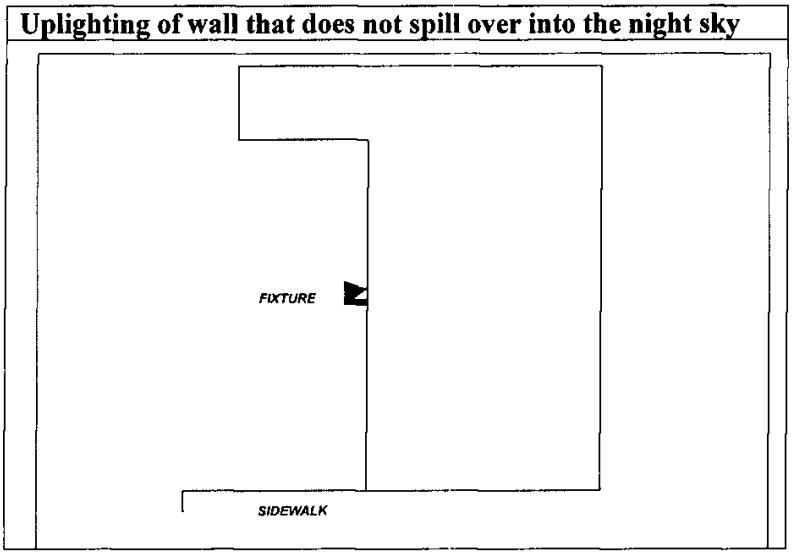
(a) The height of light fixtures shall not exceed 16 feet;

(b) All fixtures shall have a cut-off angle of 90 degrees or less;

(c) No direct light source shall be visible at the property line (adjacent to residential) at ground level; and

(d) Maximum illumination at the property line shall not exceed one half foot-candle.

(13) The city may choose to waive or alter cut-off requirements of this section when appropriate historic or decorative fixtures are proposed (e.g., use of decorative up-lighting to illuminate the underside of a canopy or columns on a facade, where a canopy or roof projection restricts the projection of the light into the night sky).



(D) *Maintenance*. All installed and approved light fixtures shall be kept in good repair. This includes, but is not limited to, replacing non-working bulbs, repairing broken or malfunctioning fixtures and similar activities. Failure to maintain fixtures shall be deemed a violation of this chapter and violators shall be subject to the penalty provisions contained in • 158.999 of the Zoning Code.

(E) *Exemptions*. The following uses shall be exempt from the provisions of this chapter:

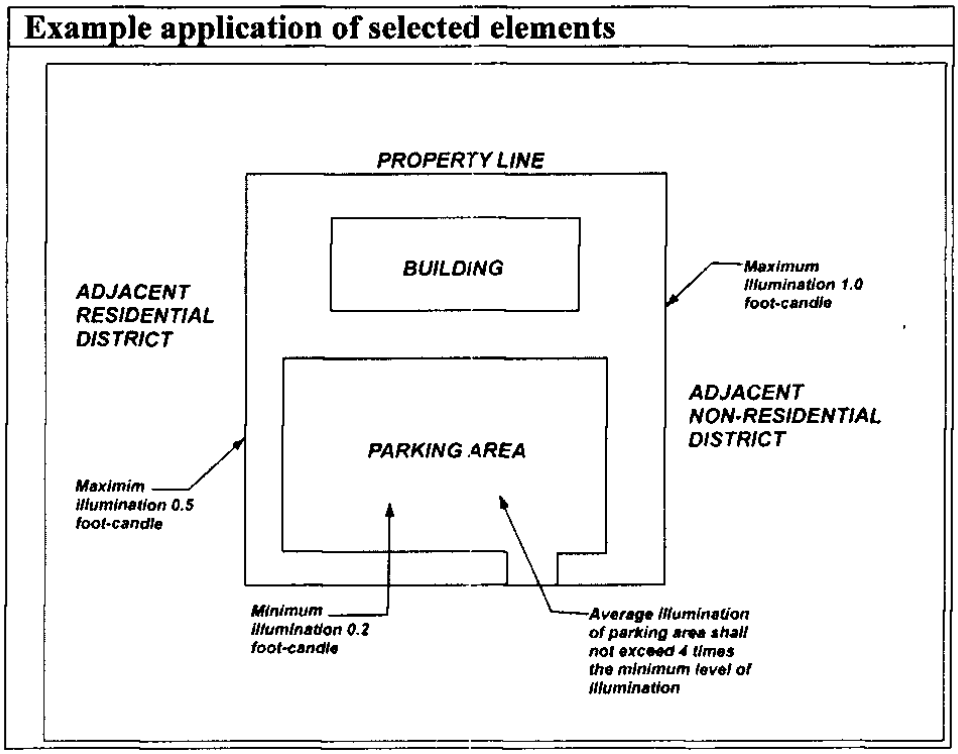
(1) Roadway lighting required by the appropriate public agency for health, safety and welfare purposes;

(2) Lighting approved by the city as part of construction;

(3) Flag lighting, provided that the illumination is the lowest possible level necessary, and that the light source is aimed and shielded to direct light only onto the intended target, so as to prevent glare for motorists and pedestrians;

(4) Emergency lighting approved by the city, provided the lighting is discontinued upon the abatement of the emergency necessitating said lighting; and

(5) Other temporary lighting determined to be reasonable and appropriate by the city.



(Ord. 09-21, passed 7-27-09)

SIGNS

• 158.145 INTENT.

To establish size and location standards which will meet the needs of businesses and other organizations within the city, while at the same time protect and enhance the visual quality of the City of Beavercreek.
(Ord. 09-21, passed 7-27-09)

• 158.146 EXEMPT SIGNS.

(A) *Intent*. These signs shall be exempt on the basis that they implement a compelling government interest in protecting the health and safety of persons and property in the city.

(B) *Exempt signs.* The following signs are exempt from this code and shall not require permits:

(1) Temporary or permanent signs erected and maintained by the city, County, State or Federal government for traffic direction or for direction to or identification of a governmental facility or community event as declared by the City Manager.

(2) Directional ground signs not to exceed two signs per driveway indicating entrance and exit locations with size not to exceed three square feet per sign face and four feet in height. Advertisements or company logos are not allowed to be incorporated in the design of traffic or directional signs.

(3) Flags, emblems and insignias of national, state or local political subdivisions.

(4) Signs that do not exceed eight square feet in sign area and six feet in height that give notice of Neighborhood Crime Watch Programs being in effect.

(5) Name and/or address descriptions mounted to the front wall of a building or to a lamp post in the front yard not to exceed two square feet in sign area.

(C) *Other exempt signs.* Signage not serving a compelling government interest in protecting the health, safety and welfare of person and property in the city, but still exempt.

(1) Single faced signs dedicated for a specific purpose, located within the confines of a parking lot, such as "Carry-Out Parking Only, or "Employee of the Month", not to exceed four square feet.

(2) Barber poles, not larger than six inches in diameter, and three feet in height.

(3) Unshielded luminous tube (neon) lighting, of small diameter (. inch) which acts as an architectural detail on the exterior of any commercial structure; limited to rooflines, and cannot be located on the side of the building facing any residential structure or district.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.147 PROHIBITED PERMANENT AND TEMPORARY SIGNS.

All signs not expressly permitted under this section or exempt from regulation under the previous section are prohibited in the city. Such signs include but are not limited to:

(A) *List of prohibited permanent and temporary signs*.

(1) Abandoned signs.

(2) Beacons and searchlights except for emergency, health or safety purposes.

(3) Billboards, lead-in, or other off-premise signs except as provided for in • 158.159.

(4) Blinking, flashing or intermittent lighting, except those permitted under electronic copy signs in "B" districts.

(5) Moving, animated or rotating signs.

(6) Pennants, streamers, banners, windfeathers, flags not exempt under • 158.146, and similar devices.

(7) All helium, gas and air balloons located on or anchored to structures, vehicles, the ground, or to anything connected to or on the ground, including skytubes, skydancers, and similar devices.

(8) Portable signs except as authorized under temporary signs.

(9) Projecting signs.

(10) Roof signs.

(11) Signs attached to any tree, utility pole, fence, bench, trash receptacle, or newspaper vending machine.

(12) Signs for which a permit has not been issued by the city or which are not exempt under • 158.146.

(13) Signs attached to or painted on the face of accessory buildings except those attached to automatic teller machines or similar structures.

(14) Any sign which, by reason of its size, shape, location, content, coloring or manner of illumination:

(a) Constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers or by obstructing or detracting from the visibility of any traffic sign or control device on public streets and roads.

(b) May be confused with a traffic-control sign, signal or device or the light of an emergency or road equipment vehicle.

(15) Signs which make use of words, phrases, symbols or characters in such a manner as to interfere with, mislead, or confuse traffic.

(16) Signs which obstruct free ingress and egress from a required door, window, fire escape, or other required exit way.

(17) Signs or parts thereof which are erected within or above a public right-of-way.

(18) Signs which convey visual information that may be prohibited under the obscenity statutes of the state.

(19) Spinning devices or strings of spinning devices.

(20) Window signs in any district which covers more than 50% of total window area.

(21) Any sign that is attached, painted or placed onto or inside a parked vehicle which is used primarily for commercial advertising is prohibited unless such advertising pertains to the business for which the vehicle is actively and normally used (e.g. delivery or service van/truck) or for the sale or rental of the vehicle itself.
(Ord. 09-21, passed 7-27-09; Am. Ord. 12-02, passed 2-13-12)

• 158.148 GENERAL DESIGN, ERECTION AND MAINTENANCE PROVISIONS.

Every sign shall be designed, erected, altered, reconstructed, moved and maintained in accordance with the provisions of this section unless specifically modified by another section of this section.

(A) *Automatic teller machine signs - (ATMs).* Automatic teller machines or similar devices either attached to a principal structure or enclosed within an independent free standing structure shall be permitted two square feet of sign area for every one foot width of the ATM structure not to exceed 20 square feet of total sign area.

(B) *Awning signs.*

(1) Awning signs may be displayed in lieu of but not in addition to a wall sign for an individual establishment.

(2) If illuminated, such awning shall have lighting concealed from view.

(3) An awning sign shall not project higher than the top of the awning to which sign text is affixed.

(C) *Changeable copy area.*

(1) Permanent ground signs located in "B" Districts as well as permitted conditional uses in agricultural and residential districts may incorporate up to 50% per side of total sign area for changeable copy, with a maximum 24 inches in height of changeable copy area.

(2) Changeable copy may be used in lieu of but not in addition to electronic copy.

(3) All permanent changeable copy signs must be enclosed and locked securely in a clear glass or plastic casing.

(4) No property that utilizes a changeable copy sign shall be permitted to have any temporary signage.

(D) *Dangerous or defective signs not permitted.* A sign in dangerous or defective condition shall not be permitted on any premises. Any such sign constitutes a nuisance and shall be removed or repaired as required under • 158.156.

(E) *Electronic copy signs.*

(1) Permanent ground signs located in "B" Districts as well as permitted conditional uses in agricultural and residential districts may incorporate up to 50% per side of total sign area for electronic copy area with a maximum 24 inches in height of electronic copy area.

(2) Electronic copy may be used in lieu of but not in addition to changeable copy.

(3) Electronic display shall remain constant for a period not less than two seconds per message.

(4) No property that utilizes an electronic copy sign shall be permitted to have any temporary signage.

(F) *Ground signs.*

(1) *General.*

(a) Any temporary ground sign or any part thereof shall be set back a minimum distance of 15 feet from the edge of an adjacent roadway pavement. Additional setback may be required to avoid placement within the public right-of-way.

(b) A permanent ground sign or any part thereof shall be set back a minimum distance of five feet from any right-of-way or from any proposed right-of-way or any property line or as otherwise required in this section. Greater setbacks for permanent signs may be required to improve sight distances at intersections. All ground signs must be located only in the front yard unless otherwise expressly permitted by this section. In no instance may a ground sign be located closer than 15 feet from the edge of roadway pavement.

(c) The Planning and Zoning Department may permit a slight variation from the minimum street frontage spacing requirements for ground signs applicable in individual zoning districts if conflict with driveways, natural barriers, trees, and utility equipment is unavoidable.

(d) If a ground sign is pole-mounted, skirting shall be installed between the bottom of the sign and the ground to visually convey the impression of a monument-type sign.

(2) *Minimum street frontage.* Permanent ground signs shall be prohibited on parcels with street frontage less than 50 feet in width at the right-of-way line unless otherwise expressly permitted in this sign code.

(3) *Landscaping requirements.* A permanent ground sign shall require a single continuous landscaped area to be maintained around the base of the sign in accordance with the following standards:

(a) The minimum landscaped area shall be equal to or greater than the total sign area of the sign.

(b) The landscaped area shall include all points where sign structural supports attach to the ground and are visible.

(c) Where the required landscaped area is adjacent to a paved surface accessible to vehicular traffic, a raised non-mountable curb suitable to prevent the encroachment of vehicles into the landscaped area shall be required. The minimum distance between the face of any such required curb and any part of the sign shall be 30 inches.

(d) The landscaped area shall include one or more of the following plant materials: shrubs, trees, grass and/or seasonal varieties permanently located and properly maintained with dead vegetation replaced as soon as weather permits. The use of exposed concrete, asphalt, or any other paved surface inside the required landscaped area beneath the sign is prohibited.

(4) *Construction sites.* During construction of a commercial or residential development, one free-standing temporary ground-mounted sign shall be permitted to be installed on the site of the commercial or residential development. The sign shall be single-faced, have a maximum height of eight feet and not exceed 32 square feet in sign area. Minimum setback for the sign shall be 15 feet from the public right-of-way. The sign shall be removed within three days of the issuance of the last zoning permit, or two years after the date on the sign permit, whichever comes first.

(a) To ensure removal, the applicant shall be required to place a cash bond with the city at the time of the permit issuance for the removal of the sign. Said bond shall be in the amount of $250.00 and shall be refunded in full to the applicant if the permitted sign is removed within the required timeframe.

(b) In the event a permitted construction sign is not removed at the required time, said sign shall be deemed an illegal sign and the bond shall be forfeited to the city to cover removal costs.

(G) *Major development signs.* Developments in C-PUD, MX-PUD and I-PUD districts, fronting on an expressway, principal arterial, major arterial, arterial or thoroughfare roadway may be permitted one permanent freestanding pylon sign per street frontage up to a maximum of two permanent pylon signs per development.

(H) *Marquee signs.*

(1) Marquee signs may be displayed in lieu of but not in addition to any other form of permanent sign identification with the exception of under marquee signs for an individual business establishment.

(2) If illuminated, such marquee signs shall have lighting concealed from view.

(I) *Neon signs and neon banding.*

(1) Neon signs shall be permitted in business districts only, unless otherwise approved in a PUD district and cannot be located on the side of the building facing any residential structure or district.

(2) Neon signs may be displayed in lieu of, but not in addition to, a wall sign for an individual establishment.

(3) Neon banding shall be allowed provided the banding follows the roofline, and the tubes are no larger than one-half inch in diameter.

(J) *Number of signs permitted.* An individual establishment shall be permitted a maximum of two types of permanent sign identification unless otherwise permitted or prohibited in this section.

(K) *Planned Unit Development sign programs.* Signs which have been approved as part of a Planned Unit Development sign program may vary from the requirements stated within this section. Variations permitted through a PUD sign program may include but are not limited to the following: total number of signs permitted, sign size, sign setback, sign height, material composition of sign and percentage of sign area devoted to changeable copy or electronic copy. Such deviations are recognized to be primarily for safety or unique parcel configuration circumstances and are not intended to circumvent the intent of the sign code.

(L) *Sign location with respect to street and building frontages.*

(1) All signs permitted by virtue of a premises having street frontage or building frontage shall be located only along the front of the structure or property visible from the fronting roadway or from the adjacent parking lot.

(2) In the case where an individual occupant would have no building frontage, the maximum horizontal width of the portion of the building where that occupant's main entrance is located shall be considered that occupant's separate and distinct building frontage. In the case where the ground floor of a building is occupied by two or more different tenants, the portion of the building frontage occupied by each tenant shall be considered a separate and distinct building frontage.

(M) *Temporary sign illumination.* Illumination of a temporary sign shall be prohibited.

(N) *Temporary signs (additional permitted).* In addition to temporary signs permitted in the specific district requirements of this section, temporary signs shall also be permitted which comply with the following requirements:

(1) Real estate signs shall be permitted as follows:

(a) *Location*. One ground or window sign per street frontage to advertise the sale, rental or lease of the property upon which the sign is located shall be permitted. Any ground sign or part thereof shall be set back a minimum of 15 feet from the edge of any adjacent roadway pavement. Additional setback may be required to avoid placement within the public right-of-way and/or to prevent a line-of-sight obstruction. No sign may be located within the median or any other part of a public right-of-way and shall not block visibility or create an obstacle for motorists, bicyclist, or pedestrians.

(b) *Area*. In residential districts, the total sign area shall not exceed six square feet per sign face or 12 square feet in total sign area if two sided. In nonresidential districts, total sign area shall not exceed 16 square feet per sign face, or 32 square feet in total sign area if two sided.

(c) *Height*. In residential districts, the sign height shall not exceed four feet. In nonresidential districts, sign heights shall not exceed five feet.

(2) Political opinion, election and issue signs shall be permitted as follows:

(a) *Property owner permission required.* It shall be the responsibility of the owner of any political sign to obtain the permission of the property owner of any parcel on which the sign will be placed, prior to the placement of any political sign.

(b) *Political opinion, election and issue signs in residential districts.*

1. Political signs shall not be illuminated.

2. Political signs shall not be larger than six square feet per sign face or 12 square feet in sign area if two sided.

3. Political signs shall not be mounted to any tree, utility pole or building.

4. Political signs shall not be displayed in the right-of-way and cannot create a line of sight hazard.

(c) *Political opinion, election and issue signs in commercial districts.*

1. Political signs shall not be illuminated.

2. Each commercial parcel shall be allowed one large sign, up to 16 square feet per sign face, or 32 square feet if two-sided, per individual political issue, opinion and election.

3. In addition to the large sign, each commercial parcel shall be allowed an additional 36 square feet within smaller signs, each of which shall be no larger than six square feet per sign face, or 12 square feet if two-sided, per individual political issue, opinion and election.

4. Political signs shall not be mounted to any tree, utility pole or building.

5. Political signs shall not be displayed in the right-of-way and cannot create a line-of-sight hazard.

6. Because of the nature of materials typically used to construct political signs, to avoid the unsightliness of deteriorating signs and all safety concerns which accompany such a condition, political signs must be removed or replaced when the sign is deteriorated or within 60 days from the date the sign is posted, whichever comes first. The city may cause the removal of any deteriorated sign and charge the expenses for the removal to the owner of the property on which the sign is displayed. If posts are used to display larger signs, said posts shall also be removed within 60 days from the date the sign is posted.

7. Prior to the placement of a political sign on a commercial property, the owner of the sign shall submit and receive approval by the Planning Department for a Temporary Political Sign Permit.

8. Prior to the placement of the political sign on a commercial property, the owner of the sign shall submit and receive approval by the Ohio Utility Protection Services before driving posts for large signs.

(O) *Under marquee signs.* Under marquee signs shall be mounted as nearly as possible to right angles of the building face.

(P) *Wall signs.*

(1) A wall sign may be displayed in lieu of, but not in addition to, an awning sign or neon sign for an individual establishment.

(2) A wall sign shall not project more than 18 inches from the wall of the building upon which it is mounted.

(3) A wall sign shall be inclined from the vertical only to the extent necessary for conformity to the general contour of the wall to which the sign is mounted.

(4) A wall sign shall not extend above the top of the wall and shall not extend beyond the limits of any wall to which it is attached.

(5) A wall sign shall not mask or interrupt a major architectural feature (such as, but not limited to, doors, windows, or trim).

(6) A wall sign shall have hidden structural supports and shall be mounted in such a way as to not allow movement by atmospheric conditions.

(7) If illuminated, such lighting shall not produce glare and all lighting elements, including wiring, shall be concealed from view.

(8) The removal or alteration of any wall sign shall result in the underlying façade being returned to its original construction condition, so as to leave no evidence of a former sign.

(Q) *Exterior lighting for signage.* See • 158.136, Standards for Exterior Lighting.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-02, passed 2-13-12)

• 158.149 SIGNS PERMITTED IN A-1 DISTRICTS.

(A) *Total sign area allowed.* Total sign area for a permanent ground sign for each developed nonresidential or nonagricultural parcel with a permitted or conditional use shall be based on one quarter square foot of sign area for each linear foot of street frontage. Sign area for permanent wall signs shall be based on one quarter square foot of sign area for each linear foot of building frontage.

(B) *Permanent ground signs.*

(1) One ground sign shall be permitted for each developed parcel.

(2) Developed parcels located on corner lots are permitted only one ground sign.

(3) The total sign area of a ground sign shall not exceed 24 square feet per sign face or 48 square feet in total sign area.

(4) No ground sign shall exceed four feet in height from established grade to top of sign structure. See also Appendix C.

(5) Premises fronting on more than one public right-of-way shall not combine permissible sign area for two or more building frontages for the purpose of placing the combined area of signs on one building frontage.

(C) *Permanent wall signs.*

(1) One wall sign per building frontage shall be permitted for nonresidential or nonagricultural premises with a permitted conditional use.

(2) Premises fronting on more than one public right-of-way shall not combine permissible sign area for two or more building frontages for the purpose of placing the combined area of signs on one building frontage.

(3) The total sign area of a wall sign shall not exceed 16 square feet in sign area.

(4) A wall sign shall not project above the top of the wall to which attached.

(D) *Temporary ground signs excluding political and real estate signs.*

(1) Each individual establishment shall be allowed to choose one of the following options per calendar year for a temporary portable ground sign containing changeable copy or for an A-frame sign.

(a) Two temporary sign permits each calendar year for a period of time not to exceed one continuous 15-day period per sign permit. Each continuous 15-day period shall be separated from any subsequent 15-day period by no less than 30 calendar days.

(b) One temporary sign permit each calendar year for a period of time not to exceed one continuous 30-day period.

(2) The sign shall not exceed five feet in height.

(3) Total sign area for temporary ground signs, which are to be constructed of metal, wood, plastic or fiberboard, shall not exceed 20 square feet in sign area per sign face, total sign area not to exceed 40 square feet.
(Ord. 09-21, passed 7-27-09; Am. Ord. 12-02, passed 2-13-12)

• 158.150 SIGNS PERMITTED IN R DISTRICTS.

(A) *Permanent ground signs.*

(1) One permanent ground sign shall be permitted to identify an approved subdivision, neighborhood, multi-family development complex, or permitted conditional use. These signs shall be permitted so as to implement a compelling government interest in protecting the health and safety of persons and property in the city through proper identification of subdivisions, neighborhoods, multi-family developments and conditional uses. A larger number of ground signs may be approved through the PUD or conditional use process.

(2) Ground signs must be located along a principal arterial, major arterial or visually definable entryway to a residential subdivision or permitted conditional use.

(3) The total sign area of such a ground sign shall not exceed 30 square feet. The sign shall not exceed 15 square feet per face.

(4) No ground sign shall exceed four feet in height from established grade to top of sign structure. See also Appendix C.

(B) *Temporary ground signs for residential uses excluding political and real estate signs.*

(1) Only one temporary ground sign constructed of fiberboard, wood or plastic shall be permitted on an individual residential parcel for a period of time not to exceed one continuous seven-day period in any one calendar year.

(2) The sign height shall not exceed four feet.

(3) Total sign area for a temporary ground sign shall be based on one square foot of sign area for every ten linear foot of street frontage. The total sign area shall not exceed ten square feet per sign face or 20 square feet in total sign area.

(C) *Temporary ground signs for non-residential uses excluding political and real estate signs.*

(1) Each individual establishment shall be allowed to choose one of the following options per calendar year for a temporary portable ground sign.

(a) Two temporary sign permits each calendar year for a period of time not to exceed one continuous 15-day period per sign permit. Each continuous 15-day period shall be separated from any subsequent 15-day period by no less than 30 calendar days.

(b) One temporary sign permit each calendar year for a period of time not to exceed one continuous 30-day period.

(2) The sign height shall not exceed five feet.

(3) Total sign area for a temporary portable ground sign, which shall be constructed of metal, wood, plastic or fiberboard, shall not exceed 20 square feet in sign area per sign face, total sign area not to exceed 40 square feet.
(Ord. 09-21, passed 7-27-09; Am. Ord. 12-02, passed 2-13-12)

• 158.151 SIGNS PERMITTED IN RO-1 DISTRICTS.

(A) *Permanent ground signs.*

(1) One ground sign shall be permitted for each developed parcel.

(2) The total sign area of such a ground sign shall not exceed 30 square feet. An individual sign face shall not exceed 15 square feet.

(3) No such ground sign shall exceed four feet in height from the established grade to the top of sign structure.

(4) Such a ground sign must be constructed of natural materials and shall not be internally illuminated.

(5) Such a ground sign must be located at least 50 feet from any adjacent residential district

(6) Premises fronting on more than one public right-of-way shall not combine permissible sign area for two or more building frontages for the purpose of placing the combined area of the signs on one building frontage.

(B) *Permanent wall signs.*

(1) One wall sign, which shall not exceed four square feet in sign area, is permitted on the front wall of the structure.

(2) Premises fronting on more than one public right-of-way shall not combine permissible sign area for two or more building frontages for the purpose of placing the combined area of the signs on one building frontage.

(3) Such a wall sign shall not exceed eight feet in height from the base of the main entrance door sill.

(C) *Temporary ground signs excluding political and real estate signs.*

(1) Only one temporary ground sign constructed of fiberboard, wood or plastic shall be permitted on an individual residential office parcel for a period of time not to exceed one continuous seven-day period in any one calendar year.

(2) The sign height shall not exceed four feet. See also Appendix C.

(3) Total sign area for a temporary ground sign shall be based on one square foot of sign area for every ten linear foot of street frontage. The total sign area shall not exceed ten square feet per sign face or 20 square feet in total sign area.
(Ord. 09-21, passed 7-27-09; Am. Ord. 12-02, passed 2-13-12)

• 158.152 SIGNS PERMITTED IN B-1 AND B-2 DISTRICTS.

(A) *Total sign area allowed.* Total sign area for a permanent ground sign for each developed parcel shall be based on one-half square foot of sign area for each linear foot of street footage. Sign area for permanent awning, wall, neon and under marquee signs shall be based on one square foot of sign area for each linear foot of building frontage.

(B) *Permanent ground signs.*

(1) One ground sign shall be permitted for each developed parcel.

(2) Where a developed parcel has street frontage in excess of 250 feet, one additional ground sign may be permitted for additional occupants of a parcel provided that the distance between the ground signs is not less than 150 feet and are not located closer than 50 feet to any adjoining side property line.

(3) The total sign area of a ground sign shall not exceed 25 square feet per sign face or 50 square feet in total sign area.

(4) No ground sign shall exceed five in height from established grade to top of sign structure. See also Appendix C.

(5) Premises fronting on more than one public right-of-way shall not combine permissible sign area for two or more building frontages for the purpose of placing the combined area of the signs on one building frontage.

(C) *Permanent awning sign.* One awning sign per building frontage shall be permitted for an individual establishment.

(D) *Permanent wall signs.*

(1) No more than one wall sign per building frontage shall be permitted for an individual establishment.

(2) Premises fronting on more than one public right-of-way shall not combine permissible sign area for two or more building frontages for the purpose of placing the combined area of the signs on one building frontage.

(3) A wall sign shall not project above the top of the wall to which attached.

(E) *Permanent under marquee signs.*

(1) No more than one under marquee sign is permitted for an individual establishment.

(2) Signs attached to the underside of a marquee shall have a sign area no greater than four square feet per sign face.

(3) Such signs shall have a minimum clearance of nine feet from the bottom of the sign to the sidewalk.

(F) *Temporary ground signs excluding political and real estate signs.*

(1) Each individual establishment shall be allowed to choose one of the following options per calendar year for a temporary portable ground sign.

(a) Two temporary sign permits each calendar year for a period of time not to exceed one continuous 15-day period per sign permit. Each continuous 15-day period shall be separated from any subsequent 15-day period by no less than 30 calendar days.

(b) One temporary sign permit each calendar year for a period of time not to exceed one continuous 30-day period.

(2) The sign height shall not exceed five feet.

(3) Total sign area for a temporary portable ground sign, which shall be constructed of metal, wood, plastic or fiberboard, shall not exceed 20 square feet in sign area per sign face, total sign area not to exceed 40 square feet.

(G) *Permanent canopy sign.*

(1) A maximum of one canopy sign per canopy frontage shall be permitted per establishment.

(2) Canopy signs may not project above or below canopy facing.

(3) Total sign area permitted for all canopy signs attached to a canopy structure shall not exceed 50% of the total sign area allotted the principal building frontage.

(H) *Menu board signs.*

(1) One menu board sign is permitted per drive-thru restaurant, and shall be located adjacent to the drive-thru lane.

(2) Total sign area for a menu board sign shall not exceed 20 square feet.

(3) Maximum height of a ground mounted menu board sign shall be 6 feet.

(4) All ground mounted menu board signs shall conform to the landscape requirements for ground signs as specified in • 158.148 (F)(3).

(I) *Blade Signs.*

(1) Total sign area for a blade sign shall not exceed four square feet per sign face.

(2) Blade signs shall not project any higher than three feet from the building.

(3) The bottom of blade signs shall not be any lower than eight feet from grade.
(Ord. 09-21, passed 7-27-09; Am. Ord. 12-02, passed 2-13-12)

• 158.153 SIGNS PERMITTED IN B-3 AND B-4 DISTRICTS.

(A) *Total sign area allowed.* Total sign area for a permanent ground sign for each developed parcel shall be based on three-fourths square feet of sign area for each linear foot of street footage. Sign area for permanent awning, wall, neon, canopy, marquee and under marquee signs shall be based on one and one-half square feet of sign area for each linear foot of building frontage.

(B) *Permanent ground signs*.

(1) One ground sign shall be permitted for each developed parcel.

(2) Where a developed parcel has street frontage in excess of 300 feet, one additional ground sign may be permitted for additional occupants of a parcel provided that the distance between the ground signs is not less than 200 feet and said signs are not located closer than 50 feet to any adjoining side property line.

(3) The total sign area of a ground sign shall not exceed 32 square feet per sign face or 64 square feet in total sign area.

(4) No ground sign shall exceed five feet in height from established grade to top of sign structure. See also Appendix C.

(5) Premises fronting on more than one public right-of-way shall not combine permissible sign area for two or more building frontages for the purpose of placing the combined area of the signs on one building frontage.

(C) *Permanent awning sign.* One awning sign per building frontage shall be permitted for an individual establishment.

(D) *Permanent wall signs.*

(1) One wall sign per building frontage shall be permitted for an individual establishment.

(2) Premises fronting on more than one public right-of-way shall not combine permissible sign area for two or more building frontages for the purpose of placing the combined area of the signs on one building frontage.

(3) A wall sign shall not project above the top of the wall to which attached.

(E) *Permanent canopy signs.*

(1) One sign per canopy frontage shall be permitted per establishment.

(2) Canopy signs may not project above or below canopy facing.

(3) Total sign area permitted for all canopy signs attached to a canopy structure shall not exceed 50% of the total sign area allotted the principal building frontage.

(F) *Permanent marquee signs.*

(1) A changeable copy marquee sign shall be permitted only on places of public entertainment such as theaters, arenas, and the like.

(2) Total sign area permitted for a marquee sign shall not exceed 75% of total sign area allotted the building frontage.

(3) The marquee sign shall not project above the top of the wall to which it is attached and shall not be less than nine feet in height from the sidewalk.

(4) The marquee sign shall not extend more than 18 inches from the wall of the building upon which it is mounted.

(G) *Permanent under marquee signs.*

(1) No more than one under marquee sign shall be permitted for an individual establishment.

(2) Signs attached to the underside of a marquee shall have a sign area no greater than six square feet per sign face.

(3) Signs shall have a minimum clearance of nine feet from the bottom of the sign to the sidewalk.

(H) *Temporary ground signs excluding political and real estate signs.*

(1) Each individual establishment shall be allowed to choose one of the following options per calendar year for a temporary portable ground sign.

(a) Two temporary sign permits each calendar year for a period of time not to exceed one continuous 15-day period per sign permit. Each continuous 15-day period shall be separated from any subsequent 15-day period by no less than 30 calendar days.

(b) One temporary sign permit each calendar year for a period of time not to exceed one continuous 30-day period.

(2) The sign height shall not exceed five feet.

(3) Total sign area for a temporary portable ground sign, which shall be constructed of metal, wood, plastic or fiberboard, shall not exceed 20 square feet in sign area per sign face, total sign area not to exceed 40 square feet.

(I) *Menu board signs.*

(1) One menu board sign is permitted per drive-thru restaurant, and shall be located adjacent to the drive-thru lane.

(2) Total sign area for a menu board sign shall not exceed 20 square feet.

(3) Maximum height of a ground mounted menu board sign shall be six feet.

(4) All ground mounted menu board signs shall conform to the landscape requirements for ground signs as specified in • 158.148 (F)(3).
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-02, passed 2-13-12)

• 158.154 SIGNS PERMITTED IN O-1, RP-1 AND ORP-1 DISTRICTS.

(A) *Total sign area allowed.* Total sign area for a permanent ground sign for each developed parcel shall be based on one-half square foot of sign area for each linear foot of street footage. Sign area for permanent awning and wall signs shall be based on one square foot of sign area for each linear foot of building frontage.

(B) *Permanent ground signs.*

(1) One ground sign shall be permitted for each developed parcel.

(2) Where a developed parcel has street frontage in excess of 200 feet, one additional ground sign may be permitted for additional occupants of a parcel provided that the distance between ground signs is not less than 150 feet and said signs are not located closer than 25 feet to any adjoining side property line.

(3) The total sign area of a ground sign shall not exceed 25 square feet per sign face or 50 square feet in total sign area.

(4) No ground sign shall exceed five feet in height from established grade to top of sign structure. See also Appendix C.

(5) Premises fronting on more than one public right-of-way shall not combine permissible sign area for two or more building frontages for the purpose of placing the combined area of the signs on one building frontage.

(C) *Permanent awning signs.* One awning sign shall be permitted for an individual establishment with orientation toward a street or an internal pedestrian movement or courtyard area.

(D) *Permanent wall signs.*

(1) One wall sign per building frontage shall be permitted for an individual establishment.

(2) Premises fronting on more than one public right-of-way shall not combine permissible sign area for two or more building frontages for the purpose of placing the combined area of the signs on one building frontage.

(3) A wall sign shall not project above the top of the wall to which attached.

(E) Temporary ground signs excluding political and real estate signs.

(1) Each individual establishment shall be allowed to choose one of the following options per calendar year for a temporary portable ground sign.

(a) Two temporary sign permits each calendar year for a period of time not to exceed one continuous 15-day period per sign permit. Each continuous 15-day period shall be separated from any subsequent 15-day period by no less than 30 calendar days.

(b) One temporary sign permit each calendar year for a period of time not to exceed one continuous 30-day period.

(2) The sign height shall not exceed five feet.

(3) Total sign area for a temporary portable ground sign, which shall be constructed of metal, wood, plastic or fiberboard, shall not exceed 20 square feet in sign area per sign face, total sign area not to exceed 40 square feet.

(F) *Additional Requirements.* All signage shall comply with •• 158.145 through 158.158 with the following exceptions and/or additions:

(1) Free standing signs except as otherwise authorized in this section, projecting signs, canopy and marquee signs, awning signs and sloping roof signs are not permitted in the Research Park District or Office Research Park District.

(2) Ground signs are permitted in the Research Park District or Office Research Park District under the following conditions:

(a) One ground sign not to exceed 24 square feet per side.

(b) Ground signs within a Research Park District or Office Research Park District must be set back a minimum of ten feet from the public right-of-way.

(c) One ground sign for two or more combined permitted business uses on the same premise, and shall not exceed 36 square feet per side.

(d) The maximum height of the ground sign above the grade shall be four feet.

(e) One freestanding sign or ground sign which identifies an entire Research Park District or Office Research Park District shall be permitted at each major arterial serving the park. The sign area shall not exceed 50 square feet per side and maximum of 100 square feet total of all sides and shall not be higher than six feet and shall be set back a minimum of 20 from the right-of-way.

(G) *Menu board signs (for drive-thru restaurants only).*

(1) One menu board sign is permitted per drive-thru restaurant and shall be located adjacent to the drive-thru lane.

(2) Total sign area for a menu board sign shall not exceed 20 square feet.

(3) Maximum height of a ground mounted menu board sign shall be six feet.

(4) All ground mounted menu board signs shall conform to the landscape requirements for ground signs as specified in • 158.148 (F)(3).
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-02, passed 2-13-12)

• 158.155 SIGNS PERMITTED IN I-1 AND I-2 DISTRICTS.

(A) *Total sign area allowed.* Total sign area for a permanent ground sign for each developed parcel shall be based on one-half square foot of sign area for each linear foot of street footage. Sign area for permanent awning and wall signs shall be based on three-fourths square foot of sign area for each linear foot of building frontage.

(B) *Permanent ground signs.*

(1) One ground sign shall be permitted for each developed parcel.

(2) Where a developed parcel has street frontage in excess of 500 feet, one additional ground sign may be permitted for additional occupants of a parcel provided that the distance between ground signs is not less than 250 feet and said signs are not located closer than 125 feet to any adjoining side property line.

(3) The total sign area of a ground sign shall not exceed 50 square feet per sign face or 100 square feet in total sign area.

(4) No ground sign shall exceed six feet in height from established grade to top of sign structure. See also Appendix C.

(5) Premises fronting on more than one public right-of-way shall not combine permissible sign area for two or more building frontages for the purpose of placing the combined area of the signs on one building frontage.

(C) *Permanent awning signs.* One awning sign shall be permitted for an individual establishment with orientation toward a street or an internal pedestrian movement area.

(D) *Permanent wall signs.*

(1) One wall sign per building frontage shall be permitted for an individual establishment.

(2) Premises fronting on more than one public right-of-way shall not combine permissible sign area for two or more building frontages for the purpose of placing the combined area of the signs on one building frontage.

(3) A wall sign shall not project above the top of the wall to which attached.

(E) *Temporary ground signs excluding political and real estate signs.*

(1) Each individual establishment shall be allowed to choose one of the following options per calendar year for a temporary portable ground sign.

(a) Two temporary sign permits each calendar year for a period of time not to exceed one continuous 15-day period per sign permit. Each continuous 15-day period shall be separated from any subsequent 15-day period by no less than 30 calendar days.

(b) One temporary sign permit each calendar year for a period of time not to exceed one continuous 30-day period.

(2) The sign height shall not exceed five feet.

(3) Total sign area for temporary ground signs, which are to be constructed of metal, wood, plastic or fiberboard, shall not exceed 20 square feet in sign area per sign face, total sign area not to exceed 40 square feet.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-02, passed 2-13-12)

• 158.156 ADMINISTRATION AND ENFORCEMENT OF SIGNS.

(A) *General*. The Code Enforcement Officer shall enforce all provisions of this section.

(B) *Permits required.* A zoning permit shall be obtained for erection, construction, relocation, or alteration of any sign unless exempted by this section. Any sign subject to this section shall comply with all city zoning, building, and electrical codes.

(C) *Permit application.* Application for a permit to install a temporary or permanent sign shall be made upon an application form provided by the Planning and Zoning Department. This application shall be accompanied by such information as may be required to assure compliance with all appropriate provisions of this section.

(D) *Permit fee.* A fee shall accompany each sign permit application, in accordance with • 158.173 (C). In addition, when any sign is erected, placed, installed or otherwise established on any property without first obtaining the permit required by this section, the fee shall be doubled; however the payment of such double fee shall not relieve any person from complying with other provisions of this section or from penalties prescribed herein.

(E) *Sign duration.*

(1) *Permanent.* Any sign deemed permanent under this section shall remain a permanent sign unless otherwise stated in this section. A renewal fee is not required.

(2) *Temporary.* Any sign deemed temporary under this section shall comply with the duration specified within ••158.145 - 158.155.

(F) *Maintenance of signs.* Every sign, whether requiring a sign permit or not, shall be maintained in a safe and aesthetically presentable condition at all times and must not appear to be in a deteriorated or dilapidated condition. Proper sign maintenance includes, but is not limited to, the replacement of defective parts, painting, cleaning, and other acts required for maintenance of the appearance and structural condition of the sign.

(G) *Removal of sign outside of the right-of way by the Code Enforcement Officer.*

(1) The Code Enforcement Officer shall cause to be removed any temporary or permanent sign that constitutes a public nuisance in that it endangers the public safety, such as a sign which has been abandoned, is illegal, is dangerous, or is materially, electrically, or structurally defective. The Code Enforcement Officer shall also cause to be removed any sign except a valid nonconforming sign for which no permit has been issued or a sign which is not in compliance with the permit issued. Before removing any such sign, however, the Code Enforcement Officer shall first prepare a notice which describes the sign and specifies the violation involved. This notice shall require that a permanent sign

shall be removed or the violation corrected within the next ten days or that a temporary sign shall be removed or the violation corrected within the next 24 hours. If this notice is not complied with, the sign shall be removed immediately following the applicable time frames by the Code Enforcement Officer in accordance with the provisions of this section.

(2) All notices issued by a Code Enforcement Officer may be served by certified mail, by placing in a prominent place on the property or delivery to the property owner, current occupant, to a person temporarily or permanently in charge of the establishment or the sign owner in case of temporary signs. Any time periods provided in this section shall be deemed to commence on the date of the service of the notice.

(3) The property owner and current occupant shall be jointly and severally obligated to reimburse the city immediately for all third party and administrative expenses incurred in removing any sign including but not limited to costs to the city for the time of city employees. If the violations are corrected and removal obligations paid, the property owner, the occupant or the sign owner of temporary sign may reclaim the sign from the city.

(H) *Removal of unlawful sign in the public rights-of-way.* Signs, other than governmental signs, are specifically prohibited in public rights-of-way. The city shall immediately remove or cause to be removed from the public rights-of-way any sign other than governmental as referenced in this section. Just as a private property owner may remove any sign placed on his or her private property so may the city if the sign is in violation of this section. Such removal authority must be exercised in a nondiscriminatory manner.

(I) *Recovery of unlawful signs.* In order to recover any unlawful sign confiscated by the city, a sign recovery fee, as determined by City Council, must be paid prior to pickup. Should the sign recovery fee not be paid within ten days from the date the sign was confiscated, the sign shall become property of the City of Beavercreek.
(Ord. 09-21, passed 7-27-09; Am. Ord. 12-02, passed 2-13-12)

• 158.157 NONCONFORMING SIGNS.

(A) *General*. Any sign lawfully existing prior to the effective date of this chapter or amendments thereto, which no longer conforms to all the standards and regulations of the current chapter.

(B) *Rules for nonconforming signs.*

(1) A nonconforming sign shall not be replaced by another nonconforming sign except that the substitution or interchange of poster panels, painted boards or demountable material on nonconforming signs shall be permitted.

(2) Minor repairs and maintenance of nonconforming signs such as repainting, electrical repairs and neon tubing repair shall be permitted. However, no structural repairs or changes in the size or shape of the sign shall be permitted except to make the sign comply with the requirements of this section or to make it less nonconforming.

(3) If a nonconforming sign is damaged by more than one-half of its replacement value, it shall be removed and shall not be repaired or replaced except in conformance with this section.

(4) Any nonconforming sign which is altered, relocated or replaced shall comply with all provisions of this sign code as if it were a new sign.
(Ord. 09-21, passed 7-27-09)

• 158.158 ILLEGAL SIGNS.

(A) *Does not satisfy code requirements.* Any sign which is contrary to the requirements of this code and which does not satisfy the nonconforming specifications stated in this code shall be deemed an illegal sign.

(B) *Illegally erected signs.* Signs which were illegally erected, established or maintained with respect to the applicable requirements of prior resolutions or ordinances shall be removed or brought into compliance with this sign code per the requirements and procedures of • 158.156.
(Ord. 09-21, passed 7-27-09)

• 158.159 OFF-PREMISE ELECTRONIC VARIABLE MESSAGE SIGNS OR DIGITAL BILLBOARDS.

(A) *Intent*. To maintain and expand the economic base of the city by helping foster a positive environment for commerce, as well as to promote the ability of digital billboards to carry public service messages, such as Amber Alerts and traffic hazard warnings by allowing for a limited number of off-premise electronic variable message signs (EVMSs) or digital billboards on commercially or industrially zoned properties within the city.

(B) *General Requirements.*

(1) *Sign area.* Off-premise electronic variable message signs shall have the following maximum square footage:

(a) On parcels immediately adjacent to US 35 or I-675 right-of-way that have four or fewer travel lanes, the sign face shall be no more than 400 square feet on each side, 800 square feet total.

(b) On parcels immediately adjacent to US 35 or I-675 right-of-way that have five to seven travel lanes, the sign face shall be no more than 600 square feet on each side, 1200 square feet total.

(c) On parcels immediately adjacent to US 35 or I-675 right-of-way that have more than seven travel lanes, the sign face shall be no more than 800 square feet on each side, 1600 square feet total.

(2) *Location*. Off-premise electronic variable message signs must be located on commercially zoned parcels immediately adjacent to US 35 or I-675 right-of-way.

(3) *Spacing.* Off-premise electronic variable message signs must be located at least 15,000 feet apart throughout the city and there shall be no more than four in the city at a time.

(4) *Multiple message signs.*

(a) Electronic messages shall remain in a fixed position for a minimum of eight seconds.

(b) The transition time, or time it takes to change the message (electronically) shall be one second or less.

(5) *Audio speakers.* Audio speakers shall be prohibited on all off-premise electronic variable message signs.

(6) *Brightness*. At no time shall off-premise electronic variable message signs cause glare or otherwise impair the vision of the operator of any motor vehicle. Signs shall be equipped with automatic dimming capabilities so that the maximum luminescence level for the sign shall be as follows:

(a) For signs with a sign face less than 300 square feet, a maximum luminescence level of 0.3 foot-candles, measured at a distance of 150 feet from the base of the sign.

(b) For signs with a sign face between 300 and 400 square feet, a maximum luminescence level of 0.3 foot-candles, measured at a distance of 200 feet from the base of the sign.

(c) For signs with a sign face 400 square feet or larger, a maximum luminescence level of 0.3 foot-candles, measured at a distance of 250 feet from the base of the sign.

(C) *Non-conforming billboard mitigation.* All applicants who currently have a non-conforming billboard or supporting structure for a billboard on the parcel which the new off-premise electronic variable message sign will be located, shall remove any and all billboards, and supporting structures, on that parcel prior to the release of a zoning permit for a new off-premise electronic variable message sign, unless the structure is to be reused for the new off-premise electronic variable message sign.

(D) *Public hearing and approval required.* All off-premise electronic variable message signs, including related structures, shall be subject to review and approval by City Council at a public hearing, following which the City Council shall, by motion, approve, approve with supplementary conditions, or disapprove the proposed off-premise electronic variable message sign application.

(1) *General design practices*. The structure, base and sign face shall be arranged, planned and designed, on the site to produce:

(a) Favorable relationships with the existing natural topography, bodies of water or water courses, existing desirable vegetation, exposure to significant views and exposure to sunlight and wind;

(b) Safety, convenience and ease of pedestrian and vehicular movement near and around the structure; and

(c) An overall positive visual quality of the structure, base and sign face.

(d) See Appendix C: DIGITAL BILLBOARD DESIGN GUIDELINES for general material and design guidelines of off-premise electronic variable message signs, subject to approval by City Council.

(2) *Line-of-sight study.* With the application to City Council, the applicant shall submit a line-of-sight study of the proposed billboard to ensure that it will not be directly visible to any residential properties in the vicinity.

(E) *Permit and annual license required.* Prior to the installation of an off-premise electronic variable message sign, the owner or their designee shall be required to apply and receive a sign permit as required in • 158.156 (A) thru (D).

(1) *Annual license*. In addition to the installation permit, the applicant shall apply and receive an annual license, which shall be valid for 12 months after the issue date. The annual license shall be accompanied by a required annual license fee as deemed reasonable and proper by the City Manager in accordance with the fee schedule heretofore approved by the City Manager.

(2) *Failure to renew license*. In the event that the owner or their designated employee fails to apply and receive the annual license, the sign shall be deemed to be in violation of the zoning code and violators shall be subject to the penalty provisions contained in • 158.999 of the Zoning Code. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(3) If there is any conflict between this chapter and O.A.C. •• 5501: 2-2-02 as it may be amended, the state statute shall control.
(Ord. 12-02, passed 2-13-12)

ADMINISTRATION AND ENFORCEMENT

• 158.170 ENFORCING OFFICER.

The Code Enforcement Officer is designated as the enforcing officer of this chapter. The Code Enforcement Officer is authorized to enforce, issue orders to prevent and stop violations and administer the provisions of this chapter. He or she may be assisted by any official or employee of the city by reporting to him or her any new construction, reconstruction, land uses, changes or suspected violations.

(A) *Duties.*

(1) Conduct on-site inspections to insure the actual construction will conform to the zoning permit.

(2) Upon finding a violation of the provisions of this chapter, the Code Enforcement Officer shall take appropriate action or actions necessary to correct said violation.

(3) May order discontinuance of illegal uses of land, buildings or structures.

(4) May order removal of illegal buildings or structures or illegal additions or structural alterations.

(B) *Right of petition or appeal.* See • 158.172(D).
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.171 PLANNING COMMISSION.

(A) *Membership, appointment.* Pursuant to Charter Article IX, the Planning Commission shall consist of five members, who shall be residents of the incorporated territory in the municipality and shall be appointed by the Council for overlapping terms of three years. Members of the first Board shall be appointed for terms of one, two, and three years respectively. Thereafter, all members shall be appointed for the full three-year term. Appointment and removal of members shall be made in the manner provided by the Charter.

(B) *Organization.*

(1) The Planning Commission shall elect its own officers annually and shall adopt the rules necessary for the conduct of its affairs in keeping with the provisions of this chapter.

(2) Meetings shall be held at the call of the chair and at such other times as the Planning Commission may determine. The chair, or in his or her absence the acting chair, may administer the meeting. All meetings shall be open to the public. The Planning Commission shall keep minutes of its proceedings and shall keep records of its examinations and other official actions, all of which shall be a public record.

(3) A majority of the Planning Commission shall constitute a quorum for conducting business.

(C) *Conditional uses.* The Planning Commission is authorized to hear and decide all conditional use applications, except for as provided in • 158.172(H)(6).

Beavercreek - Land Usage

(1) *Application and filing requirements.* An application for a conditional use shall be submitted by the property owner or authorized agent thereof on a form provided by the city to the Planning and Zoning Department, along with a nonrefundable payment to the city in an amount equal to the established fee for conditional use applications. The application shall contain an original and copies of all application materials, as required on the checklist on file at the time of application with the Planning and Zoning Department in a quantity specified by the Planning and Zoning Department.

(2) *Application completeness and officially filed status.* An application for a conditional use shall not be considered officially filed until the applicant has submitted all applicable filing fees and submitted to the Planning and Zoning Department all information required by or under subsection (6)(a) of this section. Completeness of an application and submission of necessary information is the responsibility of the applicant. Only after an application is determined by the Planning Director to be complete and officially filed will application review procedures begin.

(3) *Public hearing.* The Planning Commission shall conduct a public hearing on the conditional use application with 45 days after its official filing date. Before such public hearing, notice shall be given by at least one publication in one or more newspapers of general circulation in the municipality at least 15 days before the date of the hearing.

(4) *Findings*. After consideration of the nature and condition of all adjacent and surrounding uses and buildings and a review of the conditional use application and any administrative reports, the Planning Commission shall make, by resolution, the following findings in deciding on the conditional use application:

(a) The proposed conditional use is to be located in a district wherein such use may be conditionally permitted;

(b) The proposed conditional use will not have a substantial or material detrimental effect on surrounding properties and will not have a substantially negative impact on or substantially conflict with surrounding properties; and

(c) Taking into account current vehicular traffic volumes and traffic volumes as may be expected to increase with increasing development of the community, and taking into account vehicular turning movements in relation to routes of traffic flow, street intersections, sight distances and pedestrian traffic, the vehicular traffic to and from the conditional use can be accommodated by the existing street network without significant adverse effect.

(5) *Performance bond and violation.* In approving a conditional use, the Planning Commission may prescribe appropriate conditions and safeguards in conformity to the provisions of this Zoning Code. The Planning Commission may also require security to assure conformance to such conditions and safeguards. Violation of such conditions and safeguards shall cause the security to be forfeited and shall also be deemed a violation of this code and punishable under • 158.999(A), as well as loss of the right to continue the conditional use until the requirements of these conditions and safeguards are met. An

approved conditional use shall maintain the status of a conditional use regardless of the type of zoning district in which it is located.

(6) *Burden of proof.* The applicant shall have the burden of proving by a preponderance of evidence that the standards set forth in subsection (6)(d) of this section are met and the conditional use may be approved only if the Planning Commission finds the standards have been met by such evidence.

(7) *Effect of approval.* The effect of Planning Commission's approval of a conditional use application is authorization for the Planning and Zoning Department to allow conditional use for that property. The decision of the Planning Commission shall be final unless appealed to City Council pursuant to division (E) of this section.

(8) *Period of validity.* A conditional use approval shall expire two years after it is approved by the Planning Commission unless actual construction has taken place or is underway or actual occupancy has occurred except as provided elsewhere in this Zoning Code. If a conditional use is approved, the plan must be followed. Any deviation requires the resubmission of an application for approval of the conditional use.

(D) *Official action.*

(1) The Planning Commission shall act by resolution or motion on which a majority of the members must concur in any action before the Commission. The results of such resolution or motion shall be forwarded to the Council for its action, except as may otherwise be provided in this chapter.

(2) In the event of a tie vote, the motion only fails, and a further motion must be brought to a vote to resolve the issue. If an issue cannot gain a simple majority vote at a meeting then the issue shall be continued until a majority vote can be taken. A motion or resolution can only be voted upon by members who are present at a meeting. If a majority vote cannot be achieved after attempts to acquire a majority at two successive Planning Commission meetings, the issue shall be forwarded to the Council for its action with a notation that no recommendation is made by Planning Commission for reason of failure to attain a majority vote.

(3) In cases where the Planning Commission makes a decision and not a recommendation to City Council, if a majority vote cannot be achieved after two consecutive hearings, the request shall be considered denied and the applicant shall have the right to appeal to City Council, per • 158.171 (E).

(4) The Planning Commission shall review the Land Use Plan for additions, deletions and changes no less frequently than every five years. Recommendations shall be presented to Council for its action.

(E) *Right of petition or appeal.*

(1) Any person, firm or corporation, or any officer, department, board or agency of the municipality who or which has been aggrieved or affected by any decision of the Planning Commission

may appeal such decision to the Council by filing a petition with the Clerk of Council within 15 days from the date of the decision. Such petition shall state the facts of the case. There shall be filed with the petition a separate document stating the grounds of the appeal.

(2) The Council shall hold a public hearing on such appeal not later than 30 days after such appeal has been filed with its Clerk. The Council by an affirmative vote of four of its members shall decide the matter and the Council's decision shall be final.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-02, passed 2-13-12)

• 158.172 BOARD OF ZONING APPEALS.

(A) *Creation, membership, appointment.* The Council shall appoint a Board of Zoning Appeals of five members who shall be residents of the incorporated territory in the municipality. The terms of all members shall be of such length and so arranged that the term of one member will expire each year. Each member shall serve until his successor is appointed and qualified. Appointment and removal of members shall be made in the manner provided by the Charter.

(B) *Organization.*

(1) The Board of Zoning Appeals shall elect its own officers annually and shall adopt the rules necessary to the conduct of its affairs. Meetings shall be held at the call of the chairperson and at such other times as the Board may determine. A majority of the members of the Board of Zoning Appeals shall constitute a quorum for the conducting of business.

(2) The chair, or in his or her absence, the acting chair, may administer oaths. All meetings and records shall be open to the public.

(C) *Official action.*

(1) The Board of Zoning Appeals shall act by resolution or motion on which three members must concur and shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent, or failing to vote indicating such facts, and a statement of the facts of each appeal considered by the Board, and the section of this chapter where applicable which the Board has considered in approving or disapproving any petition or other matter brought before the Board. All persons appearing before the Board shall be sworn before giving testimony.

(2) If a majority vote cannot be achieved after two consecutive hearings, the request shall be considered denied and the applicant shall have the right to appeal to City Council, per • 158.172 (D).

(D) *Right of petition or appeal.*

(1) Any person, property owner, tenant or any governmental officer, department, board or bureau may apply for a variance from the strict application of the terms of this chapter or appeal a

decision of the Planning and Zoning Department to the Board of Zoning Appeals within 15 days of the decision being rendered.

(2) An appeal of a ruling of the Planning and Zoning Department shall stay all proceedings unless the Planning and Zoning Department certifies that, by reason of facts pertaining to the matter in question, a stay in his or her opinion would cause imminent peril to life and property. When such certification is made, proceedings shall not be stayed except by a restraining order granted by the Board of Zoning Appeals or by the Court of Common Pleas.

(3) The Board of Zoning Appeals shall hold a public hearing on such appeal not later than 45 days after such appeal has been filed. The Board of Zoning Appeals, by a majority vote, shall decide the matter.

(E) *Right of petition or appeal to Council.*

(1) Any person, firm or corporation or any officer, department, board or agency of the municipality who or which has been aggrieved or affected by any decision of the Board of Zoning Appeals may appeal from such decision to the Council by filing a petition with the Clerk of Council within 15 days from the date of the decision. Such petition shall state the facts of the case. There shall be filed with the petition a separate document stating the grounds of the appeal.

(2) The Council shall hold a public hearing on such appeal not later than 30 days after such appeal has been filed with its Clerk. The Council by an affirmative vote of four of its members shall decide the matter and the Council's decision shall be final.

(F) *Fees.*

(1) Each application for a variance shall be accompanied by a fee as established by the City Council.

(2) Application fees shall not be refunded in any case.

(3) When any applications to the city for some permit, certificate or approval involves submission of technical information by the applicant, it is recognized that the city may need to incur expenses for the services of engineers and other experts to evaluate such technical data. As a condition of the city agreeing to consider any such application, the applicant must agree to reimburse the city for any such expenses. That reimbursement must be received by the city before any such certificate or approval is issued.

(G) *Hearing*. The Board of Zoning Appeals shall hold a hearing on any application, petition or appeal, within 45 days of its receipt. A notice shall be given at least 15 days in advance of the time and place of such hearing, to the owners of record of property within 500 feet of the premises in question, such notice to be delivered personally or by mail addressed to the respective owners at the address given

on the last assessment roll and by one publication in one or more newspapers of general circulation in the city. Any party may appear at such hearing in person, by agent or by attorney. The Board shall decide the application or appeal within a reasonable time.

(H) *Powers and duties.* The Board of Zoning Appeals shall have all the appropriate power and duties prescribed by law and by this chapter. The Board shall have the following duties and powers:

(1) *Administrative review.* To hear and decide appeals only in such cases where it is alleged there is error in any order, requirement, decision or determination made by the Planning and Zoning Department in the enforcement of this chapter and such appeal must be made within 15 days. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Planning and Zoning Department, or to decide in favor of the applicant on any matter upon which they are required to pass under the terms of this chapter.

(2) *Determination of similar uses.* To determine if uses not specifically mentioned in this chapter are similar to uses permitted within a district.

(3) *Determination of district boundary location.* To determine the exact location of any district boundary if there is uncertainty as to exact location thereof. In making such determination the Board shall be guided by the provision of • 158.017.

(4) *Granting of exceptions.* To hear and decide appeals for the granting of exception to this chapter in the following instances:

(a) Permit the extension of a district where the boundary line of a district divides a lot or tract held in a single ownership at the time of the passage of this chapter.

(b) Interpret provisions of this chapter, in such a way as to carry out the intent and purpose, as shown upon the map fixing the several districts, accompanying and made a part of this chapter where the street layout actually on the ground varies from the street layout as shown on the map aforesaid.

(c) Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than 60% of the structure is destroyed where the Board finds some compelling necessity requiring a continuance of the nonconforming use and the principal purpose of continuing the nonconforming use will not adversely affect the health, safety or morals of the surrounding area.

(d) Reduce the parking and loading requirements in any of the districts whenever the character of use of the building is such to make unnecessary the full provision of parking or loading facilities or where such regulations would impose unnecessary hardship on the use of the lot, as contrasted with merely granting an advantage or a convenience.

(e) The Board shall have the authority to grant an exception of a building devoted to a nonconforming use upon a lot occupied by such building where such extension is necessary and incidental to the existing use of such building; provided, however, that the floor areas of such extension not exceed in all 100% of the floor area of the existing building or buildings devoted to a nonconforming use and provided further that such extension or extensions shall be undertaken within five years of the date when the use of such building became nonconforming.

(f) Provide exceptions to height limitations in accordance with •• 158.111 and 158.135.

(5) *Variances*. To vary the strict application of any of the requirements of this chapter whereby such strict application would result in practical difficulty or unnecessary hardship not economic in nature which would deprive the owner of the reasonable use of the land or building involved but in no other case. Increased profitability is not a valid basis for legally granting a variance. Under no circumstances shall the Board grant a variance which will permit a use which is not permitted in the district involved. No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

(a) *Granting of variances.* No variance of the strict application of this Zoning Code shall be granted by the Board of Zoning Appeals until and unless the Board finds the following:

1. There exist conditions and/or circumstances relating to the property that would create practical difficulties for the property owner if strict conformance to the requirements of this Zoning Code were required.

2. The variance to be granted is the minimum variance possible and other alternatives for resolving the conflict between the applicant's plan and the requirements of the Zoning Code are impractical or infeasible.

3. The granting of the variance will be in harmony with the general spirit, intent and purpose of this Zoning Code.

4. The granting of the variance will not be injurious to surrounding properties and the general neighborhood or be otherwise detrimental to the public welfare.

5. The granting of the variance will not result in a deleterious change in the character of the community.

6. The granting of the variance will not infringe upon the rights and quiet enjoyment of adjacent property owners and will not diminish property values, endanger the public safety, or create a public nuisance.

7. The granting of the variance is for a compelling reason and not simply because the applicant's plans conflict with the Zoning Code requirements when reasonable alternatives are available.

8. The granting of the variance is not solely for economic benefit to the applicant.

(b) *Application and filing requirements.* An application for a variance shall be submitted by the property owner or authorized agent thereof on a form provided by the city to the Planning and Zoning Department, along with a nonrefundable payment to the city in an amount equal to the established fee for variance applications. The application shall contain an original and copies of all application materials, as required on the checklist on file at the time of application with the Planning and Zoning Department in a quantity specified by the Planning and Zoning Department.

(c) *Procedures for consideration of petitions for variances.*

1. The Board of Zoning Appeals shall make a finding that the reasons set forth in the application are either valid or invalid and either justify or do not justify the granting of the variance, and that the items in division (5)(a) of this section, have been fully satisfied.

2. The Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. The Board may require a bond or irrevocable letter of credit to assure conformance to such conditions and safeguards as the Board may require.

3. Violation or noncompliance of such conditions and safeguards when such are made a part of the terms under which a variance is granted shall cause the bond or letter of credit mentioned in division (c)2. above, to be forfeited or called upon and shall further be deemed a violation of this Zoning Code and punishable under • 158.999(A).

4. Prior to taking action on a request for a variance, the Board of Zoning Appeals shall hold a public hearing and give notice to property owners as required in • 158.172(G) of this Zoning Code.

5. Period of validity. No variance granted by the Board of Zoning Appeals shall be valid for a period longer than one year from the date on which the Board grants the variance unless within such period: a zoning certificate is obtained and the construction, moving or remodeling of structure is started, or Certificate of Use Compliance permit is obtained and a use commenced. The Board may grant a maximum of two extensions not exceeding six months each, upon written application, without notice of hearing.

(6) *Conditional uses.* The Board of Zoning Appeals shall hear and decide applications for WEC systems, as described in • 158.101(A) and applications for wireless telecommunications systems as described in • 158.130.

(a) *Application and filing requirements.* An application for a conditional use shall be submitted by the property owner or authorized agent thereof on a form provided by the city to the Planning and Zoning Department, along with a nonrefundable payment to the city in an amount equal to the established fee for conditional use applications. The application shall contain an original and copies of all application materials, as required on the checklist on file at the time of application with the Planning and Zoning Department in a quantity specified by the Planning and Zoning Department.

(b) *Application completeness and officially filed status.* An application for a conditional use shall not be considered officially filed until the applicant has submitted all applicable filing fees and submitted to the Planning and Zoning Department all information required by or under subsection (6)(a) of this section. Completeness of an application and submission of necessary information is the responsibility of the applicant. Only after an application is determined by the Planning Director to be complete and officially filed will application review procedures begin.

(c) *Public hearing.* The Board of Zoning Appeals shall hold a hearing on any conditional use application within 45 days of its receipt. A notice shall be given at least 15 days in advance of the time and place of such hearing, to the owners of record of property within 500 feet of the premises in question, such notice to be delivered personally or by mail addressed to the respective owners at the address given on the last assessment roll and by one publication in one or more newspapers of general circulation in the city. Any party may appear at such hearing in person, by agent or by attorney. The Board shall decide the application within a reasonable time.

(d) *Findings.* After consideration of the nature and condition of all adjacent and surrounding uses and buildings and a review of the conditional use application and any administrative reports, the Board of Zoning Appeals shall, by resolution make the following findings in deciding on the conditional use application:

1. The proposed conditional use is to be located in a district wherein such use may be conditionally permitted;

2. The proposed conditional use will not have a substantial or material detrimental effect on surrounding properties and will not have a substantially negative impact on or substantially conflict with surrounding properties; and

3. Taking into account current vehicular traffic volumes and traffic volumes as may be expected to increase with increasing development of the community, and taking into account vehicular turning movements in relation to routes of traffic flow, street intersections, sight distances and pedestrian traffic, the vehicular traffic to and from the conditional use can be accommodated by the existing street network without significant adverse effect.

(e) *Performance bond and violation.* In approving a conditional use, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity to the provisions of this Zoning Code. The Board of Zoning Appeals may also require security to assure conformance to such conditions and safeguards. Violation of such conditions and safeguards shall cause the security to be forfeited and shall also be deemed a violation of this code and punishable under • 158.999(A), as well as loss of the right to continue the conditional use until the requirements of these conditions and safeguards are met. An approved conditional use shall maintain the status of a conditional use regardless of the type of zoning district in which it is located.

(f) *Burden of proof.* The applicant shall have the burden of proving by a preponderance of evidence that the standards set forth in subsection (6)(d) of this section are met and the conditional use may be approved only if the Board of Zoning Appeals finds the standards have been met by such evidence.

(g) *Effect of approval.* The effect of the Board's approval of a conditional use application is authorization for the Planning and Zoning Department to allow a specific conditional use for that property. The decision of the Board of Zoning Appeals shall be final unless appealed to City Council pursuant to division (E) of this section.

(h) *Period of validity.* A conditional use approval shall expire two years after it is approved by the Board of Zoning Appeals unless actual construction has taken place or is underway or actual occupancy has occurred except as provided elsewhere in this Zoning Code. If a conditional use is approved, the plan must be followed. Any deviation requires the resubmission of an application for approval of the conditional use.

(I) *Effective date.* The Board of Zoning Appeals shall make specific findings of fact upon which it bases its order or decision. The Board's order shall become effective upon approval of the issue by the Board of Zoning Appeals.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-02, passed 2-13-12)

• 158.173 ZONING PERMITS.

(A) *Zoning permit required.* No building or other structure shall be erected, moved, added to, or structurally altered without a zoning permit, issued by the Planning and Zoning Department. No zoning permit shall be issued except in conformity with the provisions of this chapter. No permit is required for any building or structure to be used for public or private school purposes.

(B) *Application and issuance of zoning permits.* Every application for a zoning permit shall include a plot plan or such other plans as may be necessary to show the location and type of buildings to be erected or alterations to be made. Where construction or physical improvement of the land is involved, the lot and location of the buildings to be erected thereon shall be staked out on the ground before construction is started and all dimensions shown on filed plans shall be based on an actual survey.

(1) If required, as determined by the Planning and Zoning Department, the application shall contain an original and copies of all application materials, as required on the checklist on file at the time of application with the Planning and Zoning Department in a quantity specified by the Planning and Zoning Department.

(2) Each plan shall bear statements declaring that no part of the land involved in the application has been previously used to provide required yard space or lot area for another structure.

(3) Where complete and accurate information is not readily available from existing records, the Planning and Zoning Department may require the applicant to furnish a survey of the lot by a registered engineer or surveyor.

(4) Each property owner or authorized agent shall be required to attest to the correctness of the statements and data furnished with the application.

(5) A file of such applications and plans shall be kept in the office of the Planning and Zoning Department, as required by the Ohio Historical Society.

(6) Approval of zoning permit. Within 45 days of an application being officially filed, the Planning and Zoning Department shall either approve or disapprove the application in conformance with the provisions of this chapter. One copy of the plan shall be returned to the applicant, after the Planning and Zoning Department shall have marked such copy either as approved or disapproved and attested to same by a representative of the Planning and Zoning Department's signature on such copy. One copy of plans, similarly marked, shall be retained by the Planning and Zoning Department. The Planning and Zoning Department shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the application is in conformance with the provisions of this chapter.

(7) Submission to Director of the Ohio Department of Transportation.

(a) Before any zoning permit is issued affecting any land within 300 feet of the centerline of a proposed new highway or highway for which changes are proposed, as described in the certification to local officials by the Director of the Ohio Department of Transportation or affecting any land within a radius of 500 feet from the point of intersection of the centerline with any public road or highway, the Planning and Zoning Department shall give notice by certified mail to the Director of the Ohio Department of Transportation. The Planning and Zoning Department shall not issue a zoning permit for 120 days from the date the notice is received by the Ohio Director of Transportation. If the Director of the Ohio Department of Transportation notifies the Planning and Zoning Department that the Director has purchased or begun proceedings to appropriate the land, the Planning and Zoning Department shall refuse to issue the zoning permit.

(b) If however, the Director of the Ohio Department of Transportation notifies the Planning and Zoning Department that acquisition of the land at this time is not in the public interest or upon the expiration of 120-day period or any extension thereof agreed upon by the Director of the Ohio Department of Transportation and the property owner without notice being received from the Director, the Planning and Zoning Department shall, if the application is in conformance with all provisions of this Zoning Code, issue the zoning permit.

(c) If there is any conflict between this division (B)(7) and R.C. • 5511.01 as it may be amended, that state statute shall control.

(C) *Fees for zoning permits.* A fee shall accompany each application for a zoning permit as deemed reasonable and proper by the City Manager in accordance with the fee schedule heretofore approved by the City Manager. The City Manager shall from time to time review the schedule of fees, charges and expenses. The schedule shall be posted in the Planning and Zoning Department. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal. When any application to the city for some permit, certificate or approval involves submission of technical information by the applicant, it is recognized that the city may need to incur expenses for the services of engineers and other experts to evaluate such technical data. As a condition of the city agreeing to consider any such application, the applicant must agree to reimburse the city at once for any such expenses. That reimbursement must be received by the city before any such permit, certificate or approval is issued.

(D) *Period of validity.* A zoning permit shall become null and void six months after the date on which it is approved unless within such six-month period construction, building, moving, remodeling or reconstruction of structure is commenced or a use is commenced.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.174 CERTIFICATE OF USE COMPLIANCE.

It shall be a violation of this chapter to use or occupy or permit the use or occupancy of any building until a Certificate of Use Compliance shall have been issued by the Planning and Zoning Department stating that the proposed use of the building conforms to the permitted uses within the applicable zoning district. This provision shall apply to all buildings and uses, except those for agricultural and public or private school purposes.
(Ord. 09-21, passed 7-27-09)

• 158.175 AMENDMENTS.

This chapter may be amended by utilizing the procedure outlined herein. Amendments include changes in zoning districts. See •• 158.060 through 158.074 Planned Unit Development Districts for procedures for applications for Planned Unit Development zoning districts.

(A) *General*. Whenever the public necessity, convenience, general welfare or good zoning practices require, the City Council may by ordinance and subject to the procedures provided by law, amend, supplement, change or repeal the regulations, restrictions and boundaries or classification of property.

(B) *Initiation of zoning amendments.* Amendments to this chapter may be initiated in one of the following ways:

(1) By adoption of a resolution by the Planning Commission.

(2) By the filing of an application by at least one person who holds an ownership interest in the areas proposed to be rezoned by the amendment.

(3) By action of the Council.

(C) *Contents of application.* The application shall contain an original and copies of all application materials, as required on the checklist on file at the time of application with the Planning and Zoning Department in a quantity specified by the Planning and Zoning Department.

(D) *Transmittal to the Planning Commission.* Immediately after the adoption of a resolution by the Council or the filing of an application by at least one owner or lessee of property, the resolution or application shall be transmitted to the Planning Commission.

(E) *Submission to Director of the Ohio Department of Transportation.*

(1) Before any zoning amendment is approved affecting any land within 300 feet of the centerline of a proposed new highway or highway for which changes are proposed as described in the certification to local officials by the Director of the Ohio Department of Transportation, or affecting any land within a radius of 500 feet from the point of intersection of the centerline with any public road or highway, the Council shall give notice, by certified mail, to the Director of the Ohio Department Transportation. The Council shall not approve the zoning amendment for 120 days from the date the notice is received by the Director of the Ohio Department Transportation. If the Director of the Ohio Department Transportation notifies the Council that he has purchased or has begun proceedings to appropriate the land, the Council shall refuse to approve the rezoning of land which includes the land which the Director has purchased or has begun proceedings to appropriate. If the Director of the Ohio Department Transportation notifies the Council that acquisition at this time is not in the public interest or upon the expiration of the 120-day period or any extensions thereof agreed upon by the Director of the Ohio Department Transportation and the property owner without notice being received from the Director, the Council shall proceed as required by law and this Zoning Code.

(2) If there is any conflict between this division (E)(1) and R.C. • 5511.01 as it may be amended, that state statute shall control.

(F) *Public hearing by Planning Commission.* The Planning Commission shall schedule a public hearing after the adoption of their motion, transmittal of a resolution from the Council, or the filing of an application for zoning amendment. The hearing shall be not less than 15 days nor more than 45 days from the date of adoption of such motion, transmittal of such resolution, or the filing of such application.

(G) *Notice of public hearing in newspaper.* Before holding a public hearing as required in division (F), notice of such hearing shall be given by the Planning Commission by at least one publication in one or more newspapers of general circulation in the municipality at least 15 days before the date of the hearing. This notice shall set forth the time and place of the public hearing and a statement that after the conclusion of the public hearing the matter will be referred to the Council for further determination.

(H) *Notice to property owners by Planning Commission.* Written notice of a public hearing shall be mailed by the Planning Commission, by first class mail, at least 15 days before the date of the public hearing to all owners of property within 500 feet from such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other list or lists that may be specified by the Council. The failure to deliver the notice, as provided in this section, so long as it is not intentional, shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in newspapers as specified in division (G) above.

(I) *Recommendation by Planning Commission.* Within 45 days after the public hearing required by division (F) of this section, the Planning Commission shall recommend to the Council that the request be:

(1) Granted as requested.

(2) May recommend a modification of the amendment or request.

(3) May recommend the amendment or request not be granted.

(4) Table/delay pending receipt of further information, and the like.

(J) *Public hearing before City Council.* Within 45 days after receipt of the recommendation from the Planning Commission, the City Council shall schedule a public hearing. The date of the hearing shall be not more than 45 days from the receipt of the recommendation from the Planning Commission.

(K) *Notice of public hearing in newspaper.* Notice of the public hearing required in division (J) of this section shall be given by the City Council by at least one publication in one or more newspapers of general circulation in the city. The notice shall be published at least 15 days before the date of the required hearing. The published notice shall set forth the time and place of the public hearing and the nature of the proposed amendment.

(L) *Notice to property owners by City Council.* If the proposed amendment intends to rezone or redistrict property within the city written notice of the hearing shall be mailed by the Clerk of the City Council, by first class mail, at least 15 days before the day of the public hearing to all owners of property within 500 feet from such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other list or lists that may be specified by the City Council. The notice shall contain the same information required of notices published in newspapers as specified in division (K) of this section.

(M) *Action by City Council.* As soon as reasonably possible after completion of the public hearing required in division (J) of this section, the City Council shall pass a motion to adopt, amend, return or deny the recommendation of the Planning Commission by a vote of a majority four votes of the Council membership. In the event of a tie vote or the failure to gain the number of votes required only the motion fails. An additional motion must be brought to vote to resolve the issue. That issue shall be continued until a majority vote is finally reached.

(N) *Effective date and referendum.* Such amendment adopted by the City Council shall become effective 30 days after the date of such adoption unless within 30 days after the adoption of the amendment there is presented to the City Council a petition for referendum pursuant to R.C. • 731.29 et seq. No amendment for which such referendum vote has been requested shall be put into effect unless a majority of the votes cast on the issue is in favor of the amendment. Upon certification by the Board of Elections that the amendment has been approved by the voters, it shall take immediate affect.

(O) *Technical review costs.* When any applications to the city for some permit, certificate or approval involves submission of technical information by the applicant, it is recognized that the city may need to incur expenses for the services of engineers and other experts to evaluate such technical data. As a condition of the city agreeing to consider any such application, the applicant must agree to

reimburse the city at once for any such expenses. That reimbursement must be received by the city before any such permit, certificate or approval is issued.

(P) *Public notice costs.* A condition of the city agreeing to consider any application for permit, certificate or approval shall be that the applicant must pay the cost of publishing any newspaper notice of any public hearings on the application, and of any ordinance that grants the application in whole or in part. Similarly, the applicant must agree to reimburse the city for any postage expense of mailing notices of the process.
(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10)

• 158.176 VIOLATION A NUISANCE PER SE.

Buildings erected, altered, razed or converted, or uses carried on in violation of any provision of this chapter are declared to be a nuisance per se. The court shall be requested to order such nuisance abated and the owner or agent in charge of such building or land shall be adjudged guilty of maintaining a nuisance per se.
(Ord. 09-21, passed 7-27-09)

• 158.997 VIOLATION NOTIFICATION PROCEDURE.

(A) *First notice of violation.*

(1) The enforcing officer shall issue a first notice of violation, by regular U.S. Mail, posting in a prominent place on said premises, or served personally, to the person(s) having the right of possession of the premises in violation of any section or division of Chapter 158.

(2) The first notice of violation shall identify the date of the violation, the property on which the violation is occurring, the nature of the violation, the corrective action to be taken, and the timeframe within which to complete such action.

(B) *Second notice of violation.*

(1) If the enforcing officer determines that the violation of the same section of Chapter 158 as cited in the first notice of violation, as provided for in division (A), has not been fully remedied within the prescribed timeframe provided for in division (A)(2) of this section, or if it reoccurs within 12 months of the first notice, the enforcing officer shall send a second notice of violation, by U.S. Mail, posting in a prominent place on said premises, or served personally, to the person(s) having the right of possession of the premises in violation of any section or division of Chapter 158.

(2) The second notice of violation shall identify the date of the violation, the property on which the violation is occurring, the nature of the violation, the corrective action to be taken, and the timeframe within which to complete such action.

(3) After the expiration of the second notice's timeframe provided for in division (B)(2) of this section, the enforcing officer may request that appropriate legal action be taken.

(C) *Continuation of violation.*

(1) If a person has received a first notice of violation of any section of Chapter 158 and the person commits another violation of the same section of Chapter 158 within 12 months of receiving the first notice of violation, the second violation may be considered a continuing violation and an enforcing officer may issue a second notice of violation.

(2) If a person has received a first and second notice of violation of any single section of Chapter 158 and the person commits another violation of the same section of Chapter 158 within 12 months of receiving second notice of violation, the third and any subsequent violation (s) may be considered a continuing violation and an enforcing officer may request that appropriate legal action be taken.
(Ord. 09-21, passed 7-27-09)

• 158.998 REMEDIES; AFFECTED PARTIES.

(A) *Remedies.*

(1) If any building or land is used, altered, constructed, enlarged or any such action proposed in violation of the provisions of this chapter or any amendment or supplement thereto, the City Law Director, the Planning and Zoning Department, any person or any property owner damaged by or subject to damage by such violation in addition to other remedies provided by law is hereby empowered or authorized to institute appropriate action or proceedings to prevent such unlawful location, erection, construction, reconstruction, alteration, enlargement, change, maintenance or use.

(2) Failure to obtain a zoning permit or certificate of use compliance shall be a violation of this chapter and punishable under • 158.999.

(3) Construction and use to be as provided in application, plans, permits and certificates. Zoning permits or Certificate of Use Compliance issued on the basis of plans and applications approved by the Planning and Zoning Department authorize only the use and arrangement set forth in such approved plans and applications or amendments thereto, and no other uses, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed a violation of this chapter, and punishable as provided in • 158.999.

(B) *Other action.* Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(C) *Affected parties.* The owner or tenant of any building, structure, premises or part thereof, and any architect, engineer, surveyor, builder, contractor, agent or other person who commits, participates in, assists in or maintains a violation may be found guilty of a separate offense and suffer the penalties herein provided.
(Ord. 09-21, passed 7-27-09)

• 158.999 PENALTY.

(A) *Code violation penalties.* Whoever violates any provision of this chapter is guilty of the following offenses and shall be subject to the following penalties with the exception of sign violations for which separate penalties are provided in division (B) below:

(1) For a first offense, a minor misdemeanor.

(2) For a second offense (whether or not of the same section of this chapter, occurring not later than two years after the first offense) a misdemeanor of the third degree. The court shall impose upon the offender a fine of not less than $500, no portion of which may be suspended.

(3) For a third offense (whether or not of the same section of this chapter, occurring not later than two years after the previous offense), a misdemeanor of the second degree. The court shall impose upon the offender a fine of not less than $1000, no portion of which may be suspended.

(4) For a fourth offense and each subsequent offense (whether or not of the same section of this chapter, occurring not later than two years after the previous offense), a misdemeanor of the second degree. The court shall impose upon the offender a fine of not less than $1,000, no portion of which may be suspended, or shall impose a sentence of imprisonment for not more than 30 days, with no portion of the imprisonment sentence to be suspended, or may impose both such a fine and sentence of imprisonment.

(5) A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(B) *Sign violation penalties.* Whoever erects or maintains a sign in violation of •• 158.145 through 158.158 is guilty of the following offenses and shall be subject to the following penalties:

(1) For a first offense, a minor misdemeanor.

(2) For a second offense (whether or not on the same sign or on the same section of •• 158.145 through 158.158, occurring not sooner than seven days and not later than two years after the first offense), a misdemeanor of the third degree. The court shall impose upon the offender a fine of not less than $500, no portion of which may be suspended.

(3) For a third offense (whether or not on the same sign or on the same section of •• 158.145 through 158.158, occurring not sooner than seven days and not later than two years after the first offense), a misdemeanor of the second degree. The court shall impose upon the offender a fine of not less than $1,000, no portion of which may be suspended.

(4) For a fourth offense and each subsequent offense (whether or not on the same sign or on the same section of •• 158.145 through 158.158, occurring not sooner than seven days and not later than two years after the first offense), a misdemeanor of the second degree. The court shall impose upon the offender a fine of not less than $1,000, no portion of which may be suspended, or shall impose a sentence of imprisonment for not more than 30 days, with no portion of the imprisonment sentence to be suspended, or may impose both such a fine and sentence of imprisonment.

(5) A separate offense shall be deemed committed upon each day during which a violation occurs or continues.
(Ord. 09-21, passed 7-27-09; Am. Ord. 12-02, passed 2-13-12)