



CITY COUNCIL  
Work Session, Monday, May 15, 2023 5:00 p.m.  
Council Chambers

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
  
- IV. DISCUSSION ITEMS
  - A. Spring House Park
  - B. Zoning Code Updates
  - C. Short Term Rentals
  
- V. COUNCIL COMMITTEE/EVENT UPDATES
- VI. ADJOURNMENT



# Beavercreek

## MEMORANDUM

To: Pete E. Landrum, City Manager  
From: Randall Burkett, Planning and Development Director  
Subject: Zoning Code Changes  
Date: May 11, 2023

The most recent changes to the overall Zoning Code was done in August of 2021. Since that time, staff has been identifying sections of the Code that present challenges or confusion, and have created suggested modifications, based on “real-world” situations over the course of daily operation of the Planning and Development Department. A Zoning Code is only up-to-date on the day it is approved. Over time, changes in local priorities, economic conditions, and community needs can render existing zoning codes outdated, which may render them insufficient to give staff the necessary tools to help guide development and redevelopment in a way that benefits the City and residents. Therefore, it becomes necessary to periodically evaluate and update zoning codes to reflect the evolving needs of the community and ensure that development is sustainable and responsive to the City’s vision.

The proposed changes attached reflects a culmination of several months of in-house discussions of how to help overcome challenges we’ve seen when implementing the current regulations, and propose changes to a few sections of the Zoning Code where the current regulations preclude some individually desired use of private property.

### Highlights include:

- Adding in several definitions to help clarify existing or proposed activities in later sections of the Zoning Code.
- Limiting building and site coverage of non-residential (conditional) uses in residentially zoned districts.
- Adding in an expiration date to modifications of specific and general site plans.
- Allowing a partial encroachment of 6’ fences in some double frontage lots, so long as a permanent landscape buffer is installed and maintained.
- Reducing the amount of parking in nursery school or daycare facilities based on what we’ve seen is actually needed.
- Implementing the Duncan Standards for the BZA as it relates to what evidence they consider during variance cases.
- Modifications to the Table of Permitted uses.

### § 158.003 DEFINITIONS.

**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.

**FAMILY CEMETERY.** A private property used for interment of human remains, specifically for a family related to a common ancestor.

**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.

**LIMITED PRODUCTION.** Small, non-assembly-line scale production of goods accompanying the research and development of materials being produced.

**LOT, NONBUILDABLE.** A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by plat, to be separately owned, but cannot be developed, or have a structure constructed on it. These lots are generally created on a temporary basis in order to expedite the transfer of ownership, and are replatted at a future date to remove the “Non-Buildable” designation.

**MOBILE FOOD UNIT, TEMPORARY FOOD SERVICE, or FOOD TRUCK.** Any apparatus or equipment that is used to cook, prepare or serve food, and that routinely changes or can change location and is operated from a moveable vehicle or apparatus, including but not limited to motorized vehicles, trailers, hand propelled carts barbeque pits and knockdown concessions. Such apparatus or equipment cannot remain in the same location for more than 8 hours in a 24 hour period, except as part of festivals or bazaars.

**RETIREMENT COMMUNITY.** An age-restricted development, such as 55 and older apartments or assisted living facilities, 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.

**TRUCK STOP.** An establishment that is engaged primarily in the fueling or parking of tractor trucks or similar heavy commercial vehicles, and which may include showers and the sale of accessories and equipment for such vehicles.

**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 or HIGHWAYS, and LOCAL STREETS.***

(7) ***EXPRESSWAYS ~~or~~, FREEWAYS or HIGHWAYS.*** 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*.

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

**§ 158.030 A-1 AGRICULTURAL DISTRICT.**

(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) Family Cemetery on lots 10 acres or greater, in compliance with ORC 4767.02.

~~(45)~~ 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.)

~~(56)~~ If a conditional use has been approved, those accessory buildings and accessory uses customarily incidental to the conditionally permitted uses in these districts.

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

(6) Land Use Intensity. The maximum land use intensity for conditional uses shall be as follows:

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<u>Maximum Coverage by All Buildings</u>	<u>Maximum Coverage by all Buildings and Impervious Surfaces</u>
<u>35%</u>	<u>75%</u>

**§ 158.032 R-2 TWO-FAMILY RESIDENTIAL DISTRICT.**

(6) Land Use Intensity. The maximum land use intensity for conditional uses shall be as follows:

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<u>Maximum Coverage by All Buildings</u>	<u>Maximum Coverage by all Buildings and Impervious Surfaces</u>
<u>35%</u>	<u>75%</u>

**§ 158.033 R-3, R-4 MULTI-FAMILY RESIDENTIAL DISTRICT.**

(6) Land Use Intensity. The maximum land use intensity for conditional uses shall be as follows:

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<u>Maximum Coverage by All Buildings</u>	<u>Maximum Coverage by all Buildings and Impervious Surfaces</u>
<u>35%</u>	<u>75%</u>

**§ 158.035 RO-1 RESIDENTIAL/OFFICE DISTRICT.**

(K) *Land use intensity.* The maximum land use intensity for non-residential uses shall be as follows:

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

## § 158.070 MODIFICATIONS TO APPROVED SPECIFIC SITE PLANS.

(D) Expiration of specific site plan modifications. Unless an extended approval period is granted in accordance with division (E) of this section, approval or approval with supplementary conditions of any modification 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 modification within two years from the effective date of Staff, Planning Commission and/or City Council approval of the respective modification. In the event of expiration of an approved modification, the applicant shall start afresh, submit a modification application in accordance with §§ 158.070.

(E) Extension of specific site plan modification approval period. Upon request by the owner, a one-time only, administrative extension of the two-year approval period for a modification may be granted by Staff, Planning Commission and/or City Council (depending on which entity approved the original modification). 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 modification 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 modification 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 modification 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. For minor or major modification extension requests, 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 Planning Commission in the case of a minor mod, to City Council in the case of a major mod. Within 45 days after Planning Commission or 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 modification shall become effective and begin to run on the date of Planning Commission or Council approval of such extension. The Planning Director (in the case of incidental mods) Planning Commission and/or City Council shall approve an extended approval period for a modification only when the following conditions are satisfied:

(1) The owner has submitted a written request for an extended approval period for the modification;

(2) The subject property currently has a PUD zoning classification;

(3) The approval period for the modification has not been previously extended by City Council;

(4) An extension of approval period for the modification 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 modification will not violate the purpose and intent of §§ 158.060 through 158.084 and this Zoning Code;

(7) An extended approval period for the modification promotes the health, safety and general welfare of the present and future inhabitants of the city; and

(8) The period of extension for the modification does not exceed one year.

(E) Previously approved modifications. A modification 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 Planning Commission and/or City Council.

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

**§ 158.071 R-PUD RESIDENTIAL PLANNED UNIT DEVELOPMENT DISTRICTS.**

(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, excluding public rights-of-way that are subject to impact fee credits.

(2) Lot requirements:

(a) The minimum lot width, in one-family R-PUDs shall be 60 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).

(c) There shall be a 50-foot buffer between multi-family projects abutting existing, or approved (but not yet constructed) single family projects.

**§ 158.072 C-PUD COMMERCIAL PLANNED UNIT DEVELOPMENT DISTRICTS.**

(B) *Permitted, accessory, and conditional uses.*

(1) The permitted, conditional and accessory uses in C-PUD zoning districts are those uses included as permitted, conditional and accessory uses in residential-office (RO-1), commercial and light industrial zoning districts. One or more of these permitted, conditional and accessory uses may be excluded from the specific C-PUD when the City Council determines that the specific permitted, conditional 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:

**§ 158.073 MX-PUD MIXED USE PLANNED UNIT DEVELOPMENT DISTRICT.**

(B) *Permitted, accessory and conditional uses.*

(1) The permitted, conditional and accessory uses in MX-PUD zoning districts are those uses included as permitted, conditional and accessory uses in residential, commercial and light industrial districts, excluding manufactured home developments. One or more of these permitted, conditional and accessory uses may be excluded from the specific MX-PUD when the City Council determines that the specific permitted, conditional 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:

(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.

(5) There shall be a 50-foot buffer between multi-family projects abutting existing, or approved (but not yet constructed) single family projects.

**§ 158.084 MODIFICATIONS TO APPROVED ASRA DETAILED SITE PLANS.**

(D) Expiration of ASRA detailed site plan modifications. Unless an extended approval period is granted in accordance with division (E) of this section, approval or approval with supplementary conditions of any modification 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 general site plan modification within two years from the effective date of Staff, Planning Commission and/or City Council approval of the respective modification. In the event of expiration of an approved modification, the applicant shall start afresh, submit a modification application in accordance with §§ 158.07&.

(E) Extension of ASRA detailed site plan modification approval period. Upon request by the owner, a one-time only, administrative extension of the two-year approval period for a modification may be granted by Staff, Planning Commission and/or City Council (depending on



which entity approved the original modification). 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 modification 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 modification 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 modification approval period (not to exceed one year); a description of the impact and major effects upon the project if the requested extension is not approved; a description of the major effects upon the 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 project. For minor or major modification extension requests, 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 Planning Commission in the case of a minor mod, to City Council in the case of a major mod. Within 45 days after Planning Commission or 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 modification shall become effective and begin to run on the date of Planning Commission or Council approval of such extension. The Planning Director (in the case of incidental mods) Planning Commission and/or City Council shall approve an extended approval period for a modification only when the following conditions are satisfied:

(1) The owner has submitted a written request for an extended approval period for the modification;

(2) The subject property currently has a PUD zoning classification;

(3) The approval period for the modification has not been previously extended by City Council;

(4) An extension of approval period for the modification will not cause the city to breach any Development 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 modification will not violate the purpose and intent of §§ 158.060 through 158.084 and this Zoning Code;

(7) An extended approval period for the modification promotes the health, safety and general welfare of the present and future inhabitants of the city; and

(8) The period of extension for the modification does not exceed one year.

(E) Previously approved modifications. A modification 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 Planning Commission and/or City Council.

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

**§ 158.104 ACCESSORY BUILDINGS, STRUCTURES, APPURTENANCES AND CARPORTS WITHIN RESIDENTIAL AND COMMERCIAL DISTRICTS.**

(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.

(b) 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.

(c) In cases where the lot size is 20,000 square feet or greater, the sum of the footprint of all accessory buildings shall not exceed 50% of the footprint of the principal structure.

(d) Covered porches attached to the accessory structure shall count towards the maximum square footage allowed.

(2) Within any commercial district or at places of religious assembly in residential districts, including RO-1 districts being utilized as permitted in 158.035, 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.

(H) *Propane tanks and/or backup generators.* A maximum of two propane tanks and/or backup generators may be permitted within the side yards in any residential district. Said propane tanks/generators shall not exceed five feet in height and the capacity shall not exceed 24 gallons each. Said propane tanks/generators 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 propane tank, not to exceed five feet in height, may be permitted in the side yard in lieu of two 24 gallon propane tanks. Said propane tank must be completely screened from view from both the adjacent roadway and from the adjoining property to the side. One vertical propane tank, as permitted by the Greene County Building Department, to be located immediately adjacent the principal structure, not to exceed five feet in height from the adjacent grade and a maximum of 42 inches in diameter, may be permitted in the side yard in lieu of two 24 gallon propane tanks or one 48 gallon propane tank. Said propane tank must be complete screened from view from both the

adjacent roadways and from the adjoining properties. Propane tanks in greater volume than those authorized in side yards, up to 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 propane 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 tanks, nor more than two backup generators unless approved by the Board of Zoning Appeals.

### § 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, 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.~~

(1) In side or 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 have a maximum height of ten feet around a tennis court. No fence, wall or hedge shall rise over 42 inches in height within any required front yard within residential and commercial districts.

(2) In required front yard. No fence, wall or hedge shall rise over 48 inches in height within any required front yard within residential and commercial districts. 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.

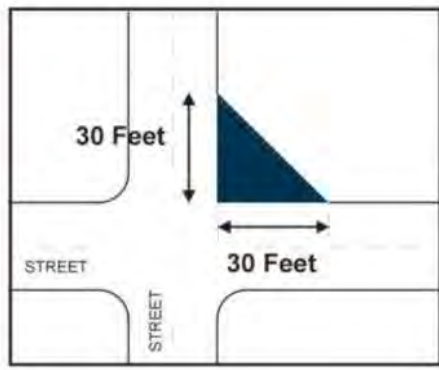
(3) On double-frontage residential lots, fences exceeding 48 inches (but no more than 6 feet) in height may encroach a maximum of 20 feet into the defined setback of the required front yard that is situated between a major public roadway (such as an arterial or collector) and the rear elevation of the principal structure. Fences exceeding 42 inches in height, within the required front yard to the rear of the principal structure, must be screened from the adjacent (but outside of the right-of-way) roadway, so long as the non-conforming fence is in place. Such screening shall be in the form of coniferous trees with a minimum height of six feet. The trees must be evenly spaced and planted parallel to the roadway at a ratio of 1 coniferous tree per 25 linear feet of adjacent road frontage, or yard thereof. Said trees cannot cause a line of sight hazard for motorists.

(B) Structural supporting members. All horizontal structural supporting members for fences shall be on the interior side of the fence, except shadowbox fencing where both sides shall be considered the interior side of the fence.

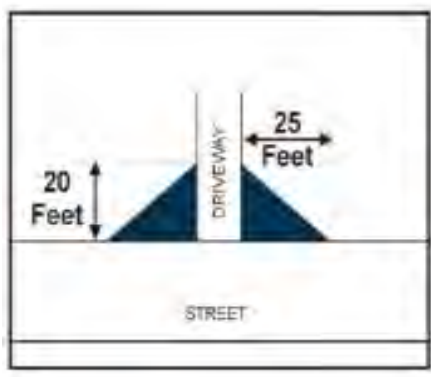
(B)(C) *Front yard setback and visibility requirements.* Fences, walls or hedges shall be prohibited:

- (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; and/or
- (4) Which interfere with visibility from driveways or at intersections.

(a) At street intersections, a sight distance triangle, which may include private property and public right-of-way, is created by measuring 30 feet from the intersection of the curb lines (or edge of pavement where there is not curb) and connecting the lines across the property. See diagram. The distances of which may be adjusted based upon the opinion of the City Engineer. Fences, walls and hedges within the sight distance triangle shall not exceed 36 inches.



(b) At driveway intersections, a sight distance triangle, which may include private property and public right-of-way, is created by measuring from the intersection of the curb line (or edge of pavement where there is not curb) and driveway, 25 feet along the roadway and 20 feet along the driveway, and connecting the lines across the property. See diagram. The distances of which may be adjusted based upon the opinion of the City Engineer. Fences, walls and hedges within the sight distance triangle shall not exceed 36 inches.



(D) Fence materials. All fences, regardless of whether or not a zoning permit is required for construction, that are new, repaired, expanded, enlarged or altered, shall be constructed only of approved fence materials.

(1) Approved fence materials shall consist of materials normally manufactured for, used as, and recognized as, fencing materials such as: metal tubing, wood planks, wrought iron or other decorative metals suitable for the construction of fences, masonry, concrete, stone, and vinyl or fiberglass composite manufactured specifically as fencing materials. Types of materials prohibited included, but are not limited to: shipping crates, pallets, tires, cardboard, asphalt shingles, corrugated metal, sheet metal, automobile parts, stacked building materials, salvaged/ scrap materials, discarded material or any other material not commonly recognized as fencing material.

(E) Obstruction of culverts and drains. Fences, walls and hedges shall not impede, inhibit, or obstruct culverts, drains, natural watercourses, or storm water drainage in any zoning district.

(F) Fences in easements. Fences and walls placed in utility and drainage easements are subject to removal without notice by utility companies or the City, to the maximum extent permissible, when work is being done in the easement. Replacement of the fences and walls shall be at the property owner’s expense.

(G) Fence setback from sidewalk. All fences, walls or hedges adjacent to any public sidewalk shall be set back at least 2 feet from the back of the sidewalk. -

(H) 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.**

(I) Security fences. Security fences up to six feet high are permitted in business and eight feet high in industrial districts, to be located in the rear and side yard only.

(J) Prohibited fences.

(1) Chain link fencing, cyclone fencing, and similar appurtenances in the front yard.

(2) Fences constructed of non-traditional materials including but not limited to tires, pallets, gabion walls, etc.

(3) Electric fences, barbed wire fences, snow fences, corrugated metal fences, or other temporary fences, within residential districts.

(4) Mesh fencing, chicken wire fencing, and welded wire fencing, except for the use as backing of a split rail/Kentucky three or four board fence, within residential districts.

(5) Chain link over 60 inches in the rear or side yard, within residential districts (except for fencing surrounding tennis courts).

~~(6) Kentucky board fencing over 48 inches in the rear or side yard, within residential districts. Chain link fencing, cyclone fencing or similar appurtenances shall be prohibited in the front yard. Electric fences, barbed wire fences, snow fences, corrugated metal fences, or other temporary fences shall not be permitted within residential districts. Except for the use as backing of a split rail fence/Kentucky board fence, mesh fencing, chicken wire fencing and welded wire fencing shall not be permitted within residential districts. No chain link (other than fences surrounding tennis courts) over 60 inches or split rail/Kentucky board fence over 48 inches shall be permitted in the rear or side yard within residential and commercial districts.~~

(K) Repair of fence. No permit shall be required when repairing an existing fence. For the purposes of this section, the repair of a fence shall be defined as the routine maintenance of individual supporting structural members or fence boards, not the replacement of entire fence sections. A fence section is any continuous portion of a fence six feet or longer. Repairs shall be done in such a manner that the repair parts (supporting structural members, fence boards and/or hardware) are of similar material, size and shape of the existing fence.

(Ord. 09-21, passed 7-27-09; Am. Ord. 12-02, passed 2-13-12; Am. Ord. 15-23, passed 8-24-15; Am. Ord. 18-25, passed 11-26-18; Am. Ord. 20-16, passed 8-10-20)

**§ 158.114 OFF-STREET PARKING REGULATIONS.**

*(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. Planning Commission and/or City Council may grant a reduced number of parking spaces, if, in the opinion of the Planning Commission and/or City Council, such reduction is in the best interest of the City.

(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 <u>on the largest shift</u> , plus one space for each five units
Apartment hotel	Three spaces for each two units, plus one space for each employee <u>on the largest shift</u>
Assisted Living Facilities	One space for every four units plus one space for each employee <u>on the largest shift</u>
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 <del>five</del> <del>seven</del> 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

### § 158.118 USE, PARKING AND STORAGE OF VEHICLES AND RECREATIONAL VEHICLES.

(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:

(4) Excluding the use of existing gravel driveways grandfathered in, as described in (D) (2), ~~A~~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.*

(2) Driveways and/or parking areas must be constructed of an improved surface and shall be maintained in a good state of repair. New residential structures must have the driveway paved within six months of receiving a Certificate of Occupancy by the Greene County Building Department. 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.

### § 158.125 NONCONFORMITIES.

(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:

(2) Should such nonconforming structure or nonconforming portion of structure be destroyed by any means, other than a natural disaster, criminal behavior of someone other than the owner, or unintentional fire, 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)). Existing nonconforming foundations, so long as they are deemed safe, may be reused for the purposes of reconstruction, but may not be moved, expanded, or altered in such a way that increases the nonconformity. This section does not apply to any existing nonconforming foundations located within a special flood hazard area, which shall not be continued if more than 50% of the structure is destroyed.

### § 158.135 LANDSCAPING, SCREENING AND BUFFERING.



(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.*

4. Single Family (R-PUD, R-IAA, R-1A, R-1B or A-1). There shall be a minimum of one shade tree on each single family lot, between the sidewalk and the front of the principle structure.

**§ 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~~ half square foot of sign area for each linear foot of building frontage.

(B) *Permanent ground signs.*

(6) 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.

(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.

**§ 158.150 SIGNS PERMITTED IN R DISTRICTS.**

(A) Total sign area allowed. Total sign area for a permanent ground sign for any parcel with a permitted or conditional use, shall be based on one half square foot of sign area for each linear

foot of street frontage. Sign area for permanent wall signs shall be based on one half square foot of sign area for each linear foot of building frontage.

(B) Permanent ground signs.

(1) One permanent ground sign shall be permitted near the entrance of an approved subdivision, neighborhood, multi-family development complex, or permitted conditional use. A larger number or size 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 ~~48~~60 square feet. The sign shall not exceed ~~24~~30 square feet per face.

(4) No ground sign shall exceed ~~four~~five feet in height from established grade to top of sign structure. See also Appendix C.

(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) A wall sign shall not project above the top of the wall to which attached.

(D) Temporary ground signs for non-residential uses excluding those outlined in § 158.148.

(4) For approved Conditional Uses in R-Districts, 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.

**§ 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~~ qualified electors 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 or her 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 an application, any petition or any 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 pursuant to § 158.172 (DE).

(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~~ Planning and Development 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~~ Planning and Development Department shall stay all proceedings unless the ~~Planning and Zoning~~ Planning and Development 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, which~~ 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 a duly authorized 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~~Planning and Development 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 Planning and Development Department, or to decide in favor of the applicant on any matter upon which ~~they are~~ the Board is required to ~~pass~~ consider 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~~ where more than 60% of the structure is destroyed, ~~where if~~ 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~~ a practical difficulty 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 a 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~~ has considered and weighed whether a property owner seeking an area variance has encountered practical difficulties in the use of his or her property. The factors to be considered when determining whether a property owner has encountered practical difficulties in the use of his or her property include, but are not limited to the following:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; ~~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. Whether the variance is substantial; ~~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. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance. ~~The granting of the variance will be in harmony with the general spirit, intent and purpose of this Zoning Code.~~

4. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage); ~~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. Whether the property owner purchased the property with knowledge of the zoning restriction(s) in place at the time he or she purchased the property; ~~The granting of the variance will not result in a deleterious change in the character of the community.~~

6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance; ~~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. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. ~~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 the property owner's duly authorized agent ~~thereof~~ on a form provided by the city to the ~~Planning and Zoning~~ Planning and Development 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~~Planning and Development Department in a quantity specified by the ~~Planning and Zoning~~Planning and Development Department.

(c) *Procedures for consideration of petitions for variances.*

1. The Board of Zoning Appeals shall make ~~specific~~specific findings ~~demonstrating its consideration of the factors set forth in §158.172 (H)(5)(a) and shall make a determination as to whether practical difficulties in the use of the property by the property owner(s) have or have not been demonstrated, and whether the granting of the variance is justified.~~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 ~~acting~~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 a 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 ~~wind energy conversion systems (WECS)~~wind energy conversion systems (WECS) 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 the property owner's duly authorized agent thereof on a form provided by the city to the ~~Planning and Zoning~~Planning and Development 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~~Planning and Development Department in a quantity specified by the ~~Planning and Zoning~~Planning and Development 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~~ Planning and Development 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 will it be considered ~~and~~ officially filed and the 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 of a fully complete application. 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 all property within 500 feet of the premises in question, with 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. The failure of delivery of such notice as provided in this section shall not invalidate subsequent action.

(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~~ motion 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, whether the vehicular traffic to and from the conditional use can be accommodated by the existing street network without significant adverse effect to the areas immediately surrounding the conditional use.

(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~~ Planning and Development 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; Am. Ord. 15-23, passed 8-24-15)

APPENDIX B: SCHEDULE OF PERMITTED PRINCIPAL USES

APPENDIX B: SCHEDULE OF PERMITTED PRINCIPAL USES									
Use	B-1	B-2	B-3	B-4	I-1	I-2	O-1	ORP-1	RP-1
Adult Day Care Facilities (overnight stay not permitted)		C	C	<del>C</del>			C		
Adult entertainment facilities in accordance with §158.128				C					
Agricultural implement sales and service				X					
Amphitheaters/pavilions		C	C	C	X	X	C		
Amusement parks				C					
Animal daycare		C	C	C	X	X			
Antiques and secondhand merchandise stores		X	X	X					
Appliance repair services		C	X	X					
Appliances and supplies - retail		C	X	X					
<del>Art and crafts and school supply stores and accessory instruction</del>	-	<del>X</del>	<del>X</del>	<del>X</del>	-	-	-	-	-
Art galleries		X	X	X					
Artist, sculptor and composer studios	X	X	X	X					
Arcades, laser tag			X	X					
Auction houses				C					
Auditoriums			X	X			X	X	X
Automotive wrecking, junk or salvage yard, if in a completely enclosed building, or the premises on which such use is conducted is entirely enclosed within a solid fence or masonry wall not less than six feet in height						X			
Bakeries, wholesale					X	X			
Bakery and donut shops, (retail)	X	X	X	X					
Banking services (financial)		X	X	X			X		
Banquet halls, meeting rooms, party rooms		C	C	C			C		
Bar/tavern/night club		<del>X</del> C	X	X					
Barber and beauty service and tanning salons	X	X	X	X					
Bicycle sales (retail), rental and repair		X	X	X					
Billiard rooms		X	X	X					
Bingo Halls			X						
Bowling alleys			X	X	X	X			
Brewery					X	X			
Brewery, micro (with retail sales)		C	C	C	X	X			
Brewery, micro				C	X	X			
Brew pub		<del>X</del> C	X	X			<del>X</del> C	C	C
Builder supply store				X	X	X			
Building Entry Systems		C	X	X	X	X			
Bulk storage of corrosive acids and acid derivatives						C			
Canvas, tent and awning sales and service			X	X	X	X			
Carpet and rug cleaning plants					X	X			

Use	B-1	B-2	B-3	B-4	I-1	I-2	O-1	ORP-1	RP-1
Carry outs - beer, wine and party supply		X	X	X					
Catering service		X	X	X	X	X			
Churches (See Places of religious assembly)									
Cold storage plants					X	X			
Commercial greenhouse					X	X			
Contract constructions services office and showroom (no outdoor storage)		X	X	X	X	X			
Contractor sales, storage and equipment yards service					X	X			
Convenience store		X	X	X					
Convenience store - drive thru		C	C	C					
Crematory service			C	C	X	X			
Dance halls			X	X					
Delicatessen		X	X	X					
Dental laboratory services		X	X	X	X	X	X		
Dental services		X	X	X			X		
Department stores, including discount stores			X	X					
Drive-in movies				C					
Drug and alcohol addiction rehabilitation clinics (no overnight facilities)		<del>X</del> C	<del>X</del> C	<del>X</del> C			<del>X</del> C		
Drug stores		X	X	X					
Dry-cleaning and dyeing					X	X			
Dry-cleaning and laundry(pick-up stations), seamstresses, dress making and tailoring		X	X	X					
Dry-cleaning operating (retail) utilizing machinery on-site not requiring cooling towers and external venting			X	X					
Exterminating services			X	X					
Farm supply, hay, grain and feed stores				X	X	X			
Farmer's market	X	X	X	X			X		
Feed lots - commercial						C			
Fraternal, social and civic associations, including food and beverage services		X	X	X			C		
Fuel oil sales and distribution				X	X	X			
Funeral services and accessory crematory services		C	X	X					
Furniture reupholstering and repair					X	X			
Glass window and door repair and sales stores			X	X					
Go-cart tracks				C					
Golf - miniature			<del>C</del>	C					
Golf driving ranges				C					
Grocery stores - including specialty stores such as meat, candy, dairy, and the like		X	X	X					
Handyman do-it yourself centers			X	X					
Hardware stores		X	X	X					

Use	B-1	B-2	B-3	B-4	I-1	I-2	O-1	ORP-1	RP-1
Health club, inside activity only		X	X	X	X	X	X	X	X
Heating, air conditioning and plumbing service repair (excluding well drilling) and retail stores		C	X	X					
Heliport landing areas accessory to permitted use					C	C		C	C
Hobby shops		X	X	X					
Holistic health center		X	X	X					
Home improvement contractors (no outside storage except in I-1 and I-2)			C	C	X	X			
Home improvement and decorating stores and services		X	X	X					
Hookah bar or Shisha bar		C	X	X					
Hospitals			X	X			X	X	X
Hotels, motels, Apartment Hotel			C	X			X	X	X
Income tax preparation	X	X	X	X			X	X	X
Industrial research laboratories					X	X			
Janitorial services			X	X					
Junk yards and salvage yards					X	X			
Kennel or cattery <u>(no closer than 500 feet to residential uses)</u>				C	X	X			
Landscape contractor (no outside storage except in I-1 and I-2)			<u>C</u>	C	X	X			
Laundries, dry-cleaning plants and linen supply					X	X			
Laundry and dry-cleaning - self-service <del>(coin-op)</del>		C	X	X					
Lawn mower sales, service and repair			X	X					
Legitimate theater			X	X					
Locksmith		X	X	X					
Lumber and other building materials - retail				X	X	X			
Machine shops and tool and die shops					X	X			
Machinery and heavy equipment sales and storage					X	X			
Manufacturing, general - fabrication and/or excavation of materials					C	C			
Massage therapy and medical massage or massotherapy		X	X	X					
Medical clinics - outpatient services		X	X	X			X		
Medical laboratory services		X	X	X			X	X	X
Medical research laboratories							<u>C</u>	X	X
Manufactured home sales				C	X	X			
Motion picture theaters (indoor)			X	X					
Moving and storage companies					X	X			
Mulch, gravel, soil and similar material sales, not accessory to the approved principal use					X	X			

Use	B-1	B-2	B-3	B-4	I-1	I-2	O-1	ORP-1	RP-1
Museums		C	C	C	C	C	C	C	C
Nursery school/Pre-school/day care centers in accordance with §158.127	C	C	C	<u>C</u>			C	C	C
Nursing or convalescent home/Assisted living facilities/Skilled nursing facilities		X	X	<u>EX</u>	<u>E</u>	<u>E</u>	C		
Offices are as follows:									
Audio and visual communication services							X	X	X
Call center or telemarketing office			C	C			X	X	X
Clerical and answering services							X	X	X
Conference center services								X	X
Corporate insurance carriers, home or regional offices (excluding drive-in claims service)				X			X	X	X
Engineering research and prototype development associated with offices ( <u>with limited production indoor only</u> )		C	X	X			X	X	X
Labor unions and similar labor organizations (excluding hiring halls)		X	X	X			X		
Labor unions and similar labor organizations (hiring halls)				X					
Other professional services NEC			X	X			X	C	C
Professional and membership organizations		X	X	X			X		
Professional services							X	X	X
Office facilities relating directly to any of the other principal permitted uses of I-1 or I-2					X	X			
Office, general		X	X	X			X	X	X
Office supply stores		X	X	X			X		
Optical services and sales		X	X	X			X		
Painting, varnishing shops					X	X			
Pawn shops ( <u>can't be located within 500 feet of existing similar use</u> )			<u>XC</u>	<u>XC</u>					
Payday loan services ( <u>can't be located within 500 feet of existing similar use</u> )			<u>XC</u>	<u>XC</u>					
Pet grooming		X	X	X					
<del>Pet sale and supply stores</del>	-	-	<del>X</del>	<del>X</del>	-	-	-	-	-
<del>Photographic supplies, services and studios</del>	-	<del>X</del>	<del>X</del>	<del>X</del>	-	-	-	-	-
Physician services		X	X	X			X		
Place of religious assembly	C	X	X	X	C	C			
Poultry killing and dressing						X			
Pre-schools	C	C	C	C	C	C	C		
Printing services		X	X	X	X	X			
Public buildings including community center buildings and libraries	X	X	X	X	X	X	X	X	
Public utility buildings, telephone exchanges, transformer stations and substations except garage and maintenance buildings	C	C	C	C	C	C	C		

Use	B-1	B-2	B-3	B-4	I-1	I-2	O-1	ORP-1	RP-1
Recreation facilities and customary accessory buildings and gymnasiums		C	X	X	X	X	X		
Recycling center - collection point only -no outside storage					X	X			
Research and engineering laboratories <u>(with limited production indoor only)</u>		C	X	X	X	X	X	X	X
Residential cleaning services		C	C	C					
Restaurants - drive-in			C	X					
Restaurants - inside and accessory drive thru service only		X	X	X			X	C	C
Retail, general		X	X	X					
School, commercial truck driving				C	C	C			
School, trade		X	X	X			C	C	C
Self storage warehouses				C	X	X			
<del>Shoe repair, shoe shining and hat cleaning services</del>	-	<del>X</del>	<del>X</del>	<del>X</del>	-	-	-	-	-
<del>Shoe stores</del>	-	<del>X</del>	<del>X</del>	<del>X</del>	-	-	-	-	-
Shooting range (indoor)		C	C	C					
Skating rinks			X	X	X	X			
Skeet or trap shooting range (commercial) but not within 600 feet of any residential district					C	C			
Solar farms (private)				C	C	C			
Storage of building supplies and equipment, contractors equipment, food, fabrics, hardware and similar goods when located entirely within a building, provided such buildings shall not be used for wrecking or dismantling of motor vehicles					X	X			
Tattoo and piercing parlor		X	X	X					
Tattoo removal center		<del>EX</del>	<del>EX</del>	X					
Taxicab business				C	X	X			
<del>Taxidermist services</del>	-	<del>X</del>	<del>X</del>	<del>X</del>	-	-	-	-	-
Teen clubs		C	X	X					
Television and radio broadcasting towers					C	C			
Television and radio stations			C	C	X	X			
Tin and sheet metal shops					X	X			
Tool and die shop, wrought iron shop, blacksmith or machine shop					X	X			
Towing Service - outdoor storage in I-1 and I-2 only			C	C	C				
Trailer and manufactured home sales and storage					X	X			
Travel bureaus and ticket sales		X	X	X			X	X	X
Truck terminal					X	X			
<u>Truck Stop</u>					<del>X</del>	<del>X</del>			
Tutoring centers		X	X	X			X	C	C

Use	B-1	B-2	B-3	B-4	I-1	I-2	O-1	ORP-1	RP-1
Variety stores - retail		X	X	X					
Vehicle paint and body shops			C	X	X	X			
Vehicle parking garages and lots (commercial)			C	C			C	C	C
Vehicle parts and accessories, (retail)		X	X	X					
Vehicle and equipment rentals are as follows:									
Car rental service			X	X	C	C			
Equipment rental and leasing service (except vehicles)					X	X			
Recreational vehicle rental including motorhomes, boats and the like				X	X	X			
Truck rental service (including cranes, earth moving equipment, semi-trucks/trailers and the like) as the principal business					X	X			
Vehicle repair stations (Major)			C	X	X	X			
Vehicle repair stations (Minor)			X	X	X	X			
Vehicle sales and service (new and used)			C	X					
Vehicle sales and services (new and used) of recreational vehicles, semi-trucks/trailers, tractors and the like				C	X	X			
Vehicle service station (gas, lubricant, coolants and accessories only)		X	X	X					
Vehicle wash facilities		C	C	X	X	X			
Veterinary office, no overnight stay		X	X	X	X	X	X		
Veterinary clinic with kennels <u>as part of clinical recovery</u> , or animal hospitals		C	X	X	X	X	C		
Warehouses					X	X			
Watch, clock and jewelry repair services		X	X	X					
Wholesale sales and distribution					C	C			
Winery					X	X			
Winery, micro		C	C	C	X	X			
The Board of Appeals may allow any use similar in character to one of the specified uses listed above if such use is in harmony with the character of the district as a permitted use.									
X =Permitted uses									
C =Conditional uses									
NEC =Not elsewhere classified									

(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-15, passed 8-13-12; Am. Ord. 14-17, passed 8-25-14; Am. Ord. 18-25, passed 11-26-18; Am. Ord. 20-16, passed 8-10-20)



# Beavercreek

## MEMORANDUM

To: Pete E. Landrum, City Manager  
From: Randall Burkett, Planning and Development Director  
Subject: Short Term Rentals (Airbnb and VRBO)  
Date: May 11, 2023

Based on feedback from the February City Council work session, we have created the attached set of proposed Short Term Rental guidelines (proposed Chapter 117 SHORT-TERM RENTALS) of the Code of Ordinances). Along with these changes (if approved), there would have to be a few definitions added to the Hotel/Motel Tax section of the City's Code of Ordinances (§ 35.56 HOTEL-MOTEL TAX).

The attached regulations require that all existing operators of a short term rental unit register their properties within 60 days of enactment, and all new operators register before they begin operations.

Highlights of the proposed regulations include:

- A license to operate will be required, which will be valid for 2 years.
- Application for license will include basic contact information, as well as declaratory statement that all health, building and fire codes are met.
- Will require registration with the Finance Department in order to pay applicable hotel/motel taxes.
- Number of Short Term Rental Users (person actually signing the contract to rent the property and any other persons staying in the unit) limited to 2 persons per bedroom.
- At least one Short Term Rental User must be 25 years old, and no user under 25 can be present without a Short Term Rental User 25 or older also being present.
- Host (person responsible for the unit, be that the owner, or some other designee) will be required to provide a packet to Short Term Rental Users that contain basic rules and regulations and an emergency contact. The Host will also be required to display the license in the unit at all times.
- License can be suspended or revoked if non-compliance becomes excessive or habitual.



## **Chapter 117: Short-Term Rentals**

### **§ 117.01 PURPOSE.**

It is the intent of this section to establish regulations regarding Short-Term Rental Units for temporary lodging intended for travel and tourism. These regulations have been established to allow property owners to use their properties as Short-Term Rentals while mitigating any potential disruption that Short-Term Rentals have on a neighborhood.

### **§ 117.02 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***SHORT-TERM RENTAL.*** Rental of all or any portion of a residential dwelling unit for dwelling, lodging, or sleeping purposes intended for travel and tourism. Occupancy of the property by a renter shall be for a period of no more than thirty (30) consecutive days. This term does not include hotel or motel rooms, extended stay lodging facilities, bed and breakfast inns, and boarding house rooms, as defined by the Beaver Creek Code of Ordinances.

***SHORT-TERM RENTAL UNIT.*** A residential dwelling which maintains a valid Short-Term Rental License. Short-Term Rental Units contain one or more bedrooms with a limit of two (2) persons per bedroom. A single-family residential dwelling offered as a Short-Term Rental shall be considered one Short-Term Rental Unit. Each dwelling unit in a duplex may serve as a separate Short-Term Rental Unit, for a maximum of two (2) Short-Term Rental Units on the property. In the case of an apartment or condominium complex, each apartment or condominium offered for Short-Term Rental use shall be considered a Short-Term Rental Unit.

***SHORT-TERM RENTAL HOST or HOST.*** Any person who is the owner of record of residential real property on which the owner operates a Short-Term Rental Unit, or the operator of a Short-Term Rental Unit regardless if they are the property owner of record or not.

***OWNER-OCCUPIED SHORT-TERM RENTAL.*** A Short-Term Rental Unit is Owner-Occupied when the property owner uses the dwelling as their primary residence and offers certain bedrooms in the dwelling for Short-Term Rental use. A dwelling is considered the owner's primary residence when the owner resides in the dwelling more than six (6) months out of the year. An Owner-Occupied Short-Term Rental Unit shall be considered an accessory use on the property, secondary to the property's primary use as an Owner-Occupied residence.

***COMMERCIAL SHORT-TERM RENTAL.*** The following shall be considered Commercial Short-Term Rental Units:

- (A) a Short-Term Rental Unit which is not Owner-Occupied
- (B) a Short-Term Rental Unit which offers more than two (2) bedrooms for Short-Term Rental Use, regardless of whether the residence is Owner-Occupied.

- (C) each individual apartment or condominium unit offered for use as a Short-Term Rental. Guest rooms are limited to two (2) persons per room for overnight rental occupancy with duration of occupancy not to exceed thirty (30) consecutive days.

**SHORT-TERM RENTAL USER.** Any individual who rents all or a portion of a Short-Term Rental Unit for a period of less than thirty (30) consecutive days. Short-Term Rental User shall also include any overnight guests of the individual renting all or a portion of a Short-Term Rental Unit.

**EMERGENCY CONTACT.** An easily accessible contact person that shall serve as an immediate point of contact to remedy any issues with the Short-Term Rental Unit. The Emergency Contact shall be available as required to address potential issues with the Short-Term Rental. Issues include, but are not limited to, damage to persons or property, potential violations of the Short-Term Rental License, health code violations, zoning code violations, building code violations, and public safety violations.

**RENTAL PARTY.** A rental party shall be considered one or more individuals who booked, and/or intended to rent, the Short-Term Rental Unit together at the same time

### **§ 117.03 SHORT-TERM RENTAL LICENSE REQUIRED**

Any person desiring to rent a property for Short-Term Rental use or advertise a property as a Short-Term Rental Unit shall comply with all applicable federal, state and local regulations, and shall obtain a Short-Term Rental License prior to operating or advertising a Short-Term Rental Unit. Any Short-Term Rental in use or advertised at the time of passage of this chapter shall obtain a license within 60 days of its passage, or shall be considered in violation of this chapter.

(A) *Short-Term Rental License Requirements:* Applications for Short-Term Rental Licenses shall be filed with the City of Beavercreek Planning and Development Director on a form to be furnished by the Director or their designee, which shall require at least the following information:

- (1) Location of the Short-Term Rental Unit.
- (2) Short-Term Rental Application Type (Commercial or Owner-Occupied).
- (3) All locations (online, newspaper, fliers...etc.) where the Short-Term Rental Unit will be advertised.
- (4) Information identifying the location and number of bedrooms to be offered for Short-Term Rental use, and the maximum number of occupants permitted within the Short-Term Rental Unit.
- (5) Information about off-street parking location, number and size of spaces, and surface of parking areas.
- (6) Contact information including:

(a) The Applicant

(b) Owner of record of the property (if different from the Applicant)

i. if the property is owned by an LLC or other commercial entity, a list of names and contact information for anyone holding an interest in the operation LLC or corporation

(c) Emergency Contact.

The above-named individual(s) listed in the application may receive legal notices from the City pertaining to the operation and maintenance of the Short-Term Rental Unit. If the property is owned by an LLC or other commercial entity, a primary contact for all legal notices and any other notices shall be designated. All contact information shall be complete, current, and legible. The Applicant shall immediately notify the City in writing of any change in contact information for the above-named individual(s), as required in 117.05 (M).

(7) Certification through separate declaratory statements from the Property Owner, Applicant and Host (to the extent they are different individuals) that, to the best of their knowledge, the Short-Term Rental Unit is in conformance with all applicable:

(a) Building Codes

(b) Health Codes

(c) Zoning and Property Maintenance Codes

(d) Fire Codes

(8) Certification through separate declaratory statements from the Property Owner, Applicant and Host (to the extent they are different individuals) that they have registered with the City of Beavercreek Finance Department, will submit any relevant forms to the City of Beavercreek Finance Department, and will pay any applicable hotel/motel and other taxes on a regular basis, the timeframe to which will be determined by the City of Beavercreek Finance Department .

(9) Confirmation that the Short-Term Rental Unit has active utilities and the property owner is current on all utility payments.

(10) Applications for a License to operate a Short-Term Rental Unit shall be accompanied by an application fee as determined by the City Manager.

(B) License Term: Each Short-Term Rental License shall be valid for a period of two (2) years from the date of issuance.

## **§ 117.04 RENEWAL OF SHORT-TERM RENTAL LICENSE**

(A) All Short-Term Rental Unit owners shall apply to renew their Short-Term Rental License before the expiration date of the current License.

(B) Renewal of Short-Term Rental License shall require the submission of an updated Application to operate the Short-Term Rental Unit, per the requirements of Section 117.03.

(C) A renewed Short-Term Rental License shall be valid for a period of two (2) years from the date of issuance.

### **§ 117.05 GENERAL LIMITATIONS**

All Short-Term Rental Units shall be in compliance with all applicable federal, state and local laws and regulations and directives.

(A) Occupancy: The property owner and Host shall be responsible for ensuring that the Short-Term Rental Unit is in compliance with the following occupancy requirements:

(1) The Short-Term Rental Unit may only be occupied by one (1) party of Short-Term Rental Users at a time;

(2) The maximum renter occupancy of a Short-Term Rental Unit shall be determined by the number of bedrooms in the Short-Term Rental Unit (two persons per bedroom maximum). ;

(3) At least one Short-Term Rental User must be 25 or older at the time of booking. No Short-Term Rental User under the age of 25 may occupy a Short-Term Rental Unit without the Short-Term Rental User 25 years or older present in the unit at all times.

(B) Display of License: The Short-Term Rental License shall be prominently displayed on the front window facade of the Short-Term Rental Unit in a location clearly visible from ordinary public view during all periods of occupancy and contain:

(1) License number given by the City;

(2) Property address;

(3) Name and phone number of the Emergency Contact;

(4) License type (Owner-Occupied or Commercial);

(5) Number of bedrooms within the Short-Term Rental Unit;

(6) Occupancy limit of the Short-Term Rental Unit.

(C) Advertising: No outdoor advertising signs related to the Short-Term Rental Unit shall be allowed on the property.

(D) Parking: Short-Term Rental Units shall provide adequate parking for guests on the property, compliant with the Beaver Creek Zoning Code, and will not obstruct traffic with street

parking. Parking of vehicles must be on a paved surface. The number of off-street parking spaces required can be reviewed in Section 158.114 of the Beaver Creek Zoning Code.

(E) Information Packet: A packet of information shall be provided to each party of Short-Term Rental Users and shall be posted conspicuously in the common area of the Short-Term Rental Unit. The packet shall summarize guidelines and restrictions applicable to the Short-Term Rental use including:

- (1) Information on maximum occupancy of the Short-Term Rental Unit;
- (2) Applicable noise regulations (See §132.12 **DISTURBING THE PEACE**);
- (3) Location of off-street parking spaces;
- (4) Directions pertaining to the disposal of trash on the property, including the following:

- (a) Trash or junk shall not be stored within public view, except within proper containers for the purpose of collection;

- (b) Information about the trash collection schedule;

- (5) Contact information for the Short-Term Rental Emergency Contact;

- (6) Evacuation routes;

- (7) The Short-Term Rental User's responsibility not to trespass on private property and not to create disturbances;

- (8) Notification that the Short-Term Rental User is responsible for complying with this Chapter 117 and may be cited or fined by the City for violating any provisions of this Chapter.

(F) Uses: A Short-Term Rental User may use a Short-Term Rental Unit for a purpose incidental to lodging or sleeping purposes, provided that the incidental use complies with rules of the property owner, requirements of this Chapter, and does not violate applicable federal, state and local laws and regulations.

(G) Outdoor Facilities: Short-Term Rental Units shall not be operated in accessory structures, tents or recreational vehicles.

(H) Emergency Contact: For all Short-Term Rental Units, there shall be an Emergency Contact. The Emergency Contact shall respond to the property within twenty-four (24) hours after receiving notice of an issue on the property.

(J) The Short-Term Rental Unit shall not adversely affect the residential character of the neighborhood or adversely affect the general public health, safety, and welfare.

(K) The Short-Term Rental Unit shall not generate excessive noise, trash, traffic, glare, obstructions, odors, vibration, or any other effects that unreasonably interfere with any individual's use and enjoyment of their property.

(L) All information associated with the Short-Term Rental License and registration must be updated and shared with the City of Beavercreek within seven (7) days of a change in status, including any changes in contact information for the Applicant, Host, property owner, or Emergency Contact.

(M) The premises of all Short-Term Rental Units are subject to inspection by the City on an as-needed basis to determine compliance with the regulations set forth in this Chapter 117.

### **§ 117.06 OWNER-OCCUPIED SHORT-TERM RENTAL STANDARDS**

The additional following standards apply specifically to Owner-Occupied Short-Term Rental Units.

(A) Owner-Occupied: Owner-Occupied Short-Term Rental Units must be Owner-Occupied and must be primarily utilized as a permanent residence for the owner-occupant.

(B) Maximum size: A maximum of two (2) bedrooms in an Owner-Occupied Short-Term Rental Unit may be rented to Short-Term Rental Users. The total number of residents and Short-Term Rental Users occupying an Owner-Occupied Short-Term Rental Unit may not exceed four guests at any time.

### **§ 117.07 DENIAL OF SHORT-TERM RENTAL APPLICATION OR RENEWAL**

A new or renewed Short-Term Rental License may be denied upon a finding that any of the following conditions are true:

(A) The Applicant failed to provide Application information or supporting materials for the Application.

(B) The Applicant, Host, or property owner has had a Short-Term Rental License suspended or revoked in the past.

(C) The Applicant, Host, and/or property owner has falsified or misrepresented a fact on the Application.

(D) The Applicant and/or property owner continued to operate or advertise a Short-Term Rental Unit without a Short-Term Rental License after being notified by the City of Beavercreek to submit a new or renewal License Application.

(E) The Emergency Contact has been notified by the City of Beavercreek about an issue with the Short-Term Rental Unit property and did not address the issue in question within

twenty-four (24) hours of contact, unless additional time is approved by the Planning and Development Director.

(F) The Applicant, Host, property owner, and/or Emergency Contact has obstructed, interfered with, or failed to make good faith efforts towards correcting violations of this Ordinance for any Short-Term Rental Unit in the City of Beavercreek with which they are associated.

(G) The Short-Term Rental Unit property is the subject of an outstanding order and/or violation from the City, County or other governmental agency that has not been corrected.

(H) The Short-Term Rental Unit property has been declared a public nuisance by Greene County Public Health or the City of Beavercreek;

(I) The Short-Term Rental Unit property has a documented history or pattern of criminal or drug related Emergency Service Calls and/or incidents.

#### **§ 117.08 CONFLICTS**

Where a provision of this Chapter 117 conflicts with a provision of a lawful and recorded private restrictive covenant, the more restrictive provision shall apply. This provision does not place any duty on the City to enforce private restrictive covenants.

#### **§ 117.09 SUSPENSION OF SHORT-TERM RENTAL LICENSE**

The City of Beavercreek Planning and Development Director or their designee may suspend a Short-Term Rental License if the property owner fails to bring the Short-Term Rental Unit into compliance with this Chapter 117.

(A) Prohibited During Suspension:

(1) A Host, Applicant, or property owner may not operate or advertise the Short-Term Rental Unit associated with the suspended License during the suspension period.

(2) A Host, Applicant, or property owner associated with a suspended Short-Term Rental License may not apply for a new License or a License renewal for the Short-Term Rental Unit property or any other property during the suspension period.

#### **§ 117.10 REINSTATEMENT OF A SUSPENDED SHORT-TERM RENTAL LICENSE**

(A) Reinstatement: The City of Beavercreek Planning and Development Director or their designee shall reinstate a suspended Short-Term Rental License once the property owner brings the Short-Term Rental Unit into compliance with the provisions of this Chapter 117 and applies for a new Short-Term Rental License. The Planning and Development Director may use their

discretion when determining whether a Short-Term Rental License should be reinstated. In making such determination, the Planning and Development Director may consider the severity of prior issues at the Short-Term Rental Unit and issues related to other Short-Term Rental Units owned or operated by the Host, Applicant, property owner, or Emergency Contact.

(B) Inspections: Short-Term Rental Units with reinstated Short-Term Rental Licenses are subject to inspection by the City on an as-needed basis to determine compliance with the regulations set forth in this Chapter 117.

### **§ 117.11 APPEALS**

(A) Right of Appeal: Any Short-Term Rental Applicant, Short-Term Rental Host or Short-Term Rental User who has been aggrieved or affected by any decision of the Planning and Development Director may appeal such decision to the Board of Zoning Appeals by filing a petition with the Planning and Development Department 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.

(B) Hearing: The Board of Zoning Appeals shall hold a public hearing on such appeal not later than 45 days after such appeal has been filed with the City. The Board, by an affirmative vote of a majority of its members, shall decide the matter.

### **§ 117.99 ENFORCEMENT AND VIOLATIONS**

The City may pursue any available legal or equitable remedy for any violation of this Chapter 117 or any other City of Beavercreek Ordinance.

(A) Any individual who violates the provisions of Chapter 117, or knowingly provides false information in their application is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day a violation occurs or continues.

(B) Any or all of the following additional actions may be taken against an individual who violates any provision of this chapter:

- (1) Additional fines may be assessed;
- (2) The Short-Term Rental License may be suspended for up to 90 days; and
- (3) A Short-Term Rental License may be revoked.