

**CITY OF BEREAL, OHIO  
ZONING CODE**

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**APPENDIX A**      **City of Berea Zoning Map**

## ARTICLE I ADMINISTRATIVE PROVISIONS

### Chapter 100 Purpose and Intent

Section 100.01	Statement of Purpose and Intent, and Basic Planning Objectives
Section 100.02	General Applicability of Use Regulations
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#### Section 100.01 Statement of Purpose and Intent, and Basic Planning Objectives

The purpose of this Zoning Code and the intent of Council in its adoption is to provide planning standards, procedures, regulations and controls for the use of the land in the City, and for the design, use, bulk, location and spacing of buildings and other structures, in order most effectively, to the fullest extent permissible under the City's powers of home rule, to insure and preserve the public health, safety, convenience, comfort, prosperity and general welfare of the inhabitants of the City. It is the judgment of Council that this purpose can be attained and this intent implemented, through the adoption and application of zoning standards, regulations, controls and procedures which recognize the following basic planning objectives for the City:

- (A) To preserve and strengthen the primarily residential character of the City, together with its unique educational and open space amenities and resources;
- (B) To preserve and strengthen the City's tradition of self-identity;
- (C) To encourage proximity in the development of compatible and related uses of land and structures, and to discourage development of uses which are by their nature or location incompatible with or detrimental to adjacent uses;
- (D) To conserve the natural resources of the City;
- (E) To preserve and strengthen the reasonable balance of commercial and industrial activities within the City, so long as they are consistent with the City's primarily residential character and the foregoing objectives, in order to serve the convenience of the inhabitants of the City and provide a strong economic and tax base to assure the City's ability to provide essential services to its inhabitants;
- (F) To establish and apply those planning standards, regulations and controls for the use of the land in the City and the design, use, bulk, location and spacing of buildings thereon, which will most effectively utilize the highest professional skills and provide the maximum flexibility of design, arrangement, spacing and construction of improvements on the land, while at the same time controlling not only the uses of land but the number, location and character of such uses, all with a view to the accomplishment of the foregoing objectives and as a means of attaining the purpose of this Code and of implementing the intent of Council in its adoption.

## Section 100.02 General Applicability of Use Regulations

Except to the extent expressly permitted by this Zoning Code, after the effective date of this Code:

- (A) No land or structure shall be used or occupied, and no structure shall be erected, constructed, reconstructed, enlarged, moved or structurally altered, except in conformity with all of the regulations herein specified as being applicable to such land or structure;
- (B) No principal building shall be demolished except in accordance with a Zoning Permit issued pursuant to §101.05. Accessory structures may be demolished without obtaining a Zoning Permit.
- (C) No part of a yard, or other open space, or off-street parking, or loading space, which may be required in this Code in connection with any land or structure, shall be included as part of a yard, open space, off-street parking or loading space similarly required for any other land or structure;
- (D) No yard or lot existing upon the effective date of this Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Zoning Code shall meet at least the minimum requirements herein established.

## Section 100.03 Annexation

If territory subject to county or township zoning shall be annexed or otherwise become a part of the City of Berea subsequent to the effective date of this Code and if such territory is subject to county or township zoning regulations enacted by the public authority having zoning jurisdiction over such territory prior to the effective date of the annexation, the zoning regulations then in effect shall remain in full force and effect as provided in Section 303.18 and Section 519.18 respectively, of the Ohio Revised Code, until and unless the Council adopts existing zoning regulations or adopts new regulations for such territory; provided, further, that if such county or township territory is not subject to any zoning regulations at the time of such annexation or inclusion, upon the effective date thereof it shall be zoned and become an R-SF-T zoning District until otherwise classified.

- (A) Any Applicant seeking to annex land into the City shall submit a completed Berea Annexation Application form to the Clerk of Council on a form provided by the City at the time of filing an annexation petition.
- (B) The Annexation Application shall set forth the information required to accompany the Annexation Application and shall include, but not be limited to, a Conceptual Development Plan and Preliminary Traffic Study for any proposed development project proposed for the subject Township land.

## Section 100.04 Conflict

When a provision of this Code conflicts with a provision of any other Code or Ordinance of the City, this Code shall prevail and be controlling.

## Section 100.05 Separability

It is hereby declared to be the legislative intent that the several provisions of this Code shall be separable, in accordance with the provisions set forth below:

- (A) If any Section or provision of this Code is declared to be invalid by a decision of any court of competent jurisdiction, the effect of such decision shall be limited to that Section, or provision which is expressly stated in the decision to be invalid. Such decision shall not affect, impair or nullify this Code as a whole or any part thereof other than the Section or provision so declared to be invalid, and all other Sections and provisions of this Code shall continue to be separately and fully in full force and effect.

(B) If the application of any Section or provision of this Code to any zoning lot, building or other structure is declared to be invalid by a decision of any court of competent jurisdiction, the effect of such decision shall be limited to that zoning lot, building or other structure immediately involved in the controversy, action or proceeding in which the judgment or decree of invalidity is rendered. Such decision shall not affect, impair or nullify the application of this Code or any Section or provision thereof to any other zoning lot, building or other structure, or to different facts or circumstances.

## Section 100.06 Interpretation

(A) Unless otherwise expressly stated, the following words and phrases shall be construed throughout this Zoning Code to have the meanings herein indicated:

- (1) When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural.
- (2) The singular includes the plural, and the plural the singular.
- (3) The word "person" includes a corporation, partnership, association and individual.
- (4) The word "shall" is always mandatory. The word "may" is permissive.
- (5) The word "lot" includes the word "parcel", "tract", or "plot".
- (6) The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
- (7) The terms "he", "she", "him", and "her" shall be gender neutral and may be used interchangeably throughout this Zoning Code.

## CHAPTER 101 Zoning Code Administration

Section 101.01	Zoning Administrator Powers and Duties
Section 101.02	Deputy Zoning Administrator
Section 101.03	Appeals From a Zoning Administrator Decision
Section 101.04	Zoning Permits
Section 101.05	Contents of Applications for Zoning Permits
Section 101.06	Approval of a Zoning Permit by the Zoning Administrator
Section 101.07	Approval of a Zoning Permit by the Planning Commission
Section 101.08	Expiration of a Zoning Permit
Section 101.09	Third Party Complaints
Section 101.10	Zoning Permit Revocation
Section 101.11	Notice of Violation
Section 101.12	Penalties for Violation
Section 101.13	Additional Remedies
Section 101.14	Technical Advisors
Section 101.15	Technical Reports
Section 101.16	Schedule of Fees
Section 101.17	Administrative Waivers

### Section 101.01 Zoning Administrator, Powers and Duties

The Zoning Administrator shall be appointed by the Mayor and shall have the following functions, powers and duties, exercisable by him, or by his assistants under his direction, in accordance with the procedures contained in this Article:

- (A) To receive all applications for zoning permits, subdivision applications, requests for variances and other zoning requests provided in this Code; to review all such applications and requests for compliance with the procedural requirements of this Code; and to review such applications for compliance with all applicable substantive requirements of this Code;
- (B) To maintain a record of all administrative and legislative proceedings under this Code with respect to zoning permits, administrative appeals, variances, subdivision applications and zoning map or zoning text amendments;
- (C) To communicate promptly in writing to each applicant for a zoning permit, administrative appeal or variance, all administrative action taken under this Code with respect to the application initiated by such applicant;
- (D) To inventory, and maintain a record of, all non-conforming uses and all non-complying structures;
- (E) To provide administrative assistance to the Council and Planning Commission with respect to proceedings under this Code;
- (F) To make inspections incident to applications made under this Code, and to determine whether any of the provisions of this Code are being violated, and for such purposes the Zoning Administrator at a reasonable time and in a reasonable manner, shall be granted access to and may enter upon all

# Zoning Code Administration

property or structures within the limits of the City. Prior to seeking entry to any property or structure for such examination or survey, the Zoning Administrator shall attempt to obtain the permission of the owner or occupant to inspect. If such permission is denied or cannot be obtained, the Zoning Administrator shall request the assistance of the City Prosecutor in securing a valid search warrant prior to entry.

- (G) If the Zoning Administrator shall find that any of the provisions of this Code are being violated, he shall have the power to give notices of violations, orders for actions necessary to correct violations, orders for discontinuance of illegal use of land or structures, orders for removal of illegal structures or of illegal additions, alterations or structural changes, and orders for discontinuance of any illegal work being done;
- (H) To take any other action authorized by this Code, or reasonably required for the purposes of administering and enforcing this Code.

## Section 101.02 Deputy Zoning Administrator

The Mayor may appoint one or more Deputy Zoning Administrators who may provide assistance to and be supervised by the Zoning Administrator. A Deputy Zoning Administrator shall maintain all those powers and duties as provided for in this Code. For the purposes of the interpretation of this Code, the term "Zoning Administrator" shall also mean "Deputy Zoning Administrator".

## Section 101.03 Appeals From a Zoning Administrator Decision

Where it is alleged by an applicant in good standing that there is an error in any interpretation, judgment, determination, or decision made by the Zoning Administrator in the administration and/or enforcement of the provisions of this Code, the applicant may file an administrative appeal to the Planning Commission as set forth in §103.02.

## Section 101.04 Zoning Permits

It shall be unlawful for an owner to use or permit the use of any land or any structure, or part thereof hereafter created, erected, converted, enlarged, or changed, wholly or partly in its use or construction, until the Zoning Administrator shall have issued a zoning permit. The zoning permit shall show that the structure or premises, or part thereof, and the proposed use thereof are in conformity with the provisions of this Code.

## Section 101.05 Contents of Applications for Zoning Permits

The application for a zoning permit shall be made on the application form provided by the Zoning Administrator and be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire and may be revoked if work has not been substantially initiated within one year or substantially completed within two years. "Substantially initiated" shall mean expending monies towards completing the project equal to at least 25% of the value of the total work to be performed. "Substantially completed" shall mean expending monies towards completing the project equal to at least 90% of the value of the total work to be performed. At a minimum, the application shall contain the following information and be accompanied by all required fees:

- (A) Name, address, and phone number of applicant.
- (B) Address for subject parcel(s).
- (C) Existing use.
- (D) Proposed use.

- (E) Zoning district.
- (F) Plans in triplicate drawn to scale showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; and the location and dimensions of the proposed building(s) or alteration.
- (G) Building heights.
- (H) Number of off-street parking spaces or loading berths and their layout.
- (I) Location and design of access drives.
- (J) Number of dwelling units (if applicable).
- (K) If applicable, the application for a sign permit, site plan, conditional use and any other request under this Code requiring the issuance of a zoning permit shall accompany the zoning permit application, unless previously submitted.
- (L) Estimated project costs including both site related work and structural improvements.
- (M) Such other documentation as may be necessary to determine conformance with and to provide for the enforcement of this Code.

## **Section 101.06 Approval of a Zoning Permit by the Zoning Administrator**

Within 30 days after the receipt of a completed application, the Zoning Administrator shall either approve or disapprove the zoning permit application in conformance with the provisions of this Code for those zoning requests not requiring Planning Commission review. One copy of the plans shall be returned to the applicant by the Zoning Administrator after the Zoning Administrator has marked such copy either as approved or disapproved and attested to the same by his or her signature on such copy. Failure to notify the applicant in the case of such refusal or disapproval within the specified time shall entitle the applicant to submit his or her request to the Planning Commission.

## **Section 101.07 Approval of a Zoning Permit by the Planning Commission**

It is recognized that certain zoning requests are reviewed and decided by the Planning Commission. Under these circumstances, the review and decision time frames shall be as follows:

- (A) Initial consideration by Planning Commission shall occur within forty-five (45) calendar days after a completed application is received by the Zoning Administrator.
- (B) The Planning Commission shall either approve, approve with conditions or disapprove of a zoning request within twenty (20) business days after the date of the initial consideration.

## **Section 101.08 Expiration of a Zoning Permit**

- (A) If the work described in any zoning permit has not yet been substantially initiated within six months of the date of issuance thereof, said permit shall expire unless a six month extension is issued by the Zoning Administrator upon a written request by the applicant.
  - (1) Failure to substantially begin the work within the initial six month period or within the expiration of the six month extension period shall result in the zoning permit being

revoked by the Zoning Administrator upon written notice given to the persons or business entity affected.

(2) The Zoning Administrator may only issue one six month extension based on good cause shown by the applicant

(B) If the work described in any zoning permit has not yet been substantially completed within two years of the date of issuance thereof, said permit shall expire and be revoked by the Zoning Administrator.

(1) A written notice shall be given to the persons or business entity affected, together with notice that further work, as described in the canceled permit, shall not proceed unless and until a new zoning permit has been obtained or an extension granted.

(2) The Zoning Administrator may only issue one extension for an additional calendar year based on good cause shown by the applicant. In the event a zoning permit is deemed to have expired under the provisions under this Code, any fees paid to the city required as part of the zoning permit application and review process shall be non-refundable.

(C) No changes or alterations to any work described under an approved zoning permit shall be permitted. In the event changes are requested, the applicant shall make application with the Planning Commission in the same manner as the initial zoning permit procedure.

## Section 101.09 Third Party Complaints

Whenever a violation of this Code occurs or is alleged to have occurred, any person may file a written complaint with the Zoning Administrator stating fully the causes and basis of such complaint, the Zoning Administrator shall record such complaint, investigate and, if he finds that a violation of this Code has in fact occurred, shall take appropriate action thereon to enforce this Code.

## Section 101.10 Zoning Permit Revocation

The Zoning Administrator may issue a revocation notice to revoke a zoning permit which was issued contrary to this Zoning Code or based upon false information or misrepresentation in the application.

## Section 101.11 Notice of Violation

Whenever the Zoning Administrator or his or her Deputy determines that there is a violation of any provision of this Code, a violation letter shall be sent to the property owner which shall serve as the notice of violation. Failure to remedy the alleged violation within the specified time frame set forth in the violation letter shall result in the levying of penalties and fines pursuant to §101.12. Such violation letter shall:

(A) Include a statement of the reasons why it is being issued and refer to the sections of this Code being violated.

(B) State the time by which the violation shall be corrected.

(C) Service shall be sent by ordinary mail and the mailing shall be evidenced by a certificate of mailing which shall be filed by the Zoning Administrator. A posting of the notice of violation upon the property in a conspicuous manner shall also constitute proper service under this sub-section.

(D) A copy of the administrative appeals procedure and documentation requirements as set forth in this Code shall be included in the violation letter.

## Section 101.12      Penalties for Violation

Any person or entity found to be in violation of any provision of this Code shall be guilty of a misdemeanor by each such action or omission and upon conviction thereof shall be fined not more than Five Hundred Dollars (\$500). Each day during which such act, violation or omission shall be done, committed, omitted or continued shall constitute a separate offense. A violation of this Code shall constitute any of the following:

- (A) Use or occupy any land, building or other structure, or erect, construct, reconstruct, move or structurally alter any building or other structure, in any way or for any use or purpose which is not permitted by the provision of this Code, or
- (B) Knowingly aid, assist or participate with any person in erecting, constructing, reconstructing, moving or structurally altering any building or other structure in any way which is not permitted by the provisions of this Code, or
- (C) Violate or fail to perform or comply with any condition imposed by the Zoning Administrator or the Planning Commission in the approval of an application for a zoning permit or established by the Planning Commission in granting a variance, or
- (D) Knowingly make any materially false statement of fact in an application for a zoning permit, approval or request for variance, or in any plans or other information submitted in connection therewith, or
- (E) Being an owner or lessee of any land, building other structure, knowingly suffer or permit a violation of this Code to occur or exist on such premises.

## Section 101.13      Additional Remedies

In the event any building or structure is or is intended to be erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is or is intended to be used, in violation of this Code, the City Prosecutor, in addition to the remedies herein provided for, is authorized to institute any appropriate action or proceeding in law or equity to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use or to restrain, alteration, repair, conversion, maintenance, or use or to restrain, correct, or abate the violation.

## Section 101.14      Technical Advisors

- (A) The Mayor shall cause to be employed by the City or engaged as consultants by the City, a registered architect, a professional engineer and a planner (each of whom may be an individual, partnership or corporation rendering the services of architects, engineers and planners respectively, and each of whom is referred to respectively as an "architectural advisor", "engineering advisor" or "planning advisor," and all of whom are referred to as "technical advisors"), in order to provide technical advice and assistance to the Council, Planning Commission, Zoning Administrator and other administrative officers and employees in the administration and enforcement of this Code.
- (B) Provision shall be made for employment or engagement of an alternate to each technical advisor in the event of his absence, incapacity, or disqualification with respect to any matter.

## Section 101.15      Technical Reports

- (A) At any time during the consideration of a matter before them, the Mayor, Council, Planning Commission or the Zoning Administrator may request a technical review by one or more technical advisors to assist in the review and evaluation of applications for zoning permits,

requests for variances, proposed ordinances to amend the Zoning Code or Official Zoning Map and other zoning requests as provided in this Code.

- (B) The technical advisor(s) shall submit a written report or reports or supplemental written reports or reports thereon to the Zoning Administrator. Such written report or reports, or supplemental written report or reports (taken together when more than one technical advisor submits a report) may be referred to in this Article as the "Technical Report" or "Supplemental Technical Report" respectively.
- (C) In making any review and evaluation under this Article, the technical advisors, may meet as a group, or singly, and with respect to an application for a zoning permit, or request for variance, may meet as a group or singly with the person applying for such permit or requesting such variance.
- (D) A technical advisor, with respect to an application for a zoning permit or a request for variance, may request that the person applying for or requesting such permit or variance supply additional information which the advisor deems necessary for review and evaluation and the failure to supply such additional information shall be a sufficient basis for an opinion of such technical advisor that any such application does not comply with the substantive requirements of this Code or that any such request for variance does not comply with the purpose and intent of this Code and with the requirements of Chapter 104.

## Section 101.16 Schedule of Fees

Council shall from time to time establish a schedule of fees, charges and expenses, and a collection procedure, for zoning permits, requests for variances, conditional uses, administrative appeals and other matters pertaining to this Code. The schedule of fees shall be posted in the office of the Zoning Administrator, and may be altered or amended only by Council. Until all applicable fees, charges and expenses have been paid in full, no application, request or appeal shall be deemed complete and shall not be further processed.

## Section 101.17 Administrative Waivers

- (A) The Zoning Administrator may grant administrative waivers for any area regulation contained in this Zoning Code not to exceed 20% of the applicable maximum or minimum regulation. Applications for an administrative waiver shall be on a form provided by the Zoning Administrator. An administrative waiver may also include minor deviations from an approved site plan. In reviewing an administrative waiver, the Zoning Administrator shall consider the following:
  - (1) The waiver will not impair the essential character of the surrounding area or any objective contained within the Berea Comprehensive Plan.
  - (2) The surrounding properties will be properly protected.
  - (3) The waiver request is minor in nature and does not substantially deviate from prior issuances of Planning Commission variances.
  - (4) The waiver request does not deviate from the overall intent and objective of the original zoning regulation or the approved site plan.
- (B) The Zoning Administrator may request assistance from the Planning Commission in determining the reasonableness of an administrative waiver request. An approved administrative waiver shall be transmitted to the applicant by an administrative order from the Zoning Administrator.

## CHAPTER 102 Planning Commission

Section 102.01	Establishment and Organization
Section 102.02	Planning Commission Shall Serve as the Board of Appeals
Section 102.03	Powers and Duties of the Planning Commission
Section 102.04	Public Hearing Procedure
Section 102.05	Effective Date of Decision on Appeals and Variances
Section 102.06	Appeals from Actions or Decisions of the Planning Commission

### Section 102.01 Establishment and Organization

(A) There shall be established a Municipal Planning Commission which shall consist of seven (7) members as follows:

(1) The Mayor, who shall be the Chairman of the Commission, or in the Mayor's absence, the Mayor's designee shall chair the meeting; and

(2) Six (6) electors of the City, who shall be appointed by the Mayor and confirmed by the Council, each of whom shall serve for a term of five (5) years, except that the initial appointments of the six (6) members' terms commencing in 2007 shall be staggered terms as follows: two (2) members shall be appointed for a two-year term; two (2) members shall be appointed for a four-year term and two (2) members shall be appointed for a six-year term. Upon the expiration of the initial term, all appointments or re-appointments shall be for a five-year term. No person shall be appointed or re-appointed to more than two (2) consecutive five-year terms. The Mayor shall endeavor to appoint one person to the Commission having professional competence and experience in each of the following areas: architecture, real estate, construction, law and urban planning.

(3) The Director of Law, the Director of Public Service, the City Engineer, the Fire Chief and the Chairman of the Council Committee concerned with building and zoning matters, shall serve as ex officio members, without vote, and shall be entitled to full participation in debates and discussions of the Commission.

(4) A vacancy occurring during the term of any member shall be filed, for the unexpired term, in the manner authorized for an original appointment.

(B) The members of the Planning Commission shall serve without compensation, unless otherwise authorized by Ordinance.

(C) The Council shall appropriate such funds year to year as are necessary to carry out the duties, training and functions of the Municipal Planning Commission.

### Section 102.02 Planning Commission Shall Serve as the Board of Appeals

The Board of Appeals is hereby established whose membership shall consist of the seven members of the Planning Commission as provided for in the City Charter Item X-2 "Planning Commission". The term "Board of Appeals" and "Planning Commission" shall be used interchangeably within this Code.

## Section 102.03 Powers and Duties of the Planning Commission

The Planning Commission, in addition to such other powers and duties as are set forth in this Code or as may be provided for by ordinance of Council, the City Charter and the general laws of Ohio, shall have the following functions, powers and duties, exercisable in accordance with the procedures contained in this Article:

- (A) *Site Plan Review.* Review and act on all site plan applications pursuant to the provisions of this Code.
- (B) *Conditional Uses.* Review and act on all conditional uses as identified in the respective zoning districts according to provisions and criteria stated in this Code.
- (C) *Permanent Signs.* Review, examine and approve all signs to be placed permanently anywhere in the City for a total period in excess of forty-five (45) days.
- (D) *Subdivision Regulations.* Review and act on all minor and major subdivision applications pursuant to the provisions of the Berea Subdivision Regulations.
- (E) *Administrative Appeals.* Review and decide appeals from any decision, order, requirement or determination of the Zoning Administrator in the administration or enforcement of this Code.
- (F) *Area Variances.* Review and approve or disapprove requests for area variances consistent with the review standards and procedures set for in Chapter 104.
- (G) *Zoning Code Review.* Carry on a continuous review of the effectiveness and appropriateness of this Code and recommend such changes or amendments as it feels would be appropriate.
- (H) *Other Administrative Actions.* Review and act on all other administrative procedures and requests as set forth in this Code.
- (I) *Ordinance Review.* Review ordinances submitted to it by Council including ordinances to amend the Zoning Code and Map, and to submit to Council the Commission's recommendations with respect to such ordinances.
- (J) *Adoption of Rules.* To adopt rules or bylaws for the holding of regular and special meetings, for the transaction and disposition of its business and the exercise of its powers.
- (K) *Records.* Concise records and minutes shall be kept as to all official acts of the Planning Commission.

## Section 102.04 Public Hearing Procedure

As set forth in this Section and also in this Code, public hearings are required for certain types of applications. If an application does not require a public hearing, the application may be considered by Planning Commission at a public meeting and the requirements of this Section do not apply. All public hearings required before the Planning Commission as set forth in this Code shall conform to the procedural requirements as provided below:

- (A) The following types of applications require a public hearing:
  - (1) Area variance applications
  - (2) Conditional use request

- (3) Administrative appeals request
- (4) Zoning text amendment request
- (5) Zoning map amendment request

(B) Notice for all public hearings shall be given by first class mail to the parties making the request and to the property owners within 200 feet of the property to which such request relates not less than (10) ten days in advance of the hearing. Such notification shall be sent to the names and addresses of such owners appearing on the Cuyahoga County Auditor's current tax list.

- (1) If the address appearing on the tax list is that of a lending institution or other person or entity clearly recognizable as not being the owner, then written notice shall be mailed to such institution, person, or entity at the listed address and to the named owners at the street address of the property.
- (2) Failure of delivery of such notice shall not invalidate action taken on such application.
- (3) If the ordinance referred to the Planning Commission from Council proposes a change to the text of the Zoning Code or an amendment to the Zoning Map that effects ten (10) parcels of land or more, as listed on the tax duplicate, in lieu of notice via first class mail, the City may provide notice of the time and place of the public hearing in a newspaper of general circulation in the City of Berea at least ten (10) days prior to the public hearing.

(C) The Commission may recess such public hearings from time to time without making a final determination on the matter, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required.

(D) Any interested person or entity may appear at the public hearing in person or by attorney.

## Section 102.05 Effective Date of Decision on Appeals and Variances

The decision of the Planning Commission upon any appeal or variance requested under this Chapter shall be final and effective upon the affirmative adoption of the minutes of the meeting for which the appeal or variance request occurred. The meeting minutes shall be either approved or denied within sixty (60) days from the date upon which the Commission voted on the matter. In the event the meeting minutes are either denied or otherwise fail to be approved by an affirmative vote of the Commission, the request shall be deemed to have been denied by the Commission.

## Section 102.06 Appeals from Actions or Decisions of the Planning Commission

Any person aggrieved by any action or decision of the Planning Commission under this Code may appeal any such action or decision to the Court of Common Pleas under Chapter 2506 of the Ohio Revised Code.

## CHAPTER 103      Administrative Appeals

Section 103.01	Appeals to the Planning Commission
Section 103.02	Initiation of an Administrative Appeal Request
Section 103.03	Stay of Proceedings
Section 103.04	Effective Date of Decision

### Section 103.01      Appeals to the Planning Commission

Administrative appeals may be made to the Planning Commission from any decision, order, requirement or determination of the Zoning Administrator in the administration or enforcement of this Code, by any person, firm or corporation claiming to be aggrieved by any such adverse decision, order, requirement or determination.

### Section 103.02      Initiation of an Administrative Appeal Request.

- (A) Request for an administrative appeal shall be accepted within thirty (30) days after the date of the decision, order, requirement or determination complained of, by filing a completed administrative appeal request with both the Zoning Administrator and the Planning Commission specifying the grounds thereof.
  - (1) Failure of the applicant to submit the administrative appeal request within the thirty day (30) period shall forfeit the applicant's right from seeking an administrative appeal under this Chapter.
- (B) An administrative appeal request shall be deemed to be complete when the following conditions are met:
  - (1) The application for appeal shall include reference to the decision and the provision of this Zoning Code from which the appeal is sought.
  - (2) The application for appeal shall also contain a detailed written description of the alleged error and may include supporting documentation including, but not limited to, photographs, maps, site plans, drawings, correspondence and any other materials deemed to be relevant to the alleged error.
- (C) The Zoning Administrator shall forthwith transmit to the Planning Commission all papers constituting the record upon which the action appealed from was taken within fifteen (15) business days after the filing of a completed appeal request.

### Section 103.03      Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Planning Commission after the notice of appeal is filed with him that, by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life and property; in such case, proceedings shall not be stayed unless directed by the Planning Commission.

### Section 103.04      Effective Date of Decision

The decision of the Planning Commission upon any appeal requested under this Chapter shall be final and effective pursuant to the procedure set forth in §103.02.

## CHAPTER 104 Area Variances

Section 104.01	Area Variances
Section 104.02	Variance Standards of Review
Section 104.03	Planning Commission Action
Section 104.04	Use Variances

## Section 104.01 Area Variances

Upon appeal, the Planning Commission may authorize an area variance from the terms of this Code as will not be contrary to the public interest according to the following procedures and the variance standards set forth in this Chapter:

- (A) *Definition.* Area variances shall be considered those variances from a zoning regulation that establishes minimum or maximum areas, heights, distances, separation volume or any other measurement, which is expressed in terms of a geometric measurement.
- (B) *Application Requirements.* An application for an area variance shall be filed with the Zoning Administrator for review by the Planning Commission upon the forms provided, and shall be accompanied by the following requirements necessary to convey the reason(s) for the requested variance:
  - (1) Name, address and phone number of applicant(s);
  - (2) Proof of ownership, legal interest or written authority;
  - (3) Description of property or portion thereof;
  - (4) Description or nature of variance requested;
  - (5) Narrative statements establishing and substantiating the justification for the variance pursuant to division (C) below;
  - (6) Site plans, floor plans, elevations and other drawings at a reasonable scale to convey the need for the variance;
  - (7) Payment of the application fee;
  - (8) A list of all property owners lying within 200 feet of any part of the property on which the variance is proposed, including their addresses and permanent parcel numbers;
  - (9) Any other documents deemed necessary by the Zoning Administrator.
- (C) *Review for Completeness.* Upon receipt of a written request for an area variance, the Zoning Administrator shall promptly make a preliminary review of the request to determine whether such application provides the information as required in §104.01(B). This preliminary review shall be conducted within seven (7) business days from receipt of a completed variance request.

- (1) If the Zoning Administrator determines that such application does not provide the information required under §104.01(B), he shall so advise the applicant in writing and shall not further process the application until the deficiency is corrected.
- (2) If the Zoning Administrator or a member of the Planning Commission determines that a request for an area variance provides the information necessary for such review and evaluation as provided for in §104.01(B), he shall inspect the premises with respect to which the request is filed, for matters relevant to such request, and make a written report of such inspection. By filing an area variance request, the applicant acknowledges the right of the Zoning Administrator to enter upon the subject property to conduct the appropriate inspections required to review and evaluate the request.

## Section 104.02 Variance Standards of Review

(A) *Review by the Planning Commission.* The Planning Commission shall hold a public hearing within forty-five (45) days from the date the Zoning Administrator certifies that the variance request is complete. The public hearing procedure for a variance is provided in §102.04. The Commission shall review each application for an area variance to determine if it complies with the purpose and intent of this Code and evidence demonstrates that the literal enforcement of this Code will result in practical difficulty. The following factors shall be considered and weighed by the Commission to determine practical difficulty:

- (1) Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to non-conforming and inharmonious uses, structures or conditions;
- (2) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- (3) Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;
- (4) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;
- (5) Whether the variance would adversely affect the delivery of governmental services such as water, sewer, and trash pickup;
- (6) Whether the property owner purchased the property with knowledge of the zoning restrictions;
- (7) Whether special conditions or circumstances exist as a result of actions of the owner;
- (8) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- (9) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance;

- (10) Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.
- (B) *Requests for Additional Information.* The Commission may request that the applicant supply additional information that the Commission deems necessary to review and evaluate the request for a variance.
- (C) *Additional Conditions and Safeguards.* The Commission may further prescribe any reasonable conditions and safeguards that it deems necessary to ensure that the objectives of the regulation(s) or provision(s) to which the variance applies will be met.

## Section 104.03 Planning Commission Action

- (A) *Action by the Planning Commission.* The Planning Commission shall consider each request for an area variance, and the Technical Report thereon, if such a Report has been requested, to determine whether the request complies with the purpose and intent of this Code and with the requirements of §104.02. A public hearing shall be scheduled as provided for in Section 102.04. The Commission shall either approve, approve with conditions as specified in Section 104.02(C), or disapprove the request for an area variance no later than twenty (20) business days after the date of the public hearing on the request.
  - (1) In no case shall the Planning Commission approve a use variance.
  - (2) No variance shall be approved that amends or otherwise alters any zoning district boundary.
  - (3) If the Planning Commission finds that the request for variance does not so comply, it shall deny the variance; provided, however, the Planning Commission may submit recommendations to the applicant for changes in such request for variance or conditions to the granting of such variance deemed necessary by the Commission to comply with the purpose and intent of this Code and with the requirements of §104.02 and, if such changes or conditions are assented to by the applicant, the request for variance shall be deemed to be modified accordingly and the variance granted, unless the Commission directs that a revised request or other information be prepared and submitted for further consideration before approval, but if such changes or conditions are not assented to by the applicant the variance shall be denied.
  - (4) The action of the Planning Commission granting or denying a variance shall be final and effective immediately from and after (but not before) the expiration of twenty (20) days from the date upon which the entry of the Commission containing its action upon such variance is filed in the records of such Commission (and upon the date of such filing of the entry a copy of such entry shall be delivered to and filed in the records of the Zoning Administrator and the Clerk of Council).
- (B) *Term and Extension of Variance.* Area variances shall be non-assignable without the written approval of the Planning Commission and shall expire one year from the effective date of the variance decision, unless prior thereto, the applicant substantially initiated work within one year in accordance with the granted variance or an extension of time has been granted by the Zoning Administrator. “Substantially initiated” shall mean expending monies towards completing the project equal to at least 25% of the value of the total work to be performed. A variance shall also expire if the applicant fails to substantially complete the work within two years from the date of the variance issuance. “Substantially completed” shall mean expending monies towards completing the project equal to at least 90% of the value of the total work to be performed. Once

the time limit pursuant to this section has expired, a request for a variance shall be considered to be a new application for a variance and shall meet all requirements for application and review pursuant to this section. Area variances approved in conjunction with a site plan shall remain valid for a one-year period.

### Section 104.04 Use Variances

The granting of use variances shall be prohibited. An applicant seeking to use a structure or parcel of land in a manner that is not consistent with the permitted uses or conditional uses for the zoning district in question, may seek a change in land use through an amendment of the zoning map or zoning text following the procedure set forth in Chapter 105.

# Zoning text and map amendments

## CHAPTER 105 Zoning Text and Map Amendments

Section 105.01	Zoning Amendments
Section 105.02	Public Hearing Required
Section 105.03	Property Owner Notification Required
Section 105.04	City Council Action

### Section 105.01 Zoning Amendments

The Council, either by petition of a property owner or on its own initiative, may by ordinance adopted in accordance with this Chapter amend or change any provision contained in this Code including the number, shape, area or regulations of or within any zoning districts, but no such amendment or change shall become effective unless the ordinance proposing it is first submitted to the Planning Commission for its approval, disapproval or suggestions pursuant to the procedure and conditions below:

- (A) Upon introduction of any such ordinance, the Clerk of Council shall advise the Zoning Administrator of its introduction. The Zoning Administrator shall inspect any premises directly affected by any ordinance changing the zoning district classification of such property, make a written report of such inspection, and forward a copy of his report and of the ordinance to a planning advisor for his review, evaluation and report.
- (B) The ordinance shall be reviewed and evaluated by a planning advisor and, if he deems that the proposed amendment relates to an architectural and/or engineering matter then the proposed amendment shall also be reviewed by a technical advisor in such field or fields, each of whom shall submit, as to his professional field, a written technical report to the Planning Commission, prior to its taking such ordinance under consideration, whether, in his opinion, the proposed ordinance is consistent with the purpose, intent and basic planning objectives of this Code and specifying the reasons for such opinion.
- (C) Upon receipt of the Technical Report, the Zoning Administrator shall forward the Report to the Secretary of the Planning Commission.
- (D) The Planning Commission shall act upon any ordinance so referred to it within forty-five (45) days from the date of referral unless a longer time is allowed by Council. If the Planning Commission shall fail to act within the time allotted, it shall be deemed to have approved such ordinance.

### Section 105.02 Public Hearing Required

Before any such ordinance may be passed, the Council shall hold a public hearing thereon, and shall give at least thirty (30) days notice of the time and place thereof in a newspaper of general circulation in the City of Berea. During such thirty (30) days the text of such ordinance, together with the maps or plans or copies thereof forming part of or referred to in such ordinance, the Technical Report and maps, plans and reports submitted by the Planning Commission, shall be on file for public examination in the office of the Clerk of Council.

### Section 105.03 Property Owner Notification Required

If the ordinance intends to rezone or redistrict ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk, by first class mail, at least twenty (20) days before the

# Zoning text and map amendments

date of public hearing to the owners of property within and contiguous to and directly across the street from such parcel or parcels to the addresses of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other list or lists that may be specified by the Council. The failure of delivery of such notice shall not invalidate any such ordinance.

## Section 105.04 City Council Action

- (A) Any such pending ordinance may be amended by majority vote of all members elected to Council, prior to Council's voting on the adoption of such ordinance, without further notice, postponement, hearing or reading, if such amendment is consistent with the recommendations contained in the report of the Planning Commission.
- (B) Any such ordinance may be adopted by majority vote of all members elected to Council, provided, however, if such ordinance, or any portion thereof, is disapproved by formal action of the Planning Commission, such ordinance may be adopted only by the affirmative vote of two-thirds (2/3) of all members elected to Council.

# ZONING DISTRICTS AND ZONING MAP

## ARTICLE II ZONING DISTRICTS

### CHAPTER 200 Zoning Districts and Zoning Map

Section 200.01	Zoning Districts
Section 200.02	References to Names or Designations of Zoning Districts
Section 200.03	Official Zoning Map
Section 200.04	Amendments to the Official Zoning Map
Section 200.05	Replacement of Official Zoning Map
Section 200.06	Zoning District Boundary Lines
Section 200.07	Land Use Matrix Chart

#### Section 200.01 Zoning Districts

The City is hereby divided into fourteen zoning districts, denominated as follows:

<u>Short Name</u>	<u>Full Name</u>
R-SF-A District	Standard Single Family Residential A District
R-SF-B District	Standard Single Family Residential B District
R-SF-T District	Single Family Townhouse Residential District
MFR District	Multiple Family District
TO District	Transitional Office District
NC District	Neighborhood Commercial District
CC District	Commercial Center District
DT District	Downtown District
BR-CD District	West Bagley Road Commercial District
UT District	Uptown District
DD District	Depot District
GI District	General Industrial District
CD District	College District
EI District	Educational & Institutional District

# ZONING DISTRICTS AND ZONING MAP

## Section 200.02 References to Names or Designations of Zoning Districts

Each zoning district may be referred to in this Code, or in Ordinances amending or referring to this Code, by either its Short Name or Full Name.

- (A) The R-SF-A, R-SF-B, R-SF-T, and MFR Zoning Districts may be referred to singly as a "Residential District" or collectively as "Residential Districts."
- (B) The TO, NC, CC, DT, UT and DD Zoning Districts may sometimes be referred to singly as a "Commercial District" or collectively as "Commercial Districts".

## Section 200.03 Official Zoning Map

The locations and boundaries of the zoning districts are hereby established as shown on the map entitled "Official Zoning Map of the City of Berea" which map, together with all explanatory matter thereon, is hereby adopted and incorporated by reference into this Code, and may hereafter be amended in the same manner as other parts of this Code. The Official Zoning Map is identified by the signature of the Mayor attested by the Clerk of Council under substantially the following words: "This is to certify that this is the Official Zoning Map referred to in §200.03 of the Zoning Code of the City of Berea," together with the effective date and the number of the ordinance adopting this Code. The Official Zoning Map is, and shall be, located in the office of the Clerk of Council.

## Section 200.04 Amendments to the Official Zoning Map

- (A) If, in accordance with the provision of this Code, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map under the direction of the Mayor promptly after the effective date of the amending ordinance, together with an entry signed by the Mayor and attested by the Clerk of Council certifying that a change has been made on the Official Zoning Map, the effective date of the change, and the number of the ordinance authorizing the change.
- (B) Changes made in district boundaries or other matters portrayed on the Official Zoning Map shall become effective upon the effective date of the amending ordinance. No changes of any nature shall be made in the Official Zoning Map except in conformity with the procedures set forth in this Code.

## Section 200.05 Replacement of Official Zoning Map

- (A) Whenever it is deemed advisable, whether by reason of loss or destruction of, or damage to the Official Zoning Map, or because such Official Zoning Map is difficult to interpret because of the nature or number of changes and additions, or for any other cause, the Council may by ordinance adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map on the effective date of the adopting ordinance.
- (B) The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the Clerk of Council, under substantially the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted as part of the Zoning Code of the City of Berea, together with the date and the number of the ordinance adopting such new map."

# ZONING DISTRICTS AND ZONING MAP

(C) Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior Official Zoning Map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

## Section 200.06 Zoning District Boundary Lines

An area enclosed by district boundary lines, as shown on the Official Zoning Map, shall be in the zoning district designated on such Map. In cases of uncertainty as to boundaries of districts on the Official Zoning Map, the following rules shall apply:

- (A) It is intended that district boundary lines shall generally follow the center lines of streets or rights of way (including railroad rights of way) and the extension thereof, or lot lines.
- (B) A district boundary shown within a street or right of way shall be construed to be the center line of such street or right of way and, unless changed by amendment of this Zoning Code or Official Zoning Map, such center line shall remain the district boundary if the street or right of way is vacated.
- (C) Where a district boundary line is not shown within a street or right of way and its location is not precisely indicated by dimensioned distances from known lines, and where the designation on the Official Zoning Map indicates such district boundary as being upon or approximately upon the boundary line of a recorded lot or separate parcel of land, the district boundary shall be construed to be said boundary line of such recorded lot or separate parcel of land, but if not indicated as being upon or approximately upon any such boundary line, the district boundary line shall be determined by use of the scale of the Map.
- (D) In case of doubt, the Planning Commission shall interpret and determine the district boundary line, which determination shall be confirmed by resolution of Council before it shall be effective.

## Section 200.07 Permitted and Conditionally Permitted Uses

- (A) Permitted land uses. The land uses allowed in the zoning districts created under this Zoning Code are identified in the following table as:
  - (1) "Permitted" land uses are indicated by a "P" on the table. Permitted lands uses are allowed on a property without discretion by the City, subject to compliance with all applicable provisions of this Zoning Code.
  - (2) "Conditionally Permitted" land uses are indicated by a "C" on the tables and are allowed only with the approval of a Conditional Use Permit issued by the Planning Commission. These uses are subject to all applicable provisions of this Zoning Code as are permitted uses. However, the City has discretion to approve, approve with conditions, or deny a Conditional Use Permit application. The decision on a Conditional Use Permit is based upon the circumstances of an individual application and the general conditional use standards along with any specific criteria and standards as provided for in Chapter 304.
- (B) Uses not permitted or not listed. Land uses not permitted are those indicated by a "-" on the table. Land uses not listed on the tables are not allowed.

# ZONING DISTRICTS AND ZONING MAP

Table 1: Land Use Matrix Chart of Permitted and Conditional Uses

Land Use Description	R-SF-A	R-SF-B	R-SF-T	MFR	TO	NC	CC	DT	BR-CD	UT	DD	GI	CD	EI
Residential														
Single Family	P	P	P	-	-	-	-	-	-	-	-	-	-	-
Two Family Dwelling	-	-	-	P	-	-	-	-	-	-	-	-	-	-
Multi-Family Dwelling	-	-	-	P	-	-	-	-	-	-	-	-	P	-
Multi-Family Dwelling (upper floor only)	-	-	-	-	-	-	-	P	-	P	-	-	P	-
Senior Care Facility & Assisted Living	-	-	-	C	-	C	C	C	C	-	-	-	-	-
Hospice	-	-	-	-	-	-	C	-	C	-	-	-	-	-
Adult Day Care Facility	-	-	-	-	-	C	C	-	C	-	C	-	-	-
Adult Family Home	P	P	P	P	-	-	-	-	-	-	-	-	-	-
Adult Group Home	-	-	-	C	-	-	-	-	-	-	-	-	-	-
Professional Home Office	P	P	P	P	P	-	-	-	-	-	-	-	P	-
Boarding House	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Mixed-Use Event Venue				C										
Public & Quasi Public Uses														
Government & Civic Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Public Service & Utility Facilities	-	C	C	C	C	C	C	C	C	C	C	C	C	C
Cultural & Museum Facility	-	-	-	-	C	C	C	C	C	C	C	C	C	P
Assembly Hall	-	-	-	-	C	C	C	C	C	C	C	C	-	P
Religious Institutions	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Community Education K-12	C	C	C	C	C	C	C	C	C	C	C	-	-	C
Technical School	-	-	-	-	-	-	C	-	C	-	-	C	P	P
College	-	-	-	-	-	-	-	-	-	-	-	-	P	-
Public Parks	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Cemetery	-	C	C	C	-	-	-	-	-	-	-	-	-	-
Library	-	C	C	C	C	C	C	C	C	C	C	-	P	P
Recreation														
Commercial Recreation (indoor & outdoor)	-	-	-	-	-	-	C	C	C	C	C	C	C	-
Private Recreation (indoor & outdoor)	-	-	-	-	-	-	C	C	C	C	C	-	C	P
Theaters (Indoor Motion Picture & Live)	-	-	-	-	-	-	P	P	P	P	P	-	P	P
Neighborhood Recreation Facility	C	C	C	C	C	-	-	-	-	-	-	-	-	-
Theaters (Outdoor Drive-In)	-	-	-	-	-	-	C	-	C	-	-	-	-	-
Campground	-	-	-	-	-	-	C	-	-	-	-	-	-	-
Lodges & Fraternal Organizations	-	-	-	-	C	C	C	C	C	C	C	-	-	-
Retail & Office														
General Merchandise Sales	-	-	-	-	P	P	P	P	P	P	P	-	C	-
Used Merchandise Sales	-	-	-	-	P	P	P	P	P	P	P	-	C	-

# ZONING DISTRICTS AND ZONING MAP

Land Use Description	R-SF-A	R-SF-B	R-SF-T	MFR	TO	NC	CC	DT	BR-CD	UT	DD	GI	CD	EI
Retail & Office (continued)														
Antiques & Collectables Sales	-	-	-	-	P	P	P	P	P	P	P	-	-	-
Apparel & Shoes	-	-	-	-	P	P	P	P	P	P	P	-	C	-
Specialty Retail	-	-	-	-	P	P	P	P	P	P	P	-	-	-
Plant Sales (outdoor)	-	-	-	-	-	-	P	P	P	P	P	-	-	-
Guns and Ammunition Sales	-	-	-	-	-	-	P	-	P	-	P	-	-	-
Video Store	-	-	-	-	-	P	P	P	P	P	P	-	-	-
Hardware Store	-	-	-	-	-	C	P	P	P	P	P	-	-	-
Electronic Equipment Sales	-	-	-	-	P	C	P	P	P	P	P	-	C	-
Paint, Wallpaper, Floor & Window	-	-	-	-	-	C	P	P	P	P	P	-	-	-
Carpet & Rug Stores	-	-	-	-	-	C	P	P	P	P	P	-	-	-
Adult Oriented Business	-	-	-	-	-	-	-	-	P	-	-	-	-	-
Hotel & Motel	-	-	-	-	-	P	P	-	P	P	P	-	C	-
Bed and Breakfast Inn	-	-	-	-	C	C	P	C	-	C	C	-	C	-
Financial Institutions (with drive-thru)	-	-	-	-	-	-	C	P	C	P	C	-	C	-
Financial Institutions (with no drive-thru)	-	-	-	-	-	-	P	P	P	P	P	-	P	-
Automated Teller Machine (ATM)	-	-	-	-	C	C	C	C	C	C	C	-	P	-
Pawn Shop	-	-	-	-	-	-	-	-	C	-	-	-	-	-
Loan Companies	-	-	-	-	-	-	-	-	P	-	-	-	-	-
Check Cashing Service	-	-	-	-	-	-	-	-	P	-	-	-	-	-
General Business Office	-	-	-	-	P	P	P	P	P	P	P	-	P	P
Professional Services Office	-	-	-	P	P	P	P	P	P	P	P	-	P	P
Architectural & Engineering Offices	-	-	-	P	P	P	P	P	P	P	P	-	-	-
Nursery School	-	-	-	C	C	C	C	C	C	C	C	-	C	-
Child Day Care & Learning Center	-	-	-	C	C	C	C	C	C	C	C	-	P	-
Home Operated Day Care (Type A)	C	C	-	-	-	-	-	-	-	-	-	-	-	-
Home Operated Day Care (Type B)	P	P	P	P	P	-	-	-	-	-	-	-	-	-
Home Occupation	C	C	C	C	C	C	C	C	C	C	C	-	-	-
Artist's Studio (Commercial)	-	-	-	P	P	P	P	P	P	P	P	-	-	-
Not-for-Profit Organization Office	-	-	-	P	P	P	P	P	P	P	P	-	P	P
Florists	-	-	-	P	P	P	P	P	P	P	P	-	-	-
Sweepstakes Terminal Cafe	-	-	-	-	-	-	-	C	-	-	-	-	-	-
Roadside Stands	-	-	-	-	-	C	-	C	-	-	-	-	-	-
Flea Markets	-	-	-	-	-	C	-	-	-	-	-	-	-	-
Adult-Use Cannabis Dispensary	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Medical Marijuana Dispensary	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Dual-Use Cannabis Dispensary*	-	-	-	-	-	-	-	-	P	-	-	-	-	-
Cannabis Cultivator	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cannabis Processor	-	-	-	-	-	-	-	-	-	-	-	-	-	-

# ZONING DISTRICTS AND ZONING MAP

Eating, Drinking & Food Sales															
Land Use Description		R-SF-A	R-SF-B	R-SF-T	MFR	TO	NC	CC	DT	BR-CD	UT	DD	GI	CD	EI
Convenience Store	-	-	-	-	-	-	P	P	P	P	P	-	C	-	
Restaurant	-	-	-	-	-	P	P	P	P	P	P	-	P	-	
Restaurant (with drive-up or drive-through)	-	-	-	-	-	-	C	-	C	C	C	-	-	-	
Restaurant (small scale)	-	-	-	-	P	P	P	P	P	P	P	-	P	-	
Eating, Drinking & Food Sales (continued)															
Restaurant & Bar (with live entertainment)	-	-	-	-	-	-	P	P	P	P	P	-	-	-	
Catering Service	-	-	-	-	-	-	P	-	P	-	-	-	P	P	
Bakery, Pastry Shop	-	-	-	-	-	P	P	P	P	P	P	-	P	P	
Bar, Cocktail Lounge	-	-	-	-	-	P	P	P	P	P	P	-	-	-	
Grocery Store	-	-	-	-	-	P	P	P	P	P	P	-	-	-	
Farmers Market	-	-	-	-	-	-	P	P	-	P	-	-	-	-	
Liquor Store	-	-	-	-	-	-	P	-	P	-	-	-	-	-	
Meat Market	-	-	-	-	-	P	P	P	P	P	P	-	-	-	
Personal Services															
Barber & Beauty Shop	-	-	-	-	P	P	P	P	P	P	P	-	C	P	
Shoe Repair	-	-	-	-	P	P	P	P	P	P	P	-	-	-	
Funeral Parlor	-	-	-	-	-	C	P	-	P	-	-	-	-	-	
Studio – Dance, Music, Voice, Martial Arts	-	-	-	P	P	-	P	P	P	P	P	-	P	P	
Health Club	-	-	-	-	-	-	P	P	P	P	P	-	C	-	
Laundromat	-	-	-	-	-	-	P	-	P	-	P	-	C	-	
Laundry - Dry Cleaning (pick-up only)	-	-	-	-	-	-	-	P	-	P	P	-	-	-	
Laundry – Dry Cleaning (on site)	-	-	-	-	-	P	P	P	P	P	P	-	-	P	
Photography Studio	-	-	-	-	P	P	P	P	P	P	P	-	P	-	
Pet Grooming	-	-	-	-	P	P	P	P	P	P	P	-	-	-	
Travel Agency	-	-	-	-	P	P	P	P	P	P	P	-	-	-	
Tattoo Parlor & Body Piercing Studio / Business	-	-	-	-	-	-	-	-	C	-	-	-	-	-	
Beauty Schools	-	-	-	-	-	-	P	-	P	-	P	-	-	-	
Other Personal Services	-	-	-	-	-	P	P	P	P	P	P	-	-	-	
Heavy Retail Sales & Service															
Building Materials Sales	-	-	-	-	-	-	-	-	P	-	-	-	-	-	
Heating & Air Conditioning	-	-	-	-	-	-	P	-	P	-	P	P	-	-	
Bottled Gas	-	-	-	-	-	-	-	-	P	-	-	P	-	-	
Animal Kennel	-	-	-	-	-	-	-	-	C	-	C	-	-	-	
Equipment Sales, Rental, Repair	-	-	-	-	-	-	-	-	P	-	-	-	-	-	
Furniture & Appliance Sales, Rental, Repair	-	-	-	-	-	-	P	-	P	-	-	-	-	-	
Landscape Operation (with yard storage)	-	-	-	-	-	-	-	-	P	-	P	P	-	-	
Nursery (with yard storage)	-	-	-	-	-	-	-	-	P	-	P	P	-	-	

# ZONING DISTRICTS AND ZONING MAP

Pool Service & Sales	-	-	-	-	-	-	P	-	P	-	P	-	-	-
Tree Service	-	-	-	-	-	-	-	-	P	-	P	-	-	-
Small Recycling Collection Center	-	-	-	-	-	-	-	-	C	-	-	P	-	-
Package Distribution Center	-	-	-	-	-	-	-	-	P	-	P	P	-	-
Taxicab Service	-	-	-	-	-	-	P	-	P	-	P	-	-	-
Mobile Home Sales, Rental, Repair	-	-	-	-	-	-	-	-	P	-	P	-	-	-
Land Use Description	R-SF-A	R-SF-B	R-SF-T	MFR	TO	NC	CC	DT	BR-CD	UT	DD	GI	CD	EI
Heavy Retail Sales & Services (continued)														
Film / TV / Radio Production Studio	-	-	-	-	-	-	P	-	P	-	P	-	P	P
Firewood (outdoor sale)	-	-	-	-	-	-	-	-	P	-	-	-	-	-
Health & Institutional Services														
Medical, Dental & Vision Office	-	-	-	-	P	P	P	P	P	P	P	P	P	P
Mental Health Counseling	-	-	-	-	P	P	P	P	P	P	P	P	P	P
Hospital	-	-	-	-	-	-	C	-	C	C	C	C	C	-
Veterinary Office – Animal Hospital	-	-	-	-	C	C	C	C	C	C	C	C	C	-
Pharmacy	-	-	-	-	-	-	P	P	P	P	P	-	C	P
Emergency Medical Care	-	-	-	-	-	-	P	-	P	-	P	-	P	P
Ambulance Service	-	-	-	-	-	-	P	-	P	-	-	-	-	-
Alcohol and Drug Rehabilitation Facility	-	C	-	-	-	-	-	-	-	-	-	-	-	C
Juvenile Justice Treatment Facility	-	-	-	-	-	-	-	-	-	-	-	-	-	C
Child Welfare Facility	-	-	-	-	-	-	-	-	-	-	-	-	-	P
Mental Health Treatment Facility	-	-	-	-	-	-	-	-	-	-	-	-	-	P
Educational Facility	-	-	-	-	-	-	-	-	-	-	-	-	-	P
Business Services														
Computer Service & Training	-	-	-	-	P	-	P	P	P	P	P	-	P	P
Data Processing Services	-	-	-	-	P	-	P	-	P	-	P	P	P	P
Delivery Services	-	-	-	-	-	-	P	-	P	-	P	P	P	P
Janitorial Service	-	-	-	-	-	-	P	-	P	-	P	P	P	P
Pest Control Service	-	-	-	-	-	-	P	-	P	-	P	P	-	-
Photographic & Retail Printing	-	-	-	-	-	P	P	P	P	P	P	-	P	P
Other Business Services	-	-	-	-	-	P	P	P	P	P	P	-	P	P
Vehicle Sales, Rental & Service														
Automobile Wash Facility (self service or automatic)	-	-	-	-	-	-	C	-	C	-	C	-	-	-
Automobile Parts & Accessory Store	-	-	-	-	-	-	P	-	P	-	P	-	-	-
Automobile Repair Facility	-	-	-	-	-	-	C	-	C	-	C	-	-	-
Automobile Rental	-	-	-	-	-	-	-	-	P	-	-	-	-	-
Automobile Wholesale	-	-	-	-	-	-	-	-	P	-	P	P	-	-
Automobile Sales	-	-	-	-	-	-	-	-	C	-	-	-	-	-
Gasoline & Filling Station	-	-	-	-	-	-	C	-	C	-	-	-	-	-
Motorcycle Sales	-	-	-	-	-	-	-	-	P	-	-	-	-	-

# ZONING DISTRICTS AND ZONING MAP

Semi-Truck & Trailer Sales or Rental	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-
Parking Facilities	-	-	-	-	-	-	C	C	C	C	C	-	P	-	-
Boat Sales & Repair	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-
Camper & Recreational Vehicles Sales & Leasing	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-
Towing Service	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-
Truck Service Station	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-
Vehicle Sales, Rental & Service															
Heavy Equipment Sales, Rental, Repair	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-
Storage & Wholesale															
Outdoor Storage	-	-	-	-	-	-	-	-	P	-	-	P	-	-	-
Freight Terminal	-	-	-	-	-	-	-	-	P	-	-	P	-	-	-
Warehouse & Wholesale Operations	-	-	-	-	-	-	-	-	P	-	P	P	-	-	-
Land Use Description	R-SF-A	R-SF-B	R-SF-T	MFR	TO	NC	CC	DT	BR-CD	UT	DD	GI	CD	EI	
Storage & Wholesale (continued)															
Bus & Heavy Equipment Terminal	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-
Auto, Boat, Recreational Vehicle Storage (indoor)	-	-	-	-	-	-	-	-	P	-	-	P	-	-	-
Lumber & Wood Products	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-
Mini-Storage (self-storage)	-	-	-	-	-	-	-	-	P	-	C	P	-	-	-
Frozen Food Lockers (cold storage)	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-
Bakery Sales (Wholesale)	-	-	-	-	-	-	-	-	P	-	P	P	-	-	-
Commercial Parking Lots	-	-	-	-	-	-	-	-	P	-	-	P	P	-	-
Bulk Storage (indoor)	-	-	-	-	-	-	-	-	P	-	-	P	-	-	-
Bulk Storage (outdoor)	-	-	-	-	-	-	-	-	C	-	-	C	-	-	-
Recycling & Salvage Yards	-	-	-	-	-	-	-	-	-	-	-	C	-	-	-
Pallet Yards	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-
Truck Yards	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-
Light Industrial															
Semi-Conductor Manufacture	-	-	-	-	-	-	-	-	P	-	P	P	-	-	-
Food Product Manufacture	-	-	-	-	-	-	-	-	P	-	-	P	-	-	-
Machine Shops	-	-	-	-	-	-	-	-	P	-	P	P	-	-	-
Bottling Plants	-	-	-	-	-	-	-	-	P	-	P	P	-	-	-
Printing Plants	-	-	-	-	-	-	-	-	P	-	P	P	-	-	-
Electroplating Shops	-	-	-	-	-	-	-	-	P	-	P	P	-	-	-
Industrial Laundry	-	-	-	-	-	-	-	-	P	-	-	P	-	-	-
Finished Goods Assembly	-	-	-	-	-	-	-	-	P	-	P	P	-	-	-
Laboratory (medical, dental, optical)	-	-	-	-	-	-	-	-	P	-	P	P	-	-	-
Cabinet Makers & Carpentry	-	-	-	-	-	-	-	-	P	-	P	P	-	-	-
Contractor's Office (with indoor storage)	-	-	-	-	-	-	-	-	P	-	P	P	-	-	-
Construction Contractor's Yard	-	-	-	-	-	-	-	-	P	-	-	P	-	-	-
Textile Mill Products	-	-	-	-	-	-	-	-	P	-	-	P	-	-	-

# ZONING DISTRICTS AND ZONING MAP

Laboratory (research, experimental)	-	-	-	-	-	-	-	-	P	-	P	P	P	P													
Laboratory (materials testing)	-	-	-	-	-	-	-	-	P	-	P	P	-	-													
Machine Manufacture	-	-	-	-	-	-	-	-	-	-	-	P	-	-													
Large Recycling Collection & Light Process	-	-	-	-	-	-	-	-	-	-	-	P	-	-													
Wireless Telecommunications (* See Chapter 307 for additional permitted locations)	*	*	*	*	*	*	*	*	P	*	*	P	-	-													
<b>Heavy Industrial</b>																											
Building Material Manufacture	-	-	-	-	-	-	-	-	-	-	C	P	-	-													
Hazardous Material Manufacture	-	-	-	-	-	-	-	-	-	-	-	P	-	-													
Heavy Processing Recycling	-	-	-	-	-	-	-	-	-	-	-	P	-	-													
Waste Transfer, Storage, Disposal	-	-	-	-	-	-	-	-	-	-	-	P	-	-													
Tire Retreading, Recapping, Rebuilding	-	-	-	-	-	-	-	-	-	-	-	P	-	-													
Planing & Sawmills	-	-	-	-	-	-	-	-	-	-	-	P	-	-													
<b>Land Use Description</b>		R-SF-A	R-SF-B	R-SF-T	MFR	TO	NC	CC	DT	BR-CD	UT	DD	GI	CD	EI												
<b>Heavy Industrial (continued)</b>																											
Paper & Pulp Manufacture	-	-	-	-	-	-	-	-	-	-	-	P	-	-													
Auto, Truck, Boat, Mobile Equipment Manufacture	-	-	-	-	-	-	-	-	P	-	-	P	-	-													
Paper Recycling	-	-	-	-	-	-	-	-	-	-	-	P	-	-													
Metal Forging, Casting, Smelting	-	-	-	-	-	-	-	-	P	-	-	P	-	-													
Fertilizer Manufacture	-	-	-	-	-	-	-	-	-	-	-	P	-	-													
Petroleum Refining & Related Uses	-	-	-	-	-	-	-	-	-	-	-	P	-	-													
Rubber, Plastic, Raw Material Manufacture	-	-	-	-	-	-	-	-	-	-	-	P	-	-													
Vehicle Parts Manufacture	-	-	-	-	-	-	-	-	P	-	P	P	-	-													
Animal Rendering Plant	-	-	-	-	-	-	-	-	-	-	-	P	-	-													
Asphalt, Cement, Aggregate Plant	-	-	-	-	-	-	-	-	-	-	-	P	-	-													
<b>Miscellaneous Uses</b>																											
Small Wind Conversion Energy System	-	-	-	-	-	-	-	-	P	-	-	P	-	-													
Roof / Structure Mounted Solar Energy System	P	P	P	P	P	P	P	P	P	P	P	P	P	P													
Ground Mounted Solar Energy System	-	-	-	-	-	-	P	P	P	P	P	P	P	P													
Carport	-	-	-	-	-	-	-	-	-	-	-	-	-	-													
<u>Notes:</u>																											
If a permitted use within the CD zoning district is proposed to be located 150 feet or less from any boundary of the CD zoning district, then a conditional use permit shall be obtained by the applicant following the procedure and applicable standards set forth in Chapter 304. The 150 foot location requirement is measured from any point along the property line of the zoning lot under review.																											
See land use specific regulations for Mixed Use Event Venue in Section 203.02(C).																											
*Only one (1) cannabis dispensary of a dual-use nature shall be permitted in the BR-CD, pursuant to Ordinance No. 2024-23.																											

# R-SF-A, R-SF-B Single family residential Zoning Districts

## CHAPTER 201

## R-SF-A, R-SF-B Single Family Residential Zoning Districts

Section 201.01	Zoning District Objectives & Purpose
Section 201.02	Permitted Uses
Section 201.03	Conditional Uses
Section 201.04	Accessory Uses
Section 201.05	Development Standards
Section 201.06	Permitted Obstructions Within Required Yards or other Required Open Space
Section 201.07	Preservation and Landscaping of Yard Areas
Section 201.08	Objectives of the Single Family Residential Architectural and Site Design Standards
Section 201.09	Site Design Standards: Single Family Residential Site Design Standards
Section 201.10	Site Design Standards: Neighborhood Identity
Section 201.11	Site Design Standards: Sidewalk Design
Section 201.12	Site Design Standards: Setbacks for Single-Family Development
Section 201.13	Site Design Standards: Open Space
Section 201.14	Site Design Standards: Landscape Design Guidelines
Section 201.15	Site Design Standards: Lighting Design Guidelines
Section 201.16	Architectural Design Standards: Massing and Scale
Section 201.17	Architectural Design Standards: Architectural Style
Section 201.18	Architectural Design Standards: Exterior Materials
Section 201.19	Architectural Design Standards: Roof Design
Section 201.19.1	Architectural Design Standards: Modification
Section 201.20	Leasing Permit Required in the R-SF-A and R-SF-B Districts

### Section 201.01 Zoning District Objectives & Purpose

These R-SF-A and R-SF-B zoning district regulations are hereby established to carry out the purpose, intent and basic planning objectives which are stated in the Comprehensive Plan and, incidentally thereto, to achieve the following particular objectives for the R-SF-A and R-SF-B residential zoning districts:

- (A) To regulate the bulk and spacing of buildings or other structures in order to assure proper light, air, privacy and useable open space.
- (B) To conserve the natural resources of the City and preserve and to the extent reasonably practicable to improve the environmental attributes and amenities of the City.
- (C) To protect residents from nuisances and objectionable influences such as abnormal vehicular traffic, offensive noises, noxious fumes, odors and dust.

# R-SF-A, R-SF-B Single family residential Zoning Districts

- (D) To provide proper spacing between buildings and other structures to assure adequate access for fire and other emergency vehicles and equipment.
- (E) To regulate density and distribution of population in scale with existing and proposed community facilities and services.
- (F) To foster a variety of residential living types through various densities suitably located.
- (G) To promote in accordance with a well- considered plan, the most desirable and beneficial use of the land and structures and the stability and protection of the character of existing and future residential developments.
- (H) To encourage the orderly development of low to medium density single-family homes and customary supporting facilities, such as schools, churches and parks.

## Section 201.02 Permitted Uses

- (A) Uses permitted in the R-SF-A and R-SF-B zoning districts are provided for in the Land Use Matrix Table in §200.07.
- (B) Any use not designated as a permitted use for the R-SF-A and R-SF-B zoning districts in the Land Use Matrix Table shall not be permitted in these districts.

## Section 201.03 Conditional Uses

- (A) Conditionally permitted uses in the R-SF-A and R-SF-B zoning districts are provided for in the Land Use Matrix Table in §200.07.
- (B) All conditional uses provided for in the Land Use Matrix Table shall comply with the regulations and procedures set forth in Chapter 304.

## Section 201.04 Accessory Uses

Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted or conditionally permitted uses may be established, erected or constructed; provided, that such accessory uses shall not involve the conduct of any business, trade or industry, or any private way or walk giving access to such activity, or any billboard, sign or poster other than authorized herein. Accessory uses shall comply with the building setback, height, lot coverage and any other applicable standard as provided in this Code. Accessory uses may include the following:

- (A) Gardening and Pets. Gardening, hobby greenhouses, the raising of vegetables or fruits and the keeping of household pets exclusively for the use or personal enjoyment of residents of the premises and not for commercial purposes with the exception of produce grown and sold as part of a valid home occupation.
- (B) Parking Facilities. Garages or other parking spaces for the exclusive use of residents of the premises. Carports shall be prohibited.
- (C) Swimming Pools. Swimming pools, exclusively for the use of the residents and their guests, and subject to the provisions §309.05 and any applicable Building Code regulations.

## R-SF-A, R-SF-B Single family residential Zoning Districts

- (D) Real Estate and Professional Signs. Real estate announcements and professional signs subject to the provisions of Chapter 303.
- (E) Professional Home Office. See §309.14
- (F) Solar Energy Systems. See §308.06.
- (G) Dish-type satellite Signal Receiving Stations.
- (H) Sheds and Outbuildings. Sheds and other similar outbuildings used for the storage of items incidental to any permitted or conditionally approved use shall be permitted.

### Section 201.05 Development Standards

- (A) Every permitted use of land and structures in the R-SF-A and R-SF-B zoning districts shall be located on a zoning lot in such a manner as to create and preserve a front yard adjacent to each street on which such lot abuts, a side yard or yards and (except in the case of corner or through lots) a rear yard, conforming to the requirements of this Chapter (the "required yards").

# R-SF-A, R-SF-B Single family residential Zoning Districts

(B) The following development standards shall apply to the R-SF-A and R-SF-B zoning districts:

Table 2: R-SF-A and R-SF-B Zoning District Development Standards

Development Standards	R-SF-A	R-SF-B
Minimum Lot Area (square feet)	6,500	6,500
Minimum Lot Width (feet)	50	50
Minimum Front Yard Setback of Principal Building (feet)	35 (e)	35 (e)
Minimum Side Yard Setback of Principal Building (feet)	5	5
Minimum Rear Yard Setback of Principal Building (feet)	25	25
Minimum Side Yard Setback for Accessory Structures (feet)	5 (f)	5 (f)
Minimum Rear Yard Setback for Accessory Structures (feet)	5 (f)	5 (f)
Maximum Lot Coverage Ratio (for Principal Building)	30%	30%
Maximum Rear Yard Lot Coverage Ratio (for Accessory Structures)	25%	25%
Maximum Height of Principal Building (feet)	35	35
Maximum Height of Accessory Use Structure (feet)	15	15
Minimum Livable Floor Area of a One Story Dwelling (square feet)	1,200 (h)	1,000 (h)
Minimum Livable Floor Area of a Two Story Dwelling (square feet)	1,400 (h)	1,200 (h)
<u>Notes:</u>		
(a) For lots fronting on two streets, the principal building shall be set back from both streets according to the front setback of the district in which it is located.		
(b) Accessory structures are not permitted in the front yard or side yard unless expressly permitted in Section 201.06(N) or as otherwise expressly permitted in this Code.		
(c) Accessory structure lot coverage ratio is calculated for the specific yard in which the structure is located.		
(d) Principal building lot coverage ratio is calculated for the entire lot area.		
(e) Where fifty percent (50%) of a block face has been developed with a substantially uniform front building line having a greater or lesser average front yard setback than 35 feet, such substantially uniform front building line, as determined by the Zoning Administrator shall establish the minimum depth of the front yard for each zoning lot within such block face. Otherwise, the minimum front yard setback distance for principal structures shall be 35 feet measured from the edge of the public right-of-way to the front building face.		
(f) The minimum side and rear yard setback for an accessory structure is 5 feet unless provided otherwise in this Code.		
(g) Minimum lot areas and structure heights for approved conditional uses shall be provided for in the Conditional Use Regulations Chapter.		
(h) The calculation of minimum livable floor area shall be exclusive of garages, cornices, eaves, gutters, porches, balconies, terraces, outside enclosures or basements not meeting the ingress/egress requirements of the Building Code.		

## R-SF-A, R-SF-B Single family residential Zoning Districts

### Section 201.06 Permitted Obstructions Within Required Yards or other Required Open Space

The following are permitted obstructions within required yards or other required open space (subject to the height and lot coverage regulations set forth in Table 2, and to any other provisions of this Code applicable thereto) provided they are so located that natural light and ventilation are not materially obstructed from the main building or any adjoining property.

- (A) Architectural features extending not more than (1) foot into a required yard.
- (B) Awnings and canopies extending not more than two (2) feet into a required yard.
- (C) Window air conditioners.
- (D) Ground mounted or building mounted exterior air conditioner units may extend into the side yard or rear yard area provided that no portion of the unit or appurtenances thereto extend more than forty-eight (48) inches from the exterior building wall.
- (E) Chimneys projecting no more than one (1) foot into a required yard.
- (F) Eaves, gutters or downspouts projecting no more than sixteen (16) inches into a required yard.
- (G) Walls and fences subject to the regulations set forth in §309.06.
- (H) Steps - excluding fire escapes.
- (I) Pedestrian walks.
- (J) Vehicular access, circulation and service driveways and off-street parking areas subject to Chapter 301 (but not including any above-ground structure except pavement, curbing, and illumination).
- (K) Signs, subject to Chapter 303.
- (L) Uncovered Patios.
- (M) Decks may extend into the rear yard area only.
- (N) Accessory structures abutting an alley. Parcels that have lot frontages abutting an alley may construct an accessory structure in the front yard that abuts the alley. The determination of whether a yard abuts an alley shall be based on the definition of "Alley" found in Chapter 400 of this Zoning Code and shall not include the yard serving the architectural front of a structure. The following standards shall be met when proposing an accessory use located in a front yard abutting an alley:
  - (1) The accessory structure is set back a minimum of ten (10) feet from the property line that abuts the alley.
  - (2) The accessory structure is set back a minimum of five (5) feet from the side lot line.

## R-SF-A, R-SF-B Single family residential Zoning Districts

- (3) The maximum land coverage area for all accessory structures located in a front yard abutting an alley shall be twenty-five percent (25%). This maximum 25% coverage area is based on the available yard area found in the designated front yard abutting an alley and such total square footage of all permitted accessory uses shall not exceed 25% coverage of the available front yard area abutting an alley.
- (4) Maximum height of an accessory structure is fifteen (15) feet.
- (5) Swimming pools proposed to be located in a yard abutting an alley must follow the regulations set forth in Section 309.05.

### Section 201.07 Preservation and Landscaping of Yard Areas

- (A) Except as provided in this Chapter, required yards, open space and treelawns shall not be obstructed by any structure and such areas, together with all other portions of the zoning lot not covered by permitted structures, shall be landscaped (including covering such areas with trees, shrubbery and grass or other appropriate ground cover or landscaping material) so as to assure absorption of rainfall, and prevent erosion and rapid run-off of surface water, and such landscaping shall be maintained.
- (B) Each front yard shall be planted with trees, at the rate of at least one tree for each twenty-five (25) feet of lot width within the treelawn area, of such species as are normally long-lived and having a mature height of not less than twenty-five (25) feet. All required plantings shall be installed in compliance with Chapter 327 of the Berea Codified Ordinances.
- (C) The surface of each front yard area shall be maintained in a manner that avoids the creation of safety hazards including, but not limited to, vehicle tire ruts, holes or other openings larger than twelve (12) inches in diameter, tree stumps and other potentially hazardous conditions. Failure to maintain any front yard area in a safe and orderly manner shall constitute a violation of this Zoning Code.

### Section 201.08 Objectives of the Single Family Residential Architectural and Site Design Standards

The following architectural and site design goals and objectives shall apply to new development and expansion projects in the following zoning districts: R-SF-A and R-SF-B. Sections §201.08 through §201.19 provide for site design and architectural design standards for new single family residential development occurring in the R-SF-A and R-SF-B zoning districts. The review of these design standards shall take place in conjunction with the subdivision review stage and/or during the zoning review for building permit applications when applicable.

- (A) The prescribed architectural and site design standards are intended to:
  - (1) Guide the development of single family housing in order to create a stronger sense of community.
  - (2) Provide high quality housing for all sectors of the housing market in the City.
  - (3) Encourage greater variety in housing types, development styles, site planning and density mixes in order to provide more diversity and visual interest in the city's residential development, while preserving the city's predominantly single-family residential character.

## R-SF-A, R-SF-B Single family residential Zoning Districts

- (4) Encourage a harmonious development pattern that respects and responds to the character of the surrounding built and natural environments.
- (5) Protect and enhance the physical character of the area within these zoning districts;
- (6) Prevent the deterioration of property and nuisance conditions.
- (7) Ensure that renovations and residential infill developments do not adversely affect the physical character of the area; and
- (8) Function in conjunction with the goals and objectives of the City of Berea Comprehensive Plan.

(B) Except as otherwise provided in this Chapter, all regulations set forth in this Chapter shall apply to and control property in the R-SF-A and R-SF-B zoning districts; provided, however, that in the case of a conflict between any standards set forth in this Chapter and similar standards provided for in another section of this zoning code, the standards of this Chapter shall govern.

### Section 201.09 Site Design Standards: Single Family Residential Site Design Standards

**Building Siting and Orientation.** The intent is to create residential development that responds to the existing environmental, geographic and topographic conditions in the City of Berea.

- (A) **Natural Site Features.** Residential layout should preserve existing natural site features such as topography, views and vegetation to enhance the character of the development. Public views of such features should be preserved and incorporated into development proposals.
- (B) **Topography.** Berea's topography is generally flat to gently rolling. Therefore, it is important that sites that have some topographical features not be graded flat, but take advantage of the topographic variation.
- (C) In hillside or sloping areas, street and building placement should follow contours rather than being placed at right angles to the prevailing slope.
- (D) On sloping sites, staggering placement of units along opposite sides of the street, rather than siting lots directly opposite one another, can provide better preservation of views.

### Section 201.10 Site Design Standards: Neighborhood Identity.

- (A) New residential development should provide variety in the City's residential development character than currently exists.
- (B) New development should not be so different in character that it is visually incompatible with existing development. Elements that can contribute to the creation of a distinct image include the architecture, street layout and design, landscaping, integration of open space and entry treatment.
- (C) Building design should complement surrounding development.
- (D) In areas that possess strong existing development character, the building design should respect the predominant characteristics of neighborhood development, such as height, massing, setbacks, materials and architectural style.

## R-SF-A, R-SF-B Single family residential Zoning Districts

Figure 1: Neighborhood Identity Illustration

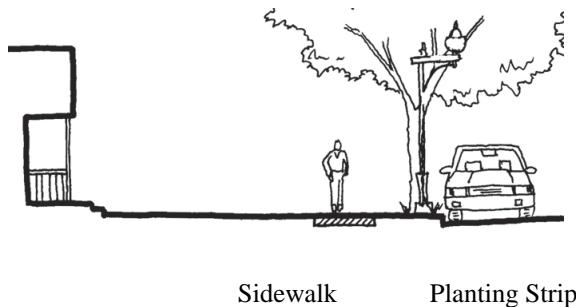
*The repeated use of a specific architectural element, such as horizontal wood siding or stone, can create a thematic component that helps to identify a neighborhood.*



### Section 201.11 Site Design Standards: Sidewalk Design.

(A) Planting strips between the sidewalk and the back of the curb are strongly encouraged. They should be a minimum of 5 feet in width.

Figure 2: Planting Strip Illustration



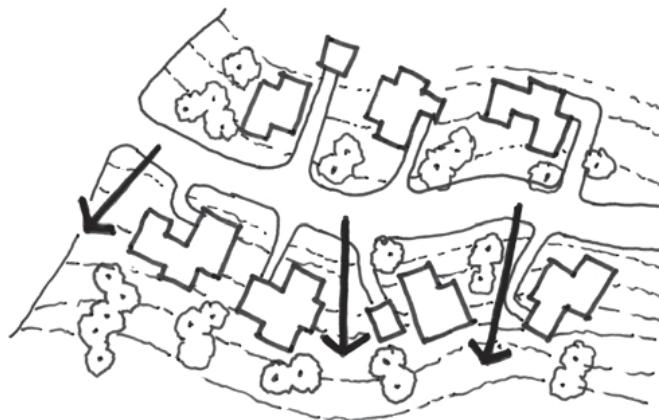
### Section 201.12 Site Design Standards: Setbacks for Single-Family Development.

(A) Front yard setbacks should be varied from unit to unit to avoid long repetitious development patterns. As a rule, these setback variations need to be at least three (3) feet to be effective.

Figure 3: Staggered Dwelling Placement

## R-SF-A, R-SF-B Single family residential Zoning Districts

*Staggering the placement of residential units can provide opportunities for better views from public streets.*



- (B) Variations in side yard setbacks can also be used to break up long, linear patterns.
- (C) Overly large front setbacks are discouraged.

### Section 201.13 Site Design Standards: Open Space.

- (A) Neighborhood open space should be located to maximize its visual and functional benefits.
- (B) Common open space areas should be sited to take advantage of any views out from the site and help preserve views to significant architectural and landscape features within the site.
- (C) Neighborhood open space should also tie into citywide open space systems including public parks, the arroyos, bicycle, pedestrian and equestrian pathways.
- (D) Open space areas should be used to visually unify a development, link development clusters and provide enhanced pedestrian circulation within the development.

### Section 201.14 Site Design Standards: Landscape Design Guidelines.

- (A) Landscaping should be an integral part of the overall site design, rather than camouflage unused or unusable spaces or poor architectural design.
- (B) Landscape improvements should be utilized to better integrate a development with its setting by:
  - (1) Enhancing pedestrian scale of the building.
  - (2) Screening views of unsightly elements, such as utility boxes and backflow devices.
  - (3) Softening hard edges visually.

## R-SF-A, R-SF-B Single family residential Zoning Districts

- (4) Providing a transition between different use areas.
- (5) Creating an attractive aesthetic environment.
- (6) Creating usable pedestrian areas.
- (7) Reducing energy consumption.
- (8) Defining specific areas and enhancing architectural features.

(C) Existing Landscape Elements.

- (1) Where feasible, significant existing landscape elements should be preserved and incorporated into development and landscape plans.
- (2) Elements such as mature trees, tree groupings, arroyos and rock outcroppings should be considered in the design of a project.
- (3) Landscape plans should show how the design integrates existing vegetation and site features.

(D) Plant Species.

- (1) A well-coordinated palette of plant species should be employed.
- (2) Native plant materials and other plant species which are well adapted to northern Ohio local climatic conditions are preferable.(ZONE 5-6)
- (3) Landscape plans should exhibit a well-coordinated design concept. Plant materials should be utilized in an orderly manner which defines the site's spatial organization and function, relates to the buildings and structures and incorporates the various site elements.
- (4) The scale and nature of landscape materials should be appropriate to the site and structures. Large scale buildings should be complemented by large scale landscape materials, such as plants, rocks, timbers, walls, and fences.

(E) Plant Size and Scale.

- (1) Size of Materials. Larger, more mature plant materials shall be used as much as possible to ensure that some immediate effect on the project's appearance will be attained within two years of planting.
- (2) The following minimum sizes and spacings are recommended for plant materials at the time of installation:
  - (a) Trees should be a minimum 15-gallon pot size or six (6) feet tall and have a 1-inch caliper size at chest height, whichever is greater.
  - (b) Twenty percent of all trees should have a 24-inch box container size or larger.
  - (c) More mature plant materials should be located in areas with particular visual importance such as entries and along main frontages.

## R-SF-A, R-SF-B Single family residential Zoning Districts

(d) Shrubs should have a minimum five (5)-gallon pot size, and upright shrubs should have a minimum height of 18 inches and a minimum spread of 18 inches; spreading shrubs should have a minimum spread of 19 to 24 inches.

(e) Ground cover planted from flats should have a maximum spacing of 12 inches on center or, when planted from one-gallon cans, a maximum spacing of 24 inches on center.

(F) Front Yard Landscape Design.

- (1) Landscaping shall be installed with the initial construction of the residence.
- (2) A minimum of one 24-inch box tree and one 15-gallon tree shall be located in the front yard of each residence in addition to required street trees.
- (3) A sidewalk extending from the front door to the public sidewalk is highly encouraged.
- (4) Hardscape areas are encouraged to utilize permeable materials.
- (5) Use of turf should be minimized to increase water efficiency.
- (6) Planting at the foundation is encouraged.
- (7) Total area of hardscape areas should be kept to a minimum.
- (8) If decorative rocks and boulders are used, they should be integrated with planting.

Section 201.15 Site Design Standards: Lighting Design Guidelines.

- (A) Exterior lighting shall be designed as an integral part of the building and landscape design.
- (B) Development plans shall include the location of fixtures, their design and the nature and level of the illumination they will provide.
- (C) Illumination levels shall be provided to address security concerns, pedestrian paths, outdoor gathering spaces, at building entries and any other pedestrian accessible areas.
- (D) Decorative light fixtures are strongly encouraged.
- (E) Lighting should generally be designed to include cut-offs to minimize the lighting of the sky.

Section 201.16 Architectural Design Standards: Massing and Scale.

(A) General Massing and Scale Guidelines.

- (1) Open space areas between buildings shall be scaled to the size of the buildings so that the height of buildings does not overwhelm the adjacent space.
- (2) All new principal structures permitted in this district shall be constructed using a minimum 6/12 pitched roof design including the roof area located over the garage. The

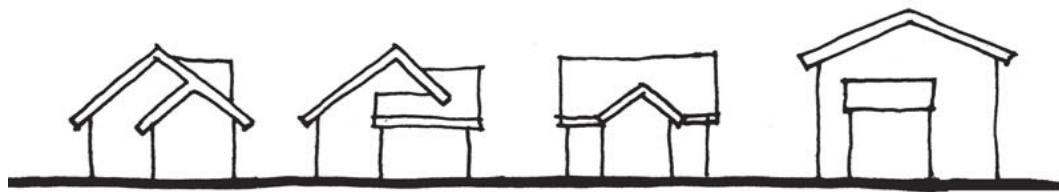
## R-SF-A, R-SF-B Single family residential Zoning Districts

roof area located over any porch and entrance portions of the dwelling shall be constructed using a minimum 4/12 pitch design.

- (3) Roof forms to be employed include: hipped roofs, gabled roofs, varying roof pitches, side-to-side gables, front-to-back gables or various combinations.
- (4) Building massing should be varied by employing a variety of techniques, such as recessed porches, bay windows, dormers and varying planes or setbacks. As appropriate to the style of the house, the roof forms should be varied.

Figure 4: Roof Variation Illustration

*Variation in roof forms contributes to a more visually rich neighborhood.*



(B) Building Design.

- (1) Façade components should correspond to the scale of the human form. This is accomplished by visually breaking up façades into smaller components with elements such as windows, wall insets, balconies, ledges and trim and by stepping back upper stories.
- (2) Façade components should be in proportion to related components, such as the proportion of a column to its base and the width of a column to its height.

Section 201.17 Architectural Design Standards: Architectural Style.

- (A) Building design should not be limited to any particular style. However, it should generally be compatible with surrounding residential development. The authentic implementation of appropriate established architectural styles is encouraged. (Please refer to "A Field Guide to American Houses" by Virginia and Lee McAlester.)
- (B) Functional design solutions should be employed that are compatible with the surrounding natural and built environments and that contribute to the character and quality of new residential development.
- (C) Building elevations should not be replicated across the street from each other or on adjacent parcels.
- (D) Façade.
  - (1) Facades shall be designed so as to include entries, porches and other architectural elements that relate to the human scale.

## R-SF-A, R-SF-B Single family residential Zoning Districts

- (2) Residential entries shall be located on the front façade and shall directly access the sidewalk or street.
- (3) Rain gutters shall be designed so as to be of a scale and material that is compatible with the roof and eaves.
- (4) If the building mass and pattern of windows and doors is complex, simplewall surfaces are recommended. If the building volume and the pattern of wall openings are simple, additional wall texture and articulation should be employed.
- (5) High quality materials such as crafted wood, stainless steel, copper and other ornamental metals are highly recommended.

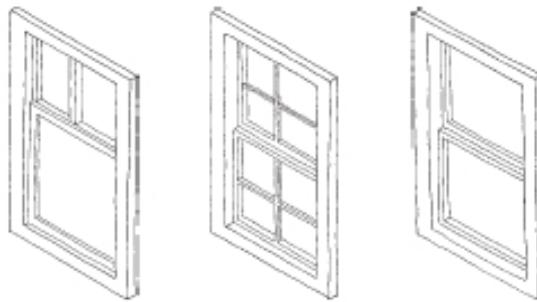
(E) Windows and Doors.

- (1) All windows within a building and across a façade shall be related in design, operating type, proportions and trim.
- (2) Windows shall be used as architectural elements that add relief to the façade and wall surface.
- (3) Windows shall employ design details, if appropriate to the architecture, such as mullions, to break the scale of the façade into smaller components.
- (4) Reflective glazing is prohibited.
- (5) Windows should be vertically oriented, in order to relate to the human form, unless horizontal windows are appropriate to the style, or are necessary in the particular application.
- (6) Unifying architectural elements should be used to carry a window pattern across a façade, such as a common sill or header line.
- (7) Shaped frames and sills should be used to enhance openings and add additional relief. They should be proportional to the glass area framed, as where a larger window should have thicker framing members.
- (8) Unless appropriate to an architectural style, windows should not be flush with walls. Glass should be inset from the exterior wall and/or frame surface to add relief to the wall surface.

Figure 5: Vertically Oriented Window Illustration

*Vertically oriented windows reinforce the human form.*

## R-SF-A, R-SF-B Single family residential Zoning Districts



- (9) If aluminum sliding windows are used, select heavier window products with visually thicker (1.5 inches or greater) extrusions and frame members.
- (10) Clear glass is recommended. To add privacy and aesthetic variety to glass, fritted glass, spandrel glass and other decorative treatments are recommended. If tinted glass is to be used, light tints and green, gray or blue hues are recommended.
- (11) Low emissivity glass and external shade devices should be used for heat control and an increase in energy efficiency.
- (12) Reflective glass shall be prohibited in the R-SF-A and R-SF-B zoning districts.

### Section 201.18 Architectural Design Standards: Exterior Materials.

- (A) A variety of materials shall be used that emphasize a differentiation between the various components of the building.
- (B) Gaps between applied materials and the base of the building shall not be visible.
- (C) Simulated finishes (e.g. artificial stone using concrete form liners simulating naturalistic lines and shapes such as rubblestone) shall be of a high quality that successfully mimics the natural material.
- (D) The combination of materials on a building façade shall be appropriate to its style and design.
- (E) Colors.
  - (1) Exterior building colors should be compatible with the surrounding neighborhood setting and should be in keeping with the geographic and climatic conditions specific to the City of Berea.
  - (2) Accent colors should be used to enhance details such as trim.
  - (3) Primary colors should be limited to accent or trim colors and should generally be compatible with the surrounding neighborhood.

### Section 201.19 Architectural Design Standards: Roof Design.

## R-SF-A, R-SF-B Single family residential Zoning Districts

- (A) The form, color and texture of the roof should be an integral part of the building design and compatible with both the natural and built settings.
- (B) Roofline variations may be used to demarcate primary building entrances.
- (C) Flat roofs shall be prohibited in the R-SF-A and R-SF-B zoning districts.
- (D) Roof overhangs should be detailed as follows:
  - (1) Minimum overhang length of twelve inches shall be provided over all faces of the exterior walls of a dwelling.
  - (2) Brackets and corbels or other overhang supports are encouraged in order to add a finer level of detail to the building.
  - (3) Soffits should be designed as a visible feature and incorporated into the overall architectural design.
- (E) Roof Materials.
  - (1) Roof materials shall relate to the design and architectural style of the building.
  - (2) Roofing materials which are light-colored, such as white gravel, brightly colored or reflective, such as metal, are generally discouraged and shall only be approved after design merit is determined by the Zoning Administrator.
- (F) “Green” Roof Standards.
  - (1) Design guidelines and construction standards applicable for sustainable based “green” roof systems” are provided in Chapter 308.

### Section 201.19.1 Architectural Design Standards: Modification.

**Design Standard Modification.** The Planning Commission may approve modifications to the architectural and site design standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the architectural and site design standards:

- (A) Whether any conditions or circumstances exist which are unique to the applicant’s land.
- (B) Whether the conditions or circumstances unique to the applicant’s land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
- (C) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with a residential use.
- (D) Whether the modification will preserve, not harm, the public safety and welfare.
- (E) Whether the modification will alter the essential character of the neighborhood.
- (F) Whether the applicant has provided an alternative to the required architectural or site design standard that achieves the spirit and intent of the original design standard.

## R-SF-A, R-SF-B Single family residential Zoning Districts

## CHAPTER 202

## R-SF-T Single Family Residential Zoning District

Section 202.01	Zoning District Objectives & Purpose
Section 202.02	Permitted Uses
Section 202.03	Conditional Uses
Section 202.04	Accessory Uses
Section 202.05	Development Standards
Section 202.06	Increased Yard Setbacks
Section 202.07	Permitted Obstructions Within Required Yards or other Required Open Space
Section 202.08	Preservation and Landscaping of Yard Areas
Section 202.09	Architectural and Site Design Standards
Section 202.10	Architectural Design Standards: Modification

### Section 202.01 Zoning District Objectives & Purpose

These R-SF-T single family residential zoning district regulations are hereby established to carry out the purpose, intent and basic planning objectives which are stated in the Comprehensive Plan and, incidentally thereto, to achieve the following particular objectives for the R-SF-T single family residential zoning districts:

- (A) To regulate the bulk and spacing of buildings or other structures in order to assure proper light, air, privacy and useable open space.
- (B) To conserve the natural resources of the City and preserve and to the extent reasonably practicable to improve the environmental attributes and amenities of the City.
- (C) To protect residents from nuisances and objectionable influences such as abnormal vehicular traffic, offensive noises, noxious fumes, odors and dust.
- (D) To provide proper spacing between buildings and other structures to assure adequate access for fire and other emergency vehicles and equipment.
- (E) To regulate density and distribution of population in scale with existing and proposed community facilities and services.
- (F) To foster a variety of townhouse style dwellings through various densities suitably located.
- (G) To promote in accordance with a well-considered plan, the most desirable and beneficial use of the land and structures and the stability and protection of the character of existing and future residential developments.
- (H) To encourage the orderly and planned development of medium to high density multi-family dwelling units and customary supporting facilities, such as schools, churches and parks.

# R-SF-T SINGLE FAMILY TOWNHOUSE DISTRICT Zoning

## Section 202.02 Permitted Uses

- (A) Uses permitted in the R-SF-T zoning district are provided for in the Land Use Matrix Table in §200.07.
- (B) Any use not designated as a permitted use for the R-SF-T zoning district in the Land Use Matrix Table shall not be permitted in this district.

## Section 202.03 Conditional Uses

- (A) Conditionally permitted uses in the R-SF-T zoning district are provided for in the Land Use Matrix Table in §200.07.
- (B) All conditional uses provided for in the Land Use Matrix Table shall comply with the regulations and procedures set forth in Chapter 304.

## Section 202.04 Accessory Uses

Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted or conditionally permitted uses may be established, erected or constructed; provided, that such accessory uses shall not involve the conduct of any business, trade or industry, or any private way or walk giving access to such activity, or any billboard, sign or poster other than authorized herein. Accessory uses shall comply with the building setback, height, lot coverage and any other applicable standard as provided in this Code. Accessory uses may include the following:

- (A) Gardening and Pets. Gardening, hobby greenhouses, the raising of vegetables or fruits and the keeping of household pets exclusively for the use or personal enjoyment of residents of the premises and not for commercial purposes with the exception of produce grown and sold as part of a valid home occupation.
- (B) Parking Facilities. Garages, carports or other parking spaces for the exclusive use of residents of the premises.
- (C) Swimming Pools. Swimming pools, exclusively for the use of the residents and their guests, and subject to the provisions §309.05 and any applicable Building Code regulations.
- (D) Real Estate and Professional Signs. Real estate announcements and professional signs subject to the provisions of Chapter 303.
- (E) Professional Home Office. See §309.14
- (F) Dish-type satellite Signal Receiving Stations.
- (G) Solar Energy Systems. See §308.06.
- (H) Sheds and Outbuildings. Sheds and other similar outbuildings used for the storage of items incidental to any permitted or conditionally approved use shall be permitted.

# R-SF-T SINGLE FAMILY TOWNHOUSE DISTRICT Zoning

## Section 202.05 Development Standards

- (A) Every permitted use of land and structures in the R-SF-T zoning district shall be located on a zoning lot in such a manner as to create and preserve a front yard adjacent to each street on which such lot abuts, a side yard or yards and (except in the case of corner or through lots) a rear yard, conforming to the requirements of this Chapter (the "required yards").
- (B) For the purposes of this Chapter, a "Townhouse" shall be defined as an attached single family dwelling sharing at least one common wall with another townhouse unit. "Single Family" shall be defined as a detached dwelling unit.
- (C) The following development standards found in Table 3 shall apply to the R-SF-T zoning district:

# R-SF-T SINGLE FAMILY TOWNHOUSE DISTRICT Zoning

Table 3: R-SF-T Zoning District Development Standards

Development Standards	Single Family	Townhouse
Minimum Lot Area (square feet)	See Note (j)	5,000
Minimum Lot Width (feet)	50	50
Minimum Front Yard Setback of Principal Building (feet)	35 (e)	35 (e)
Minimum Side Yard Setback of Principal Building (feet)	5	5 (d)
Minimum Rear Yard Setback of Principal Building (feet)	25	15
Minimum Side Yard Setback for Accessory Structures (feet)	5 (f)	10(f)
Minimum Rear Yard Setback for Accessory Structures (feet)	5 (f)	10(f)
Maximum Lot Coverage Ratio (for Principal Building)	30%	30%
Maximum Rear Yard Lot Coverage Ratio (for Accessory Structures)	25%	30%
Maximum Height of Principal Building (feet)	35	35
Maximum Height of Accessory Use Structure (feet)	15	15
Minimum Livable Floor Area of a One Story Dwelling (square feet)	1,200 (h)	1,000 (h)
Minimum Livable Floor Area of a Two Story Dwelling (square feet)	1,400 (h)	1,200 (h)
<u>Notes:</u>		
(a) For lots fronting on two streets, the principal building shall be set back from both streets according to the front setback of the district in which it is located.		
(b) Accessory structures are not permitted in the front yard or side yard unless expressly provided for in this Code. Accessory structure lot coverage ratio is calculated for the specific yard in which the structure is located.		
(c) Principal building lot coverage ratio is calculated for the entire lot area.		
(d) For townhouses, there shall be a minimum of 5 feet side yard setback from the side yard lot line including a minimum total of 20 feet side yard separation between townhouse building structures. When abutting a private common drive, townhouse building structures shall be set back a minimum of 30 feet from the centerline of such private common drive. No townhouse building structure shall be closer than 50 feet to a residential single family lot.		
(e) If a townhouse or single family structure is directly adjacent along either side yard to a single family block and where fifty percent (50%) of a block face has been developed with a substantially uniform front building line having a greater or lesser average front yard setback than 35 feet, such substantially uniform front building line, as determined by the Zoning Administrator shall establish the minimum depth of the front yard for each zoning lot within such block face. Otherwise, the minimum front yard setback distance for principal structures in the R-SF-T zoning district shall be as set forth in this Table and being measured from the edge of the public right-of-way to the front building face.		
(f) The minimum side and rear yard setback for an accessory structure is stated in this table unless provided otherwise in this		

# R-SF-T SINGLE FAMILY TOWNHOUSE DISTRICT Zoning

Code.

- (g) Minimum lot areas and structure heights for approved conditional uses shall be provided for in the Chapter 304.
- (h) The calculation of minimum livable floor area shall be exclusive of garages, cornices, eaves, gutters, porches, balconies, terraces, outside enclosures or basements not meeting the ingress/egress requirements of the Building Code.
- (i) Three and four family dwellings shall have a minimum lot area of 20,000 square feet and a minimum lot width of 100 feet at the building setback line. Multi-family dwellings ( 5 – 8 dwelling units per structure) shall have a minimum lot area of one acre with a maximum density of eight units per acre.
- (j) Single family lots shall have a minimum average lot size of at least 10,500 square feet with no more than 20% of the residential lots being less than 9,000 square feet but in no event less than 7,500 square feet.

## Section 202.06 Increased Yard Setbacks

- (A) For a townhouse structure having a wall or walls greater than thirty (30) feet in aggregate or overall length facing a rear or side yard, the corresponding required rear yard depth or side yard width shall be increased by one (1) foot for each foot of such wall length in excess of thirty (30) feet, but such required depth or width need not exceed twenty-five (25) feet.

## Section 202.07 Permitted Obstructions Within Required Yards or other Required Open Space

The following are permitted obstructions within required yards or other required open space (subject to the height and lot coverage regulations of set forth in Table 3 , and to any other provisions of this Code applicable thereto) provided they are so located that natural light and ventilation are not materially obstructed from the main building or any adjoining property.

- (A) Architectural features extending not more than (1) foot into a required yard.
- (B) Awnings and canopies extending not more than two (2) feet into a required yard.
- (C) Window air conditioners.
- (D) Ground mounted or building mounted exterior air conditioner units may extend into the side yard or rear yard area provided that no portion of the unit or appurtenances thereto extend more than forty-eight (48) inches from the exterior building wall.
- (E) Chimneys projecting no more than one (1) foot into a required yard.
- (F) Eaves, gutters or downspouts projecting no more than sixteen (16) inches into a required yard.
- (G) Walls and fences subject to the regulations set forth in §309.06.
- (H) Steps - excluding fire escapes.
- (I) Pedestrian walks.

# R-SF-T SINGLE FAMILY TOWNSHOUSE DISTRICT Zoning

- (J) Vehicular access, circulation and service driveways and off-street parking areas subject to Chapter 301 (but not including any above-ground structure except pavement, curbing, and illumination).
- (K) Signs, subject to the applicable regulations set forth in Chapter 303 .
- (L) Patios.
- (M) Decks may extend into the rear yard area only.

## Section 202.08 Preservation and Landscaping of Yard Areas

- (A) Except as provided in this Chapter, required yards, open space and treelawns shall not be obstructed by any structure and such areas, together with all other portions of the zoning lot not covered by permitted structures, shall be landscaped (including covering such areas with trees, shrubbery and grass or other appropriate ground cover or landscaping material) so as to assure absorption of rainfall, and prevent erosion and rapid run-off of surface water, and such landscaping shall be maintained.
- (B) Each front yard shall be planted with trees, at the rate of at least one tree for each twenty-five (25) feet of lot width, of such species as are normally long-lived and having a mature height of not less than twenty-five (25) feet.
- (C) The surface of each front yard area shall be maintained in a manner that avoids the creation of safety hazards including, but not limited to, vehicle tire ruts, holes or other openings larger than twelve (12) inches in diameter, tree stumps and other potentially hazardous conditions. Failure to maintain any front yard area in a safe and orderly manner shall constitute a violation of this Zoning Code.

## Section 202.09 Architectural and Site Design Standards

- (A) All single family uses constructed or expanded in this R-SF-T zoning district shall follow those applicable architectural and site design standards as set forth in §201.08 through §201.19 of the R-SF-A, R-SF-B, Single Family Residential Zoning District Chapter 201.
- (B) All townhouse uses constructed or expanded in this R-SF-T zoning district shall follow those applicable architectural and site design standards as set forth in §203.09 through §203.19 of the MFR Multi-Family Residential Zoning District Chapter 203.

## Section 202.10 Architectural Design Standards: Modification.

**Design Standard Modification.** The Planning Commission may approve modifications to the architectural and site design standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the architectural and site design standards:

- (A) Whether any conditions or circumstances exist which are unique to the applicant's land.
- (B) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
- (C) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with a residential use.

## R-SF-T SINGLE FAMILY TOWNHOUSE DISTRICT Zoning

- (D) Whether the modification will preserve, not harm, the public safety and welfare.
- (E) Whether the modification will alter the essential character of the neighborhood.
- (F) Whether the applicant has provided an alternative to the required architectural or site design standard that achieves the spirit and intent of the original design standard.

## CHAPTER 203

## MFR Multi-Family Residential Zoning District

Section 203.01	Zoning District Objectives & Purpose
Section 203.02	Permitted Uses
Section 203.03	Conditional Uses
Section 203.04	Accessory Uses
Section 203.05	Development Standards
Section 203.06	Increased Yard Setbacks
Section 203.07	Permitted Obstructions Within Required Yards or other Required Open Space
Section 203.08	Preservation and Landscaping of Yard Areas
Section 203.09	Objectives of the Multi-Family Residential Architectural and Site Design Standards
Section 203.10	Site Design Standards: Multi-Family Residential Site Layout
Section 203.11	Site Design Standards: Neighborhood Identity
Section 203.12	Site Design Standards: Sidewalk Design
Section 203.13	Site Design Standards: Mechanical Equipment and Utility Standards
Section 203.14	Site Design Standards: Multi-Family Open Space Standards
Section 203.15	Site Design Standards: Landscape Design Guidelines
Section 203.16	Site Design Standards: Lighting Design Guidelines
Section 203.17	Site Design Standards: Multiple-Family Parking
Section 203.18	Architectural Design Standards: Massing and Scale Standards and Guidelines for Multi-Family Development
Section 203.19	Architectural Design Standards: Exterior Materials
Section 203.20	Architectural Design Standards: Modification

### Section 203.01 Zoning District Objectives & Purpose

These MFR multi-family residential zoning district regulations are hereby established to carry out the purpose, intent and basic planning objectives which are stated in the Comprehensive Plan and, incidentally thereto, to achieve the following particular objectives for the MFR multi-family residential zoning districts:

- (A) To regulate the bulk and spacing of buildings or other structures in order to assure proper light, air, privacy and useable open space.
- (B) To conserve the natural resources of the City and preserve and to the extent reasonably practicable to improve the environmental attributes and amenities of the City.
- (C) To protect residents from nuisances and objectionable influences such as abnormal vehicular traffic, offensive noises, noxious fumes, odors and dust.

# MFR Multi-family residential Zoning DISTRICT

- (D) To provide proper spacing between buildings and other structure's to assure adequate access for fire and other emergency vehicles and equipment.
- (E) To regulate density and distribution of population in scale with existing and proposed community facilities and services.
- (F) To foster a variety of multi-residential living types through various densities suitably located.
- (G) To promote in accordance with a well- considered plan, the most desirable and beneficial use of the land and structures and the stability and protection of the character of existing and future residential developments.
- (H) To encourage the orderly and planned development of medium to high density multi-family dwelling units and customary supporting facilities, such as schools, churches and parks.

## Section 203.02 Permitted Uses

- (A) Uses permitted in the MFR zoning district are provided for in the Land Use Matrix Table in §200.07.
- (B) Any use not designated as a permitted use for the MFR zoning district in the Land Use Matrix Table shall not be permitted in this district.
- (C) Mixed-use Building. When an MFR zoned parcel is situated adjacent to parcels zoned Commercial Center (CC) along all common property lines, including any parcel located directly across a public or private roadway, the MFR zoned parcel may establish limited commercial uses in the following categories: Artist's Studio; General Business Office; and Studio (Dance, Music, Voice and Martial Arts) as a Permitted Use.

The limited permitted commercial uses stated above may only be located on the first floor of the building and shall occupy no more than 50% of the total first floor area when adequate parking is available on site to support both the limited commercial uses and the residential dwelling units.

## Section 203.03 Conditional Uses

- (A) Conditionally permitted uses in the MFR zoning district are provided for in the Land Use Matrix Table in §200.07.
- (B) All conditional uses provided for in the Land Use Matrix Table shall comply with the regulations and procedures set forth in Chapter 304.

## Section 203.04 Accessory Uses

Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted or conditionally permitted uses may be established, erected or constructed; provided, that such accessory uses shall not involve the conduct of any business, trade or industry, or any private way or walk giving access to such activity, or any billboard, sign or poster other than authorized herein. Accessory uses shall comply with the building setback, height, lot coverage and any other applicable standard as provided in this Code. Accessory uses may include the following:

- (A) Gardening and Pets. Gardening, hobby greenhouses, the raising of vegetables or fruits and the keeping of household pets exclusively for the use or personal enjoyment of residents of the

# MFR Multi-family residential Zoning DISTRICT

premises and not for commercial purposes with the exception of produce grown and sold as part of a valid home occupation.

- (B) Parking Facilities. Garages, carports or other parking spaces for the exclusive use of residents of the premises.
- (C) Swimming Pools. Swimming pools, exclusively for the use of the residents and their guests, and subject to the provisions §309.05 and any applicable Building Code regulations.
- (D) Real Estate and Professional Signs. Real estate announcements and professional signs subject to the provisions of Chapter 303.
- (E) Professional Home Office. See §309.14
- (F) Dish-type satellite Signal Receiving Stations.
- (G) Solar Energy Systems. See §308.06.
- (H) Sheds and Outbuildings. Sheds and other similar outbuildings used for the storage of items incidental to any permitted or conditionally approved use shall be permitted.

## Section 203.05 Development Standards

- (A) Every permitted use of land and structures in the MFR zoning district shall be located on a zoning lot in such a manner as to create and preserve a front yard adjacent to each street on which such lot abuts, a side yard or yards and (except in the case of corner or through lots) a rear yard, conforming to the requirements of this Chapter (the "required yards").

# MFR Multi-family residential Zoning DISTRICT

(B) The following development standards shall apply to the MFR zoning district:

Table 4: MFR Zoning District Development Standards

Development Standards	Two-Family	Townhouse	Multi-Family
Minimum Lot Area Per Dwelling Unit (square feet)	6,000	5,000	See Note (i)
Minimum Lot Width (feet)	65	50	100
Minimum Front Yard Setback of Principal Building (feet)	35 (e)	35 (e)	40 (e)
Minimum Side Yard Setback of Principal Building (feet)	5	5 (d)	25
Minimum Rear Yard Setback of Principal Building (feet)	25	15	25
Minimum Side Yard Setback for Accessory Structures (feet)	5 (f)	10(f)	10(f)
Minimum Rear Yard Setback for Accessory Structures (feet)	5(f)	10(f)	10(f)
Maximum Lot Coverage Ratio (for Principal Building)	30%	30%	30%
Maximum Rear Yard Lot Coverage Ratio (for Accessory Structures)	30%	30%	15%
Maximum Height of Principal Building (feet)	35	35	100
Maximum Height of Accessory Use Structure (feet)	15	15	20
Minimum Livable Floor Area of Dwelling Unit (square feet)	900 (h)	1,000 (h)	See Notes (h)(j)

Notes:

(a) For lots fronting on two streets, the principal building shall be set back from both streets according to the front setback of the district in which it is located.

(b) Accessory structures are not permitted in the front yard or side yard unless expressly provided for in this Code. Accessory structure lot coverage ratio is calculated for the specific yard in which the structure is located.

(c) Principal building lot coverage ratio is calculated for the entire lot area.

(d) For townhouses, there shall be a minimum of 5 feet side yard setback from the side yard lot line including a minimum total of 20 feet side yard separation between townhouse building structures. When abutting a private common drive, townhouse building structures shall be set back a minimum of 30 feet from the centerline of such private common drive. No townhouse building structure shall be closer than 50 feet to a residential single family lot.

(e) If a two-family, townhouse or multi-family structure is directly adjacent along either side yard to a single family block and where fifty percent (50%) of a block face has been developed with a substantially uniform front building line having a greater or lesser average

# MFR Multi-family residential Zoning DISTRICT

front yard setback than 35 feet, such substantially uniform front building line, as determined by the Zoning Administrator shall establish the minimum depth of the front yard for each zoning lot within such block face. Otherwise, the minimum front yard setback distance for principal structures in the MFR zoning district shall be as set forth in this Table and being measured from the edge of the public right-of-way to the front building face.

- (f) The minimum side and rear yard setback for an accessory structure is stated in this table unless provided otherwise in this Code.
- (g) Minimum lot areas and structure heights for approved conditional uses shall be provided for in the Chapter 304.
- (h) The calculation of minimum livable floor area shall be exclusive of garages, cornices, eaves, gutters, porches, balconies, terraces, outside enclosures or basements not meeting the ingress/egress requirements of the Building Code.
- (i) Three and four family dwellings shall have a minimum lot area of 20,000 square feet and a minimum lot width of 100 feet at the building setback line. Multi-family dwellings ( 5 – 8 dwelling units per structure) shall have a minimum lot area of one acre with a maximum density of eight units per acre.
- (j) Multi-family dwellings shall have a minimum of 800 square feet of minimum floor area per unit with an additional 100 square feet for each additional sleeping room over one. A minimum of 500 square feet must be located on the first floor.

## Section 203.06 Increased Yard Setbacks

- (A) For a townhouse building having a wall or walls greater than thirty (30) feet in aggregate or overall length facing a rear or side yard, the corresponding required rear yard depth or side yard width shall be increased by one (1) foot for each foot of such wall length in excess of thirty (30) feet, but such required depth or width need not exceed twenty-five (25) feet.
- (B) For a multiple family dwelling exceeding forty (40) feet in height, the required front yard depth shall be increased by one (1) foot for every one (1) foot of building height between forty (40) feet and one hundred (100) feet.
- (C) For a multiple family dwelling exceeding twenty-five (25) feet in height, the required rear yard depth and side yard width shall be increased by one (1) foot for every one (1) foot of building height between twenty-five (25) feet and seventy (70) feet and one-half (1/2) additional foot for every foot of building height greater than seventy (70) feet. However, if a rear or side yard of such a dwelling abuts an R-SF-A or R-SF-B, the minimum dimensions of such yard shall be further increased by one-half (1/2) additional foot for every foot of building height between twenty-five (25) feet and one hundred (100) feet.

## Section 203.07 Permitted Obstructions Within Required Yards or other Required Open Space

The following are permitted obstructions within required yards or other required open space (subject to the height and lot coverage regulations of set forth in Table 4 ,and to any other provisions of this Code applicable thereto) provided they are so located that natural light and ventilation are not materially obstructed from the main building or any adjoining property.

- (A) Architectural features extending not more than (1) foot into a required yard.
- (B) Awnings and canopies extending not more than two (2) feet into a required yard.
- (C) Window air conditioners.

# MFR Multi-family residential Zoning DISTRICT

- (D) Ground mounted or building mounted exterior air conditioner units may extend into the side yard or rear yard area provided that no portion of the unit or appurtenances thereto extend more than forty-eight (48) inches from the exterior building wall.
- (E) Chimneys projecting no more than one (1) foot into a required yard.
- (F) Eaves, gutters or downspouts projecting no more than sixteen (16) inches into a required yard.
- (G) Walls and fences subject to the regulations set forth in §309.06.
- (H) Steps - excluding fire escapes.
- (I) Pedestrian walks.
- (J) Vehicular access, circulation and service driveways and off-street parking areas subject to Chapter 301 (but not including any above-ground structure except pavement, curbing, and illumination).
- (K) Signs, subject to the applicable regulations set forth in Chapter 303 .
- (L) Patios.
- (M) Decks may extend into the rear yard area only.

## Section 203.08 Preservation and Landscaping of Yard Areas

- (A) Except as provided in this Chapter, required yards, open space and treelawns shall not be obstructed by any structure and such areas, together with all other portions of the zoning lot not covered by permitted structures, shall be landscaped (including covering such areas with trees, shrubbery and grass or other appropriate ground cover or landscaping material) so as to assure absorption of rainfall, and prevent erosion and rapid run-off of surface water, and such landscaping shall be maintained.
- (B) Each front yard shall be planted with trees, at the rate of at least one tree for each twenty-five (25) feet of lot width, of such species as are normally long-lived and having a mature height of not less than twenty-five (25) feet.
- (C) The surface of each front yard area shall be maintained in a manner that avoids the creation of safety hazards including, but not limited to, vehicle tire ruts, holes or other openings larger than twelve (12) inches in diameter, tree stumps and other potentially hazardous conditions. Failure to maintain any front yard area in a safe and orderly manner shall constitute a violation of this Zoning Code.

## Section 203.09 Objectives of the Multi-Family Residential Architectural and Site Design Standards

The following architectural and site design goals and objectives shall apply to new development and expansion projects in the MFR Multi-Family zoning district. Sections §203.09 through §203.19 provide for site design and architectural design standards for new multi-family residential development occurring in the MFR zoning district. The review of these design standards shall take place in conjunction with the site plan review and/or during the zoning review for building permit applications when applicable.

# MFR Multi-family residential Zoning DISTRICT

- (A) The prescribed architectural and site design standards are intended to:
  - (1) Guide the development of multi-family housing developments in order to create a stronger sense of community.
  - (2) Provide high quality housing for all sectors of the housing market in the City.
  - (3) Encourage greater variety in housing types, development styles, site planning and density mixes in order to provide more diversity and visual interest in the city's multi-family residential development, while preserving the city's predominantly low to medium density residential character.
  - (4) Encourage a harmonious development pattern that respects and responds to the character of the surrounding built and natural environments.
  - (5) Protect and enhance the physical character of the area within this zoning district;
  - (6) Prevent the deterioration of property and nuisance conditions.
  - (7) Ensure that renovations and residential infill developments do not adversely affect the physical character of the area; and
  - (8) Function in conjunction with the goals and objectives of the City of Berea Comprehensive Plan.
- (B) Except as otherwise provided in this Chapter, all regulations set forth in this Chapter shall apply to and control property in the MFR zoning district; provided, however, that in the case of a conflict between any standards set forth in this Chapter and similar standards provided for in another section of this zoning code, the standards of this Chapter shall govern.

## Section 203.10 Site Design Standards: Multi-Family Residential Site Layout

**Building Siting and Orientation.** The intent is to create multi-family residential development that responds to the existing environmental, geographic and topographic conditions in the City of Berea.

- (A) **Natural Site Features.** Residential layout should preserve existing natural site features such as topography, views and vegetation to enhance the character of the development. Public views of such features should be preserved and incorporated into development proposals.
- (B) **Topography.** Berea's topography is generally flat to gently rolling. Therefore, it is important that sites that have some topographical features not be graded flat, but take advantage of the topographic variation.
- (C) In hillside or sloping areas, street and building placement should follow contours rather than being placed at right angles to the prevailing slope.

## Section 203.11 Site Design Standards: Neighborhood Identity.

- (A) New development should not be so different in character that it is visually incompatible with existing development. Elements that can contribute to the creation of a distinct image include the architecture, internal access drive layout and design, landscaping, integration of open space and entry treatment.

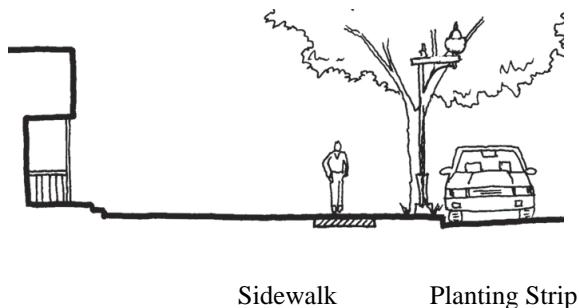
# MFR Multi-family residential Zoning DISTRICT

- (B) Building design should complement surrounding development.
- (C) In areas that possess strong existing development character, the building design should respect the predominant characteristics of neighborhood development, such as height, massing, setbacks, materials and architectural style.

## Section 203.12 Site Design Standards: Sidewalk Design.

- (A) Planting strips between the sidewalk and the back of the curb are strongly encouraged. They should be a minimum of 5 feet in width.

Figure 6: Planting Strip Illustration



## Section 203.13 Mechanical Equipment and Utility Standards.

- (A) Mechanical equipment, including air conditioning, piping, ducts, and conduits external to any structure shall be concealed from view from adjacent buildings or street level by an enclosure constructed using the same exterior materials utilized in the construction of the principal building.
- (B) Electric and other utility service connections shall be placed underground for new construction and expansion projects and shall be encouraged for all other utility service connection changes.

## Section 203.14 Site Design Standards: Multi-Family Open Space Standards.

- (A) For a townhouse or a multiple family dwelling, a minimum of two hundred (200) square feet per dwelling unit shall be provided for active or passive recreation purposes and available for use and enjoyment by the residents.
  - (1) Such recreation space shall be designed with such proportions as to be usable for intended recreation purposes and located conveniently to the residents, provided, however, active recreational facilities (such as basketball, volley ball, tennis or swimming) and activities pertaining to such active recreational facilities shall be screened from view from adjacent streets and properties by:

# MFR Multi-family residential Zoning DISTRICT

- (a) Landscaping which shall include substantial, dense, all-season plantings at least four (4) feet high, or
- (b) A substantially solid wall or fence erected to a height of not less than four (4) feet nor more than six (6) feet, with appropriate landscaping provided.

(2) If a townhouse or multiple family development is adjacent to a public park or open space, the Planning Commission may reduce the required recreation space if and to the extent it determines that such adjacent open space will assist in satisfying the requirement of this Section without material impairment in public utilization of such public park or open space.

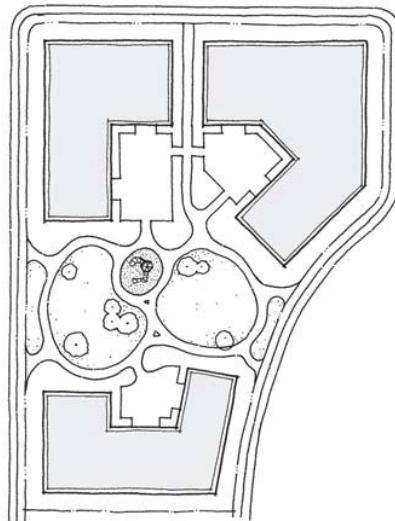
(B) In multi-family residential developments common open space areas should be readily accessible from all buildings with the maximum number of units possible sited adjacent to the common open space areas.

(C) In addition to the common open space areas, projects should be encouraged to provide each unit with usable private open space. These private spaces should be directly accessible from the unit and large enough to permit outdoor living activities.

(D) The location of all open space areas should take into account climatic factors such as sun orientation and prevailing winds.

Figure 7: Community Open Space Illustration

*Buildings should define street edge and provide enclosure for semiprivate community open space.*



## Section 203.15 Site Design Standards: Landscape Design Guidelines.

(A) The applicable landscaping and bufferyard requirements found in Chapter 302 shall be met.

# MFR Multi-family residential Zoning DISTRICT

- (B) Landscaping should be an integral part of the overall site design, rather than camouflage unused or unusable spaces or poor architectural design.
- (C) Landscape improvements should be utilized to better integrate a development with its setting by:
  - (1) Enhancing pedestrian scale of the building.
  - (2) Screening views of unsightly elements, such as utility boxes and backflow devices.
  - (3) Softening hard edges visually.
  - (4) Providing a transition between different use areas.
  - (5) Creating an attractive aesthetic environment.
  - (6) Creating usable pedestrian areas.
  - (7) Reducing energy consumption.
  - (8) Defining specific areas and enhancing architectural features.

## Section 203.16 Site Design Standards: Lighting Design Guidelines.

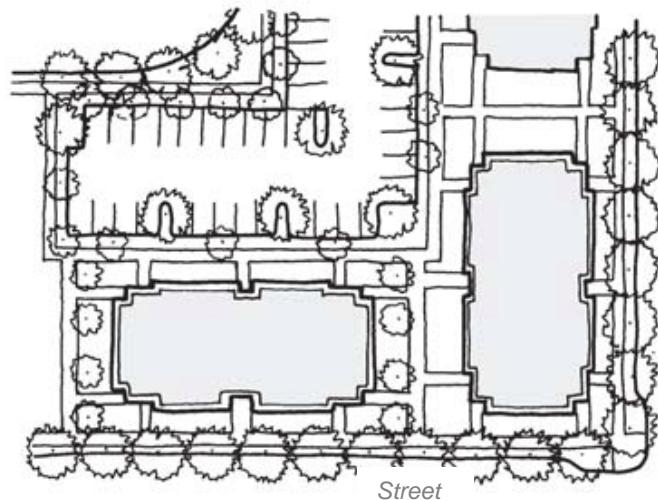
- (A) Exterior lighting poles and fixtures in this district shall conform to fixture and pole specifications set forth in §205.12(G).
- (B) Exterior lighting shall be designed as an integral part of the building and landscape design.
- (C) Site plans shall include the location of fixtures, their design and the nature and level of the illumination they will provide.
- (D) Illumination levels shall be provided to address security concerns, pedestrian paths, outdoor gathering spaces, at building entries and any other pedestrian accessible areas.
- (E) Lighting should generally be designed to include cut-offs to minimize the lighting of the sky.

## Section 203.17 Site Design Standards: Multiple-Family Parking

- (A) Whenever possible, parking lots should be located behind residential structures, rather than along the primary frontage, to minimize visual impact to the street. Parking lots must be recessed behind the front wall of the building.
- (B) Where individual garages are incorporated into projects, common driveways, private streets or alley-loaded access is encouraged. The design of these structures should relate to the primary building.
- (C) Within the site, access drives should provide sufficient length to permit vehicle stacking during hours of peak use, without impacting circulation within the parking lot or on the fronting public street.
- (D) Flat roofed carports are prohibited.

Figure 8: Parking Lot Location Illustration

*Parking should be located behind residential buildings.*



## Section 203.18 Architectural Design Standards: Massing and Scale Standards and Guidelines for Multi-Family Development

- (A) The massing of larger residential buildings shall be broken down to convey a sense of “home,” and give individuality to each unit that lies within it.
- (B) Building massing shall be subdivided into portions or segments compatible with the adjacent residential scale.
- (C) Façades of long buildings shall be architecturally subdivided into shorter segments every 25 to 50 feet maximum, using the methods identified in the Guidelines, below.
- (D) Each vertical module of units shall incorporate architectural features that help to individually distinguish them, such as wall breaks, projections, distinct color schemes and individual roof treatments.
- (E) Building design should resemble the scale of single-family residential architecture to the degree possible.

# MFR Multi-family residential Zoning DISTRICT

(F) Building massing should be legible as individual residences or small groups of units and called out using one or more of the following methods:

- (1) Separate building volumes or façade protrusions.
- (2) Window bays or balconies.
- (3) Porches and entrance vestibules.
- (4) Individual roof volumes and other roof articulation.

(G) Building façades should incorporate the following features to architecturally distinguish modules of housing units:

- (1) Vertical Architectural Features.
  - (a) Apply a vertical slot or recess between façade segments with a 6 inch minimum recess depth and a 15 inch minimum width.
  - (b) Apply a vertical pilaster between façades with a 3 inch minimum protrusion and a 15 inch minimum width. The maximum horizontal protrusion of pilasters into the public right-of-way should be 6 inches.
  - (c) Project a part of the building, such as a tower, above the main building volume.
- (2) Building Wall.
  - (a) Vary the offset of portions of the building along the main façade, using elements such as bays or building volumes to create the offset.
  - (b) Change the color or material of segments across the façade. Material changes should always be accompanied by a change in plane and separated by framing or other means.
- (3) Roof Guidelines.
  - (a) All new principal structures permitted in this district containing up to three (3) occupied or unoccupied stories shall be constructed using a minimum 6/12 pitched roof design including the roof area located over the garage.
  - (b) All new principal structures permitted in this district containing four (4) or five (5) occupied or unoccupied stories may be constructed using a flat roof design for both the primary structure and any accessory structures subject to the parapet and cornice requirements set forth below.
    - (i) Flat roofs shall be hidden from public view by a parapet and decorated by acornice.
    - (ii) The highest point of a parapet shall not at any point exceed fifteen (15) percent of the height of the supporting wall.

# MFR Multi-family residential Zoning DISTRICT

- (iii) Cornices may be simple or mixed (straight and curved moldings), but should not exceed twenty-four (24) inches in depth. Cornices shall have a minimum of twelve (12) inches in height, and a minimum of three (3) vertical (not diagonal) changes in plane, and a variety of thicknesses in relief ranging from the greatest at the top to the least at the bottom.
- (c) The roof area located over any porch and entrance portions of the principal structure shall be constructed using a minimum 4/12 pitch design.
- (d) Minimum overhang length of twelve inches shall be provided over all faces of the exterior walls of a principal structure.
- (e) Use individual roof pitches to break up the form. For example, a single building could express individual units through a series of smaller gabled dormers.
- (f) “Green Roof System” standards”. Design guidelines and construction standards applicable for sustainable based “green” roofs are provided in §308.10.

(H) The following methods are recommended to break down the building mass of multi-story buildings in this district:

- (1) Accentuating the ground floor of the building by making it thicker or more substantial visually than upper stories.
- (2) Using entry porticos and front porches or other articulation at the ground level.
- (3) Using upper story setbacks or partial indentations for upper story features, such as balconies, outdoor moldings or cornices, to accentuate the horizontal levels of a building.

## Section 203.19 Architectural Design Standards: Exterior Materials.

- (A) A variety of materials shall be used that emphasize a differentiation between the various components of the building.
- (B) Gaps between applied materials and the base of the building shall not be visible.
- (C) Simulated finishes (e.g. artificial stone using concrete form liners simulating naturalistic lines and shapes such as rubblestone) shall be of a high quality that successfully mimics the natural material.
- (D) Aluminum siding shall be prohibited for use on all new principal and accessory structures in this zoning district.
- (E) The combination of materials on a building façade shall be appropriate to its style and design.
- (F) Colors.
  - (1) Exterior building colors should be compatible with the surrounding neighborhood setting and should be in keeping with the geographic and climatic conditions specific to the City of Berea.

# MFR Multi-family residential Zoning DISTRICT

- (2) Accent colors should be used to enhance details such as trim.
- (3) Primary colors should be limited to accent or trim colors and should generally be compatible with the surrounding neighborhood.

## Section 203.20 Architectural Design Standards: Modification.

Design Standard Modification. The Planning Commission may approve modifications to the architectural and site design standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the architectural and site design standards:

- (A) Whether any conditions or circumstances exist which are unique to the applicant's land.
- (B) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
- (C) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with a multi-family residential use.
- (D) Whether the modification will preserve, not harm, the public safety and welfare.
- (E) Whether the modification will alter the essential character of the neighborhood.
- (F) Whether the applicant has provided an alternative to the required architectural or site design standard that achieves the spirit and intent of the original design standard.

## CHAPTER 204

TO Transitional Office  
Zoning District

Section 204.01	Zoning District Objectives & Purpose
Section 204.02	Permitted Uses
Section 204.03	Conditional Uses
Section 204.04	Accessory Uses
Section 204.05	Development Standards
Section 204.06	Parking Lot Standards
Section 204.07	Permitted Obstructions Within Required Yards
Section 204.08	Outdoor Storage
Section 204.09	Preservation and Landscaping of Yard Areas
Section 204.10	Architectural and Site Design Standards
Section 204.11	Architectural Design Standards: Modification

## Section 204.01 Zoning District Objectives &amp; Purpose

These TO Transitional Office zoning district regulations are hereby established in this Chapter to carry out the purpose, intent and basic planning objectives which are stated in the Comprehensive Plan and, incidentally thereto, to achieve the following particular objectives for the TO Transitional Office zoning districts:

- (A) The Transitional-Office (TO) District is established to provide for the integration of compatible residential and commercial uses, subject to regulations designed to ensure compatibility.
- (B) To regulate the bulk and spacing of buildings or other structures in order to assure proper light, air, privacy and useable open space.
- (C) To conserve the natural resources of the City and preserve and to the extent reasonably practicable to improve the environmental attributes and amenities of the City.
- (D) To protect residents from nuisances and objectionable influences such as abnormal vehicular traffic, offensive noises, noxious fumes, odors and dust.
- (E) To provide proper spacing between residential and non-residential uses and other structures to assure proper screening and buffering measures and to provide adequate access for fire and other emergency vehicles and equipment.
- (F) To promote in accordance with a well-considered plan, the most desirable and beneficial use of the land and structures required to promote a mixed-use district seeking a balance between low intensity commercial and office uses that blend into a residential corridor environment.

## Section 204.02 Permitted Uses

- (A) Uses permitted in the TO zoning district are provided for in the Land Use Matrix Table in §200.07.

# TO transitional Office Zoning District

(B) **Substantially Similar Uses.** Any substantially similar use which the Zoning Administrator determines to be of the same character, nature and intensity of use as those permitted in this zoning district may be permitted subject to the procedure and standards set forth in §309.13.

## Section 204.03 Conditional Uses

(A) Conditionally permitted uses in the TO zoning district are provided for in the Land Use Matrix Table in §200.07.

(B) All conditional uses provided for in the Land Use Matrix Table shall comply with the regulations and procedures set forth in Chapter 304.

## Section 204.04 Accessory Uses

Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted or conditionally permitted uses may be established, erected or constructed; provided, that such accessory uses comply with the standards set forth in Chapter 305.

## Section 204.05 Development Standards

(A) Every permitted use of land and structures in the TO zoning district shall be located on a zoning lot in such a manner as to create and preserve a front yard adjacent to each street on which such lot abuts, a side yard or yards and (except in the case of corner or through lots) a rear yard, conforming to the requirements of this Chapter (the "required yards").

# TO transitional Office Zoning District

(B) The following development standards shall apply to the TO zoning district:

Table 5: TO Zoning District Development Standards

Development Standards	TO Zoning District
Minimum Lot Area (square feet)	10,000
Minimum Lot Width (feet)	150
Minimum Front Yard Setback of Principal Building (feet)	35
Minimum Side Yard Setback of Principal Building (feet)	10
Minimum Rear Yard Setback of Principal Building (feet)	25
Minimum Side Yard Setback for Accessory Structures (feet)	10
Minimum Rear Yard Setback for Accessory Structures (feet)	10
Maximum Impervious Surface Area (for Principal Building)	40%
Maximum Rear Yard Lot Coverage Ratio (for Accessory Structures)	25%
Maximum Height of Principal Building (feet)	35
Maximum Height of Accessory Use Structure (feet)	15
Maximum (gross) Non-Residential Floor Space (Total Structure measured in square feet)	3,000
Maximum (gross) Floor Space for Retail Uses (Total first floor area measured in square feet)	1,000

## Section 204.06 Parking Lot Standards

New development and expansion projects subject to site plan review shall follow the applicable off-street parking and loading standards as set forth in Chapter 301, unless otherwise provided for in this section.

(A) The threshold for requiring a site plan review for new or expanded parking lot areas in an TO zoning district shall be three (3) proposed on-site parking spaces.

(B) Off-street parking within the TO zoning district shall not be located in any front yard area. Parking may be located on a parcel abutting the parcel served, subject to a recorded reciprocal parking and access easement. This covenant shall run with the life of the project to guarantee that the required parking is maintained and reserved for the subject activity.

## Section 204.07 Permitted Obstructions Within Required Yards

The following are permitted obstructions within required yards or other required open space (subject to the height and lot coverage regulations of set forth in Table 5, and to any other provisions of this Code applicable thereto) provided they are so located that natural light and ventilation are not materially obstructed from the main building or any adjoining property.

(A) Architectural features extending not more than (1) foot into a required yard.

# TO transitional Office Zoning District

- (B) Awnings and canopies extending not more than two (2) feet into a required yard.
- (C) Window air conditioners.
- (D) Ground mounted or building mounted exterior air conditioner units may extend into the side yard or rear yard area provided that no portion of the unit or appurtenances thereto extend more than forty-eight (48) inches from the exterior building wall.
- (E) Chimneys projecting no more than one (1) foot into a required yard.
- (F) Eaves, gutters or downspouts projecting no more than sixteen (16) inches into a required yard.
- (G) Walls and fences subject to the regulations set forth in §309.06 but not in a required front yard in this district.
- (H) Steps - excluding fire escapes.
- (I) Pedestrian walks.
- (J) Vehicular access, circulation and service driveways and off-street parking areas subject to Chapter 301 (but not including any above-ground structure except pavement, curbing, and illumination).
- (K) Signs, subject to Chapter 303.
- (L) Patios.
- (M) Decks may extend into the rear yard area only.

## Section 204.08      Outdoor Storage

The outdoor display, storage or sale of merchandise or other items shall be prohibited in this district.

## Section 204.09      Preservation and Landscaping of Yard Areas

Except as provided in this Chapter, required yards, open space and treelawns shall not be obstructed by any structure and such areas, together with all other portions of the zoning lot not covered by permitted structures, shall be landscaped (including covering such areas with trees, shrubbery and grass or other appropriate ground cover or landscaping material) so as to assure absorption of rainfall, and prevent erosion and rapid run-off of surface water, and such landscaping shall be maintained. Each front yard shall be planted with trees, at the rate of at least one tree for each twenty-five (25) feet of lot width, of such species as are normally long-lived and having a mature height of not less than twenty-five (25) feet.

## Section 204.10      Architectural and Site Design Standards

All uses constructed or expanded and requiring a site plan review shall follow those applicable architectural and site design guidelines as set forth in Commercial Zoning Districts Chapter 205 of this Zoning Code.

Section 204.11      Architectural Design Standards: Modification.

Design Standard Modification. The Planning Commission may approve modifications to the architectural and site design standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the architectural and site design standards:

- (A) Whether any conditions or circumstances exist which are unique to the applicant's land.
- (B) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
- (C) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with a commercial use.
- (D) Whether the modification will preserve, not harm, the public safety and welfare.
- (E) Whether the modification will alter the essential character of the neighborhood.
- (F) Whether the applicant has provided an alternative to the required architectural or site design standard that achieves the spirit and intent of the original design standard.

## CHAPTER 205

## NC, CC, DT, UT, DD Commercial Zoning Districts

Section 205.01	Zoning District Objectives & Purpose
Section 205.02	Permitted Uses
Section 205.03	Conditional Uses
Section 205.04	Accessory Uses
Section 205.05	Development Standards
Section 205.06	Parking Lot Design Standards
Section 205.07	Limited Outdoor Sales and Display
Section 205.08	Outdoor Dining Regulations
Section 205.09	Night Business Operations
Section 205.10	Fence, Railing and Wall Standards
Section 205.11	Objectives of the Commercial Architectural Design Standards
Section 205.12	Architectural Design Standards
Section 205.13	Commercial Site Design Standards
Section 205.14	Architectural Design Standards: Modification

### Section 205.01 Zoning District Objectives & Purpose

(A) **General District Objectives.** Commercial district regulations are established in this Chapter to carry out the purpose, intent and basic planning objectives which are stated in the Comprehensive Plan and incidentally thereto, to achieve the following particular objectives for these commercial zoning districts:

- (1) To provide sufficient but not excessive land area for the business and commercial needs of the community.
- (2) To foster the continuation of existing business and commercial establishments, to provide appropriate space for their expansion and for development of new business and commercial establishments, all in conformity to recognized and reasonable standards in order to ensure compatibility with the primarily residential character of the community.
- (3) To encourage the tendency of business to group in centers for the mutual advantage of customers and commercial establishments.
- (4) To prohibit business and commercial development which would create detrimental or blighting influences upon the premises or the neighborhood or which would be incompatible with or impair the enjoyment of neighboring premises.
- (5) To insure the availability of suitable areas for business and commercial uses by discouraging unrelated uses in such areas.

# Commercial Zoning Districts

- (6) To protect permitted development from congestion by requiring setbacks and limiting the bulk and density of development in relation to adjacent buildings and available land and by requiring sufficient off-street parking and loading facilities.
- (7) To promote in accordance with a well- considered plan the most desirable and beneficial use of land and structures in order to stabilize and protect the character and value of land development within the City.

## Section 205.02 Permitted Uses

- (A) Uses permitted in the NC, CC, DT, UT and the DD districts are provided for in the Land Use Matrix Table in §200.07.
- (B) Substantially Similar Uses. Any substantially similar use which the Zoning Administrator determines to be of the same character, nature and intensity of use as those permitted in this zoning district may be permitted subject to the procedure and standards set forth in §309.13.

## Section 205.03 Conditional Uses

- (A) Conditionally permitted uses in the NC, CC, DT, UT and the DD districts are provided for in the Land Use Matrix Table in §200.07.
- (B) All conditional uses provided for in the Land Use Matrix Table shall comply with the regulations and procedures set forth in Chapter 304.

## Section 205.04 Accessory Uses

Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted or conditionally permitted uses may be established, erected or constructed; provided, that such accessory uses comply with the standards set forth in Chapter 305.

## Section 205.05 Development Standards

- (A) Every permitted use of land and structures in the NC, CC, DT, UT and the DD districts shall be located on a zoning lot in such a manner as to create and preserve a front yard adjacent to each street on which such lot abuts, a side yard or yards and (except in the case of corner or through lots) a rear yard, conforming to the requirements of this Chapter (the "required yards").

(B) The following development standards shall apply to the specific zoning districts as provided:

Table 6: Commercial Zoning District Development Standards

Development Standards	NC	CC	DT	UT	DD
Minimum Lot Area (square feet)	None	None	None	None	None
Minimum Lot Width (feet)	150	200	None	200	200
Minimum Front Yard Setback of Principal Building (feet)	30	30	None	15	30
Minimum Side Yard Setback of Principal Building (feet)	None	None	None	None	None
Minimum Rear Yard Setback of Principal Building (feet)	None	None	None	None	None
Minimum Side Yard Setback for Accessory Structures (feet)	5	5	None	5	5
Minimum Rear Yard Setback for Accessory Structures (feet)	5	5	None	5	5
Maximum Impervious Surface Area (for Principal Building)	85%	85%	90%	90%	90%
Maximum Rear Yard Lot Coverage Ratio (for Accessory Structures)	100%	100%	100%	100%	100% (b)
Maximum Height of Principal Building (feet)	25	40	40	40(c)	40
Maximum Height of Accessory Use Structure (feet)	20	20	20	20	20
Upper Level Residential Dwelling Standards	See (d), (e), (f)				
<u>Notes:</u>					
(a) All setback requirements are subject to any applicable bufferyard and screening regulation as provided in Chapter 302.					
(b) When abutting a residential district or residential use of land, the maximum rear yard lot coverage ration shall be a maximum of 50%.					
(c) FAA standards for maximum height of structures located in a landing / takeoff flight path shall prevail.					
(d) The calculation of minimum livable floor area shall be exclusive of garages, cornices, eaves, gutters, porches, balconies, terraces, outside enclosures or basements not meeting the ingress/egress requirements of the Building Code.					
(e) Three and four family dwellings located on the upper floor of a permitted or conditional use in this district shall have a minimum lot area of 20,000 square feet and a minimum lot width of 100 feet at the building setback line. Multi-family dwellings ( 5 – 8 dwelling units per structure) located on the upper floor of a permitted or conditional use in this district shall have a minimum lot area of one acre with a maximum density of eight units per acre.					

(f) Any multi-family dwelling located on the upper floor of a permitted or conditional use in this district shall have a minimum of 800 square feet of minimum floor area per unit with an additional 100 square feet for each additional sleeping room over one.

## Section 205.06 Parking Lot Design Standards

New development and expansion projects subject to site plan review shall follow the applicable off-street parking and loading standards as set forth in Chapter 301, unless otherwise provided for in this section.

- (A) Off-street parking within the DT and UT zoning districts shall not be located in any front yard area. Parking may be located on a parcel abutting the parcel served, subject to a recorded reciprocal parking and access easement. This covenant shall run with the life of the project to guarantee that the required parking is maintained and reserved for the subject activity.
- (B) New development and expansion projects located within the DT and UT zoning districts may request a waiver from the Planning Commission from the off-street parking space design requirements found in Chapter 301 when it is shown that adequate off-street parking area is not available to meet the required standards and the existence of other parking arrangements will satisfy the parking space requirements including, but not limited to utilizing the following methods: on-street parking, off-street parking located on an adjacent lot or within five hundred feet to the subject parcel or a shared parking arrangement with another property owner.

## Section 205.07 Limited Outdoor Sales and Display

- (A) **Limited Outdoor Sales and Display Defined.** Limited outdoor sales and display shall be defined as temporary displays of merchandise which are normally sold or displayed from within enclosed retail store locations, but which are temporarily placed not more than twelve (12) feet from an outside wall of the main retail sales building during business hours, and then returned to inside storage during non-business hours.
  - (1) In no instance shall any limited outdoor sales or display be located in any parking or loading areas, regardless if the maximum twelve (12) foot sales and display locational standard is met.
- (B) **Limited Outdoor Sales and Display General Standards.** Unless stated otherwise in this Chapter, merchandise which is offered for sale may be displayed beyond the confines of a building subject to the following standards, as applicable:
  - (1) The area occupied by such outdoor display shall not constitute a greater number of square feet than ten percent of the ground floor area of the principle building.
  - (2) Any other outside storage or display of any merchandise or other items is prohibited.
  - (3) **Sales and Display in the Right-of-Way.** Businesses located in the DT and UT zoning districts may seek approval from the Zoning Administrator for seasonal and other

# Commercial Zoning Districts

temporary outdoor sales areas located within the public right-of-way after a written request is submitted with a detailed site plan of the proposed location of the seasonal or outdoor sales area. Such requests shall be reviewed on a case-by-case basis and shall only be approved if found to not adversely impact surrounding properties, proper function of the public right-of-way area or the character of the overall zoning district.

- (C) Limited Outdoor Sales and Display Standards for Vehicle Sales and 24-Hour Convenience Stores.
  - (1) Vehicle Inventory Sales and Display.
    - (a) Vehicle inventory may be displayed outdoors by a business that offers for retail sale one or more of the following items: Automobiles, Trucks, Trailers, Mobile Homes, Recreational Vehicles, Campers, Camper Tops, Truck Toppers, Boats or other wheeled conveyances.
    - (b) Rental equipment that may be offered for sale is not vehicle inventory.
    - (c) Vehicle inventory that bears obvious signs that the vehicle is not presently capable of being legally operated or conveyed on a public road is not vehicle inventory, including, but not limited to vehicles lacking wheels or inflated tires, operable drive train components, broken windows or lights, required current vehicle registration, missing body parts, such as fenders, doors, hood lids, trunk lids, bumpers, lights or trim.
  - (2) 24-Hour Convenience Store Sales and Display. The merchandise displayed at a 24-Hour Convenience Store need not be moved indoors, but the business shall at all times maintain a clear pedestrian path on sidewalks that is at least 36 inches in width.

## Section 205.08      Outdoor Dining Regulations

A zoning permit must be issued to any applicant seeking to propose one or more outdoor dining areas within the NC, CC, DT, UT and the DD zoning districts. The regulations set forth in this section refer to both outdoor dining areas proposed to be located on private property and sidewalk dining areas proposed to be located within the public right-of-way:

- (A) The Planning Commission shall approve all locations and dimensions for outdoor dining areas proposed for placement in either the public right-of-way or those dining areas proposed to be located on public property. The Zoning Administrator shall approve all zoning permit applications for proposed outdoor dining areas located on private property where a site plan application is not required.
- (B) When proposing a location in the public right-of-way, all outdoor furniture and table umbrella materials and styles must be approved by the Planning Commission
- (C) An unobstructed sidewalk width of five (5) feet measured from the edge of curb or edge of pavement must be maintained for outdoor dining areas located within the public right-of-way.
- (D) No permanent structure shall be placed in the public right-of-way.
- (E) When proposing a location in the public right-of-way, any proposed fencing materials and styles must be approved by the Planning Commission.

## Section 205.09      Night Business Operations

# Commercial Zoning Districts

No building customarily used for night operation shall have any openings, other than stationary windows or required fire exits, within 200 feet of any residence district, and any space used for loading or unloading of commercial vehicles in connection with such operation shall not be within 100 feet of any residence district.

## Section 205.10 Fence, Railing and Wall Standards

The following fences, railings and wall standards shall apply to DT and UT zoning districts.

- (A) Fences, railings, and walls shall be constructed of decorative metal, brick, or stone. Vinyl plastic or wood-based fencing may be approved by the Zoning Administrator on a case-by-case basis only.
- (B) Chain link fencing shall be prohibited. Fences, railings, and walls should be designed to complement the adjacent principal building architecture through the use of similar materials, colors, finishes, and architectural details.
- (C) Fences and railings shall be a minimum of fifty percent (50%) open.

## Section 205.11 Objectives of the Commercial Architectural Design Standards

The following architectural design goals and objectives shall apply to new development and expansion projects in the following zoning districts: NC, CC, DT, UT and the DD districts. The review of these design standards shall take place in conjunction with the site plan review stage, when applicable.

- (A) The prescribed architectural design standards are intended to:
  - (1) Protect and enhance the physical character of the area within these zoning districts;
  - (2) Prevent the deterioration of property and nuisance conditions;
  - (3) Encourage private investment to improve and stimulate the economic vitality and social character of the district;
  - (4) Ensure that renovations and infill developments do not adversely affect the physical character of the area; and
  - (5) Function in conjunction with the goals and objectives of the City of Berea Comprehensive Plan.
- (B) Except as otherwise provided in this Chapter, all regulations set forth in this Chapter shall apply to and control property in the commercial districts set forth in this Section; provided, however, that in the case of a conflict between any standards set forth in this Chapter and similar standards provided for in another section of this zoning code, the standards of this Chapter shall govern.

## Section 205.12 Architectural Design Standards

The following architectural and exterior material standards shall apply to the NC, CC, DT, UT and the DD districts, unless otherwise noted. The review of these design standards shall take place in conjunction with the site plan review stage, if applicable.

- (A) Building height, shape and scale.

# Commercial Zoning Districts

- (1) On buildings taller than 15 feet, second-story windows shall be used in combination with other architectural detailing to create the appearance of a second story.
- (2) Buildings vertical and horizontal dimensions shall be in proportion to one another without over-emphasis of either dimension. Horizontally long buildings shall be broken up, through use of recesses or setback variations, to cause the façade to appear as a series of proportionally correct masses.
- (3) Overall building mass must consider the depth of a building in relation to both adjoining buildings and the lot upon which the building is intended. This building mass must be in appropriate proportion to other buildings adjoining this structure, the lot upon which the building is intended, as well as other similar buildings in the district.
- (4) The cornice of new buildings shall be strong, well-articulated and proportioned to traditional or classical architectural design.
- (5) The shape and configuration of windows and doors for either new construction or rehabilitation shall be based on traditional or classical design. The first and upper floor openings shall have a strong relationship to one another.
- (6) The use of standardized corporate architectural styles associated with chain restaurants and stores is discouraged. Effort should be made to integrate the building design into the established architectural context of the surrounding neighborhood and the city as a whole.

Figure 9: Standardized Corporate Architecture Photo

*Illustration of standardized corporate architecture.*



Figure 10: Contextual Corporate Architectural Photo

*Illustration of integrating the commercial design standards contextual elements into the building design.*

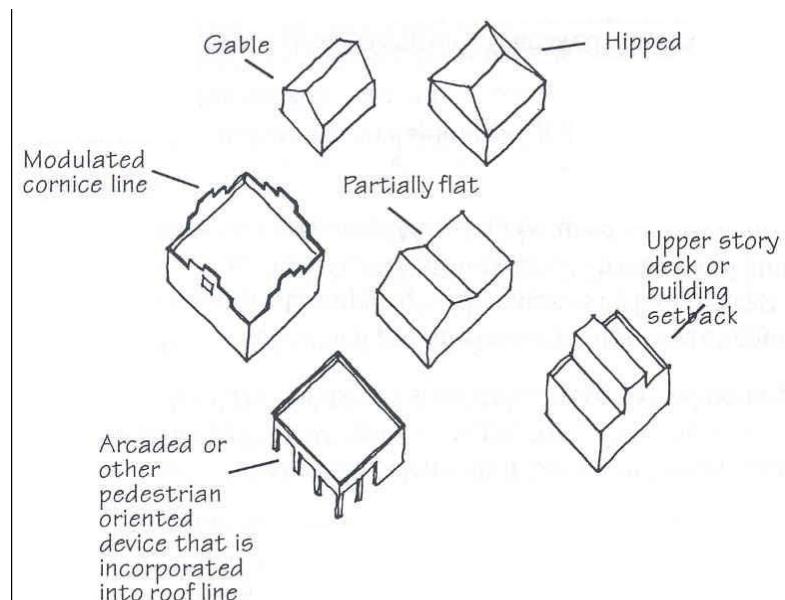


(B) Construction materials appropriate for the NC, CC, DT, UT and DD zoning districts.

- (1) Buildings shall have as primary construction material brick, stone, traditionally applied stucco and cement siding products, natural wood clapboard, wood shingles, and wood board and batten may be used in trim detail. The use of vinyl, aluminum, or steel siding, standard concrete masonry units and tilt-up concrete construction shall be prohibited in this district.
- (2) Brick used in new buildings or additions must be similar in color, size and texture of brick and mortar joint detail to the surrounding structures. Unpainted brick is preferred, unless the building has been previously painted.
- (3) Slate, copper, wood or standing seam metal roofs are preferred; however, asphalt or fiberglass shingles may be used as well. Flat or shallow pitched roofs are permitted only when ornamented with shaped parapets or cornice treatments. Gambrel roofs are prohibited within these commercial districts.

Figure 11: Intended Roof Styles Illustration

*Illustrations of the roof styles intended for the designated commercial districts.*



**(C) Building colors.**

- (1) Base building colors shall be the natural color of the material if it is brick or stone, or a neutral muted palette when another approved material is used. Brighter, more vivid colors shall be expressly reserved for limited use as building trim or accent.
- (2) Fluorescent, reflective or neon colors are prohibited in these commercial districts.

**(D) Awning standards.**

- (1) Awnings shall project no more than two-thirds the width of the sidewalk or six feet, whichever is less and shall run parallel to the face of the building.
- (2) Awnings shall be located within the existing building framework, between columns and below spandrel panels.
- (3) Awning colors and design shall be compatible with the colors and design of the building. Structural supports for all awnings shall be contained within the awning covering.
- (4) Each storefront bay shall have a similar awning to the other storefront bays on the same building.
- (5) Awnings shall be designed to be harmonious with the architecture of the building that they are to be placed on. They shall be related in shape and proportion to the building's architectural elements such as window and opening shapes, façade articulation and general character of the building and shall not cover architectural features.

Figure 12: Standardized Corporate Architecture Photo

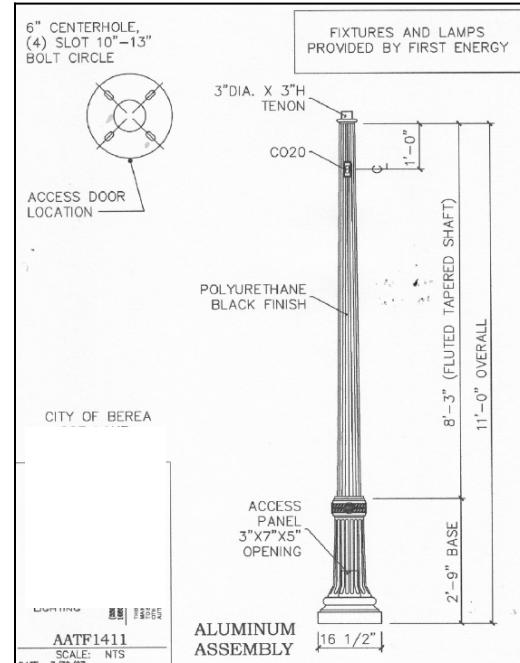
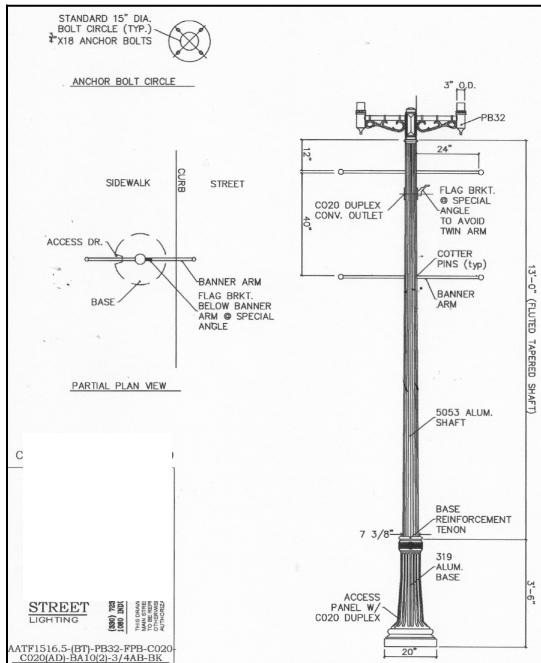
*Illustration depicting use of uniform awning design and construction elements.*



- (6) Any proposed awning constructed of fabric shall utilize weather resistant waterproof acrylic fabrics with a minimum five year manufacturer's warranty on the fabric.
- (E) Landscape, fence and wall requirements.
  - (1) Landscaped improvements in the public right-of-way and on-site must conform to those applicable standards set forth in Chapter 302.
  - (2) The materials used for fences, non-structural walls, railings, and trellises in the DT and UT zoning districts are limited to natural materials or painted iron.
- (F) Mechanical equipment and utility standards.
  - (1) Mechanical equipment, including air conditioning, piping, ducts, and conduits external to the building shall be concealed from view from adjacent buildings or street level by an enclosure constructed using the same exterior materials utilized in the construction of the principal building.
  - (2) Electric and other utility service connections shall be placed underground for new construction and expansion projects and shall be encouraged for all other utility service connection change
- (G) Exterior lighting.
  - (1) Exterior lighting poles and fixtures in this district shall conform to the following specifications:
    - (a) DT and UT Zoning Districts. New external light poles and fixtures installed in the DT and UT zoning districts shall conform to one of the styles provided

below. The light pole material shall either be aluminum or steel. Fiberglass light poles shall be prohibited.

Figure 13: Typical DT and UT District Light Pole & Light Fixture Diagrams



- (2) Lighting shall be used in a very limited manner, and only to highlight architectural details on a building, illuminate a sign, or to illuminate walkways and/or parking areas.
- (3) The use of incandescent, natural gas or halogen lights is permitted, but sodium, colored or neon lights are prohibited. Lighting must also comply with other sections of this code.
- (4) Additional exterior lighting standards may apply in §300.07.

# Commercial Zoning Districts

(H) Window and door standards.

- (1) Windows and doors for commercial buildings, particularly those on the first story at street level, may be larger than those typical of residential buildings. They must show proportion and symmetry to the building and to the windows of any other stories.
- (2) Mirrored glass is prohibited in this district. Dark or opaque glass is appropriate only for false windows on secondary facades.
- (3) Glass windows shall occupy at least 75% of the front elevation area of the first floor of a building in the districts. All windows located above the first floor shall have a coordinated appearance that remains in context with the first floor window design and placement.
- (4) Windows on the first floor shall be a minimum of two (2) feet above the finished floor level.
- (5) The main entry of a building shall face the street.
- (6) The entry of a corner building located in the DT and UT zoning districts shall be located at an angle to the corner. Entries may be flush with the building or recessed.

Figure 14: Corner Building Orientation Photo

*Illustration of a corner building featuring the main entry angled toward the corner.*



(I) Exterior renovation or alterations of existing structures in the DT zoning district.

- (1) Renovations, alterations or additions shall be designed and executed in a manner that is sympathetic to the particular architectural character of the structure being worked on.

# Commercial Zoning Districts

Architectural elements shall be sensitively designed to reflect the detailing and materials associated with the particular style of the building.

- (2) Renovations and restorations of older buildings shall respect the original building design, including structure, use of materials and details. New materials or signs shall not cover original materials and detailing. Materials, such as brick, slate, glass, stone, and the like shall be retained in their original state and shall not be covered with any other contemporary materials. Materials that are incompatible with the historic character of the building shall be removed from the façade upon significant exterior renovation or restoration of the existing structure.
- (3) Replacement windows shall fit the size and style of the original openings.
- (4) Original window and door openings shall not be enclosed or bricked-in at the corner on the street elevation nor on any street exposure. Where openings on the sides or rear of the building are to be closed, the infill materials shall match that of the wall and be recessed a maximum of three inches within the opening.

(J) New construction in the DT zoning district.

- (1) New buildings shall be compatible with their surroundings. Architectural style, bulk, shape, massing, scale and form of new buildings and the space between and around buildings shall be consistent with the area, and shall be in harmony with neighboring buildings.
- (2) New buildings shall respond to the pattern of window placement in the district. The designs of new buildings shall avoid long unrelieved expanses of wall along the street by maintaining the rhythm of windows and structural bays in the district. The preferred pattern of ground floor windows is open show windows, with inset or recessed entryways; and landscaping, lighting and other amenities equivalent to those existing in the district. First floor window placement, design and quantity shall be compatible with the window placement, design and quantity on the second and above floor levels of a building.
- (3) Buildings shall de-emphasize secondary rear or side door entrances to commercial space, unless the entrances are associated with public parking areas.

## Section 205.13 Commercial Site Design Standards

Design and placement of new buildings in these commercial districts must consider the existing built environment of the surrounding area, in particular existing setbacks, building size and massing. Towards this end, the following objectives should be considered:

- (A) Buildings should be sited in a manner that complements adjacent structures. Sites should be developed in a coordinated manner to provide order and diversity and avoid an unplanned, confused development pattern.
- (B) When a development site features multiple integrated buildings and other structures, a visual link between separate buildings and structures should be established, by various means, including stamped concrete walkways, arcade systems, trellises or other open structures.

# Commercial Zoning Districts

- (C) Buildings should be sited to minimize conflicts between pedestrians and vehicle traffic. Buildings can be linked to adjoining street sidewalks with textured paving, landscaping and trellises.
- (D) Outdoor spaces between buildings should be recognized as outdoor “rooms” that have clear recognizable shapes, as opposed to being considered as “left over” areas. These spaces can be used to provide important pedestrian amenities such as benches, trellises, fountains, artwork, etc.

## Section 205.14 Architectural Design Standards: Modification.

Design Standard Modification. The Planning Commission may approve modifications to the architectural and site design standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the architectural and site design standards:

- (A) Whether any conditions or circumstances exist which are unique to the applicant’s land.
- (B) Whether the conditions or circumstances unique to the applicant’s land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
- (C) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with a commercial use.
- (D) Whether the modification will preserve, not harm, the public safety and welfare.
- (E) Whether the modification will alter the essential character of the neighborhood.
- (F) Whether the applicant has provided an alternative to the required architectural or site design standard that achieves the spirit and intent of the original design standard.

CHAPTER 206

BR-CD West Bagley Road  
Commercial Zoning District

Section 206.01	Zoning District Objectives & Purpose
Section 206.02	Permitted Uses
Section 206.03	Conditional Uses
Section 206.04	Accessory Uses
Section 206.05	Development Standards
Section 206.06	Permitted Obstructions within Required Yards for High-Intensity Uses
Section 206.07	Permitted Obstructions to Height for High-Intensity Uses
Section 206.08	Architectural and Site Design Standards
Section 206.08.1	Architectural Design Standards: Modification
Section 206.09	Limited Outdoor Sales and Display for Low-Intensity Uses
Section 206.10	Outdoor Storage, Sales and Loading Standards for High-Intensity Uses
Section 206.11	Outdoor Dining Regulations
Section 206.12	Night Business Operations

Section 206.01 Zoning District Objectives & Purpose

(A) General District Objectives. Institutional, mixed use commercial and light industrial district regulations are established in this Chapter to carry out the purpose, intent and basic planning objectives which are stated in the Comprehensive Plan and incidentally thereto, to achieve the following particular objectives for these commercial zoning districts:

- (1) To provide sufficient but not excessive land area for more intensive business and light industrial needs of the community.
- (2) To foster the continuation of existing business and commercial establishments, to provide appropriate space for their expansion and for development of new business and commercial establishments, all in conformity to recognized and reasonable standards in order to ensure compatibility with the primarily residential character of the community.
- (3) To encourage the tendency of business to group in centers for the mutual advantage of customers and commercial and light industrial businesses.
- (4) To prohibit commercial and industrial development which would create detrimental or blighting influences upon the premises or the neighborhood or which would be incompatible with or impair the enjoyment of neighboring premises.
- (5) To insure the availability of suitable areas for a mixture of commercial and light industrial uses by discouraging unrelated uses in such areas.

# BR-CD West bagley road commercial district

- (6) To protect permitted development from congestion by requiring setbacks and limiting the bulk and density of development in relation to adjacent buildings and available land and by requiring sufficient off-street parking and loading facilities.
- (7) To promote in accordance with a well- considered plan the most desirable and beneficial use of land and structures in order to stabilize and protect the character and value of land development within the City.

## Section 206.02 Permitted Uses

- (A) Uses permitted in the BR-CD district are provided for in the Land Use Matrix Table in Chapter 201.
- (B) Adult-Oriented Businesses. Adult-Oriented Businesses shall be permitted in this district and must comply with the requirements contained in this Chapter: No more than one (1) adult-oriented business shall be permitted in a single structure, or portion thereof.
  - (1) Adult-oriented businesses, as defined in this Chapter, shall be permitted, provided the proposed location of such use is more than five hundred (500) feet from all the following uses unless otherwise noted:
    - (a) Any residential zoning district as established by this Zoning Code of the City of Berea or the Zoning Ordinance of any adjacent political subdivision.
    - (b) Any church, synagogue, permanently established place of worship, any public or private school, library, licensed day care facility, public playground attended or other facility attended by persons under the age of 18.
    - (c) Any public or private university or college.
    - (d) Any other recreational facility or amusement park attended by persons under 18 years of age.
    - (e) Any hotel, motel or bed and breakfast lodging establishment.
    - (f) A minimum of one thousand (1,000) feet from any other adult-oriented business.
    - (g) Any establishment licensed by the State of Ohio for the sale of beer or intoxicating liquor for consumption on the premises.
    - (h) Pawn shops.
    - (i) Pool or billiard halls.
    - (j) Video game or pinball palaces, halls or arcades.
  - (2) Measurement of Distances Between Uses
    - (a) The measure of distance for purposes of this subsection shall be from property line to property line along the shortest possible course, regardless of any customary or common route or path of travel. The Zoning Administrator shall consider only: (1) whether the adult-oriented business is seeking to locate in a BR-CD District; and (2) whether the proposed location of the adult-oriented business meets the minimum distance (in feet) from the uses listed in division (B) of this Chapter.

# BR-CD West bagley road commercial district

- (b) The determination shall be made without a public hearing being held and must be made within 10 days of the effective date of this section or within ten days of the receipt of a completed application for a zoning permit, whichever is less.
- (c) An applicant or an aggrieved party may appeal a decision of the Zoning Administrator to the Planning Commission pursuant to Chapter 103. Such appeal must be made within 30 days of the claimed adverse decision.

(3) Adult-Oriented Business Signage.

- (a) Notwithstanding any other City ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any adult-oriented business or any other person to erect, construct, or maintain any sign for the adult-oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.
- (b) Primary signs shall have no more than two (2) displaysurfaces. Each such display surface shall:
  - (i) not contain any flashing lights;
  - (ii) be a flat plane, rectangular in shape;
  - (iii) not exceed twenty-five (25) square feet in area; and
  - (iv) not exceed five (5) feet in height or five (5) feet in length.
- (c) No signs may contain any message or image that identifies specified sexual activities or specified anatomical areas.
- (d) Secondary signs shall have only one (1) display surface. Such display surface shall:
  - (i) be a flat plane, rectangular in shape;
  - (ii) not exceed sixteen (16) square feet in area;
  - (iii) not exceed four (4) feet in height and four (4) feet in width; and
  - (iv) be affixed or attached to any wall or door of the enterprise.

(4) Adult-Oriented Business Definitions. For the purpose of regulating adult-oriented businesses as set forth under this Zoning Code, the following definitions shall apply unless the context clearly indicated or requires a different meaning:

- (a) Adult Entertainment shall mean performances by topless and/or bottomless dancers, strippers or similar entertainers where such performances are characterized by the display or exposure of specified anatomical areas.
  - (i) Nude or State of Nudity shall mean the showing, representation or depiction of human male or female genitals, a bare buttock, an anus, or the areola or nipple of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of uncovered male genitals in a discernibly turgid state.
  - (ii) Semi-Nude shall mean a state of dress in which clothing covers no more than the genitals, the pubic region and the areola of the female

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breast, as well as portions of the body covered by supporting straps or devices.

(iii) Specified Anatomical Areas shall mean less than completely and opaque covered human genitals, pubic region, buttock and female breasts below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(iv) Specified Sexual Activities shall mean human genitals in a state of sexual stimulation or arousal; acts, real or simulated, of human fondling, sexual intercourse, sodomy, cunnilingus or fellatio; or the fondling or other erotic touching of human genitals, the pubic region, a buttock or female breasts.

(b) Adult Entertainment Facility shall mean any adult arcade, adult bookstore, adult cabaret, adult theater, adult drive-in theater, adult mini-motion picture theater, adult motionpicture theater, adult motel, adult video store, nude model studio, adult-oriented business or any business providing adult entertainment.

(c) Adult Arcade shall mean an establishment where one or more still or motion picture projectors, slide projectors or similar machines, or other image-producing machines, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, dvd's, internet streaming video, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(d) Adult Book Store shall mean an establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section devoted to the sale or display of such material.

(e) Adult Cabaret shall mean a nightclub, bar, restaurant, "bottle club" or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features any one of the following: Persons who appear nude or in a state of nudity or semi-nudity; live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(f) Adult Drive-in Theater shall mean an outdoor theater for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons, which may not be located on a parcel of property less than five (5) acres.

(g) Adult Material shall mean any book, magazine, newspaper, pamphlet, poster, print, picture, slide, transparency, figure, image, description, motion picture film, video, dvd, pornographic record or tape, or other tangible thing, which material is distinguished or characterized by an emphasis on matter displaying, describing or representing sexual activity, masturbation, sexual excitement, nudity, bestiality or human bodily functions of elimination.

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- (h) Adult Mini-Motion Picture Theater shall mean an enclosed building with a capacity of less than fifty persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.
- (i) Adult Motel shall mean a motel, hotel or similar commercial establishment which:
  - (i) Offers public accommodations which provide patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right of way or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio, the internet or television;
  - (ii) Offers a sleeping room for rent for a period of time less than ten hours; or allows a tenant or occupant to sub-rent the sleeping room for a period of less than ten hours.
- (j) Adult Motion Picture Theater shall mean an enclosed building with a capacity of fifty or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.
- (k) Adult-Oriented Business shall mean an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, sexual encounter establishment, nude model studio or establishment handling adult materials or providing adult services.
- (l) Adult Service shall mean any service capable of arousing sexual interest through sight, sound or touch, which service is distinguished or characterized by an emphasis on sexual activity, masturbation, sexual excitement, nudity, bestiality or human bodily functions of elimination.
- (m) Adult Theater shall mean a facility used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
- (n) Adult Video Store shall mean an establishment having as a substantial or significant portion of its stock in trade, videos which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material.
- (o) Nude Model Studio shall mean any place where a person, who regularly appears in a state of nudity or displays specified anatomical areas to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.

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- (p) Stock In Trade shall mean the total volume or number of items, products, or equipment available for purchase, rental, viewing or use by patrons of the establishment, excluding material located in any storeroom or other portion of the premises not regularly open to patrons.
- (5) Visibility from a Street and Other Public Places. No merchandise, photos, illustrations, representations or pictures of the adult-oriented products, activities or entertainment offered on the premises or any other depiction of specified sexual activities or specified anatomical areas may be displayed in an area where such items can be viewed from any sidewalk, public right-of-way, other public or semi-public spaces, or any building or structure adjoining or adjacent to the adult-oriented business. All building openings, entries, windows, etc. for any adult-oriented business shall be located, covered, or serviced in such a manner as to create one hundred percent opacity to prevent a view into the interior from any sidewalk, public right-of-way, other public or semi-public spaces, or any building or structure adjoining or adjacent to the adult-oriented business.
- (C) **Substantially Similar Uses.** Any substantially similar use which the Zoning Administrator determines to be of the same character, nature and intensity of use as those permitted in this zoning district may be permitted subject to the procedure and standards set forth in §309.13.

## Section 206.03 Conditional Uses

- (A) Conditionally permitted uses in the BR-CD district is provided for in the Land Use Matrix Table in §200.07.
- (B) All conditional uses provided for in the Land Use Matrix Table shall comply with the regulations and procedures set forth in Chapter 304.

## Section 206.04 Accessory Uses

- (A) Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted or conditionally permitted uses may be established, erected or constructed; provided, that such accessory uses comply with the standards set forth in Chapter 305.
- (B) Small wind conversion energy system (for private use). See Chapter 308.

## Section 206.05 Development Standards

- (A) Every permitted use of land and structures in the BR-CD zoning district shall be located on a zoning lot in such a manner as to create and preserve a front yard adjacent to each street on which such lot abuts, a side yard or yards and (except in the case of corner or through lots) a rear yard, conforming to the requirements of this Chapter (the "required yards").

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(B) The following development standards shall apply to the specific zoning districts as provided:

Table 7: BR-CD Zoning District Development Standards

Development Standards	Low-Intensity Use	High-Intensity Use
Minimum Lot Area (acre)	½ acre	2 acres
Minimum Lot Width (feet)	100	200
Minimum Front Yard Setback of Principal Building (feet)	80	100 (a)
Minimum Side Yard Setback of Principal Building (feet)	None	10 (a)
Minimum Rear Yard Setback of Principal Building (feet)	None	20 (a)
Minimum Side Yard Setback for Accessory Structures (feet)	5	10
Minimum Rear Yard Setback for Accessory Structures (feet)	5	10
Maximum Impervious Surface Area (for Principal Building)	85%	90%
Maximum Rear Yard Lot Coverage Ratio (for Accessory Structures)	100%	40%
Maximum Height of Principal Building (feet)	40	60
Maximum Height of Accessory Use Structure (feet)	20	30

Notes:

(a) All yards as required in the high-intensity use column shall be increased by one (1) foot for each foot of building height above thirty (30) feet, provided that if any yard is adjacent to a public right-of-way, the yard dimension shall be increased by one-half (1/2) foot for every foot of building height above thirty (30) feet.

Within the context of this Chapter, "Low Intensity Use" shall be defined as those land uses permitted by right or conditionally permitted within the following §200.07 Land Use Matrix Chart categories: Retail & Office, Eating, Drinking & Food Sales, Personal Services and Business Services uses.

Within the context of this Chapter, "High-Intensity Use" shall be defined as those land uses permitted by right or conditionally permitted within the following §200.07 Land Use Matrix Chart categories: Residential, Public & Quasi Public, Recreation, Vehicle Sales, Rental & Service, Health Services, Heavy Retail Sales & Service, Storage, Light Industrial, Heavy Industrial and Miscellaneous uses.

## Section 206.06 Permitted Obstructions within Required Yards for High-Intensity Uses

The following are permitted obstructions within required yards or other required open space of high-intensity uses located in the BR-CD district (subject to the height regulations provide in Table 7 and to any other provisions of this Code applicable thereto) provided they are so located that natural light and ventilation are not materially obstructed from the principal building or any adjoining property.

(A) Architectural features extending not more than one (1) foot into a required yard.

## BR-CD West bagley road commercial district

- (B) Awnings and canopies.
- (C) Window air conditioners.
- (D) Chimneys projecting no more than three (3) feet into a required yard.
- (E) Eaves, gutters and downspouts projecting no more than sixteen (16) inches into a required yard.
- (F) Walls and fences - as regulated in this Code for type and height.
- (G) Steps - excluding fire escapes.
- (H) Pedestrian walks.
- (I) Vehicular access, circulation and service driveways, and off-street parking areas (but not including any above-ground structure except a pavement, curbing and illumination).
- (J) Signs, subject to the applicable regulations set forth in Chapter 303.

### Section 206.07 Permitted Obstructions to Height for High-Intensity Uses

The following appurtenances to a structure utilized as a high-intensity use in the BR-CD district may exceed (but by no more than ten (10) feet) the lower height of such structure compared with the maximum height for such structure established by this Code provided such appurtenances are so designed, arranged and situated in relationship to the structure and adjacent structures, and are so used, as to avoid detrimental or blighting influence on the area and so as to avoid interfering with or impairing the enjoyment of adjacent premises:

- (A) Chimneys.
- (B) Elevator or stair bulkheads.
- (C) Roof water tanks, cooling towers and similar mechanical equipment.
- (D) Flagpoles, aerials and antennas.
- (E) Parapet walls or railings

### Section 206.08 Architectural and Site Design Standards

The BR-CD zoning district provides for a mixture of institutional, commercial oriented, office and light industrial land uses. Therefore, the goals, objectives and specific architectural and site design standards for varying districts shall be followed as applicable.

- (A) All low-intensity uses constructed or expanded to a degree to require a site plan review shall follow those applicable architectural and site design guidelines as set forth in the Commercial Zoning Districts Chapter 205 of this Zoning Code.
- (B) All high-intensity uses constructed or expanded to a degree to require a site plan review shall follow those applicable architectural and site design guidelines as set forth in either Chapter 205 "Commercial Zoning Districts" or Chapter 207 "GI General Industrial Zoning District" of this Zoning Code. The Zoning Administrator shall determine the most appropriate design guidelines

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to be applied to the proposed project based upon the nature, character and intensity of the proposed land use.

## Section 206.08.1 Architectural Design Standards: Modification.

**Design Standard Modification.** The Planning Commission may approve modifications to the architectural and site design standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the architectural and site design standards:

- (A) Whether any conditions or circumstances exist which are unique to the applicant's land.
- (B) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
- (C) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with a commercial or industrial use.
- (D) Whether the modification will preserve, not harm, the public safety and welfare.
- (E) Whether the modification will alter the essential character of the neighborhood.
- (F) Whether the applicant has provided an alternative to the required architectural or site design standard that achieves the spirit and intent of the original design standard.

## Section 206.09 Limited Outdoor Sales and Display for Low-Intensity Uses

- (A) **Limited Outdoor Sales and Display Defined.** Limited outdoor sales and display shall be defined as temporary displays of merchandise for low-intensity uses located in the BR-CD district which are normally sold or displayed from within enclosed retail store locations, but which are temporarily placed not more than twelve (12) feet from an outside wall of the main retail sales building during business hours, and then returned to inside storage during non-business hours.
  - (1) In no instance shall any limited outdoor sales or display be located in any parking or loading areas, regardless if the maximum twelve (12) foot sales and display locational standard is met.
- (B) **Limited Outdoor Sales and Display General Standards.** Unless stated otherwise in this Chapter, merchandise which is offered for sale may be displayed beyond the confines of a building subject to the following standards, as applicable:
  - (1) The area occupied by such outdoor display shall not constitute a greater number of square feet than ten percent of the ground floor area of the principle building.
  - (2) Any other outside storage or display of any merchandise or other items is prohibited.
  - (3) **Sales and Display in the Right-of-Way.** No sales or display of merchandise or any other material or items shall be permitted in the public right-of-way.
- (C) **24-Hour Convenience Store Sales and Display.** The merchandise displayed at a 24-Hour Convenience Store need not be moved indoors, but the business shall at all times maintain a clear pedestrian path on sidewalks that is at least 36 inches in width.

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## Section 206.10      Outdoor Storage, Sales and Loading Standards for High-Intensity Uses

- (A) **Outdoor Storage.** The storage of raw materials and/or manufactured products for high-intensity land uses located within the BR-CD district shall be located within the rear yard area and shall be sufficiently screened from view from any public or private roadway and the adjoining properties by a substantially solid wall or fence erected to a height of not less than eight (8) feet, or by an earthen mound and evergreen plantings following the minimum design and planting standards set forth in §302.05, or as otherwise determined by the Planning Commission to be necessary to conceal the storage from view.
- (B) **Outside Sales.** The outside sale or display of finished goods or products shall be prohibited.
- (C) **Loading and Unloading.** Loading and unloading operations shall be conducted in the rear or side of the building and shall be sufficiently screened from view from any public or private roadway and the adjoining properties as determined by the Planning Commission to be necessary to conceal the loading and unloading operations from view.
- (D) **Vehicle Inventory Sales and Display Permitted.**
  - (1) Vehicle inventory may be displayed outdoors by a business that offers for retail sale one or more of the following items: Automobiles, Trucks, Trailers, Mobile Homes, Recreational Vehicles, Campers, Camper Tops, Truck Toppers, Boats or other wheeled conveyances.
  - (2) Heavy equipment rental that may be offered for sale is shall be considered vehicle inventory under this Section.
  - (3) Vehicle inventory that bears obvious signs that the vehicle is not presently capable of being legally operated or conveyed on a public road is not vehicle inventory, including, but not limited to vehicles lacking wheels or inflated tires, operable drive train components, broken windows or lights, required current vehicle registration, missing body parts, such as fenders, doors, hood lids, trunk lids, bumpers, lights or trim.
  - (4) Small equipment rental items including, but not limited to: lawn mowers, leaf blowers, etc. shall not be considered vehicle inventory under this Section.

## Section 206.11      Outdoor Dining Regulations

A zoning permit must be issued to any applicant seeking to propose one or more outdoor dining areas within the BR-CD zoning district. The regulations set forth in this section refer to both outdoor dining areas proposed to be located on private property and sidewalk dining areas proposed to be located within the public right-of-way:

- (A) The Planning Commission shall approve all locations and dimensions for outdoor dining areas proposed for placement in either the public right-of-way or those dining areas proposed to be located on public property. The Zoning Administrator shall approve all zoning permit applications for proposed outdoor dining areas located on private property where a site plan application is not required.
- (B) When proposing a location in the public right-of-way, all outdoor furniture and table umbrella materials and styles must be approved by the Planning Commission

## BR-CD West bagley road commercial district

- (C) An unobstructed sidewalk width of five (5) feet measured from the edge of curb or edge of pavement must be maintained for outdoor dining areas located within the public right-of-way.
- (D) No permanent structure shall be placed in the public right-of-way.
- (E) When proposing a location in the public right-of-way, any proposed fencing materials and styles must be approved by the Planning Commission.

### Section 206.12 Night Business Operations

No building customarily used for night operation shall have any openings, other than stationary windows or required fire exits, within 200 feet of any residence district, and any space used for loading or unloading of commercial vehicles in connection with such operation shall not be within 100 feet of any residence district.

## CHAPTER 207

GI General Industrial  
Zoning District

Section 207.01	Zoning District Objectives & Purpose
Section 207.02	Permitted Uses
Section 207.03	Conditional Uses
Section 207.04	Accessory Uses
Section 207.05	Development Standards
Section 207.06	Permitted Obstructions within Required Yards
Section 207.07	Permitted Obstructions to Height
Section 207.08	Exterior Building Material Standards
Section 207.08.1	Exterior Building Material Standards: Modification
Section 207.09	Mechanical Equipment Screening and Utility Standards
Section 207.10	Outdoor Storage, Sales and Loading Standards
Section 207.11	Night Business Operations

## Section 207.01 Zoning District Objectives &amp; Purpose

Industrial District Regulations are established in this Chapter to carry out the purpose, intent and basic planning objectives which are stated in the Berea Comprehensive Plan and, incidentally thereto, to achieve the following particular objectives for the GI General Industrial District:

- (A) To provide for manufacturing, industrial and related uses and facilities within the community in conformance with specific standards and in a manner compatible with the primarily residential character of the City of Berea; and provide, where appropriate, for the expansion and continued development of such uses consistent with the Comprehensive Plan.
- (B) To prohibit manufacturing, industrial and related development, which by reasons of emission or generation of smoke, odors, noxious gases, noise, glare, humidity, vibration, or danger of explosion, fire or other hazards, would create conditions detrimental to the public health, safety and general welfare or which would be incompatible with and detrimental to adjacent and surrounding uses.
- (C) To insure the availability of suitable areas for manufacturing, industrial and related uses by discouraging in such areas, unrelated or incompatible uses.
- (D) To protect permitted development from congestion by requiring setbacks and limiting the bulk and density of development in relation to adjacent buildings and available land and by requiring sufficient off- street parking and loading facilities.
- (E) To promote in accordance with a well- considered plan the most desirable and beneficial use of land and structures in order to stabilize and protect the character and value of land development within the City.

# GI General Industrial Zoning District

The GI General Industrial zoning district is established for certain commercial services, manufacturing, industrial and related uses which, although not compatible with Residential or Commercial Districts, can conform to high performance and site development standards and whose activities are located and carried out both inside and outside of within enclosed buildings except for accessory off- street parking and off- street loading requirements.

## Section 207.02 Permitted Uses

- (A) Uses permitted in the GI zoning district are provided for in the Land Use Matrix Table in §200.07.
- (B) **Substantially Similar Uses.** Any substantially similar use which the Zoning Administrator determines to be of the same character, nature and intensity of use as those permitted in this zoning district may be permitted subject to the procedure and standards set forth in §309.13.

## Section 207.03 Conditional Uses

- (A) Conditionally permitted uses in the GI district are provided for in the Land Use Matrix Table in §200.07.
- (B) All conditional uses provided for in the Land Use Matrix Table shall comply with the regulations and procedures set forth in Chapter 304.

## Section 207.04 Accessory Uses

- (A) Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted or conditionally permitted uses may be established, erected or constructed; provided, that such accessory uses comply with the standards set forth in Chapter 305.
- (B) Small wind conversion energy system (for private use). See Chapter 308.

## Section 207.05 Development Standards

- (A) Every permitted use of land and structures in the GI zoning district shall be located on a zoning lot in such a manner as to create and preserve a front yard adjacent to each street on which such lot abuts, a side yard or yards and (except in the case of corner or through lots) a rear yard, conforming to the requirements of this Chapter (the "required yards").

# GI General Industrial Zoning District

(B) The following development standards shall apply to the GI zoning district:

Table 8: GI Zoning District Development Standards

Development Standards	GI Zoning District
Minimum Lot Area (square feet)	20,000
Minimum Lot Width (feet)	100
Minimum Front Yard Setback of Principal Building (feet)	40 (a)
Minimum Side Yard Setback of Principal Building (feet)	10 (a)
Minimum Rear Yard Setback of Principal Building (feet)	20 (a)
Minimum Side Yard Setback for Accessory Structures (feet)	10
Minimum Rear Yard Setback for Accessory Structures (feet)	10
Maximum Impervious Surface Area (for Principal Building)	90%
Maximum Rear Yard Lot Coverage Ratio (for Accessory Structures)	40%
Maximum Height of Principal Building (feet)	60
Maximum Height of Accessory Use Structure (feet)	30
<p><u>Notes:</u></p> <p>(a) All yards as required in this table shall be increased by one (1) foot for each foot of building height above thirty (30) feet, provided that if any yard is adjacent to a public right-of-way, the yard dimension shall be increased by one-half (1/2) foot for every foot of building height above thirty (30) feet.</p>	

## Section 207.06 Permitted Obstructions within Required Yards

The following are permitted obstructions within required yards or other required open space (subject to the height regulations of Table 8 and to any other provisions of this Code applicable thereto) provided they are so located that natural light and ventilation are not materially obstructed from the principal building or any adjoining property.

- (A) Architectural features extending not more than one (1) foot into a required yard.
- (B) Awnings and canopies.
- (C) Window air conditioners.
- (D) Chimneys projecting no more than three (3) feet into a required yard.
- (E) Eaves, gutters and downspouts projecting no more than sixteen (16) inches into a required yard.
- (F) Walls and fences - as regulated in this Code for type and height.

# GI General Industrial Zoning District

- (G) Steps - excluding fire escapes.
- (H) Pedestrian walks.
- (I) Vehicular access, circulation and service driveways, and off-street parking areas (but not including any above-ground structure except a pavement, curbing and illumination).
- (J) Signs, subject to the applicable regulations set forth in Chapter 303 .

## Section 207.07 Permitted Obstructions to Height

The following appurtenances to a structure may exceed (but by no more than ten (10) feet) the lower of the height of such structure and the maximum height for such structure established by this Code provided such appurtenances are so designed, arranged and situated in relationship to the structure and adjacent structures, and are so used, as to avoid detrimental or blighting influence on the area and so as to avoid interfering with or impairing the enjoyment of adjacent premises:

- (A) Chimneys.
- (B) Elevator or stair bulkheads.
- (C) Roof water tanks, cooling towers and similar mechanical equipment.
- (D) Flagpoles, aerials and antennas.
- (E) Parapet walls or railings.

## Section 207.08 Exterior Building Material Standards

- (A) Unfinished or unpainted non-decorative concrete block shall not be used on any exterior wall.
- (B) Metal siding shall not be used on any wall facing a public street or a residential district. If metal siding is utilized on any remaining wall, it shall be subject to the approval of Planning Commission.
- (C) A combination of brick, masonry, glass, or other suitable building materials shall be used on the front facade of the building, subject to the approval of Planning Commission.

## Section 207.08.1 Exterior Building Material Standards: Modification.

Exterior Building Material Standard Modification. The Planning Commission may approve modifications to the exterior building material standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the exterior building material standards:

- (A) Whether any conditions or circumstances exist which are unique to the applicant's land.
- (B) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
- (C) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with an industrial use.
- (D) Whether the modification will preserve, not harm, the public safety and welfare.

# GI General Industrial Zoning District

- (E) Whether the modification will alter the essential character of the neighborhood.
- (F) Whether the applicant has provided an alternative to the required exterior building material standard that achieves the spirit and intent of the original design standard.

## Section 207.09 Mechanical Equipment Screening and Utility Standards

- (A) Mechanical equipment, including air conditioning, piping, ducts, and conduits external to the building shall be concealed from view from adjacent buildings or street level by an enclosure constructed using the same exterior materials utilized in the construction of the principal building.
- (B) Electric and other utility service connections shall be placed underground for new construction and expansion projects and shall be encouraged for all other utility service connection changes.

## Section 207.10 Outdoor Storage, Sales and Loading Standards

- (A) Outdoor Storage. The storage of raw materials and/or manufactured products shall be located within the rear yard area and shall be sufficiently screened from view from any public or private roadway and the adjoining properties by a substantially solid wall or fence erected to a height of not less than eight (8) feet, or by an earthen mound and evergreen plantings following the minimum design and planting standards set forth in §302.05, or as otherwise determined by the Planning Commission to be necessary to conceal the storage from view.
- (B) Outside Sales. The outside sale or display of finished goods or products shall be prohibited.
- (C) Loading and Unloading. Loading and unloading operations shall be conducted in the rear or side of the building and shall be sufficiently screened from view from any public or private roadway and the adjoining properties as determined by the Planning Commission to be necessary to conceal the loading and unloading operations from view.

## Section 207.11 Night Business Operations

No building customarily used for night operation shall have any openings, other than stationary windows or required fire exits, within 200 feet of any residence district, and any space used for loading or unloading of commercial vehicles in connection with such operation shall not be within 100 feet of any residence district.

## CHAPTER 208

CD College District  
Zoning District

Section 208.01	Statement of Zoning District Objectives & Purpose
Section 208.02	<b>Permitted Uses</b>
Section 208.03	<b>Conditional Uses</b>
Section 208.04	Accessory Uses
Section 208.05	Development Standards
Section 208.06	<b>General Standards</b>
Section 208.07	<b>Outdoor Display and Outdoor Storage Regulations</b>
Section 208.08	<b>Architectural and Site Design Guidelines</b>
Section 208.09	Outdoor Dining Regulations

## Section 208.01 Statement of Zoning District Objectives &amp; Purpose

The College District (CD) and its regulations are established in order to accommodate post high-school educational facilities and their associated uses in a manner that recognizes the unique development and location characteristics of large-scale institutional uses while respecting the needs of adjacent property owners and residents. As a result, a primary intent of this zoning district is to both integrate institutional uses with adjacent nonresidential neighborhoods and to adequately buffer institutional uses from adjacent residential uses. Therefore, the College District and its regulations are established in order to accommodate institutional facilities and their associated uses in a manner that:

- (A) Provides for proper location of such facilities so as to increase the general convenience and safety of the City's residents;
- (B) Provides for orderly growth and development in the City of Berea;
- (C) Reflects and reinforces the existing density and pattern of development while accommodating the need for future growth;
- (D) Provides for and encourages a balanced, compatible mix of uses, rather than a separation of uses, in a pedestrian-friendly environment; and,

## Section 208.02 Permitted Uses

- (A) Uses permitted in the CD zoning district are provided for in the Land Use Matrix Table in §200.07.
- (B) **Substantially Similar Uses.** Any substantially similar use which the Zoning Administrator determines to be of the same character, nature and intensity of use as those permitted in this zoning district may be permitted subject to the procedure and standards set forth in §309.13.
- (C) If a permitted use within the CD zoning district is proposed to be located 150 feet or less from any boundary of the CD zoning district, then a conditional use permit shall be obtained by the applicant following the procedure and applicable standards set forth in Chapter 304.

(1) The 150 foot location requirement is measured from any point along the property line of the zoning lot under review.

Section 208.03 Conditional Uses

(A) Conditionally permitted uses in the CD zoning district are provided for in the Land Use Matrix Table in §200.07.

(B) All conditional uses provided for in the Land Use Matrix Table shall comply with the regulations and procedures set forth in Chapter 304.

Section 208.04 Accessory Uses

Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted or conditionally permitted uses may be established, erected or constructed; provided, that such accessory uses comply with the standards set forth in Chapter 305.

Section 208.05 Development Standards

(A) Every permitted use of land and structures in the CD zoning district shall be located on a zoning lot in such a manner as to create and preserve a front yard adjacent to each street on which such lot abuts, a side yard or yards and (except in the case of corner or through lots) a rear yard, conforming to the requirements of this Chapter (the "required yards").

(B) The following development standards shall apply to the CD zoning district:

Table 9: CD Zoning District Development Standards

Development Standards		CD Zoning District
Minimum Lot Area (square feet)		None
Minimum Lot Width (feet)		None
Minimum Front Yard Setback of Principal Building (feet)		50 (a)
Minimum Side Yard Setback of Principal Building (feet)		20 (a)
Minimum Rear Yard Setback of Principal Building (feet)		30 (a)
Minimum Side Yard Setback for Accessory Structures (feet)		20
Minimum Rear Yard Setback for Accessory Structures (feet)		20
Maximum Impervious Surface Area (for Principal Building)		80%
Maximum Rear Yard Lot Coverage Ratio (for Accessory Structures)		40%
Maximum Height of Principal Building (feet)		60
Maximum Height of Accessory Use Structure (feet)		30
<u>Notes:</u>		
(a) All yards as required in this table shall be increased by one (1) foot for each foot of building height above thirty (30) feet, provided that if any yard is adjacent to a public right-of-way, the yard dimension shall be increased by one-half (1/2) foot for every foot of building height above thirty (30) feet.		

**Section 208.06 General Standards**

All uses within the CD zoning district shall comply with the following standards:

- (A) **Trash Receptacles**. All solid waste products, including empty packing boxes, that result from any permitted principal, conditional, or accessory use shall either be disposed of, stored in buildings, or completely enclosed in containers. Such building, container, or dumpster shall be located in a side or rear yard and shall comply with the applicable parking setback set forth in Chapter 301 and shall be screened in accordance with the provisions set forth in Chapter 302, Landscaping and Bufferyard Regulations.
- (B) **Lighting**. The placement, orientation, distribution patterns and fixture types of outdoor lighting shall comply with the regulations set forth in §300.07. If the use is located 150 feet or less from a residential zoning district boundary or residential land use, at the close of business, all illuminated signs and lights not necessary for security purposes shall be extinguished.
- (C) **Enclosure**. All uses and operations, except off-street parking and loading facilities, shall be performed wholly within enclosed buildings, unless specifically permitted otherwise.
- (D) **Outdoor Vending Machines**. Within 150 feet of a residential zoning district boundary or residential land use, there shall be no outdoor vending machines.
- (E) **Overhead Utility Lines**. All utility lines, electric; telephone; cable TV lines; etc., shall be placed underground.
- (F) **Overnight Parking**. Within 150 feet of any residential district boundary or residential land use, there shall be no overnight parking or outdoor storage of commercial motor vehicles or buses.
- (G) **Noise and Emission**. No land use or structure shall be used or occupied in any manner to create dangerous or objectionable noise or emissions. All uses shall comply with the regulations regarding noise and emissions in §309.09.
- (H) All yards as required in Table 9 shall be increased by one (1) foot for each foot of building height above thirty (30) feet, provided that if any yard is adjacent to a public right-of-way, the yard dimension shall be increased by one-half (1/2) foot for every foot of building height above thirty (30) feet.

**Section 208.07 Outdoor Display and Outdoor Storage Regulations**

Outdoor display of merchandise for sale and outdoor storage of goods and materials shall comply with the following.

- (A) When any portion of the zoning lot under review is within 150 feet of a residential district boundary or a residential land use, the outdoor display of merchandise for sale shall be subject to the following standards:
  - (1) Outdoor display of merchandise for sale shall be limited to products that are customarily associated with the operation of the principal business located on the premises and conducted by employees of such principal business. There shall be no outdoor display of merchandise for sale by any person operating or conducting a business that is different or distinct from the principal business conducted at that location except for temporary displays pursuant to §205.07.

- (2) The area of the lot devoted to outdoor display shall not exceed ten (10%) percent of the ground floor area of the building(s) by which the outdoor display is directly accessory thereto.
- (3) The outdoor display area shall comply with the accessory structure setback requirements set forth in Table 9 of this Chapter.
- (4) The outdoor display area shall not be located in areas intended for traffic and pedestrian circulation or parking.

(B) The outdoor storage of goods and general materials within 150 feet of a residential district boundary or a residential land use shall be a conditional use approved by the Planning Commission associated with a permitted use and shall comply with the following:

- (1) Outdoor storage of materials shall include the storage of goods, materials, or products associated with the principal use. The storage of radioactive, toxic or otherwise hazardous materials shall not be permitted.
- (2) All outdoor storage of goods and materials shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all materials therein from the view of any observer standing at the grade level of an abutting residential district line. However, in no case shall the height of the fence or wall be less than six feet. The solid wall or fence and the associated gates shall be maintained in good condition.
- (3) All materials shall be stored in such a fashion as to be accessible to firefighting and emergency response vehicles and equipment at all times.

(C) The outdoor storage of goods and general materials located beyond 150 feet of a residential district boundary or a residential land use shall be regulated by the limited outdoor sales and display standards set forth in §205.07.

### **Section 208.08 Architectural and Site Design Standards.**

All new structures constructed or substantially expanded within the CD zoning district shall have a uniform design theme consistent with the predominant architectural or exterior material selections for the existing structures located throughout the district.

- (A) **Design Standards.** All uses constructed or expanded to a degree to require a site plan review shall follow those applicable architectural and site design guidelines as set forth in the Commercial Zoning Districts Chapter 205 of this Zoning Code.
- (B) **Design Standard Modification Waiver.** The Planning Commission may approve modifications to the architectural and site design standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the architectural and site design standards:
  - (1) Whether any conditions or circumstances exist which are unique to the applicant's land.
  - (2) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.

- (3) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with a higher educational use.
- (4) Whether the modification will preserve, not harm, the public safety and welfare.
- (5) Whether the modification will alter the essential character of the neighborhood.
- (6) Whether the applicant has provided an alternative to the required architectural or site design standard that achieves the spirit and intent of the original design standard.

Section 208.09      Outdoor Dining Regulations

A zoning permit must be issued to any applicant seeking to propose one or more outdoor dining areas within the public right-of-way or on other public property in the CD zoning district.

- (A) The Planning Commission shall approve all locations and dimensions for outdoor dining areas proposed for placement in either the public right-of-way or those dining areas proposed to be located on public property. The Zoning Administrator shall approve a zoning permit for outdoor dining areas proposed to be located on private property.
- (B) When proposing a location in the public right-of-way, all outdoor furniture and table umbrella materials and styles must be approved by the Planning Commission
- (C) An unobstructed sidewalk width of five (5) feet measured from the edge of curb or edge of pavement must be maintained for outdoor dining areas located within the public right-of-way.
- (D) No permanent structure shall be placed in the public right-of-way.
- (E) When proposing a location in the public right-of-way, any proposed fencing materials and styles must be approved by the Planning Commission.

## CHAPTER 209

## Educational & Institutional Zoning District

Section 209.01	Zoning District Objectives & Purpose
Section 209.02	Permitted Uses
Section 209.03	Conditional Uses
Section 209.04	Accessory Uses
Section 209.05	Development Standards
Section 209.06	Permitted Obstructions within Required Yards
Section 209.07	Permitted Obstructions to Height
Section 209.08	Architectural Design Standards
Section 209.08.1	Architectural Design Standards: Modification
Section 209.09	Site Design Standards
Section 209.10	Loading Standards

### Section 209.01 Zoning District Objectives & Purpose

Educational & Institutional Zoning District Regulations are established in this Chapter to carry out the purpose, intent and basic planning objectives which are stated in the Berea Comprehensive Plan and, incidentally thereto, to achieve the following particular objectives for the EI Educational & Institutional Zoning District:

- (A) To provide an area for welfare facilities serving a juvenile population and containing a mix of specific uses expressly related and complimentary to the primary purpose of providing counseling, education, rehabilitation, work training and other related services to persons under the age of eighteen years. Activities and uses accessory to the types of services listed herein shall also be permitted.
- (B) To promote in accordance with a well-considered plan the most desirable and beneficial use of land and structures in order to stabilize and protect the character and value of land development within the City.

### Section 209.02 Permitted Uses

- (A) Uses permitted in the EI zoning district are provided for in the Land Use Matrix Table in §200.07.

### Section 209.03 Conditional Uses

- (A) Conditionally permitted uses in the EI district are provided for in the Land Use Matrix Table in §200.07.
- (B) All conditional uses provided for in the Land Use Matrix Table shall comply with the regulations and procedures set forth in Chapter 304.

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## Section 209.04 Accessory Uses

(A) Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted or conditionally permitted uses may be established, erected or constructed; provided, that such accessory uses comply with the standards set forth in Chapter 305.

## Section 209.05 Development Standards

(A) Every permitted use of land and structures in the EI zoning district shall be located on a zoning lot in such a manner as to create and preserve a front yard adjacent to each street on which such lot abuts, a side yard or yards and (except in the case of corner or through lots) a rear yard, conforming to the requirements of this Chapter (the "required yards").

(B) The following development standards shall apply to the EI zoning district:

Table 10: EI Zoning District Development Standards

Development Standards	Permitted Uses
Minimum Lot Area (acres)	4
Maximum Lot Area (acres)	None
Minimum Lot Width (feet)	200
Minimum Front Yard Setback of Principal Building (feet)	35
Minimum Side Yard Setback of Principal Building (feet)	10
Minimum Rear Yard Setback of Principal Building (feet)	20
Minimum Side Yard Setback for Accessory Structures (feet)	10
Minimum Rear Yard Setback for Accessory Structures (feet)	10
Maximum Impervious Surface Area (for Principal Building)	70%
Maximum Rear Yard Lot Coverage Ratio (for Accessory Structures)	30%
Maximum Height of Principal Building (feet)	35
Maximum Height of Accessory Use Structure (feet)	20

## Section 209.06 Permitted Obstructions within Required Yards

The following are permitted obstructions within required yards or other required open space (subject to the height regulations of Table 10 and to any other provisions of this Code applicable thereto) provided they are so located that natural light and ventilation are not materially obstructed from the principal building or any adjoining property.

(A) Architectural features extending not more than one (1) foot into a required yard.

- (B) Awnings and canopies.
- (C) Window air conditioners.
- (D) Chimneys projecting no more than three (3) feet into a required yard.
- (E) Eaves, gutters and downspouts projecting no more than sixteen (16) inches into a required yard.
- (F) Walls and fences - as regulated in this Code for type and height.
- (G) Steps - excluding fire escapes.
- (H) Pedestrian walks.
- (I) Vehicular access, circulation and service driveways, and off-street parking areas (but not including any above-ground structure except a pavement, curbing and illumination).
- (J) Signs, subject to the applicable regulations set forth in Chapter 303 .

## Section 209.07 Permitted Obstructions to Height

The following appurtenances to a structure may exceed (but by no more than ten (10) feet) the lower of the height of such structure and the maximum height for such structure established by this Code provided such appurtenances are so designed, arranged and situated in relationship to the structure and adjacent structures, and are so used, as to avoid detrimental or blighting influence on the area and so as to avoid interfering with or impairing the enjoyment of adjacent premises:

- (A) Chimneys.
- (B) Elevator or stair bulkheads.
- (C) Roof water tanks, cooling towers and similar mechanical equipment.
- (D) Flagpoles, aerials and antennas.
- (E) Parapet walls or railings.

## Section 209.08 Architectural Design Standards

The architectural and exterior material standards set forth in Sections 205.11 through 205.12 of this zoning code shall apply to all applicable new building and expansion projects in this district. The review of these design standards shall take place in conjunction with the site plan review stage, if applicable.

### Section 209.08.1 Architectural Design Standards: Modification.

**Design Standard Modification.** The Planning Commission may approve modifications to the architectural and site design standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the architectural and site design standards:

- (A) Whether any conditions or circumstances exist which are unique to the applicant's land.

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- (B) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
- (C) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with educational and industrial uses.
- (D) Whether the modification will preserve, not harm, the public safety and welfare.
- (E) Whether the modification will alter the essential character of the neighborhood.
- (F) Whether the applicant has provided an alternative to the required architectural or site design standard that achieves the spirit and intent of the original design standard.

## Section 209.09 Site Design Standards

Design and placement of new buildings in this district must consider the existing built environment of the surrounding area, in particular existing setbacks, building size and massing. Towards this end, the following objectives should be considered:

- (A) Buildings should be sited in a manner that complements adjacent structures. Sites should be developed in a coordinated manner to provide order and diversity and avoid an unplanned, confused development pattern.
- (B) When a development site features multiple integrated buildings and other structures, a visual link between separate buildings and structures should be established, by various means, including stamped concrete walkways, arcade systems, trellises or other open structures.
- (C) Buildings should be sited to minimize conflicts between pedestrians and vehicle traffic. Buildings can be linked to adjoining street sidewalks with textured paving, landscaping and trellises.
- (D) Outdoor spaces between buildings should be recognized as outdoor "rooms" that have clear recognizable shapes, as opposed to being considered as "left over" areas. These spaces can be used to provide important pedestrian amenities such as benches, trellises, fountains, artwork, etc.

## Section 209.10 Loading Standards

- (A) Loading and Unloading. Loading and unloading operations shall be conducted in the rear or side of the building and shall be sufficiently screened from view from any public or private roadway and the adjoining properties as determined by the Planning Commission to be necessary to conceal the loading and unloading operations from view.

## Chapter 210 (PUD) Planned Unit Development Overlay District

Section 210.01	PUD Zoning Overlay District Objectives and Purpose
Section 210.02	<b>Permitted Uses</b>
Section 210.03	Minimum Project Area
Section 210.04	Project Ownership
Section 210.05	Common Open Space
Section 210.06	Utility Requirements
Section 210.07	Application Procedure and Zoning Approval Process
Section 210.08	Stage I Concept Plan
Section 210.09	Stage II Preliminary Development Plan
Section 210.10	Stage III Final Development Plan
Section 210.11	Financial Responsibility
Section 210.12	Expiration and Extension of PUD Approval Period

Section 210.01 PUD Zoning Overlay District Objectives and Purpose.

- (A) It shall be the policy of the city to promote progressive development of land and construction thereon by encouraging planned unit developments to achieve one or more of the following:
  - (1) A maximum choice of living environments by allowing a variety of housing and building types and permitting a reduction in lot dimensions, yards, building setbacks and area requirements;
  - (2) A more useful pattern of open space and recreation areas as part of the project, more convenience in the location of accessory commercial uses and services;
  - (3) A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural drainage patterns;
  - (4) A more efficient use of land than is generally achieved through conventional development resulting in substantial savings through shorter utilities and streets;
  - (5) A development pattern in harmony with land use density, transportation facilities and community facilities.
- (B) The city is also prepared to accept a greater population density in undeveloped areas than that reflected by present zoning, provided the developer can demonstrate that any increment of public cost clearly attributable to increased densities will be compensated for by the private amenities and public benefits to be achieved by the plan of development.
- (C) Because of the special characteristics of planned unit developments, special provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this subchapter and those of other subchapters in this chapter, the

# PUD planned unit development overlay district

provisions of this subchapter shall prevail for the development of land for planned unit developments.

## Section 210.02 Permitted Uses.

Only those uses permitted or conditionally permitted in each underlying district or interpreted to be included under this chapter may be proposed for development under this planned unit development overlay approach. Compatible residential, commercial, industrial, public and quasi-public uses may be combined within a single planned unit development project area provided that the proposed location of the commercial or industrial uses will not adversely affect adjacent property, and/or the public health, safety and general welfare.

## Section 210.03 Minimum Project Area.

(A) The gross area of the tract to be developed under the planned unit development overlay approach shall conform to the following:

<u>Type of P.U.D.</u>	<u>Recommended Minimum Area</u>
R-SF-A, R-SF-B Single Family Residential	2 acres
MFR Multi-Family Residential	2 acres
UT & DT High Density Commercial	1 acre
RO, CC, NC, Low Density Commercial	2 acres
BR-CD Mixed Use Commercial& Industrial	5 acres
GI General Industrial	5 acres
CD College District	5 acres
EI Educational & Institutional	4 acres

## Section 210.04 Project Ownership

The project land may be owned, leased, or controlled by a single person or corporation, or by a group of individuals or corporations. Such ownership may be by a public or private corporation.

## Section 210.05 Common Open Space.

(A) Requirements. No less than 20% of the land developed in any planned unit development project shall be reserved for common open space for the residents or users of the area being developed. A minimum of 50% of the required common open space area shall consist of active open space as defined in Chapter 400. Any undisturbed areas of the project required to provide one or more conservation easement areas as may be counted towards the required open space allocation required under this sub-section. The open space shall be disposed of as required in division (B) of this section.

(1) When the project area of any planned unit development is five acres or less, the amount of required active open space shall be 10% of the total project area.

# PUD planned unit development overlay district

- (2) When the physically terrain and site layout permits, all open space areas shall be connected through pedestrian related facilities including but not limited to: sidewalks, hike/bike trails, other similar pedestrian pathways.
- (B) **Disposition of open space.** The required amount of common open space reserved under a planned unit development shall either be held in corporate ownership by owners of the project area for the use of each owner who buys property within the development, or be dedicated to the city and retained as common open space for parks, recreation and related uses. All land dedicated to the city must meet the Planning Commission's requirements as to size, shape, and location. Public utility and similar easements and rights-of-way, for water courses and other similar channels, are not acceptable for common open space dedication to the city, unless such land or right-of-way is useable as a trail or other similar purpose and approved by the Planning Commission. City Council shall have the discretion to accept or deny any common open space proposed to be dedicated to the city.
- (C) **Maintenance of open space.** The responsibility for the maintenance of all open spaces shall be specified by the developer before approval of the final developmental plan.

## Section 210.06 Utility Requirements.

All public and private utility facilities and structures required to be newly constructed or relocated as a result of the project shall be placed underground within the project area and within any public right-of-way located adjacent to the project boundaries. Appurtenances to these systems which can be effectively screened may be excepted from this requirement if the Planning Commission finds that such exemption will not violate the intent or character of the proposed planned unit development.

## Section 210.07 Application Procedure and Zoning Approval Process.

- (A) **General.** Whenever a planned unit development overlay is proposed, before a permit for the erection of a permanent building in such planned unit development shall be granted, and before a subdivision plat of any part thereof may be filed in the office of the Zoning Administrator, the developer or his authorized agent shall apply for and secure approval of such planned unit development in accordance with the following procedures:
  - (1) An application for a proposed planned unit development overlay shall, at a minimum, follow the applicable procedural requirements for a zoning district amendment set forth in §105.01.
  - (2) All application and permit fees shall be paid in advance as separately set forth in the zoning fee schedule as adopted by Council. All costs incurred by the city in reviewing submitted plans, including professional analysis, shall be billed to applicant and payable upon receipt.
  - (3) All permits and/or approval for permits for necessary curb cuts from state and county agencies must be secured in advance of application.

## Section 210.08 Stage I Concept Plan.

- (A) **Application for concept plan approval.** In order to allow the Planning Commission and the developer to reach an understanding on basic design, land usage and other elements of the proposed project, the developer shall submit an application for a planned unit development overlay on a form proscribed by the city and the application fee, along with twelve copies of the following

## PUD planned unit development overlay district

contents no less than thirty (30) days prior to the next regularly scheduled Planning Commission meeting:

- (1) An area map showing adjacent property owners and existing uses within 200 feet of the project boundaries.
- (2) A legal description of the metes and bounds of the parcel.
- (3) A sketch plan approximately to scale, though it need not be to the precision of a finished engineering drawing, and it shall clearly show the following:
  - (a) The existing topographical features of the site;
  - (b) The location of the various metes and bounds of the parcel;
  - (c) The general outlines of the interior roadway system, the proposed access points for the project and all existing rights-of-way and easements, whether public or private;
  - (d) Delineation of the various residential, commercial or industrial areas indicating for each such area its general extended size and composition in terms of total number of non-residential structures and residential dwelling units and approximate percentage allocation by dwelling type;
  - (e) A calculation of the residential density in dwelling units per gross area including interior roadways;
  - (f) The interior open space system including an on-site pedestrian connectivity and network plan;
- (4) Where the portions of the site are subject to flooding, the map shall indicate extent and frequency by delineating the limits of any flood plain areas or flood way areas as determined by the most current FEMA Flood Insurance Maps;
- (5) Where areas lie in aircraft approach and holding patterns, such areas shall be indicated;
- (6) Principal ties to the community at large with respect to transportation, pedestrian connectivity, water supply and sewage disposal;
- (7) General description of the availability of other community facilities, such as schools, fire and police protection services, and cultural facilities, if any, and how these facilities are affected by this proposal;
- (8) Evidence of how the developer's proposed land uses and overall project proposal meet existing and projected community requirements set forth in the Berea Comprehensive Plan and any other applicable city planning document;
- (9) General statement as to how common open space is to be utilized, owned and maintained;
- (10) If the development is to be staged, a general indication of how the staging is to proceed. Whether or not the development is to be staged, the sketch plan shall show the intended total project;

# PUD planned unit development overlay district

(11) The application shall indicate the project design team members including but not limited to the project civil engineer, landscape architect, urban planning consultant and surveyor.

(B) Planning Commission Review. The Planning Commission shall review the concept plan and its related documents, and shall approve or deny the Stage I Concept Plan expressly for completeness of the minimum plan contents set forth in this sub-section. No public hearing is required for a Stage I Concept Plan review.

(C) Preparation of the Stage II Preliminary Development Plan. Upon approval by the Planning Commission that the Stage I Concept Plan requirements have been fulfilled, the applicant may proceed with preparing the Stage II Preliminary Development Plan. In the event the Planning Commission denies a Stage I Concept Plan, the applicant may resubmit a new plan correcting the deficiencies outlined by the Planning Commission.

## Section 210.09 Stage II Preliminary Development Plan.

(A) Application for preliminary site plan approval. Application for preliminary development plan approval shall be made to the Planning Commission no less than thirty (30) days prior to the next regularly scheduled Planning Commission meeting and shall be accompanied by twelve copies of the following information prepared by a civil engineer registered in the State of Ohio:

(1) An area map showing the applicant's entire holding, that portion of the applicant's property under consideration, and all properties, subdivisions, streets and easements within 200 feet of applicant's property.

(2) A topographic map showing contour intervals of not more than five feet of elevation shall be provided.

(3) A preliminary development plan including the following information:

(a) Title of drawing, including name and address of applicant;

(b) North point, scale and date;

(c) Boundaries of the property plotted to scale;

(d) Existing watercourses;

(e) A development plan showing location, proposed use and height of all buildings; location of all buildings; location of all parking and truck loading areas, with ingress and egress drives thereto; location and proposed development of all open spaces, including parks, playgrounds, and open reservations; location of outdoor storage, if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; descriptions of method of sewage disposal and location of such facilities; location and size of all signs; location and design of street and parking lighting, and the amount of building area proposed for residential and non-residential uses, if any.

(f) A transparent overlay showing all soils, areas, and their classifications, and those areas, if any, with moderate to high susceptibility to flooding and moderate to high susceptibility to erosion. For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation and tree coverage.

# PUD planned unit development overlay district

- (g) The zoning district designation for all abutting properties.
- (4) A traffic impact study shall be required as provided for in §300.09.
- (5) A conceptual landscape plan shall be provided addressing any project gateways, streetsaping, buffer plantings, screening or other required landscape or buffer elements.
- (6) The floor plans, elevations and cross sections for all buildings proposed for the project.

(B) Factors for consideration. The Planning Commission may call upon other public and/or private consultants necessary to provide a sound review of the plan. The Planning Commission review of a preliminary development plan shall include but is not limited to the following considerations:

- (1) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls.
- (2) Adequacy and arrangement of pedestrian traffic access and circulation including: separation of pedestrian from vehicular traffic and pedestrian convenience.
- (3) Location, arrangement, appearance and sufficiency of off-street parking and loading.
- (4) Location, arrangement, size and placement of the lot layout, buildings and lighting.
- (5) Arrangement of landscape features.
- (6) Adequacy of storm water and sanitary waste disposal facilities.
- (7) Adequacy of structures, roadways in areas with moderate to high susceptibility to flooding and ponding and/or erosion.
- (8) Conference with other specific changes of the Council which may have been stated in the zoning resolution.
- (9) In its review, the Planning Commission may consult with representatives of county, federal and state agencies (including the Soil Conservation Service and the Department of Conservation). The Planning Commission may also require such additional provisions and conditions that appear necessary for the public health, safety and general welfare.

(C) Planning Commission Action.

- (1) Within 60 days of the receipt of the application for preliminary development plan approval, the Planning Commission shall act on it by holding a public hearing pursuant to the procedure set forth in §102.04. If no public hearing has been set within the 60-day period, the preliminary development plan shall be considered conditionally approved. After a public hearing has been held, the Planning Commission shall issue a formal recommendation to the City Council regarding the planned unit development application. Planning Commission shall either issue one of the following recommendations: recommend approval, recommend approval with conditions and recommend denial.

# PUD planned unit development overlay district

## (D) City Council Action.

- (1) Within 60 days of the issuance of the Planning Commission recommendation, the City Council shall act on the application by holding a public hearing pursuant to the procedure set forth in the City Charter. Following the public hearing, Council shall either approve, disapprove or modify the preliminary development plan in conformity with regulations, standards, criteria and purpose prescribed by this zoning code. Council may affirm the recommendation of the Planning Commission or disapprove a favorable recommendation of the Planning Commission by a majority vote of its members. If Council reverses a decision of the Commission recommending disapproval of a preliminary development plan, it may only do so by the affirmative vote of two thirds of the members elected or appointed to Council.

## (E) Request for Changes in the Preliminary Development Plan. This Section recognizes that, in the site development phases, it may become apparent that certain elements of the plan, as it has been approved by the Council, are not feasible and are in need of significant modification including change in lot lines, development densities, street alignments or any other modification that requires a new review to determine conformance to the original intent of the approved Preliminary Development Plan.

- (1) If the Zoning Administrator determines that a significant modification exists on the Plan, the applicant shall then present his solution to the Planning Commission as his preliminary site development plan in accordance with the above procedures including the public hearing requirements.
- (2) The Planning Commission shall then determine whether or not the modified plan is still consistent with the “intent” of this zoning chapter.

## Section 210.10 Stage III Final Development Plan.

### (A) Application for Final Development Plan Approval.

- (1) The developer of any parcel or parcels of land for which a Planned Unit Development Overlay designation has been officially adopted by City Council and so entered on the official Berea zoning map, may submit a Stage III Final Development Plan of the development area to be developed in the first or only construction phase. Twelve copies of such plan shall be filed with the Zoning Administrator at least thirty (30) calendar days before the next regularly scheduled Planning Commission meeting and upon payment of the appropriate fees, shall be submitted by him to the Planning Commission.
- (2) The final detailed development plan shall conform substantially to the preliminary development plan that has received preliminary development plan approval by City Council. It should incorporate any revisions or other features that may have been recommended by the Planning Commission and Council at the Stage II review.

### (B) The final development plan of the project area shall contain and be accompanied by the following contents unless expressly waived by Planning Commission as inapplicable:

- (1) Topography, at a two-foot contour interval, of the proposed development area, including property lines, easements, street right-of-way, existing structures, trees and landscape features existing thereon, floodplains, wetlands, ravines, stream areas, ponds and lakes, and including a certificate, by a registered engineer or surveyor in the State of Ohio, of the gross area of the development area in acres and square feet.

## PUD planned unit development overlay district

- (2) The vehicular and pedestrian traffic patterns, with a traffic impact study, including the proposed location and design of public and private streets; the directional flow and location of existing and proposed storm and sanitary sewers and sewers connecting with existing or proposed municipal interceptor, outlet or trunk sewers outside the development area; the location and design of parking and service areas; and an estimate of traffic volumes to be generated, including the assignment of traffic to proposed entrances and exits.
- (3) The proposed public and private street system with right-of-way, all easements, the use and subdivision of all land including common and private land, and the location of each existing structure to be retained.
- (4) A plat of the development area showing street right-of-way, subdivided and common land and easements in accordance with the requirements of the Berea Subdivision Regulations which shall be in the proper form for recording.
- (5) Detailed plans and specifications for all streets, sidewalks, storm and sanitary sewers, water mains, street illumination, and all other site features of the development area or that portion of the development area to be developed, designed in accordance with the Berea Subdivision Regulations and applicable building codes. Upon approval and recommendation from the City Engineer, Planning Commission may vary the City's subdivision regulations to allow more flexibility in design.
- (6) A detailed landscape plan showing all site features and finished grading for public and private lands within the development area.
- (7) The final form of covenants running with the land and deed restrictions (including the use of common land); covenants, restrictions or easements to be recorded; declaration of covenants, restrictions and bylaws of a home association and its incorporation; declaration of condominium ownership and other covenants, if any, for maintenance.
- (8) Estimated project cost, including estimates for all public and private improvements.
- (9) Construction schedule and phasing plan.
- (10) Descriptive data as to the type of buildings, square footage for each use and number of dwelling units in each building type.
- (11) In the event the final development plan of a project area includes the subdivision of land, any map, plat or other data required for compliance with the provisions of the Berea Subdivision Regulations.
- (12) The Planning Commission may require additional drawings to supplement the above when more information is needed or when special conditions occur.

(C) Actions on the Final Development Plan Application.

- (1) Within 60 days of receipt of the application for final development plan approval, the Planning Commission shall render a decision to the applicant and so notify Council. If no decision is made within the 60 day period, the final site plan shall be considered approved.

## PUD planned unit development overlay district

- (2) If the Planning Commission finds that a proposed final plan of development area is in substantial accordance with and represents a detailed extension of the Stage II Preliminary Development Plan heretofore approved by Council; that it complies with all of the conditions and adjustments which may have been imposed in the approval of the concept plan; that it is in accordance with the design criteria and provisions of this zoning code which apply particularly to any plan of the planned unit development; that all agreements, contracts, deed restrictions, dedications, declarations of ownership and other required documents are in acceptable form and have been executed; that development pursuant to a previously approved final plan is in accordance with that plan and the approved concept plan; that all fee payments have been made and that the provisions of the Berea Subdivision Regulations have been met; that the location, design, size and uses will result in an attractive, healthful, efficient and stable environment for commerce and/or residential development; that the design size and use are consistent with the Berea Comprehensive Plan and any other land use plans adopted by the Planning Commission or Council; then the Commission shall approve such final development plan.
- (3) Upon approval, the Planning Commission shall endorse its approval on a copy of the plan and shall forward it to the Zoning Administrator, who shall then issue a zoning permit to the applicant if the project conforms to all other applicable requirements.
- (4) Upon disapproval, the Planning Commission shall so inform the Zoning Administrator. It shall also notify the applicant and the Council in writing of its decision and its reasons for disapproval.

(D) Staging and plan changes. Any plan which requires more than 24 months completing shall be constructed in phases and a phasing plan must be developed. In a phased planned unit development, it is expected that changes in the approved final plan will be required from time to time. In order to preserve the flexibility which is fundamental to planned unit development, plan changes are permitted subject to the limitations listed below.

- (1) The changed plan must meet the basic objectives and all regulations and requirements of this application.
- (2) All plan changes must be submitted to City Council for approval.

### Section 210.11 Financial Responsibility.

No building permits or zoning permits shall be issued for construction within a planned unit development until required public improvements are installed or performance bond posted in accordance with the same procedures as provided for by the City Engineer. Other such requirements may also be established from time to time by the City Engineer.

### Section 210.12 Expiration and Extension of PUD Approval Period.

The approval of a final development plan for a planned unit development district shall be for a period not to exceed two years to allow for preparation and recording of the required subdivision plat and the development of the project. If construction of 25% of the total cost of the project or 25% of the construction cost for the first phase of a project has not been completed within two years after approval is granted, the approved final development plan shall be void, and the land shall revert to the district regulations in which it is located. An extension of the time limit or modification of the approved final development plan may be approved if Council finds that such extension or modification is not in conflict with the public interest.

## ARTICLE III ZONING REGULATIONS

### CHAPTER 300 Site Plan Review

Section 300.01	<b>Site Plan Applicability</b>
Section 300.02	<b>Procedure for Site Plan Review</b>
Section 300.03	<b>Standards for Site Plan Review</b>
Section 300.04	<b>Site Plan Application Contents</b>
Section 300.05	<b>Site Design Standards</b>
Section 300.06	<b>Architectural Review Standards</b>
Section 300.07	<b>Outdoor Lighting Standards</b>
Section 300.08	<b>Access Management Requirements</b>
Section 300.09	<b>Traffic Impact Study</b>
Section 300.10	<b>Conformity to an Approved Site Plan</b>
Section 300.11	<b>Amendment to an Approved Site Plan</b>

#### **Section 300.01 Site Plan Applicability**

In order to administer the provisions of this Zoning Code and to evaluate site plans in the interest of the public health, safety and general welfare, this Chapter shall apply to new property development and any collective substantial expansion of existing structures, new or expanded parking lots consisting of the creation of five (5) new parking spaces or more, except for individual single-family dwellings and two-family dwellings (duplexes). Substantial expansion of existing structures shall be defined based on the criteria established below:

<b>When Existing Structure is....</b>	<b>A Substantial Expansion is....</b>
0 - 1,000 Sq. Ft.	50% or Greater
1,001 - 10,000 Sq. Ft.	40% or Greater
10,001 - 25,000 Sq. Ft.	30% or Greater
25,001 - 50,000 Sq. Ft.	20% or Greater
50,001 Sq. Ft. and larger	10% or Greater

Furthermore, no building shall be erected or structurally altered on any lot or parcel in cases where a site plan review is required, except in accordance with the regulations of this section and all other applicable sections within this zoning code and an approved site plan. No zoning permit shall be issued prior to the approval of a site plan.

#### **Section 300.02 Procedure for Site Plan Review**

- (A) Formal submission and approval of a site plan is required before any zoning permit may be issued. Formal submission and approval of a site plan includes following the review procedures and submission requirements defined herein. Notwithstanding these requirements, however, at any time prior to the formal submission and review of a site plan, an applicant may at his or her option, submit a sketch site plan for informal review and comment. The purpose of such a sketch site plan is to provide an opportunity to conceptually discuss a proposed development and to provide general guidance to assist in the preparation of a formal site plan. A sketch site plan need not include all items required for a formal site plan application and informal review of the site plan need not include the notifications required under this section.

- (1) Any discussions held during this sketch plan phase of a site plan review shall not be construed as an approval on any elements of the site plan.
- (B) An applicant for formal site plan approval shall file twelve (12) copies of a plan with the Zoning Administrator along with other required documents and an application fee. For developments also requiring conditional use approval, the procedure established in §304.03 shall be followed. The Planning Commission may concurrently address the issue of site plan approval and conditional use approval.
- (C) After reviewing an application for formal site plan approval for completeness and determining that the application and site plan is complete, the Zoning Administrator shall transmit copies of the site plan to individual departments and agencies. If all information required is not provided, the Zoning Administrator shall promptly notify the applicant of the items needed. Within forty-five (45) days following the determination that the application is complete, one of the following actions shall be taken:
  - (1) Approval of the site plan based upon a determination that the proposed plan will constitute a suitable development and the plan meets the standards set forth in this Zoning Code.
  - (2) Disapproval of the site plan based upon a determination that the proposed project does not meet the standards for review set forth in all applicable Chapters of this Zoning Code.
  - (3) Approval of the site plan subject to any conditions, modifications, and restrictions as required to guarantee that the project meets the standards for review.
  - (4) Table the site plan application for a period not to exceed ninety (90) days to provide the applicant additional time to address one or more deficiencies identified in the site plan application.
- (D) If the site plan is disapproved, the specific basis for such disapproval shall be provided, along with a clear description of how the site plan could be modified to be approved. Appeals from Planning Commission decisions may be made in the manner specified in Chapter 103.
- (E) *Submission requirements.* A site plan shall be prepared at a scale of one inch equals 20 feet (developments more than five acres may be drawn at a scale of one inch equals 50 feet), on standard 24-inch x 36-inch sheets with continuation on 8½-inch x 11-inch sheets as necessary for narrative. Copies of all plan sheets shall also be submitted on 11-inch x 17-inch format. A site plan shall, at a minimum, include all data, details, and supporting information as outlined in this Chapter. A site plan review fee as determined by City Council shall be required to defray the expenses associated with the public review of the plans, including the need to retain a registered professional engineer, architect, landscape architect, or other professional consultant to advise the city on any or all aspects of the site plan.

## Section 300.03 Standards for Site Plan Review

- (A) *Standards for review.* Site plans shall be reviewed in accordance to the following criteria:

- (1) *Traffic.* Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.

- (2) *Parking.* Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment; adequate parking, adequate lighting, and internal traffic control.
- (3) *Services.* Reasonable demands placed on municipal services and infrastructure.
- (4) *Pollution control.* Adequacy of methods for sewage and refuse disposal and the protection from pollution of both surface water and groundwater. This includes controlling soil erosion both during and after construction.
- (5) *Nuisances.* Protection of abutting properties from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, storm water runoff, and the like. The performance standards set forth in §309.09 may apply to the site plan application.
- (6) *Existing vegetation.* Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.
- (7) *Amenities.* The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside planting, and the retention of open space.
- (8) *Community character.* The building setbacks, area and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding landscape.

## Section 300.04

### Site Plan Application Contents

- (A) *Site plan application contents.* A site plan shall, at a minimum, include the following data, details, and supporting plans. All site plans shall be prepared by an Ohio registered professional civil engineer. Items required for submission include:
  - (1) Name of the project, boundaries, and location maps showing the site's location in the city, date, north arrow, and scale of the plan.
  - (2) Name and address of the owner of record, developer, and seal of the engineer who prepared the site plan.
  - (3) Names and addresses of all owners of record of abutting parcels and those within 200 feet of the property line.
  - (4) All existing lot lines, easements, and rights-of-way. Include area of subject parcel to be developed in both acres and square feet.
  - (5) Indicate the existing land use and current zoning classification of all abutting parcels.
  - (6) The location and use of all existing and proposed buildings and structures within the development including building footprints, overhangs, site coverage, building-ground contact, and area. A brief description of the use of the site shall be included with an estimate of the number of employees.
  - (7) All dimensions of height and floor area and showing all exterior entrances.

- (8) Illustrations of internal traffic movement, ingress and egress, and the location of all present and proposed public and private drives, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping, walls, and fences.
- (9) Illustrated drawings identifying the location, height, intensity, and bulb type (e.g., fluorescent, sodium incandescent) of all external lighting fixtures. A photometric analysis of the proposed development site shall be submitted as part of the site plan application to determine conformance with the illumination standards set forth in §300.07.
- (10) Illustrated drawings identifying the location, height, size, materials, and design of all proposed signage.
- (11) The location of all present and proposed utility systems, including sewage systems, water supply system, telephone, cable and electrical systems, storm drainage system, including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.
- (12) Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
- (13) Existing and proposed topography at a two foot contour interval. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the 100-year floodplain, the area will be shown and base flood elevations given.
- (14) A landscape plan prepared by a landscape architect registered in the State of Ohio showing all existing natural land features, trees, forest cover and water resources, and all proposed changes to these features including size and type of plant material. Water resources will include ponds, lakes, streams, wetlands, floodplains, and drainage retention areas. The applicable landscaping regulations found in Chapter 302 shall apply.
- (15) For new construction or alterations to any existing building, a table containing the following information must be included:
  - (a) Area of building to be used for a particular land use such as retail operation, office, storage, and the like, and maximum number of employees.
  - (b) Maximum seating capacity, where applicable.
  - (c) Number of parking spaces existing and required for the intended use.

## Section 300.05

### **Site Design Standards**

Except as otherwise indicated in this Chapter, all buildings, structures or parking facilities constructed under these site plan guidelines shall conform to the following criteria and standards:

#### (A) Site Conditions

- (1) The property shall not be subject to hazards such as objectionable smoke, noxious odors, unusual noise, the possibility of subsidence or the probability of flood or erosion.

- (2) The condition of soil, ground water level, drainage, rock formations, and topography shall be such as not to create hazards to the property or to the health and safety of occupants or the public.
- (B) Services and Facilities
  - (1) The facilities shall be so designed that they can be used and maintained without encroachment upon adjoining properties.
  - (2) Utilities, including water pipelines, gas pipelines, sewage disposal, and electric power lines, shall be independent for the property without dependence upon other properties.
  - (3) Each building intended for use as a residence or place of employment shall have provisions for each of the following:
    - (a) A continuing supply of safe and potable water.
    - (b) Sanitary facilities and a safe method of sewage disposal.
    - (c) Heating adequate for healthful and comfortable living conditions.
    - (d) An adequate supply of domestic hot water.
    - (e) Adequate electricity for lighting and for equipment used in the dwelling.
    - (f) Adequate provisions for the removal of garbage and trash and its sanitary storage pending removal.
- (C) Access
  - (1) Each property shall be provided with vehicular access by an abutting public or private street. Private streets shall be protected by a permanent easement.
  - (2) The width and construction of the required internal drive and provisions for its continued maintenance, by the property owner if a private street and by the City if accepted as a public street, shall provide safe and suitable vehicular access to and from the property at all times, including appropriate access for fire-fighting equipment, rubbish collection, deliveries and snow removal. Dead-end internal access drives shall include adequate vehicular turning space, for public safety and maintenance vehicles as well as private vehicles.
  - (3) Each building shall provide safe and convenient pedestrian access from parking areas to the building entrances.
  - (4) Each building shall provide convenient access for service and, when necessary, for delivery of fuel.
  - (5) A safe and convenient means of access shall be provided to each dwelling unit without passing through any other dwelling unit.
  - (6) Access to buildings and circulation between buildings and other important project facilities for vehicular and pedestrian traffic which is safe, comfortable and convenient for occupants and the public;
- (D) Site Planning and Development Criteria. The site shall be so designed and developed, and all facilities shall be so designed and arranged thereon, as to provide:

- (1) A suitable environment for occupants and the public by utilizing the potential advantages of the site, including suitable placement of the buildings and facilities in relation to the site and surrounding influences;
- (2) A land-use intensity appropriate to the character of the site and its location in the anticipated community pattern as set forth in the Comprehensive Plan;
- (3) Adequate open space related to buildings and other land improvements;
- (4) Sufficient non-vehicular public open space for use of the occupants and the public and for visual appeal;
- (5) Adequate car storage space conveniently located;
- (6) Elevations, and gradients appropriate for buildings, land improvements, drainage, and for safe, easy circulation for occupant use;
- (7) Night lighting for safe and convenient use of streets, driveways, parking areas, walks, steps and other facilities;
- (8) The preservation of desirable existing trees and other natural site features;
- (9) Planting to enhance the appearance of buildings and grounds, to screen objectionable features and to control erosion and rapid runoff of ground water;
- (10) All elements of the site plan harmoniously and efficiently organized in relation to topography, the size and shape of the plot, the character of adjoining property, and the type and size of the buildings;
- (11) Arrangement of buildings in favorable relation to the natural topography, existing desirable trees, views within and beyond the site, and exposure to the sun and other buildings on the site, with building arrangement appropriate for the general climatic characteristics of the region;
- (12) Natural light and ventilation for occupants and the public;
- (13) Grading which assures adequate surface drainage, conservation of desirable existing vegetation and natural ground forms, and which does not create a nuisance on or off the property, divert surface water onto adjacent public or private property or increase the rate of run-off of surface water onto such adjacent property, interfere with or obstruct natural drainage of water from such adjacent property, or interfere with or obstruct the public water, sanitary or storm sewer system, or interfere with or obstruct a natural watercourse (i.e., any river, creek, brook or branch, and the flood plain thereof).
- (14) Utility poles and facilities designed in keeping with the project and properly shaded to screen the windows of habitable rooms on the site as well as all off- site premises from the direct rays of light;
- (15) Preservation and enhancement of the appeal and character of the site by retaining and protecting existing trees and other site features and adding new plant material for privacy, shade, beauty of buildings and grounds and to screen out objectionable features, which plant material shall be selected, located and spaced so as to be in scale with the composition of the buildings, the site and its various uses and surroundings, to harmonize in size, shape, color, texture and winter characteristics with the buildings and the development of the grounds, and with due consideration to its ultimate mature

growth, avoiding the use of material which will become overgrown without severe trimmings.

## Section 300.06      Architectural Design Guidelines

In order to protect property within the City to maintain the high character of community development, and to protect real estate within the City from impairment or destruction of value, it is a substantive requirement of this Zoning Code that the design, use of materials, finished grade lines and orientation of all new buildings, hereafter erected, and the moving, alteration, improvement, repair, adding to or razing in whole or in part of all existing buildings, shall be regulated according to proper architectural principles. Specific architectural design guidelines shall be set forth in those Zoning Code Chapters containing the standards for each zoning district within the City.

## Section 300.07      Outdoor Lighting Standards

The outdoor lighting guidelines shall apply to all new projects and qualified expansion projects subject to this site plan review process.

- (A) Lighting must be placed and shielded so as to direct the light onto the site and away from adjoining properties. The lighting source shall not be directly visible from adjoining properties. Floodlights, wall pack units, other types of unshielded lights, and lights where the lens is visible outside of the light fixture shall be prohibited. Non-cutoff light fixtures shall be prohibited. A decorative light pole and fixture utilizing a traditional design style approved by the Planning Commission must be utilized for all lighting not affixed to a structure.
- (B) Illumination Standards. Sidewalks and parking areas shall be properly lighted to facilitate the safe movement of pedestrians and vehicles and provide a secure environment. In parking areas, the light intensity shall average a minimum of 0.5 foot candles. In pedestrian areas, the light intensity shall average a minimum of 2.0 foot candles. Lighting levels shall not exceed 0.5 foot-candles at any common property line with property zoned or used for residential uses.
- (C) Height. All freestanding light poles and fixtures shall not exceed twenty (20) feet.
- (D) Placement. Any freestanding light pole and fixture shall be placed a minimum of ten (10) feet from any property line when proposed to be located adjacent to a residential land use. There shall be no setback requirements for any freestanding light poles and fixtures when abutting any non-residential land use.

## Section 300.08      Access Management Requirements

General standards for parking areas, circulation, and access shall be incorporated as part of the site plan. These standards are found in Chapter 301. As part of the site plan review process, access shall be reviewed relative to the distance from other drive approaches and from roadway intersections. The preferred method of providing access to parcels is to minimize or eliminate driveways by using service roads, rear access roads, or shared driveways. The Planning Commission may, as part of the site plan review process, require that existing driveways be moved, combined, re-aligned, or eliminated to reduce the potential for accidents.

- (A) *Conditional approval of driveways.* As part of the site plan review process, the Planning Commission may approve a site plan with a specific driveway location with the condition that an agreement be first entered into between the property owner and the city, requiring that if a service road is constructed in the future, or if the opportunity for a shared driveway should present itself with development of adjacent property, one or more approved driveways shall be closed and measurements taken to utilize such service road or shared drive. Approval of driveways may also include restrictions on turning movements, locations, or other requirements to ensure safe and efficient traffic movement.

(B) *Construction and use of service roads.* When a service road is required, such improvement shall be constructed by the developer of the involved property before any occupancy or use of the parcel or structure is permitted. When a service road is provided, all access to an adjacent property shall use that service road and no direct access to the main thoroughfare shall be provided.

## Section 300.09 Traffic Impact Study

A traffic impact study shall be a requirement for site plan review if the expected trip generation of the land use is 100 or more cars per hour as identified in the Institute of Traffic Engineers (ITE) Manual. A traffic impact study shall be prepared by a qualified professional engineer registered in the State of Ohio at the developer's expense. The traffic impact study shall investigate the feasibility and benefits of improvements such as signals, turn lanes, driveway movement limitations, and other relevant information to the site to protect the safety of the traveling public. The traffic impact study shall include the following elements:

- (A) A description of the site and study area.
- (B) Anticipated development of adjacent parcels.
- (C) Trip generation and distribution, including a description of all assumptions used to generate findings of trip distribution.
- (D) Modal split, if applicable.
- (E) Traffic assignment resulting from the development.
- (F) Projected future traffic volumes.
- (G) An assessment of the impact that would result from driveway alternatives.
- (H) Recommendations for site access and transportation improvements needed to maintain traffic flow within and past the site at an acceptable and safe level of service.
- (I) An evaluation of the effects the proposed development will have on the level of service and roadway capacity.

## Section 300.10 Conformity to an Approved Site Plan

Property subject to site plan approval must be developed in strict compliance with the approved site plan, inclusive of any amendments, which have received the approval of the Planning Commission.

- (A) If construction and development does not conform with the approved site plan, the approval of the site plan shall be revoked by the Zoning Administrator by written notice of the revocation being posted upon the premises involved, and mailed to the owner at his last known address. Upon revocation of this approval, all construction activities shall cease upon the site until the time the violation has been corrected or the Planning Commission has, upon a proper site plan application being filed by the owner, approved a modification to the site plan to coincide with the owner's construction, or altered plans for construction to be in compliance with the criteria contained in the site plan approval provisions and with the spirit, purpose, and intent of this Zoning Code.
- (B) Approval of the site plan shall be valid for a period of one (1) year beginning from the date of Planning Commission approval. If a building permit has not been obtained and substantial on-site development actually commenced within one (1) year, the site plan approval shall become

void and a new application for site plan approval shall be required and new approval obtained before any construction or site preparation work is commenced upon the site.

(C) *Enforcement.* The city shall require the posting of a surety bond, letter of credit or other similar performance guarantee to ensure that required infrastructure improvements within the public right-of-way are completed in the event that the project is abandoned. The city may suspend the zoning permit when work is not performed as required by an approved site plan.

## Section 300.11 Amendment to an Approved Site Plan

(A) Minor changes to approved site plans may be reviewed and decided by the Zoning Administrator, provided such changes comply with all applicable requirements of this Zoning Code and all other federal, state, county or township laws and regulations.

(B) Major changes must be submitted to the Planning Commission for review in the same manner as the original application was submitted or reviewed. Major changes include but are not limited to:

- (1) Increases in the scope or density of land use, land area, or building size;
- (2) The addition of uses and/or buildings not authorized by the original approval;
- (3) The rearrangement of lot lines or building locations by more than five (5) feet;
- (4) Changes in the character or function of access drives;
- (5) Significant changes in the concept of the development; or
- (6) Any changes which the Zoning Administrator refuses or fails to approve.

## CHAPTER 301 Off-Street Parking and Loading Facilities

Section 301.01	<b>Purpose and Intent</b>
Section 301.02	<b>General Requirements</b>
Section 301.03	Location of Parking Spaces
Section 301.04	Parking Area Design Standards
Section 301.05	<b>Parking Space Dimensions</b>
Section 301.06	<b>Parking Area Access</b>
Section 301.07	<b>Access Driveway Standards</b>
Section 301.08	<b>Off-Street Loading Area Standards</b>
Section 301.09	<b>Lighting Standards</b>
Section 301.10	<b>Parking Lot Landscaping and Perimeter Buffering</b>
Section 301.11	<b>Parking Space Requirements</b>
Section 301.12	<b>Parking for Single or Mixed-Uses</b>
Section 301.13	<b>Joint Use</b>
Section 301.14	<b>Special Standards for Parking Areas Conditionally Permitted in the TO Transitional Office District Serving Business Purposes</b>
<b>Section 301.15</b>	Compact Parking Stalls Permitted
Section 301.16	<b>Municipal Parking Lots</b>
Section 301.17	<b>Parking Area Maintenance Requirements</b>
Section 301.18	Off-Street Parking and Loading Facility Modifications
Section 301.19	<b>Interpretation of the Rules</b>
Section 301.20	<b>Enforcement</b>

### Section 301.01 Purpose and Intent

The purpose of these off-street parking and loading facility regulations is to promote the public health, safety, and welfare by regulating those facilities in all zoning districts. The intent is to provide for convenient and sufficient access to activities which require parking or loading, to limit on-street parking and loading to facilitate traffic flow and safety, to encourage a more attractive economic, business, and residential climate, and to enhance and protect the physical appearance of the community.

### Section 301.02 General Requirements

- (A) No building or structure shall be erected, substantially altered, or its use changed unless permanently maintained off-street parking and loading spaces have been provided in accordance with the provisions of this Chapter. The review process to determine adequacy of parking or loading spaces shall be congruent with the review of site plan applications.
- (B) The provisions of this Chapter, except where there is a change of use, shall not apply to any existing building or structure. Where the new use involves no additions or enlargements, there shall be provided as many spaces as may be required by this Chapter.
- (C) Whenever a building or structure constructed after the effective date of this Chapter is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity, or

# Off-street parking and loading facilities

otherwise to create a need for an increase in the number of existing parking spaces, additional parking spaces shall be provided on the basis of the enlargement or change. Whenever a building, structure or existing parking area existing prior to the effective date of this Chapter is enlarged in an amount that requires a site plan application as provided for in §300.01 or the number of employees, number of housing units or seating capacity is increased, then the building, structure or parking area shall then and thereafter comply with the full parking requirements set forth herein.

- (D) Any vehicle customarily (or seasonally) parked on any lot shall be so parked only in parking areas specially constructed for such purpose, and shall not be parked on tree lawns, sidewalks, lawns or other areas required by this Zoning Code to be landscaped.
- (E) No vehicle shall be customarily (or seasonally) parked or garaged on a lot occupied by a dwelling except a private passenger automobile, or other vehicle or equipment as defined in this Zoning Code, which automobile vehicle or equipment shall be owned or primarily used by the residents of the dwelling or dwellings located on such lot. This subsection shall not prohibit the renting of garage space for parking for a private passenger automobile or other vehicles or equipment, provided that garage space is first provided and used for automobiles, vehicles and equipment owned or primarily used by the residents of such dwelling or dwellings.
- (F) If a parking lot or garage is so operated that a charge is made for the use of the parking facilities, the rates for parking shall be legibly shown upon a sign installed expressly for that purpose, in accordance with applicable sign regulations as set forth in this Zoning Code.

## Section 301.03 Location of Parking Spaces

The following regulations shall govern the location of off-street parking spaces and areas:

- (A) Parking spaces for all detached residential uses shall be located on the same lot as the use which they are intended to service and shall be located in the front yard area.
- (B) Parking areas for attached residential uses shall be located not more than 300 feet from the principal use and shall be located in a side yard or rear yard.
- (C) Parking areas and driveways for all commercial and institutional principal and conditional uses shall conform to the following requirements:
  - (1) Unless completely enclosed and below-ground, off-street parking areas shall be located at least ten (10) feet from any wall of a building if such wall contains ground floor openings (other than a garage door) providing access, light or ventilation to the building.
  - (2) Unless completely enclosed and below-ground, off-street parking areas shall be set back at least ten (10) feet from the right-of-way line, and such parking setback area shall be landscaped in accordance with §301.10 and in such manner as effectively to screen such parking area. There shall be no minimum parking area setbacks from the side or rear property lines so long as the required bufferyard and screening requirements are satisfied.
- (D) Parking areas and driveways for all industrial principal and conditional uses shall conform to the following requirements:
  - (1) Unless completely enclosed and below-ground, off-street parking areas shall be set back at least twenty (20) feet from the right-of-way line.
  - (2) Unless completely enclosed and below-ground, off-street parking areas shall be set back at least ten (10) feet from a side or rear lot line.

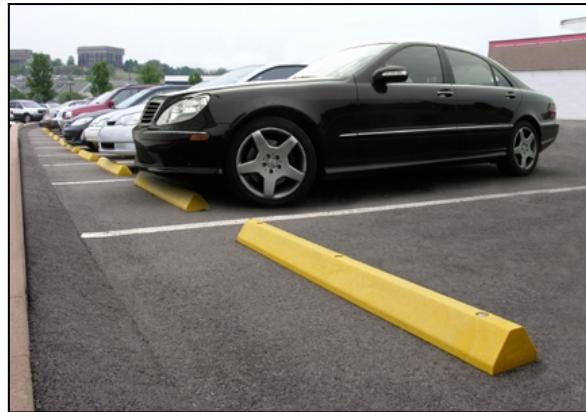
# Off-street parking and loading facilities

(E) Parking areas constructed to serve residential structures converted to commercial use shall be located in the rear yards of the properties.

## Section 301.04 Parking Area Design Standards

- (A) All off-street parking and loading areas including spaces, driveways, aisles and circulation drives shall be hard-surfaced with asphalt, concrete or a combination thereof, meeting the Ohio Department of Transportation construction and material specifications. Gravel or other loose material not comprising a dust free hard surface shall be prohibited for use in any off-street parking and loading area including spaces, driveways, aisles and circulation drives.
- (B) All off-street parking and loading areas including spaces, driveways, aisles and circulation drives shall be graded and maintained so that water does not unreasonably accumulate on such areas nor flow or drain onto adjacent public or private property. All such surfaced areas shall be maintained free of chuck holes, litter, glass, nails or other dangerous materials.
- (C) Stormwater retention requirements shall be reviewed by the City Engineer and designed according to the applicable standards set forth in the Stormwater Regulations.
- (D) Appropriate curbs shall be provided to define off-street parking spaces from access and circulation driveways, and to prevent the extension of vehicles beyond parking spaces.
- (E) An apron with a radius of six (6) feet at the curb line shall be provided to join the driveway to the street.
- (F) Whenever a parking lot extends to a property line, parking blocks or other suitable devices shall be installed to prevent any part of a parked vehicle from extending beyond the property line.

Figure 15: Parking Blocks Illustration

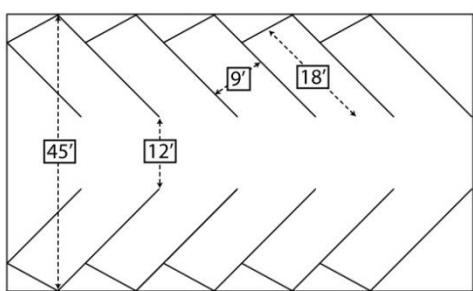


## Section 301.05 Parking Space Dimensions

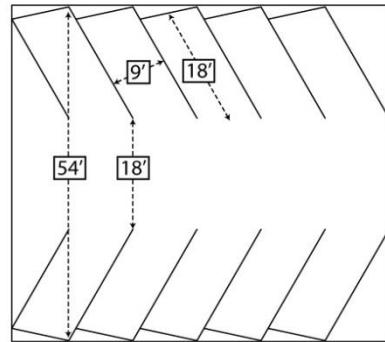
A parking space shall have minimum rectangular dimensions as provided in the following "Parking Space Dimensions Table". All dimensions shall be exclusive of driveways, aisles, and other circulation areas.

**Table 11: Parking Space Dimensions Table and Associated Illustrations**

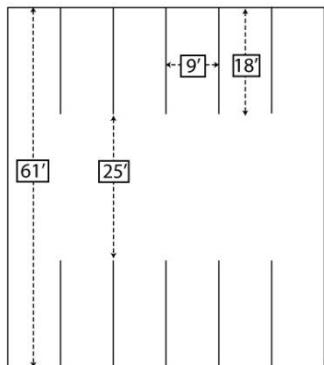
Dimensions	45° Angle	60° Angle	75° Angle	90° Angle
Stall depth to wall	17 feet	18.5 feet	19 feet	18 feet
Stall depth parallel to vehicle	18 feet	18 feet	18 feet	18 feet
Driveway aisle width	12 feet	18 feet	22 feet	25 feet
Stall depth to interlock	15 feet	17 feet	18 feet	18 feet
Stall depth reduction due to interlock	2 feet	1.5 feet	1 foot	0 feet
Stall width parallel to Aisle 1	12.7 feet	10.4 feet	9.3 feet	9 feet
Stall width perpendicular to vehicle	9 feet	9 feet	9 feet	9 feet
Module width wall to wall	45 feet	54 feet	60 feet	61 feet
Module width interlock to interlock	42 feet	51 feet	52 feet	51 feet



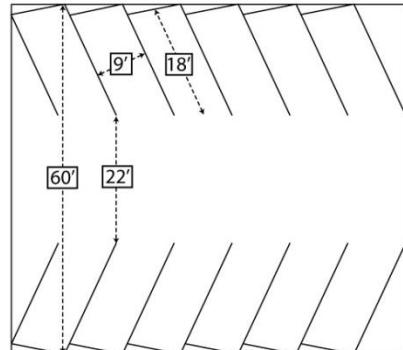
45° Angle Parking



60° Angle Parking



90° Angle Parking



75° Angle Parking

## Section 301.06 Parking Area Access

Any parking area shall be designed in a manner that any vehicle leaving or entering the parking area from or into a public or private street shall be traveling in a forward motion. Access driveways for parking areas or

# Off-street parking and loading facilities

loading spaces shall be located in such a way that any vehicle entering or leaving the area shall be clearly visible for a reasonable distance to any pedestrian or motorist approaching the access or driveway from a public or private street.

## Section 301.07 Access Driveway Standards

- (A) Interior vehicular circulation by way of internal access driveways shall maintain the following minimum standards:
  - (1) Residential Land Uses: Each parking lot or area shall be provided access driveways at least (except one serving only one or two dwelling units) ten (10) feet in width for each direction but with a maximum width of thirty-six (36) feet for any access drive. Only one two-way access drive, or pair of one-way drives, shall be permitted for each one hundred and fifty (150) feet of public street frontage, on the street on which such drive or drives are located, provided that each zoning lot is entitled to have one access drive regardless of lot frontage, and provided further that the Planning Commission, when in its judgment necessary to reduce traffic hazards, may require consolidation of the access drives of any two contiguous zoning lots.
  - (2) Non-Residential Land Uses: Each parking lot or area shall be provided access driveways at least ten (10) feet in width for each direction but with a maximum width of thirty six (36) feet for any access drive. Only one two-way access drive, or pair of one-way drives, shall be permitted for each one hundred (100) feet of public street frontage on the street on which such drive or drives are located, provided that each zoning lot is entitled to have one access drive regardless of lot frontage, and provided further that the Planning Commission may, when in its judgment necessary to reduce traffic hazards, require consolidation of the access drives of any two contiguous zoning lots.
- (B) The entrances and exits to the parking area shall be clearly marked.
- (C) Parking areas having more than one access driveway shall have directional signs or markings in each driveway.

## Section 301.08 Off-Street Loading Area Standards

- (A) All off-street loading areas shall have minimum dimensions of not less than 12 feet in width, 50 feet in length, exclusive of driveways, aisles, and other circulation areas, and a height of clearance of not less than 15 feet. One off-street loading space shall be provided and maintained on the same lot for every separate occupancy requiring delivery of goods and having a gross floor area of up to 5,000 square feet. One loading space shall be provided for each additional 10,000 square feet or fraction thereof unless otherwise provided in this Section.
- (B) For any building or lot used for administrative and professional offices and services, one (1) off-street loading space shall be provided when the gross floor is between thirty thousand (30,000) and one hundred thousand (100,000) sq. ft. One (1) additional loading space shall be provided for each one hundred thousand (100,000) square feet or fraction thereof in excess of one hundred thousand (100,000) square feet.
- (C) For motels and hotels, one (1) off-street loading space shall be provided when the gross floor area is between, ten thousand (10,000) and one hundred thousand (100,000) square feet, and one (1) additional off-street loading space for each one hundred thousand (100,000) gross square feet or fraction thereof in excess of one hundred thousand (100,000) gross square feet.
- (D) For any building or lot used for commercial service facilities, one (1) off-street loading space shall be provided for each ten thousand (10,000) square feet of gross floor area or fraction thereof.

# Off-street parking and loading facilities

- (E) For any building or lot used for storage or wholesale facilities, one (1) off-street loading space shall be provided for each fifteen thousand (15,000) square feet of gross floor area or fraction thereof.
- (F) For any building or lot used for scientific laboratories, one (1) off- street loading space shall be provided for each twenty-five thousand (25,000) square feet of gross floor area or fraction thereof.
- (G) For any building or lot used for manufacturing facilities, One (1) off-street loading space shall be provided for each fifteen thousand (15,000) square feet of gross floor area or fraction thereof.
- (H) In the case of mixed uses, the requirements for off-street loading facilities shall be the sum of the requirements of various uses computed separately. The off-street loading facilities for one use shall not be considered as providing the requirements for any other use except that when two (2) or more contiguous buildings or uses share the same loading facilities the total of such off-street loading facilities may be reduced to not less than seventy-five percent (75%) of the sum of the requirements for the various uses computed separately.
- (I) Off-street loading areas shall conform to the same design standards as are prescribed for construction, drainage, setbacks, screening, access, curbing, illumination and maintenance for off-street parking areas as provides in this Chapter, provided however:
  - (1) In the case of a lot which abuts two (2) or more streets all ingress and egress to loading spaces shall be from the street from which such loading will have less impact upon residential areas;
  - (2) Streets, sidewalks, alleys, or other public rights-of-way, or other public property, shall not be used for loading purposes nor shall vehicles being loaded or unloaded be parked on such areas during loading or unloading; and
  - (3) No part of any required yard, off-street parking area, or access or circulation drives thereto, shall be utilized for loading purposes.
  - (4) Any off-street loading areas serving an industrial, manufacturing or related land use shall be completely enclosed (excluding roof) and shall not be located within seventy-five (75) feet of any Residential District boundary.

## Section 301.09 Lighting Standards

Any parking area which is intended to be used during non-daylight hours shall be properly illuminated to avoid accidents. Any lights used to illuminate a parking lot shall be so arranged as to reflect the light away from the adjoining property. The illumination standards set forth in §300.07 shall govern.

## Section 301.10 Parking Lot Landscaping and Perimeter Buffering

- (A) Intent. In order to mitigate visual impacts on adjacent uses, particularly residential uses, and to protect the health, safety and welfare of the community through the reduction of noise, air and visual pollution, any change in use; or any new, or substantially expanded use; shall provide parking lot landscaping and perimeter buffering in compliance with the requirements of this Chapter.
- (B) Applicability. All proposed new or modified parking lot areas located in any zoning district adding five (5) or more new parking spaces shall comply with these parking lot landscaping and perimeter buffering requirements.

## Off-street parking and loading facilities

(C) Standards. Parking lot landscaping and perimeter buffering for any outdoor parking areas shall be provided in accordance with this Chapter.

- (1) Responsibility for installation shall be with the person in control of developing the project whether as owner, lessee, tenant, or otherwise.
- (2) Required Locations. Perimeter buffering and landscaping shall be provided between the vehicle use area and the public right-of-way; between vehicular use areas and private street easements; in side and rear yards between non-residential and residential uses; and, in side and rear yards between multi-family uses and single family uses. Interior landscaping for vehicular use areas shall be provided in all parking areas.
- (3) Unless specifically approved by Planning Commission, no structure shall be permitted in a required landscape area other than a wall, fence, or earth berm.

(D) Landscaping and Buffering Plan Required. When required by the site plan review requirements set forth in Chapter 300, a Landscaping and Buffering Plan shall be prepared and included in drawings submitted for Planning Commission approval as part of the regular site plan review process. The Landscaping and Buffering Plan shall be prepared by a landscape architect registered in the State of Ohio and shall include those applicable contents required in §302.03 in addition to the following information:

- (1) Name of the applicant/owner.
- (2) Name, address and phone number of the person or firm responsible for the preparation of the Landscaping and Buffering Plan.
- (3) Material to be removed or retained.
- (4) Tabular listings of existing plant material to be retained and proposed plant material within the buffer yard or landscape area with typical planting details for trees, shrubs and ground cover within the landscaped area.

(E) Approval. No site plan approval will be issued by the Planning Commission, and no zoning permit will be issued by the Zoning Administrator until the Landscaping and Buffering Plan has received final approval. Approval of the Landscaping and Buffering Plan is conditioned upon satisfaction of the following criteria:

- (1) Landscaping and perimeter buffering material shall be fully installed on the site by completion of construction; or,
- (2) If not feasible due to seasonal conditions, within one planting season after completion of construction. A guarantee agreement regarding the postponed improvement must be secured with a letter of credit, cash escrow or other instrument in an amount equal to the cost of such installation.

(F) Perimeter Parking Lot Landscaping. Parking lots containing five (5) spaces or more shall provide perimeter landscaping meeting the following minimum requirements:

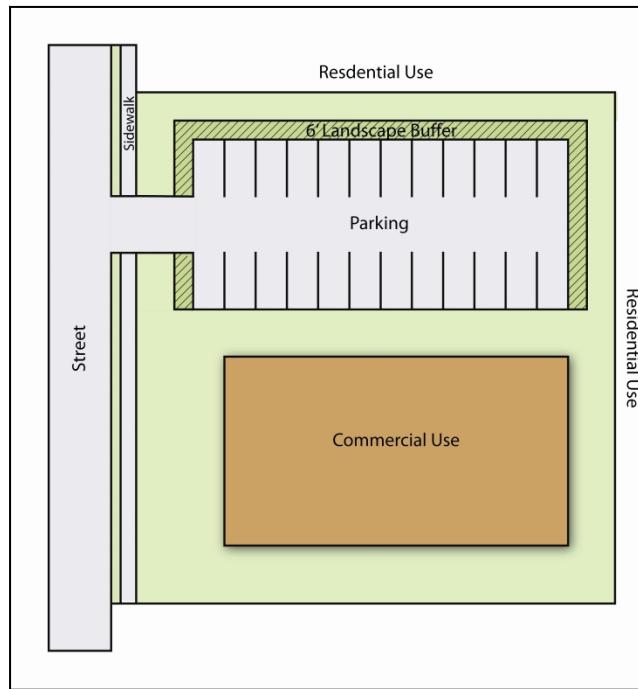
- (1) These perimeter landscape and buffer areas shall consist of earth mounds, decorative fences or masonry walls, vegetative screens or combinations of these sufficient to screen views of vehicular use areas. The minimum width of any perimeter landscape or buffer area shall be six (6) feet. Perimeter landscaping shall be designed to provide a minimum of 50% opacity upon installation and minimum of 70% opacity at maturity. Perimeter landscape buffering shall contain evergreen and deciduous plant materials as approved by

# Off-street parking and loading facilities

the Planning Commission in consideration of desired opacity and need for year-round screening. Material shall be kept neat and trimmed throughout the entire year.

Figure 16: Perimeter Parking Lot Landscaping Illustration

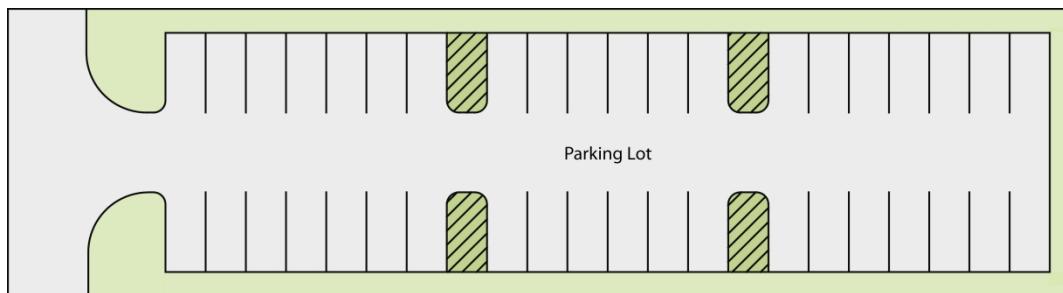
*Illustration showing location of perimeter parking lot landscape buffering when abutting residential land uses.*



- (2) Curbs or parking stops shall be provided to prohibit bumpers and bodies of parked vehicles from over-hanging a perimeter buffer landscape area by more than two and one-half (2.5) feet.
- (3) In order to retain visibility along public rights-of-ways, trees shall have a clear trunk of at least five (5) feet above the ground. Shrubs and other landscape material shall not exceed three (3) feet unless approved by the Planning Commission.
- (G) Interior landscaping which meets the following requirements shall be provided for parking areas containing more than 6,000 square feet of paved area or more than 20 vehicular parking spaces, whichever is less. Interior landscaping is required in addition to perimeter landscaping.
  - (1) For every ten (10) parking spaces or fraction thereof, the applicant shall provide not less than two hundred (200) square feet of interior landscaped parking lot area containing at least one tree with a minimum caliper of three inches (3) and two shrubs within each individual landscape area. For example, a parking lot containing thirty (30) parking spaces would be required to install a minimum of 600 square feet of landscape area containing a minimum of three (3) trees and six (6) shrubs.

Figure 17: Interior Parking Lot Landscaping Illustration

*Illustration showing shaded areas representing four interior parking lot landscape areas based on a forty space parking lot consisting of 800 square feet of total interior landscape area with each individual landscape area containing at least one tree and two shrubs.*



- (2) In order to assure that landscape areas are properly dispersed and to break up large expanses of parking pavement, no individual landscape area shall be larger than five-hundred (500) square feet in size in vehicle use areas less than 30,000 square feet and no individual area shall be larger than two-thousand (2,000) square feet in vehicular use areas larger than thirty-thousand (30,000) square feet.
- (4) Curbs or parking stops shall be provided to prohibit bumpers and bodies of parked vehicles from over-hanging an interior landscape area by more than two and one-half (2.5) feet.
- (5) In order to retain visibility, trees shall have a clear trunk of at least five (5) feet above the ground. Shrubs and other landscape material shall not exceed three (3) feet unless approved by the Planning Commission.
- (H) Landscape and Buffering Waivers. In its consideration of modifications from the requirements of these landscape and buffering regulations, the Planning Commission shall consider unique site conditions, setbacks, line of sight, noise, nuisance or site aesthetics. Financial hardship shall not constitute a factor in considering a waiver.
  - (1) A request to modify any of the requirements under this Section shall be made in writing to the Planning Commission by the applicant and shall provide a detailed statement regarding the unique nature and circumstances warranting the requested modifications.

## Section 301.11 Parking Space Requirements

For the purpose of this Chapter, the following parking space requirements provided in Table 12 shall apply. In the event a land use is not listed in Table 12, the following procedure for determining the appropriate land use designation shall occur:

- (A) The Zoning Administrator shall refer to the land uses listed in Table 12 to assist in determining a suitable land use that is substantially similar to the use under consideration based upon size of use or structure, intensity of use and general type of land use.
- (B) If the Zoning Administrator determines that the land use under consideration is not substantially similar to any of the land uses provided for in Table 12, the Zoning Administrator shall then

## Off-street parking and loading facilities

establish a minimum parking space requirement. This minimum parking space requirement shall be documented with supporting data or other zoning code samples setting forth a reasonable minimum parking space requirement based upon the land use under consideration and further based on those industry accepted parking plan elements including, but not limited to:

- (1) Estimated number of vehicle trips per day.
- (2) Estimated number of occupants for both all structures or open areas located upon the parcel under consideration based upon maximum building occupancy figures and other industry related data which provides insight into the intensity and timing of vehicle usage of the land use under consideration.

Table 12: Parking Space Required Based on Use

Residential Uses	Parking Spaces Required
Multi-family dwelling /attached condominium units	Not less than two (2) off-street parking spaces shall be provided on the same zoning lot occupied by a multiple family dwelling for each dwelling unit with one, two or three bedrooms, and one off-street parking space for each efficiency or studio dwelling unit, provided, however, when a multiple family dwelling is designed or operated for occupancy by persons aged sixty-two years or older and is actually occupied at least eighty percent (80%) by such persons, a lesser number of parking spaces (but not less than one off-street parking space for each two dwelling units) may be approved by the Planning Commission.
Two-family dwelling	(b) Two Family Dwellings. Not less than two (2) off-street parking spaces shall be provided for each dwelling unit on the same zoning lot upon which each two family dwelling is located, at least one of which spaces for each dwelling unit shall be in a detached or attached parking garage, or in a garage integral to the dwelling.
Townhouse	Not less than two (2) off-street parking spaces shall be provided for each townhouse on the same zoning lot upon which each townhouse is located, at least one of which spaces for each townhouse shall be in a detached or attached parking garage, or in a garage integral to the dwelling.
Single family dwelling, townhouse	Not less than two (2) off- street parking spaces shall be provided on the same zoning lot upon which each single family dwelling is located, at least one of which spaces shall be in a detached or attached parking garage, or in a garage integral to the dwelling.

Institutional Uses	Parking Spaces Required
Amphitheater, arena, auditorium, banquet, exhibition or meeting halls, stadium	One space for each three seats or one space per 50 sq. ft. of net floor area where fixed seating is not available.
Athletic/play field	Ten spaces per acre.
Cemetery	One space per employee.
Community (recreation) center	One space per 200 sq. ft. of net floor area.
Day care center, child, pre-school	One space per employee + one space for each facility vehicle stored on the lot + one parking space for each six children.
Educational institution school, elementary (K-6)	One space for each three seats in any auditorium, or one space for each classroom, whichever is greater.

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Educational institution school, junior high/middle school	One space for each three seats in any auditorium, or one space for each classroom, whichever is greater.
Educational institution school, senior high	One space per employee + twelve visitor spaces, plus one space per six students.
Educational institution school, vocational/professional	One space per employee + one space per two registered student capacity.
Educational institution university or college	One space per two employees + one space per four students.
Funeral home or mortuary	One space per 75 sq. ft. of parlor or chapel space or one per five seats, whichever is greater, but not less than 20 spaces.
Government buildings	One space per 250 sq. ft. of net floor area or one space per four patrons, whichever is greater.
Group home	One space per employee on shift of max. employment + two visitor's spaces or one space per employee plus one space per two residents where residents can own vehicles.
Halfway house	One space per bed + one per employee.
Library	One space per 400 sq. ft. of net floor area.
Nursing, convalescent home & continuing care facility	One space per six residents + one space per employee.
Parks, playgrounds	Four spaces per acre.
Religious places of worship	One space per four seats or bench seating in the main assembly room.

### Commercial & Office Uses

### Parking Spaces Required

Art gallery, antique store, interior decorator service	One space per 300 sq. ft. of net floor area.
Automobile and truck rental	One space per 400 sq. ft. of net floor area
Automobile filling station (with repair)	One space per pump + one space per employee + two spaces per service bay (excluding the bay space) and one space per vehicle used in operation of the service
Automobile repair	Two spaces per service bay (excluding the bay) + one space per employee and one space per-vehicle used in operation of the service.
Automobile sales (accessory service)	One space per 400 sq. ft. of net floor area of sales, shop or garage + one space per employee.
Bowling alley	Six spaces per lane.
Building materials, sales and distribution	One space per 400 sq. ft. of net floor area.
Car wash, automated	Five stacking spaces for each automated car wash lane.
Car wash, self service	Four stacking spaces for each stall + two drying spaces for each stall.
Club, Private	One space for each 50 square feet of net floor area used for assembly, game room, dancing or dining, plus one for each sleeping room.
Convenience store	One space per 200 sq. ft. of net floor area + one space per pump + one space per employee.
Delicatessens, bakery goods, meat, fruit & vegetable markets	One space per 150 sq. ft. of net floor area.
Drive-in or drive-through facility	Five stacking spaces per lane + one space per employee if entirely drive-through.
Durable goods, carpet, furniture and appliances, sales & rental	One space per 400 sq. ft. of net floor area.

## Off-street parking and loading facilities

Financial institution	One space per 200 sq. ft. of net floor area + stacking space for drive-in service lane.
Golf course	Four spaces for each hole + one space for 100 sq. ft. of net floor area in any cocktail lounge, bar, or similar facility.
Grocery store	One space per 167 sq. ft. of net floor area.
Health & fitness facility	One space per 200 sq. ft. net floor area.
Miniature golf course	Two spaces per hole + one space for each 100 sq. ft. of net floor area for other indoor game activities.
Mini-storage facility	Three spaces + one space per 100 individual storage units.
Motel/hotel	One space per lodging unit, meeting rooms and restaurants calculated separately.
Motorcycle, sales & service	One space per 400 sq. ft. of net floor area.
Office (excluding medical)	Five parking spaces for the first 1,000 sq. ft. or fraction thereof, plus one space per 250 sq. ft. of net floor area in excess of 1,000 sq. ft.
Office, medical/clinic	Six spaces + One space per 200 sq. ft. of net floor space in excess of 1000 sq. ft.
Personal services	One space per 200 sq. ft. of net floor space.
Photo lab, picture, TV or sound studio	One space per one and one-half employees + one space per facility vehicle.
Restaurant drive-through access	Five stacking spaces per drive-through lane.
Restaurant/tavern	One space per 50 sq. ft. of net floor area + one space for each employee on the largest shift.
Retail, sales and service	One space per 200 sq. ft. of net floor area.
Shopping center	One space per 222 sq. ft. of net floor area of general retail space + additional spaces, as required herein, for associated offices, theaters, and restaurants.
Skating facility	One space per 250 square feet of net floor area.
Studio: art, dance, gymnastics, music	Five spaces, plus one space for each 150 sq. ft. of net floor area in excess of 500 sq. ft.
Swim facility	One parking space for each 50 square feet of pool area + one per employee.
Swimming pools, tennis or racquet clubs, and similar recreation facilities open to the public for a fee	One parking space for each 50 square feet of pool area; eight spaces for each indoor tennis court; five spaces for each outdoor tennis court; five spaces for each racquet ball and/or handball court.
Tennis or racquet clubs, and similar recreation facilities	Eight spaces for each indoor tennis court; five spaces for each outdoor tennis court; five spaces for each racquet ball and/or handball court.
Veterinarian facility	Three parking spaces for the first 750 sq. feet or fraction thereof, plus one space for each 300 square feet of net floor area in excess of 750 square feet.
Theater, motion picture or live performance	One space per three seats.

### Industrial Uses

### Parking Spaces Required

Flammable liquids/gases, heating fuel distribution and storage	One space per employee on maximum work shift + one space per facility vehicle used in operation of the service.
Government storage yard	One space per employee on maximum shift + one space per facility vehicle + one space per 250 sq. ft. net floor area.
Machinery, boat, truck, farm & construction equipment sales, rental & service	One space per 1000 sq. ft of net floor area + one space per 2,500 sq. ft. of outdoor display area + one space per employee.
Manufacturing, transfer station, research lab	One space per one and one-half employees on maximum work

# Off-street parking and loading facilities

	shift + one space per facility vehicle.
Telecommunication towers	One space.
Vehicle storage yard	One space per employee on maximum shift + one space per facility vehicle + one space per 250 sq. ft. net floor area.
Warehouse, display room for wholesale activities	One space per two employees on maximum work shift or for 2,000 square feet of warehouse floor area + additional space for office area as per general office requirements, whichever is greater.

## Section 301.12 Parking for Single or Mixed-Uses

A building occupied by one use shall provide the off-street parking spaces required for the specific use. A building or group of related buildings occupied by two or more uses, operating normally in whole or in part during the same hours, shall at least provide a total number of spaces equal to the sum of the spaces required for each use if that use occupied a separate building. However, for large unit development of similar business uses, such as shopping centers, spaces may be provided on the basis of the total area of the building or buildings located thereon.

## Section 301.13 Joint Use

- (A) Two or more non-residential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap, provided that a written agreement approved by the Zoning Administrator shall be filed with the application for a zoning permit.
- (B) Two or more non-residential uses which do have overlapping hours of operation may jointly provide and use parking spaces, with a reduction of their combined required number of spaces by 25%. This is to encourage sharing of facilities, thus reducing the amount of land devoted to parking facilities. A written agreement between the joint nonresident users must be approved by the Zoning Administrator and shall be filed with the application for a zoning permit.

## Section 301.14 Special Standards for Parking Areas Permitted in the TO Transitional Office District Serving Business Purposes

These parking areas are subject to the following conditions and limitations:

- (A) The parking area shall be for use in connection with uses located in the adjacent business district.
- (B) The parking area shall not be less than 500 square feet and shall abut at least 75 feet on the adjoining business district or on the alley or street constituting the boundary.
- (C) The lot shall be used solely for the parking of passenger automobiles.
- (D) The lot shall not be used for repair work or servicing of any kind.
- (E) No signs of any kind shall be erected on the lot.
- (F) All bufferyard and screening requirements as provided for in §302.04

## Section 301.15 Compact Parking Stalls Permitted

Compact car stalls meeting all standards set forth in this Section may be permitted as follows:

- (A) A compact stall space shall be a dimension not less than 8 feet in width and 16 feet in length.
- (B) Compact stalls shall be permitted for projects that provide more than 40 off-street parking spaces.

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- (C) Developments with 40 to 800 required off-street parking may be permitted to utilize a maximum of 15 percent compact stalls. Developments with 800 or more required off-street parking may be permitted to utilize a maximum of 25 percent compact stalls.
  - (1) When computations under this section result in a fractional allowance of more than .75 compact stall spaces, one additional compact stall space may be provided.
- (D) Compact spaces shall be dispersed throughout the development, and not be located at the main entrance.
- (E) Compact spaces shall be designated “COMPACT” and shall be visible day and night.
- (F) Compact stall spaces must be designed for 90 degree parking and located opposite a 45 degree or 30 degree full-sized aisle and parking stall.

## **Section 301.16 Municipal Parking Lots**

- (A) In the event that any land is acquired by the City by lease or otherwise, for the purpose of providing municipal off -street parking, any structure or use for which such land at the time of the taking by the City provided required off-street parking may thereafter count, in satisfaction of its required off-street parking, that number of parking spaces which were used or intended for parking for such structure or use at the time of the taking by the City.
- (B) The Zoning Administrator shall prepare a written report indicating the exact number of off -street parking spaces to be credited to each structure or use as provided herein. Such report, upon review and approval by the Planning Commission, shall become part of the permanent record of such municipal parking improvement.

## **Section 301.17 Parking Area Maintenance Requirements**

- (A) The property owner(s) and/or tenant(s) shall have a continued obligation to maintain the required landscaping and buffering elements, parking lot surfaces, private access drives as provided for in striping, signing, etc. in good condition.
  - (1) Landscaping shall be kept alive and maintained in an orderly manner.
  - (2) Parking lot surfaces shall be kept free of holes and substantial deterioration.
  - (3) Striping shall be visible.
  - (4) Parking lot directional signs shall be kept in place and legible.
- (B) All parking areas for five or more spaces shall be marked with paint lines, curbs, or in some similar manner approved by the Planning Commission and shall be maintained in a clearly visible condition.
- (C) The Zoning Administrator shall have the authority to prohibit the use of the area for parking purposes unless and until proper maintenance, repair or rehabilitation is affected.

## **Section 301.18 Off-Street Parking and Loading Facility Modifications**

New development and expansion projects located within a non-residential zoning district may request a waiver from the minimum off-street parking space requirements required under this sub-section when it is shown

# Off-street parking and loading facilities

that adequate off-street parking area is not available to meet the required standards and the existence of other parking arrangements will satisfy the parking space requirements including, but not limited to utilizing the following methods: on-street parking, and off-street parking located on an adjacent lot or lot in close proximity to the subject parcel.

## **Section 301.19      Interpretation of the Rules**

In the interpretation of this Chapter, the following rules shall be in effect:

- (A) In calculating parking requirements, fractional numbers shall be increased to the next whole number. For example, 13.01 shall mean fourteen (14).
- (B) "FLOOR AREA" shall mean the outside dimensions of the building, including all projections such as stairways and porches, multiplied by the number of floors. The resulting number shall be the square footage of the building used for determining the number of off-street parking spaces required.
- (C) Where there is an adequate public transit system or where parking demand is unusually low, the parking space requirements may be reduced proportionally by the Zoning Administrator.

## **Section 301.20      Enforcement**

Whoever violates any provision of these Off Street Parking and Loading Facilities, and fails to conform to any provision thereof or fails to obey any lawful order of the Zoning Administrator, issued in pursuance thereof, shall be subject to the penalty provisions set forth in §101.12 of this Zoning Code.

## CHAPTER 302      Landscape and Bufferyard Standards

Section 302.01	<b>Purpose and Intent</b>
Section 302.02	<b>Applicability</b>
Section 302.03	<b>Landscape Plan Required</b>
Section 302.04	<b>Bufferyard Requirements</b>
Section 302.05	Bufferyard Materials and Standards
Section 302.06	Easements and Setbacks
Section 302.07	<b>Landscaping and Screening for Service Structures</b>
Section 302.08	Building Foundation Landscaping
Section 302.09	Street Frontage Landscaping
Section 302.10	Plant Lists
Section 302.11	Landscape and Bufferyard Modifications

### Section 302.01      Purpose and Intent

Landscaping and visual screening for office, commercial, institutional, and multifamily residential properties shall be provided for the following purposes:

- (A) To remove, reduce, lessen or absorb the impact between certain land uses by the proper utilization of landscaped and screened buffers.
- (B) To minimize potential noise, glare and visual clutter of parking and loading areas, trash receptacles and outdoor storage by obscuring the view with landscaping and screening.
- (C) To protect, preserve and promote the aesthetic appeal, character and value of the City of Berea's neighborhoods, particularly by providing interest along the streetscape.
- (D) To soften the appearance of building masses and to break up and reduce the impact of large paved areas.
- (E) To reduce heat generation, stormwater run- off and soil erosion.
- (F) To establish a minimum standard for the consistent appearance of plant material in the Berea community landscape plan.

### Section 302.02      Applicability

This Chapter shall apply to new property development and any collective substantial expansion of existing structures, new or expanded parking lots consisting of the creation of five (5) new parking space or more, except for individual single-family dwellings and two-family dwellings (duplexes). Substantial expansion of existing structures shall be defined based on the criteria established below:

When Existing Structure is....	A Substantial Expansion is....
0 - 1,000 Sq. Ft.	50% or Greater
1,001 - 10,000 Sq. Ft.	40% or Greater
10,001 - 25,000 Sq. Ft.	30% or Greater
25,001 - 50,000 Sq. Ft.	20% or Greater
50,001 Sq. Ft. and larger	10% or Greater

# Landscape and bufferyard standards

## Section 302.03 Landscape Plan Required

- (A) No site plan or subdivision plat required under this Zoning Code shall receive final approval unless a landscaping plan has been submitted and approved.
- (B) No zoning permit shall be issued unless such plan has been fully implemented on the site.
- (C) A Landscape and Buffering Plan shall be prepared and submitted along with the site plan review application. The Landscape and Buffering Plan shall be provided on a separate plan view sheet and contain the following information:
  - (1) Name of the applicant/owner.
  - (2) Name, address and phone number of the person or firm responsible for the preparation of the Landscaping and Buffering Plan.
  - (3) Material to be removed or retained.
  - (4) Tabular listings of existing plant material to be retained and proposed plant material within the buffer yard or landscape area with typical planting details for trees, shrubs and ground cover within the landscaped area.

## Section 302.04 Bufferyard Requirements

The following table provides the minimum location, size and screening material requirements for all bufferyard areas.

Table 13: Bufferyard Requirements

WHEN...	IS PROPOSED TO ABUT...	A MINIMUM BUFFERYARD OF...	PLANT MATERIAL
Any retail, office or commercial land use of 20,000 square feet or more of gross floor area	Any R-SF-A, R-SF-B, R-SF-T or MFR zone or residential land use**	50' side and/or rear bufferyard is required with...	40' wide, 6' tall earthen berm + 1 tree (A)* at a maximum of 25' O.C. + a double-row 6' hedge (E)*
Any retail, commercial or office land use under 20,000 square feet or more of gross floor area	Any R-SF-A, R-SF-B, R-SF-T or MFR zone or residential land use**	30' side and/or rear bufferyard is required with...	6' wall, fence or earth mound + 3' hedge (D)* + 1 tree (A)* at 25'-35' O.C. OR A double row, staggered planting of trees (C)* 15' O.C.
Any industrial land use	Any R-SF-A, R-SF-B, R-SF-T, MFR, TO, NC, CC, DT, UT, CD or DD zone or residential or commercial land use**	50' side and/or rear bufferyard is required with...	40' wide, 6' tall earthen berm + a double row of staggered trees (C)* at 15' O.C. STORAGE YARD – 6' fence or wall + hedge (E)* facing front yard only and/or drive

## Landscape and bufferyard standards

WHEN...	IS PROPOSED TO ABUT...	A MINIMUM BUFFERYARD OF...	PLANT MATERIAL
Any multi-family land use	Any R-SF-A, R-SF-B or R-SF-T zone or residential land use**	15' side and/or rear yard is required with...	EITHER: 1 tree (A)* at 25'-35' O.C. + a double row 6' hedge (E)* OR 6' wall, fence or earth mound + a 3' hedge (E)* OR a double row, staggered planting of trees (C)* at 15' O.C.
Any institutional land use	Any R-SF-A, R-SF-B, R-SF-T or MFR zone or residential land use**	15' side and/or rear yard is required with...	EITHER: A staggered double row of evergreens and trees (B and C)* at 15' O.C. + a single row 6' hedge (E)* OR 6' wall or fence + 1 tree (A)* at 25'-35' O.C.
Any business land use	The public right-of-way, public or private street	10% of total front yard area must be landscaped with...	Trees, shrubs, planting beds, and/or perennials in a motif designed by the owner. This is in addition to other required landscaping
A parking area associated with any zone or land use except single-family residences	Any public or private street	6' perimeter screening easement with...	EITHER: 1 tree (A)* at 25'-35' O.C. + shrubs (D or E)* at 3' O.C. OR 1 tree (B)* at 20'-30' O.C. See *** below.
<p><u>Notes:</u></p> <p>* (A, B, C, D or E) - Means plantings from the list(s) in parentheses found in §302.11.</p> <p>** "Land use" refers to the referenced land use that may be located in a zoning district that currently does not permit that type of land use. e.g. a residential land use located in a commercial zoning district would qualify as a "residential land use" for the purposes of this Bufferyard Requirements Schedule).</p> <p>*** In this situation, the property perimeter screening may also count as Parking Area perimeter screening.</p> <p><i>General Note: O.C. - Means "on center" unless otherwise noted.</i></p>			

### Section 302.05 Bufferyard Materials and Standards

New development and expansion projects shall provide buffering yards as provided in Table 13. Existing vegetation shall be preserved in accordance to acceptable nursery industry procedures. The following items are suitable for screening use individually or in combination with each other provided they create a dense screen, subject to review and approval by the Planning Commission. Nursery stock identification tags shall not be removed from any planting prior to inspection and approval of final installation by the city.

(A) *Walls and fences.* When walls or fences are used to fulfill screening requirements, they shall be detailed on the plan. They are to be of weather-proof materials. This includes pressure treating or painting of lumber if it is not redwood or cedar and using aluminum or galvanized hardware.

## Landscape and bufferyard standards

Chain link fences with or without wooden or synthetic slat material shall not be permitted when used to satisfy bufferyard requirements.

(B) *Plants.* All plants are to be living and part of the acceptable plants list identified in this Chapter or identified as acceptable plant material for hardiness in this USDA Agricultural Zone and as approved by the Planning Commission. Plant materials used in conformance with the provision of this section shall conform to the standards of the American Association of Nurserymen and shall have passed any inspection required under state regulations. Trees shall be balled and burlapped or in containers. Shrubs, vines and ground covers can be planted as bare root as well as balled and burlapped or containers. All trees shall be measured from the top of the root ball to the top of the tree mass.

(1) Deciduous trees. Deciduous trees shall have a minimum caliper of at least three (3) inches with a single central leader, for large and medium trees, conforming to acceptable nursery industry procedures at the time of planting. If deciduous trees are to be used for screening purposes, additional materials listed in this section must be used to create a dense bufferyard.

(2) Evergreen trees. Evergreen trees shall be a minimum of eight (8) feet in height at the time of planting and shall be unsheared, full and branched to the ground. Evergreen plantings shall be designed to provide an effective, dense screen within four years of planting.

(3) Shrubs and hedges. Shrubs and hedges shall be at least 36 inches in height at the time of planting. All shrubs and hedges shall be designed to provide an effective, dense screen and mature height of at least six feet within four years after the date of the final approval of each planting. The height at installation of the planting shall be measured from the level of the surface of the plant base at the edge closest to the screening.

(4) Grass or ground cover. Grass of the Fescue (Gramineak) or Bluegrass (Poaceae) family shall be planted in species normally grown as permanent lawns in northeast Ohio. In swales or other areas subject to erosion, solid sod, erosion reducing net, or suitable mulch and temporary seeding shall be used for immediate protection until complete coverage otherwise is achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases. Grass shall be sown or placed in any area not landscaped or paved. Ground cover shall be planted in such a manner as to provide 75% complete coverage after two growing seasons, but in no circumstance shall planting be more than 12 inches on center to present a finished appearance. Rocks, pebbles, sand and similar materials are not approved ground cover.

(5) Earth mounds. Earth mounds may be used as physical barriers which block or screen a view. Differences in elevation between areas requiring screening does not constitute an earth mound. Earth mounds shall be constructed of earthen materials and shall conform to the following standards:

(a) The maximum side slope shall be three horizontal to one vertical (3:1) and the design shall be reviewed by the Planning Commission to ensure that proper erosion prevention and control practices have been utilized.

(b) Berms and earth mounds shall be designed with physical variations in height and alignment throughout their length.

(c) Landscape plant material installed on berms and earth mounds shall be arranged in an irregular pattern to accentuate the physical variation and achieve a natural appearance.

## Landscape and bufferyard standards

- (d) The landscape plan shall show sufficient detail, including a plan and profile of the berm or earth mound, soil types and construction techniques to demonstrate compliance with the above provisions.
- (e) Berms and earth mounds shall be located and designed to minimize the disturbance to existing trees located on the site or adjacent thereto.
- (f) No part of any berm or earth mound which is elevated more than 30 inches above natural grade shall be located within ten feet of any right-of-way or property line.
- (g) Adequate ground cover shall be used and maintained to prevent erosion of the earth mound.
- (h) Topsoil shall be placed over the all earth mounds at a depth of four inches to facilitate vegetation growth on the mound.

(6) *Bedding surface.* Any landscaped area shall not contain bare soil. Any ground area shall be covered with hardwood mulch, grass or other vegetative ground cover. Aggregated stone or decorative rock may be approved by the Planning Commission. All plant material will be mulched with shredded hardwood mulch, or approved equal. Plant material massings will be incorporated into mulch beds.

(C) *Maintenance of bufferyards and landscaping.*

- (1) All landscaping materials shall be installed and maintained according to accepted nursery industry procedures. The owner of the property shall be responsible for the continued property maintenance of all landscaping materials, and shall keep them in a proper, neat and orderly appearance, free from refuse and debris at all times. All unhealthy or dead plant material shall be replaced within one year of the certified date of planting, or by the next planting period, whichever comes first, by plant material similar in size and type to that which was removed.
- (2) Violation of these installation and maintenance provisions shall be grounds for the Zoning Administrator to refuse the issuance of a zoning permit, require replacement of the landscape material or institute legal proceedings to enforce the provisions of this Chapter.
- (3) The owner or developer must provide a maintenance plan at the site plan review before Planning Commission which indicates how the established bufferyards and landscaping will be maintained.

(D) *Bufferyard establishment.* Once a bufferyard has been approved by the Planning Commission and established by the owner, it may not be used, disturbed or altered for any purpose. No temporary or permanent structures shall be placed or erected within any required bufferyard areas. Approved bufferyard walls may be placed in the bufferyard areas.

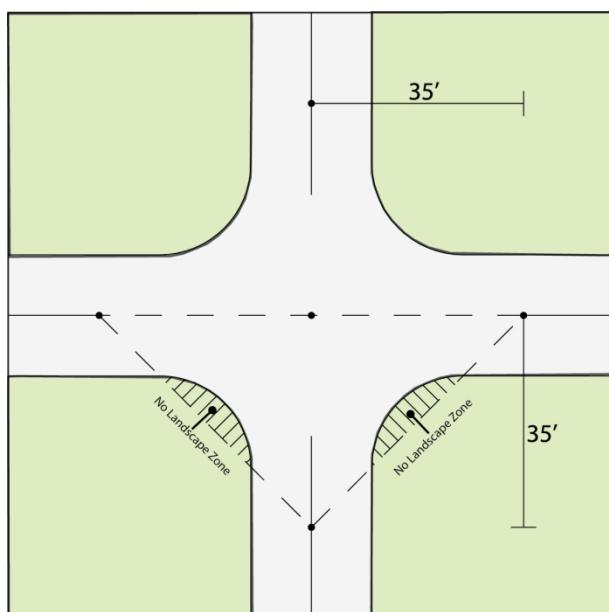
# Landscape and bufferyard standards

## Section 302.06 Easements and Setbacks

- (A) Required landscaping may be placed wholly or partially in utility or other easements providing all requirements can be fulfilled and approval is granted by the holder of the easements. Trees placed under overhead utility wires must be from Plant List A provided in §302.11.
- (B) In no case, however, shall landscaping and bufferyards be established so as to block the sight distance at street or drive intersections. Ground cover and trees with at least eight feet of limbless trunk shall be permitted within the sight distance triangle. In the case of a city street intersection, the sight triangle shall consist of the area between points 35 feet from the right-of-way line along both intersecting streets.

Figure 18: Site Distance Triangle Illustration

*Site distance triangle illustrating no landscape zones at intersection areas.*



## Section 302.07 Landscaping and Screening for Service Structures

Service structures shall include but not be limited to loading docks, propane tanks, dumpsters, electrical transformers, utility vaults which extend above the ground, ground mounted utility equipment and electrical and other equipment or elements providing service to a building or a site located in any non-residential zoning district. Structures may be grouped together. However, screening height shall be based upon the tallest of the structures, unless otherwise set forth in this Chapter.

- (A) *Location of screening.* A continuous planting of evergreen, solid wood fence, solid brick wall must enclose any service structure on all sides, unless such structure must be frequently moved or accessed, in which case screening material shall be one foot more than the height of the enclosed structure, but shall not be required to exceed ten feet in height. Whenever a service structure is located next to a building wall, perimeter landscaping material shall be of an average height sufficient to meet the height requirements set out in this section. Whenever service structures are screened by plant material, such material may count towards the fulfillment of required site

# Landscape and bufferyard standards

landscaping. No interior landscaping shall be required within an area screened for service structures.

Figure 19: Dumpster Screening

*Illustration of a dumpster screened using a solid wood fence.*



**(B) Trash Receptacle or Dumpster Screening Guidelines.**

- (1) All trash containers, dumpsters and/or trash collection areas shall be located in the rear yard area of the lot and shall be fully screened by means of a minimum six (6) foot high brick wall or solid wooden fence. Such wall or fence materials shall architecturally match those exterior materials found on the principal building.
- (2) Whenever screening material is placed around any trash disposal unit or waste collection unit which is emptied or removed mechanically on a regular basis, a curb to contain the placement of the container shall be provided within the screening material. The curbing shall be at least one foot from the material and shall be designed to prevent possible damage to the screening when the container is moved or emptied.

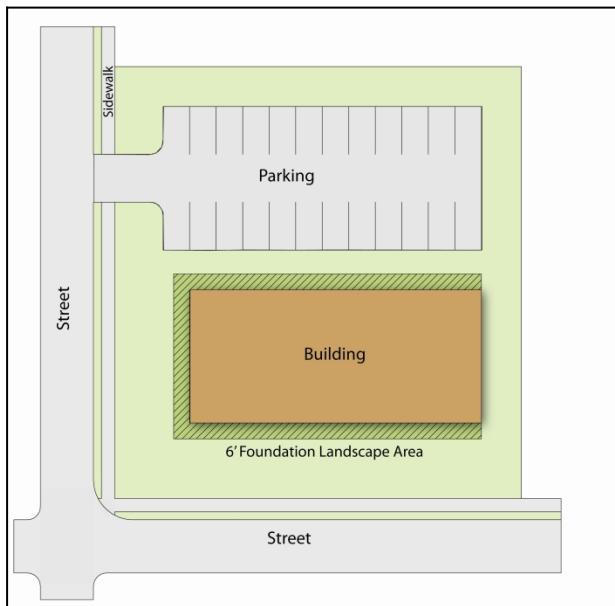
**Section 302.08 Building Foundation Landscaping**

**Building Foundation Landscaping.** A building foundation planting area providing a minimum width of six (6) feet and containing ornamental and/or coniferous trees, shall be provided between the building face and any public or private street and between the building face and any off-street parking areas. Building foundation landscaped areas shall contain a minimum of one (1) tree and twelve (12) shrubs for every one-hundred (100) square feet of required building foundation landscape area. For example, if the required building foundation planting area is 425 square feet, then 4 trees and 48 bushes would be required.

# Landscape and bufferyard standards

Figure 20: Building Foundation Landscaping Illustration

*Illustration defining the areas requiring foundation landscaping for a corner lot.*



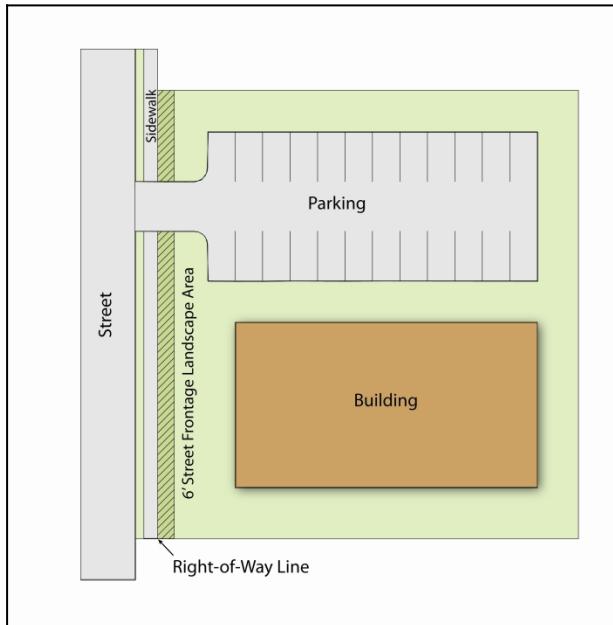
## Section 302.09 Street Frontage Landscaping

Any project located within an TO, NC, CC, DT, BR-CD, UT, DD or CD zoning district and meeting the applicability requirements of this Chapter shall provide landscaping along the perimeter of the front yard area when abutting any public right-of-way and public or private street. A minimum of ten percent of the front yard area shall be landscaped with a combination of trees, shrubs, planting beds or perennials. Street frontage landscaped areas shall contain a minimum of one (1) tree and twelve (12) shrubs for every one-hundred (100) lineal feet of required landscape area. The minimum width of any street frontage landscape area shall be six (6) feet and shall be located adjacent to the edge of the public right-of-way or other suitable location as determined by the Planning Commission. Required building foundation planting areas shall not be counted toward the street frontage planting area requirements.

# Landscape and bufferyard standards

Figure 21: Street Frontage Landscaping Illustration

*Illustration defining the areas requiring street frontage landscaping.*



## Section 302.10      Landscape and Bufferyard Modifications

(A) The Planning Commission may approve modifications to the landscape and bufferyard standards. The Planning Commission shall consider the following factors when determining whether to approve modifications to the landscape and bufferyard standards:

- (1) Whether any conditions or circumstances exist which are unique to the applicant's land.
- (2) Whether the conditions or circumstances unique to the applicant's land exist as a result of actions of the applicant subsequent to the adoption of this Chapter.
- (3) Whether strict application of the provisions of this Chapter would deprive the applicant of a reasonable use of the land consistent with the immediate vicinity.
- (4) Whether the modification will preserve, not harm, the public safety and welfare.
- (5) Whether the modification will alter the essential character of the neighborhood.
- (6) Whether the applicant has provided an alternative to the required landscape and bufferyard standard that achieves the spirit and intent of the original standard.

(B) The Planning Commission may also approve the use of existing trees within the proposed bufferyard area if the tree is not included on the plant lists in §302.11, if native and hardy to zones 5-6 of the United States Department of Agriculture Plant Hardiness Zone Map.

# Landscape and bufferyard standards

## Section 302.11 Plant Lists

The following plants are representative of those to be utilized in the bufferyard or landscape requirements of this Zoning Code

### PLANT LIST A SHADE TREES

These trees are hardy in Zones 5-6, are deciduous and reach a mature height as indicated by the following: Large - 60', Medium - 40', Small - 20'. Other shade trees which are native and hardy to Zones 5-6 of the United States Department of Agriculture Plant Hardiness Zone Map may also be used within the landscaped or bufferyard area.

#### LARGE TREES

Common Plant Names Plant Botanical Name	European Beech <i>Fagus sylvatica</i>	Norway Maple <i>Acer platanoides</i>
Common Plant Names Plant Botanical Name	Ginkgo <i>Ginkgo biloba</i> (male only)	Pin Oak <i>Quercus palustris</i>
Common Plant Names Plant Botanical Name	Red Maple <i>Acer rubrum</i> (SPP)	
Common Plant Names Plant Botanical Name	Scarlet Oak <i>Quercus coccinea</i>	Red Oak <i>Quercus rubra</i>
Common Plant Names Plant Botanical Name	London Plane Tree <i>Platanus x acerifolia</i>	Tulip Poplar <i>Liriodendron tulipifera</i>
Common Plant Names Plant Botanical Name	Sugar Maple <i>Acer saccharum</i>	Sweetgum <i>Liquidambar styraciflua</i>
Common Plant Names Plant Botanical Name	Willow Oak <i>Quercus phellos</i>	Elm <i>Ulmus parvifolia</i>
Common Plant Names Plant Botanical Name	Shumardii Oak <i>Quercus shumardii</i>	Shingle Oak <i>Quercus imbricaria</i>

#### MEDIUM TREES

Common Plant Names Plant Botanical Name	Callery Pear <i>Pyrus calleryana</i>	Littleleaf Linden <i>Tilia cordata</i>
Common Plant Names Plant Botanical Name	Japanese Pagoda Tree <i>Sophora japonica</i>	Japanese Zelkova <i>Zelkova serrata</i>
Common Plant Names Plant Botanical Name	Thornless <i>Gleditsia triacanthos</i> (SPP)	Honey Locust
Common Plant Names Plant Botanical Name	River Birch <i>Betula nigra</i>	Katsura Tree <i>Cercidiphyllum japonicum</i>

#### SMALL TREES

Common Plant Names Plant Botanical Name	Sourwood <i>Oxydendron arboreum</i>	Hedge Maple <i>Acer campestre</i>
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# Landscape and bufferyard standards

Common Plant Names	Amur Maple	Paperbark Maple
Plant Botanical Name	<i>Acer ginnala</i>	<i>Acer griseum</i>
Common Plant Names	European Hornbeam	Hornbeam
Plant Botanical Name	<i>Carpinus betulus</i>	<i>Ostrya virginiana</i>

## PLANT LIST B FLOWERING TREES

These trees are hardy in Zones 5-6, are deciduous and reach a mature height not exceeding thirty (30) feet. Other flowering trees which are native and hardy to Zones 5-6 of the United States Department of Agriculture Plant Hardiness Zone Map may also be used within the landscaped or bufferyard area.

Common Plant Names	Callery Pear	Downy Serviceberry
Plant Botanical Name	<i>Pyrus calleryana</i>	<i>Amelanchier canadensis</i>
Common Plant Names	Crabapple	Allegheny Serviceberry
Plant Botanical Name	<i>Malus varieties</i>	<i>Amelanchier laevis</i>
Common Plant Names	Eastern Redbud	Sweetbay Magnolia
Plant Botanical Name	<i>Cercis canadensis</i>	<i>Magnolia virginiana</i>
Common Plant Names	Dogwood Lilac	Green Hawthorne
Plant Botanical Name	<i>Syringa reticulata</i>	<i>Crataegus viridis</i>
Common Plant Names	Golden Raintree	Witch Hazel
Plant Botanical Name	<i>Koelreuteria paniculata</i>	<i>Hamamelis virginiana</i>
Common Plant Names	Sargent Cherry	Saucer Magnolia
Plant Botanical Name	<i>Prunus sargentii</i>	<i>Magnolia soulangiana</i>
Common Plant Names	Star Magnolia	
Plant Botanical Name	<i>Magnolia stellata</i>	

## PLANT LIST C EVERGREEN TREES

These trees that are hardy in Zones 5-6, are evergreen, can reach a mature height over thirty (30) feet, and if not limbed-up can create a screen from the ground level up. Other evergreen trees which are native and hardy to Zones 5-6 of the United States Department of Agriculture Plant Hardiness Zone Map may also be used within the landscaped or bufferyard area.

Common Plant Names	American Holly	Austrian Pine
Plant Botanical Name	<i>Ilex opaca</i>	<i>Pinus nigra</i>
Common Plant Names	Canadian Hemlock	Carolina Hemlock
Plant Botanical Name	<i>Tsuga canadensis</i>	<i>Tsuga caroliniana</i>
Common Plant Names	Eastern Red Cedar	Colorado Blue Spruce
Plant Botanical Name	<i>Juniperus virginiana</i>	<i>Picea pungens</i>
Common Plant Names	Norway Spruce	Scotch Pine
Plant Botanical Name	<i>Picea abies</i>	<i>Pinus sylvestris</i>

# Landscape and bufferyard standards

Common Plant Names	Southern Magnolia	White Fir
Plant Botanical Name	<i>Magnolia grandiflora</i>	<i>Abies concolor</i>
Common Plant Names	White Pine	
Plant Botanical Name	<i>Pinus strobus</i>	

## PLANT LIST D DECIDUOUS SHRUBS

These perennial woody plants grow at least three (3) feet in height, are tolerant in Zones 5-6 and are deciduous. Other deciduous shrubs which are native and hardy to Zones 5-6 of the United States Department of Agriculture Plant Hardiness Zone Map may also be used within the landscaped or bufferyard area.

Common Plant Names	Burning Bush	Doublefile Viburnum
Plant Botanical Name	<i>Euonymus alatus</i>	<i>Viburnum plicatum tomentosum</i>
Common Plant Names	Forsythia Species Quince	Shrub Cinquefoil
Plant Botanical Name	<i>Chaenomeles speciosa</i>	<i>Potentilla fruticosa</i>

## PLANT LIST E EVERGREEN SHRUBS

These perennial woody plants grow at least three (3) feet in height, are tolerant in Zones 5-6 and are evergreen. Other evergreen shrubs which are native and hardy to Zone 5-6 of the United States Department of Agriculture Plant Hardiness Zone Map may also be used within the landscaped or bufferyard area.

Common Plant Names	Anglojap Yew	Blue Holly
Plant Botanical Name	<i>Taxus x media</i>	<i>Ilex x meserveae</i>
Common Plant Names	Chinese Juniper	Japanese Holly
Plant Botanical Name	<i>Juniperus chinensis</i>	<i>Ilex crenata</i>
Common Plant Names	Japanese Yew	Korean Boxwood
Plant Botanical Name	<i>Taxus cuspidata</i>	<i>Buxus microphylla koreana</i>
Common Plant Names	Leatherleaf Viburnum	Mugho Pine
Plant Botanical Name	<i>Viburnum rhytidophyllum</i>	<i>Pinus mugo</i>
Common Plant Names	Spreading Yew	
Plant Botanical Name	<i>Taxus x media</i>	

## CHAPTER 303 Sign Standards

Section 303.01	<b>Purpose</b>
Section 303.02	<b>Sign Permit Application Procedure</b>
Section 303.03	<b>Sign Definitions</b>
Section 303.04	<b>General Sign Standards</b>
Section 303.05	<b>Sign Illumination Standards</b>
Section 303.06	<b>Measurement of Sign Area</b>
Section 303.07	<b>Signs Not Requiring A Permit</b>
Section 303.08	<b>Prohibited Signs</b>
Section 303.09	<b>Permitted Sign Chart by Sign Type and Zoning District</b>
Section 303.10	<b>Signs Permitted in Residential Zoning Districts</b>
Section 303.11	<b>Signs Permitted in the Transitional Office and Neighborhood Commercial Zoning Districts</b>
Section 303.12	<b>Signs Permitted in Commercial Zoning Districts</b>
Section 303.13	Signs Permitted in the College District
Section 303.14	Signs Permitted in the Education & Institutional District
Section 303.15	<b>Signs Permitted Industrial Zoning Districts</b>
Section 303.16	<b>Maintenance of Signs</b>
Section 303.17	<b>Nonconforming Signs</b>
Section 303.18	<b>Limitation of Rights</b>
Section 303.19	Landscaping Requirements
Section 303.20	Construction Standards
Section 303.21	Signs in the Public Right-of-Way Prohibited
Section 303.22	Community Activities and Special Events
Section 303.23	<b>Temporary Signs</b>
Section 303.24	<b>Government Signs Excluded</b>
Section 303.25	Removal and Disposal of Signs

Section 303.01      **Purpose.**

The purpose of these sign regulations is to promote the public health, safety, and welfare by regulating existing and proposed outdoor advertising signs and outdoor signs of all types. The intent is to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, and preserve the scenic and natural beauty of designated areas. It is further intended to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, and to prevent signs from reaching such excessive size that they obscure one another to the detriment of all concerned.

Section 303.02      **Sign Permit Application Procedure.**

These sign regulations shall be administered and enforced by the Zoning Administrator unless otherwise provided for in this Zoning Code.

(A) *Sign Permit Required.* After the effective date hereof, no temporary sign, permanent sign or repaired sign, unless exempted by this Chapter, shall be erected, moved, materially or substantially altered, or enlarged in any zoning district except as hereinafter provided or as otherwise permitted. A sign for which a permit has been issued shall not be modified, relocated, altered or replaced unless a new permit or an amended permit is issued by the Planning Commission.

Each sign permit application shall be submitted to the Zoning Administrator and accompanied by the following information:

- (1) A fully dimensioned drawing showing the design of the proposed sign(s).
- (2) Foundation and anchoring drawing of proposed sign(s).
- (3) Fully dimensioned site plan showing the sign location in relation to property lines, right-of-way, buildings, walks, and drives.
- (4) Dimensioned elevation drawing showing the size, sign type, height, illumination method, support or mounting method, and construction materials.
- (5) For ground signs, a sign base landscaping plan shall be provided.
- (6) The application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected or placed.
- (7) A fee, as set by the City Council, shall be included with the completed application materials.

(B) The Zoning Administrator shall review the application for completeness and determine if the application is complete. If all information required is not provided, the Zoning Administrator shall promptly notify the applicant of the items needed. Upon submission of a completed sign permit application, the Zoning Administrator shall cause the application to be placed on the next available Planning Commission agenda subject to any administrative submission deadlines.

(C) The sign permit shall be issued by the Planning Commission when all the applicable conditions of this Zoning Code are met.

- (1) The Planning Commission may refuse to issue a sign permit for the erection of any such sign unless details of construction and manner of erection ensure the safety of such signs and signboards when erected.

(D) **Administrative Waivers.** The Zoning Administrator may issue an administrative waiver for any area regulation (sign face area, height, setback, etc.) contained in this sign Chapter not to exceed 20% of the applicable maximum or minimum regulation pursuant to the procedure and standards set forth in §101.17. The Zoning Administrator may request assistance from the Planning Commission in determining the reasonableness of an administrative waiver request.

(E) *Sign Permit Fees.* A schedule of fees for sign permits shall be established and amended from time to time by City Council.

## Section 303.03 **Sign Definitions.**

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

**“ABANDONED SIGN.”** A sign associated with an abandoned use, a sign that remains after the termination of the business, or a sign on its immediate premises that is not adequately maintained and not repaired within the specified time.

**“ADVERTISING SIGN.”** A sign which directs attention to goods, services, or entertainment, sold or offered on the premises. This includes free-standing, wall mounted, projection or incidental signs.

**“ANIMATED SIGN.”** Any sign that uses movement or change of artificial and natural lighting or noise to depict action or create a special effect or scene. See “**DYNAMIC SIGN.**”

**“AREA OF SIGN.”** The surface of a sign to be included when computing maximum allowable square footage. The area includes molding and framing but excludes supporting members. Planters or other decorative supporting structures shall not be included in the computation of signage unless they exceed 24" in height or 8 feet in length in which case the entire structure shall be included in the computation of sign area. For wall mounted signs which consist of individually mounted letters, numbers or other symbols on a fascia or wall, the area of sign shall be the area of a rectangle circumscribed around the letters, numbers or other symbols.

**“ATM (AUTOMATED TELLER MACHINE).”** A machine used by bank and financial service patrons for conducting transactions including deposits, fund transfers, and withdrawals without contact with financial institution personnel. The machines may be located at or within a bank, or in other locations and may be accessed in a pedestrian walk up or vehicle drive up manner.

**“AWNING SIGN.”** A sign that is mounted on or painted on or attached to an awning, canopy or marquee.

**“BANNER.”** A non-rigid cloth, plastic, vinyl, paper, or canvas sign typically related to a special event or promotion, that is cultural, educational, charitable, recreational or commercial in its function, under the sponsorship of a for-profit establishment or business, or a public, private nonprofit, or religious organization.

**“BENCH SIGN.”** Any sign painted on, located on, or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public roadway.

**“BILLBOARD.”** An off-premise sign directing attention to a specific business, product, service, entertainment or other activity sold, offered, or conducted off-site.

**“BULLETIN BOARD.”** A sign not exceeding 15 square feet typically with a changeable copy used to identify events for public and semi-public uses.

**“CHANGEABLE COPY SIGN.”** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged by mechanical, electronic or manual means without altering the face or surface of the sign.

**“CHANNEL LETTERS.”** The outline of a letter, border, or similar object with a vertical side wall to confine the lighting on the face either to restrict vision at an angle or to prevent light spillage over adjacent areas.

**“COMMERCIAL SIGN.”** A sign which directs attention to a business, profession, service, product or activity sold or offered upon the premises where such sign is located.

**“COMMUNITY ACTIVITY/SPECIAL EVENT.”** An activity or event that is open to the general public, utilizes city facilities or services, and sponsored by a public, private nonprofit or religious organization that is educational, cultural, or recreational in function. Charitable events sponsored by for-profit organizations are also considered community activities. Examples of a community activity are a school play or a church fair. A special event is educational, cultural or recreational in function. Such events must be coordinated through the city.

**“CONSTRUCTION SIGN.”** A sign advertising the development or improvement of a property by a builder, contractor, or other person furnishing services, material or labor to said premises, which sign is intended for a limited period of display and erected on the same lot as the work being done.

“CURB LAWN.” See “TREE LAWN.”

“DEVELOPMENT SIGN.” A temporary sign indicating such things as the names of the architects, engineers, landscape architects, contractors, or similar artisans, and the owners, financial supporters, sponsors and similar individuals or firms having a role or interest with respect to the development, structure, or project. This includes both private and public projects.

“DIRECTIONAL SIGN.” A temporary or permanent sign that provides information regarding location, instructions for use, vehicle flow or functional/directional data for a permitted use located on the same lot.

“DIRECTORY SIGN.” A sign advertising more than one business or listing more than one associate, partner, employee or agent of any business.

“DISPLAY SURFACE.” The area intended for display of advertising.

“DOUBLE FACED SIGN.” A sign having two display surfaces.

“DYNAMIC SIGN.” A sign that appears to have movement or that appears to change, caused by any method other than physically removing and replacing the sign or its components. This includes any display that incorporates a method or technology that allows the image on the sign face to change without physically or mechanically replacing the sign face or its components. This also includes signs containing parts that rotate, revolve, move, flash, blink, utilize Light-Emitting Diode (LED) or Liquid Crystal Display (LCD) lights, or any other technology that allows the sign to display a series of images.

“ELECTRONIC SCOREBOARD.” An electronically-controlled changeable copy sign used to display scoring information for sporting events. Such signs are located on a sports field.

“ENTRY FEATURE SIGN.” An on-premises ground-mounted sign that graphically identifies a residential subdivision and/or multifamily development. For commercial properties, see “JOINT IDENTIFICATION SIGN.”

“ESTABLISHED GRADE LINE.” The average finished grade for that area of the site where the sign is to be located, provided however that the height of the sign shall not be artificially increased by the use of mounding. All references to sign height are from the established grade line unless otherwise noted.

“EXEMPTED SIGNS.” Includes public notices by governmental bodies, traffic control signs, and other official signs and notices.

“EXTENSION.” A wall or other structure which is connected to and extended from a building.

“FLAG.” Any fabric or bunting containing the officially recognized and adopted colors, patterns, or symbols used as the official symbol of a government, political, or corporate entity.

“FLASHING SIGN.” Any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever.

“FOR SALE/FOR LEASE SIGN.” A sign indicating the sale, rental, or lease of a structure or property.

“FREE STANDING SIGN.” See “GROUNDMOUNTED SIGN.”

“GAS INFLATABLE SIGN/DEVICE.” Any device which is capable of being expanded by any gas and used on a permanent or temporary basis to attract attention to a product or event. This definition includes both hot and cold-air balloons tethered or otherwise anchored to the ground.

“GOVERNMENTAL SIGN.” A sign erected and maintained pursuant to and in discharge of any government functions or required by law, ordinance, or other governmental regulations.

**"GRANDFATHER CLAUSE."** See "NONCONFORMING SIGN."

**"GROUND MOUNTED SIGN."** Any sign which is physically attached to a foundation consisting of the entire length of the sign. These are also commonly known as monument or tombstone signs.

**"HEIGHT."** For the purposes of measuring the height of a sign, the following definition of "height" shall apply. The height of a sign shall be determined by measuring the vertical distance between the highest point of the sign to the ground elevation at the base of the sign. If mounding was used at the sign base, the ground elevation shall be determined as the average ground elevation of the developed site at the sign base prior to mounting..

**"HIGH-RISE/HIGHWAY ORIENTED SIGN."** An on-premises ground sign located on the parcel as an accessory use to the principal use of the property, and displayed mainly with the objective of attracting interstate highway travelers.

**"HUMAN SIGN."** A sign that is worn (including costumes) or held by a human for commercial advertising or promotion purposes.

**"IDENTIFICATION SIGN."** A sign which is limited to the name, address and number of a building, institution or person and to the activity carried on in the building or institution, or the occupancy of the person.

**"ILLUMINATED SIGN."** Any sign lit by or exposed to artificial lighting either by light on or in the sign or directed toward the sign.

**"INCIDENTAL SIGN."** A sign having an above grade height of not more than 24 inches or a total area of not more than 8 square feet containing no advertising and typically erected to identify entrances, exits, restrooms, hours of operation, operational instructions, public utility locations, etc.

**"INFORMATION SIGN."** A sign displaying necessary information for the convenience and safety of residents and visitors, and containing no advertising.

**"INTERIOR SIGN."** Signs located within a structure not intended to be seen from the exterior. Signs affixed to a window or the walls enclosing the display area behind a window, which are obviously intended for viewing from the exterior, shall be considered exterior signs.

**"JOINT IDENTIFICATION SIGN."** A sign that identifies the name, utilizing text, graphics, or other symbols, of a shopping center, office park, industrial park, or other building complex containing two or more uses allowed in addition to the permitted signs of the individual occupants.

**"LOGO."** See "PRIMARY IMAGES" and "SECONDARY IMAGES."

**"MARQUEE SIGN."** Any sign attached to or hung from a marquee. For the purpose of this Zoning Code, a marquee is a covered structure projecting from and supported by the building with independent roof and drainage provisions and which is erected over a doorway or doorways as protection against weather.

**"MEMORIAL SIGN."** A sign, tablet or plaque memorializing a person, event, structure or site.

**"MONUMENT SIGN."** A ground mounted sign attached to a wall or a base with a permanent foundation constructed specifically for the display of the sign. Also see "Ground Mounted Sign."

**"NAMEPLATE SIGN."** A sign designating only the name and address or the name and professional occupation and address of a person or persons residing in or occupying such building or premises.

**"NONCONFORMING SIGN."** A pre-existing legal sign which does not conform to the standards set forth in this Zoning Code.

**”OFF-PREMISES SIGN.”** Signs advertising products, accommodations, services or activities not offered or conducted on the lot on which the sign is located. Yard signs are not considered off-premise signs.

**”ON-PREMISES SIGN.”** Any sign related to a business or profession conducted, or a commodity or service sold or offered, upon the premises where such sign is located.

**”OPEN HOUSE.”** A temporary public showing of a structure available for sale, rental, or lease.

**”PENNANT.”** A flag or banner longer in the fly than in the hoist, usually tapering to a point.

**”PLANTER SIGN.”** A ground sign attached to a wall or a base constructed specifically for the display of the sign with the base designed with the capability of holding live plant material.

**”PERMANENT SIGN.”** Any permitted or legal nonconforming sign intended to remain in place until a change of occupancy occurs. A permanent sign must be securely attached or installed upon a building, structure, or the ground. Any sign intended to be displayed for more than forty-five (45) days shall be considered a permanent sign.

**”POLE SIGN.”** Any sign supported upon the ground by a pole, poles or braces and not attached to any building or structure.

**”POLITICAL SIGN.”** A sign concerning candidates for elective office or public issues.

**”PORTABLE SIGN.”** Any sign that is designed to be or capable of being moved or transported, and not permanently affixed or attached to any building, structure, or grounds.

**”POSTER PANEL SIGN.”** An advertising structure measuring not more than 12 feet by 25 feet overall on which posters are displayed.

**”PRIMARY IMAGE.”** The name of the use or business identified on a sign. The primary image must be in displayed in text.

**”PRODUCT SIGN.”** A sign typically located in a window, advertising a product or service offered by a business.

**”PROJECTED IMAGE.”** An image projected onto a building, structure, or sign.

**”PROJECTING SIGNS.”** A sign that is wholly or partly dependent upon a building for support or suspended from a pole attached to a building. Such signs must be perpendicular to the building face upon which they are attached.

**”PROMOTIONAL SIGNS.”** A temporary sign that provides information regarding time, place, and the like of a special event, community activity or similar activity.

**”RACEWAY.”** An elongated metal enclosure used to mount individual channel lettering and to conceal related transformers and wiring.

**”REAL ESTATE SIGN.”** Any sign advertising the sale, lease, rental or development of real property.

**”REFACING.”** Any alteration to the face of a sign involving the replacement of materials or parts. Refacing does not refer to replacing the entire sign structure or the removal of the sign.

**”ROOF LINE.”** The uppermost line or point of the facade or parapet of a flat roof structure, or the lower edge of an eave, gable or rake of a sloped roof structure.

**”ROOF SIGN.”** Any sign erected on or above the roof line of a building.

**”SANDWICH BOARD SIGN.”** A sign with two hinged boards which can be placed on the ground.

**”SECONDARY IMAGE.”** Any and all text, graphics, or images displayed on a sign in addition to the name of the use or business, including but not limited to pictorial representations, tag lines, products and phone numbers.

**”SIGN.”** A sign is defined as any display that evokes a messages including but not limited to any name, number, symbol, identification, description, display, illustration, object, graphic, sign structure, or part thereof, whether permanent or temporary, which is affixed to, painted on, represented directly or indirectly upon, or projected onto a building, structure, lot, or other device, whether mobile or affixed to the ground, and which directs attention to any object, product, place, activity, person, institution, organization, or business. A sign may consist of wording, logos or images. This definition includes all signs visible from any public right-of-way or adjacent property, including interior signs oriented towards the exterior facade of any building or structure as well as back-lighted translucent panels or strip lighting affixed to any wall or roof where any such panels or lighting serves to identify and attract attention rather than illuminate space for human activity.

**”SIGN FACE.”** The surface intended for the display of information on the sign.

**”SIGN STRUCTURE.”** The supporting unit of a sign face, including but not limited to frames, braces and poles.

**”SIGN SETBACK.”** The distance from the property line and/or right-of-way line to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line and/or right-of-way line.

**”SINGLE FACE SIGN.”** A sign having one display surface.

**”STREAMER.”** A ribbon-shaped or cord-like rope which may have pennants and/or banners attached and which is stretched or hung between two or more supports.

**”SUBDIVISION SIGN.”** A sign advertising the sale or development of subdivision lots, parcels, or tracts and erected upon the property being subdivided and advertised for sale.

**”TEMPORARY COMMERCIAL SIGN.”** A banner, pennant, poster display or illustration which is affixed to or painted upon or represented directly or indirectly upon a building, structure or piece of land and which directs attention to any commercial activity product or business and may be constructed of cloth, canvas, plastic sheet, cardboard or other life materials and which is intended to be displayed for a limited period of time.

**”TEMPORARY SIGN.”** A banner, pennant, poster display or illustration which is affixed to or painted upon or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, place, person, institution, or organization, and may be constructed of cloth, canvas, plastic sheet, cardboard or other life materials and which is intended to be displayed for a limited period of time.

**”TREE LAWN.”** That portion of a public right-of-way lying between the back face of the curb and the leading edge of the sidewalk and/or the back edge of the right-of-way, if no sidewalk is installed.

**”WALL SIGN.”** Any sign attached to, painted on, or erected against the inside or outside wall of a building or structure, with the exposed display surface of the sign in a plane parallel to the plane of the building or structure and extending less than 14 inches from the building or structure.

**”WARNING SIGN.”** Any sign indicating danger or a situation which is potentially dangerous.

**”WINDOW SIGN.”** Any signs, posters, symbols and other types of identification or information about the use or premises directly attached to the window of a building or erected on the inside of the building and visible from any public right-of-way or adjacent property.

**”YARD SIGN.”** Any sign display intending to display an expression or a political, religious or personal message, generally temporary in nature.

## Section 303.04 General Sign Standards.

The following regulations shall apply to all signs in all use districts:

- (A) No sign shall employ any parts or elements which revolve, rotate, whirl, spin, or otherwise make use of motion to attract attention except signs performing service function such as indication of time, temperature, or similar services;
- (B) No sign or part thereof shall contain or consist of posters, pennants, ribbons, streamers, spinners, or other similar moving devices. Such devices, as well as strings of lights, shall not be used for the purpose of advertising or attracting attention when not part of a sign;
- (C) No sign of any classification shall be installed, erected, or attached in any form, shape, or manner to a fire escape or any door or window giving access to any fire escape;
- (D) All signs hung and erected shall be plainly marked with the name of the person, firm, or corporation responsible for maintaining the sign;
- (E) Signs directing and guiding traffic and parking on private property but bearing no advertising matter shall be permitted on any property.
- (F) Glass in any sign shall be either double strength, plate, or wired glass.
- (G) No sign shall be erected that will interfere with proper and convenient protection of property or with public safety.
- (H) Signs commonly associated with and limited to information and directions relating to the permitted use on the zone lot on which the sign is located, provided that each such sign is limited to wall, window and ground signs; not more than one hundred (100) square inches per sign in area, may be illuminated only from a concealed light source which does not flash, blink or fluctuate; shall not be animated except that gauges and dials may be animated to the extent necessary to display correct measurement.
- (I) Certain conditional uses may contain specific sign standards and requirements unique to the particular use. These standards shall be supplemental to the regulations set forth in this Chapter and shall be provided for in the conditional use Chapter.

## Section 303.05 Sign Illumination Standards.

- (A) General Requirements. Signs may be either externally illuminated or internally illuminated unless otherwise provided for in the Chapter. All externally illuminated signs shall employ steady, stationary, shielded light sources directed solely at the sign.
- (B) Flashing Signs. Flashing, blinking, running or sequential lights used in any element of a sign shall not be permitted unless expressly provided for in this Chapter.
- (C) Non-Glare, Shielded Lighting. Use of glaring, unshielded or undiffused lights or bulbs shall be prohibited. Lights shall be shielded so as not to project onto adjoining properties or thoroughfares.
- (D) Traffic Hazards. Sign illumination that could distract motorists or otherwise create a traffic hazard shall be prohibited.
- (E) Bare Bulb Illumination. Illumination by bare bulbs or flames is prohibited.

- (F) Intensity. Illumination resulting from all signs and sign lighting on any property in a non-residential zoning district shall not exceed one-half (½) foot candles at a height of five (5) feet when measured at any point on property in a residential zoning district or at any point on any road right-of-way.
- (G) LED Display Board Signs. Display board signs utilizing a light-emitting diode display (LED) shall be permitted subject to the following standards set forth below.
  - (1) An LED sign must be at least 250 away from the nearest residential dwelling.
  - (2) Scrolling text or animations are prohibited.
  - (4) A message must be displayed for a minimum duration of eight seconds before switching to the next message.
  - (5) Any LED sign shall be encased in stone, brick or wooden framing.
- (H) LCD Display Board Signs. Display board signs utilizing a liquid crystal display (LCD) or other technology that allows the sign to display a series of images shall be permitted subject to the following standards set forth below.
  - (1) An LCD sign must be at least 250 away from the nearest residential dwelling.
  - (2) Scrolling text or animations are prohibited.
  - (3) A message must be displayed for a minimum duration of eight seconds before switching to the next message.
  - (4) Any LED sign shall be encased in stone, brick or wooden framing.

## Section 303.06 **Measurement of Sign Area.**

- (A) Measurement Standards. The area of the sign is determined by the dimensions of the background structure, unifying background area, or by the maximum dimensions of the display area if posted on a common background. The following standards shall be used to determine the area and height measurements for all signs erected or posted within the City:
  - (1) The area of a sign shall be computed by means of the smallest square area that will encompass the exterior display limits of a sign, but not including the supporting frame or bracing as described in the illustrations accompanying this section:
  - (2) The area of a sign with more than one face shall be computed by the dimension of the largest single sign face. Any "V" shaped sign shall have its area computed by adding each individual sign face to determine the total sign area.
  - (3) In the case of irregularly shaped three dimensional signs, the area of the display surface shall be measured on the plane of the largest vertical cross section.
  - (4) The height of a sign shall be determined by measuring the vertical distance between the highest point of the sign to the ground elevation at the base of the sign. If mounding was used at the sign base, the ground elevation shall be determined as the average ground elevation of the developed site at the sign base prior to mounding.

Figure 22: Sign Area Measurement Methods

*Methods to Determine Sign Area Measurements for common types of signs.*

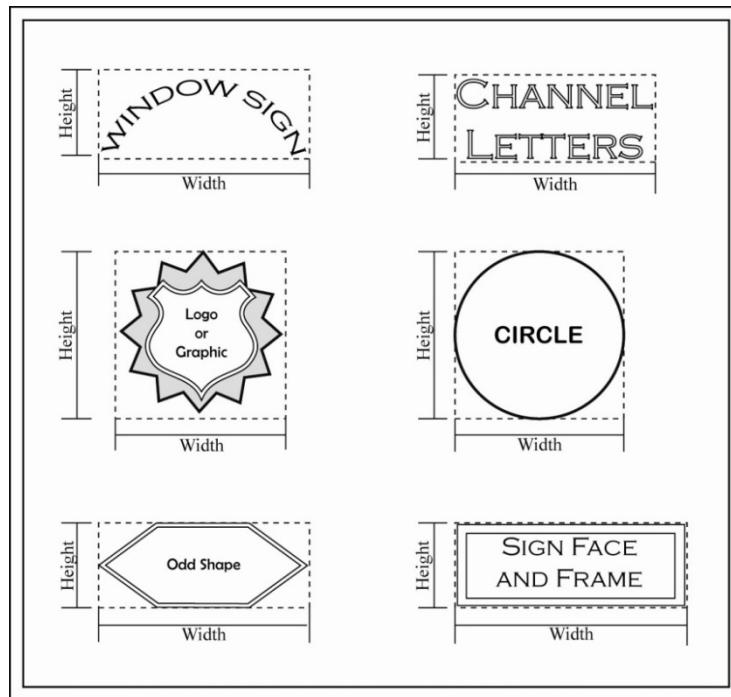
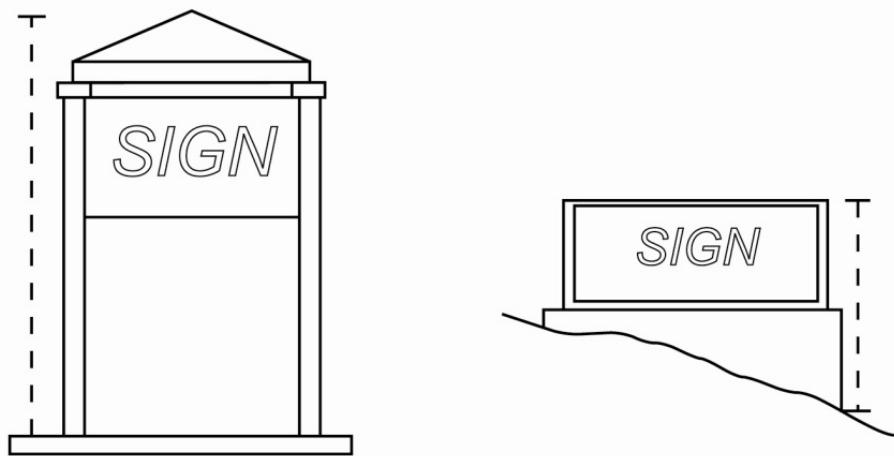


Figure 23: Sign Height Measurement Methods

*Methods to Determine Sign Height Measurements for common types of signs.*



- (5) The setback of a sign shall be measured from the vertical projection of the property line or street right-of-way line to the closest part of the sign.
- (6) Corner lots in any commercial zoning district having frontage on more than one public street shall have a maximum allowable sign area equal to twice that of its shortest frontage, not to exceed twice the maximum number of square feet otherwise allowed in the zone. These lots shall also be permitted twice the number of signs otherwise allowed in their zone; however, there shall be no increase in the number of ground mounted signs allowed.

## Section 303.07 **Signs Not Requiring A Permit.**

- (A) “Garage/Yard Sale Signs.” One such sign may be posted only on the property where the event is being held (two if on a corner lot), no more than 24 hours immediately preceding the event and must be removed no more than 2 hours after the event has ended. The maximum height shall not exceed 3 feet above grade and shall not exceed 4 square feet.
- (B) “Political Signs.” The Size, structure, type, location, and lighting shall be regulated as follows:
  - (1) Political signs shall not be illuminated.
  - (2) Political signs shall not be larger than 32 square feet in size.
  - (3) Because of the nature of materials typically used to construct political signs, to avoid the unsightliness of deteriorating signs and all safety concerns which accompany such a condition, political signs must be removed or replaced when the sign is deteriorated. The City may remove any deteriorated sign and charge the expenses for the removal to the owner of the property on which the sign is displayed. Any unpaid charges may be assessed in the form of a lien against the owner of the property.
  - (4) Political signs shall not be displayed in the right-of-way.
  - (5) Political signs may be displayed in vacant lots so long as consent of the property owner to display the political sign is obtained.
  - (6) No political sign may be attached to or supported by a tree or utility pole.
  - (7) Any political sign containing glass in its construction shall use safety or wire reinforced glass.
  - (8) No pennants, banners, streamers, spinning, flashing or similar moving devices shall be permitted.
  - (9) All political signs shall be secured in such a manner as to prevent swinging or other significantly noticeable movement resulting from the wind.
- (C) “Street Address Signs.” Signs bearing only the street address of the properties on which they are located. For residences, such numbers must consist of Arabic numerals no less than 3 inches nor more than 8 inches in height. For nonresidential uses, maximum number height varies according to front setback. If the setback is less than 100 feet, the maximum number height is 12 inches. For setbacks between 100 and 200 feet, the maximum height is 18 inches. For setbacks over 200 feet, the maximum height is 24 inches. All street address signs shall contrast to the color of the surface on which they are mounted and shall be clearly identifiable from the street. Every building is required to post its street address.

- (D) "Residential For Sale / For Lease / For Rent Signs." Signs indicating the sale, rental, or lease of residences, provided such signs are limited in size to 7 square feet in area and 4 feet in height in all residential areas. Signs are prohibited in the right-of-way or tree lawn. Signs must be located so that they do not interfere with the safe movement of vehicular or pedestrian traffic, and all signs shall be removed within 14 days after the sale, rental, or lease has occurred. Only one such ground or window sign per street frontage is permitted, only on the lot for sale/lease/rent.
- (E) "Commercial and Industrial For Sale/For Lease Signs." Signs indicating the sale, rental, or lease of commercial or industrial real estate are limited to 16 square feet in area and 6 feet in height for lots with less than 100 feet of street frontage and 32 square feet in area and 8 feet in height for lots with street frontage of 100 feet or more. Individual tenant spaces within a parcel are allowed a window or wall sign no larger than 16 square feet in area. Signs are prohibited in the right-of-way or tree lawn. Signs must be located so that they do not interfere with the safe movement of vehicular and pedestrian traffic and must be removed within 14 days after the sale, rental, or lease has occurred. Only 1 such sign per street frontage is permitted.
- (F) "Open House Signs." Signs promoting an open house for property that is available for sale, rent, or lease, provided that only 1 such sign for each open house, (2 for corner lots). All such signs shall be installed no earlier than 5:00 p.m. on the Friday immediately prior to the open house event and shall be removed no later than 8:00 p.m. on the Sunday immediately following the conclusion of the open house event. Such signs may not exceed 7 square feet in area or 3 feet in height and must be located in such a way that would not interfere with the safe movement of vehicular or pedestrian traffic. Such ground signs may not be located within medians, public right-of-way, tree lawns or off- premise.
- (G) "Private Traffic and On-Site Directional Signs." Traffic and directional signs indicating points of entry or exit for a facility or off-street parking area, provided such signs are limited to a maximum of 12 square feet in area and 3 feet in height and do not interfere with safe vehicular or pedestrian traffic circulation or obstruct the view of drivers exiting onto highways or thoroughfares. Such signs may contain information such as "in," "enter," "entrance," "out," "exit," "do not enter" or similar language as approved by the Zoning Administrator. Arrows indicating desired traffic movement may also be used for directional signage. Such signs must be of a rectangular shape. Such signs must be on the property to which they refer and may not be placed within a public right-of-way.
- (H) "Window Signs." Window signage with a total area of twenty percent (20%) or less of the total window area facing the public street per each individual business use shall be permitted. An "Open" or "Closed" informational window sign may utilize neon tubing in its construction.
- (I) "Residential Information Signs." Information signs are allowed only when they display information necessary for the safety and convenience of residents and visitors, such as "beware of dog" and "no trespassing." Such signs may not exceed 2 square feet in area and may contain no advertising.
- (J) "Bulletin Boards." Bulletin boards for public, charitable, or religious institutions located on the premises on which they are maintained and not exceeding 12 square feet in area. These signs when not attached flat against a building shall be distant at least 12 feet from all street lines. These signs may be illuminated, provided the sources of light be invisible. Not more than one sign shall be permitted to a single street frontage.
- (K) "Security System Signs." Signs displaying information about the security system protecting buildings or property, provided that such signs do not exceed 1 square foot in area.
- (L) "Construction Trailer Signs." Signs painted on or affixed to construction trailers, vans, or other vehicles temporarily in use on a construction site.

- (M) "Identification Signs." Identification signs mounted flat against a structure, containing no advertising, and not exceeding 2 square feet in area.
- (N) "Historical Society Signs." Signs of historical societies containing no advertising, and not more than 5 square feet in area.
- (O) "Tablets, Grave Markers, Headstones, Statuary or Remembrance of Persons or Events." Tablets, grave markers, headstones, statuary or remembrance of persons or events that are non-commercial in nature.
- (P) "Yard Signs." Signs intended to display personal messages generally temporary in nature and not exceeding 32 square feet per sign face in area. Such signs are not permitted in "prohibited sign locations" and must be kept in a safe, presentable condition at all times.
- (Q) "Historical Marker Sign." Signs intended to identify a historical structure. Such signs shall be wall mounted and constructed on cast bronze material. The maximum area for such signs shall be four (4) square feet. Pole signs shall be a permitted use for displaying historical markers.

## Section 303.08 **Prohibited Signs.**

The following signs are prohibited in all zoning districts.

- (A) Bench signs.
- (B) Signs exceeding the roofline or affixed to the roof.
- (C) Streamers or banners used by private or publicly held corporations unless permitted as a community activity or special event sign as set forth in §303.22.
- (D) Exposed neon and/or skeleton tubing unless expressly permitted under §303.07(H).
- (E) Mobile or portable signs. See Figure 24 below.

Figure 24: Example of a Prohibited Portable Sign

Photographic illustration of a prohibited portable sign design.



- (F) Dynamic signs shall be prohibited unless expressly permitted within this Chapter.

(G) Pole signs. Unless expressly permitted in this sign Chapter, pole signs shall be strictly prohibited. See Figure 25 below.

Figure 25: Examples of Prohibited Pole Signs

*Photographic illustration of various prohibited pole sign design*



(H) Any sign attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs that are attached by magnetic or static decals or painted upon an integral part of the vehicle or equipment, as originally designed by the manufacturer, and do not break the silhouette of the vehicle. See Figure 26 below.

Figure 26: Examples of Prohibited Vehicle Signs

*Photographic illustration of various prohibited vehicle signs breaking the silhouette of the vehicle*



## Section 303.09

## Permitted Sign Chart by Sign Type and Zoning District

Table 14: Permitted Signs

Sign Type	R-SF-A	R-SF-B	R-SF-T	MFR	RO	NC	CC	DT	BR-CD	UT	DD	CD	EI	GI
Wall Sign	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Subdivision identification signs.	X	X	X	X	X									
Real estate, garage sale and yard sale signs.	X	X	X	X	X									
Temporary commercial signs when advertising a new residential development project.	X	X	X	X										
Temporary non-commercial signs.	X	X	X	X	X							X	X	
Awning signs.						X	X	X	X	X	X	X	X	X
Ground Mounted Signs					X	X	X	X	X	X	X	X	X	X
Projecting Signs						X	X	X	X	X	X	X	X	X
Portable Sandwich Signs					X	X	X	X	X	X	X	X		X
Directional / Informational Signs						X	X	X	X	X	X	X	X	X
Temporary Commercial Signs						X	X	X	X	X	X	X		X
Window Signs					X	X	X	X	X	X	X	X		X
Off-Premises Sign														X

## Section 303.10

## Signs Permitted in Residential Zoning Districts.

Signs pertaining to permitted, accessory, and conditional uses are permitted subject to the regulations set forth herein for the following zoning districts: Standard Single Family Residential (R-SF-A), Standard Single Family Residential (R-SF-B), Residential Single Family Townhouse (R-SF-T) and Multiple Family Medium Density (MFR).

(A) Permitted Signs. The following types of signs are permitted in residential zoning districts:

- (1) Wall signs.
- (2) Subdivision identification signs.
- (3) Real estate, garage sale and yard sale signs.
- (4) Temporary commercial signs when advertising a new development project.
- (5) Temporary non-commercial signs.

- (6) Ground mounted signs identifying a conditional use permitted in the district.
- (7) Those signs not requiring a permit under §303.07.

(B) Permitted Number, Height, Area and Location.

- (1) Permitted number. Only one sign shall be permitted for each permitted use on a lot. One subdivision sign may be erected and maintained at the main entrance to a residential subdivision or multi-family dwelling complex, designating the name of such subdivision or complex. Additional subdivision signs are subject to the approval of the Zoning Administrator.
- (2) Maximum height. The maximum height for any subdivision signs, ground mounted signs and temporary commercial signs shall be five (5) feet.
- (3) Maximum area. The maximum area for signs shall be as follows:
  - (a) Wall signs. Two (2) square feet.
  - (b) Subdivision signs. The maximum area for subdivision identification signs shall be forty (40) square feet. The area calculations for a subdivision identification sign shall not include any supporting brick, stone, or any other material used to frame, brace or otherwise provide structural support for the sign. Subdivision identification signs shall be reasonable and proportional to the size and scope of the development identified.
  - (c) Temporary commercial signs. Thirty-Two (32) square feet when advertising a new development project.
  - (d) Temporary non-commercial signs. Six (6) square feet.
  - (e) Ground-mounted signs. Ten (10) square feet.

(C) Location and setback.

- (1) Signs shall be located on the same lot to which they are an accessory use.
- (2) All signs shall be set back a minimum of one-half the height of the sign from the street right-of-way, provided that no part of a ground-mounted sign shall be closer to the front property line than seven (7) feet.
- (3) All signs shall be set back a minimum of ten (10) feet from any side lot line.
- (4) All signs not affixed to the wall of a residential structure shall be set back a minimum of twenty-five (25) feet from any residential use.

(D) Illuminated signs in this zoning district shall be achieved by indirect down lighting.

(E) Conditional uses allowed in these zoning districts may contain specific sign standards and requirements unique to the particular use. These standards shall be supplemental to the regulations set forth in this Chapter and shall be provided for in the conditional use Chapter.

## Section 303.11 **Signs Permitted in the Transitional Office and Neighborhood Commercial Zoning Districts.**

Outdoor advertising, identification or other exterior signs pertaining to permitted, accessory, and conditional uses are permitted subject to the regulations set forth herein for the following zoning districts: Transitional Office (TO) and Neighborhood Commercial (NC).

(A) **Permitted Signs.** The following types of signs are permitted in the RTO and NC zoning districts unless otherwise noted:

- (1) Wall signs.
- (2) Awning signs.
- (3) Ground-mounted signs.
- (4) Projecting signs permitted in Neighborhood Commercial districts only.
- (5) Portable sandwich board signs.
- (6) Temporary commercial signs.
- (7) Window Signs.
- (8) Those signs not requiring a permit under §303.07.

(B) **Permitted Number, Height, Area and Location.**

(1) **Permitted number.**

- (a) Permitted nonresidential uses may have one of each of the following types of signs: wall sign, awning sign and ground-mounted signs. In addition, each nonresidential use shall be permitted one temporary commercial sign, one temporary non-commercial sign, one "Open / Closed" window sign, up to two separate window signs and one portable sandwich sign on the premises and one projecting sign may be permitted in a Neighborhood Commercial District.
- (b) If there is a combination of uses within the same structure, then the number of signs permitted for nonresidential uses shall apply.

(2) **Maximum height.** The maximum height shall be as follows:

- (a) Wall signs. Wall signs shall not project more than 12 inches from the building wall and shall not extend above the wall or beyond the wall to which it is attached.
- (b) Projecting signs. The bottom of any projecting sign shall be a minimum of 8 feet above any sidewalk and 15 feet above any driveway.
- (c) Portable sandwich board signs. Four (4) feet.
- (d) Ground-mounted signs. Six (6) feet.
- (e) Temporary commercial signs. Five (5) feet.

(3) Maximum area. The maximum area for signs shall be as follows:

- (a) Wall signs. The sign area shall not exceed sixteen (16) square feet.
- (b) Awning signs. The sign area for all canopy signs shall not exceed twelve (12) square feet.
- (c) Ground-mounted signs. The sign area shall not exceed twelve (12) square feet.
- (d) Projecting signs. Six (6) square feet.
- (e) Portable sandwich board signs. Six (6) square feet.
- (f) Temporary commercial signs. Six (6) square feet unless otherwise provided for.
- (g) Window signs. The total square footage of all permitted window signs, including an “Open / Close” sign and informational window signs shall not comprise more than twenty percent (20%) of the total window area for the first floor level front façade of any structure

(4) Location and setback.

- (a) Signs shall be located on the same lot to which they are an accessory use.
- (b) Projecting signs shall be allowed to project over two-thirds the width of the sidewalk or five feet from the building, whichever is less. All components of the projecting sign shall have a minimum clearance of eight feet from the sidewalk.
- (c) Portable sandwich board signs may be located in the sidewalk right-of-way only when there is not adequate area to place the sign upon the lot for which the principle use is located. If located in the sidewalk right-of-way area, any sandwich board sign shall not obstruct pedestrian traffic, and shall be located in front of the same building frontage for which the sign is erected.
- (d) All signs shall be set back a minimum of one-half the height of the sign from the street right-of-way, provided that no part of a ground-mounted sign shall be closer to the front property line than seven feet.
- (e) All signs shall be set back a minimum of 10 feet from any side yard lot line with the exception of portable sandwich signs located in the right-of-way.

(C) General Provisions.

- (1) All sign frames, foundations and other supporting structures in commercial zoning districts shall be constructed of wood, stone, brick or other material similar to the principal permitted structures which they identify, unless otherwise approved by the Planning Commission.
- (2) All signs located in commercial zoning districts shall utilize similar or compatible colors and styles to the buildings which such signs identify.
- (3) No projecting sign in a commercial district shall be internally illuminated.
- (4) Portable Sandwich Board Signs. Portable sandwich board signs placed on private property shall not require a sign permit. Portable sandwich board signs shall require a

sign permit if proposed to be located in the public sidewalk right-of-way area. Any approved portable sandwich board sign must be removed at the close of business each day and cannot be placed within the sidewalk area until the open of business the following day.

- (5) For multiple occupant structures, individual occupants wishing to use a portion of their allowable sign area on the permitted ground-mounted sign shall erect such sign on this common structure, the area of which shall be divided proportionately among the occupants based on the width of the individual storefront building frontage, or as otherwise mutually agreed upon among the tenants. Multiple occupant ground-mounted signs shall have a coordinated appearance, and all individual occupants' panels shall be constructed of the same materials.
- (6) Conditional uses allowed in these zoning districts may contain specific sign standards and requirements unique to the particular use. These standards shall be supplemental to the regulations set forth in this Chapter and shall be provided for in the conditional use Chapter.

## Section 303.12

### **Signs Permitted in Commercial Zoning Districts.**

Outdoor advertising, identification or other exterior signs pertaining to permitted, accessory, and conditional uses are permitted subject to the regulations set forth herein for the following zoning districts: Commercial Center (CC), Downtown District (DT), West Bagley Road Commercial District (BR-CD), Uptown District (UT) and Depot District (DD).

- (A) **Permitted Signs.** The following types of signs are permitted in the CC, DT, BR-CD, UT and DD zoning districts unless otherwise noted:
  - (1) Wall signs.
  - (2) Awning signs.
  - (3) Ground-mounted signs.
  - (4) Projecting signs.
  - (5) Portable sandwich board signs.
  - (6) Directional/informational signs.
  - (7) Temporary commercial signs.
  - (8) Window signs
  - (9) Those signs not requiring a permit under §303.07.
- (B) **Permitted Number, Height, Area and Location.**
  - (1) **Permitted number.**
    - (a) Permitted nonresidential uses may have one of each of the following types of signs: wall sign, projecting sign, awning sign and ground-mounted signs. In addition, each nonresidential use shall be permitted one temporary commercial sign, one temporary non-commercial sign, one "Open / Closed" window sign, up to two separate window signs and one portable sandwich sign on the premises.

- (b) If there is a combination of uses within the same structure, then the number of signs permitted for nonresidential uses shall apply.
- (2) Maximum height. The maximum height shall be as follows:
  - (a) Wall signs. Wall signs shall not project more than 12 inches from the building wall and shall not extend above the wall or beyond the wall to which it is attached.
  - (b) Projecting signs. The bottom of any projecting sign shall be a minimum of 8 feet above any sidewalk and 15 feet above any driveway.
  - (c) Portable sandwich board signs. Four (4) feet.
  - (d) Ground-mounted signs. Six (6) feet.
  - (e) Directional/informational signs. Three (3) feet.
  - (f) Temporary commercial signs. Five (5) feet.
- (3) Maximum area. The maximum area for signs shall be as follows:
  - (a) Wall signs. The sign area shall not exceed one and one half (1.5) square foot per each linear foot of the front building wall maximum of thirty (30) square feet. In the case of multi-tenant structures, the lineal distance of the front building wall compromising the width of the tenant space only shall be used in this area calculation as illustrated in Figure 27.
  - (b) Awning signs. The sign area for all canopy signs shall not exceed thirty (30) square feet.
  - (c) Ground-mounted signs. The sign area shall not exceed one square foot per linear foot of frontage of the premises, maximum of twenty-five (25) square feet.
  - (d) Projecting signs. Sixteen (16) square feet.
  - (e) Portable sandwich board signs. Six (6) square feet.
  - (f) Directional/informational signs. Three (3) square feet.
  - (g) Temporary commercial signs. Six (6) square feet unless otherwise provided for.
  - (h) Window signs. The total square footage of all permitted window signs, including an “Open / Close” sign and informational window signs shall not comprise more than twenty percent (20%) of the total window area for the first floor level front façade of any structure.

Figure 27: Wall Sign Area Computation

*Illustration describing the measurement of tenant space for computation of permitted wall signs.*



(4) Location and setback.

- (a) Signs shall be located on the same lot to which they are an accessory use.
- (b) Projecting signs shall be allowed to project over two-thirds the width of the sidewalk or five feet from the building, whichever is less. All components of the projecting sign shall have a minimum clearance of eight feet from the sidewalk.
- (c) Portable sandwich board signs may be located in the sidewalk right-of-way only when there is not adequate area to place the sign upon the lot for which the principle use is located. If located in the sidewalk right-of-way area, any sandwich board sign shall not obstruct pedestrian traffic, and shall be located in front of the same building frontage for which the sign is erected.
- (d) All signs shall be set back a minimum of one-half the height of the sign from the street right-of-way, provided that no part of a ground-mounted sign shall be closer to the front property line than seven feet.
- (e) All signs shall be set back a minimum of 10 feet from any side yard lot line with the exception of portable sandwich signs located in the right-of-way.

(C) General Provisions.

- (1) All sign frames, foundations and other supporting structures in commercial zoning districts shall be constructed of wood, stone, brick or other material similar to the principal permitted structures which they identify, unless otherwise approved by the Planning Commission.
- (2) All signs located in commercial zoning districts shall utilize similar or compatible colors and styles to the buildings which such signs identify.

- (3) No projecting sign in a commercial district shall be internally illuminated.
- (4) Portable Sandwich Board Signs. Sandwich board signs placed on private property shall not require a sign permit. Sandwich Board signs shall require a sign permit if proposed to be located in the public sidewalk right-of-way area. Any approved sandwich board sign must be removed at the close of business each day and cannot be placed within the sidewalk area or within any private property area until the open of business the following day.
- (5) For multiple occupant structures, individual occupants wishing to use a portion of their allowable sign area on the permitted ground-mounted sign shall erect such sign on this common structure, the area of which shall be divided proportionately among the occupants based on the width of the individual storefront building frontage, or as otherwise mutually agreed upon among the tenants. Multiple occupant ground-mounted signs shall have a coordinated appearance, and all individual occupants' panels shall be constructed of the same materials.
- (6) Any manufacturing, warehousing, industrial or related uses located in the BR-CD zoning district may utilize those sign standards set forth in §303.14 regulating signs in industrial zoning districts.
- (7) Conditional uses allowed in these zoning districts may contain specific sign standards and requirements unique to the particular use. These standards shall be supplemental to the regulations set forth in this Chapter and shall be provided for in the conditional use Chapter.
- (8) Additional sign standards for adult oriented business uses are provided for in §206.02(B)(3).

## Section 303.13

### **Signs Permitted in the College District (CD).**

Outdoor advertising, identification or other exterior signs pertaining to permitted, accessory, and conditional uses are permitted subject to the regulations set forth herein for the College District (CD).

- (A) **Permitted Signs.** The following types of signs are permitted in the CD zoning district unless otherwise noted:
  - (1) Wall signs.
  - (2) Awning signs.
  - (3) Ground-mounted signs.
  - (4) Projecting signs.
  - (5) Directional/informational signs.
  - (6) Window signs
  - (7) Those signs not requiring a permit under §303.07.
- (B) **Permitted Number, Height, Area and Location.**
  - (1) **Permitted number.**

- (a) Permitted nonresidential uses may have one of each of the following types of signs: wall sign, projecting sign, awning sign and ground-mounted signs. In addition, each nonresidential use shall be permitted one temporary commercial sign, one temporary non-commercial sign, one "Open / Closed" window sign, up to two separate window signs and one portable sandwich sign on the premises.
- (b) If there is a combination of uses within the same structure, then the number of signs permitted for nonresidential uses shall apply.

(2) Maximum height. The maximum height shall be as follows:

- (a) Wall signs. Wall signs shall not project more than 12 inches from the building wall and shall not extend above the wall or beyond the wall to which it is attached.
- (b) Projecting signs. The bottom of any projecting sign shall be a minimum of 8 feet above any sidewalk and 15 feet above any driveway.
- (c) Ground-mounted signs. Four (4) feet.
- (d) Directional/informational signs. Three (3) feet.
- (e) Temporary commercial signs. Four (4) feet.

(3) Maximum area. The maximum area for signs shall be as follows:

- (a) Wall signs. The sign area shall not exceed one and one half (1.5) square foot per each linear foot of the front building wall maximum of thirty (30) square feet. In the case of multi-tenant structures, the lineal distance of the front building wall compromising the width of the tenant space only shall be used in this area calculation as illustrated in Figure 27.
- (b) Awning signs. The sign area for all canopy signs shall not exceed thirty (30) square feet.
- (c) Ground-mounted signs. The sign area shall not exceed one square foot per linear foot of frontage of the premises, maximum of twenty (20) square feet.
- (d) Projecting signs. Twelve (12) square feet.
- (e) Directional/informational signs. Three (3) square feet.
- (f) Temporary commercial signs. Six (6) square feet unless otherwise provided for.
- (g) Window signs. The total square footage of all permitted window signs, including an "Open / Close" sign and informational window signs shall not comprise more than twenty percent (20%) of the total window area for the first floor level front façade of any structure.

(4) Location and setback.

- (a) Signs shall be located on the same lot to which they are an accessory use.
- (b) Projecting signs shall be allowed to project over two-thirds the width of the sidewalk or five feet from the building, whichever is less. All components of

the projecting sign shall have a minimum clearance of eight feet from the sidewalk.

- (c) All signs shall be set back a minimum of one-half the height of the sign from the street right-of-way, provided that no part of a ground-mounted sign shall be closer to the front property line than seven feet.
- (d) All signs shall be set back a minimum of 10 feet from any side yard or rear yard lot line abutting any non-residential land use.
- (e) All signs shall be set back a minimum of 20 feet from any side yard or rear yard lot line abutting any residential land use.

(C) General Provisions.

- (1) All sign frames, foundations and other supporting structures in the College District shall be constructed of wood, stone, brick or other material similar to the principal permitted structures which they identify, unless otherwise approved by the Planning Commission.
- (2) All signs located in the College District shall utilize similar or compatible colors and styles to the buildings which such signs identify.
- (3) No projecting sign in the College District shall be internally illuminated.
- (4) For multiple occupant structures, individual occupants wishing to use a portion of their allowable sign area on the permitted ground-mounted sign shall erect such sign on this common structure, the area of which shall be divided proportionately among the occupants based on the width of the individual storefront building frontage, or as otherwise mutually agreed upon among the tenants. Multiple occupant ground-mounted signs shall have a coordinated appearance, and all individual occupants' panels shall be constructed of the same materials.
- (5) Conditional uses allowed in this zoning district may contain specific sign standards and requirements unique to the particular use. These standards shall be supplemental to the regulations set forth in this Chapter and shall be provided for in the conditional use Chapter.
- (6) Off-premises signs are prohibited in the College District.

Section 303.14

## **Signs Permitted in the Educational & Institutional Zoning District (EI).**

Outdoor advertising, identification or other exterior signs pertaining to permitted, accessory, and conditional uses are permitted subject to the regulations set forth herein for the Educational and Institutional District (EI).

(A) Permitted Signs. The following types of signs are permitted in the Educational and Institutional District unless otherwise noted:

- (1) Wall signs.
- (2) Awning signs.
- (3) Ground-mounted signs.

- (4) Projecting signs.
- (5) Directional/informational signs.
- (6) Those signs not requiring a permit under §303.07.

(B) Permitted Number, Height, Area and Location.

- (1) Permitted number.
  - (a) Permitted nonresidential uses may have one of each of the following types of signs: wall sign, projecting sign, awning sign and ground-mounted signs. Directional/informational signs and those signs not requiring a permit under §303.07 shall not count toward the maximum permitted sign limit.
  - (b) If there is a combination of uses within the same structure, then the number of signs permitted for nonresidential uses shall apply.
- (2) Maximum height. The maximum height shall be as follows:
  - (a) Wall signs. Wall signs shall not project more than 12 inches from the building wall and shall not extend above the wall or beyond the wall to which it is attached.
  - (b) Projecting signs. The bottom of any projecting sign shall be a minimum of 8 feet above any sidewalk and 15 feet above any driveway.
  - (c) Ground-mounted signs. Four (4) feet.
  - (d) Directional/informational signs. Three (3) feet.
- (3) Maximum area. The maximum area for signs shall be as follows:
  - (a) Wall signs. The sign area shall not exceed one and one half (1.5) square foot per each linear foot of the front building wall maximum of thirty (30) square feet.
  - (b) Awning signs. The sign area for all canopy signs shall not exceed thirty (30) square feet.
  - (c) Ground-mounted signs. The sign area shall not exceed one square foot per linear foot of frontage of the premises, maximum of twenty (20) square feet.
  - (d) Projecting signs. Twelve (12) square feet.
  - (e) Directional/informational signs. Three (3) square feet.
- (4) Location and setback.
  - (a) Signs shall be located on the same lot to which they are an accessory use.
  - (b) Projecting signs shall be allowed to project over two-thirds the width of the sidewalk or five feet from the building, whichever is less. All

components of the projecting sign shall have a minimum clearance of eight feet from the sidewalk.

- (c) All signs shall be set back a minimum of one-half the height of the sign from the street right-of-way, provided that no part of a ground-mounted sign shall be closer to the front property line than seven feet.
- (d) All signs shall be set back a minimum of 10 feet from any side yard or rear yard lot line abutting any non-residential land use.
- (e) All signs shall be set back a minimum of 20 feet from any side yard or rear yard lot line abutting any residential land use.

(C) **General Provisions.**

- (1) All sign frames, foundations and other supporting structures in the Educational and Institutional District shall be constructed of wood, stone, brick or other material similar to the principal permitted structures which they identify, unless otherwise approved by the Planning Commission.
- (2) All signs located in the Educational and Institutional District shall utilize similar or compatible colors and styles to the buildings which such signs identify.
- (3) No projecting sign in the Educational and Institutional District shall be internally illuminated.
- (4) Off-premises signs are prohibited in the Educational and Institutional District.

**Section 303.15 Signs Permitted in Industrial Zoning Districts.**

Outdoor advertising, identification or other exterior signs pertaining to permitted, accessory, and conditional uses are permitted subject to the regulations set forth herein for the following zoning district: General Industrial (GI) and industrial land uses located in the West Bagley Road Commercial District (BR-CD).

(A) **Permitted Signs.** The following types of signs are permitted in industrial zoning districts:

- (1) Wall signs.
- (2) Ground-mounted signs.
- (3) Portable sandwich board signs.
- (4) Directional/informational signs.
- (5) Temporary commercial signs.
- (6) Off-Premises Signs.
- (7) Window Signs
- (8) Those signs not requiring a permit under §303.07.

(B) **Permitted Number, Height, Area and Location.**

- (1) Permitted number. Each permitted use may erect and maintain one ground-mounted sign, one wall sign, one portable sandwich board sign, one temporary commercial sign and one

temporary non-commercial sign on a lot. Each permitted use may also erect and maintain two directional or informational signs at each driveway accessing a public street at the discretion of the Zoning Administrator. Each permitted use containing multiple occupants shall have a maximum of one ground-mounted sign used by all occupants, site or development, plus a maximum of one additional wall sign for each occupant.

- (2) Maximum height. The maximum height shall be as follows:
  - (a) Wall signs - Wall signs shall not project more than eighteen (18) inches from the building wall and shall not extend above the wall or beyond the wall to which it is attached.
  - (b) Ground-mounted signs – Six (6) feet.
  - (c) Portable sandwich board signs. Four (4) feet.
  - (d) Directional/informational signs - Three (3) feet.
  - (e) Temporary commercial signs - Six (6) feet.
  - (f) Off-Premises signs – eight (8) feet.
- (3) Maximum area. The maximum area for signs shall be as follows:
  - (a) Wall signs - The sign area shall not exceed two (2) square foot per linear foot of the front building wall elevation, maximum of one hundred (100) square feet. For multiple occupant structures, the wall sign area calculation stated above shall be based upon the portion of the building frontage attributed to the specific user requesting the wall sign permit.
  - (b) Ground-mounted signs - The sign area shall not exceed one square foot per linear foot of frontage of the premises, maximum of sixty-four (64) square feet. For multiple occupant structures, individual occupants wishing to use a portion of their allowable sign area on the one permitted ground-mounted sign shall erect such sign on this common structure, the area of which shall be divided proportionately among the occupants based on the width of the individual storefront building frontage, or as otherwise mutually agreed upon among the tenants. Multiple occupant ground-mounted signs shall have a coordinated appearance, and all individual occupants' panels shall be constructed of the same materials.
  - (c) Portable sandwich board signs. Six (6) square feet.
  - (d) Directional/informational signs - Four (4) square feet.
  - (e) Temporary commercial signs - Ten (10) square feet.
  - (f) Off-premises signs – forty-eight (48) square feet.
  - (g) Window signs. The total square footage of all permitted window signs, including an “Open / Close” sign and informational window signs shall not comprise more than twenty percent (20%) of the total window area for the first floor level front façade of any structure. Maximum allowable area shall be forty (40) square feet.

- (C) Location and setback.
  - (1) Signs shall be located on the same lot to which they are an accessory use.
  - (2) All signs shall be set back a minimum of one-half the height of the sign from the street right-of-way, provided that no part of a ground-mounted sign shall be closer to the front property line than seven feet.
    - (a) Any off-premises sign shall be setback a minimum of one hundred (100) feet from any public right-of-way.
  - (3) All signs shall be set back a minimum of ten (10) feet from any side lot line.
  - (4) All signs shall be set back a minimum of twenty-five (25) feet from any residential district.
    - (a) Any off-premises sign shall be setback a minimum of one hundred (100) feet from any residential district.
  - (5) Portable sandwich board signs may be located in the sidewalk right-of-way only when there is not adequate area to place the sign upon the lot for which the principle use is located. If located in the sidewalk right-of-way area, any sandwich board sign shall not obstruct pedestrian traffic, and shall be located in front of the same building frontage for which the sign is erected.
- (D) Conditional uses allowed in these zoning districts may contain specific sign standards and requirements unique to the particular use. These standards shall be supplemental to the regulations set forth in this Chapter and shall be provided for in the conditional use Chapter.
- (E) Portable Sandwich Board Signs. Sandwich board signs placed on private property shall not require a sign permit. Sandwich Board signs shall require a sign permit if proposed to be located in the public sidewalk right-of-way area. Any approved sandwich board sign must be removed at the close of business each day and cannot be placed within the sidewalk area until the open of business the following day.

## Section 303.16 **Maintenance of Signs.**

- (A) All signs and sign structures shall be kept in repair and in a proper state of preservation.
- (B) Sanitation/Landscaping. Property surrounding any freestanding or ground mounted sign shall be kept clean, sanitary, and free from obnoxious and offensive substances, weeds, debris, rubbish, and flammable material. All plant materials and other landscaping surrounding any sign shall be maintained on a regular basis, including pruning, mowing, watering, fertilizing, and replacement of dead and diseased materials.
- (C) Inspection of Existing Signs. The Zoning Administrator shall have the authority to routinely enter onto property to inspect existing signs for compliance with this Chapter. In conducting such inspections, the Zoning Administrator may seek a determination from the appropriate city building official whether the sign is compliant with the Ohio Basic Building Code. The sign owner shall be notified of any defects or deferred maintenance requiring corrective action in writing.
- (D) Correction of Defects. If any sign reaches a state of disrepair and is deemed unsightly or unsafe or abandoned by the Zoning Administrator and is not properly renovated within thirty (30) days, it shall be condemned and an order issued for its immediate removal by the sign erector, owner of the sign, or owner of the land.
- (E) Nuisance. Any sign or other object placed, erected, constructed, reconstructed or altered or

permitted to remain on any premises in violation of this Chapter is hereby declared to constitute a nuisance, and in addition to any penalty provided in this Code for such violation, the nuisance may be abated in the manner provided under the General Laws of the State of Ohio and or Chapter 931, Nuisance Abatement, of the Codified Ordinances of the City of Berea.

## Section 303.17 **Nonconforming Signs.**

- (A) Effective Date. A permanent sign that is nonconforming as to the regulations prevailing on the effective date of this Chapter, and that is legally erected in accordance with a valid sign permit, shall be construed as a legal nonconforming sign. A sign conforming as to the regulations prevailing on the effective date of such ordinance, but which does not conform with the regulations of a subsequent amendment to this Zoning Code, shall also be construed as a legal nonconforming sign.
- (B) Maintenance; Repair; Alteration. A legal nonconforming sign may be maintained, and structural or electrical parts may be required, replaced or restored to a safe condition, only if required by law. In addition, the Zoning Administrator, may permit the replacement of the face of a legal nonconforming wall sign or ground mounted sign if such sign face area is not increased. Otherwise, a nonconforming sign shall not be altered or moved unless it is made to comply with this Zoning Code. If any sign or part thereof is damaged, destroyed to more than fifty percent (50%) of its reproduction value or is taken down, it shall not be rebuilt or relocated unless it is made to comply with the regulations of the district in which it is located and a sign permit is issued by the Planning Commission.
- (C) Discontinuance of Use. A nonconforming sign, the use of which is discontinued for a continuous period of six (6) months or more, shall thereafter conform to this Zoning Code.
- (D) Sign Permit Required. A sign permit shall be obtained for any alteration or replacement of a sign face under this section.

## Section 303.18 **Limitation of Rights.**

No right to occupy any part of any sidewalk, street, alley, or public place of the city shall become permanent but all rights may be withdrawn at any time, whereupon any such projection on occupancy shall be removed by owners.

## Section 303.19 **Landscaping Requirements.**

A permanent ground-mounted sign shall require a single continuous landscaped area to be maintained beneath the sign in accordance with the following standards:

- (A) The minimum landscaped island shall be at three (3) feet around the perimeter of the base of the sign, including all points where sign structural supports are attached to the ground.
- (B) Where the required landscaped area is adjacent to a paved surface accessible to vehicular traffic, a raised, non-mountable curb suitable to prevent the encroachment of vehicles shall be required.
- (C) The landscaped area shall include living plantings aesthetically located and maintained. The use of concrete, asphalt, ornamental rocks or any other paved surface inside the required landscaped area beneath the sign shall be prohibited.
- (D) The landscape detail and maintenance plan shall be submitted with the sign plan.

## Section 303.20 Construction Standards.

- (A) No part of a projecting sign shall be supported from an un-braced parapet wall. All metal parts used in sign or structure, including pole or pylon, metal, supports and braces, shall be galvanized or of corrosive-resistant material or painted with approved corrosive-resistant paint. When existing poles or structures are used for new sign installation, all parts shall be brought to like-new condition and shall be painted with approved rust and corrosion-resistant paint.
- (B) When a sign is removed for any reason, a new sign permit for future installation of the sign shall be obtained, or all mast arms, cable, guys of any nature, clips, brackets and all structures of the old sign shall be removed with the sign.
- (C) No equipment such as cable to support electric circuits, light fixtures, guys, etc. may be added to sign structure or supports other than as approved by the Building Inspector in the sign permit. Brackets, wires, switches, etc., required to illuminate the sign may be added. When sign structure or supports are used in any manner other than outlined above, certification by a licensed engineer shall be obtained to show the structure is capable of supporting the load.
- (D) Projecting signs, such as marquee signs, shall not be installed on a building or structure unless the support has been designed specifically for the purpose of supporting a sign and approved by the Zoning Administrator.
- (E) No sign or outdoor display structure shall be of such character or with such inscription or marking that it may be mistaken for a highway sign or marker. No sign of any description shall be installed, erected or constructed in such a manner as to obstruct any fire escape or any door or window giving access to any fire escape, nor shall a sign be attached in any form, shape or manner to a fire escape.
- (F) All electrical signs shall be plainly marked on the bottom edge of the sign using 3/4 inch minimum letters with the erector's name, the voltage, amperes or watts, and the date of installation. All signs shall be grounded.
- (G) All wiring, fittings and materials used in the construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of the National Electric Code. Electric sign wiring shall be maintained in weather-proof condition during erection or alteration by use of permanent or temporary cover.

## Section 303.21 Signs in the Public Right-of-Way Prohibited.

- (A) No sign shall be placed in any public right-of-way except:
  - (1) A governmental sign, such as a traffic control or directional sign; and
  - (2) Portable sandwich signs in the TO, NC, CC, DT, BR-CD, UT, DD, and GI zoning districts, provided the signs meet the requirements of this Chapter. In all instances, the sign applicant must show that a portable sandwich board sign can physically not be placed upon on private property before requesting placement within the right-of-way.
- (B) Any sign placed in a public right-of-way or right-of-way easement may be removed by the city and stored in a city facility as directed by the Zoning Administrator for a minimum of one hundred twenty (120) hours and may thereafter be destroyed.

## Section 303.22 Community Activities and Special Events.

- (A) A community activity and/or special event, as defined herein, shall be limited to a maximum of two off-site community promotional signs and banner signs. These signs are considered temporary signs, and a sign permit is required before installation. A temporary sign permit may be obtained from the Zoning Administrator for up to fourteen (14) days. Onsite community activity signage to be used only for the duration of the event, with the exception of banners, does not require a permit.
- (B) The event must be open to the public and be non-discriminatory. Free admission is not a requirement.
- (C) Community activity and/or special event promotional signage shall not contain any commercial advertising. If an organization is sponsoring the event, the title of the organization may be used on promotional signage.
- (D) Community promotional signs may not exceed sixteen (16) square feet in area and six (6) feet in height, except that a community promotional banner sign shall not exceed sixty (60) square feet in dimension and shall be affixed to a building.
- (E) Signs permitted under this section shall not be illuminated.
- (F) Community promotional signs shall not be displayed more than 14 days immediately preceding the event and shall be removed no later than 24 hours following conclusion of the event.
- (G) Directional signs may not exceed two (2) square feet in area and one (1) foot in height.
- (H) Directional signs shall be installed no more than 24 hours immediately preceding the event and shall be removed within 24 hours following conclusion of the event.

## Section 303.23      **Temporary Signs.**

- (A) No business shall use, place, or erect temporary or nonpermanent signs, trailer signs, or vehicle-mounted portable signs for advertising, announcements, displays, or business identification, except that temporary signs not exceeding in the aggregate of 32 square feet, announcing the opening of a new place of business, the erection or renovation of a building, the architect or builders and contractors, may be erected for a period of 30 days, plus the construction period. A maximum of three separate temporary sign permits shall be provided per business use in any single calendar year upon the submission of a completed sign permit application and sign permit fee payment.
- (B) Human Signs. Human signs as defined in this Chapter are considered a temporary sign and are subject to sign permit requirements. Human signs are limited to five days in a 12-month period per property, location or business. Human signs are not allowed in the public right-of-way.
- (C) Temporary Sign Display Time Limits. All permitted temporary commercial signs and temporary non-commercial signs shall obtain a sign permit as provided in this Chapter. No more than three (3) permits may be granted per single calendar year. Each temporary sign permit shall expire upon thirty (30) days from the date of permit issuance. After expiration of the temporary sign permits, thirty (30) days must lapse before the applicant may apply for another temporary sign permit.
  - (1) Portable sandwich board signs located in the TO, NC, CC, DT, BR-CD, UT, DD, and GI zoning districts shall be exempt from this time limitation.

## Section 303.24      **Government Signs Excluded.**

These regulations do not apply to signs, flags or banners erected and maintained pursuant to and in discharge of any governmental function, or required by any law, ordinance, or governmental regulation.

## Section 303.25 Removal and Disposal of Signs.

- (A) Abandoned Signs. Except as otherwise provided in this Chapter, any on-premise sign which is located on property which use becomes vacant and unoccupied for a period of six (6) months or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to be abandoned. Permanent signs applicable to a business temporarily vacant because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of six (6) months. An abandoned sign is prohibited and shall be removed by the owner of the sign or owner of the premises.
- (B) Dangerous or defective signs. No persons shall maintain or permit to be maintained on any premises owned or controlled by them any sign which is in dangerous or defective condition. Any such sign shall be removed or repaired by the owner of the premises.
- (C) Removal of signs by the City.
  - (1) The Zoning Administrator may cause to be removed any sign in violation of this Chapter or a sign for which no permit has been issued. The Zoning Administrator shall prepare a notice which shall describe the sign and specify the violation(s) involved and which shall state that if the sign is not removed or if each violation is not corrected within 30 days, the sign shall be removed in accordance with the provisions of this section. Also see the nuisance abatement procedure set forth in Chapter 931 of the Berea Codified Ordinances.
  - (2) All notices mailed by the Zoning Administrator shall be sent by certified mail. The notice shall be mailed to the owner of the property on which the sign is located as indicated by the most recent Cuyahoga County Auditor's Office property owner information database. The notice shall also be mailed to or delivered to the occupant of the property. Any conformance time periods provided in this section shall be deemed to commence on the date of mailing of the certified mail.
  - (3) Any person having an interest in the sign or the property may appeal the determination of the Zoning Administrator ordering compliance, removal, or compliance by filing a written notice of appeal with the Planning Commission, within 10 days after receipt date of the notice as determined by the returned certified mail confirmation. In the event the property owner or occupant fail to accept the certified mail announcement, constructive receipt shall be deemed to have occurred after 15 days from the certified notice mailing date.
  - (4) The Director of Public Service or his designee shall be, and hereby is expressly authorized to remove, without notice, any and all signs placed in or upon any treelawn or other right-of-way area.
  - (5) Notwithstanding the above, in cases of emergency, the Zoning Administrator may cause the immediate removal of a dangerous or defective sign without notice.
- (D) Disposal of signs. Any sign removed pursuant to the provisions of this section shall become the property of the city and may be disposed of in any manner deemed appropriate by the city. The cost of removal of the sign by the city shall be considered a debt owed to the city by the owner of the sign and the owner of the property, and may be recovered in an appropriate court action by the city or by levying an assessment against the property as hereinafter provided. Each such assessment shall be a lien against each lot or tract of land assessed, until paid, and shall have priority over all other liens except general taxes and prior special assessments. The cost of

removal shall include any and all incidental expenses incurred by the city in connection with the sign's removal. Signs may be retrieved at the Berea Service Garage for a period not to exceed 120 hours after removal by the Zoning Administrator or any other city personnel. After the 120 hour sign holding period, the signs shall be disposed or destroyed.

## CHAPTER 304 Conditional Use Standards

Section 304.01	<b>Purpose</b>
Section 304.02	<b>Application for a Conditional Use Permit</b>
Section 304.03	<b>Conditional Use Permit Procedure</b>
Section 304.04	Appeals of Decisions Concerning Conditional Use Permit Applications
Section 304.05	General Standards Applicable to Consideration of Conditional Use Permit Applications
Section 304.06	Specific Standards for Each Conditional Use
Section 304.07	Addition to or Expansion of a Conditional Use
Section 304.08	Exemption of Existing Conditional Uses
Section 304.09	Expiration of Conditional Uses

### Section 304.01 Purpose.

The purpose of this subchapter is to establish the procedure for approval of uses conditionally permitted under the provisions of the various districts created by this chapter. These sections are necessary because of the considerable impact certain uses which might be appropriate in the district might have on other permitted uses.

### Section 304.02 Application for a Conditional Use Permit.

An application for a conditional use permit must be filed with the Zoning Administrator by at least one owner or lessee of property upon which a conditional use exists or is proposed. At a minimum, the application shall contain the following information:

- (A) Name, address, and phone number of the applicant;
- (B) A legal description of the property;
- (C) A detailed description of the existing use and proposed use;
- (D) The zoning district in which it is located;
- (E) A narrative statement evaluating the effects on adjoining property; the effect of those elements such as noise, glare, odor, fumes, and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district;
- (F) If a proposed conditional use meets the requirements for a site plan application submission as provided for in §300.01, the conditional use application shall also contain those applicable site plan application requirements.

### Section 304.03 Conditional Use Permit Procedure.

Prior to authorizing a conditional use, the Planning Commission shall conduct a public hearing after notice of said hearing has been given in accordance with §102.04. The Zoning Administrator shall issue a conditional use

permit for the conditional use following the hearing and upon an affirmative vote by the Planning Commission that such conditional use satisfies the requirements of this subchapter.

- (A) The Planning Commission, as part of an affirmative vote, is authorized to attach reasonable conditions to a conditional use permit application to meet the overall spirit and intent of the zoning district for which the conditional use is proposed to be located, and to comply with the objectives of this Zoning Code and the Berea Comprehensive Plan.

## Section 304.04 Appeals of Decisions Concerning Conditional Use Permit Applications.

Appeals of decisions made by the Planning Commission concerning conditional use permits may appeal any such action or decision to the Court of Common Pleas under Chapter 2506 of the Ohio Revised Code.

## Section 304.05 General Standards Applicable to Consideration of Conditional Use Permit Applications.

In reviewing the applications for conditional use permits, the Planning Commission shall consider whether there is adequate evidence that the proposed conditionally permitted use is consistent with the following standards:

- (A) The proposed use is a conditional use as established under the provisions of district use regulations as set forth in the Land Use Matrix Chart in §200.07;
- (B) The proposed use will be harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan and zoning code of the city;
- (C) The proposed use will be designed, constructed, operated, and maintained in a manner harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the same area;
- (D) The proposed use will not be hazardous or disturbing to existing or future neighborhood uses;
- (E) The proposed use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any of those services;
- (F) The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- (G) The proposed use will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
- (H) The proposed use will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;
- (I) The proposed use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- (J) When applicable, minimum standards for parking and loading shall be as required in the Off-Street Parking and Loading Facilities subchapter of this Zoning Code;
- (K) Buffering and Screening Requirements. When a conditional use includes fields, courts or other outdoor activity areas within any required yard, such areas shall be setback at least ten (10) feet

from a side or rear lot line of an adjacent or abutting residential zoning lot and twenty (20) feet from an adjoining public or private street if the zoning district on the other side of the street is R-SF-A, or is R-SF-B and the existing use of the zoning lots adjoining or abutting the other side of such street is residential. Within such setback areas, there shall be constructed and/or suitably planted buffer screening so as to effectively screen such fields, courts or other outdoor activity areas in one or a combination of the following manners:

- (1) Landscaping which shall include substantial dense, all season plantings at least four (4) feet high, covering the entire length of the required setback area; or
- (2) Substantially solid wall or fence erected to a height of not less than four (4) feet nor more than six (6) feet, with accompanying landscaping; or
- (3) When special conditions and circumstances exist due to the topography, existing structures or existing landscaping and such conditions and circumstances provide an alternative method of effectively screening the fields, courts or other outdoor activity areas, the manner of screening may be modified to incorporate those special conditions and circumstances as approved by Planning Commission.

(L) When applicable, minimum standards for architectural or exterior material requirements and site design guidelines provided for in the zoning district for which the proposed conditional use may be located shall apply.

## Section 304.06 Specific Standards for Each Conditional Use.

The following minimum requirements shall be imposed on conditional uses. Additional requirements may be imposed by the Planning Commission if deemed appropriate to meet the spirit and intent of this Zoning Code and the Berea Comprehensive Plan. In granting any conditional use, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Zoning Code.

### (A) Alcohol and Drug Rehabilitation Facility.

- (1) Activity Areas. The term "activity areas" as used in the context of a proposed conditional use application under this land use classification shall be defined as follows: Any outdoor area or zone proposed to be utilized as either an active or passive area where employees, patients, visitors or other individuals may participate in a variety of activities ancillary to an alcohol and drug rehabilitation facility including, but not limited to: dining activities, recreational activities, passive gathering, outdoor learning activities and outdoor rehabilitation activities.
  - (a) The location of all proposed outdoor activity areas shall be clearly delineated on the site plan.
  - (b) All outdoor activity areas shall be completely fenced utilizing a decorative fencing material consistent with a low intensity residential use as approved by the Planning Commission.
  - (c) All activity areas shall be located in a defined side yard or rear yard area of the project site.
- (2) Any proposed external lighting fixtures shall conform to the outdoor lighting standards set forth in Section 300.07.

(3) The applicant shall provide a comprehensive security plan for the proposed use. The proposed security plan shall be reviewed by the City Public Safety Director. As a part of the conditional use review process, the City Public Safety Director shall prepare a written recommendation addressing the merits of the proposed security plan.

(B) Animal Kennels.

- (1) Kennels shall be located not less than two hundred (200) feet from any Residential use or zoning district.
- (2) The facilities, including all structures, shall be screened with appropriate vegetation or solid walls from all public rights-of-way and adjacent residential uses or zoning districts.

(C) Automated Teller Machines (ATMs).

- (1) No stand-alone automated teller machine structure nor any portion of an automated teller machine constructed as part of a building façade shall exceed fifteen (15) feet in height.
- (2) All structures and activity areas, except off-street parking, shall be located no less than 50 feet from all lot lines abutting any residential zoning district and no less than 35 feet from all lot lines abutting non-residential zoning districts.
- (3) The Planning Commission may require that a photometric analysis be provided in order to ensure that the foot candle measurement at any property line abutting against any residential use or zoning district does not exceed .5 foot candles.

(D) Automobile Sales.

- (1) The minimum lot size shall be four (4) acres.
- (2) The building setback for such establishments shall be located a minimum of 150 feet from any adjacent residential district or residential land use and the minimum parking setback shall be 50 feet from any adjacent residential district or residential land use.
- (3) All work shall be performed entirely within an enclosed building. During the time work is performed on a vehicle, the vehicle shall be entirely within the building.
- (4) Vehicle parking areas, vehicle and equipment storage areas, maneuvering lanes and access ways to public streets shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site.
- (5) No scrap metal, scrap or salvaged parts, junk vehicles nor used oil, antifreeze, transmission or other such fluids shall be stored above ground on the site.
- (6) Parking areas shall not exceed the required number of off-street parking spaces set forth in the Off-Street Parking and Loading Facilities chapter.
- (7) Any proposed loudspeaker system shall be approved as part of the site plan and may require conditions regulating the hours of usage and maximum decibel levels.

(E) Automotive Gasoline or Automotive Service Station (with Gasoline).

- (1) No structure shall exceed twenty-five (25) feet in height.

- (2) All structures and activity areas, except off-street parking, gasoline pump islands and canopies, shall be located no less than forty (40) feet from all lot lines. Gasoline pump islands shall be located no less than twenty-five (25) feet from the road right-of-way. Canopies shall be located no closer than fifteen (15) feet from the road right-of-way. Where the property abuts any residential zoning district or residential use, all structures shall be set back a minimum of twenty (20) feet from the property line.
- (3) There shall be no more than two (2) ingress/egress drives onto the property. No drive shall exceed thirty-five (35) feet in width.
- (4) Lubrication, washing and other incidental servicing of motor vehicles and all supply and merchandise storage shall be completely within an enclosed building except as otherwise provided herein.
- (5) Lighting, including permitted illuminating signs, shall be arranged so as not to reflect or cause glare that would constitute a nuisance to any residential use or hazard to traffic on any public thoroughfare.
- (6) Employee vehicles and vehicles awaiting servicing or return to customers following servicing shall be parked in areas indicated for such parking on the approved site plan. Such parking areas shall be located no less than fifty (50) feet from the road right-of-way.
- (7) The sale of motor vehicles on Automotive Service Station premises shall be prohibited.
- (8) The outdoor storage of any materials, parts or the outdoor display of goods and merchandise for sale shall be prohibited, unless otherwise provided for in this Zoning Code.
- (9) Notwithstanding any other provision of this or any other subchapter relating to the development of automotive service stations, no signs, product displays, parked vehicles or other obstructions which adversely affect visibility at intersections or at station driveways shall be permitted. Regulations for temporary signage are set forth in §303.23.
- (10) Underground tanks must be removed if the property is to be converted to another use.
- (11) As a condition of approval under this section, an automobile gasoline or service station removal shall provide a performance bond to the City in an amount equal to the estimated cost of any underground storage containers or other site element remediation or abatement that may require specific costs to fully bring the site in full compliance with all local, state and federal environmental laws and guidelines. Such performance bond must remain in effect until the site ceases to be used as an automobile gasoline or service station. Changes in ownership of the property and / or the business entity shall require the submission of a new or modified performance bond to the City within thirty (30) days upon change of ownership.
- (12) The following shall regulate the abandonment of automobile gasoline and automobile service stations:
  - (a) If any automotive gasoline or service station is abandoned for a period of at least six consecutive months, such station shall be presumed to be a nuisance affecting or endangering surrounding property values and to be detrimental to the public health, safety, convenience, comfort, property or general welfare of the community and shall be abated.
  - (b) Such abandoned condition shall be abated within sixty (60) days either by placing the station in operation in accordance with this section and other

applicable laws and regulations of the City and State, adopting and using the building or structure for another permitted use in the district in which it is located, or by razing the station, removing the pumps and signs, abandoning the underground storage tanks in accordance with safe accepted practices as prescribed by the National Fire Protection Association and filling depressions to the grade level of the lot; however, if the station is in operation at the time notice is given and remains in operation for ninety (90) consecutive days thereafter, the provision of this division shall not apply. Whenever the Zoning Administrator shall find any automotive service station to be abandoned, the Zoning Administrator shall give notice in the same manner as service summons in civil cases, or by certified mail addressed to the owner of record of the premises at the last known address to which tax bills are sent, or by a combination of the foregoing methods.

- (c) An abandoned automobile gasoline or service station site shall comply with any applicable Federal or State of Ohio Environmental Protection Agency laws, rules and provisions prior to being granted a non-abandoned status by the Zoning Administrator.
- (d) On the failure, neglect or refusal of any owner to comply with the notice to abate such abandonment, the Zoning Administrator may take action as may be necessary to abate such nuisance.

(F) Automobile Repair Facilities.

- (1) All activities, including repair, maintenance and painting of automobiles, shall be conducted within a completely enclosed building, except for off-street parking as regulated by Chapter 301.
- (2) Outdoor off-street parking spaces shall be provided to meet anticipated customer parking, which shall be limited to spaces for those customer automobiles without appearance of damage, which may be parked on the premises for not more than twenty-four (24) hours while awaiting service or for not more than twenty-four (24) hours after completion of service.

(G) Automobile Washing Facilities.

- (1) The zoning lot shall contain adequate space for a minimum of thirty (30) cars waiting to be washed provided, however, that if the automobile washing facility contains more than two (2) washing lanes, the zoning lot shall contain additional space adequate for a minimum of fifteen (15) cars waiting to be washed for each additional lane. In addition, each washing lane shall contain adequate space on the zoning lot for three (3) cars after they have been washed for the purpose of drying or interior cleaning and the drivers' returning to their automobiles.
- (2) The zoning lot shall be graded, surfaced and drained in accordance with specifications conforming to the Building Code. All water from the washing facilities or automobiles shall be drained on the zoning lot and shall not drain onto adjacent property or public rights-of-way.
- (3) Sale of gasoline and oil, for delivery into automobiles, shall be permitted.

(H) Bed and Breakfast Lodgings.

- (1) The minimum lot area shall be 20,000 square feet and the minimum livable dwelling area shall be met.
- (2) No structure shall exceed thirty-five (35) feet in height.
- (3) All structures and activity areas, except off-street parking, shall be located no less than thirty-five (35) feet from all lot lines.
- (4) There shall be no more than one (1) ingress/egress drive onto the property. No drive shall exceed thirty-five (35) feet in width.
- (5) Central facilities for the collection and disposal of trash shall be provided and shall be located in the rear yard only.
- (6) The maximum number of employees shall be two (2), other than occupants or owners.
- (7) No more than two (2) adult persons shall be permitted per room.
- (8) There shall be a maximum of eight (8) guest bedrooms permitted in a Bed and Breakfast Lodging establishment.
- (9) No receptions, private parties or any other type of guest paid activity shall be permitted.
- (10) Signage shall be limited to one (1) wall mounted identification sign measuring no more than four (4) square feet of sign face area.

(I) Campground.

- (1) The state or local board of health shall approve sanitary facilities.
- (2) Accessory uses, including an office and public facilities building wherein the basic food needs of the transient guests can be purchased, are permitted. In addition, one year-round residence may be constructed as a caretaker's home in addition to other facilities on the property.
- (3) Any outdoor activity area, swimming pool, or ball field or court which adjoins a residential use shall have a one-hundred (100) foot setback, which shall be landscaped in accordance with Chapter 302.
- (4) Screening. Where night-time lighting of such areas is proposed, large evergreen trees, which are a minimum of six (6) feet in height at planting, shall be required in a location appropriate to screen adjoining residences. Any such night-time lighting shall be constructed in accordance with the standards in §300.07.
- (5) The minimum lot size for a campground shall be ten (10) contiguous acres.
- (6) Multiple structures may be constructed on the property, such as cabins, lodges and other facilities typical of a camp provided that all structures comply with the setback requirements for a principal structure from adjoining property lines, with the exception of the side and rear yard setback that abuts a residential zoning district or residential use, then the setback shall be a minimum of seventy-five (75) feet.
- (7) Each building or campsite intended to accommodate guests shall be accessible via a private or public road constructed of either asphalt or concrete roadway constructed with

adequate base materials suitable to accommodate emergency vehicles serving the property.

(J) Drive-In Theatres.

- (1) All drive-in theatres shall be enclosed in their entirety by a solid wall or fence not less than six (6) nor more than eight (8) feet in height. Walls or fences shall be of durable construction, painted or otherwise treated as to be unobtrusive in appearance and harmonious with the general character of the area.
- (2) At least ten (10) vehicle waiting spaces shall be expressly designed and provided on the premises for each ticket attendant.
- (3) Vehicle ingress and egress shall be on an arterial street and shall be so arranged to minimize impediments to the normal flow of traffic.
- (4) No theatre screen shall be visible from any point, from ground level to a height of twenty (20) feet, in any Residential District within two hundred (200) feet of the premises.
- (5) The entire area available for vehicle access, and waiting spaces, and the area available for vehicle use from the street line to the solid wall or fence enclosing the premises shall be surfaced with either a concrete or asphalt surface.
- (6) No portion of a vehicle waiting area shall be nearer than twenty-five (25) feet to any adjacent residential use or residential zoning district.

(K) Educational Institutions.

- (1) The minimum lot area shall be five (5) acres for elementary schools, ten (10) acres for junior high schools and fifteen (15) acres for senior high schools.
- (2) No structure shall exceed forty (40) feet in height.
- (3) All structures and activity areas, except off-street parking, shall be located no less than forty (40) feet from the front lot line and no less than 100 feet from all other lot lines. Where the property abuts any residential zoning district or residential use, the building setback shall be 100 feet from the residential property line.
- (4) There shall be no more than three (3) ingress/egress drives onto the property. No drive shall exceed thirty-five (35) feet in width.
- (5) Lighting, including permitted illuminating signs, shall be arranged so as not to reflect or cause glare that would constitute a nuisance to any abutting residential use or hazard to traffic on any public thoroughfare.

(L) Financial Institutions (with a Drive-Through).

- (1) Eight (8) vehicle waiting spaces shall be expressly designed and provided for a single auto drive-in teller or four (4) vehicle waiting spaces for each auto teller when the facility contains two (2) or more auto tellers.
- (2) The vehicle waiting area shall be designed such that all ingress and egress of vehicles shall be a minimal impediment to the normal flow of traffic.
- (3) No portion of a vehicle waiting area shall be nearer than twenty-five (25) feet to any adjacent residential use or residential zoning district.

- (4) Off-street parking and vehicle waiting areas shall be surfaced either with concrete or a bituminous surface with specifications conforming to the Building Code.

(M) Flea Markets.

- (1) No activities shall be located within a public right-of-way.
- (2) A flea market may not be located adjacent to any residential zoning district or any residentially used property.
- (3) Operating hours shall be 8:00 am to 5:00 pm.
- (4) Temporary living quarters on site shall not be permitted.
- (5) All parking and internal driveway areas shall be paved and conform to all applicable standards as provided in Chapter 301.

(N) Funeral Homes.

- (1) The minimum lot area shall be 20,000 square feet.
- (2) No structure shall exceed thirty (30) feet in height.
- (3) All structures and activity areas, except off-street parking, shall be located no less than thirty-five (35) feet from all lot lines. Where the property abuts any residential zoning district or residential use, the building setback shall be 75 feet from the residential property line.

(O) Group Homes (Adult).

- (1) Adult group homes shall only be permitted as a conditional use in the MFR zoning district.
- (2) The minimum lot area shall be 30,000 square feet.
- (3) No structure shall exceed thirty-five (35) feet in height.
- (4) All structures and activity areas, except off-street parking, shall be located no less than thirty-five (35) feet from all lot lines.
- (5) There shall be no more than one (1) ingress/egress drive onto the property. No drive shall exceed thirty-five (35) feet in width.
- (6) Each individual home shall have a person or persons maintaining permanent residence in the unit to avoid shift changes and to provide the same type of use and activities otherwise typical in residences in the area. This person or persons shall be a trained, responsible individual or individuals who shall assume full responsibility for all activities within the group home.
- (7) In order to prevent the creation of a defacto social service district and to avoid impacting a residential block or neighborhood, the Planning Commission shall not grant a conditional use which would permit more than one group home or adult family home within the same block or within a 1,000 foot radius of another group home located either within the City of Berea or located outside of the corporation limits of the City of Berea.

- (8) The residential character of all structures shall be maintained. No structure approved as a group home shall have its character altered.
- (9) A group home shall not be permitted to be constructed or operated until the agency, organization or institute supervising such home satisfies the Planning Commission that the home and its operation will comply with all licensing or certification requirements of the appropriate State or local agency, pursuant to law.
- (10) A group home shall not maintain lower than minimum building, fire, health and safety standards as established by State and local laws. No group home shall be occupied until a certificate of occupancy has been obtained and it is shown that all regulations are met.
- (11) No exterior sign shall be permitted except as specifically allowed by the Planning Commission.
- (12) A conditional use shall be granted for a specific type of group home. The type of home shall be defined as and by the specific nature of the individuals being treated or rehabilitated. Any change in the type of home shall require a new conditional use.

(P) Home Occupations.

- (1) Home occupations shall be clearly incidental and subordinate to the use of the property for residential purposes and shall be wholly conducted within the dwelling.
- (2) No more than the equivalent of twenty-five percent (25%) of the gross floor area of any dwelling shall be utilized for a home occupational use.
- (3) The external appearance of the structure in which the home occupation is conducted shall not be altered.
- (4) There shall be no outside storage of any kind related to the home occupational use and only commodities made on the premises or commodities, which are considered accessory to the services provided (i.e. shampoo in a beauty salon), may be sold on the premises. No display of the products shall be visible from the street.
- (5) All parking requirements of a home occupation shall be provided for by utilizing either existing residential driveways or on-street parking spaces. No expansion of off-street parking areas shall be permitted in connection with a home occupation use.
- (6) No equipment, process, materials, or chemicals which create offensive noises, vibration, smoke, dust, odor, heat, glare, x-rays, radiation, or electrical disturbances shall be utilized in the home occupation.
- (7) Not more than one person, who is not a resident of the premises, may participate in the home occupation as an employee or volunteer.
- (8) No more than one home occupation shall be permitted within any single dwelling unit.
- (9) Delivery of any materials necessary for a home occupation shall be limited to automobiles, light duty pick-up trucks or light-duty commercial vans.
- (10) Hours of operation for a home occupation that entails client visits or incoming deliveries are restricted to no earlier than 8:00 a.m. and no later than 8:00 p.m. each day of the week, except that operation on Sundays is restricted to 12:00 p.m. to 6:00 p.m.

(11) No sign, other than one non-illuminated nameplate, two square feet in area and mounted flat on the front face of the dwelling shall be erected or maintained on the premises.

(12) The Zoning Administrator may waive the requirement for public notice and public hearing as set forth in §304.03 for those home occupations that will not have an adverse impact upon adjacent properties and surrounding areas.

(Q) Hospitals/ Hospice.

(1) The minimum lot area shall be five (5) acres

(2) No structure shall exceed 70 feet in height.

(3) All structures and activity areas, except off-street parking, shall be located no less than 100 feet from the front lot line and no less than 40 feet from all other lot lines. Where the property abuts any residential zoning district or residential use, the building setback shall be 100 feet from the residential property line.

(4) Loading and unloading areas shall be a minimum of 75 feet from any residential use or residential zoning district.

(R) Juvenile Justice Treatment Facility.

(1) Activity Areas. The term "activity areas" as used in the context of a proposed conditional use application under this land use classification shall be defined as follows: Any outdoor area or zone proposed to be utilized as either an active or passive area where employees, patients, visitors or other individuals may participate in a variety of activities ancillary to a juvenile justice treatment facility including, but not limited to: dining activities, recreational activities, passive gathering, outdoor learning activities and outdoor rehabilitation activities.

(a) The location of all proposed outdoor activity areas shall be clearly delineated on the site plan.

(b) All outdoor activity areas shall be completely fenced utilizing a decorative fencing material consistent with a low intensity residential use as approved by the Planning Commission.

(c) All activity areas shall be located in a defined side yard or rear yard area of the project site.

(2) Any proposed external lighting fixtures shall conform to the outdoor lighting standards set forth in Section 300.07.

(3) The applicant shall provide a comprehensive security plan for the proposed use. The proposed security plan shall be reviewed by the City Public Safety Director. As a part of the conditional use review process, the City Public Safety Director shall prepare a written recommendation addressing the merits of the proposed security plan.

(S) Nursery Schools / Day Care Facilities.

(1) The minimum lot area shall be 10,000 square feet.

(2) No structure shall exceed forty (40) feet in height.

- (3) All structures and activity areas, except off-street parking, shall be located no less than fifty (50) feet from the front lot line and no less than forty (40) feet from all other lot lines. Where the property abuts any residential zoning district or residential use, the building setback shall be 75 feet from the residential property line.
- (4) Outdoor play areas shall be permitted in the side and rear yards only and shall be enclosed with a fence or wall of a minimum of five (5) feet in height.
- (5) Unloading and loading of children from vehicles shall only be permitted in the approved parking area of the facilities. An on-site drop off area sufficient to accommodate four (4) vehicles shall be provided.

(T) Parking Facilities.

- (1) A Parking Facility shall conform to the yard requirements for principal uses in the district in which such Pay Parking Facility is located, whether such facility is at grade or provided within a structure of building.
- (2) In addition to required yards, twenty-five (25) square feet of landscaping shall be provided for each four hundred (400) square feet of land area allocated for parking and shall be located within the boundaries of the parking lot and distributed as evenly as practicable over the entire parking area.
- (3) Except for the provisions of subsection (a) and (b) above, the construction, site and use requirements for a Pay Parking Facility shall conform to the applicable regulations of Chapter 301 which correspond to the district in which such Parking Facility is located.
- (4) If any Parking Facility is located in a structure, such structure shall be so designed that not more than fifty percent (50%) of any wall surface is open or transparent.

(U) Pawn Shop.

- (1) The building area occupied by a Pawn Shop facility shall not be located within:
  - (a) 1,000 feet from the lot line of a parcel occupied by another pawn shop or
  - (b) 500 feet from the lot line of an adult oriented business.
- (2) A pawn shop may not be located adjacent to any residential zoning district or any residentially used property.
- (3) All business activity shall be restricted to fully enclosed areas of a building.
- (4) The Pawn Shop shall fully comply with record-keeping requirements of the State of Ohio, as amended, and such records shall be available for review by the City Police Department upon request.

(V) Public and Quasi Public Uses. The standards set forth below shall apply to the following public and quasi public uses: cultural facility, museums, assembly hall, lodge, fraternal organization, cemetery and library.

- (1) All structures and activity areas, except off-street parking, shall be located no less than seventy-five (75) feet from all residential zoning districts and residential land uses
- (2) There shall be no more than two (2) ingress/egress drives onto the property. No drive shall exceed thirty-five (35) feet in width.

- (3) Lighting, including permitted illuminating signs, shall be arranged so as not to reflect or cause glare that would constitute a nuisance to any abutting residential use or hazard to traffic on any public thoroughfare.
- (W) Public Service and Utility Facilities. Public Service and Utility Facilities (publicly or privately owned facilities providing or relating to the furnishing to the public of essential services, including water, sanitary sewer service, storm sewer service, parking facilities, maintenance of parks and other recreational areas and facilities, maintenance of streets, garbage and rubbish removal, electrical, gas and other fuel service, telephone service and transportation service) shall conform to the following regulations:
  - (1) Installation of any such facility at the proposed location shall be necessary for the convenient and efficient operation of the facility or the system in which it is a part;
  - (2) Storage of materials, inoperative equipment and supplies shall be permitted only within a completely enclosed building;
  - (3) Each front, side and rear yard shall be at least equivalent to the height of any structure on the premises;
  - (4) Off-street loading areas shall be provided to meet the reasonably anticipated needs of the facility; and
  - (5) All structures on the premises, and off-street parking and loading areas, shall be designed, erected, landscaped and screened in such a manner as to be unobtrusive and harmonious with the environmental character of the area.
- (X) Recreation Areas (Commercial or Private).
  - (1) No structure shall exceed thirty-five (35) feet in height.
  - (2) All structures and activity areas, except off-street parking, shall be located no less than seventy-five (75) feet from all lot lines.
  - (3) There shall be no more than two (2) ingress/egress drives onto the property. No drive shall exceed thirty-five (35) feet in width.
  - (4) Only retail uses which are customarily accessory or incidental to the main recreational use shall be permitted and shall include such uses as refreshment stands, souvenir stands and concession stands.
- (Y) Religious Institutions.
  - (1) The minimum lot area shall be 30,000 square feet with a minimum lot width of 125 feet.
  - (2) The main structure of a religious place of worship or any other building shall not exceed forty (40) feet in height with the exception of a steeple or tower, which may not exceed seventy-five (75) feet in height.
  - (3) All structures and activity areas, except off-street parking, shall be located no less than thirty-five (35) feet from all lot lines. Where the property abuts any residential zoning district or residential use, the building setback shall be 100 feet from the residential property line.

- (4) There shall be no more than two (2) ingress/egress drives onto the property. No drive shall exceed thirty-five (35) feet in width.
- (5) Such uses shall be encouraged to locate adjacent to parks and other nonresidential uses such as schools and shopping facilities where use could be made of joint parking facilities.

(Z) Sweepstakes Terminal Café.

- (1) Those applicable regulations for sweepstakes terminal café uses as set forth in Chapter 543 of the Berea Codified Ordinances shall be satisfied and made a part of the review of any conditional use permit for a sweepstakes terminal café use.

(AA) Tattoo Parlors and Body Piercing Establishments.

- (1) Each operator of a business that offers tattooing or body piercing services shall do all of the following:
  - (a) Maintain procedures for ensuring that the individuals who perform tattooing or body piercing procedures are adequately trained to perform the procedures properly;
  - (b) With respect to tattooing services, maintain written records that include the color, manufacturer, and lot number of each pigment used for each tattoo performed;
  - (c) Comply with the safety and sanitation requirements for preventing transmission of infectious diseases, as established in rules adopted under section 3730.10 of the Ohio Revised Code;
  - (d) Require the individuals who perform tattooing and body piercing procedures to disinfect and sterilize all invasive equipment or parts of equipment used in performing the procedures by using methods that meet the disinfection and sterilization requirements established in rules adopted under section 3730.10 of the Ohio Revised Code;
  - (e) Ensure that weekly tests of the business's heat sterilization devices are performed to determine whether the devices are functioning properly. In having the devices tested, the operator of the business shall use a biological monitoring system that indicates whether the devices are killing microorganisms. If a test indicates that a device is not functioning properly, the operator shall take immediate remedial action to ensure that heat sterilization is being accomplished. The operator shall maintain documentation that the weekly tests are being performed. To comply with the documentation requirement, the documents must consist of a log that indicates the date on which each test is performed and the name of the person who performed the test or, if a test was conducted by an independent testing entity, a copy of the entity's testing report. The operator shall maintain records of each test performed for at least two years.
- (2) Each operator of a business that offers ear piercing services performed with an ear piercing gun shall require the individuals who perform the ear piercing services to disinfect and sterilize the ear piercing gun by using chemical solutions that meet the disinfection and sterilization requirements established in rules adopted under section 3730.10 of the Ohio Revised Code.
- (3) Hours of operation are restricted to 8:00 a.m. until 9:00 p.m.

# Conditional use Standards

- (4) As a condition of approval, each operator of a business that offers tattooing or body piercing services shall provide the Planning Commission with evidence documenting the attainment of all required Ohio State Board of Health approvals as required to offer tattooing and body piercing services in the state.
- (5) Any tattoo parlor or body piercing establishment shall be conducted in any zoned residential area, nor shall any such operation be conducted within 500 feet of any zoned residential property, any school, public library, church or daycare center.
- (6) Any tattoo parlor establishment shall comply with those applicable regulations set forth in Chapter 577 of the Berea Codified Ordinances.

(BB) Veterinary Offices and/or Animal Hospitals.

- (1) Off-street parking shall be located in an area such that animals being transported to and from veterinary offices shall not be a nuisance to occupants or tenants (and their guests) of neighboring premises.
- (2) The design of the veterinary office shall be such that in cases when the overnight boarding of animals would be imperative, such boarding areas shall be insulated so as to prevent noise and other nuisance factors from being detrimental to surrounding uses.
- (3) When veterinary offices or animal hospitals are located within a RO Residence-Office district, all entrances and corridors leading to and from such facilities shall be uniquely distinct from entrances and corridors used by other occupants or tenants (or their guests) of the building.

(CC) Mixed-Use Event Venue.

- (1) When an MFR zoned parcel is situated adjacent to non-residential zoned parcels along all property lines, including any non-residential zoned parcel located directly across a public or private roadway, the MFR zoned parcel may seek Conditional Use approval to operate a mixed-use event venue satisfying the procedure and applicable standards set forth in this Chapter.
- (2) A mixed-use event venue may only be located on the first floor of the building and may occupy up to 100% of the first-floor area when adequate parking is available on site to support both the event venue and the residential dwelling units.
- (3) A mixed-use event venue shall be limited to the following hours of operation: 7:00 a.m. to 11:00 p.m. Sunday through Thursday and 7:00 a.m. to 12:00 a.m. Friday and Saturday.
- (4) A mixed-use event venue shall not prepare food on site. Food prepared off site may be served on site.
- (5) Any outdoor activity areas including, but not limited to, dining, seating, recreation and entertainment areas may be approved by the Planning Commission on a case-by-case basis.
- (6) No mixed-use event venue shall create an excessive amount of noise, odors, vibrations or other detrimental impacts to the multifamily dwelling residents on-site or users of adjacent parcels.

(7) Applicant must declare the specific types of events that will be hosted at a mixed-use event venue in the Conditional Use Application. If new events are proposed for the event venue, the Applicant must seek approval for the new events from the Planning Commission following the procedure set forth in Section 304.03.

## Section 304.07      Addition to or Expansion of a Conditional Use.

Additions to or expansions of approved conditional uses shall not be undertaken until a new conditional use permit application reflecting those additions or expansions is granted by the Planning Commission. The conditional use permit application referred to in this section shall comply with the procedural and substantive requirements of this subchapter.

## Section 304.08      Exemption of Existing Conditional Uses.

Those uses which are classified as conditional uses in this subchapter and exist in a district at the time of enactment of this section shall be considered nonconforming until that time as they are granted a conditional use permit.

## Section 304.09      Expiration of Conditional Uses.

(A) A conditional use permit shall be deemed to authorize only one (1) conditional use and such conditional use permit shall automatically expire if, for any reason, one (1) of the following occurs:

- (1) The conditional use has ceased by discontinuance or abandonment for a period of more than six (6) months;
- (2) Such use violated the conditions established in this chapter; or
- (3) Change of ownership of the property.

(B) Once a conditional use expires, the owner must reapply for a conditional use permit as set forth in the subchapter to re-establish the conditional use.

## CHAPTER 305 Accessory Use Standards

Section 305.01	<b>Purpose</b>
Section 305.02	Accessory Use Standards
Section 305.03	Accessory Uses Exempted

### Section 305.01 Purpose.

In addition to the principal uses expressly included in the zoning districts such use types shall be deemed to include such accessory uses which are specifically identified by these accessory use regulations; and such other accessory uses which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to, such principal uses. When provided by these regulations, it shall be the responsibility of the Zoning Administrator to determine if a proposed accessory use is necessarily and customarily associated with, and is appropriate, incidental, and subordinate to the principal use, based on the Zoning Administrator's evaluation of the resemblance of the proposed accessory use to those uses specifically identified as accessory to the principal uses and the relationship between the proposed accessory use and the principal use.

- (A) Prior to the construction of any accessory use, an accessory use permit application must be submitted to the Zoning Administrator. The accessory use permit application shall be provided by the Zoning Administrator and include the minimum amount of information necessary to make a determination including, but not limited to:
  - (1) A fully dimensioned plot plan sketch of the subject parcel and proposed location of the accessory use or structure.
  - (2) Fully dimensioned elevation drawings of the proposed accessory use structure.
  - (3) Photographs of the subject parcel and proposed location of the accessory use structure.
  - (4) Any other information requested by the Zoning Administrator deemed necessary to make an informed determination regarding the compliance to these accessory use standards.
- (B) The Zoning Administrator shall transmit a written determination to the applicant.
- (C) Such determination made by the Zoning Administrator shall be subject to the administrative appeal procedure set forth in Chapter 103.

### Section 305.02 Accessory Use Standards.

In all districts, except as specified in each district, accessory uses, buildings and structures shall be subject to the following requirements:

- (A) No more than two (2) accessory uses, buildings or structures shall be permitted per lot. The uses found in §305.03 shall be exempt from this requirement.
- (B) No accessory building or use shall be constructed or established prior to the start of construction of the principal building or use to which it is accessory.

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(C) Accessory structures shall be located on the same parcel for which the principal structure is found and shall be in compliance with the following requirements:

- (1) In all residential districts, an accessory building shall not be located closer than five (5) feet to a rear or side lot line.
- (2) In all non-residential districts, an accessory building shall not be located closer than ten (10) feet to a rear or side lot line when abutting any residential use or residential zoning district. When an accessory use abuts a non-residential use or zoning district, there shall be no side yard or rear yard setback requirements for an eligible accessory use.
- (3) Swimming Pools. If approved by the Planning Commission, a swimming pool may be located in a side yard or front yard when located on an eligible:
  - (a) Peninsula lot bordered on three sides by dedicated public rights-of-way; or
  - (b) Double frontage lot having frontage on two non-intersecting streets, as distinguished from a corner lot

Please refer to “Section 309.05(I) Private Residential Swimming Pools” for additional standards and application procedure.

Figure 28: Residential Accessory Use Setback Illustration

*Illustration below depicts minimum setback and rear yard location requirements for residential accessory structures.*

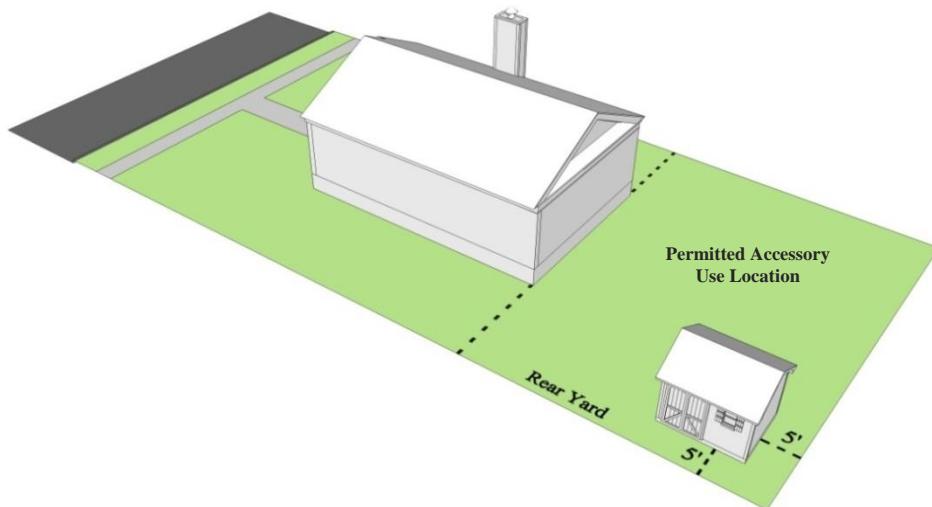
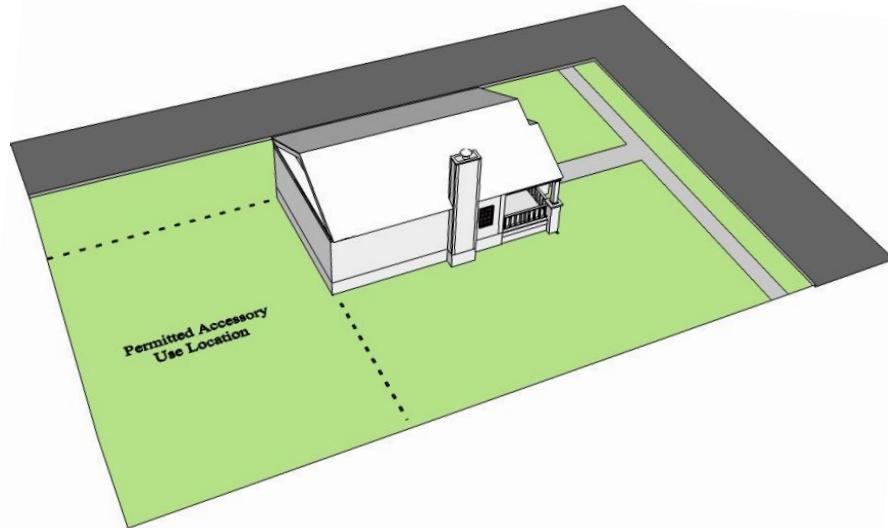


Figure 29: Corner Lot Accessory Use Location Illustration

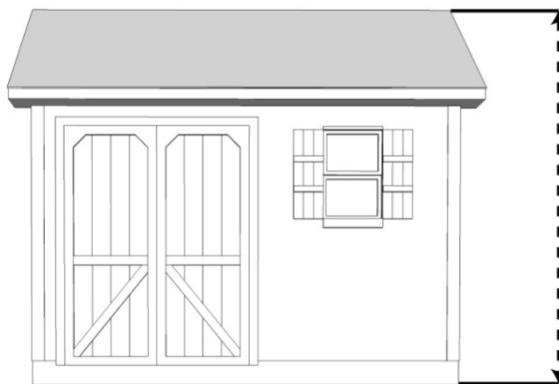
*Illustration below depicts the permitted location for accessory uses located on a corner lot.*



- (E) No accessory building shall be located closer than six (6) feet to the principal building.
- (F) In all residential districts, the footprint area of all accessory buildings shall not occupy more than 25 percent of the total rear yard area.
- (G) The height of accessory structures shall not exceed the following:
  - (1) In all residential districts, an accessory building or structure shall not exceed height of fifteen (15) feet.
  - (2) In all non-residential districts and except for fences and signs, an accessory structure shall not exceed a height of twenty (20) feet.
- (H) The measurement of the height of an accessory structure shall be measured from the lowest ground level to the highest point of the structure.

Figure 30: Accessory Structure Height Measurement

*Illustration identifying the method for measuring the height of an accessory structure or building.*



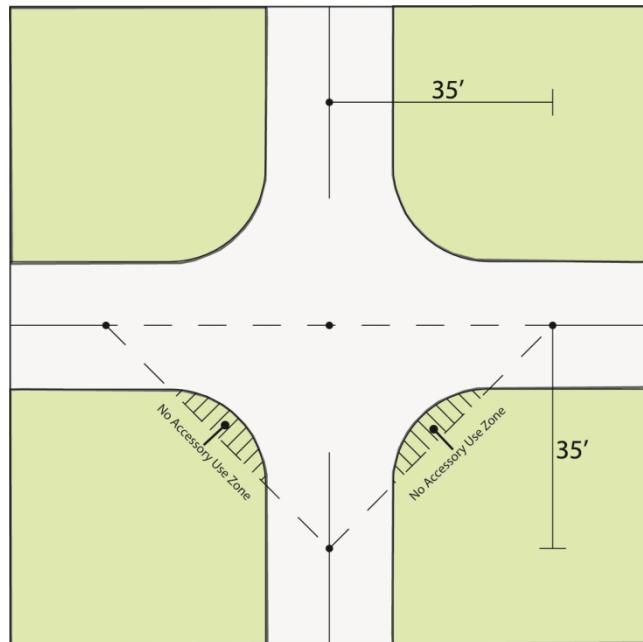
## Section 305.03 Accessory Uses Exempted.

The following accessory uses, buildings and structures may be permitted in addition to the two (2) accessory uses, buildings or structures provided for in §305.02 and may be located within the required yards specified, subject to the special conditions indicated.

- (A) Canopy, gas pump island. Unenclosed canopies over gas pump islands may be located within the required front yard or side yard, provided at street intersections.
- (B) Ornamental features. Light fixtures, flag poles, arbors, trellises, fountains, sculptures, plant boxes, plants, trees, and other similar ornamental features may be located within any yard. In no case shall any ornamental feature more than two and one-half feet (2.5) feet in height above the curb level be located so as to block the sight distance at street or drive intersections within the designated "No Accessory Structure Zone". In the case of a street intersection, the sight triangle shall consist of the area between points 35 feet from the right-of-way line along both intersecting streets.

Figure 31: Site Distance Triangle Illustration

*Site distance triangle illustrating “No Accessory Structure Zones” at intersection areas.*



(C) Decks and stoops. Porches, balconies, decks and stoops which are uncovered, may extend into any yard, provided that such projections shall not extend into a front yard more than eight (8) feet. Stoops may extend into a side yard not more than two (2) feet.

## CHAPTER 306 Nonconforming Use Standards

Section 306.01	<b>Purpose</b>
Section 306.02	<b>Nonconforming Uses</b>
Section 306.03	<b>Nonconforming Lots of Record</b>
Section 306.04	<b>Damage to Structures</b>
Section 306.05	<b>Repairs and Maintenance</b>
Section 306.06	<b>Avoidance of Undue Hardship</b>
Section 306.07	<b>Change from One Nonconforming Use to Another</b>

### Section 306.01 Purpose.

Within the districts established by this Chapter or amendments that may later be adopted, there exist lots, structures, and uses of land which were lawful before this Chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Chapter or future amendments. It is the purpose of this Chapter to permit these nonconforming lots, structures, and uses to continue until they are removed, but not to encourage their permanent establishment. It is further the purpose of this Chapter that a nonconforming structure or use shall not be enlarged or extended beyond the scope and area of its operation at the time it became a legal nonconforming use, except as expressly provided for in this Chapter.

### Section 306.02 **Nonconforming Uses.**

Where, at the time of adoption of this chapter lawful uses of land exist which would not be permitted by the regulations imposed by this chapter, the uses may be continued so long as they remain otherwise lawful, provided:

- (A) No nonconforming uses shall be enlarged or increased in intensity, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
- (B) Legal non-conforming single family, two-family, multi-family and townhouse residential structures located in any zoning district shall be permitted to be wholly or partially reconstructed on the same lot, provided:
  - (1) Any rebuilt single family, two-family, multi-family, or townhouse residential dwelling structure shall not exceed the original dwelling's total livable and non-livable square footage area nor exceed the original structure height.
  - (2) Any rebuilt single family, two-family, multi-family, or townhouse residential dwelling structure shall not encroach into the original building setbacks.
- (C) No such nonconforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by those uses at the effective date of adoption or amendment of this chapter.
- (D) If any such nonconforming uses of land or structures are discontinued or abandoned (except when government action impedes access to the premises and the residential exceptions provided for in this section), any subsequent use of such land or structure shall conform to the regulations specified by this chapter for the district in which such land is located.
  - (1) A nonconforming use shall be considered discontinued or abandoned:

# NonConforming Use Standards

- (a) When the intention of the owner to discontinue the use is apparent; or
- (b) When a nonconforming building, structure, or land or portion thereof becomes vacant and remains unoccupied or out of use for a continuous period of twelve (12) months.

(2) It shall be the responsibility of the property owner to provide evidence demonstrating to the satisfaction of the City that the use was legally established and has not been abandoned.

(3) Single family, two-family, multi-family and townhouse residential structures located in any zoning district shall not lose their legal non-conforming use status as a result of use abandonment in excess of twelve (12) months.

(E) No new structure not conforming to the requirements of this chapter shall be created in connection with a nonconforming use of land.

(F) A nonconforming structure or use may be sold or otherwise transferred without affecting the legal nonconforming use status.

- (1) The sale or transfer of a legal nonconforming use or structure shall not affect the determination of abandonment or discontinuance of a nonconforming use or structure as established in §306.02(D).
- (2) The sale or transfer of a legal nonconforming use or structure shall not affect the determination of a change of use status as established in §306.07.

## Section 306.03 **Nonconforming Lots of Record.**

If two or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Chapter and if all or part of the lots with no buildings do not meet the requirements established for intensity or size, the lands involved shall be considered to be an undivided parcel for the purposes of this Chapter and no portion of that parcel shall be used or sold in a manner which diminishes compliance with intensity or size requirements established by this Chapter, nor shall any parcel be made which creates a lot with an intensity or size below the requirements stated in this Chapter.

## Section 306.04 **Damage to Structures.**

When a nonconforming building or structure has been damaged by explosion, fire, act of God, or the public enemy to the extent of more than 60% of the replacement cost or fair market value, whichever is more favorable to the owner of the property at the time of loss, it shall not be restored or reconstructed unless conforming to all applicable regulations set forth in this Zoning Code, except as provided herein.

(A) Legal nonconforming residential dwelling structures located in the R-SF-A, R-SF-B and CC zoning districts damaged in excess of 60% of the replacement cost or fair market value, whichever is more favorable to the owner of the property at the time of loss, shall be permitted to be rebuilt as the same category of dwelling type (i.e. a single family dwelling may not be rebuilt as a multiple family dwelling).

- (1) Any rebuilt residential dwelling structure shall not exceed the original dwelling's total livable and non-livable square footage area nor exceed the original structure height.
- (2) Any rebuilt residential dwelling structure shall not encroach into the original building setbacks.

# NonConforming Use Standards

(B) When a nonconforming use qualifies for reconstruction through damage (less than 60% of the replacement cost or fair market value whichever, is more favorable to the owner of the property at the time of loss.), a building permit shall be secured for that purpose and reconstruction shall be diligently completed without delay. Failure to reconstruct within one (1) year of damage revokes the right to the nonconforming use and the premises shall conform thereafter to the established district regulations.

## Section 306.05 **Repairs and Maintenance.**

Nothing contained in this Chapter shall be deemed to prevent the strengthening or restoring to a safe and sanitary condition of any building or part thereof declared to be unsafe or unsanitary by any official charged with protecting the public safety, upon order of that official.

## Section 306.06 **Avoidance of Undue Hardship.**

To avoid undue hardship, nothing in this Chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Chapter and upon which the actual building construction has been carried on diligently; provided, that construction is not found to have been or be a purposely planned evasion of the intents of this Chapter. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, the demolition or removal shall be deemed to be actual construction, provided that the work shall be carried out diligently, but subject to the same clarifications of planned intent above.

## Section 306.07 **Change from One Nonconforming Use to Another.**

The Planning Commission shall have the power to hear and decide on applications to permit a change from one nonconforming use to another. The Commission shall not permit a change unless the new nonconforming use is equally or more compatible with permitted uses in the district in which it is located than the existing nonconforming use. The Commission shall not allow any changed nonconforming use to be increased or enlarged, nor extended to occupy a greater area of land than was occupied by the original nonconforming use. In permitting the change, the Commission shall require appropriate conditions and safeguards in accord with other provisions of this Chapter.

## CHAPTER 307 Wireless Telecommunication Facilities

Section 307.01	Overall Policy and Desired Goals for Special Use Permits
Section 307.02	Definitions
Section 307.03	Special Use Permit Application and Other Requirements
Section 307.04	Location of Wireless Telecommunication Facilities
Section 307.05	Shared Use of Wireless Telecommunications Facilities and Other Structures
Section 307.06	<b>Height</b>
Section 307.07	Appearance and Visibility
Section 307.08	<b>Security</b>
Section 307.09	<b>Signage</b>
Section 307.10	Lot Size, Setbacks and Screening Requirements
Section 307.11	Retention of Expert Assistance and Reimbursement by Applicant
Section 307.12	Exceptions From a Special Use Permit
Section 307.13	Public Hearing and Notification Requirements
Section 307.14	Action on an Application for a Special Use Permit
Section 307.15	Recertification of a Special Use Permit
Section 307.16	Extent and Parameters of a Special Use Permit
Section 307.17	<b>Application Fee</b>
Section 307.18	Performance Security
Section 307.19	Reservation of Authority to Inspect
Section 307.20	Annual NIER Certification
Section 307.21	<b>Liability Insurance</b>
Section 307.22	Indemnification
Section 307.23	Fines
Section 307.24	Default and Revocation
Section 307.25	Removal
Section 307.26	Relief
Section 307.27	Periodic Regulatory Review by the City
Section 307.28	Adherence to State and Federal Rules and Regulations
Section 307.29	Conflict with Other Laws
Section 307.30	Severability

Section 307.01	Overall Policy and Desired Goals for Special Use Permits.
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In order to ensure that the placement, construction, and modification of wireless telecommunications facilities protects the City's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Chapter,

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the City hereby adopts an overall policy with respect to a special use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

- (A) Implementing an application process for person(s) seeking a special use permit for wireless telecommunications facilities;
- (B) Establishing a policy for examining an application for and issuing a special use permit for wireless telecommunications facilities that is both fair and consistent;
- (C) Ordinances promoting and encouraging, wherever possible, the sharing and/or co-location of wireless telecommunications facilities among service providers;
- (D) Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

## Section 307.02 Definitions.

For purposes of this Chapter, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word shall is always mandatory, and not merely directory.

- (A) “Accessory Facility or Structure” means an accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.
- (B) “Antenna” means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. Such signals shall include, but not be limited to radio, television, cellular, paging, personal telecommunications services (PCS), microwave telecommunications and services not licensed by the FCC, but not expressly exempt from the City's siting, building and permitting authority.
- (C) “Applicant” means any wireless service provider submitting an application for a special use permit for wireless telecommunications facilities.
- (D) “Application” means all necessary and appropriate documentation that an applicant submits in order to receive a special use permit for wireless telecommunications facilities.
- (E) “City” means the City of Berea Ohio.
- (F) “Co-location” means the use of a tower or structure to support antennae for the provision of wireless services without increasing the height of the tower or structure.
- (G) “Commercial Impracticability” or “Commercially Impracticable” means the inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be “commercially impracticable” and shall not render an act or the terms of an agreement “commercially impracticable.”

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- (H) “Completed Application” means an application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.
- (I) “Council” means the City Council of the City of Berea, Ohio.
- (J) “FAA” means the Federal Aviation Administration, or its duly designated and authorized successor agency.
- (K) “FCC” means the Federal Communications Commission, or its duly designated and authorized successor agency.
- (L) “Height” means, when referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightening protection device.
- (M) “NIER” means non-ionizing electromagnetic radiation.
- (N) “Person” means any individual, corporation, estate, trust, partnership, joint stock company, association of two or more persons having a joint common interest, or any other entity.
- (O) “Personal Wireless Facility.” See definition for A Wireless Telecommunications Facilities.
- (P) “Personal Wireless Services” or “PWS” or “Personal Telecommunications Service” or “PCS” shall have the same meaning as defined and used in the 1996 Telecommunications Act.
- (Q) “Telecommunication Site.” See definition for “Wireless Telecommunications Facilities.”
- (R) “Special Use Permit” means the official document or permit by which an applicant is allowed to construct and use wireless telecommunications facilities as granted or issued by the City.
- (S) “State” means the State of Ohio.
- (T) “Stealth” or “Stealth Technology” means to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
- (U) “Telecommunications” means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.
- (V) “Telecommunications Structure” means a structure used in the provision of services described in the definition of “Wireless Telecommunications Facilities.”
- (W) “Temporary” means temporary in relation to all aspects and components of this Chapter; something intended to, or that does, exist for fewer than 90 days.
- (X) “Wireless Telecommunications Facilities” includes a “Telecommunications Tower” and “Tower” and “Telecommunications Site” and “Personal Wireless Facility” and means a structure, facility or location designed, or intended to be used as, or used to support, antennas or other transmitting or receiving devices. This includes, without limit, towers of all types and kinds and structures that employ camouflage technology, including but not limited to structures such as a multi-story building, church steeple, silo, water tower, sign or other structures that can be used to mitigate the visual impact of an antenna or the functional equivalent of such, including all related facilities such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal telecommunications services, commercial satellite services, microwave services and services not licensed by the FCC, but not expressly exempt from the City's siting, building and

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permitting authority, excluding those used exclusively for the City's fire or police or exclusively for private, noncommercial radio and television reception, private citizen's bands, amateur radio and other similar noncommercial telecommunications where the height of the facility is below the height limits set forth in this Chapter.

## Section 307.03 Special Use Permit Application and Other Requirements.

- (A) All applicants for a special use permit for wireless telecommunications facilities or any modification of such facility shall comply with the requirements set forth in this section. The Berea City Planning Commission is the officially designated agency or body of the City to whom applications for a special use permit for wireless telecommunications facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, recertifying or not recertifying, or revoking special use permits for wireless telecommunications facilities. The City may, at its discretion, delegate or designate other individuals employed by the City or independent contractors to review, analyze, evaluate and make recommendations to the Planning Commission with respect to the granting or not granting, recertifying or not recertifying or revoking special use permits for wireless telecommunications facilities.
- (B) An application for a special use permit for wireless telecommunications facilities shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the applicant, shall also sign the application. At the discretion of the City, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.
- (C) Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the City.
- (D) The applicant shall include a statement in writing:
  - (1) That the applicant's proposed wireless telecommunications facilities shall be maintained in a safe manner, and in compliance with all conditions of the special use permit, without exception, unless specifically granted relief by the City in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable City, State and Federal laws, rules, and regulations;
  - (2) That the construction of the wireless telecommunications facilities is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the State.
    - (a) No wireless telecommunications facilities shall be installed or constructed until the application is reviewed and approved by the City, and the special use permit has been issued.
    - (b) No tower owner or manager shall be permitted to submit an application for a special use permit for a tower if the tower owner does not have a signed agreement committing a commercial service provider to occupy space on the tower.
  - (3) All applications for the construction or installation of new wireless telecommunications facilities shall contain the information hereinafter set forth. The application shall be signed by an authorized individual on behalf of the applicant. Where a certification is called for, such certification shall bear the signature and seal of a professional engineer licensed in the State. The application shall include the following information:

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- (a) Documentation that demonstrates the need for the wireless telecommunications facility to provide service primarily and essentially within the City. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites;
- (b) The name, address and phone number of the person preparing the report;
- (c) The name, address, and phone number of the property owner, operator, and applicant, and to include the legal form of the applicant;
- (d) The postal address and tax map parcel number of the property;
- (e) The zoning district or designation in which the property is situated;
- (f) Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines;
- (g) The location of the nearest residential structure;
- (h) The location, size and height of all structures on the property which is the subject of the application;
- (i) The location, size and height of all proposed and existing antennae and all appurtenant structures;
- (j) The type, locations and dimensions of all proposed and existing landscaping, and fencing;
- (k) The number, type and design of the tower(s) and antenna(s) proposed and the basis for the calculations of the tower's capacity to accommodate multiple users;
- (l) The make, model and manufacturer of the tower and antenna(s);
- (m) A description of the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- (n) The frequency, modulation and class of service of radio or other transmitting equipment;
- (o) The actual intended transmission and the maximum effective radiated power of the antenna(s);
- (p) The direction of maximum lobes and associated radiation of the antenna(s);
- (q) Certification that the NIER levels at the proposed site are within the threshold levels adopted by the FCC;
- (r) Certification that the proposed antenna(s) will not cause interference with other telecommunications devices;
- (s) A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities;

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- (t) Certification that a topographic and geomorphologic study and analysis has been conducted, and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed wireless telecommunications facilities on the proposed site.
- (E) In the case of a new tower, the applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing tower(s) or the use of alternative buildings or other structures within the City. Copies of written requests and responses for shared use shall be provided to the City in the application, along with any letters of rejection, stating the reason for rejection. Attachments are designed and will be constructed to meet all City, State of Ohio and Federal structural requirements for loads, including wind and ice loads.
- (F) The applicant shall certify that the wireless telecommunications facilities will be effectively grounded and bonded so as to protect persons and property, and installed with appropriate surge protectors.
- (G) An applicant may be required to submit an Environmental Assessment Analysis and a visual addendum. Based on the results of the analysis, including the visual addendum, the City may require submission of a more detailed visual analysis. The scope of the required environmental and visual assessment will be reviewed at the pre-application meeting.
- (H) The applicant shall furnish a Visual Impact Assessment, which shall include:
  - (1) A "Zone of Visibility Map" which shall be provided in order to determine locations from which the tower may be seen.
  - (2) Pictorial representations of before and after views from key viewpoints both inside and outside of the City, as may be appropriate, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at a pre-application meeting.
  - (3) An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.
- (I) The applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related facilities and structures of the proposed wireless telecommunications facilities.
- (J) Any and all representations made by the applicant to the City on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the City.
- (K) All utilities at a wireless telecommunications facilities site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.
- (L) All wireless telecommunications facilities shall contain a demonstration that the facility be sited so as to be the least visually intrusive reasonably possible and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the wireless telecommunications facility.

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- (M) Both the wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings. This shall include the utilization of stealth or concealment technology as may be required by the City.
- (N) At a telecommunications site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
- (O) A holder of a special use permit for wireless telecommunications facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted wireless telecommunications facilities in strict compliance with all current applicable technical, safety and safety-related codes adopted by the City, State of Ohio, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include but are not limited to construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.
- (P) A holder of a special use permit granted under this Chapter shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.
- (Q) An applicant shall submit to the City the number of completed applications determined to be needed at the pre-application meeting. Written notification of the application shall be provided to the legislative body of all adjacent municipalities and to the Zoning Administrator.
- (R) The applicant shall examine the feasibility of designing a proposed tower to accommodate future demand for at least five additional commercial applications, for example, future co-locations. The tower shall be structurally designed to accommodate at least five additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:
  - (1) The foreseeable number of FCC licenses available for the area;
  - (2) The kind of wireless telecommunications facilities site and structure proposed;
  - (3) The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;
  - (4) Available space on existing and approved towers.
- (S) The owner of the proposed new tower and his or her successors in interest shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:
  - (1) Respond within 60 days to a request for information from a potential shared-use applicant;
  - (2) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;

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- (3) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
- (T) Failure to abide by the conditions outlined above may be grounds for revocation of the special use permit for the tower.
- (U) There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues which will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site. Costs of the City's consultants to prepare for and attend the pre-application meeting will be borne by the applicant.
- (V) The holder of a special use permit shall notify the City of any intended modification of a wireless telecommunication facility and shall apply to the City to modify, relocate or rebuild a wireless telecommunications facility.
- (W) In order to better inform the public, in the case of a new telecommunication tower, the applicant shall, prior to the public hearing on the application, hold a balloon test. The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a 3-foot in diameter brightly colored balloon at the maximum height of the proposed new tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the applicant 7 and 14 days in advance of the first test date in a newspaper with a general circulation in the City. The applicant shall inform the City, in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 a.m. and 4:00 p.m. on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday.
- (X) The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the tower or existing structure intended to support wireless facilities requires lighting under Federal Aviation Administration Regulation Part 77. This requirement shall be for any new tower or for an existing structure or building where the application increases the height of the structure or building. If this analysis determines that the FAA must be contacted, then all filings with the FAA, all responses from the FAA, and any related correspondence shall be provided in a timely manner.

## Section 307.04 Location of Wireless Telecommunication Facilities.

- (A) Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, (1) being the highest priority and (4) being the lowest priority.
  - (1) On existing towers or other structures without increasing the height of the tower or structure;
  - (2) On City-owned properties located in any zoning district;
  - (3) On properties in areas zoned for BR-CD West Bagley Road Commercial district;
  - (4) On properties in areas zoned for GI General Industrial district.
- (B) If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The applicant seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit

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should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.

- (C) An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the City why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.
- (D) Notwithstanding the above, the City may approve any site located within an area in the above list of priorities, provided that the City finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants, and will not have a deleterious effect on the nature and character of the community and neighborhood.
- (E) The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.
- (F) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the City may disapprove an application for any of the following reasons:
  - (1) Conflict with safety and safety-related codes and requirements;
  - (2) Conflict with the historic nature or character of a neighborhood;
  - (3) The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
  - (4) The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the City, or employees of the service provider or other service providers;
  - (5) Conflicts with the provisions of this Chapter.

## Section 307.05 Shared Use of Wireless Telecommunications Facilities and Other Structures.

- (A) Locating on existing towers or other structures without increasing the height shall be preferred by the City, as opposed to the construction of a new tower. The applicant shall submit a comprehensive report inventorying existing towers and other suitable structures within 4 miles of the location of any proposed new tower, unless the applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing tower or other suitable structure cannot be used.
- (B) An applicant intending to locate on an existing tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the applicant.
- (C) Such shared use shall consist only of the minimum antenna array technologically required to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown.

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## Section 307.06 Height.

- (A) The applicant shall submit documentation justifying the total height of any tower, facility and/or antenna and the basis therefore. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown.
- (B) The maximum permitted height of a new tower shall be 140 feet, based on six co-located antenna arrays requiring 10 feet of vertical space each, and an ambient tree height of 80 feet.
- (C) No tower constructed after the effective date of this Chapter, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with City, State of Ohio, and/or any Federal statute, law, local law, City ordinance, code, rule or regulation.

## Section 307.07 Appearance and Visibility.

- (A) Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.
- (B) Towers shall be galvanized and painted with a rust-preventive paint of a non-contrasting gray or similar color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Chapter.
- (C) Lights, beacons, or strobes of any kinds shall not be permitted on any tower, antenna, and equipment unless required by the Federal Aviation Administration.

## Section 307.08 Security.

All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

- (A) All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
- (B) Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

## Section 307.09 Signage.

Wireless telecommunications facilities shall contain a sign no larger than 4 square feet located near the base of the tower in order to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities and shall contain the name(s) of the owner(s) and operator(s) of the antenna(s), as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule or regulation. No other signage, including advertising, shall be permitted.

## Section 307.10 Lot Size, Setbacks and Screening Requirements.

- (A) All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from any nonresidential property line a minimum of a distance equal to the height of the proposed tower or wireless telecommunications facility structure plus 10% of the height of the tower or structure.

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- (B) Towers and any other proposed wireless telecommunications facility structures shall be located no less than 500 feet from any residential district and no less than 250 feet from any public right-of-way.
- (C) The minimum lot size of any tower or any other wireless telecommunications facility structure shall be one (1) acre. Towers and any other wireless telecommunications facility structure shall be located no less than 30 feet from any other non-related buildings situated on the same site. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements set forth in the underlying zoning district for the property on which it is situated.
- (D) Any and all equipment related to the operation of a tower and any other wireless telecommunications facility structure located on the ground shall be fully screened with a minimum 6-foot high solid wood privacy fence with continuous evergreen hedge vegetation, with a minimum initial tree height of five (5) feet. All screening shall be located behind the specified setback lines. The tower or wireless telecommunications facility structure owner/operator is responsible for installing and maintaining said screening. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.

## Section 307.11 Retention of Expert Assistance and Reimbursement by Applicant.

- (A) The City may hire any consultant and/or expert necessary to assist the City in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any requests for recertification.
- (B) An applicant shall deposit with the City funds sufficient to reimburse the City for all reasonable costs of consultant and expert evaluation and consultation to the City in connection with the review of any application, including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00. The placement of the \$8,500.00 with the City shall precede the pre-application meeting. The City will maintain a separate escrow account for all such funds. The City's consultants/experts shall invoice the City for its services in reviewing the application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than \$2,500.00, the applicant shall immediately, upon notification by the City, replenish the escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the City before any further action or consideration is taken on the application. In the event that the amount held in escrow by the City is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.
- (C) The total amount of the funds needed as set forth in division (B) of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

## Section 307.12 Exceptions From a Special Use Permit.

- (A) No person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of wireless telecommunications facilities as of the effective date of this Chapter without having first obtained a special use permit for wireless telecommunications facilities. Notwithstanding anything to the contrary in this section, no special use permit shall be required for those non-commercial exceptions noted in the definition of wireless telecommunications facilities.
- (B) All wireless telecommunications facilities existing on or before the effective date of this Chapter shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing wireless telecommunications facility must comply with this Chapter.

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## Section 307.13 Public Hearing and Notification Requirements.

- (A) Prior to the approval of any application for a special use permit for wireless telecommunications facilities, a public hearing before the Planning Commission shall be held by the City subject to the procedure set forth in §102.04. In order that the City may notify nearby landowners, the application shall contain the names and addresses of all landowners whose property is located within 1,500 feet of any property line of the lot or parcel on which the new wireless telecommunications facilities are proposed to be located.
- (B) There shall be no public hearing required for an application to co-locate on an existing tower or other structure, as long as there is no proposed increase in the height of the tower or structure, including attachments thereto.
- (C) The City shall schedule the public hearing referred to in division (A) of this section once it finds the application is complete. The City, at any stage prior to issuing a special use permit, may require such additional information as it deems necessary.

## Section 307.14 Action on an Application for a Special Use Permit.

- (A) The City will undertake a review of an application pursuant to this Chapter in a timely fashion, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.
- (B) The City may refer any application or part thereof to any advisory or other committee for a non-binding recommendation.
- (C) After the public hearing and after formally considering the application, the City Planning Commission may approve, approve with conditions, or deny a special use permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the applicant.
- (D) If the City approves the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such approval in writing within 10 calendar days of the City's action, and the special use permit shall be issued within 30 days after such approval. Except for necessary building permits, and subsequent certificates of compliance, once a special use permit has been granted hereunder, no additional permits or approvals from the City, such as site plan or zoning approvals, shall be required by the City for the wireless telecommunications facilities covered by the special use permit.
- (E) If the City denies the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such denial in writing within 10 calendar days of the City's action.

## Section 307.15 Recertification of a Special Use Permit.

- (A) Between 12 months and 6 months prior to the 5-year anniversary date after the effect date of the special use permit and all subsequent 5-year anniversaries of the effective date of the original special use permit for wireless telecommunications facilities, the holder of a special use permit for such wireless telecommunication facilities shall submit a signed written request to the City for recertification. In the written request for recertification, the holder of such special use permit shall note the following:
  - (1) The name of the holder of the special use permit for the wireless telecommunications facilities;
  - (2) If applicable, the number or title of the special use permit;

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(3) The date of the original granting of the special use permit;

(4) Whether the wireless telecommunications facilities have been moved, re-located, rebuilt, or otherwise visibly modified since the issuance of the special use permit and if so, in what manner;

(5) If the wireless telecommunications facilities have been moved, re-located, rebuilt, or otherwise visibly modified, then whether the City approved such action, and under what terms and conditions, and whether those terms and conditions were complied with;

(6) That the wireless telecommunications facilities are in compliance with the special use permit and in compliance with all applicable codes, laws, rules and regulations;

(7) Recertification that the tower and attachments both are designed and constructed and continue to meet all local, City, State and Federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a professional engineer licensed in the State, the cost of which shall be borne by the applicant.

(B) If, after such review, the City determines that the permitted wireless telecommunications facilities are in compliance with the special use permit and all applicable statutes, laws, local laws, ordinances, codes, rules and regulations, then the City issues a recertification of the special use permit for the wireless telecommunications facilities, which may include any new provisions or conditions that are mutually agreed upon, or that are required by applicable statutes, laws, ordinances, codes, rules or regulations. If, after such review, it is determined that the permitted wireless telecommunications facilities are not in compliance with the special use permit and all applicable statutes, laws, ordinances, codes, rules and regulations, then the City may refuse to issue a recertification of the special use permit for the wireless telecommunications facilities, and in such event, such wireless telecommunications facilities shall not be used after the date that the applicant receives written notice of the decision by the City, until such time as the facility is brought into compliance. Any decision requiring the cessation of use of the facility or imposing a penalty shall be in writing and supported by substantial evidence contained in a written record, shall be promptly provided to the owner of the facility.

(C) If the applicant has submitted all of the information requested and required by this Chapter, and if the review is not completed, as noted in division (B) of this section, prior to the 5-year anniversary date of the special use permit, or subsequent 5-year anniversaries, then the applicant for the permitted wireless telecommunications facilities shall receive an extension of the special use permit for up to 6 months, in order for the completion of the review.

(D) If the holder of a special use permit for wireless telecommunications facilities does not submit a request for recertification of such special use permit within the time frame noted in division (A) of this section, then such special use permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the special use permit, or subsequent 5-year anniversaries, unless the holder of the special use permit adequately demonstrates that extenuating circumstances prevented a timely recertification request. If the City agrees that there were legitimately extenuating circumstances, then the holder of the special use permit may submit a late recertification request or application for a new special use permit.

## Section 307.16 Extent and Parameters of a Special Use Permit.

The extent and parameters of a special use permit for wireless telecommunications facilities shall be as follows:

(A) Such special use permit shall be non-exclusive;

# Wireless telecommunications facilities

- (B) Such special use permit shall not be assigned, transferred or conveyed without the express prior written notification to the City. In the event the real property interest in the telecommunications facilities is wholly or partially assigned, transferred or otherwise conveyed to a different person or entity holding a special use permit granted under this sub-section, the City may require the new ownership interest to apply for a new special use permit as provided for under this Chapter.
- (C) Such special use permit may, following a hearing upon due prior notice to the applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the special use permit, or for a material violation of this Chapter, after prior written notice to the holder of the special use permit.

## Section 307.17 Application Fee.

- (A) At the time that a person submits an application for a special use permit for a new tower, such person shall pay a non-refundable application fee of \$5,000.00 to the City. If the application is for a special use permit for co-locating on an existing tower or other suitable structure, where no increase in height of the tower or structure is required, the non-refundable fee shall be \$2,000.00.
- (B) No application fee is required in order to rectify a special use permit for wireless telecommunications facilities, unless there has been a visible modification of the wireless telecommunications facility since the date of the issuance of the existing special use permit for which the conditions of the special use permit have not previously been modified. In the case of any modification, the fees provided in division (a) shall apply.

## Section 307.18 Performance Security.

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the City a bond, or other form of security acceptable to the City as to type of security and the form and manner of execution, in an amount of at least \$75,000.00, and with such sureties as are deemed sufficient by the City to assure the faithful performance of the terms and conditions of this Chapter and conditions of any special use permit issued pursuant to this Chapter. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit.

## Section 307.19 Reservation of Authority to Inspect.

In order to verify that the holder of a special use permit for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the City may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including but not limited to towers, antennas and buildings or other structures constructed or located on the permitted site.

## Section 307.20 Annual NIER Certification.

The holder of the special use permit shall, annually, certify to the City that NIER levels at the site are within the threshold levels adopted by the FCC.

## Section 307.21 Liability Insurance.

- (A) A holder of a special use permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the special use permit in amounts as set forth below:

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- (1) Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence; \$2,000,000 aggregate;
- (2) Automobile Coverage: \$1,000,000.00 per occurrence; \$2,000,000 aggregate;
- (3) Workers Compensation and Disability: statutory amounts.

(B) The Commercial General Liability insurance policy shall specifically include the City and its officers, boards, employees, committee members, attorneys, agents and consultants as additional named insureds.

(C) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least "A".

(D) The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least 30 days prior written notice in advance of the cancellation of the insurance.

(E) Renewal or replacement policies or certificates shall be delivered to the City at least 15 days before the expiration of the insurance that such policies are to renew or replace.

(F) Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than 15 days after the granting of the special use permit, the holder of the special use permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.

## Section 307.22 Indemnification.

whether  
might  
location,  
replacement, removal, or  
claims, suits, demands, causes  
negligent or intentional acts or  
to the penalties, damages or charges  
consultants' fees, and expert witness fees are  
by the City.

(A) Any application for wireless telecommunication facilities that is proposed for City property pursuant to this Chapter shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the City and its officers, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, compensatory or punitive, or expenses arising therefrom, either at law or in equity, which arise out of, or are caused by the placement, construction, erection, modification, products performance, use, operation, maintenance, repair, installation, restoration of said facility, excepting, however, any portion of such of action or award of damages as may be attributable to the omissions of the City, or its servants or agents. With respect referenced herein, reasonable attorneys' fees, included in those costs that are recoverable

(B) Notwithstanding the requirements noted in division (A) of this section, an indemnification provision will not be required in those instances where the City itself applies for and secures a special use permit for wireless telecommunications facilities.

## Section 307.23 Fines.

(A) In the event of a violation of this Chapter or any special use permit issued pursuant to this Chapter, the City may impose and collect, and the holder of the special use permit for wireless telecommunications facilities shall pay to the City, fines or penalties as set forth below.

(B) A violation of this Chapter is hereby declared to be an offense, punishable by a fine not exceeding three hundred fifty dollars (\$350.00) per day per occurrence, or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense

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both, of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (\$1,000.00), or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this section or of such ordinance or regulation shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

(C) Notwithstanding anything in this Chapter, the holder of the special use permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Chapter or any section of this Chapter. An attempt to do so shall subject the holder of the special use permit to termination and revocation of the special use permit. The City may also seek injunctive relief to prevent the continued violation of this Chapter, without limiting other remedies available to the City.

## Section 307.24 Default and Revocation.

(A) If wireless telecommunications facilities are repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Chapter or of the special use permit, then the City shall notify the holder of the special use permit in writing of such violation. Such notice shall specify the nature of the violation or noncompliance, and that the violations must be corrected within 7 days of the date of the postmark of the notice, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this division or any other section of this Chapter, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the City may, at its sole discretion, order the violation remedied within 24 hours.

(B) If, within the period set forth in division (A) above, the wireless telecommunications facilities are not brought into compliance with the provisions of this Chapter or of the special use permit, or substantial steps are not taken in order to bring the affected wireless telecommunications facilities into compliance, then the City may revoke such special use permit for wireless telecommunications facilities, and shall notify the holder of the special use permit within 48 hours of such action.

## Section 307.25 Removal.

(A) Under the following circumstances, the City may determine that the health, safety, and welfare interests of the City warrant and require the removal of wireless telecommunications facilities:

- (1) Wireless telecommunications facilities with a permit have been abandoned (i.e. not used as wireless telecommunications facilities) for a period exceeding 90 consecutive days or a total of 180 days in any 365-day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;
- (2) Permitted wireless telecommunications facilities fall into such a state of disrepair that it creates a health or safety hazard;
- (3) Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required special use permit, or any other necessary authorization.

(B) If the City makes such a determination as noted in division (A) of this section, then the City shall notify the holder of the special use permit for the wireless telecommunications facilities within 48

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hours that said wireless telecommunications facilities are to be removed, the City may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless telecommunications facilities.

- (C) The holder of the special use permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the City. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the City.
- (D) If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within 90 days after the permit holder has received notice, then the City may order officials or representatives of the City to remove the wireless telecommunications facilities at the sole expense of the owner or special use permit holder.
- (E) If, the City removes, or causes to be removed, wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim and remove it from the site to a lawful location within 10 days, then the City may take steps to declare the wireless telecommunications facilities abandoned, and sell them and their components.
- (F) Notwithstanding anything in this section to the contrary, the City may approve a temporary use permit/agreement for the wireless telecommunications facilities, for no more than 90 days, during which time a suitable plan for removal, conversion, or re-location of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the City, and an agreement to such plan shall be executed by the holder of special use permit and the City. If such a plan is not developed, approved and executed within the 90-day time period, then the City may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this section.

## Section 307.26 Relief.

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this Chapter may request such at the pre-application meeting, provided that the relief or exemption is contained in the original application for either a special use permit, or in the case of an existing or previously granted special use permit, a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the City in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the City, its residents and other service providers.

## Section 307.27 Periodic Regulatory Review by the City.

- (A) The City may at any time conduct a review and examination of this entire Chapter.
- (B) If after such a periodic review and examination of this Chapter, the City determines that one or more provisions of this Chapter should be amended, repealed, revised, clarified, or deleted, then the City may take whatever measures are necessary in accordance with applicable law in order to accomplish the same. It is noted that where warranted, and in the best interests of the City, the City may repeal this entire Chapter at any time.
- (C) Notwithstanding the provisions of divisions (A) and (B) of this section, the City may at any time, and in any manner (to the extent permitted by Federal, State, or local law), amend, add, repeal, and/or delete one or more provisions of this Chapter.

# Wireless telecommunications facilities

## Section 307.28 Adherence to State and Federal Rules and Regulations.

- (A) To the extent that the holder of a special use permit for wireless telecommunications facilities has not received relief, or is otherwise exempt from appropriate State and/or Federal agency rules or regulations, then the holder of such a special use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
- (B) To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a special use permit for wireless telecommunications facilities, then the holder of such a special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

## Section 307.29 Conflict with Other Laws.

Where this Chapter differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the City, State or federal government, this Chapter shall apply.

## Section 307.30 Severability.

- (A) If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Chapter and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.
- (B) Any special use permit issued under this Chapter shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the City.

## CHAPTER 308 Sustainable Facility Standards

Section 308.01	<b>Purpose of Sustainable Facility Standards</b>
Section 308.02	Definitions
Section 308.03	Procedure for Review of Small Wind Conversion Energy Systems
Section 308.04	Standards for Small Wind Conversion Energy Systems
Section 308.05	<b>Small Wind Conversion Energy System</b> Facility Abandonment
Section 308.06	Solar Energy System Standards
Section 308.07	Procedure for Review of Solar Energy Systems
Section 308.08	Geothermal Energy System Standards
Section 308.09	Permits Required for a Geothermal Energy System
Section 308.10	Green Roof System Standards
Section 308.11	Permits Required for a Green Roof System
Section 308.12	Rain Barrel Standards
Section 308.13	Permits Required for a Rain Barrel System
Section 308.14	Rain Garden Plant List

### Section 308.01 Purpose of Sustainable Facility Standards.

The standards provided in these regulations are enacted to accommodate sustainable energy and storm water collection facility systems in appropriate locations for private use, while protecting the public's health, safety and welfare. The intent of these standards are to ensure compliance with the provisions of the requirements and standards established herein. It is also the purpose of these regulations to promote the safe, effective and efficient use of alternative energy and storm water collection systems installed to reduce the on-site consumption of utility supplied energy, hot water and conservancy of storm water runoff as a residential accessory use while protecting health, safety and welfare of adjacent and surrounding land uses through appropriate zoning and land use controls.

### Section 308.02 Definitions.

- (A) **Meteorological tower (met tower).** Includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. For the purpose of this chapter, met towers shall refer only to those whose purpose are to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind conversion energy system.
- (B) **Modification.** Any change to the small wind conversion energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.
- (C) **Net metering.** The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind conversion energy system that is fed back into the electric distribution system over a billing period.
- (D) **Shadow flicker.** The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

- (E) **Small wind conversion energy system (private use)**. Means a system consisting of a wind turbine, tower, and associated control or conversion electronics for the purpose of providing electrical power to a lawful principle use. A system having a rated capacity of 100 kW or less for non-residential uses shall be considered a private use system for the purposes of the regulations. These systems are considered accessory uses in the BR-CD and GI zoning districts.
- (F) **System height**. The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point. See Figure 32.

Figure 32: System Height Measurement

*Methods to Determine the Height of a Small Wind Conversion Energy System*

- (H) **Tower**. The monopole, guyed monopole or lattice structure that supports a wind generator.
- (I) **Tower height**. The height above grade of the fixed portion of the tower, excluding the wind generator. See Figure 33.

Figure 33: Tower Height Measurement

*Methods to Determine the Height of a Small Wind Conversion Energy System Tower*

- (J) **Wind generator**. The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

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## Section 308.03 Procedure for Review of Small Wind Conversion Energy Systems.

- (A) **Building Permit:** Small wind energy conversion systems and met towers are an accessory use permitted in the BR-CD and GI zoning districts where permitted structures are allowed. No small wind conversion energy system shall be erected, constructed, or installed without first receiving a building permit from the Chief Building Official. A building permit shall be required for any physical modification to an existing small wind conversion energy system. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed three (3) years from the date the building permit was issued.
- (B) **Zoning Permit:** An application for a zoning permit for the installation and use of a small wind conversion energy system submitted to the Planning Commission for consideration at a public hearing. The application shall contain a site plan with the following information:
  - (1) Property lines and physical dimensions of the applicant's property.
  - (2) Location, dimensions, and types of existing major structures on the property.
  - (3) Location of the proposed small wind conversion energy system, foundations, guy anchors and associated equipment.
  - (4) Tower foundation blueprints or drawings.
  - (5) Tower blueprints or drawings.
  - (6) Setback requirements as outlined in this ordinance.
  - (7) The right-of-way of any public road that is contiguous with the property.
  - (8) Any overhead utility lines.
  - (9) Small wind conversion energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
  - (10) Small wind conversion energy systems that will be connected to the applicable power grid shall include a copy of the application for interconnection with their electric utility provider.
  - (11) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
  - (12) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the Ohio Basic Building Code.
  - (13) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
  - (14) List of names and addresses of abutting property owners to the applicant's property.
- (C) **Public Hearing:** Within 60 days of the receipt of the application to construct a small wind conversion energy system approval, the Planning Commission shall act on it by holding a public hearing pursuant to the procedure set forth in §102.04.

## Section 308.04 Standards for Small Wind Conversion Energy Systems.

The Planning Commission shall evaluate the application for compliance with the following standards;

# Sustainable facility standards

- (A) Minimum Site Area. The minimum area of a parcel containing a Small wind conversion energy system shall be one (1) acre.
- (B) Number per parcel. A maximum of two (2) wind turbines per acre are permitted on parcels greater than one acre in size.
- (C) Minimum Setbacks: The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the tower base to property line, public roads, or nearest point on the foundation of an occupied building.
  - (1) A minimum of 1.2 times the total extended height from the project property lines adjacent to any residential zoning district or residential land use.
  - (2) A minimum of .75 times the total extended height from the project property lines adjacent to any non-residential zoning district.
  - (3) Guy wire anchors may not extend closer than twenty (20) feet from any property line.
  - (4) A twenty (20) foot minimum setback from any part of the turbine, rotors or guy wires to any property line.
- (D) Tower Height: The maximum tower height shall be restricted to seventy (70) feet.
- (E) Sound Level: The small wind conversion energy system shall not exceed 60 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.
- (F) Shadow Flicker: Small wind conversion energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.
- (G) Signs: All signs including flags streamers and decorative items, both temporary and permanent, are prohibited on the small wind conversion energy system, except for manufacturer identification or appropriate warning signs.
- (H) Code Compliance: The small wind conversion energy system shall comply with all applicable sections of the Ohio Basic Building Code.
- (I) Aviation: The small wind conversion energy system shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and any applicable Ohio regulations.
- (J) Visual Impacts: It is inherent that small wind conversion energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.
  - (1) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind conversion energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical and control equipment. All electrical conduits shall be underground, except when the financial costs are prohibitive.

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- (2) The color of the small wind conversion energy system shall be a non-obtrusive color such as tan, sand, gray, black or similar color that blends in with the surrounding environment.
- (3) Approved Wind Generators: The manufacturer and model of the wind generator to be used in the proposed small wind conversion energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the state of Ohio, if available.
- (4) Utility Connection: If the proposed small wind conversion energy system is to be connected to the power grid through net metering, it shall adhere to any applicable State of Ohio regulation.
- (5) Access: The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of twelve (12) feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- (6) Clearing: Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind conversion energy system and as otherwise prescribed by applicable laws, regulations, and ordinances.
- (7) Electrical Wires. All electrical wires leading from the tower to electrical control facilities shall be located underground.

(K) Mounting of Wind Turbines. Attachment of the wind turbine, including any support or structural components, to any building or structure shall be in strict compliance with regulations of the Ohio Basic Building Code.

(L) Lighting. Wind system towers shall not be artificially lighted unless required, in writing, by the Federal Aviation Administration (FAA) or other applicable authority that regulates air safety. Where the FAA requires lighting, the lighting shall be the lowest intensity allowable under FAA regulations; the fixtures shall be shielded and directed to the greatest extent possible to minimize glare and visibility from the ground; and no strobe lighting shall be permitted, unless expressly required by the FAA.

- (1) Lighting levels shall not exceed 0.5 foot-candles at any common property line with property residentially zoned or used for residential purposes.

## Section 308.05 **Small Wind Conversion Energy System** Facility Abandonment.

- (A) At such time that a small wind conversion energy system facility is scheduled to be abandoned, discontinued or the City can establish that the small wind conversion energy system facility has been abandoned for a continuous period of six (6) months, this shall constitute a nuisance.
- (B) Once declared a nuisance, the City shall follow those nuisance abatement procedures as set forth in the Berea Codified Ordinances Chapter 931 "Nuisance Abatement."

## Section 308.06 Solar Energy System Standards

The installation and construction of a solar energy system shall be subject to the following development and design standards:

- (A) A solar energy system is permitted in all zoning districts as an accessory use to the principal use.
- (B) A solar energy system shall provide power for the principal use and accessory use of the property on which the solar energy system is located and shall not be used for the generation of power for

the sale of energy to other users, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time to the local utility company.

- (C) A solar energy system connected to the utility grid shall provide written authorization from the local utility company acknowledging and approving such connection.
- (D) A solar energy system may be roof mounted or ground mounted in any zoning district except any residential district, where no solar energy system shall be ground mounted.
- (E) A roof mounted system may be mounted on a principal building or accessory building. A roof mounted system whether mounted on the principal building or accessory building, may not exceed the maximum building height or accessory building height specified for the building type in the underlying zoning district. In no instances shall any part of the solar energy system extend beyond the edge of the roof.
  - (1) The panels shall not be located within three (3) feet of any peak, eave, or valley of the roof to maintain pathways of accessibility.
- (F) A ground mounted system shall not exceed the maximum building height for accessory buildings permitted in the zoning district where proposed to be located.
- (G) The surface area of a ground mounted system regardless of the mounted angle shall be calculated as part of the overall lot coverage. Of the allowable lot coverage, the surface area of a ground mounted system shall not constitute more than two (2%) percent of the allowable lot coverage or 360 square feet, whichever is less.
- (H) A ground mounted system or system attached to an accessory building shall not be located within the required front yard setback.
- (I) The minimum solar energy system setback distance from the property lines shall be equivalent to the accessory use building setback requirement of the underlying zoning district.
- (J) The number of solar panels and supporting equipment shall be considered as one solar energy system.
- (K) All mechanical equipment associated with and necessary for the operation of the solar energy system shall comply with the following:
  - (1) Mechanical equipment shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of shrubbery, trees, or other plant materials which provides a 100% opaque visual screen. In lieu of a planting screen a six (6) foot minimum, solid wood fence meeting the requirements of the Zoning Code may be used.
  - (2) Mechanical equipment shall not be located within the minimum front yard setback of the underlying zoning district.
  - (3) Mechanical equipment shall be setback at least ten (10) feet from the rear and side property lines.
- (L) Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways. Solar panels shall not be placed in the vicinity of the Airport in a manner that would interfere with airport flight patterns. Acknowledgement from the Federal Aviation Administration may be necessary. All power transmission lines from a ground mounted solar energy system to any building or other structure shall be located underground.
- (M) A solar energy system shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials. The

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manufacturer's or installer's identification and any appropriate warning signs and placards may be displayed on the solar energy system provided they comply with the prevailing sign regulations.

(N) Where general standards within this Zoning Code and specific criteria provided for in this Chapter overlap, the specific criteria shall supersede the general standards.

## Section 308.07 Procedure for Review of Solar Energy Systems

(A) A solar energy system shall not be constructed until a zoning permit and building permit has been approved and issued. The design of the solar energy system shall conform to applicable industry standards.

- (1) A building permit shall be obtained for a solar energy system per the Ohio Basic Building Code.
- (2) All wiring shall comply with the applicable version of the National Electric Code (NEC).
- (3) The local utility provider shall be contacted to determine grid interconnection and net metering policies.
- (4) The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from a certifying organization and any such design shall be certified by an Engineer registered in the State of Ohio.

(B) The solar energy system shall comply with all applicable City of Berea Ordinances and Codes so as to ensure the structural integrity of such solar energy system.

(C) Before any construction can commence on any solar energy system the property owner must acknowledge that he/she is the responsible party for owning and maintaining the solar energy system. If the solar energy system is abandoned or is in a state of disrepair it shall be the responsibility of the property owner to remove or maintain the solar energy system.

(D) If a ground mounted solar energy system is removed, any earth disturbance as a result of the removal of the ground mounted solar energy system shall be graded and reseeded.

## Section 308.08 Geothermal Energy System Standards

The installation and construction of a geothermal energy system, referred to as a ground source heat pump system, shall be subject to the following development and design standards:

(A) Location. Ground source heat pump systems in accordance with the standards in this section are allowed as a permitted accessory use in all zoning districts as a permitted accessory use.

(B) Ground source heat pump systems shall adhere to the accessory use standards set forth in Chapter 305 unless modified by this Section.

- (1) A ground source heat pump system shall not count toward the maximum number of permitted accessory uses allowed on a single parcel.

(C) System Requirements. Only closed loop ground source heat pump systems utilizing heat transfer fluids as defined in this Zoning Code are permitted. Open loop ground source heat pump systems are not permitted.

(D) Setbacks.

- (1) All components of ground source heat pump systems including pumps, borings and loops shall be set back at least five (5) feet from interior side lot lines and at least ten (10) feet from rear lot lines.
- (2) Above-ground equipment associated with ground source heat pumps shall not be installed in the front yard of any lot or the side yard of a corner lot adjacent to a public right-of-way and shall meet all required setbacks for the applicable zoning district for an accessory use.
- (E) Easements. Ground source heat pump systems shall not encroach on public or private drainage, utility or roadway easements.
- (F) Noise. Ground source heat pump systems shall comply with performance standards set forth in this Zoning Code.
- (G) Safety. Ground source heat pumps shall be certified by Underwriters Laboratories, Inc. and meet the requirements of the Ohio State Basic Building Code.
- (H) System Abandonment. If the ground source heat pump system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a violation of this Zoning Code. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained in accordance with the following:
  - (1) The heat pump and any external mechanical equipment shall be removed.
  - (2) Pipes or coils below the land surface shall be filled with grout to displace the heat transfer fluid. The heat transfer fluid shall be captured and disposed of in accordance with applicable regulations. The top of the pipe, coil or boring shall be uncovered and grouted.
  - (3) Lake ground source heat pump systems shall be completely removed from the bottom of the body of water.

## Section 308.09 Permits Required for a Geothermal Energy System

A building permit and zoning permit shall be obtained for any ground source heat pump system prior to installation or usage.

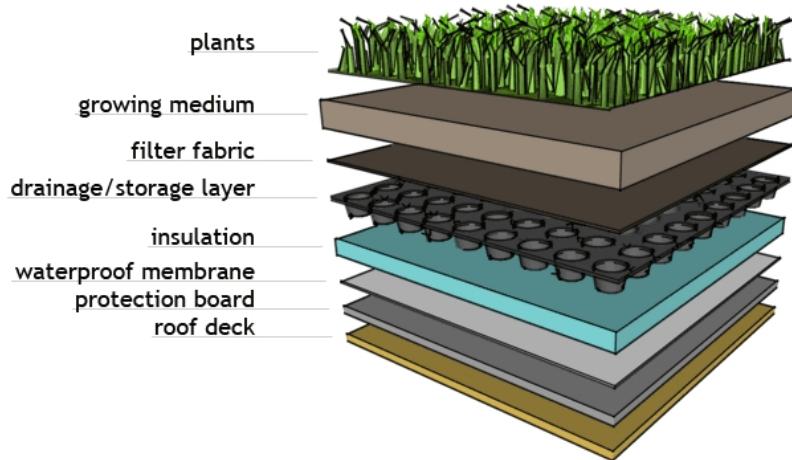
## Section 308.10 Green Roof System Standards

The installation and construction of a green roof system shall be subject to the following development and design standards:

- (A) The applicant shall submit documentation demonstrating that the roof can support the additional load of plants, soil, and retained water, and that an adequate soil depth will be provided for plants to thrive.
- (B) The applicant shall submit documentation demonstrating that the required green roof system components are present in the design of the system.
  - (1) The applicant may request that similar industry accepted design component or construction method be substituted for a required component referred to in Figure 34.
    - (a) The request to substitute a required green roof system component must be accompanied by supporting documentation indicating that the proposed substitution meets or exceeds the intended design or construction result as referred to in Figure 34.

Figure 34: Green Roof System Components

*Illustration identifying the required components for a green roof system.*



## Section 308.11 Permits Required for a Green Roof System

A building permit and zoning permit shall be obtained for any green roof system prior to installation or usage.

## Section 308.12 Rain Barrel Standards

The installation and construction of a rain barrel system shall be a permitted use in all zoning districts, unless specified otherwise in this section, and shall be subject to the following development and design standards:

- (A) The maximum size of any rain barrel shall not exceed sixty-five (65) gallons in any residential zoning district and shall not measure more than forty-eight (48) inches from grade level to the top of the barrel or extension thereof.
- (B) A rain barrel may be located in the front yard, side yard or rear yard areas of a parcel subject to the following standards.
  - (1) Front Yard Standards. The following standards apply to rain barrels placed in the front yard area of a parcel.
    - (a) No more than two (2) rain barrels shall be placed in any front yard area. Corner lots maintaining two front yards areas shall be contain no more than two (2) rain barrels total for both front yard areas.
    - (b) Rain barrels located in a front yard shall be properly placed and adequately screened by vegetation, fence or some other means that shall be reviewed and approved by the City Engineer.
    - (c) Rain Barrel Screening Review Criteria. The City Engineer shall consider the following standards of review when determining appropriate screening for rain barrels located in a front yard:
      - (i) The proposed screening plan shall be adequate to shield the rain barrel view from a person six feet tall standing on a public street or on an adjacent property.

# Sustainable facility standards

- (ii) Screening elements may include evergreen vegetation, a fence with at least 75% opacity or other approved screening element that is consistent with the style and color of the structure for which the rain barrel serves.
- (2) Side Yard Standards. The following standards apply to rain barrels placed in the side yard area of a parcel.
  - (a) No more than two (2) rain barrels shall be placed in any side yard area.
  - (b) Rain barrels located in any side yard shall be screened from the public or private roadway utilizing solid screening consisting of either: all season vegetation; a fence or wall constructed of natural materials. The Zoning Administrator shall review and approve of all proposed screening plans.
- (3) Rear Yard Standards. The following standards apply to rain barrels placed in the rear yard area of a parcel.
  - (a) The number of rain barrels located in a rear yard shall be unlimited.
  - (b) If a rain barrel located in a rear yard is visible from a public or private roadway, the rain barrel shall be screened from the public or private roadway utilizing solid screening consisting of either: all season vegetation; a fence or wall constructed of natural materials. The Zoning Administrator shall review and approve of all proposed screening plans.

(C) A rain barrel shall not extend more than thirty-six (36) inches from the building face of the primary or accessory structure.

Figure 35: Rain Barrel System Components

*Illustration depicting a typical rain barrel system.*



A zoning permit shall be obtained for any rain barrel system prior to installation or usage.

## Section 308.14 Rain Garden Plant List

The installation and construction of a rain garden shall be subject to the following development and design standards:

- (A) The applicant shall submit a plan showing the location and dimensions of the rain garden.
- (B) The applicant shall submit documentation demonstrating that the rain garden is sized to collect the runoff from a specific surface area.
- (C) A rain garden shall be set back at least ten (10) feet from any main dwelling.
- (D) A rain garden shall be set back at least five (5) feet from any lot line.
- (E) A rain garden shall include a storm water overflow which must be directed to appropriate outlets to the storm drainage system and away from neighboring properties, sidewalk, steep slopes, or retaining walls.
- (F) A rain garden shall be maintained to ensure they are continuing to function as originally intended and to be safe.
- (G) The following is a list of suggested native plants for rain gardens which can tolerate both wet and dry conditions:

Botanical Name	Common Name	Light Preference	Bloom Time	Bloom Color	Height
<b><u>Flowering Plants</u></b>					
Aster novae-angliae	New England Aster	FS	Aug – Oct	Purple	2-5'
Baptisia lactea	White False Indigo	FS, Part Shade	May – July	Blue	2-4'
Chelone glabra	Turtlehead	FS, Pt Shade	July – Sept	White	2-3'
Echinacea purpurea	Purple Coneflower	FS, Pt Shade	July – Sept	Purple	3-4'
Eryngium aquaticum	Rattlesnake Master	FS, Pt Shad	May – Sept	White	3-6'
Eupatorium purpureum	Joe Pye Weed	FS, Pt Shade	Aug – Sept	Purple, pink	3-6'
Filipendula rubra	Queen of the Prairie	FS, Part Shade	June – July	Pink	4-5'
Iris versicolor	Northern Blue Flag	FS, Part Shade	May – July	Purple	2-3'
Liatris pycnostachya	Prairie Blazing Star	FS	July – Oct	Purple	2-3'
Liatris spicata	Dense Blazing Star	FS	Aug – Sept	Pink, purple	3-6'
Lobelia siphilitica	Great Lobelia	FS, Part Shade	July – Sept	Blue	1-4'
Monarda didyma	Bee Balm	FS, Part Shade	July – Sept	Lavender	2-5'
Penstemon digitalis	Foxglove Beardtongue	FS, Part Shade	June – July	White	2-4'
Physostegia virginiana	Obedient Plant	FS	Aug – Sept	Pink, purple	2-4'
Polemonium reptans	Jacob's Ladder	Part Shade, Shade	May – June	Blue	1.5-2'
Potentilla norvegica	Cinquefoil	All	June – Aug	Yellow	1.5-2'
Rudbeckia triloba	Brown-eyed Susan	FS, Part Shade	July – Sept	Yellow	2-4'

# Sustainable facility standards

<i>Silphium perfoliatum</i>	Cup Plant	FS, Part Shade	July – Sept	Yellow	3-8'
<i>Solidago flexicaulis</i>	Zig Zag Goldenrod	Part Shade, Shade	June – Aug	Yellow	1-2'
<i>Solidago ohioensis</i>	Ohio Goldenrod	FS, Part Shade	June – Sept	Yellow	2-3'
<i>Stylophorum diphyllum</i>	Celandine Poppy	Part Shade, Shade	May – June	Yellow	1.5-2'
<i>Thalictrum pubescens</i>	Tall Meadow Rue	FS	June – July	White	5-8'
<i>Verbena hastata</i>	Blue Vervain	FS, Part Shade	July – Sept	Blue, purple	2-6'
<i>Vernonia</i> sp	Ironweed	FS, Part Shade	Aug – Sept	Purple, red	4-8'

## **Grasses and Grass-like Plants**

<i>Andropogon gerardii</i>	Big Bluestem	FS	Sept	Blue, green, red, gold	4-8'
<i>Carex</i> sp.	Wet-tolerant Sedges	FS, Part Shade	June – July	Green, beige	1-2'
<i>Elymus virginicus</i>	Virginia Wild Rye	FS, Part Shade	July – Sept	Green, straw	2-3'
<i>Glyceria striata</i>	Fowl Manna Grass	FS	June – July	Green	1-5'
<i>Juncus torreyi</i>	Torrey's Rush	FS	June – July	Orange	2-3'
<i>Panicum virgatum</i>	Switch Grass	FS	Aug – Sept	Green, straw	3-6'

## **Ferns**

<i>Matteuccia struthiopteris</i>	Ostrich Fern	Part Shade, Shade	Non flowering	Non flowering	1.5-4'
<i>Onoclea sensibilis</i>	Sensitive Fern	Part Shade, Shade	Non flowering	Non flowering	1.5-5'
<i>Osmunda cinnamomea</i>	Cinnamon Fern	Part Shade, Shade	Non flowering	Non flowering	1.5-4'

## **Shrubs and Trees**

<i>Acer rubrum</i>	Red Maple	All	Mar – Apr	Red	90'
<i>Aronia melanocarpa</i>	Chokecherry	FS, Part Shade	Apr – May	White	3-6'
<i>Betula nigra</i>	River Birch	FS, Part Shade	June – July	Brown	70'
<i>Clethra alnifolia</i>	Summer Sweet	FS	July – Aug	White	7-8'
<i>Cornus amomum</i>	Silky Dogwood	All	May – July	Green	7'
<i>Ilex verticillata</i>	Winterberry	Part Shade, Shade	June – July	White	6'
<i>Quercus palustris</i>	Pin Oak	FS, Part Shade	Apr – May	Inconspicuous	70-90'
<i>Sambucus Canadensis</i>	Elderberry	FS, Part Shade	June – Aug	White	4-12'
<i>Vaccinium corymbosum</i>	Highbush Blueberry	FS	Feb – June	White, pink	6-12'
<i>Viburnum dentatum</i>	Arrowwood Viburnum	FS, Part Shade	June – Aug	White	8'

## **Notes:**

FS means Full Sun

# SUPPLEMENTAL REGULATIONS

## CHAPTER 309 Supplemental Regulations

Section 309.01	<b>General</b>
Section 309.02	Corner Lots
Section 309.03	Flag Lots
Section 309.04	Conversion of Dwellings to More Units
Section 309.05	Private Residential Swimming Pools
Section 309.06	Fence and Wall Regulations
Section 309.07	Architectural Projections
Section 309.08	Temporary Buildings
Section 309.09	Performance Standards
Section 309.10	Standards for Mobile Storage or Dumpsters Refuse Structures
Section 309.11	Regulation of Farm Animals
Section 309.12	Outdoor Sales as a Principal Use
Section 309.13	Substantially Similar Use Standards and Procedure
Section 309.14	Professional Home Office Standards
Section 309.15	Minor Amenity Standards
Section 309.16	Demolition of Buildings
Section 309.17	Farmer's Market Standards
Section 309.18	Private Recreational Ramp Regulations
Section 309.19	Parking and Storage of Certain Vehicles and Equipment

### Section 309.01 General.

The purpose of supplementary district regulations is to set specific conditions for various uses, classification of uses, or areas where problems are frequently encountered.

### Section 309.02 Corner Lots

On corner lots, where lots have frontage on more than one public right-of-way, the required front yard shall be provided on both streets and the remaining lot line(s) shall comply with the side yard requirements.

### Section 309.03 Flag Lots

The creation of flag lots shall be prohibited within the City. All newly created lots shall conform to the required minimum lot width standards as set forth in this Chapter.

### Section 309.04 Conversion of Dwellings to More Units.

A residence shall not be converted to accommodate an increased number of dwelling units unless:

- (A) The yard dimensions still meet the yard dimensions required by the zoning regulations for new structures in that district.
- (B) The lot area per dwelling equals the lot area requirements for new structures in that district.

# SUPPLEMENTAL REGULATIONS

- (C) The floor area per dwelling unit is not reduced to less than that which is required for new construction in that district.
- (D) The conversion is otherwise in compliance with this Zoning Code (e.g., property is zoned for two-family or multiple-family use) and all other relevant codes and ordinances.

## Section 309.05 Private Residential Swimming Pools.

No private residential swimming pool, exclusive of "Portable, Blow-up, Wading, and Kiddie Pools", shall be allowed in any district, except as an accessory use and unless it complies with all the following conditions and requirements:

- (A) The pool is to be used solely for the enjoyment of the occupants and their guests of the principal use of the property on which it is located.
- (B) Except as provided in Section 309.05(I), a swimming pool may not be located in the front yard or side yard area; nor, closer than ten feet (10') to a rear or side lot line.
- (C) Every swimming pool, including existing pools, shall be completely enclosed by a fence or other permissible barrier of sturdy construction, the top of which shall not be less than 60" inches (5') above the level of the ground where located, which shall be of such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such barrier. Rails are not permitted in place of a wall or fence.
  - (1) Such fence or other barrier shall be of conventional design and each gate in it shall be provided with a self closing, self latching gate with secure lock and shall be kept locked at all times, unless such pool is under the immediate observation and supervision of a responsible person.
  - (2) The latch shall not be lower than 48" inches and located on the inside of the gate, not accessible to a small children. In the case of pools which are partially or completely above-ground, in lieu of a fence or other permissible barrier, the outside structure of the pool wall may constitute part of the conventional barrier but must have a permissible topper-barrier, so that the complete barrier, measured from the adjacent grade or the highest point of access to the pool, is not less than sixty inches or five feet (5').
  - (3) The steps or ladder can be designed to be secured, locked or removed to prevent access, or the steps or ladder can be surrounded by and completely enclosed by a fence or other permissible barrier with gate as stated above. Temporary, portable, blow-up wading pools are excluded from this option.
- (D) Spas, Hot Tubs, and similar water recreational devices, having a span of 9' or less at the widest point, shall be locked with a top specifically made from the manufacturer of the spas or hot tubs, in lieu of a fence, whenever not in the immediate supervision of a responsible adult. Spas / Hot tubs and similar water recreational devices having a span greater than 9' at any point, shall be considered a swimming pool and must adhere to the swimming pool guidelines contained in this Chapter.
- (E) Except as approved by the Planning Commission on a lot bordered on three sides by dedicated rights-of-way, no part of any barrier shall be located between the building setback line as established by this Zoning Code and the street on which the lot or parcel abuts.
- (F) Required fencing and/or other permitted barriers must be in place within twenty-four hours after the swimming pool has been constructed or filled.
- (G) Prior to the construction or erection of any private residential swimming pool, the applicant shall obtain a zoning permit under §101.04, and all permit fees shall be paid.

# SUPPLEMENTAL REGULATIONS

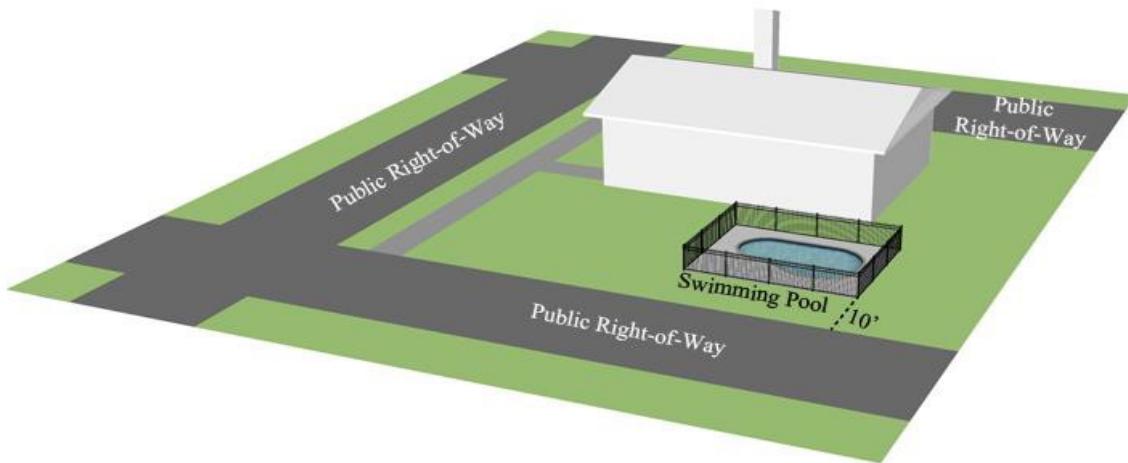
(H) Portable, Blow-up, Wading or Kiddie Pools, hereinafter referred to as "portable pools" shall meet all of the following requirements.

- (1) Portable pools that are only capable of holding eighteen inches (18") or one and one-half foot (1 ½ ') of water or less, at the deepest point, and are nine feet (9') or less in water surface diameter at the widest point, or less than sixty-five (65) square feet in surface area.
- (2) Portable pools that are not erected, whether containing water or not, on one's property, when not wholly enclosed inside of a building, except for between and including the dates of May 1st through September 30th of the same calendar year.
- (3) Portable pools shall not create any safety or health hazards. It is solely the responsibility of the property owner that these types of pools are not a safety hazard or do not become a health hazard.
- (4) Portable pools are not permitted in front yards.
- (5) Water recirculating system or involve structural materials shall not be utilized.
- (6) Portable pools may be required to be removed or required to adhere to the swimming pool regulations if all criteria are not met as determined by the Zoning Administrator.
- (7) No zoning permit shall be required for a portable pool.

(I) Swimming Pools Located on Peninsula Lots and Double Frontage Lots. A swimming pool may be located on a single family peninsula lot bordered on three sides by dedicated public rights-of-way or a double frontage lot having a frontage on two non-intersecting streets, as distinguished from a corner lot, and subject to the following standards:

- (1) An individual may apply for a permit to allow the placement of a swimming pool located on a peninsula lot or a double frontage lot when one of the following exists:
  - (a) The lot is zoned for a residential use; or
  - (b) The lot is zoned for a non-residential use and the primary use on the lot is residential at the time of application.
- (2) The Planning Commission must review and approve or deny all requests for swimming pools proposed on a peninsula lot or a double frontage lot as authorized under Section 102.03(H).
- (3) The fenced swimming pool area shall not be located closer than ten feet (10') from any lot line or public right-of-way easement.
- (4) Planning Commission must approve the application for a swimming pool located on a peninsula lot or a double frontage lot as provided under Section 102.03(H). Each such application shall contain the following items:
  - (a) Completed application form as provided by the City.
  - (b) Sketch of the applicant's property identifying the location of the residential structure and proposed swimming pool area to include the proposed setback distances from the swimming pool area to the adjoining lot lines or right-of-way easement lines. An example of a possible sketch for a peninsula lot is shown below.

# SUPPLEMENTAL REGULATIONS



(5) The Planning Commission may approve the location of the proposed swimming pool located within a required front or side yard upon making findings that locating the pool in a front or side yard is the most practical location for it on that particular lot, that the public safety will not be impacted by the location of the pool and that the neighboring properties will not be adversely affected by the location of the pool.

## Section 309.06 Fence and Wall Regulations.

Fences, walls, vegetation specifically installed for screening, and similar screening devices shall not be exceed four (4) feet in height when located in any front yard area. Fences, walls, plant material, and similar screening devices located in any side yard or rear yard area shall not exceed six (6) feet in height.

- (A) All electric and barbed wire fences shall be prohibited.
- (B) All fences shall be properly maintained by the owners of the property on which they are located. Such maintenance shall include painting, cleaning, and structural soundness in the case of a fence, wall, or other man-made object; and trimming, pruning, cutting, and other landscaping in the case of a hedge or other planting so that there is no aesthetic detriment to the surrounding area.
- (C) Fence Permits. All fences, regardless of type or height, require an approved fence permit on an application form provided by the Zoning Administrator. Fence permits shall be reviewed for compliance to these regulations by the Zoning Administrator.
- (D) Measurement Standards. Fence height shall be measured as the vertical distance between the grade of the ground abutting the fence and the top edge of the fence material including any ornamental or decorative extensions of a fence. When measuring the height of a fence located on sloping topography, the fence height shall be measured from the lowest point within three feet on either side of the fence as depicted in Figure 38.
- (E) Fence Design Standards. The Zoning Administrator shall establish Fence Design Standards. Any person or entity seeking to construct a fence shall file a written application for a building permit in accordance with the Design Guidelines established by the Zoning Administrator, this Section of the Zoning Code, and all applicable state and federal laws and regulations.
- (F) Design Standards. Fences shall be designed and constructed in such a fashion that the finished side of the fence panels face the exterior of the lot. Fence panels are not permitted to be attached to the interior side of support posts.

## SUPPLEMENTAL REGULATIONS

Figure 36: Rear and Side Yard Fence Location (Mid-Block Lot)

*Illustration showing allowable residential fencing locations for a 6 ft. maximum fence in the side and rear yard areas for a mid-block lot.*

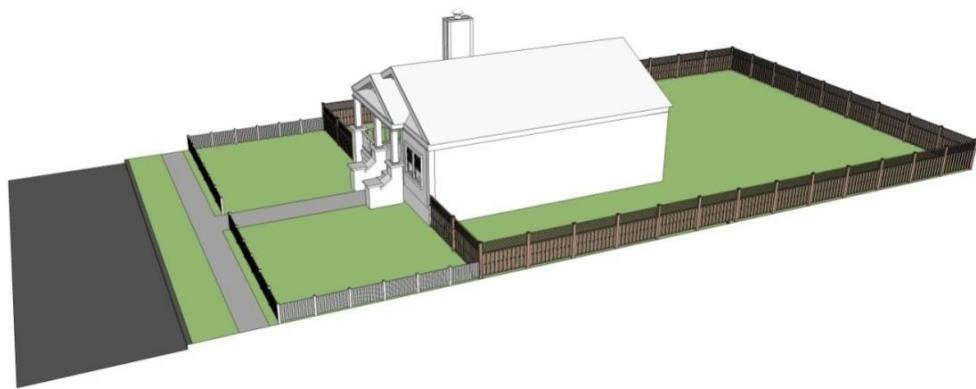


Figure 37: Rear and Side Yard Fence Location (Corner Lot)

*Illustration showing allowable residential fencing locations for both a 6 ft. high maximum fence the side and rear yard of a corner lot.*

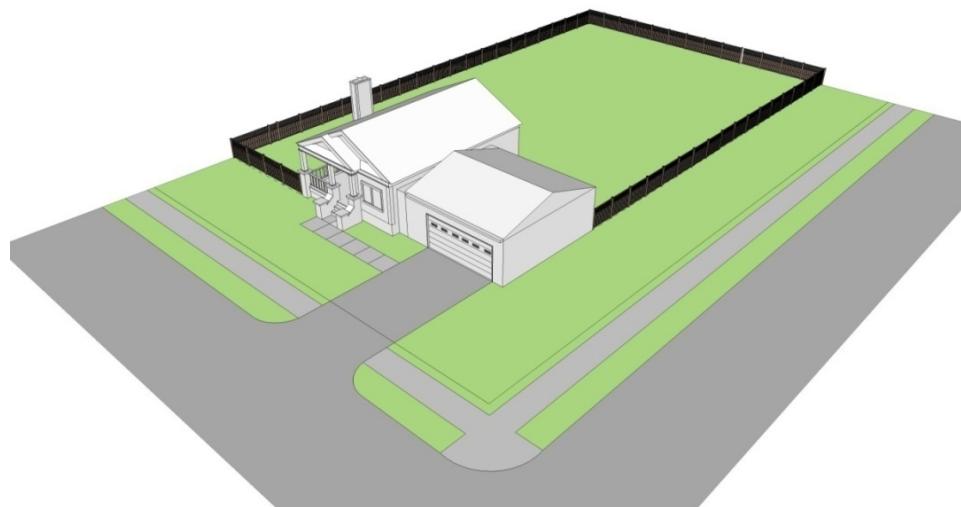


Figure 38: Fence Height Measurement on Sloping Land

*Illustration showing the standard for measuring the height of a fence when located on sloping topography.*

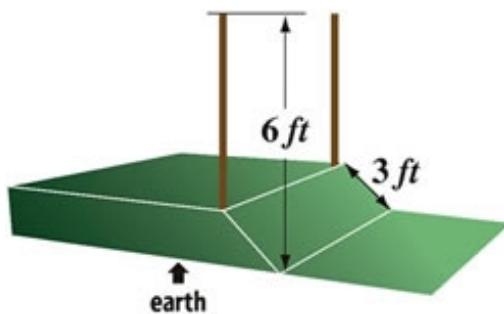


Figure 39: Fence Height Measurement

*Illustration showing the standard for measuring the height of a fence.*

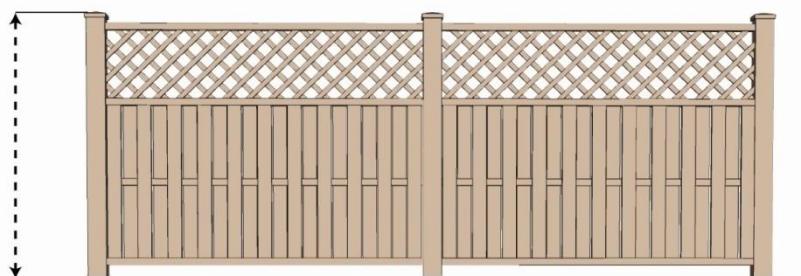


Illustration showing the standard for measuring the height of a fence.

## Section 309.07      Architectural Projections.

Open structures such as fireplace chases, porches, canopies, balconies, platforms, covered patios, and similar architectural projections shall be considered parts of the building to which they are attached and shall not project into the required minimum front, side, or rear yards.

## Section 309.08      Temporary Buildings.

Temporary buildings, construction trailers, equipment and materials used in conjunction with construction work only, may be permitted in any district during the period construction work is in progress; but such temporary

# SUPPLEMENTAL REGULATIONS

facilities shall be immediately removed upon completion of the construction work. This section excludes refuse dumpsters or portable on demand storage structures as regulated in §309.10.

## Section 309.09 Performance Standards.

It is the purpose of the performance standards to provide for the peaceful and quiet enjoyment of property and to set forth regulations so that no use shall be constructed or operated so as to create a nuisance or to create any noxious, objectionable or other undesirable effect on persons or property outside of the lot line of said use. Materials, uses and products produced shall be adequately housed, shielded or screened so that the health, safety and welfare of persons occupying the property or adjacent properties are not jeopardized.

- (A) Applicability and Compliance. The performance standards are applicable to all land uses in all zoning districts within the City, and both initial and continued compliance is required. Any condition or land use falling under the jurisdiction of the standards of this Zoning Code and not in conformance with these standards shall be brought into full compliance immediately upon discontinuance of the existing use of land, structure or building. Any change in the principal use of land, a structure or a building shall constitute a discontinuance and be fully subject to these standards and provisions.
- (B) Noise. No business or commercial operation or residential use shall create a persistent or recurring noise which is a nuisance. No business or commercial operation or residential use may raise the noise level more than two decibels above the normal background level (measured at any lot line).
- (C) Odors. No use shall cause or allow the emission of odorous air contaminants from any source sufficient to result in detectable odors beyond any lot line on which the use occurs.
- (D) Vibrations. Every use shall be so operated that ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on or outside the property line of the property on which the use is located.
- (E) Glare and Heat. Any operation producing intense light or heat, including high temperature processes such as combustion or welding, shall not be visible or felt beyond any lot line bounding the property wherein the use is conducted. All exterior lighting on private property shall be positioned as to extend glare away from adjacent properties or public right-of-ways.
- (F) Air and Water Pollutants. The emission of air and water pollutants shall not violate the standards and regulations of any local, State or Federal agency having jurisdiction in this matter.
- (G) Hazardous Materials. The storage, utilization and manufacture of solid, liquid and gaseous chemicals and other materials shall be permitted subject to the standards and regulation of any local, State or Federal agency having jurisdiction in this matter.
- (H) Smoke. The emission of smoke or dust by any land use in an amount sufficient to create a general nuisance to adjoining properties shall be prohibited.
- (I) Enforcement. In enforcing Performance Standards on existing uses, the Zoning Administrator may issue a written Notice of Violation to an alleged violator.
  - (1) The Zoning Administrator shall, before issuing such Notice, make technical determinations of any probable violation when such determinations can be made using equipment and trained personnel normally available to the City or obtainable without extraordinary expense.
  - (2) In certain cases, however, technical complexity or extraordinary expense may make it fiscally unreasonable for the City to maintain personnel or equipment for making determinations of violation prior to issuing a Notice of Violation. In such cases, a Notice

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of Violation may be issued when the Zoning Administrator has other reason to believe there is probable violation.

- (3) The Zoning Administrator shall give Notice of Violation by any means that ensures a signed receipt for such notice to the party responsible for the alleged violation. The notice shall describe the alleged violation and the results of technical determinations or the other reasons why the Zoning Administrator believes there is a violation.
- (4) Notice Contents. The notice shall require either an answer or correction of the alleged violation to the satisfaction of the Zoning Administrator and within a time limit he or she shall specify in the Notice. The Notice shall also state that failure to provide an answer or correct the alleged violation within this time limit shall constitute admission of a violation. The Notice shall further state that, if technical determinations have not already been made, upon request of the alleged violator such determinations will be made.
- (5) If a violation is found as a result of such determinations, the cost of the determinations will be assessed against the properties or parties responsible in addition to any other penalties provided for. If no violation is found, the City shall pay the cost of the determinations.

## Section 309.10 Standards for Mobile Storage or Dumpsters Refuse Structures.

- (A) A portable on-demand storage structures, related temporary storage structures and refuse dumpsters or similar roll-off containers may be utilized as a temporary structure within the city when in compliance with the standards of this subsection upon the issuance of a Temporary Structure Permit from the City Zoning Administrator. Any use of such structures within the city not in compliance with this subsection shall be unlawful.
- (B) The term "portable on-demand storage structures" (POD) or related temporary storage structure shall be defined to be: any container, storage unit, shed-like container or other portable structure that can or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building other than an accessory building or shed complying with all building codes and land use requirements.
- (C) The term "dumpster" shall be defined as a bulk storage container for waste materials that can be hauled directly to the point of disposal or emptied into a large compactor-type truck for disposal. The term shall also be referenced as a "roll-off container." For the purposes of this Section, dumpsters approved as part of site plan application shall not be subject to these standards.
- (D) Standards.
  - (1) A POD storage structure and dumpster structure may be located as a temporary structure on property within the city for a period not exceeding thirty (30) days in duration from time of delivery to time of removal. A POD or dumpster structure may be permitted in the front yard only when placed upon a driveway. Such temporary structure shall be located no closer than five (5) feet to any property line.
  - (2) Permit Required. Permits for such temporary uses and structures may be issued by the Zoning Administrator after submission of a completed Temporary Structure Permit Application and payment of the permit application fee. An approved permit is valid for the specified 30 day time frame only and shall be valid for only one temporary structure. Such POD or dumpster structure may not be located on a specific property more than four (4) times in any given calendar year period. Applicants seeking to extend the time frame consistent with the provisions in this subsection must complete a new application and submit a new permit application fee payment for each time period sought.
  - (3) No more than one (1) POD storage structure and no more than one (1) temporary dumpster may be located on a specific piece of property within the city at one time.

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- (4) Such structure may not exceed eight feet six inches in height, 10 feet in width or 20 feet in length.
- (5) All such temporary structures shall comply with the appropriate building code provisions and such other requirements as are imposed by the City or the Chief Building Official to ensure the safety of the public.

(E) It shall be the obligation of the owner of the property which the POD or dumpster is located or the user of such temporary structure to secure it in a manner that does not endanger the safety of persons or property in the vicinity of the temporary structure. In the event of high winds or other weather conditions in which such structure may become a physical danger to persons or property, the appropriate law enforcement officers may require the immediate removal of such temporary structure.

(F) Any POD or dumpster structure which is not removed at the end of the time for which it may lawfully remain in place, or immediately upon the direction of a law enforcement officer for removal of such temporary structure for safety reasons, may be removed by the city immediately, without notice, and the cost of such removal, together with the cost of administration of its removal, may be assessed against the property on which the temporary structure was located and may be filed as a lien against such property by the City. Such lien shall be superior in priority to all other liens or encumbrances upon the property, including the lien of a mortgage, and shall be equal in priority to the lien of ad valorem taxes.

## Section 309.11 Regulation of Farm Animals.

The regulation of farm animals within the City shall be provided for in Chapter 905 of the Codified Ordnances of the City of Berea.

## Section 309.12 Outdoor Sales as a Principal Use.

- (A) Outdoor sales and display shall only be accessory to a principal nonresidential use that conducts more than fifty percent (50%) of its activities within a completely enclosed building or group of buildings as regulated in the applicable zoning district chapters in this Zoning Code. Additional outdoor sales and display standards and regulations may be provided in the individual zoning district chapters of this Zoning Code.
- (B) Outdoor sales and display activities shall be conducted by employees of the principal use, and shall be owned by the owner of the principal use and not a consignment operation or arrangement.

## Section 309.13 Substantially Similar Use Standards and Procedure.

When a zoning district provides the opportunity for an applicant to seek a substantially similar use determination, the following procedure and review standards shall be applied.

- (A) **Substantially Similar Uses.** Any substantially similar use which the Zoning Administrator determines to be of the same character, nature and intensity of use as those permitted in the subject zoning district may be permitted subject to the following procedure and standards:
  - (1) An applicant may request a formal substantially similar use determination be made by the Zoning Administrator upon submitting a written request and adequate supporting documentation.
  - (2) The Zoning Administrator shall either approve or deny the request for a substantially similar use determination or the Zoning Administrator may forward the request to the

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Planning Commission to provide further input and assistance in determining the appropriateness of the request.

- (3) When considering a request for a substantially similar use determination under this section, the following standards shall be applied:
  - (a) The proposed use will be harmonious with and in accordance with the general objectives or with any specific objectives identified for this zoning district or those goals and objectives set forth in the comprehensive plan.
  - (b) The proposed use will be designed, constructed, operated, and maintained in a manner harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the same area.
  - (c) The proposed use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any of those services.
  - (d) The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the city.
  - (e) The proposed use will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.
  - (f) The proposed use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in this zoning district.
- (4) If the Zoning Administrator or the Planning Commission determine that the proposed use is similar to a listed use in this zoning district, the proposed use shall be required to conform to the same regulations and standards set forth in this Zoning Code as the similar use.
- (5) Any use not found in the Land Use Matrix as a permitted or a conditional use and not determined to be a substantially similar use by the Zoning Administrator or the Planning Commission shall not be permitted in the subject zoning district.

## Section 309.14 Professional Home Office Standards.

The intent of these professional home office standards is to protect the character and quality of life of residential neighborhoods while providing opportunities to engage in small intensity professional office activities in a residential dwelling. No permit shall be required to operate a professional home office. In the event the professional home office is in violation of the standards set forth in this section, the Zoning Administrator may initiate appropriate enforcement action to seek compliance with this Zoning Code.

- (A) The professional home office use shall not create pedestrian or vehicular traffic beyond that normally generated by residential uses in the vicinity.
- (B) No signs shall be permitted to be installed on the residence or lot.

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- (C) No supplies or equipment related to the business shall be stored outside the dwelling.
- (D) No more than one vehicle related to the professional home office may be used or stored on the premises.
- (E) The professional home office activity shall not create any external physical effects such as noise, smoke, odors, vibrations, electromagnetic wave interference, line voltage fluctuations, or similar physical impacts.
- (F) No more than four hundred (400) square feet of the premises may be used in connection with the professional home office activity.
- (G) A maximum of one business delivery per day shall be permitted, provided that the delivery does not interfere with traffic circulation.
- (H) A maximum of one (1) employee who lives in the dwelling may be employed as part of the professional home office.

## Section 309.15 Minor Amenity Standards.

- (A) Minor amenities shall be defined as minor structures or equipment, accessory to permitted or conditional uses, which:
  - (1) Provide amenities for the persons living or working on such premises;
  - (2) Involve only the use of minor quantities of materials or minor (in number and size) items of equipment;
  - (3) Are conducive to the enjoyment of the premises for a permitted use;
  - (4) Are consistent with the purpose, intent and basic planning objectives of this Zoning Code and with the objectives for the zoning district in which located;
  - (5) Are consistent with the permitted use of the zoning lot;
  - (6) Are so located that natural light and ventilation are not materially obstructed from the principal building or any adjoining property.
- (B) Examples of minor amenities (subject to the requirements of Subsection(a) above), are arbors, trellises and other landscaping features; decorative wall or fences; flagpoles, lawn furniture; lawn statues, playground equipment such as swings or basketball equipment, outdoor storage equipment and outdoor cooking facilities.
- (C) Temporary and permanent use of minor amenities are permitted in any district without a permit provided they are:
  - (1) Not greater than five (5) feet in height, or
  - (2) Not located in a required front yard nor nearer than five (5) feet to any side or rear property line, unless effectively screened from adjacent streets and properties by a wall or fence or landscaping.
- (D) Minor amenities that do not meet the requirements of 309.15(C) above shall be considered an accessory structure and shall require a zoning permit to be granted prior to use. Applications for a zoning permit necessary to use a minor amenity shall follow the applicable procedure set forth for in Chapter 101.

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- (1) The following types of structures may not meet the requirements of 309.15(C) above, but are still defined as a minor amenities and do not require permits:
  - (a) Flagpole; or
  - (b) Temporary or mobile play set equipment located behind the front building line
- (E) The use of any minor structure or equipment shall be terminated and any such structure or equipment shall be removed or any deficiency therein corrected, and any permit therefore shall be revoked, if the Zoning Administrator at any time determines that any use does not conform to the requirements of this Chapter or other substantive requirements of this Zoning Code.

## Section 309.16 Demolition of Buildings.

- (A) Building Permit Procedure. A building permit for the demolition of a building may be issued by the Chief Building Official upon application by the owner of the property and approval by the Planning Commission.
- (B) Application Contents. An application for a building permit for demolition shall include the proposed use and development plans for the zoning lot upon which the building to be demolished is located and such other data as the Zoning Administrator may deem to be necessary.
- (C) Planning Commission Action.
  - (1) If the applicant's proposed use is a permitted principal use or accessory use to a permitted principal use within the zoning district, the Planning Commission may simultaneously consider the development plans of the applicant to determine preliminary or final approval in accordance with the site plan provision of this Zoning Code.
  - (2) If the applicant's proposed use of the zoning lot is a conditional use or an accessory use to a conditional use within the zoning district, Planning Commission shall simultaneously determine whether such use complies with the purpose and intent and basic planning objectives of this Code, complies with the planning objectives for the district and the standards expressed in the Conditional Use Chapter, and complies with (or is deemed to comply by reason of satisfying the planning objectives of) all substantive requirements of this Code applicable to such use.
  - (3) If the proposed use is not a permitted use within the zoning district, Planning Commission shall consider and make a recommendation to the applicant and Council regarding any amendment or change to the number, shape, area, or regulations of the zoning district which would be required to permit such use.
  - (4) If the Planning Commission determines that the proposed demolition is to be conducted in such manner as to avoid detrimental or blighting influences upon the neighborhood and to avoid interfering with or impairing the use and enjoyment of the neighboring premises, it shall approve the application for a zoning permit for the demolition, notwithstanding its findings regarding the proposed use or development plans.
  - (5) Prior to action being taken by the Planning Commission on an application for a zoning permit for the demolition of a building, the Secretary of the Planning Commission shall cause written notice of the initial meeting at which such application shall be considered by the Commission to be mailed, by first class mail, at least ten days before the date of such meeting, to the owners of property within two hundred feet from the borders of such parcel or parcels on which the application for demolition of a building has been made to the addresses of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other list or lists that may be specified by the Commission. The failure of delivery of such notice shall not invalidate any action by the Commission.

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- (6) If the Planning Commission or Zoning Administrator determines that the building proposed to be demolished is of special historical or architectural significance, the Commission may postpone action upon the application for a building permit for the demolition of such building for a period not to exceed ninety (90) days from the date of such application, unless such date is extended by Council for a period not to exceed an additional ninety (90) days, in order to permit public or private efforts to preserve such building.
- (D) A zoning permit for the demolition of an accessory building may be issued by the Zoning Administrator summarily subject to such instructions or limitations as Council or the Mayor may from time to time issue or impose upon application by the owner of the property accompanied by such data as the Zoning Administrator may deem to be necessary, if the Zoning Administrator determines that such demolition is proposed to be conducted in such manner as to avoid detrimental or blighting influences upon the neighborhood and to avoid interfering with or impairing the use and enjoyment of the neighboring premises.
- (E) The Mayor, Council, Planning Commission or the Zoning Administrator may request a technical review by one or more of the technical advisors to assist in making its findings and determinations under this Section.

## Section 309.17 Farmer's Market Standards.

- (A) No one shall operate a farmer's market prior to being issued a zoning permit. Zoning permits for farmer's markets may allow operation for a period of time up to 48 hours. A farmer's market may operate from April 1 through November 30.
- (B) A zoning permit issued for the operation of a farmer's market shall become void if adequate permits from the Ohio Department of Health or any other permits required by state or federal agencies are not obtained by the applicant and, when necessary, by individual vendors.
- (C) No other or additional land uses are permitted as part of a zoning permit issued for a farmer's market.
- (D) Any goods to be sold are to be on the vehicle or offloaded to the farmer's market designated vendor areas as provided in the zoning permit application. No goods are to be placed in the parking spaces or travel lanes.
- (E) All vehicles shall be parked within the areas allocated for parking and not extend into the travel lanes or block the public or private access road. A vehicle is defined as any conveyance designed to operate on public roadways.
- (F) No parking areas shall be reserved for vendors or customers.
- (G) Trash, debris, signs, and/or goods/produce offered for sale shall be removed from the farmer's market site, right-of-way and parking areas by the vendors at the end of each sales day.
- (H) No storage of hazardous, toxic, or obnoxious materials shall be permitted.
- (I) Business identification signs shall be limited to temporary, non-illuminated signs that shall be removed promptly at the end of each sales day. Such signs shall not be located within the public right-of-way and shall not exceed sixteen (16) square feet. The signs shall otherwise comply with Zoning Ordinance requirements, including the sign regulations.
- (J) No permanent structures shall be constructed within the farmer's market site area or accessory parking areas to serve the farmer's market. Temporary structures (i.e., tents, canopies) shall not be attached to the existing buildings. Tent stakes not to exceed nine (9) inches will be used to affix the temporary structures to the farmer's market site area.

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- (K) If the farmer's market does not operate for two (2) consecutive seasons, the zoning permit granted for the farmer's market use shall expire.
- (L) This market is limited to vendors who make, bake or grow the goods to be sold.
- (M) Repair of any damage to the right-of-way adjacent to the farmer's market site area or associated parking areas caused by the farmer's market shall be the dual responsibility of zoning permit applicant and the vendor(s).
- (N) The maximum area permitted to be used as the farmer's market sales area and associated parking areas and travel lanes shall not exceed 10,000 square feet and shall be no smaller than 4,000 square feet.
- (O) The applicant for a zoning permit to operate a farmer's market must include signed documentation from the owner(s) of real property upon which the farmer's market use occupies evidencing permission to use the designated area as a farmer's market use.
- (P) Drive-up vehicular sales for any product sold at a farmer's market shall be strictly prohibited.
- (Q) The applicant for a zoning permit to operate a farmer's market to be located on property owned by the City of Berea must be accompanied by a bond or cash deposit in the amount of \$2,500.00 and proof of insurance naming the City of Berea as an additional insured.

## Section 309.18 Private Recreational Ramp Regulations

- (A) For the purposes of this section, the following definitions shall apply:
  - (1) Private recreational ramps shall include ramps constructed of any material used for the recreational sports uses associated with skateboarding, bicycling, roller blading and other similar sports and recreational uses.
  - (2) Commercial recreational ramps shall include ramps constructed of any material used for the recreational sports uses associated with skateboarding, bicycling, roller blading and other similar sports and recreational uses. Commercial recreational ramps shall be owned and operated in a for-profit manner.
  - (3) Public recreational ramps shall include ramps constructed of any material used for the recreational sports uses associated with skateboarding, bicycling, roller blading and other similar sports and recreational uses. Public recreational ramps shall be owned and operated by a public agency or local government for use and enjoyment by the general public.
- (B) The construction and use of any private recreational ramp shall be prohibited within the City of Berea.
- (C) Commercial recreational ramps shall be conditionally permitted within those zoning districts allowing commercial recreation uses and private recreation uses as provided in §200.07.
- (D) Public recreational ramps shall be permitted within those zoning districts allowing public park uses as provided in §200.07.

## Section 309.19 Parking and Storage of Recreational Vehicles and Other Equipment

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(A) This sub-section shall set forth regulations and the permitting process for the temporary parking in the front yard of recreational vehicles or equipment used for recreational purposes as defined in Chapter 400 "Definitions."

- (1) A recreational vehicle may be parked in the front yard for a continuous period of time not to exceed seventy-two (72) hours without requiring a permit granted under this sub-section.
- (2) The parking of any recreational vehicle in the front yard exceeding seventy-two (72) hours shall require a permit to be issued by the Zoning Administrator.
  - (a) A permit may be issued by the Zoning Administrator for a period of no more than sixteen (16) consecutive days for the purpose of temporarily extending the length of time a recreational vehicle maybe parked in a front yard. This extended period would allow the owner to undertake any necessary and desired maintenance of the vehicle.
  - (b) No more than two permits for these purposes shall be granted to any one property owner during each calendar year, and shall not be issued to a property owner when the recreational vehicle can be stored inside of a rear yard.

(B) This sub-section shall set forth regulations for the storage of agricultural or horticultural vehicles or related equipment used on the lot, recreational vehicles or equipment used for recreational purposes and commercial vehicles as defined in Chapter 400 "Definitions" and collectively referred to as "vehicles" or "equipment" under this sub-section. Agricultural or horticultural vehicles or equipment used primarily on the lot, recreational vehicles or equipment used for recreational purposes and not more than one commercial vehicle (limited to a live load capacity not exceeding one ton) may be customarily or seasonally stored on a lot in a residential zoning district for a period of time exceeding seventy-two (72) hours, subject to the following conditions:

- (1) Any such vehicle or other equipment shall be stored in a parking garage if there is a parking garage on the zoning lot and the vehicle or equipment is of such a size as to permit it to be conveniently stored in such a garage.
- (2) If such vehicle or other equipment cannot be stored in the parking garage, such vehicle or other equipment may be stored outdoors on an improved surface on the zoning lot to the rear of the front building line but no nearer to any side or rear lot line than five feet. In no event shall the total area covered by accessory structures and recreation vehicles in rear yards exceed thirty percent (30%) of the required rear yard area.
- (3) One such vehicle or other equipment may be stored in front of the front building line provided that it is in the vehicular access driveway, parked as close to the front building line as possible.
- (4) No such vehicle or other equipment shall be parked or stored on a public or private street, alley, tree lawn or sidewalk, except vehicles licensed for street travel may be parked on public or private streets during the hours and in the areas designated for automobiles as specified elsewhere in the codified ordinances, provided such vehicles are currently licensed.
- (5) No such vehicle or other equipment shall have fixed connections to electricity, water, gas, or sanitary sewer facilities, nor shall any such vehicle or other equipment at any time be used for living or housekeeping purposes on the zoning lot.
- (6) Any such vehicle or other equipment shall be kept in good repair and in working condition, with current license plate, unless stored in a parking garage.

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# HISTORIC PRESERVATION AND REVIEW

## CHAPTER 310 Historic Preservation and Review

Section 309.01	Declaration of Public Policy, Purpose
Section 310.02	Definitions
Section 310.03	Heritage Architectural Review Board; Membership
Section 310.04	Heritage Architectural Review Board; Rules of Procedure; Meetings
Section 310.05	Heritage Architectural Review Board; Duties
Section 310.06	Criteria for Designating Preservation Districts and Landmarks
Section 310.07	Establishment of Future Preservation Districts and Landmarks
Section 310.08	Building, Demolition and Sign Permits
Section 310.09	Board Review
Section 310.10	Criteria for Evaluation
Section 310.11	Demolition; Alternatives
Section 310.12	Exclusions
Section 310.13	Penalty

### Section 310.01 Declaration of Public Policy, Purpose.

It is hereby declared that due to the numerous areas of historical significance in the City it is a matter of policy that the preservation, protection, perpetuation and use of areas, sites, buildings, structures, works of art and other objects having a special historical, prehistoric, archaeological, community or aesthetic interest or value are public necessities and the preservation, protection, perpetuation and use of which are in the interest of the health, prosperity, safety and welfare of the residents of the City. The purpose of this Chapter is to:

- (A) Maintain and enhance the distinctive character of historic preservation districts and listed properties by safeguarding the architectural integrity of the various period structures and to prevent intrusions and alterations within such preservation districts that would be incompatible with their established character;
- (B) Protect and complement the singular historical and architectural quality of the area, hereinafter defined as the Town Center District, which is bounded by and described as follows: "Town Center District" Defined: Bagley Road to the North, Eastland Road to the East, Prospect Road and Henry Street to the West and South Rocky River Drive south to the City limits, and all properties that lie along, within, or are immediately adjacent to these boundaries.
- (C) Provide for the establishment of procedures whereby certain areas, structures, objects and works of art of historical, architectural or cultural importance to the community shall be safeguarded as listed properties and allowed that measure of protection afforded by a thorough study of alterations or demolition before such acts are performed; and
- (D) Contribute to the economic, cultural and educational development of the City by:
  - (1) Protecting and enhancing attractions to residents, tourists and visitors;
  - (2) Stabilizing and improving property values;
  - (3) Improving the quality of life by enhancing the visual and aesthetic character, diversity and interest of the City;

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- (4) Fostering civic pride in the beauty and notable accomplishments of the past; and
- (5) Promoting the use and preservation of historic locations, architecturally significant structures and other notable objects and sites for the education, enrichment and general welfare of the residents of the City and the State.

Section 310.02 Definitions.

As used in this chapter:

- (A) "Alter" or "Alteration" means any material change, reconstruction, restoration, repair, remodeling or replacement in the external architectural features of any property which lies within the Town Center District or had been listed under the provisions of the Chapter as a landmark, including landscaping of real property.
- (B) "Applicant" means any owner; person, association, partnership or corporation who or which applies for review and recommendation prior to undertaking any alteration on property subject to this Chapter.
- (C) "Board" means the Heritage Architectural Review Board as defined in this Chapter.
- (D) "Change" means any alteration, demolition, removal or construction involving any property subject to the provision of this Chapter, including signs, landscaping and tree removal. "Change" shall include any new construction. "Change" shall not be related to ordinary maintenance or repair of any property, provided that such work involves no change in material, design, texture or outer appearance of such property.
- (E) "Demolition" means a partial or total removal, disassembly, destruction, wreckage or tearing down of a structure.
- (F) "Exterior Architectural Feature" means the architectural treatment and general arrangement of such portion of the exterior of a structure as is designed to be exposed to public view, including kind and texture of the building material of such portion and type of all windows, doors, lights, signs and other fixtures appurtenant to such portion.
- (G) "Historical Significance" means the attributes of a district, site or property that possess integrity of location, design, setting, materials, workmanship, feeling and association, and:
  - (1) That are associated with events that have made a significant contribution to the broad patterns of our history;
  - (2) That are associated with the lives of persons significant in our past;
  - (3) That embody the distinctive characteristics of a type, period or method of construction, or that present a significant and distinguishable entity whose components may lack individual distinction; or
  - (4) That have yielded, or may be likely to yield, information important in prehistory or history.
- (H) "Historic Site" means the real property on which:
  - (1) Historical significance is located; or
  - (2) There is no structure, but which is itself of historical significance and has been designated as a landmark pursuant to the provisions of this Chapter.

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- (I) "Landmark" means any property or site which has special character or archaeological, historical, aesthetic or architectural value as part of the heritage, development or cultural characteristics of the City, the State or the United States and which is designated as a landmark pursuant to the provisions of this Chapter, and all property located in the City listed in the National Register of Historic Places upon notification of landmark status.
- (J) "Landscaping" means and includes only major landscaping work that is to be on open tracts of land, parking lots, streets, alleys and other large open areas, but does not include the planting or arrangement of flowers and plants incidental to the enhancement of single properties.
- (K) "Mayor" means the Mayor of the City of Berea or his or her designee.
- (L) "Member" means any member of the Heritage Architectural Review Board.
- (M) "Owner" means the owner or owners of record.
- (N) "Property" means any place, building, structure, work of art, fixture or similar object, but shall not include real property, unless expressly provided.
- (O) "Sign" means any object or devise, or part thereof, situated outdoors, which is used to advertise, identify or display, or to direct or attract attention to, an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, motion illumination or projected images.
- (P) "Site" means an archaeological or historic site.

## Section 310.03 Heritage Architectural Review Board; Membership.

- (A) The Heritage Architectural Review Board, hereinafter referred to as Review Board, is hereby established and shall consist of seven (7) members. Members shall be appointed by the Mayor. All members should have demonstrated a special interest in historic preservation, together with a determination to work for the overall improvement of the quality of the City's physical environment. An effort should be made to appoint persons with special expertise who may be of assistance in the efficient operation of the Review Board.
- (B) Where practicable, membership of the Board should include:
  - (1) One (1) member of the Planning Commission.
  - (2) At least two (2) preservation-related professionals. This may include but is not limited to professional from the fields of architecture, architectural history, history, archaeology or planning.
  - (3) One civic leader.
  - (4) One representative from the Town Center District.
- (C) All members shall reside in the City and have been a resident of the City for at least one (1) year preceding such member's appointment.
- (D) Each member shall serve for a term of two (2) years and may be reappointed for terms of two (2) years, except that the initial appointments shall be staggered as follows: three (3) members shall be appointed for a one year term and may be re-appointed for terms of two (2) years. To the extent practicable, all vacancies shall be filled within sixty (60) days for the unexpired term of such open seat in the same manner as original appointments are made.
- (E) Members shall serve without compensation from the City.

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## Section 310.04      Heritage Architectural Review Board; Rules of Procedure; Meetings.

- (A) As soon as convenient following their appointment to the Review Board, the members thereof shall meet and organize elections of a Chairperson and Secretary. The Review Board shall adopt its own rules of procedure and rules of procedure for conflicts of interest, and provide for regular meetings to accomplish the purposes of this Chapter. The rules and procedures of the Review Board shall be made available for public inspection.
- (B) A quorum shall consist of four (4) members, but a lesser number may conduct public hearing or meetings at which the principal purpose is the collection of information. No action binding on the Review Board shall be made by less than a majority vote of the appointed members of the Board.
- (C) Meetings shall be held on the fourth Thursday of each month or as needed. Meetings will be publicly announced, posted at City Hall, open to the public and have a previously posted agenda. Public notice must be provided prior to any special meeting.
- (D) Minutes shall be kept and made available for public inspection. All decisions and deliberations shall be made in public and the owner or person with legal or equitable interest will be given written notification of the decision.
- (E) An annual report shall be prepared, which shall include Review Board activities, cases, decisions, special projects and qualifications of the members. This report shall be kept on file and available for public inspection.

## Section 310.05      Heritage Architectural Review Board; Duties.

- (A) The Review Board shall function to improve the quality of life in the City by striving to further achieve the spirit and purpose of this Chapter.
- (B) The Review Board shall ensure the protection of property values in order to further the City's goals of sound economic and community development.
- (C) The Review Board may make recommendations, according to guidelines established by the Ohio Historic Preservation Office, to the Planning Commission and Council for additions or revisions to the Zoning Code, or recommend legislation that would best serve to develop, preserve, restore and beautify the City.
- (D) The Review Board shall promptly review and act upon all applications as requested in §310.09.
- (E) The Review Board shall conduct or cause to be conducted or assist in conducting a continuing survey and inventory (approval by the Ohio Historic Preservation Office) of all property, sites or areas of architectural, archaeological, historical and aesthetic interest in the City which the Review Board, on the basis of information available or presented to it, has reason to believe are or will be eligible for designation as a landmark or preservation district.
- (F) The Review Board shall act as a liaison, on behalf of the City, to individuals and organizations concerned with historic preservation and shall work for the continuing education of the citizens of the City with respect to the architectural and historic heritage of the City, its landmarks and preservation districts, as designated under the provisions of this Chapter, and shall make every effort to improve the overall design and environmental awareness of the people.
  - (1) The Review Board shall keep current a register of all landmarks and preservation districts. All landmarks shall be given a number and description accompanied by a photograph. The reasons for designating a landmark or for recommending the establishment of additional preservation districts shall be maintained securely and set forth in writing.

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- (2) This register shall be made available to Council, the Planning Commission, the Department of Community Development, the Division of Engineering, the Building Department and the public.
- (G) The Review Board shall review all proposed National Register nominations within its jurisdiction. The City may substitute review procedure, which expedite the National Register review requirements.
- (H) When the Review Board considers a National Register nomination and other actions, which are normally evaluated by a professional in a specific discipline, and that discipline is not represented on the Board, the Board shall seek expertise in this area before rendering its decision.
- (I) The Review Board will encourage members to attend educational sessions at least once a year pertaining to the work and functions of the Board or on specific historic preservation issue. Barring extenuating circumstances, all Review Board members should attend such a session at least once yearly.
- (J) The Review Board shall act as an advisory board to other officials and departments of local government regarding the protection of local cultural resources.
- (K) The Review Board shall strive toward continuing the education of the citizens of the City regarding historic preservation issues and concerns.

## Section 310.06 Criteria for Designating Preservation Districts and Landmarks.

In considering the designation of any area, property or site in the City as a preservation district or landmark, due to historical significance, the Review Board, shall apply the following criteria:

- (A) The character, interest or value of the area, property or site as part of the development, heritage or cultural characteristics of the City, the State or the United States.
- (B) The location as a site of a significant prehistoric or historic event.
- (C) The identification with a person or persons who significantly contributed to the culture and development of the City.
- (D) The exemplification by the area, property or site of the cultural, economic, social or historic heritage of the City.
- (E) The embodiment of distinguishing characteristics of an architectural type or specimen.
- (F) The identification of an area, property or site as the work of an architect or notable builder whose individual work has influenced the development of the City.
- (G) The embodiment of elements or architectural design, detail, materials or craftsmanship which represent architecture of significant character, charm or grandeur.
- (H) A unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood or of the City.
- (I) The portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style.

# HISTORIC PRESERVATION AND REVIEW

## Section 310.07 Establishment of Future Preservation Districts and Landmarks.

- (A) When a proposal to establish a preservation district or to designate an individual property or site as a landmark for protection, is received by or initiated by the Review Board, the owner or owners shall be notified by the Review Board and the owner's or owners' written comments shall be requested.
- (B) The Review Board shall consider the proposal in terms of the Criteria provided in §310.06 and make a recommendation to the Planning Commission.
- (C) Following the review by the Review Board, the Planning Commission shall review the proposal and recommendation of the Review Board in terms of the Criteria provided in §310.06 and make a recommendation to Council.
- (D) Following the review by the Planning Commission, Council shall review the proposal and the recommendations by the Review Board and the Planning Commission in terms of the criteria in §310.06 and at a public meeting shall determine whether or not to establish the preservation district or designate the property or landmark. Prior to such a meeting notice shall be published in a newspaper of general circulation within the City and comply with all of the legal requirements of Chapter 109 of the Codified Ordinances of the City of Berea and Section 121.22 of the Ohio Revised Code.
- (E) After a decision by Council, the Review Board shall notify any owner or any person having a legal or equitable interest in said property of the decision of Council.
- (F) The Review Board shall cause to be recorded with the Cuyahoga County Recorder a copy of each Council decision designating a preservation district or landmark.

## Section 310.08 Building, Demolition and Sign Permits.

- (A) No permit shall be issued by the Division of Buildings, or through otherwise established procedures, for the alteration, demolition, removal or construction of any property or site within a preservation district or any landmark, except in cases exempted by §310.12, unless the application for such permit has been reviewed by the Review Board in the manner prescribed herein.
- (B) No sign permit shall be issued by the Division of Building for any permanent sign to be erected or placed within a preservation district, or for any permanent sign to be attached to or erected upon any landmark, unless such sign has been reviewed by the Review Board in the manner prescribed herein. A permanent sign shall be any sign that is intended to be displayed for 45 days or more.

## Section 310.09 Board Review.

- (A) A review must be made by the Review Board prior to making any change to a property within a preservation district, or to a landmark, unless such property is exempted in accordance with the exclusions permitted in §310.12, as determined, and a review shall also be made prior to tree removals within a preservation district as prescribed herein, but shall not be required for removal of trees within street or alley rights of way by the City.
- (B) Applications for review shall be filed with the Building Department in such form as may be prescribed by the Review Board prior to the issuance of any building, sign or demolition permit.
- (C) Within thirty days after the filing of an application for review, the Review Board shall decide whether the proposed change is appropriate. If the proposed change is in accordance with criteria and guidelines of the Review Board, as provided in this Chapter, then the Review Board shall make its recommendation accordingly.

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(D) In cases where the Review Board has disapproved of certain work, the Board shall state the reasons for such disapproval in writing and transmit the written statement to the applicant and to the Building Official, together with any recommendation the Review Board may have made for appropriate changes. The Building Official shall not issue a building permit until the written statement of disapproval has been reviewed. The Review Board shall make every effort to work with the applicant for a period not to exceed sixty days to develop a proposal for such change that will be compatible with the terms of this Chapter.

## Section 310.10 Criteria for Evaluation.

(A) In considering the appropriateness of any change, the Review Board shall take into account, in addition to any other pertinent factor, the historical and architectural style and significance of the property; the general design, arrangement, texture and material of the proposed change as it relates to the property in its present condition, and the relation thereof to the same or related factors in other properties, sites and areas in the immediate vicinity; and the economic enhancement of the community through the protection of property values.

(B) Care shall be taken to avoid the environmentally harmful effect often created by the clash of contemporary materials with those of older origin, such as aluminum or other metals, plastic, fiberglass and glass improperly used with brick, stone, masonry and wood.

(C) New developments within preservation districts shall be compatible with their surroundings.

(D) The Review board shall refer to the criteria and guidelines for sign and design review established by the Review Board pursuant to the terms of this Chapter. Such guidelines shall promote the conservation, development and use of properties, sites and districts within the City and shall seek to preserve the special historical, architectural, community and aesthetic integrity of the landmark or district. Such guidelines shall guide applicants in making submittals and the Review Board in making its determination as to the appropriateness of the proposed change.

(E) The Review Board shall consider the advice of those consultants whose opinion is sought by the Review Board with respect to any applications for review.

(F) The guidelines to be used by the Review Board shall include Secretary of the Interior's Standards for Rehabilitation and the Advisory Council on Historic Preservation's Treatment of Archeological Properties: A Handbook.

## Section 310.11 Demolition; Alternatives.

(A) Prior to review of an application for the demolition or removal of any property, site or landmark within the preservation district, the applicant shall set forth in writing and deliver to the Review Board a statement of intent to demolish or remove such property, site or landmark, together with a statement that the same is not historically or architecturally significant or otherwise worthy of preservation. Upon determination by the Review Board that such property is not historically or architecturally significant or otherwise worthy of preservation, a review recommending demolition or removal shall be issued to the Planning Commission.

(B) Demolition and Removal Procedure.

(1) If the Review Board determines that the property is historically or architecturally significant or otherwise worthy of preservation, a review not recommending demolition or removal shall be issued to the Planning Commission.

(2) After a determination that the property is historically or architecturally significant or otherwise worthy of preservation, the Review Board, with the consent of the applicant, may delay its recommendation to the Planning Commission for a period not to exceed 180 days, to allow the applicant to submit an alternative to demolition or removal.

# HISTORIC PRESERVATION AND REVIEW

- (3) If an alternative to demolition or removal is not submitted by the applicant within 180 days, or if an alternative to demolition or removal is submitted to, but not recommended for approval by the Review Board, the Review Board shall forward its review not recommending demolition or removal to the Planning Commission.

## Section 310.12 Exclusions.

Nothing in this Chapter shall be construed to prevent the ordinary maintenance or repair of any property within a preservation district, or of any landmark, under the provisions of this Chapter, provided that such work involves no change in material design, texture or outer appearance, nor shall anything in this Chapter be construed to prevent any change, including the construction, reconstruction, alteration or demolition of any building or feature pursuant to Chapter 1359 of the Building Code, as required for public safety, due to such building or feature being in an unsafe or dangerous condition.

## Section 310.13 Penalty.

Whoever violates any provisions of this Chapter by failing to perform any act required by this Chapter, or by performing any act which is prohibited by this Chapter, shall be fined not more than five hundred dollars (\$500.00) per violation. Each succeeding day of continued violation, after notice thereof, shall constitute a separate offense.

## ARTICLE IV ZONING DEFINITIONS

### CHAPTER 400 Definitions

***Definitions.*** For the purpose of this Zoning Code, the following terms shall have the meaning set forth in this section.

**ABUTTING.** Having a common border with, or being separated from, such a common by a right-of-way, alley, or easement. Lots touching at corners only shall not be deemed abutting.

**ACCESSORY STRUCTURE.** Any improvement to the property other than the main building(s), with the exception of landscaping, is an accessory structure. If a temporary building is placed on a property to provide extra space for expansion of a use, the temporary building shall also be an accessory structure.

**ACCESSORY USE.** A use incidental to and on the same lot or property as the principal use.

**ADULT DAY CARE FACILITIES.** A facility where adults that are not normally capable of taking care of themselves are taken care of on an hourly or daily basis by qualified persons, other than the primary care giver, without providing any overnight accommodations or routine medical service, other than emergency service or administering of medication. The facility is characterized by the fact that the adults do not leave or are not capable of leaving the facility without assistance from a care giver.

**ADULT FAMILY HOME.** Shall mean a residence or facility that provides accommodations to three to five unrelated adults and supervision and personal care services to at least three of those adults. Any person may operate an adult family home licensed as an adult care facility as a permitted use in any residential zoning district subject to the excessive concentration regulations set forth in the Conditional Use chapter of this Zoning Code. Such adult family homes may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the residential zoning district.

**ADULT GROUP HOME.** A group of six or more individuals not related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under supervision of on-site management, which is compensated by payment to providing organization and stability to those individuals. The individuals are usually not infirm and may be capable of leaving the premises without assistance. "Adult group home" does not include nursing homes where the individuals are infirm. Adult group homes are subject to the excessive concentration regulations set forth in the Conditional Use chapter of this Zoning Code.

**ADULT ORIENTED BUSINESS.** See related definitions in Chapter 206.

**ADULT USE CANNABIS.** Marijuana, as defined in Ohio Revised Code Section 3719.01.

**ADULT USE CANNABIS DISPENSARY.** A place wherein a person or persons licensed pursuant to Section 3780.15 of the Ohio Revised Code, and any rules promulgated thereunder, sells adult-use cannabis as authorized.

**AGRICULTURE.** The use of land exclusively for agricultural purposes including: farming, agriculture, horticulture, floriculture, viticulture, dairying, pasturage, animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing of the products of same; provided that the operation of such accessory uses shall be secondary to that of the normal agricultural activities. A use shall be classified as agricultural only if it is the principal or main use of the land.

**ALCOHOL AND DRUG REHABILITATION FACILITY.** A facility utilized for the care and treatment of children, ages 0-high school graduation, who have been diagnosed with significant chemical use and/or abuse conditions. Such children may receive full board and care, educational, medical, psychiatric, and therapy services at the facility. The facility shall care for such children 24 hours per day, 365 days per year, and shall maintain appropriate State licensure to allow for such use. The facility may house and provide all supportive services, such as maintenance and grounds-keeping, clerical and office services, therapy services, food services, and other supports deemed necessary to the fulfillment of their care for children. No more than 24 children with chemical use and/or abuse conditions will be maintained in the facility at any time.

**ALLEY.** A public or private thoroughfare which affords only a secondary means of access to a lot or abutting property and being less than 21 feet in width.

**ALTERATION.** Any change, addition, or modification in construction or occupancy of an existing structure.

**ALTERATIONS, STRUCTURAL.** Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.

**AMBULANCE SERVICE.** A duly licensed transportation service, capable of providing medically necessary life support care in the event of a life-threatening situation.

**ANIMALS (Exotic).** Any cat, other than feliscatus; any canine, other than canisfamiliaris, non-human primates; poisonous reptiles; alligators, crocodiles or lizards over two feet long; snakes over six feet long; bears; kangaroos; eagles; poisonous stinging insects; or arachnids.

**ANIMALS (Farm).** All species of animals not classified as an exotic animal or an animal as a pet in these definitions.

**ANIMALS (as Pets).** Any species of feliscatus and canisfamiliaris and other animals commonly kept as domestic pets.

**ANIMAL KENNEL.** The boarding, breeding, raising, grooming or training of two or more dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.

**ANIMAL RENDERING PLANT.** The processing of animal byproducts into more useful materials, or more narrowly to the rendering of whole animal fatty tissue into purified fats like lard or tallow.

**ANTIQUES and COLLECTIBLE SALES.** Any premises used for the sale or trading of articles that are considered to possess collectible value due to its rarity and desirability. "Antique shop" does not include "secondhand store."

**APARTMENT.** See Dwelling, Multiple-Family, as defined in this chapter.

**APPAREL and SHOE SALES.** A store selling any garments, outerwear, or footwear.

**ARCHITECTURAL and ENGINEERING OFFICES.** Establishments offering architectural and engineering design services.

**ARTIST'S STUDIO, COMMERCIAL.** A commercial artist's studio is an artist's or worker's workroom, or an artist and his or her employees who work within that studio. This can be for the purpose of architecture, painting, pottery (ceramics), sculpture, scrapbooking, photography, graphic design, cinematography or animation in a for-profit manner.

**ASPHALT, CEMENT or AGGREGATE PLANT.** A site where asphalt, cement, and other aggregated products are produced.

**ASSEMBLY HALL.** A structure where many people can congregate and maintaining all activities located within the structure.

**ATM. "AUTOMATED TELLER MACHINE"** A pedestrian-oriented machine used by bank and financial service patrons for conducting transactions including deposits, fund transfers, and withdrawals without contact with financial institution personnel. The machines may be located at or within a bank, or in other locations.

**AUTO, BOAT, RECREATIONAL VEHICLE STORAGE.** A facility that rents space for the storing automotive and recreational vehicles.

**AUTO, TRUCK, BOAT and MOBILE EQUIPMENT MANUFACTURE.** An establishment specializing in the manufacturing of automotive and vehicular equipment.

**AUTOMOBILE RENTAL.** Rental of automobiles and light trucks and vans, including incidental parking and servicing of vehicles for rent or lease. Typical uses include auto rental agencies and taxicab dispatch areas.

**AUTOMOTIVE REPAIR FACILITY.** Establishment primarily engaged in automotive repair, including the sale and installation of lubricants, tires, batteries, mufflers, and similar accessories.

**AUTOMOBILE PARTS and ACCESSORY STORE.** A facility providing automotive parts and accessories to customers.

**AUTOMOBILE SALES.** An open space area, other than a street, used for the display, sale, or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done, including work on farm implements, boats, motorcycles, bicycles, and lawnmowers.

**AUTOMOBILE WASH FACILITY.** An automobile service facility either manually operated or automatic for clearing interior and exterior of automobiles or other motor vehicles.

**AUTOMOBILE WHOLESALE.** An establishment supplying large quantities of vehicles and selling them to companies for retail sale.

**AWNING.** A permanent shelter supported entirely from the exterior wall of a building and composed of rigid or non-rigid materials.

**BAKERY, PASTRY SHOP.** An establishment providing customers with a selection of dessert items and sweets that commonly include flaky, fruit-filled treats alongside cookies and other treats.

**BAKERY SALES (WHOLESALE).** An establishment where baked goods (breads and cakes and pastries) are produced or sold to other vendors or businesses and not for sale to the general public.

**BANKS AND FINANCIAL INSTITUTIONS.** Commercial banks, savings and loan associations, credit unions, brokerage offices, and other similar financial institutions, but not including pawnshops, check cashing establishments or payday loan businesses.

**BARBER or BEAUTY SHOP.** An establishment which engages in the cutting and dressing of hair, shaving and trimming beards, and performing related grooming and cosmetic services.

**BASEMENT.** That portion of a building below or immediately above grade and not used for habitation. A basement shall not be considered as a story, if the floor level is not less than three feet, six inches below the average grade at the exterior walls of the building.

**BAR OR COCKTAIL LOUNGE.** Any premises wherein alcoholic beverages are sold at retail for consumption on the premises and minors are excluded by law. It shall not mean a restaurant wherein such beverages are sold in conjunction with the sale of food for consumption on the premises and minors are not prohibited from dining.

**BEAUTY SCHOOL.** An establishment where people are taught cosmetology and the art of applying beauty treatments, i.e. skincare, cosmetics, and hairstyling.

**BED AND BREAKFAST INN.** A dwelling wherein lodging and/or food is provided by a resident family primarily for transient guests, as distinguished from a boarding house, hotel, or motel.

**BOARDING HOUSE.** A building other than a hotel, motel, or a bed and breakfast where for compensation by the week or month, meals are provided for three or more unrelated boarders or roomers at any one time.

**BOAT SALES.** An open space area, other than a street, used for the display, sale, or rental of new or used boats or boat trailers in operable condition and where no repair work is done.

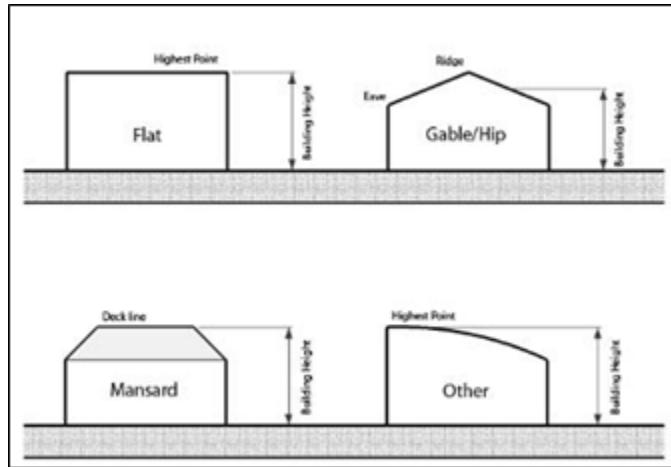
**BOTTLED GAS COMPANY.** A company supplying gaseous substances that have been compressed and stored in carbon steel, stainless steel, aluminum, or composite bottles known as gas cylinders.

**BOTTLING PLANTS.** An industrial facility where beverages and other liquids and goods are put into bottles with caps.

**BUFFER AREA or SCREENING.** A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another. Buffering includes fences, walls, hedges, berms, landscaping material, or a combination of these.

**BUILDING.** Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, or property. When such a structure is divided into separate parts by one or more un-pierced walls extending from the ground up, each part is deemed a separate building with respect to the minimum side yard requirements as hereinafter provided.

**BUILDING HEIGHT.** The vertical distance from the average established grade in front of the lot, or from the average natural grade of the building, if higher, to the average height of the top of the cornice of flat roofs, or to the deck line of a mansard roof, or to the mid-height of the highest gable or dormer in a pitched or hipped roof, or, if there are no gables or dormers, to the mid-height of a pitched or hipped roof. Where a lot faces on two or more streets or alleys of different average established grades in front of the lot, the higher of the grades shall control only for the depth of 120 feet perpendicularly back from the street line of the higher street or alley. On a corner lot, the height is the mean vertical distance from the average established grade or from the average natural grade at the building line, if higher, on the street of greatest width, or if two or more of the streets are of the same width, from the higher of the grades.



**BUILDING LINE (SETBACK LINE).** A line that establishes the area within which the principal building or structure must be erected or placed and which may be located by means of a plat of subdivision or site plan at a distance greater than, but in no case less than, the minimum setbacks or yard spaces required by this zoning code.

**BUILDING MATERIAL MANUFACTURE.** A business engaged in the manufacture of materials or finished products used in the residential and commercial building industries.

**BUILDING MATERIALS SALES.** A business selling construction materials and goods.

**BULK STORAGE.** An establishment or land use that engages in the process of housing or storing materials and packages in larger quantities, generally using the original packaging or shipping containers or boxes.

**BUS and HEAVY EQUIPMENT TERMINAL.** A building or structure for storing and/or servicing busses and heavy equipment.

**CABINET MAKERS and CARPENTRY.** A business engaged in the manufacture of cabinet products or utilizing skilled craftsperson to perform carpentry either on site or off-site.

**CAMPER and RECREATIONAL VEHICLES SALES and LEASING.** A business selling and leasing campers and recreational vehicles to the general public.

**CAMPGROUND.** Any area or tract of land used or designed to accommodate two (2) or more camping parties, including cabins, tents or other camping outfits.

**CAMPUS STYLE RESIDENTIAL GROUP CARE FACILITY.** A coordinated campus style residential use featuring one or more structures intended to provide specialized care of children, seniors, or other special needs groups by a licensed care provider.

**CANNABIS CULTIVATOR.** A person or persons licensed pursuant to Ohio Revised Code Chapters 3780 and 3796 to grow and cultivate adult-use cannabis and/or medical marijuana.

**CANNABIS PROCESSOR.** A person or persons who have been issued a processing certificate of operation pursuant to Chapter 3796 of the Ohio Revised Code and Chapter 3796 of the Administrative Code, to manufacture adult-use cannabis and/or medical marijuana.

**CARPET and RUG STORES.** The direct sale of woven or synthetic fiber textiles for the purpose of covering a floor.

**CARPORT.** A temporary or permanent structure providing a covered automobile parking space not completely surrounded by walls or doors. A carport shall be subject to all the regulations prescribed in this zoning code for a private garage.

**CATERING SERVICE.** A business establishment that prepares food for distribution or delivery to a remote site.

**CEMETERY.** Land used or intended to be used for the burial of the animal or human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

**CHECK CASHING SERVICE.** A short term loan company that will allow individuals to cash checks before the finances are available.

**CHILD DAY CARE CENTER (LEARNING CENTER).** An establishment that administers to the needs of infants, toddlers, pre-school children, and school children inside and outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage or adoption for any part of the 24-hour day. The term "Child Day Care Center" also includes nursery schools where children under the age of five are receiving schooling. Child day care center must obtain all required licensure requirements from the State of Ohio.

**CHILD CARE, HOME OPERATED (TYPE "A").** Shall mean a permanent residence of the administrator in which child care or publicly funded child care is provided for seven to twelve children at one time or a permanent residence of the administrator in which child care is provided for four to twelve children at one time if four or more children at one time are under two years of age. In counting children for the purposes of this definition, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the type A home shall be counted. "Type A family day-care home" and "type A home" do not include any child day camp as provided by the Ohio Revised Code Chapter 5104.

**CHILD CARE, HOME OPERATED (TYPE "B").** Shall mean a permanent residence of the provider in which child care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this definition, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted. "Type B family day-care home" and "type B home" do not include any child day camp as provided by the Ohio Revised Code Chapter 5104. In accordance with R.C. § 5104.054, the facility shall be considered a residential use of property and permitted in all residence districts.

**CHILD WELFARE FACILITY.** A facility utilized for the care and treatment of children, ages 0-high school graduation, who have been removed from their homes due to abuse and/or neglect. Such children may receive full board and care, educational, medical, and therapy services at the facility. The facility shall care for such children 24 hours per day, 365 days per year, and shall maintain appropriate State licensure to allow for such use. Pregnant and/or parenting youth may be served in such a facility as long as all applicable licenses, credentials, and approvals are in place. The facility may house and provide all supportive services, such as maintenance and grounds-keeping, clerical and office services, therapy services, food services, and other supports deemed necessary to the fulfillment of their care for children.

**CLOSED LOOP GROUND SOURCE HEAT PUMP SYSTEM.** A system that circulates a heat transfer fluid, typically food-grade antifreeze, through pipes or coils buried beneath the land surface or anchored to the bottom in a body of water.

**CLUB (LODGES & FRATERNAL ORGANIZATIONS).** A building or portion thereof or premises owned or operated for a fraternal, literary, political, or educational purpose primarily for the exclusive use of its members and their guests.

**COLLEGE (UNIVERSITY).** An Institution accredited at the college level by an agency or association recognized by the U.S. Secretary of Education and legally authorized to offer at least a one-year program of study creditable towards a degree.

**COMPREHENSIVE PLAN.** A plan, or any portion thereof, adopted by the City Council, showing the general location and extent or present and proposed physical facilities including housing, industrial, and commercial uses, major thoroughfares, parks, schools, and other community facilities. This plan establishes the goals, objectives, and policies of the community.

**COMPUTER SERVICE and TRAINING.** An establishment providing training in repairing and servicing computers.

**CONTRACTOR'S OFFICE (WITH INDOOR STORAGE).** An enclosed structure where a contractor can conduct standard business activities such as filing documents, hosting meetings, and store equipment.

**CONSTRUCTION CONTRACTOR'S YARD.** A business establishment engaged in the storage of construction materials, supplies, equipment, tools, stock piling and recycling of useable construction materials and other items as permitted including temporary storage containers, construction trailers and temporary office trailers.

**CONVALESCENT HOME.** See Senior Care Facility, as defined in this section.

**CONVENIENCE STORE.** A small scale retail store used for the sale of goods used on an everyday basis by consumers including, but not limited to, pre-packaged food products, household items, newspapers and magazines and having a gross floor area of less than 5,000 square feet. Such store may also include an area used for food service provided by a restaurant.

**CULTURAL USE (MUSEUM USE).** A library, museum, or similar public or quasi-public use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

**DATA PROCESSING SERVICES.** A business establishment that engages in the conversion of data into a form that can be processed by computer.

**DELIVERY SERVICES.** A service oriented establishment designed to take a certain type of good to a specified destination.

**DENSITY.** A unit of measure; the number of dwelling units per acre of land.

**DENSITY, GROSS.** The number of dwelling units per acre of the total land to be developed.

**DENSITY, NET.** The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

**DRIVEWAY.** A private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure.

**DRIVE-IN RESTAURANTS.** Any restaurant, sandwich shop, dairy bar, soft drink stand, or any business establishment where prepared food or beverages are served to customers while the customers are seated in automobiles parked in the open air located on the parcel upon which the restaurant is situated or at tables placed in the open air located on the parcel upon which the restaurant is situated.

**DRIVE-UP or DRIVE-THROUGH.** An establishment that by design of physical facilities or by services or packaging procedures encourages or permits customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises or be entertained while remaining in an automobile.

**DUAL USE CANNABIS DISPENSARY.** A place wherein a person or persons licensed pursuant to Section 3780.15 of the Ohio Revised Code, and any rules promulgated thereunder, sells both adult-use cannabis and medical marijuana.

**DUMPSTER.** Shall mean a bulk storage container for waste materials that can be hauled directly to the point of disposal or emptied into a large compactor-type truck for disposal.

**DWELLING.** A building occupied as an abode by one or more persons. Any building or portion thereof designed or used as the residence or sleeping place of one or more persons, but not including a tent, cabin, trailer, modular or mobile home, or factory built dwelling (industrialized unit, industrialized dwelling) where the building or portion thereof is of closed construction necessitating disassembly, damage, or destruction of the industrial unit at the building site in order to allow the building inspector to adequately inspect its component parts, or a room in a hotel or motel.

**DWELLING, SINGLE-FAMILY.** A building used exclusively to provide one dwelling unit for occupancy by one family.

**DWELLING, TWO-FAMILY.** A building used exclusively to provide two dwelling units for occupancy by one family for each individual dwelling unit.

**DWELLING, MULTIPLE-FAMILY.** A building used exclusively to provide three or more dwelling units for occupancy by three or more families.

**DWELLING UNIT.** One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping. A "dwelling unit" does not include mobile or manufactured homes, but does include industrialized units.

**EASEMENT.** The right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.

**EDUCATIONAL FACILITY.** A facility utilized for the care and education of children, ages 5-high school graduation, who qualify for either traditional or special educational services. Such children may live at the facility, or may live in the community and come to the facility specifically for educational services. Children living at the facility will receive full board and care services, and will have access to medical and therapy services as needed. The facility may house and provide all supportive services, such as maintenance and grounds-keeping, clerical and office services, therapy services, food services, and other supports deemed necessary to the fulfillment of their care for children.

**EDUCATIONAL INSTITUTION (COMMUNITY EDUCATION K-12).** Public or private elementary schools, junior high schools, middle schools or high schools and all associated and accessory uses thereto.

**ELECTRONIC EQUIPMENT SALES.** An establishment providing the sale of devices that operate by controlling the flow of electrons or other electrically charged particles to perform a task. Electronic devices may include radios, televisions, computers and computer accessories.

**ELECTROPLATING SHOPS.** An establishment specializing in the process by which a layer of a metal is deposited on metallic or non-metallic items for the purpose of creating a protective coating.

**EMERGENCY MEDICAL CARE (URGENT CARE).** Emergency medical care is the delivery of ambulatory care in a facility dedicated to the delivery of medical care outside of a hospital emergency department, usually on an unscheduled, walk-in basis. Emergency care centers are primarily used to treat patients who have an injury or illness that requires immediate care but is not serious enough to warrant a visit to an emergency room.

**EQUIPMENT SALES, RENTAL, REPAIR.** An establishment selling, renting, and repairing equipment. An example of such a facility may be a tool rental company renting items such as cherry pickers, ladders, lifts, and stump grinders.

**EQUIPMENT SALES, RENTAL, REPAIR (HEAVY).** Establishments primarily engaged in the sale, rental or repair of tools, trucks, tractors, construction equipment, agricultural implements, and similar industrial equipment, and the rental of mobile homes. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.

**ERECT.** In the appropriate context, to affix, construct, hang, install, locate, paint, place or print.

**EXPANSION.** As applied to development or building activity, increasing the scope or size of an existing or proposed use, structure, parking, signage, etc.

**FACADE.** An entire outside wall of a structure, including wall faces, parapets, fascia, windows, and doors, of one complete elevation.

**FAIR MARKET VALUE.** The price at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

**FARMER'S MARKET.** A public market at which farmers and often other vendors sell produce and other non-processed food products directly to consumers.

**FAMILY.** One or more persons occupying a premises and living as a single housekeeping unit, whether or not related to each other by birth or marriage; as distinguished from a group occupying a boarding house, lodging house, or hotel as herein defined, provided, however, that unless all members are related by blood, adoption, or marriage, no such family shall contain over three persons except for foster homes approved by the Ohio Department of Welfare.

**FENCE.** Any structure composed of wood, iron, steel, masonry, stone or other material and erected in such a manner and in such location as to enclose, secure, partially enclose or secure, provide privacy, decorate, define or enhance all or any part of any premises. Temporary or seasonal garden fences less than 24 inches in height that are not permanently affixed to the ground shall not be considered fences under this definition.

**FERTILIZER MANUFACTURING.** An industrial facility engaged in the processing of natural and synthetic materials, including manure and nitrogen, phosphorus, and potassium compounds, intended to be spread on or worked into soil to increase its capacity to support plant growth.

**FILM, TV, RADIO PRODUCTION STUDIO.** A room, building, or group of buildings where movies, television shows, or radio programs are produced.

**FINISHED GOODS ASSEMBLY.** A business engaged in the assembly of various component parts into a final finished good suitable for sales to an end user. The assembly of finished goods shall not involve the use of any raw material production, storage or processing.

**FIREWOOD (OUTDOOR SALE).** An outdoor space where wood is collected, stored, and sold for the purpose of fueling fires.

**FLEA MARKET.** A market, usually held outdoors, where inexpensive or secondhand goods, antiques, and curios are sold.

**FLOOR AREA.** The sum of the gross horizontal areas of each floor of the principal building measured from the exterior faces of the exterior walls or from the centerline of common walls separating two buildings. The floor area of a building shall include all livable spaces including the basement floor area when more than one-half of the basement height is above the finished grade level.

**FLORIST.** One in the business of selling flowers and ornamental plants that are grown at a different location.

**FOOD PRODUCT MANUFACTURER.** A facility for assembling food products for sale to wholesalers or other vendors.

**FREIGHT TERMINAL.** A term used in describing a railroad freight or semi-truck freight handling facility. Also includes locations offering freight storage facilities.

**FRONTAGE.** All the property on one side of a street between two intersecting streets, crossing or terminating, measured along the line of the street, or if the street is dead ended, then all the property abutting on one side between an intersecting street and the dead-end of a street.

**FROZEN FOOD LOCKERS.** A structure/facility for storing frozen food.

**FUNERAL PARLOR.** A building or part thereof used for human funeral services. Such building may contain space and facilities for: (a) embalming and the performance of other services used in preparation of the dead for burial; (b) the performance of autopsies and other related surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; and (d) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

**GARAGE.** An accessory building for automobiles in which no occupation or business is carried on. Also See "Carport".

**GARAGE, REPAIR.** See Automotive Repair Facility, as defined in this section.

**GASOLINE & FILLING STATION.** A commercial business which conducts the retail sale of motor vehicle and related petroleum-based fuels including but not limited to gasoline, diesel, ethanol, and propane fuels. Automobile service and re-pair is not included. The design and usage of a gasoline & filling station is intended to accommodate and serve vehicles with a gross vehicle weight of 12,000 pounds or less and having a total vehicle length (including trailer) of 30 feet. The sale of other commercial retail goods such as limited food, beverage, and other convenience items is permitted on a limited scale.

**GENERAL MERCHANDISE SALES.** Providing for the general sale of unused goods directly to the consumer, this includes the sale of most tangible personal property.

**GEOTHERMAL ENERGY SYSTEM.** A system that uses the relatively constant temperature of the earth or a body of water to provide heating in the winter and cooling in the summer. System components include open or closed loops of pipe, coils or plates; a fluid that absorbs and transfers heat; and a heat pump unit that processes heat for use or disperses heat for cooling; and an air distribution system. Also referred to as a "ground source heat pump."

**GOVERNMENT (CIVIC USE).** Public parks and playgrounds, public schools, municipal buildings including police, fire and water plant facilities and all other publicly owned structures.

**GREEN ROOF SYSTEM.** A green roof is a roof of a building that is partially or completely covered with vegetation and a growing medium, planted over a waterproofing membrane.

**GRADE.** The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line or when the property line is more than five feet from the building, between the building, and a line five feet from the building.

**GROCERY STORE.** A grocery store is a self-service retail store offering a wide variety of food and household merchandise, organized into departments. May also be referred to as a supermarket.

**GUNS and AMMUNITION SALES.** The sale of firearms and the coordinating projectiles that can be dismissed from a firearm by the lighting of fuses, propelling charges, or primers.

**HARDWARE STORE.** A hardware store is a shop where articles for the house and garden such as tools, nails and garden supplies are sold.

**HAZARDOUS MATERIAL MANUFACTURE.** The manufacture of any item or agent (biological, chemical, physical) which has the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors.

**HAZARDOUS SUBSTANCE.** A substance listed under United States Public Law 96-510, entitled the Comprehensive Environmental Response Compensation and Liability Act.

**HAZARDOUS WASTE.** A waste or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics, may:

- (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or
- (2) Pose a substantial present or potential hazard to human health or to the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**HEALTH CLUB.** A public or private place to exercise although not necessarily under the supervision of a physical therapist, occupational therapist, exercise physiologist, or other similar health care provider.

**HEATING and AIR CONDITIONING SERVICES.** A company selling and servicing heating and air conditioning systems.

**HEAVY PROCESSING RECYCLING.** A facility for processing large quantities of recycled materials such as steel, aluminum, copper, and rubber.

**HOME OCCUPATION.** Any occupation conducted entirely within a dwelling unit exclusive of garages or accessory buildings carried on by persons residing in the dwelling unit, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not involve any extension or modification of the dwelling which will alter its outward appearance. The intent of the "Home Occupation" designation is to provide for a more intense business use compared to the less intensive Professional Home Office use. A Home Occupation is considered a conditional use and subject to specific operational standards as set forth in §304.06 (O). A "Home Occupation" use does not include a "Professional Home Office" use as defined in this Chapter.

**HOSPICE.** An establishment that provides palliative care and attends to the emotional and spiritual needs of terminally ill patients.

**HOSPITAL.** Any public or private institution which specializes in giving clinical, temporary and emergency services of a medical or surgical nature to injured persons and which maintains and operates twenty-four (24) hour inpatient services for the diagnosis and treatment of patients. Any hospital shall be so licensed by the State Department of Health.

**HOTEL (MOTEL).** A business which offers overnight accommodations to transient guests on a daily rate basis and often providing other services for the guests such as restaurants, meeting rooms, and recreational facilities. See also Motel, as defined in this Chapter.

**INDUSTRIAL USE (HEAVY).** Manufacturing or other enterprises with significant external effects, or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other process.

**INDUSTRIAL USE (LIGHT).** Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products, from processed or previously manufactured materials. Light industry is capable of operation in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc. Use may include, but are not limited to, a machine shop, the manufacturing of apparel, electrical appliances, electronic equipment, camera and photographic equipment, ceramic products, cosmetics and toiletries, business machines, paper products (but not the manufacture of paper from pulpwood), musical instruments, medical appliances, tools or hardware, plastic products (but not the processing of raw materials), pharmaceuticals or optical goods, bicycles, any other product of a similar nature.

**JANITORIAL SERVICE.** A business establishment engaged in providing services attending to the maintenance or cleaning of a building.

**JUNK.** Any personal property which is bought, bartered, acquired, possessed, collected, accumulated, dismantled, sorted or stored for reuse or resale such as, but not limited to: salvage metal, metal alloys, metal compounds and combinations, used or salvaged fabric, fibers, bags, paper, rags, glass or any latex or plastic product, used or salvaged motor vehicles which are primarily used for parts or scrap metal and similar or related articles or property.

**JUNK DEALER.** Any person who buys, exchanges, collects, receives, stores or sells any article defined as junk or salvage.

**JUNK YARD.** Any place where any person who is a junk dealer or salvage dealer buys, exchanges, collects, receives, stores, accumulates, sells or otherwise transfers junk or salvaged material.

**JUVENILE GROUP HOME.** A 24-hour group living environment for adolescents under the age of 18, unrelated to an owner or operation within the standard (3) degrees of consanguinity, which offers room, board and a variety of social, educational and psychiatric services and counseling to residents within the facility.

**JUVENILE JUSTICE TREATMENT FACILITY.** A facility utilized for the care and treatment of children, ages 10-18, who have co-occurring behavioral health and juvenile justice needs. Such children may have been convicted of low to moderate level felonies, but may not have been convicted of sexual offenses or violent felonies such that incarceration is needed to preserve community safety. Such children may receive full board and care, educational, medical, psychiatric, and therapy services at the facility. The facility shall care for such children 24 hours per day, 365 days per year, and shall maintain appropriate State licensure to allow for such use. The facility may house and provide all supportive services, such as maintenance and grounds-keeping, clerical and office services, therapy services, food services, and other supports deemed

necessary to the fulfillment of their care for children. No more than 24 children with co-occurring behavioral health and juvenile justice needs will be maintained in the facility at any time.

**LABORATORY, MEDICAL, DENTAL, OPTICAL.** A place for gathering, sampling, handling, processing, observing, and testing human tissue, blood, and other similar items.

**LABORATORY (MATERIALS TESTING).** A facility for testing and evaluating the qualities of various materials.

**LABORATORY, RESEARCH.** A building for the accommodation of scientific research facilities such as electronic, engineering, chemical and similar laboratories.

**LANDSCAPE OPERATION (WITH YARD STORAGE).** A business offering landscape maintenance and installation. Such companies may store equipment, landscape materials, and plant goods on site.

**LANDOWNER.** The holder of fee title, a mortgagee, or contract purchaser of real property. .

**LARGE RECYCLING COLLECTION and LIGHT PROCESSING.** A site for collecting and processing recyclable materials.

**LAUNDRY, INDUSTRIAL.** The large scale organized collection, laundering and timely delivery of textile service clothing typically serving the employees of commercial clients.

**LAUNDRY or DRY CLEANING (PICK-UP).** A dry cleaning service that will pick up and drop off clothing to a customer's residence or place of business.

**LAUNDRY or DRY CLEANING (ON-SITE).** A dry cleaning service where customers drop off and pick up laundry.

**LAUNDROMAT.** A self-service laundry where coin-operated washing and drying machines are available to individual customers.

**LIBRARY.** A public facility for the use, but not sale, of literary, musical, artistic, or reference materials.

**LIQUOR STORE.** A store regulated by the State of Ohio that sells alcoholic beverages for consumption elsewhere. Also known as a "state liquor store."

**LOADING SPACE (OFF-STREET).** Space for bulk pick-ups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled.

**LOAN COMPANIES.** A finance company that offers loans to individuals who have trouble getting a traditional bank loan.

**LODGES and FRATERNAL ORGANIZATIONS.** A place where an organized group of people having common beliefs or interests, and often formal membership requirements, meet on a regular basis.

**LOT.** A parcel of land occupied or intended to be occupied by one or more dwellings in a residential district or a permitted building or use in a commercial or industrial district, intended as a unit for transfer of ownership, together with accessory buildings and uses customarily incident thereto. A lot includes open spaces and minimum area

provisions as are required by this Zoning Code for the district in which the lot is situated and having its principal frontage on a public street or public right-of-way.

**LOT AREA.** The total computed horizontal area contained within the lot lines or boundary lines of a lot including any portion of a lot that may exist within a public right-of-way.

**LOT, CORNER.** A lot having two adjacent sides abutting upon two streets.

**LOT DEPTH.** The mean horizontal distance between the front and rear lot lines.

**LOT, DOUBLE FRONTAGE.** A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

**LOT, FRONTAGE.** The horizontal distance between the side lot lines, measured at the front building setback line.

**LOT, INTERIOR.** A lot other than a corner lot with only one frontage on a street.

**LOT (FLAG).** A lot whose frontage on a public street is through a narrow strip of land which is generally wide enough to accommodate a driveway but too narrow to accommodate any structures. This narrow strip of land is referred to as the panhandle and the balance of the lot is referred to as the body. These lots are also referred to as "panhandle" lots.

**LOT OF RECORD.** A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder; or a parcel of land described by metes and bounds, the description of which has been recorded in the office of the County Recorder of Cuyahoga County, Ohio.

**LOT, PENNINSULA.** A lot having frontage on three public (dedicated) roads, streets or alleys resulting in a lot containing three front yard areas and one side yard area.

**LOT WIDTH.** The distance between side lot lines measured at the front yard building line; in case of irregular shaped lots, the lot shall be measured at a point midway between the front and rear lot lines.

**LUMBER and WOOD PRODUCTS SALES.** A site or facility for storing lumber and wood products.

**MACHINE MANUFACTURE.** A facility for manufacturing machines.

**MACHINE SHOPS.** An establishment where power-driven tools are used for making, finishing, or repairing machines or machine parts.

**MANUFACTURE (MANUFACTURING).** The processing or converting, or both, of raw, unfinished materials or products, or either of them, into articles or substances of different character or for use for a different purpose.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

**MAXIMUM HEIGHT (STRUCTURE).** Maximum height of a structure is measured from grade to uppermost extension of the structure. Receiving antennae, belfries, spires, and other ornamental details shall be

included when calculating height of the structure. Specific height measurement standards may apply to certain types of structures within this Zoning Code. See all "Building Height".

**MAXIMUM LOT COVERAGE.** The total area of a lot that is covered by permanent buildings.

**MEAT MARKET.** A retail business establishment that prepares and sells meat and associated foodstuffs.

**MEDICAL, DENTAL, VISION OFFICE (OUTPATIENT).** Any type of medical or surgical care performed at a medical office or similar medical facility that does not involve an overnight stay. Common examples of outpatient medical facilities are an urgent primary care facility and a group medical practice.

**MEDICAL MARIJUANA DISPENSARY.** A place wherein person or persons licensed pursuant to Section 3796 of the Ohio Revised Code, and any rules promulgated thereunder, sells medical marijuana.

**MENTAL HEALTH COUNSELING.** A facility where individuals may acquire professional assistance in addressing and discussing psychological/mental health issues.

**MENTAL HEALTH TREATMENT FACILITY.** A facility utilized for the care and treatment of children, ages 0-high school graduation, who have been diagnosed with significant mental health conditions. Such children may receive full board and care, educational, medical, psychiatric, and therapy services at the facility. The facility shall care for such children 24 hours per day, 365 days per year, and shall maintain appropriate State licensure to allow for such use. The facility may house and provide all supportive services, such as maintenance and grounds-keeping, clerical and office services, therapy services, food services, and other supports deemed necessary to the fulfillment of their care for children.

**METAL FORGING, CASTING and SMELTING.** The process of any one or a combination of the following: 1) Metal forging uses compressive force to shape metal by plastic deformation; 2) Metal casting involves pouring a liquid metal into a mold, which contains a hollow cavity of the desired shape, and then is allowed to solidify; 3) Metal smelting is a form of extractive metallurgy; its main use is to produce a metal from its ore.

**MINI-STORAGE.** A building designed to provide rental storage space in cubicles where each cubicle has a maximum floor area of 1,000 square feet. Each cubicle shall be enclosed by walls and ceiling and have a separate entrance for the loading and unloading of stored goods.

**MINIMUM LOT AREA.** The least amount of area of horizontal plane bounded by the vertical planes through front, side, and rear lot lines.

**MINIMUM LOT WIDTH.** The required minimum width of lot measured at the front setback line for a building.

**MIXED USE EVENT VENUE.** A facility located on the first floor of a multi-family residential building that proves space for social gatherings, including but not limited to wedding receptions, graduation parties and business or retirement functions, or other event types as approved by the Planning Commission.

**MOBILE HOME.** A transportable, factory-built home designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974.

**MOBILE HOME SALES, RENTAL, REPAIR.** An open space area, other than a street, used for the display, sale, rental or repair of new or used mobile homes or mobile home trailers in operable condition.

**MODULAR HOME.** Factory-built housing certified as meeting the Ohio Basic Building Code as applicable to modular housing. Once certified by the state, modular homes shall be subject to the same standards as site-built homes.

**MOTEL.** A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed a motel. See also Hotel as defined in this Chapter.

**MOTORCYCLE SALES.** An open space area, other than a street, used for the display, sale, or rental of new or used motorcycles, scooters or motorcycle trailers in operable condition and where no repair work is done.

**MOTOR HOME.** See Travel Trailer as defined in this Chapter.

**MULTI-SECTION MANUFACTURED HOME.** A factory-built home constructed to the design and specification standards of a manufactured home as set forth in 24 CFR 3280, 3282 and 3283 and 42 USC 5401 et. seq.

**NEIGHBORHOOD RECREATION FACILITIES.** A small scale active or passive park or similar public recreation facility located in a residential zoning district accessible to the general public. The maximum size for a neighborhood recreation facility is one (1) acre and may be developed and maintained by either a public sector or private sector entity. These facilities are also referred to as "pocket parks".

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

**NONCONFORMING BUILDING.** A building existing lawfully when this Zoning Code, or any amendment thereto, became effective, but which does not conform to the regulations governing buildings and structures of the district in which it is located.

**NONCONFORMING LOT.** A lot lawfully existing on the effective date of this Zoning Code or any amendment thereto, which on such effective date, does not conform to the lot area, width or frontage requirements of the district in which it is located.

**NONCONFORMING SITE CONDITION.** Any structure lawfully existing on the effective date of this Zoning Code or any amendment thereto, which, on such effective date, does not conform to the yard regulations, parking requirements, sign regulations, landscaping or screening requirements or other applicable standards provided in this Zoning Code.

**NONCONFORMING USE.** The use of any building, structure, or land which lawfully existed on the effective date of this Zoning Code or any amendment or supplement thereto which does not conform to the use regulations of the zoning district in which it is located.

**NOT FOR PROFIT ORGANIZATION.** An incorporated or unincorporated organization which exists for educational or charitable reasons and from which its shareholders, trustees or members do not benefit financially.

**NURSERY SCHOOL.** Means providing care for children during daytime hours, including parent cooperative nursery schools, play groups for preschool children, afterschool care for school children, provided such establishment is institutional in character and is licensed by the state or county and conducted in accordance with state requirements.

**NURSERY (GARDEN CENTER).** An establishment engaged in the cultivation and retail sale of vegetation and associated items to the public. This definition does not include large scale nursery production operations selling vegetation products at a wholesale level.

**NURSERY (WITH YARD STORAGE).** An establishment reserved for the propagation and often the sale of horticultural plant material.

**OCCUPANCY.** The period during which one owns, rents, uses, or occupies a certain premises or land.

**OCCUPANT.** A person who, on a regular basis, spends nights at a residence or other structure. A person is considered an occupant regardless of whether they spend the majority of their nights at a residence or other structure, if the times they do stay overnight are regular and recurrent. In addition, a person shall be considered an occupant if their clothes or other daily living supplies are maintained at the residence or other structure.

**OFFICE, GENERAL.** A place of business used exclusively for office purposes where no product or commodity for retail sale is located or sold, including but not limited to sales offices, real estate offices, financial offices and professional offices. May also include data processing and analysis facilities, insurance offices, office buildings, office spaces, office uses, travel service bureaus, utility company business offices, and license bureaus.

**OFFICE, PROFESSIONAL.** The office of a recognized profession maintained for the conduct of that profession. A profession is a vocation, calling, occupation, or employment requiring training in the liberal arts or sciences, or combination thereof, requiring advanced study in a specialized field; any occupation requiring licensing by the State and maintenance of professional standards applicable to the field.

**OFFICE BUILDING.** A Building or portion of a Building wherein services are performed involving predominantly administrative, professional or clerical operations not involving any equipment other than furniture and document processing and storage facilities.

**OPEN LOOP GROUND SOURCE HEAT PUMP SYSTEM.** A system that uses groundwater as a heat transfer fluid by drawing groundwater from a well to a heat pump and then discharging the water over land, directly in a water body or into an injection well.

**OPEN SPACE.** An area open to the sky which is or may be on the same lot with a building or structure. This area may include landscaped areas.

**OPEN SPACE, ACTIVE.** In the context of a planned unit development plan, active open space shall be designed with the goal to encourage active recreational use(s) for the residents of the planned unit development. Active open space may include, but may not be limited to the following uses: pedestrian walkways, mowed parkland, picnic areas, maintained ball fields, maintained open areas, horse trails, swimming pools, clubhouses, tennis courts and golf courses.

**OPEN SPACE, COMMON.** A parcel or parcels of land or any area of water, or a combination of land and water, within the site designed and intended for the use or enjoyment of occupants of the planned unit development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of occupants.

**OUTDOOR DINING.** Tables and/or chairs (including benches) and umbrellas associated with lawfully operating restaurants and similar uses, in or on the public right-of-way or resting on, or projecting into, the sidewalk area, which are not physically or structurally attached to a building, retaining wall or fence.

**OUTDOOR STORAGE.** The keeping, in other than a building, of any goods, materials, or merchandise on the same parcel for more than 24 consecutive hours.

**PACKAGE DISTRIBUTION CENTER.** A facility specializing in the collection and shipment of packages

**PAINT, WALLPAPER, FLOOR and WINDOW SALES.** An establishment designated for the sale of paint, wall paper, windows, and flooring (such as tile, linoleum, and hardwood) as well as the necessary supplies for installation.

**PALLAT YARDS.** A place for the storage and sale or leasing of plastic or wooden pallets and containers.

**PAPER RECYCLING.** The process of recovering waste paper and remaking it into new paper products.

**PAPER and PULP MANUFACTURING.** A business engaged in the manufacture of paper products or pulp prepared by chemically or mechanically separating fibres from wood, fibre crops or waste paper.

**PARKING AREA (OFF-STREET).** An unobstructed space or area other than a street or alley that is permanently reserved and maintained for the parking of one motor vehicle.

**PARKING AREA (PUBLIC).** An open area, other than a street, used for the temporary parking of more than four automobiles and available for public use, whether free, for compensation or as an accommodation for clients or customers.

**PARKING FACILITY.** A site for surface parking or a parking structure use which provides one or more parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features meeting the requirements established by this chapter. This use type shall not include parking facilities accessory to a permitted principal use.

**PARKING LOT, COMMERCIAL.** Any area of land used or intended for off-street parking and operated for remuneration.

**PAWN SHOP.** An establishment engaged in retail sales of secondhand merchandise and that offers personal loans secured by consumer goods, jewelry and other personal property held by the pawn shop.

**PERFORMANCE BOND.** An agreement by an applicant with the city for the amount of the estimated construction cost plus a contingency amount as provided for in the this Zoning Code guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the applicant's agreement.

**PERSON.** An individual, firm, corporation, or association.

**PERSONAL SERVICES (OTHER).** Establishments or places of business engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barber shops; grooming of pets; seamstresses, tailors, or shoe repairs; florists; and laundromats and dry cleaning stations serving individuals and households.

**PEST CONTROL SERVICE.** A business establishment that provides regular service to homes, businesses and other structures or land sites to prevent infestation of pests like cockroaches, ants, etc.

**PET GROOMING.** An establishment where domestic pets, often cats and dogs, are bathed, brushed, and trimmed. This use does not include the overnight boarding of animals.

**PETROLEUM REFINING** (including related uses). An industrial process plant where crude oil is processed and refined into more useful petroleum products, such as gasoline, diesel fuel, asphalt base, heating oil, kerosene, and liquefied petroleum gas.

**PHARMACY**. A store where the primary business is the filling of medical prescriptions and the sale of drugs, medical devices and supplies, and nonprescription medicines but where nonmedical products may be sold as well. A pharmacy may include accessory drive-up customer service facilities located on the same parcel.

**PHOTOGRAPHIC and RETAIL PRINTING**. An establishment providing printing services to retail consumers.

**PHOTOGRAPHY STUDIO**. A place where photographer may take and produce photos.

**PLANING and SAWMILLS**. Machine or plant with power-driven machines for sawing logs into rough-squared sections or into planks and boards. A sawmill may be equipped with planing, molding, tenoning, and other machines for finishing processes.

**PLANNED UNIT DEVELOPMENT (PUD)**. An area of land in which a variety of uses are accommodated in a pre-planned environment under more flexible standards such, as lot sizes and setbacks, than those restrictions that would normally apply under this Zoning Code. The procedure for approval of such development contains requirements in addition to those of the standard subdivision, such as building design principles and landscaping plans.

**PLANT SALES (OUTDOOR)**. An outdoor establishment designated for the sale of living, cultivated vegetation which may include the seedlings, bare root plants, aquatic plants, container plants, or balled and burlaped plants.

**POOL SERVICE and SALES**. Companies that provide pool opening, cleaning, and closing services. They may also sell and install pools and provide pool supplies.

**PORTRABLE-ON-DEMAND STORAGE STRUCTURE (POD)**. Any container, storage unit, shed-like container or other portable structure that can or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building other than an accessory building or shed complying with all building codes and land use requirements.

**PRINCIPAL STRUCTURE**. A building or structure in which the primary use of the lot on which the building is located is conducted.

**PRINCIPAL USE**. The main use of land or structures as distinguished from a secondary or accessory use.

**PRINTING PLANTS**. A facility producing large quantities of reprographics.

**PROFESSIONAL ACTIVITIES**. The use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, architects, and engineers, and similar professions.

**PROFESSIONAL HOME OFFICE**. A homed based business utilizing the dwelling area for a small scale professional office use by an occupant of the dwelling. The intent of the "Professional Home Office" designation is to provide for a less intensive business use compared to the more intensive "Home Occupation" use. A "Professional Home Office" is a permitted use and subject to the standards set forth in §309.14. A "Professional Examples of a "Professional Home Office" use include, but are not limited to: attorney, accountant, sales representative, architect. Home Office" use does not constitute a "Home Occupation" use as defined in this Chapter.

**PROFESSIONAL CONSULTANT.** A person who possesses the knowledge and skills, by reason of education, training and experience, to comprehend the full nature and extent of the project in question regarding its social, economic, physical, environmental and design characteristics and implications in order to foster a unified plan for development. The consultant may be, but is not necessarily required to be, a registered architect, landscape architect, engineer, planner, or equivalent.

**PROPERTY.** Any tract, lot, parcel or several of such tracts, lots or parcels collected together.

**PUBLIC.** Unless otherwise specifically indicated, public shall mean anything owned, operated, provided and/or maintained by a local, state, or federal government.

**PUBLIC ASSEMBLY.** Facilities that accommodate public assembly for sports, amusements, or entertainment purposes. Typical uses include auditoriums, sports stadiums, convention facilities, and incidental sales and exhibition facilities.

**PUBLIC PARK.** A public space and supporting facilities designed and used for a variety of recreational activities, a greater part of which take place outside of any structure.

**PUBLIC USE.** Public parks, schools, and administrative and cultural buildings and structures, including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities, including water and sewer service facilities.

**PUBLIC SERVICE and UTILITY FACILITIES.** A site where a utility company or business providing a public service, such as cable companies and telephone companies, store and service equipment, have offices, and headquarter various crews of employees.

**PUBLIC UTILITY FACILITY.** A business or service, having an appropriate franchise from the state, which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need such as electricity, gas, water, transportation or communications.

**PUBLIC MUSEUM.** A building, place, or institution devoted to the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.

**RAIN BARREL.** A water tank which is used to collect and store rain water runoff.

**RAISING OF ANIMALS.** The raising of farm animals, exotic animals, or the raising of any animal for commercial purposes. This definition does not pertain to domestic household pets.

**RECREATION (ACTIVE).** Those recreational pursuits which require physical alteration to the area in which they are performed including, but not limited to, pedestrian ways, bikeways, tennis courts, swimming and boating areas, playgrounds, and play fields.

**RECREATION (PASSIVE).** Recreational activities that generally do not require a developed site such as hiking, horseback riding, and picnicking.

**RECREATION USE (PRIVATE).** A private recreational facility for use solely by the residents and guests of a particular residential development, planned unit development, or residential neighborhood, including indoor and outdoor facilities. These facilities are usually proposed or planned in association with development and are usually located within or adjacent to such development.

**RECREATION AREA (PUBLIC).** A recreation area maintained by a public authority for public use.

**RECREATION AREA (COMMERCIAL).** Land or facilities operated as a business and which are open to the general public for a fee that shall include, but is not limited to: roller blade rental, billiard parlors, video amusement arcades, pay-to-play athletic fields, golf courses, ice skating rinks, swimming pools, bingo parlors, lotto facilities and other businesses where the majority of business is in games of chance.

**RECYCLING COLLECTION CENTER (SMALL).** A place where recyclables are collected or processed (such as separation and baling) in preparation for market.

**RECYCLING and SALVAGE YARDS.** Entity engaged in the business of acquiring or owning salvage automobiles and or recyclable items for resale in their entirety or as spare parts; or rebuilding, restoration, or crushing.

**RELIGIOUS INSTITUTION.** An institution that a congregation of people regularly attends to participate in or hold religious services, meetings and other activities, including buildings in which the religious service of any denomination are held.

**RESIDENTIAL DWELLING.** A building or part of a building, containing living, sleeping, housekeeping accommodations, and sanitary facilities for occupancy by one or more individuals or families.

**RESIDENTIAL ZONING DISTRICT OR USE.** Any area zoned for residential use as defined in this Zoning Code or any area where persons may reside.

**RESTAURANT.** Establishments primarily engaged in the preparation and sale of food which accounts for fifty-one percent or more of the business sales and may include ancillary sale of alcoholic beverages (forty-nine percent or less of total sales).

**RESTAURANT (SMALL SCALE).** A restaurant containing less than 1,000 sq. ft. gross area located in a TO zoning district.

**RETAIL SALES (BUSINESS).** Any business which primarily sells goods, wares or merchandise directly to the ultimate customer for direct consumption and not for resale.

**RETAIL SALES (SPECIALTY).** Includes retail establishments selling merchandise that is characterized as unique in nature while being produced in limited quantities. A specialty retail establishment is limited to 1,000 sq. ft. of gross business space in the TO zoning district. Specialty retail establishments are permitted in other commercial zoning districts without the 1,000 sq. ft. maximum area requirement.

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

**RIGHT-OF-WAY LINE.** A dividing line between a lot, tract, or parcel of land and a contiguous public street, and demarcating the public right-of-way. Where the lot, tract, or parcel of land has been conveyed to the center of the road, the road line then becomes the inside line of land reserved for road purposes. "Right-of-way line" also means "street line."

**ROADSIDE STAND.** A temporary structure used for the sale of goods or produce made or grown on the same lot.

**ROOF LINE.** The uppermost line or point of the facade or parapet of a flat roof structure, or the lower edge of an eave, gable or rake of a sloped roof structure.

**ROOF or STRUCTURE MOUNTED SOLAR ENERGY SYSTEM.** An active solar technology system developed and created for harnessing and distributing solar energy that can be mounted on a roof or stationary structure using a variety of techniques including the use of photovoltaic panels and solar thermal collectors to harness the energy.

**RUBBER, PLASTIC, RAW MATERIAL MANUFACTURING.** A business specializing in the manufacturing of raw materials such as rubber and plastic.

**SATELLITE DISH.** A signal-receiving device whose purpose is to receive or send communications or signals from earth-orbiting satellites or other sources.

**SEMI-CONDUCTOR MANUFACTURER.** A business engaged in the manufacturer and production of semi-conductor materials for use in modern electronics, including but not limited to: radios, computers, telephones, and other similar devices.

**SEMI TRUCK & TRAILER SALES OR RENTAL.** An open space area, other than a street, used for the display, sale, or rental of new or used commercial grade semi-truck vehicles or semi-trailers in operable condition and where no repair work is done.

**SENIOR CARE FACILITY.** Any place or abode, building, institution, residence, or home used for the reception and care for a consideration of three or more persons who by reason of age or mental or physical infirmities are not capable of properly caring for themselves, or who are 65 years of age or over and for which a license, if necessary, has been issued by the Ohio Department of Public Welfare or other appropriate agency. Patron residents of a nursing home are normally characterized by a lack of ability to leave the home without assistance from a care giver.

**SHOE REPAIR.** A place where a skilled worker rebuilds and repairs boots and shoes. They often also mend luggage, handbags, and sports equipment.

**SIGN.** A sign is defined as any display that evokes a message including but not limited to any name, number, symbol, identification, description, display, illustration, object, graphic, sign structure, or part thereof, whether permanent or temporary, which is affixed to, painted on, represented directly or indirectly upon, or projected onto a building, structure, lot, or other device, whether mobile or affixed to the ground, and which directs attention to any object, product, place, activity, person, institution, organization, or business. A sign may consist of wording, logos or images. This definition includes all signs visible from any public right-of-way or adjacent property, including interior signs oriented towards the exterior facade of any building or structure as well as back-lighted translucent panels or strip lighting affixed to any wall or roof where any such panels or lighting serves to identify and attract attention rather than illuminate space for human activity. See the complete sign code definition list found in Chapter 303.

**SMALL WIND ENERGY CONVERSION SYSTEM.** Means a system consisting of a wind turbine, tower, and associated control or conversion electronics for the purpose of providing electrical power to a lawful principal use. A system having a rated capacity of 100 kW or less for non-residential uses shall be considered a private use system for the purposes of the regulations. These systems are considered accessory uses in the BR-CD and GI zoning districts.

**SOLAR ENERGY SYSTEM.** A solar energy system is any solar collector or other solar energy device, or any structural design feature of a building whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating. Based on this definition, solar energy systems include, but are not limited to:

- (1) Photovoltaics (solar electric)
- (2) Solar water heating for use in buildings

(3) Solar water heating for space heating or cooling

**SPECIALTY RETAIL.** A retailer concentrating on selling a specific line of goods for a particular and usually selective clientele. Specialty retailers have a wide variety of a certain type of good. Examples may include bagels, stationery, movies, and video games.

**STORY.** That part of a building included between any floor and the floor or roof next above; provided that for any purpose of regulating the dimensions of yards and courts when the average story height of any building exceeds 12 feet, each 12 feet or fraction thereof of total building height shall be considered a separate story, except the first story, which may be 15 feet high. A mezzanine story shall be deemed a full story where it covers more than 50% of the area of the story next below. A basement shall not be counted as a story unless more than one-half of the basement height is above grade level at the front of the building.

**STREET.** All property dedicated or intended for public or private use for passage or travel of motor vehicles.

**STRUCTURE.** Anything built or constructed which requires a permanent location on any given lot, other than landscaping. Structures include but are not limited to buildings, pools, tennis courts, storage facilities, parking lots, roadside stands, monuments, statues, flagpoles, sheds and signs.

**STRUCTURE HEIGHT.** The distance between the highest point of any structure, and the lowest grade adjacent to the structure.

**STRUCTURAL ALTERATION.** Any change in the structural members of a building, such as walls, columns, beams, or girders.

**STUDIO (DANCE, MUSIC, VOICE and MARTIAL ARTS).** An establishment where an art is taught or studied, often an open room where one or more persons can work.

**SUBDIVISION.** The division of any parcel of land shown as a unit, part of a unit or a contiguous unit on the last preceding transfer of ownership thereof.

**Major Subdivision** shall mean the improvement of five or more new parcels from the original parcel of land for residential use or the improvement of one or more parcels of land for commercial or industrial structures or groups of structures involving the subdivision and allocation of land as streets or other open spaces for common use by the owners, occupants or leaseholders or as easements, or for the extension and maintenance of public sewer, water, storm drainage or other public utilities and facilities.

**Minor Subdivision** shall mean the division of one property into four or less residential parcels, sites or lots, any one of which is less than five acres in area, for the purpose, whether immediate or future, of transfer of ownership. A minor subdivision shall also mean the division or partition of land into no more than four parcels where no new streets or roads are involved; the division of land for agricultural purposes where the resulting parcels are more than five acres or larger in size; the division of property by testamentary or intestate provisions; or the division of property upon court order.

**SWEETSTAKES TERMINAL CAFÉ.** Shall mean any individual premises upon which any computerized sweepstakes device is located for the use or entertainment of the public, whether or not such premises have other business purposes of any nature whatsoever.

**SWIMMING POOL (PRIVATE RESIDENTIAL).** The term Swimming Pool shall mean a body of water, created by artificial means designed or used for swimming or other immersion purposes, any portion of which is one-half foot (1 ½ ') deep or more. It includes a fish pond, wading pool, hot tub, or spa.

**SWIMMING POOL (PORTABLE).** Swimming pools that are only capable of holding eighteen inches (18") or one and one-half foot (1 ½ ') of water or less, at the deepest point, and are nine feet (9') or less in water surface diameter at the widest point, or less than sixty-five (65) square feet in surface area.

**TATTOO PARLOR or BODY PIERCING ESTABLISHMENT.** An establishment or facility engaged in the method of placing designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instruments designed to touch or puncture the skin. This definition also includes body piercing or other related body art activities.

**TAXICAB SERVICE.** A business establishment that provides a service consisting of motor vehicles carrying passengers for hire where the destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of an initial fee, distance traveled, waiting time, or any combination thereof.

**TECHNICAL SCHOOL.** A post-secondary vocational school that trains students in a variety of skills, especially in the manual trades, health care, and computer technology.

**TEMPORARY BUILDING OR STRUCTURE.** A structure intended for a limited duration in which construction or erection of such building or structure requires no permanent foundation.

**TEXTILE MILL PRODUCTS.** Manufacturing yarn or textile fabrics, or finishing yarn or fabrics, or manufacturing both fabrics and textile products.

**THEATRE (INDOOR MOTION PICTURE & LIVE).** A structure reserved for housing dramatic presentations, stage entertainments, or motion-pictures for public or private audiences.

**THEATRE (OUTDOOR DRIVE-IN).** A facility or outdoor space designed to permit customers to remain in their vehicles while viewing a motion picture.

**TIRE RETREADING, RECAPPING, REBUILDING.** A business engaged in the retreading, recapping or rebuilding of tires, but not the manufacture of new tires from raw materials.

**TOWING SERVICE.** A service oriented business providing the removal of motorized vehicles from one location to another.

**TRAVEL AGENCY.** A business that attends to the details of transportation, itinerary, and accommodations for travelers. Also called a travel bureau.

**TRAVEL TRAILER or TRAILER.** A vehicle, whether or not it is pulled by another vehicle, used or intended for use as a conveyance upon the public streets or highways, so designed, constructed, reconstructed, or added to by means of portable accessories in such manner as will permit the occupancy thereof as a movable dwelling or sleeping place.

**TREE LAWN.** That portion of a public right-of-way lying between the back face of the curb and the leading edge of the sidewalk and/or the back edge of the right-of-way, if no sidewalk is installed.

**TREE SERVICE.** A business assisting customers with tree maintenance, i.e. tree trimming, as well as tree removal services.

**TRUCK SERVICE STATION.** A facility repairing and conducting routine maintenance on heavy duty trucks and tractor-trailers.

**TRUCK YARDS.** A salvage yard for trucks and tractor trailers.

**USE.** The specific purposes for which a building or land is designated, arranged, intended, or maintained. In the classification of uses, a use may be a use as commonly understood or the name of an occupation, business, activity, or operation carried on in a building or on premises or the name of a building, place, or thing which name indicates the use or intended use.

**USED MERCHANDISE SALES.** The direct sale of previously used goods to consumers often at a lower cost. Used merchandise may include items such as clothing, musical instruments, books, and furniture.

**VEHICLE, COMMERCIAL.** Any vehicle used to generate income, and which, by appearance, is anything other than usual and customary personal family transportation. These may include school buses, buses used for public transportation, limousines, stake body trucks, trucks or tractors having dual rear wheels and more than two (2) axles, semi-trailer tractors, semi-trailers and trailers having an overall length of more than twelve (12) feet. Vehicles and trailers used for the transport of livestock or goods associated with and located upon the premises of a property used for farming or grazing shall not be construed as to meet the definition of a commercial vehicle.

**VEHICLE (MOTOR).** Motor vehicle means and includes automobiles, motorcycles, trucks, tractors, trailers, semi-trailers, airplanes, buses and farm implements, whether semi-propelled or designed to be pulled, pushed or carried by another motor vehicle.

**VEHICLE PARTS MANUFACTURE.** A facility producing and assembling automotive parts.

**VEHICLE (RECREATIONAL).** Recreational vehicle shall be defined as any of the following: any privately owned boat, boat trailer, folding tent trailer, personal water craft, motorized home, pick-up camper, snowmobile, travel trailer, a three or four wheel all terrain vehicle or other similar equipment meeting the following criteria:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

**VETERINARY OFFICE.** A facility for the practice of veterinary medicine with provisions for the overnight boarding of animals when related to the animal's care. No other boarding of animals shall be permitted. Also known as an "Animal Hospital".

**VARIANCE.** A modification of the strict terms of the relevant regulations of this Zoning Code where such modification will not be contrary to the public interest. A variance is also a modification of regulations where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Zoning Code would result in unnecessary and undue hardship. Variances can only be granted by the Planning Commission.

**VIDEO STORE.** A rental shop that allows a consumer to temporarily obtain a reusable good or product, in this case, multimedia items such as videos, DVDs, and video games, for a specified period of time in exchange for payment.

**WAREHOUSE.** A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment containing no on-site retail sales, but excluding bulk storage of materials that are inflammable or

explosive or that create hazardous or commonly recognized offensive conditions. This term also includes "Wholesale" and "Distribution" related establishments.

**WASTE TRANSFER, STORAGE, DISPOSAL.** A business engaged in the transfer, storage or disposal of solid waste products. When a landfill is involved in this operation, the solid waste, such as paper, glass, and metal, is buried between layers of dirt and other materials in such a way as to reduce contamination of the surrounding land.

**WIRELESS TELECOMMUNICATIONS EQUIPMENT SHELTER.** A structure in which electronic receiving and relay equipment for a wireless telecommunications facility is housed.

**WIRELESS TELECOMMUNICATIONS FACILITY.** A facility consisting of the equipment and structures involved in receiving or relaying telecommunications or radio signals from a mobile radio communication source and transmitting those signals to a central switching computer which connects the mobile unit with land-based telephone lines.

**WIRELESS TELECOMMUNICATIONS TOWER.** A structure intended to support equipment used to transmit, relay, and/or receive telecommunications signals, including but not limited to monopoles, guyed, and lattice construction steel structures.

**YARD.** Any open space located on the same lot with a building, unoccupied and unobstructed from the ground up, except for accessory buildings or such projections as are expressly permitted in these regulations. The minimum depth or width of a yard shall consist of the horizontal distance between the lot line and the nearest point of the foundation wall of the main building.

**YARD REQUIREMENT.** The open space between a lot line and the building area within which no structure shall be located except as provided in the Zoning Code.

**YARD SETBACKS.** The required minimum horizontal distance between the building line and the related front, side, or rear property line.

**YARD (FRONT).** An open space on the same lot as the building, between the front line of the building and the front lot or street line, and extending across the full width of the lot.

**YARD (REAR).** An open, unoccupied space on the same lot as a building, between the rear line of the building and the rear line of the lot, and extending the full width of the lot.

**YARD (SIDE).** An open, unoccupied space on the same lot as a building, between the side line of the building and the side line of the lot, and extending from the front yard line to the rear yard line.

**ZERO LOT LINE.** The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line. Also, for the purposes of this Zoning Code, a zero lot line shall include buildings that are built with a shared wall resting on a lot line, and the shared wall shall be considered the zero lot line if the building is intended to be owned by two separate owners on both sides of the shared wall.

**ZONING ADMINISTRATOR.** The Zoning Administrator shall administer and enforce this Zoning Code. One or more Zoning Administrators may be designated by the Mayor. The Zoning Administrator is under the supervision of the Mayor. The Mayor may serve as the Zoning Administrator. He or she may be provided with the assistance of such other persons as the Mayor may direct.

**ZONING MAP, CITY OF BEREAL**. The zoning map for the City of Berea showing at least the corporation limits and streets and other landmarks for reference, the property boundaries for all properties inside the city, and the

zoning categories that have been adopted and are enforced for the properties contained within the city. Also referred to as the City Zoning Map.

**ZONING PERMIT.** A document issued by the Zoning Administrator authorizing the use of lots, structures, uses of land and structures, and the characteristic of the uses.