



TROTWOOD
GROWING TOGETHER

City of Trotwood Planning and Zoning Code

September 29, 2026
PUBLIC INTERNAL REVIEW DRAFT

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CHAPTER 1101: GENERAL PROVISIONS

1101.01 PURPOSE (REVISED 1107.02 AND 1121.01)¹

It is the purpose of this planning and zoning code to promote and protect the public health, safety, comfort, prosperity, convenience, and general welfare of the people of the City of Trotwood, Montgomery County, Ohio, through the establishment of minimum regulations governing the subdivision, development, structures, and use of land. Furthermore, the more specific purpose of this planning and zoning code is to:

- (a) Implement the City of Trotwood Comprehensive Plan and other policies or plans adopted or approved by the City as they relate to the development of land;
- (b) Encourage and facilitate orderly, efficient, and appropriate growth and development;
- (c) Protect the character and the values of the residential, business, industrial, and recreational areas and to assure the orderly and beneficial development of these areas;
- (d) Provide adequate open spaces for light and air for all residents;
- (e) Establish appropriate development density and intensity in order to prevent or reduce congestion and to secure the economy in the cost of providing water supply systems, electricity, sewerage systems, streets, and highways, fire and police protection, schools, parks and recreation facilities, and other governmental services;
- (f) Manage congestion on the streets to improve public safety by locating buildings and uses adjacent to streets in such a manner that they will cause the least interference with traffic movements;
- (g) Provide for adequate access to all areas of the City by people of all abilities and by varied modes of transportation;
- (h) Encourage the interconnectivity of developments and places within the City;
- (i) Improve the quality of life through protection of the City's total environment, including, but not limited to, the prevention of air, water, and noise pollution;
- (j) Avoid the inappropriate subdivision or development of lands and provide for adequate drainage, curbing of erosion, and reduction of flood damage; and
- (k) Foster a more rational pattern of relationship between recreation, conservation, residential, business, commercial, industrial, and institutional uses for the mutual benefit of all.

1101.02 SCOPE AND AUTHORITY (NEW)

(a) General Authority and Scope

- (1) The authority for the preparation, adoption, and implementation of this code is derived from Ohio Revised Code (ORC) Chapters 711 and 713, which permit the adoption of uniform rules and regulations governing the zoning and subdivision of land.
- (2) Nothing in this code shall be construed to limit the City Council in the exercise of all of its powers to zone or redistrict now or hereafter authorized by the Ohio Constitution or Ohio statutes.

(b) References to the Ohio Revised Code (ORC) or the Ohio Administrative Code (OAC)

Whenever any provision of this code refers to or cites a section of the ORC (as amended) or the OAC (as amended), and that section is later amended or superseded, this code shall be deemed amended to refer to the amended section, or the section that most nearly corresponds to the superseded section.

¹ This entire chapter contains a set of general provisions that are typical of the vast majority of planning and zoning codes and are general to all planning, land use, and development regulations in the code. The current code is missing an overall purpose statement that sets out the legislative intent of the regulations. The parenthetical references in major headings identifies if the language is new to Trotwood. In some cases, if the language is existing or revised language from the current code, the reference will also include a cross-reference to specific sections of the existing code. Note that there are parenthetical references in many major headings. These references indicate whether the provision is largely new to the city or if it is drawn from the existing code, and from where. In those cases, it notes whether the language is existing or revised.

1101.03 TITLE (REVISED 1107.01)

These regulations shall be known and may be cited as the “Planning and Zoning Code of the City of Trotwood,” or may be referred to as the “planning and zoning code,” the “zoning code,” or the “code.” This code may also be referred to as Part Eleven of the Codified Ordinances of the City of Trotwood, Ohio.

1101.04 EFFECTIVE DATE (NEW)

City Council originally adopted this code on <>². Any amendments to this code or the zoning map shall become effective in accordance with this code, the Trotwood City Charter, and State law.

1101.05 APPLICABILITY (REVISED 1107.03, 1107.05, AND 1121.04)

- (a) Except as hereinafter specified, no land, building, structure or premises shall hereinafter be used, and no building, structure, or part thereof shall be located, used, erected, moved, reconstructed, extended, enlarged or altered, except in conformity with the regulations herein specified for the district in which it is located.
- (b) The provisions of this code shall apply to all subdivisions of land within the municipal boundaries of the City of Trotwood.
- (c) The regulations established for each district in this code shall apply uniformly to each class or type of use, land, building, or structure, unless modified, varied, or waived as provided herein.
- (d) No building, structure, or land shall be used or occupied, and no building or structure or part thereof shall be structurally altered, except in conformity with all of the regulations herein specified for the district in which it is located.

1101.06 COMPREHENSIVE PLAN AND OTHER CITY PLANS (REVISED VARIOUS SECTIONS)

The administration, enforcement, and amendment of this code should be consistent with the most recently adopted version of the City of Trotwood Comprehensive Plan, as amended and herein referred to as the “comprehensive plan.” Such plan, or references to such plan, shall also include other adopted or approved plans within the City that relate to development, including, but not limited to, a strategic plan, a thoroughfare plan, a parks and recreation plan, etc. Amendments to this code should maintain and enhance the consistency between this code, the comprehensive plan or any other plans adopted or approved by the City Council.

1101.07 INTERPRETATION AND CONFLICTS (REVISED VARIOUS SECTIONS)

- (a) **Interpretation of Provisions**
The provisions of this code shall be held to be the minimum requirements, adopted for the promotion of the public health, safety, comfort, convenience, prosperity, and general welfare.
- (b) **Conflict with Other Public Laws, Ordinances, Regulations, or Permits**
This code is intended to complement other City, State, and Federal regulations that affect land use and the division of land. This code is not intended to revoke or repeal any other public law, ordinance, regulation, or permit. However, where conditions, standards, or requirements imposed by any provision of this code are more restrictive than comparable standards imposed by any other public law, ordinance, or regulation, the provisions of this code shall govern.
- (c) **Repeal of Conflicting Ordinance**
All ordinances or parts of ordinances in conflict with this code or inconsistent with the provisions of this code are hereby repealed to the extent necessary to give this code full force and effect.
- (d) **General Rules for Interpretation**
The following rules shall apply for construing or interpreting the terms and provisions of this code.

² The <> symbol is a placeholder for future cross-references.

(1) Meanings and Intent

All provisions, terms, phrases, and expressions contained in this code shall be interpreted in accordance with the general purposes set forth in Section [1101.01](#) and the specific purpose statements set forth throughout this code. When a specific section of this code gives a different meaning than the general definition provided in this chapter, the specific section's meaning and application of the term shall control.

(2) Headings, Illustrations, Tables, and Text

- A)** Graphics, illustrations, and figures are provided for illustrative purposes only and shall not be construed as regulations. Where a conflict may occur between the text and any graphic, illustration, or figure, the text shall control.
- B)** In some instances, cross-references between chapters, sections, and subsections are provided that include the number along with the name of the referenced chapter, section, or subsection. Where a conflict may occur between the given cross-reference number and name, the name shall control.
- C)** A table shall be considered text for the purposes of this code, unless specifically identified as a figure.

(3) Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms like “for example,” “including,” and “such as,” or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

(4) References to Other Regulations or Publications

Whenever reference is made to a code, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such code, statute, regulation, or document, unless otherwise specifically stated.

(5) Technical and Nontechnical Terms

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

(6) Public Officials and Agencies

All public officials, bodies, and agencies to which references are made are those of the City of Trotwood, unless otherwise indicated.

(7) Mandatory and Discretionary Terms

The words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive in nature.

(8) Conjunctions

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

- A)** “And” indicates that all connected items, conditions, provisions, or events apply; and
- B)** “Or” indicates that one or more of the connected items, conditions, provisions, or events apply.

(9) Tenses and Plurals

Words used in the present tense include the future tense. Words used in the singular number include the plural number, and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

(10) Computation of Time

- A)** In computing any period of time prescribed or allowed by this code, the date of the application, act, decision, or event, from which the designated period of time begins, shall not be included. The last date of the period of time to be computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday observed by the City of Trotwood where the City administrative offices are closed for the entire day, in which case the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

- B) When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation (i.e., business days and not calendar days).
- C) When the Trotwood Government Center are closed to the public for the entire day which constitutes the last day of the period of time, then such application, act, decision, or event may be performed on the next succeeding day which is not a Saturday, a Sunday, or a legal holiday observed by the City of Trotwood in which the City administrative offices are closed for the entire day.
- D) If a timeframe does not specify business or calendar days, such timeframe shall be interpreted to be calendar days.

1101.08 RELATIONSHIP WITH THIRD-PARTY PRIVATE AGREEMENTS (NEW)³

- (a) This code is not intended to interfere with or abrogate any third-party private agreements including, but not limited to, easements, covenants, or other legal agreements between third parties. However, where this code proposes a greater restriction or imposes higher standards or requirements than such easement, covenant, or other private third-party agreement, then the provisions of this code shall govern.
- (b) Nothing in this code shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not excuse any failure to comply with this code.
- (c) In no case shall the City be obligated to enforce the provisions of any easements, covenants, or other agreements between private parties, even if the City is a named party in and has been granted the right to enforce the provisions of such agreement.

1101.09 COMPLIANCE WITH OTHER CITY ORDINANCES (NEW)⁴

- (a) Buildings, structures, and uses may be subject to building code, property maintenance, fire prevention, and other ordinances in addition to the requirements of this code. See Part Thirteen and Part Fifteen of the Codified Ordinances of Trotwood for standards and applicability.
- (b) Enforcement and administration of the building code and fire prevention code shall be as established in the applicable part of the Codified Ordinances and not through this planning and zoning code.

1101.10 RESTORATION OF UNSAFE BUILDINGS (NEW)

Nothing in this code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official. See also Chapter 1301 of the Codified Ordinances. Such strengthening and restoration shall not include any work beyond that needed to restore the safety of the structure (e.g., expansions or other alterations outside the scope of safety are not permitted without applicable reviews).

1101.11 BURDEN OF PROOF (NEW)

- (a) The burden of demonstrating that an application, development, structure, or use of land or structures subject to this code complies with applicable review and approval standards rests with, and is the responsibility of, the applicant.
- (b) The burden of proof also rests with, and is the responsibility of, any person claiming that a nonconformity was established legally under a previous amendment of this code.
- (c) The burden of proof is not the responsibility of the City or other parties to demonstrate that the standards have (or have not) been met by the applicant or person responsible for the application, development, use of land or structure, or nonconformity with this code.

³ This new language is intended to clarify that the city is not responsible for enforcing private covenants, including homeowner association restrictions. It is not necessary to include it here as that is a general rule of law, however, many communities like to include this for the purposes of having something to point to when someone asks officials to enforce such regulations.

⁴ Similarly, this provision is not necessary to include here as each of these codes has its own compliance requirements. However, many communities like to have this as a reminder that more than one code applies to new structures.

1101.12 SEVERABILITY (REVISED 1125.10)

- (a) If any court of competent jurisdiction invalidates any provision of this code, then such judgment or ruling shall not affect the validity and continued enforcement of any other provision of this code.
- (b) If any court of competent jurisdiction invalidates the application of any provision of this code to a particular property, structure, or situation, then such judgment or ruling shall not affect the application of that provision to any other property, structure, or situation not specifically included in that judgment or ruling.
- (c) If any court of competent jurisdiction invalidates any condition attached to the approval of a development review application, then such judgment or ruling shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment or ruling.

1101.13 TRANSITIONAL RULES (NEW)⁵

(a) Purpose

The purpose of these transitional rules is to resolve the status of properties with pending applications or recent approvals, and properties with outstanding violations, on the effective date of this code amendment.

(b) Violations Continue

- (1) Any violation that existed at the time this amendment became effective shall continue to be a violation under this code and is subject to penalties and enforcement under [Chapter <>](#) unless the use, development, construction, or other activity complies with the provisions of this code.
- (2) Payment shall be required for any civil penalty assessed under the previous regulations, even if the original violation is no longer considered to be a violation under this code.

(c) Nonconformities Continue

- (1) Any nonconformity that was legally established and that existed at the time this amendment became effective shall continue to be a legal nonconformity under this code as long as the situation that resulted in the nonconforming status under the previous code continues to exist. All such nonconformities shall be controlled by Chapter <>.
- (2) If a legally established nonconformity that existed at the time this amendment became effective becomes conforming because of the adoption of this amendment, then the situation will be considered conforming and shall no longer be subject to the regulations pertaining to nonconformities.
- (3) Any nonconformity that was not legally established in accordance with the provisions of this code shall not be protected and shall be considered a violation of this code.

(d) Processing of Applications Commenced or Approved Under Previous Regulations

(1) Pending Projects

- A) Any complete application that has been submitted or accepted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this code, shall be reviewed in accordance with the provisions of the regulations in effect on the date the application was deemed complete by the City.
- B) If a complete application is not filed within the required application filing deadlines in effect prior to the adoption of this code, the application shall expire, and subsequent applications shall be subject to the requirements of this code.
- C) Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.
- D) An applicant with a pending application may waive review available under prior regulations and request review under the provisions of this code by requesting such waiver, in writing, to the Zoning Administrator.

⁵ This is a new provision that was recommended in the code audit. The purpose is to have language that states how applications, violations, and nonconformities under review at the time the new amendment becomes effective will be handled.

(2) **Approved Projects**

- A) Approved variances, conditional uses, zoning compliance review, or other approved plans or permits that are valid on the effective date of this code shall remain valid until their expiration date, where applicable.
- B) Any building or development for which a permit or certificate was granted prior to the effective date of this code shall be permitted to proceed to construction, even if such building or development does not conform to the provisions of this code, as long as the permit or certificate remains valid.
- C) If the development for which the permit or certificate is issued prior to the effective date of this code fails to comply with the time frames for development established for the permit or certificate, the permit or certificate shall expire, and future development shall be subject to the requirements of this code.

(e) **Vested Rights**

The transitional rule provisions of this section are subject to Ohio's vested rights laws.

CHAPTER 1102: DECISION-MAKING ROLES AND AUTHORITIES

1102.01 PURPOSE (REVISED 1125.01)

The purpose of this chapter is to set forth the powers and duties of the City of Trotwood's various review boards and administrative staff with respect to the administration and enforcement of the provisions of this code.

1102.02 REVIEW AUTHORITY NAMES, REFERENCES, AND DELEGATION

(a) Review Authority Names and References

For the purposes of this code, the formal names of the administration and decision-making authorities identified above may also be referred to by abbreviated names as identified below:

- (1) The City of Trotwood City Council may be hereafter referred to as "City Council" or "Council."
- (2) The City of Trotwood Planning Commission may be hereafter referred to as the "Planning Commission" or "Commission."
- (3) The City of Trotwood Board of Zoning Appeals may be hereafter referred to as the "Board of Zoning Appeals," "Board," or "BZA."
- (4) The City of Trotwood Zoning Administrator may be hereafter referred to as the "Zoning Administrator."

(b) Delegation of Authority⁶

Whenever a provision appears requiring the head of a department or another officer or employee of the City to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate the responsibility to subordinates, unless the terms of the provision specify otherwise.

1102.03 CITY COUNCIL (REVISED 1109.06)

In addition to any other authority granted to the City Council by ordinance, the City Charter, or State law, the City Council shall have the following powers and duties, as they relate to this code:

- (a) Initiate, hear, review, and make decisions related to amendments to the text of this code or the zoning map;
- (b) Hear, review, and make decisions related to Planned Unit Developments;
- (c) Review and accept, where appropriate, any proposed dedication of streets, utilities, and other public improvements required by this code;
- (d) Establish fees for development review procedures, certificates, and permits outlined in this code; and
- (e) Perform any other duties related to the administration and enforcement of this code as authorized by this code, the City Charter, and the ORC.

1102.04 REVIEW BOARDS (NEW)⁷

For the purposes of this code, there shall be review boards established for the administration and enforcement of this code, including the Planning Commission and the BZA.

(a) General Rules and Regulations for All Review Boards

The following shall apply to both the Planning Commission and the BZA:

- (1) The Planning Commission and BZA are established pursuant to Section 7-1 of the City Charter.
- (2) Members of any review board shall be removable, and vacancies filled, in accordance with Section 7-1 of the City Charter.
- (3) Members may be reappointed for additional terms after their terms end if reappointed in the same manner as the initial appointment.

⁶ This provision is important because, in the example of zoning, one person may not be undertaking ever single role in the administration and enforcement. There may be a department head who serves as the Zoning Administrator, who can then delegate some actions to other staff, including enforcement.

⁷ This section summarizes rules that apply to both the Planning Commission and BZA.

- (4) The review boards shall keep a record of their meetings and hearings, which shall be a public record.
- (5) All meetings of the review boards shall be open to the public, except as exempted by law.
- (6) The review boards shall adopt bylaws for the establishment of officers, order of meetings, and other administrative rules of the applicable board.
- (7) Officers of the review boards shall be elected as established in the applicable review board's bylaws.
- (8) The departments, divisions, and agencies of the City shall cooperate with and assist the boards in implementing the purposes for which they are formed.
- (9) Any person, firm or corporation, or any officer, department, board, or agency of the City who has been aggrieved or affected by any decision of any Planning Commission or BZA may appeal the decision to City Council in accordance with Section 7-2 of the City Charter.⁸
- (10) **Alternates⁹**
 - A) The City Council may appoint up to two alternate members to each review board for a term of two years each.
 - B) An alternate member shall take the place of an absent regular member at any meeting of the applicable review board.
 - C) An alternate member shall meet the same appointment criteria as a regular member.
 - D) When attending a meeting on behalf of an absent member, the alternate member may vote on any matter the absent member is authorized and eligible to vote for, provided the member attended all pertinent public meetings or hearings.
 - E) When a vacancy occurs, alternate members do not automatically become full members of the applicable review board. Alternate members shall be appointed by the City Council to replace a full member upon a vacancy.
- (11) **Meetings**
 - A) Each review board shall hold such meetings as it may require for conducting its business.
 - B) The Chair or Vice-Chair, in the Chair's absence, of each board or the Zoning Administrator may cancel a meeting if there is no pending business to be conducted.
 - C) Special meetings may be set by the Chair, Vice-Chair in the Chair's absence, or by a vote of the applicable review board at its regular meeting. City staff may request a special meeting of the board.
- (12) **Quorums and Decisions**
 - A) Any combination of three or more regular or alternate members of the Planning Commission or BZA shall constitute a quorum.
 - B) A motion made on a decision of the Planning Commission or BZA shall carry when at least three members of the applicable review board concur.¹⁰
 - C) General business items that do not include decisions on applications, such as continuance or approval of minutes, shall only require a majority of the quorum to concur.
 - D) A member of a review board shall not be qualified to vote if that member did not attend the public hearing of the applicable case subject to a decision unless they have read or listened to the transcript of the public hearing.
 - E) A member of the review board shall not be qualified to vote if they have a direct or indirect interest in the issue subject to the application or any other conflict of interest.

⁸ This appeals process is embedded in the charter, so we have just included a cross-reference to that section.

⁹ This is new to the City and allows the Mayor/Council to appoint alternate members to boards who can step in for absent members or regular members who have a conflict. This language does not mandate that the City have alternatives, only that they can, and the rules that would apply when there are alternates. This language will be confirmed with the Law Director to ensure that there is no potential conflict with the charter.

¹⁰ POLICY DISCUSSION FOR CITY COUNCIL – Does the City want to allow two people on a board to concur and pass a motion if only the quorum attends (three people) or do you want to require that at least three people (majority of the full board), in all cases, must concur to pass a motion?

(13) Record of Decisions

- A)** Immediately following a review board's recommendation or decision, as applicable, the Zoning Administrator shall provide a preliminary notification of the action to the applicant. Such preliminary notification shall include information on:
 - i)** Any conditions of approval or reasons for denial;
 - ii)** The date and time of the next meeting of the applicable review board when the action will be journalized through the adoption of the meeting minutes; and
 - iii)** Deadlines for, and information about, how the applicant may appeal the action.
- B)** The preliminary notification shall not authorize the applicant to proceed with any development or activity. Any development or activity approved to proceed sha

(b) Organization and Roles of the Planning Commission

(1) Membership and Terms

The terms of all members shall be of such lengths and so arranged so that the term of no more than two members shall expire each year.¹¹

(2) Roles and Powers of the Planning Commission

In addition to the powers and duties set out in Section 7-3 of the City Charter, the Planning Commission shall have the following roles and powers:

- A)** Initiate, review, and make recommendations to City Council for the approval of a comprehensive plan and other plans for the future physical development and improvement of the city, based upon utility, convenience, physical needs, density, and the social welfare and physical well-being of the people;
- B)** Initiate, hear, review, and make recommendations to the City Council related to amendments to the text of this code or the zoning map;
- C)** Hear, review, and make decisions on conditional use applications in the respective zoning district;
- D)** Hear, review, and make recommendations or decisions related to Planned Unit Developments;
- E)** Review and make decisions on the preliminary subdivision plats and final subdivision plats for major subdivisions;
- F)** Review and make decisions on requests for subdivision modifications;
- G)** Hear, review, and make decisions on alternative equivalency review applications;
- H)** Consider, investigate, and report upon any special matter or question coming within the scope of its work as requested by City Council, or the administration; and
- I)** Perform any other duties related to the administration and enforcement of this code as authorized by the character, by this code, by ordinance of the City Council, and/or by the ORC.

(3) Special Provisions for the Planning Commission's Hearings on Conditional Uses (New)¹²

The following shall apply to any public hearing the Planning Commission holds to review a conditional use application:

- A)** The Planning Commission shall make findings and conclusions that support its decision on each conditional use application. The findings and conclusions shall set forth and demonstrate the manner in which the decision is carried out and helps administer and enforce the provisions of this code, including the application of any review criteria for the subject application.
- B)** The Planning Commission shall have the power to subpoena and require the attendance of witnesses, to administer oaths, to compel testimony, and to produce reports, findings, and other evidence pertinent to any issue referred to it for decision.
- C)** Any person may appear and testify at a hearing, either in person or by a duly authorized agent or attorney.

¹¹ Added this to make sure that terms expire in a rotational manner as it is not spelled out in the charter.

¹² Added this language because a conditional use is a quasi-judicial process where witnesses can be sworn in.

- D) The privilege of cross-examination of witnesses shall be accorded to all interested parties or their attorney.

(c) **Organization and Roles of the Board of Zoning Appeals (BZA)**

(1) **Membership and Terms**

The terms of all members shall be of such lengths and so arranged so that the term of no more than two members shall expire each year.

(2) **Roles and Powers of the BZA**¹³

In addition to the powers and duties set out in Section 7-4 of the City Charter, the BZA shall have the following roles and powers to:

- A) Hear, review, and decide on appeals of any administrative decision where it is alleged there is an error in any administrative order, requirement, decision, or determination made by the Zoning Administrator or other staff member authorized to make such decisions or orders, unless another appeals board is established by the Codified Ordinances;¹⁴
- B) Hear, review, and decide on variance requests in accordance with the applicable provisions of this code;
- C) Resolve any disputes with respect to the precise location of a zoning district boundary, using, where applicable, the standards and criteria of Section [1104.03\(b\)](#);
- D) Hear, review, and make decisions on requests for substitution of nonconforming uses in accordance with Section [<>](#);
- E) To permit the completion, restoration, reconstruction, expansion, or extension of a nonconforming use where the enforcement of the regulations pertaining to nonconforming lots or buildings will result in unnecessary hardship (See [Chapter <>](#).); and
- F) Perform any other duties related to the administration and enforcement of this code as authorized by this code or the ORC.

(3) **Special Provisions for BZA Hearings**

- A) The BZA shall make findings and conclusions that support all of its decisions. The findings and conclusions shall set forth and demonstrate the manner in which the decision is carried out and helps administer and enforce the provisions of this code, including the application of any review criteria for the subject application.
- B) The BZA shall have the power to subpoena and require the attendance of witnesses, to administer oaths, to compel testimony, and to produce reports, findings, and other evidence pertinent to any issue referred to it for decision.
- C) Any person may appear and testify at a hearing, either in person or by a duly authorized agent or attorney.
- D) The privilege of cross-examination of witnesses shall be accorded to all interested parties or their attorney.

1102.05 ZONING ADMINISTRATOR (REVISED 1125.02)

(a) **Establishment**

- (1) The position of City of Trotwood Zoning Administrator shall be established to aid in the administration and enforcement of this code. The Zoning Administrator may be provided with the assistance of such other persons as the City Manager may direct.
- (2) The Zoning Administrator shall be subject to the City Manager as an employee of the City, pursuant to the Charter, and subject to the policy of City Council.

¹³ This is a list of roles that are traditionally given to a BZA, but are currently reviewed by the Planning Commission.

¹⁴ This is intended to acknowledge that the building and fire code, as an example, can have an alternative approach or board for appeals of decisions made under those codes.

(b) Roles and Powers of the Zoning Administrator

The Zoning Administrator shall have the following roles and powers to:

- (1) Enforce the provisions of this code. The Zoning Administrator shall have all necessary authority on behalf of the City to administer and enforce the provisions of this code. Such authority shall include the ability to order, in writing, the remedy of any condition found in violation of this code and the ability to bring legal action to ensure compliance with the provisions, including injunction, abatement, or other appropriate action or proceeding. All officials and employees of the City may assist the Zoning Administrator by reporting to the Zoning Administrator any new construction, reconstruction, land uses, or violations that are observed;
- (2) Review and provide comments and reports, as needed, for the various procedures where the Planning Commission, BZA, or City Council reviews an application;
- (3) Review and make administrative decisions on zoning compliance review applications, other administrative permits and certificates established by this code, and administrative waiver applications;
- (4) Review and make decisions on questions of interpretation related to this code;
- (5) Review and make decisions on minor subdivision applications; Accept, review for completeness, and respond to questions regarding review procedure applications established in this code;
- (6) Participate in any pre-application meetings as may be requested by a property owner or potential applicant in accordance with this code;
- (7) Coordinate the City's administrative review of applications required by this code, including rezoning applications, conditional use applications, variances, subdivision plats, etc.;
- (8) Maintain the current and official copies of this code and the official zoning map;
- (9) Refer requests for appeals of decisions to the BZA pursuant to the procedures established in Section [1103.08](#);
- (10) Provide such technical and consultation assistance as may be required by the BZA, the Planning Commission, and the City Council, in the exercise of their duties relating to this code;
- (11) Maintain permanent and current records of all applications and the decisions related to those applications;
- (12) Review, inspect property, and make decisions on compliance with the provisions of this code;
- (13) Investigate complaints and issue citations or other forms of enforcement and penalties for any violations and keep adequate records of all violations;
- (14) Order discontinuance of any illegal work being done;
- (15) Revoke a zoning compliance review approval, or other administrative permit or certificate established by this code that is issued contrary to this code or based on a false statement or misrepresentation on the application;
- (16) Take any other action authorized by this code to ensure compliance with or to prevent violation(s) of this code;
- (17) Undertake any additional work as specified by this code or as directed by the review boards or City Council.

(c) Decisions of the Zoning Administrator

A decision of the Zoning Administrator may be appealed to the BZA in accordance with Section [1103.08](#) unless another appeals board is established by this code.

CHAPTER 1103: REVIEW PROCEDURES

1103.01 PURPOSE

This chapter establishes the various administrative and board-level review procedures used for the administration, interpretation, and enforcement of this code.

1103.02 SUMMARY OF REVIEW PROCEDURES (NEW)

- (a) [Table 1103-1](#) provides a list of all review procedures utilized in the administration and enforcement of this code, the applicable review authority, the type of review hearing or meeting, and the decision-making responsibility of each review authority.
- (b) This table is for reference purposes only, and the sections of text for each review procedure shall prevail in the event of a conflict.

TABLE 1103-1: SUMMARY OF REVIEW PROCEDURES					
Review Procedure	Zoning Administrator	Planning Commission	City Council	BZA	See Section:
Zoning Compliance Review ¹⁵	D				1103.04
Administrative Waiver	D				1103.04(f)
Conditional Use		AH/D			1103.05
Alternative Equivalency Review		PH/D			1103.06
Variance				AH/D	1103.07
Appeals				AH/D	1103.08
Minor Subdivision	D				1103.09
Major Subdivision: Preliminary Plat		PM/D			1103.10
Major Subdivision: Subdivision Modification		PM/D			1103.10(f)
Major Subdivision: Final Plat and Improvement Plans		PM/D			1103.10
Major Subdivision: Acceptance of Improvements			PM/D		1103.10
Code and Text Amendment		PH/R	PH/D		1103.11
Interpretation of the Code	D				1103.12
PUD Preliminary Development Plan and Zoning Map Amendment		PH/R	PH/D		<>
PUD Final Development Plan		PH/D			<>
Abbreviations					
PH = Public Hearing AH = Adjudication Hearing PM = Public Meeting R = Recommendation D = Decisions					

¹⁵ The current code mentions that certain things related to landscaping and parking go to Planning Commission review without setting out a clear site plan review procedure. For the purposes of this draft, we are assuming that everything will be administratively reviewed because there will be clear, objective standards. However, the Planning Commission will still get an opportunity to review site plans for all conditional uses, where there is some discretionary level review. Additionally, this is current called a Zoning Compliance Review, but after recent discussions with the County about how zoning review and building permit review can work together, this will be renamed as a “Zoning Compliance Certificate.”

1103.03 COMMON REVIEW REQUIREMENTS (NEW)¹⁶

The requirements of this section shall apply to all applications and procedures subject to review procedures established in this code, unless otherwise stated.

(a) Authority to File Applications

- (1) Unless otherwise specified in this code, applications for development review procedures defined in this code may be initiated by:
 - A) An owner of the property that is the subject of the application; or
 - B) An agent authorized, in writing, by the owner, which may include a lessee of the property, manager, attorney, or other representative.
- (2) The Planning Commission or City Council may initiate code text and map amendments under this code, with or without written authorization or application from the property owners who may be affected.
- (3) Where multiple properties are subject to one application, then the property owners of record for all lots involved must authorize the application, in writing.

(b) Application Submission Schedule

The schedule for the submission of applications in relation to scheduled meetings and hearings of the review bodies shall be established by the Zoning Administrator and made available to the public.

(c) Application Contents¹⁷

- (1) Applications required under this code shall be submitted to the office of the Zoning Administrator.
- (2) All applications shall be in a form and in such numbers as established by the Zoning Administrator, and made available to the public as part of application forms.
- (3) Applications shall be accompanied by a fee, if required, in accordance with the fee ordinance adopted by the City Council pursuant to Section [1103.03\(f\): Fees](#).

(4) Complete Application Determination¹⁸

- A) The Zoning Administrator shall only initiate the review and processing of applications submitted under this code if such application is determined to be complete.
- B) An application shall be determined to be complete if the applicant has submitted all of the forms, maps, and other submittal requirements required for the specified application. The Zoning Administrator may waive the submission of requirements if such requirements are not needed due to the type or scale of development, or are unnecessary for determining compliance with this code. Such waiver shall be noted as part of the record.
- C) The Zoning Administrator shall make a determination of application completeness within five business days of the application filing.
- D) If the application is determined to be complete, the application shall then be processed according to the procedures and timelines set forth in this code.
- E) If an application is determined to be incomplete, the Zoning Administrator shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected and the Zoning Administrator determines that the application is complete.
- F) The City shall not be required to process an incomplete application, forward an incomplete application to any decision-making body, or be subject to any required timelines of review for incomplete applications.

¹⁶ This is a new set of provisions that apply to all applications, unless otherwise stated. It is intended to prevent the code from having to repeat language under each procedure.

¹⁷ As suggested in the code audit, the list of submission requirements will be removed from the codified language and managed administratively. The fees should be adopted as a separate ordinance by City Council so that a code text amendment is not requirement any time the city wants to change the fees.

¹⁸ This is a new provision that would prevent someone from being subject to board-level review without having first submitted all the necessary information required for review, with some flexibility given to the Zoning Administrator.

- G)** If the applicant fails to correct all deficiencies and submit a complete application within 30 days of the notice provided by the Zoning Administrator, the incomplete application shall not be reviewed, the applicant's original filing fee shall be forfeited, and the incomplete application shall be deemed withdrawn. The Zoning Administrator may grant one 30-day extension if just cause is shown, upon written request by the applicant.
- H)** No reconsideration of an incomplete application shall occur after expiration of the 30-day period, and an applicant in need of further development approval under the code shall, pursuant to all of the original requirements of this chapter, submit a new application and submit a new filing fee.
- I)** If any false or misleading information is submitted or supplied by an applicant on an application, that application shall be deemed incomplete.

(d) Simultaneous Processing of Applications

- (1)** Whenever two or more forms of review and approval are required by review boards under this code, the Zoning Administrator shall determine the order and timing of review.
- (2)** The Zoning Administrator may authorize a simultaneous review of applications, so long as all applicable requirements are satisfied for all applications.

(e) Pre-Application Conferences or Meetings

- (1)** Prior to filing an application, an applicant may request a meeting with the Zoning Administrator for a pre-application conference to discuss a proposed application or project.
- (2)** An applicant may request a pre-application meeting with the Planning Commission for a zoning map amendment or Planned Unit. . The applicant may request such a meeting by submitting a written request to the Zoning Administrator for placement on the agenda of the next regularly scheduled meeting or any special meeting that may be called by the Planning Commission.
- (3)** Pre-applications meetings with City Council or the BZA are not permitted.
- (4)** The purpose of the pre-application conference or meeting shall be to discuss the proposed application or project, review submittal requirements, and discuss compliance with the provisions of this code and the comprehensive plan prior to the submission of an application.
- (5)** No action can be taken by the administrative staff and/or any review boards until the applicant submits an actual application and/or plan to the City pursuant to the laws and policies of the City. Therefore, all discussions that occur between the applicant and/or applicant's representative and staff, and/or City review boards, that occur prior to the date the applicant submits an actual application and/or plan including, but not limited to, any informal meetings with City staff, review boards, any pre-application conferences or meetings, are not binding on the City and do not constitute official assurances or representations by the City or its officials regarding any aspects of the plan or application discussed.

(f) Fees

- (1)** Any application for a review procedure under this code shall be accompanied by such fee as shall be specified from time to time by ordinance of the City Council. There shall be no fee, however, in the case of applications filed by the Mayor, City Council, or any of the review boards.
- (2)** The fees shall be in addition to any other fees that may be imposed by the City, State, Montgomery County, or other agency having jurisdiction.
- (3)** Such fees are adopted to cover the cost to the City for investigations, legal advertising, postage, and other expenses resulting from the administration of planning and zoning activities.
- (4)** Unless otherwise identified in the fee schedule adopted by the City Council, no application shall be processed or determined to be complete until the established fee has been paid.
- (5)** If the City determines that the costs on a particular application will exceed the filing fee as established by City Council as a result of preparation of legal descriptions, maps, studies, or other required information, or as a result of the need for professional expert review, study, or testimony, the Zoning Administrator is authorized to collect such additional costs from the applicant.
- (6)** Application fees are not refundable except where the Zoning Administrator determines that an application was accepted in error, or the fee paid exceeds the amount due, in which case the amount of the overpayment will be refunded to the applicant.

(g) General Provisions for Attendance and Decisions

- (1)** Whenever a provision of this code allows for or requires attendance at a meeting or hearing by the applicant, the applicant may attend in person, may have an authorized representative attend in their place, or may provide the Zoning Administrator written comments in advance of the meeting or hearing, unless limited by state law.
- (2)** Whenever a provision in this code requires a decision to be provided in writing, or communication in writing, then such provision shall be interpreted to allow for such communication by e-mail unless otherwise stated, required by law, or requested by the applicant.
- (3)** Attendance may be in-person or via remote video access, where authorized by the City and State law.

(h) Public Notification for Public Meetings

For all public meetings required by this code, the City shall comply with this code and all applicable State notice requirements.

(i) Public Notification for Public Hearings

- (1)** Applications for development approval that require public hearings, including all adjudication hearings, shall comply with all applicable State requirements and the public meeting notice requirements established in Section [1103.03\(h\)](#), above.
- (2)** The Zoning Administrator shall be responsible for providing the required notice as specified in [Table 1103-2](#).
- (3) Content**
Notices for public hearings, whether by publication or mail (written notice), shall, at a minimum:
 - A)** Provide the name of the applicant or the applicant's agent;
 - B)** Indicate the date, time, and place of the public hearing;
 - C)** Describe the land involved by street address, Montgomery County parcel identification number (as applicable), or by legal description;
 - D)** Describe the nature, scope, and purpose of the application or proposal; and
 - E)** Any other information required by state law.

(4) Notice Requirements

Unless otherwise required by State law, published and mailed notice for public hearings shall be provided as defined in [Table 1103-2](#).

TABLE 1103-2: NOTICE REQUIREMENTS		
Review Procedure	Published Notice	Written (Mailed) Notice
Code Text Amendment	Published notice required a minimum of 10 calendar days before the scheduled public hearing of the Planning Commission and before the scheduled public hearing of the City Council.	No written notice is required for a text amendment.
Zoning Map Amendment [1]		Written notice shall be sent to all applicants and all owners of property located within 300 feet of the outermost boundary of properties subject to the application. The notice shall be required a minimum of 10 calendar days before the scheduled public hearing of the Planning Commission and before the scheduled public hearing of the City Council.
PUD Preliminary Development Plan and Zoning Map Amendment		Written notice shall not be required where the application involves more than 10 individual lots.
Conditional Use, PUD Final Development Plan, Alternative Equivalency Review, Appeals, and Variances	Published notice required a minimum of 10 calendar days before the scheduled public hearing of the Planning Commission or BZA, as applicable	Written notice shall be sent to all applicants and all owners of property located within 300 feet of the outermost boundary of the properties subject to the application. The notice shall be required a minimum of 10 calendar days prior to the scheduled public hearing.
NOTE: [1] For zoning map amendments, a sign shall be posted on the property pursuant to Section 1103.03(i)(7) .		

(5) Published Notice

- A)** Published notice shall be provided in accordance with State law. The notice may be provided in a newspaper of general circulation, posting at three public places in accordance with the City Charter, or by electronic media, including, but not limited to, posting online at the City's website, as authorized by State law.
- B)** The content and form of the published notice shall be consistent with the requirements of this section and State law.

(6) Written (Mailed) Notice

- A)** Written notification of property owners shall apply only to the initial presentation of the application for the public hearing in front of the applicable review board.
- B)** Written notice shall be postmarked no later than the number of days specified in [Table 1103-2](#) prior to the hearing date at which the item will be considered.

(7) Posted Sign Notice

- A)** An applicant for a zoning map amendment shall be required to post a sign along each street frontage of the subject property a minimum of 10 calendar days¹⁹ before the Planning Commission hearing until after the City Council makes a decision on the application. If multiple properties are involved in the amendment, then one sign shall be posted centrally along each street frontage of the combined amendment area.
- B)** The sign may be borrowed from the Planning Department at the Trotwood Government Center
- C)** The minimum information to be provided on the sign shall be "An application has been filed for rezoning of this property." The sign shall also include contact information where a person may contact the City for information on the application. The message shall be legible from the street if not using the City's sign.

¹⁹ The current requirement does not include any timing provisions, so we have included a requirement that is reflective of the general notice requirements.

- D) For zoning map amendments that involve more than 10 individual lots, posting of signs shall not be required.

(8) Constructive Notice

- A) Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall direct the department having responsibility for notification to make a formal finding as to whether there was substantial compliance with the notice requirements of this code, and such finding shall be made available to the decision-making body prior to final action on the request.
- B) When the records of the City document the publication, mailing, and/or posting of notices as required by this chapter, it shall be presumed that notice of a public hearing was given as required by this section.

(j) Conduct of Public Hearing

(1) Rights of All Persons at Public Hearings

Any person may appear at a public hearing and submit information or evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, and if appearing on behalf of a person or organization, state the name of the person or organization being represented.

(2) Continuance of a Public Hearing or Deferral of Application Review

- A) An applicant may request that a review board's consideration of an application at a public hearing be deferred by submitting a written request for deferral to the Zoning Administrator prior to the publication of notice, as may be required by this code. The Zoning Administrator may grant such requests, in which case, the application will be considered at the next regularly scheduled meeting.
- B) A request for deferral of consideration of an application received by the Zoning Administrator after publication of notice of the public hearing, as required by this code, shall be considered as a request for a continuance of the public hearing, and may only be granted by the applicable review board.
- C) The review board conducting the public hearing may, on its own motion or at the request of the applicant, continue the public hearing to a fixed date, time, and place, provided the date, time, and place is publicly announced at the time of continuance. No additional written or published notice shall be required.

(k) Withdrawal of Application

- (1) Any request for withdrawal of an application shall be either submitted in writing to the Zoning Administrator or made through a written request by the applicant prior to action by the review or decision-making body.
- (2) After request for withdrawal has been received, the Zoning Administrator will then withdraw the application from any agenda and no further action will be taken. Any future request for action will require a new application and fee in accordance with this code.

(l) Examination and Copying of Application and Other Documents

Documents and/or records related to applications may be inspected and/or copied as provided for by State law.

(m) Effect of any Approvals

- (1) The issuance of any approval or permit under this code shall authorize only the particular development, alteration, construction, or use approved in the subject application.
- (2) All approvals shall run with the land or use and shall not be affected by change in ownership provided there is no change in use and all conditions of approval continue to be met.

(n) Modifications or Amendments of Approved Applications

- (1) For any review procedure, the Zoning Administrator is authorized to allow minor changes related to design of an approved application where the change is insignificant and has minimal impact to the overall design of the development or subdivision, does not increase density, or is necessary to address minor technical issues. This shall not give the Zoning Administrator the authority to vary the requirements of this code or any conditions of approval.
- (2) Where the Zoning Administrator determines that the proposed modification, amendment, or change is not minor, as stated above, the applicant shall be required to resubmit an application and payment of additional fees for the application to be reviewed in accordance with the procedures and standards established for its original approval.

(o) Subsequent Development

- (1) Development authorized by any approval under this section and this code shall not be carried out until the applicant has secured all other approvals required by this code or any other applicable provisions of the City's Codified Ordinances.
- (2) The granting of any approval or permit shall not guarantee the approval of any other required permit or application.
- (3) The City shall not be responsible for reviewing the application for compliance with any permits, certificates, or other approvals that may be required by Montgomery County, the State, or other agencies having jurisdiction.

(p) Reapplication after Denial of an Application²⁰

If an application is denied, the applicant may:

- (1) Appeal the decision in accordance with the applicable appeals procedure established for the procedure in this code, or as granted by State Law; or
- (2) Make changes to the application that will fully address all issues and findings identified for the denial and resubmit a new application, including any required fees. Any such resubmission shall contain evidence that shows how the new application has substantially changed to address each of the findings of the original decision. The Zoning Administrator shall have the authority to determine if the evidence submitted substantially changes the application to address all issues as part of the complete application determination in [1103.03\(c\)\(4\)](#). If it does not, the Zoning Administrator shall return the application, with reasons for their determination in writing, along with any submitted fees;
- (3) Submit the same application after a 24-month waiting period; or
- (4) Submit a new application if the proposed use and design of the site will be entirely different than the denied application.

(q) Records

The City shall maintain permanent and current records of all applications in accordance with the City's record retention policy and state law.

1103.04 ZONING COMPLIANCE REVIEW (REVISED 1135.06)

(a) Purpose

The purpose of this section is to establish how zoning compliance is reviewed by the City to ensure that proposed development and uses comply with the standards of this code, and to otherwise protect the public health, safety, and general welfare of the citizens of Trotwood.

²⁰ This is a revision of a provision found in a couple of existing procedures that clarifies that a person cannot just continually apply with the same application if they are denied. They either have to make changes or wait two years, which is a little longer than the existing one-year deadline. This is becoming more common and is supported by case law.

(b) General Provisions

- (1) Where a building permit is required in Part Thirteen of the Codified Ordinances for any work subject to the provisions of this code, zoning compliance review shall be required and may take place prior to or simultaneously with the building permit review process. The building permit review procedure and timeframes established in Part Thirteen of the Codified Ordinances shall apply²¹. However, the timeframe for any zoning compliance review or building permit review and decisions shall not commence until the applicant has received all other necessary zoning approvals in accordance with this code (e.g., zoning map amendments, conditional use review, variances, etc.). For these activities, no work shall commence without both an approved building permit that includes zoning compliance review approval.
- (2) Where a building permit is not required by Part Thirteen of the Codified Ordinances, any work subject to the requirements of this section shall still be required to receive zoning compliance in order to proceed, unless expressly exempted from zoning compliance review.
- (3) The review of zoning compliance shall both take place in accordance with the procedure set forth in this section.
- (4) For the purposes of this code, zoning compliance review shall be an administrative review that may be applied to permits or certificates of other names beyond zoning compliance review (e.g., sign permits, temporary use permits, fence permits, etc.) if so stated in this code or on the application for the permit or certificate. In such cases, the procedure of Section [1103.04\(d\)](#), below, shall still apply, including the applicability of administrative waiver requests.

(c) Applicability

- (1) No building or other structure shall be erected, moved, structurally altered, or added to, in whole or in part, nor shall any building, structure, or land be used or changed in use without zoning compliance review.
- (2) A change in tenancy of any nonresidential building shall require zoning compliance review, however, a change in tenancy of a residential dwelling unit shall be exempt from this zoning compliance review requirement unless such change in tenancy changes the classification of the use.
- (3) Zoning compliance review may be required for the establishment of certain temporary or accessory uses as established in [Chapter <>](#).
- (4) Zoning compliance review shall be required for any changes to any site element, vehicular use area, landscaping, or other improvements to land as may be established under the applicability sections of individual sections or chapters in this code.
- (5) The establishment of a use of vacant land or a vacant building shall require zoning compliance review.
- (6) Changes in a building or structure's appearance that is regulated by this code shall require zoning compliance review unless the change is a replacement of the same-for-same materials and colors, etc.
- (7) Unless otherwise specifically exempted in Chapter <>, signs shall require zoning compliance review.
- (8) Zoning compliance review shall be granted only in conformity with the provisions of this code unless the application is subject to an approval by the Planning Commission or BZA providing for additional standards, conditions, or modifications, in which case, the form of zoning compliance review shall only be issued in conformity with the provisions of those approvals, as applicable.
- (9) Failure to obtain zoning compliance review shall be a violation of this code subject to the provisions of [Chapter <>](#).

(d) Zoning Compliance Review

Zoning compliance review shall be as established in this section.

(1) Step 1 – Application

- A) The applicant shall submit an application in accordance with Section [1103.03: Common Review Requirements \(New\)](#), and with the provisions of this section.

²¹ This is a reference to state mandated building permit timeframes of 30 days, that will not start if other approvals (conditional use, variance, etc.) are not approved. Otherwise, the administrative review of zoning compliance should work out with the building permit timelines.

(2) Step 2 – Zoning Administrator Review and Decision

- A)** The Zoning Administrator may distribute the application to other staff members and other City departments to solicit comment on the subject application.
- B)** Within 30 days after the application is determined to be complete, or an extended timeframe approved by the applicant, the Zoning Administrator shall make a decision on the whether the application demonstrates compliance with this code. In making its decision, the Zoning Administrator may approve or deny the application. The Zoning Administrator may also approve with modifications or supplementary conditions necessary to ensure the proposed activity will be in full compliance with this code.
- C)** The above 30-day timeframe shall not begin until the applicant has received all other necessary zoning approvals in accordance with this code (e.g., zoning map amendments, conditional use review, variances, etc.) and made a formal application for zoning compliance review.
- D)** Prior to making a decision, the Zoning Administrator shall have the authority to provide comments to the applicant regarding necessary revisions to bring the application into full compliance.
- E)** If the Zoning Administrator fails to act within 30 days from the date the application is determined to be complete, or an extended period as may be agreed upon by the Zoning Administrator and applicant, then the application shall be considered denied.
- F)** Where revisions are necessary for approval, the application shall not be deemed formally approved until the applicant makes all of the appropriate changes and submits all necessary revised forms, maps, and documents to the Zoning Administrator.
- G)** When the Zoning Administrator denies an application, the Zoning Administrator shall inform the applicant of the reason for the denial, including the regulations which would be violated by the proposed use or development.

H) Public Improvements Required²²

If the installation of public improvements is required, the following requirements shall apply regardless if the development is part of a subdivision application or not:

- i)** No zoning compliance review shall be approved until an agreement is provided to the City to construct the required improvements.
- ii)** The applicant shall be required to provide a financial guarantee (See Section [6.04](#).) in the amount of the estimated cost of the required public improvements as determined by the City Engineer.
- iii)** The agreement and the financial guarantee shall provide for completion of all work within a time specified to be determined by the City Engineer or before occupancy is allowed in any structure, whichever shall occur first.
- iv)** The approval of the installation of public improvements as required by this code shall not obligate the City to accept improvements for maintenance, repair or operation. Acceptance shall be subject to local or state regulations where applicable, concerning the acceptance of each type of improvement.
- v)** Upon authorization to proceed following approval of the required zoning compliance review, the applicant may proceed with the approved work.

(3) Step 3 – Zoning Compliance Review Sign-Off (New)

- A)** As part of the approval of a zoning compliance review, the Zoning Administrator may require an applicant obtain a final zoning sign-off by the Zoning Administrator, before occupancy. This decision is based on the scale of the project, adjacency to lot lines, and other factors that can help ensure compliance with approved plans.

²² The city does not have this provision now, but in some cases, public improvements have to be made without a subdivision process, so this step points out that you still need to go through the improvement plan review process.

- B) Where a sign-off is required, the applicant or their representative shall contact the Zoning Administrator to set up a time for a final inspection to confirm that construction and occupancy will be as approved in any zoning approvals (e.g., conditional uses, variances, zoning compliance review, etc.).
- C) The review may take place prior to or during the final building inspection.

(e) Review Criteria for Zoning Compliance Review

In order to authorize any activity to proceed, the Zoning Administrator shall determine the following:

- (1) The application complies with all applicable provisions of this code and the applicable zoning district; and
- (2) The application complies with all approved plans, conditions, or other development approvals issued pursuant to the rules of this code (e.g., variances, conditional uses, etc.).

(f) Administrative Waiver Requests²³

(1) Applicability

- A) The Zoning Administrator may grant administrative waivers for any area or dimensional regulation that does not exceed 10 percent of the applicable minimum or maximum regulation. Area and dimensional regulations include, but are not limited to, minimum front, side, and rear yard setbacks; maximum height of structures; maximum sign height; maximum sign area, etc.
- B) An administrative waiver for a minimum lot area or lot width requirement is prohibited and shall be subject to a variance review by the BZA in accordance with Section [1103.07](#).
- C) The applicant shall be required to apply for a variance for any waiver request that exceeds 10 percent or other variations from the code that do not qualify for administrative waivers.

(2) Administrative Waiver Review Procedure and Decision

- A) Administrative waivers shall be reviewed as part of the applicable zoning compliance review.
- B) In making a decision on the administrative waiver, the Zoning Administrator shall approve or deny the application. The Zoning Administrator shall also have the authority to forward the application to the BZA for a variance review if it is unclear that the application meets the review criteria established in this section. In such cases, the applicant shall be required to submit a variance application and related application fee and shall be subject to Section [1103.07](#).
- C) In approving an administrative waiver, the Zoning Administrator may impose conditions on the approval, the proposed use, and the premises to be developed or used pursuant to such approval as they determine are required to ensure compliance with the standards of this section and the purposes of this code. Any conditions established by the Zoning Administrator shall relate directly to the requested administrative waiver.

(3) Review Criteria for Administrative Waivers

Decisions on an administrative waiver shall be based on consideration of the same review criteria as an area and dimensional variance in Section [1103.07\(d\)\(1\)](#).

(g) Time Limits

- (1) Where a building permit is required for the subject activity, the activity shall be subject to the time limits established for the building permit. If the building permit is revoked or stayed, so shall any related activity authorized by the approved zoning compliance review. If no time limit is established, then the proposed use or activity shall commence within two years of the approval date, or the zoning compliance review shall be considered voided.
- (2) Where a certificate of zoning compliance is required, the use, activity, or structure shall within one year of the date of approval or the certificate of zoning compliance shall be voided.

²³ This is a new provision suggested in the code audit that would give the Zoning Administrator, or their designee, the ability to vary or waive some dimensional regulations if the request is very minor. We have suggested 10%, which would be the equivalent of 0.5 feet (6 inches) on a five-foot setback, as an example. The current code does provide some of this flexibility, but the range and language is extensive, so this will simplify the allowance and still connect it to the variance review criteria.

- (3) Time limits for permitted temporary uses and structures that do not require a building permit shall be as authorized in Section <>. Any authorization to proceed with a temporary use that does not require a building permit shall include the approved start and end dates for the proposed temporary use.
- (4) Upon written request, one extension of three months may be granted by the Zoning Administrator if the applicant can show good cause for a delay.
- (5) The Zoning Administrator shall notify the applicant of the revocation of any forms of zoning compliance review, including notice that further work as described in the canceled authorization shall not proceed unless and until a new zoning compliance review approval has been obtained or extension granted.
- (6) Upon voiding or revocation of any form of zoning compliance review, a new application, including all applicable fees, shall be required before a new zoning compliance review application will be reviewed.
- (7) The above time limits shall not apply if alternative time limits that have been approved by the Zoning Administrator, Planning Commission or BZA, in accordance with the applicable review procedure.

(h) Revoking an Approved Form of Zoning Compliance Review

Any approved zoning compliance review shall be revocable by the Zoning Administrator if among other things, the actual development activity does not conform to the terms of the application and approval granted thereon. In the event of the revocation of the zoning compliance review, an appeal may be taken to the BZA in accordance with Section [1103.08](#).

(i) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the Zoning Administrator shall have the right to appeal the decision the BZA in accordance with Section [1103.08](#).

1103.05 CONDITIONAL USES (REVISED CHAPTER 1133)

(a) Purpose

The purpose of a conditional use procedure is to allow consideration for certain uses that, due to their unique and special nature relative to location, design, size, operations, circulation, and general impact on the community, require evaluation on a case-by-case basis.

(b) Applicability

- (1) This section shall apply to all applications for the establishment of a new conditional use.
- (2) This section shall also apply to any:
 - A) Proposed change, modification, enlargement, or alteration of an approved conditional use, or the site development conditions, or operations of an approved conditional use; or
 - B) Proposed change, modification, enlargement, or alteration of a use that was approved as a special exception before the effective date of this code, or the site development conditions, or operations of such previously approved special exception,
- (3) Where the Zoning Administrator determines that a proposed alteration or modification of a previously approved conditional use or special exception is technical and minor in nature, and there will be no substantive change or impact, then such modification or alteration may be reviewed as part of zoning compliance review.

(c) Existing Used Deemed a Conditional Use²⁴

Any lawfully existing use that, at the time of its establishment, was not classified as a conditional use on the effective date of this code, but which now is listed as a conditional use in the district in which it is located, shall be deemed without further action to be an approved conditional use.

(d) Review Procedure

The review procedure for all conditional uses shall be as follows:

²⁴ Because we may be identifying certain uses as a conditional use in the new code that are not in the existing code, this will ensure that those uses that exist prior to the new code shall be considered approved and do not have to seek an approval.

(1) Step 1 – Pre-Application Meeting (Optional)

An applicant may request to have a pre-application meeting with the Zoning Administrator to informally discuss the application and any concept plans. Such meeting shall be subject to Section [1103.03\(e\)](#). Pre-application meetings with the Planning Commission are prohibited for conditional uses.

(2) Step 2 – Application

The applicant shall submit an application in accordance with [1103.03: Common Review Requirements \(New\)](#), and with the provisions of this section.

(3) Step 3 – Administrative Staff Review

- A) Upon determination that a conditional use application is complete, the Zoning Administrator shall forward the application to the Planning Commission and may distribute the application to other departments or agencies for review and comment.
- B) The Zoning Administrator may consolidate any comments from the public received in advance of the hearing and comments from any City departments or other agencies having jurisdiction into a report for the Planning Commission to review as part of Step 3.

(4) Step 4 – Planning Commission Review and Decision²⁵

- A) The Planning Commission shall hold a public hearing within 45 days of the filing of a conditional use application being determined complete, provided adequate notification is provided pursuant to Section [1103.03\(i\)](#).
- B) In reviewing the application, the Planning Commission shall, at a minimum, consider the review criteria of this section. Conditional uses may also be subject to use-specific criteria as established in Chapter <>.
- C) The Planning Commission may request that the applicant supply additional information that the Planning Commission deems necessary to review and evaluate the application.
- D) Within 60 days of the close of the public hearing, or an extended timeframe approved by the applicant, the Planning Commission shall render a decision. In making its decision, the Planning Commission may approve, approve with modifications or supplementary conditions, or deny the application.
- E) In making its decision, the Planning Commission shall make specific findings, based directly on the particular evidence presented. The findings shall state that the reasons set forth in the application and as presented by the applicant during the public hearing to justify either:
 - i. Approval of the application;
 - ii. Approval with modifications or supplementary conditions; or
 - iii. Denial of the application.
- F) If the Planning Commission fails to make a decision within the established timeframe, or an extended timeframe approved by the applicant, the application shall be deemed denied.
- G) Following the decision, the Zoning Administrator shall notify the applicant of the Planning Commission's preliminary decision with notice that the decision does not become final (journalized) until the Planning Commission approves the minutes of the meeting at which the decision was made; typically, at the next regularly scheduled meeting. The applicant shall not be authorized to proceed with a zoning compliance review application until the journalization of the decision, at which point the decision will become effective immediately.²⁶
- H) In approving a conditional use application, the Planning Commission may impose conditions on the approval, the proposed use, and the premises to be developed or used pursuant to such approval as it determines are required to ensure compliance with the standards of this section and the purposes of this code. Any conditions established by the Planning Commission shall relate directly to the requested conditional use.

²⁵ Per the code audit, the Planning Commission will now be taking on review of conditional uses instead of the BZA.

²⁶ Because the City Charter states that an applicant has 10 days to appeal the decision following journalization, this provision was added to provide adequate notice of when the decision will be journalized, hence starting the appeals deadline.

- l) Any violation of the conditions of approval shall be a violation of this code, subject to the enforcement and penalties of Chapter <>.

(5) Step 5 – Zoning Compliance Review

Following journalization of the Planning Commission's decision, the applicant may proceed with applying for zoning compliance review in accordance with Section <>.

(e) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission shall have the right to appeal the decision to the City Council in accordance with Section 7-2 of the City Charter. Such appeal must be filed with the Clerk of Council within 10 days of the journalization of the decision. See Section [1103.05\(d\)\(4\)](#).

(f) Conditional Use Review Criteria²⁷

Decisions on a conditional use application shall be based on consideration of the following review criteria. All conditional use applications shall be subject to review under the criteria of this section, as applicable, and may also be subject to additional use-specific standards, as established in this code.

- (1) The proposed conditional use is established as an allowed conditional use in the applicable zoning district;
- (2) The proposed use complies with any lot, site, and use-specific standards as may be established for the use established in this code and any applicable zoning district standards;
- (3) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, convenience, comfort, prosperity or general welfare;
- (4) The proposed use will comply with all applicable development standards unless an alternative equivalency review or variance is approved in accordance with this code;
- (5) The proposed use will be harmonious with the existing or intended character of the general vicinity, and such use will not change the essential character of the same area;
- (6) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
- (7) Adequate public facilities and services such as highways, street, 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 will be or are being provided; and
- (8) Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion on the surrounding public streets, and adequate consideration has been given to the proximity of access drives to street intersections relative to the anticipated volume of traffic.

(g) Time Limit

- (1) A conditional use approval shall be deemed to authorize only one particular conditional use and said permit shall automatically expire if, for any reason, the conditional use shall cease for more than six months.²⁸
- (2) The applicant shall submit a completed application for zoning compliance review and start work within one year of the date a conditional use was approved or the approval shall expire.²⁹
- (3) Upon expiration of a conditional use approval, a new application, including all applicable fees, shall be required before a conditional use application will be reviewed.
- (4) Upon written request, one extension of one year may be granted by the Zoning Administrator if the applicant can show good cause for a delay.
- (5) As part of the conditional use approval, the Planning Commission may authorize alternative time limits for the zoning compliance review based on the scale of the proposed development.

²⁷ These review criteria are a slight revision of the existing general criteria in the existing Section 133.03.

²⁸ This is a new provision that would void an approval if the use ceases to operate for more than six months.

²⁹ The city allows a special exception approval to extend up to two years following the abandonment of the use. It has been suggested that this be reduced to one year. They can always come back and submit a new application.

(h) Revocation of a Conditional Use Approval

The breach of any condition, safeguard, or requirement shall automatically invalidate the conditional use approval, and shall constitute a violation of this code. Such violation shall be punishable as specified in Chapter <>.

(i) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission shall have the right to appeal the decision to the City Council in accordance with Section 7-2 of the City Charter. Such appeal must be filed with the Clerk of Council within 10 days of the journalization of the decision. See Section [1103.05\(d\)\(4\)](#).

1103.06 ALTERNATIVE EQUIVALENCY REVIEW (NEW)³⁰

(a) Purpose

The alternative equivalency review is a procedure that allows applicants to propose a unique design option as an alternative to a development standard established in this code, provided it meets or exceeds the intent of the design-related provisions of this code. It is not a variance, waiver, or weakening of regulations. Rather, this procedure permits a site-specific plan that is equal to or better than the strict application of a design standard specified in this code. An alternative equivalency review approval shall apply only to the specific site for which it is requested and does not establish a precedent for assured approval of other requests.

(b) Applicability

The alternative equivalency review procedure shall be available only for the following sections of this code:

- (1) Section [1108.03: Outdoor Lighting](#);
- (2) [Chapter 1109: Architectural Standards](#);
- (3) [Chapter 1110: Landscaping and Tree Preservation](#); and
- (4) [Chapter 1111: Parking, Access, and Connectivity](#).

(c) Review Timing

An alternative equivalency review shall be made prior to zoning compliance review.

(d) Alternative Equivalency Review Procedure

The review procedure for any alternative equivalency review application shall be as follows:

(1) Step 1 – Application

The applicant shall submit an application in accordance with [1103.03: Common Review Requirements \(New\)](#), and with the provisions of this section.

(2) Step 2 – Administrative Staff Review

- A) Upon determination that an alternative equivalency review application is complete, the Zoning Administrator shall distribute the application to all appropriate City departments and professional consultants for review and comment. Any comments or expert opinions shall be returned to the Zoning Administrator for transmission to the Planning Commission.
- B) The Zoning Administrator shall distribute the application and any reports to the applicable board prior to the hearing where the application is to be reviewed.

(3) Step 3 – Planning Commission Review and Decision

- A) Within 45 days after the application is determined to be complete, or an extended timeframe approved by the applicant, the Planning Commission, shall review the application at a public hearing.
- B) Notification of the public hearing shall be provided in accordance with Section [1103.03\(i\)](#).

³⁰ This is a new procedure that we described in the code audit whereby the Planning Commission may review applications where someone wants to propose an idea that would meet or exceed the actual standard (not reduce the standard as is what a variance is for).

- C) In reviewing the application, the Planning Commission shall, at a minimum, consider the reports and opinions transmitted by the Zoning Administrator and the review criteria of this section.
- D) The Planning Commission shall make a decision on the application. In making its decision, the Planning Commission may approve, approve with modifications or supplementary conditions, or deny the application.
- E) If the Planning Commission fails to act within 45 days after close of the public hearing, or an extended period as may be agreed upon by the applicable board, and applicant, then the application shall be considered denied.
- F) If approved, any zoning compliance review application, conditional use application, or other related applications shall demonstrate compliance with the alternative equivalency review approval.
- G) Following the decision, the Zoning Administrator shall notify the applicant of the Planning Commission's preliminary decision with notice that the decision does not become final (journalized) until the Planning Commission approves the minutes of the meeting at which the decision was made; typically, at the next regularly scheduled meeting. The applicant shall not be authorized to proceed with a zoning compliance review application until the journalization of the decision, at which point the decision will become effective immediately.

(4) Step 4 – Zoning Compliance Review

Following journalization of the Planning Commission's decision, the applicant may proceed with applying for zoning compliance review in accordance with Section <>.

(e) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission shall have the right to appeal the decision to the City Council in accordance with Section 7-2 of the City Charter. Such appeal must be filed with the Clerk of Council within 10 days of the journalization of the decision. See Section [1103.06\(d\)\(3\)](#).

(f) Review Criteria

Decisions on an alternative equivalency review application shall be based on consideration of the following criteria:

- (1) That the proposed alternative achieves the intent of the subject design or development standard to the same or better degree than the subject standard;
- (2) That the proposed alternative achieves the goals and policies of the Comprehensive Plan to the same or better degree than the subject standard;
- (3) That the proposed alternative results in benefits to the community that are equivalent to or better than compliance with the subject standard; and
- (4) That the proposed alternative imposes no greater impacts on adjacent properties than would occur through compliance with the specific requirements of this code.

(g) Conditions

The Planning Commission may impose conditions on an approval for an alternative equivalency review, provided such conditions are related to ensuring the performance of the alternative equivalency review to meet or exceed the subject standard. Such conditions may include required timeframes, amendments or revisions to the proposal, or the ability to revoke an approval for an alternative equivalency review.

(h) Decisions

Any decision on an alternative equivalency review application shall not be binding on the City related to future applications requesting an alternative to any of the applicable standards. Each case shall be reviewed and decided upon based on the individual circumstances.

(i) Time Limit

- (1) An approval of an alternative equivalency review application shall expire if the applicable form of zoning compliance review expires.
- (2) Upon expiration of an alternative equivalency review approval, a new application, including all applicable fees, shall be required before a new application will be reviewed.

1103.07 VARIANCES (REVISED 1129)³¹

(a) **Purpose**

The purpose of a variance is to provide limited relief from the requirements of this code in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this code. It is not intended that a variance be granted merely to remove inconveniences or financial burdens that the requirements of this code may impose on property owners in general. Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.

(b) **Review Procedure**

The review procedure for all variances shall be as follows:

(1) **Step 1 – Pre-Application Meeting (Optional)**

An applicant may request to have a pre-application meeting with the Zoning to informally discuss the application and any concept plans. Such meeting shall be subject to Section [1103.03\(e\)](#). Pre-application meetings with the BZA are prohibited.

(2) **Step 2 – Application**

The applicant shall submit an application in accordance with [1103.03: Common Review Requirements \(New\)](#), and with the provisions of this section.

(3) **Step 3 – Administrative Staff Review**

- A) Upon determination that a variance application is complete, the Zoning Administrator shall forward the application to the BZA and may distribute the application to other departments or agencies for review and comment.
- B) The Zoning Administrator may consolidate any comments from the public received in advance of the hearing and comments from any City departments or other agencies with jurisdiction into a report for the BZA to review as part of Step 4.

(4) **Step 4 – BZA Review and Decision**

- A) The BZA shall hold a public hearing within 45 days of the filing of a variance application being determined complete, provided adequate notification is provided pursuant to Section [1103.03\(i\)](#).
- B) In reviewing the application, the BZA shall, at a minimum, consider the review criteria of this section.
- C) The BZA may request that the applicant supply additional information that the BZA deems necessary to review and evaluate the appeal or applications.
- D) Within 45 days of the close of the public hearing, or an extended timeframe approved by the applicant, the BZA shall render a decision. In making its decision, the BZA may approve, approve with modifications or supplementary conditions, or deny the application.
- E) In making its decision, the BZA shall make specific findings, based directly on the particular evidence presented. The findings of fact shall state that the reasons set forth in the application and as presented by the applicant during the public hearing justify either:
 - iv. Approval of the application;
 - v. Approval with modifications or supplementary conditions; or
 - vi. Denial of the application.
- F) If the BZA fails to make a decision within the established timeframe, or an extended timeframe approved by the applicant, the application shall be deemed denied.

³¹ To avoid confusion, we have separated out the section on variances in the subdivision process, which are reviewed by the Planning Commission, and renamed them "subdivision modifications." That section is under the major subdivision process and only allows for modification of subdivision design standards and not anything connect to the zoning (e.g., lot area, lot width, etc.)

- G) Following the decision, the Zoning Administrator shall notify the applicant of the BZA's preliminary decision with notice that the decision does not become final (journalized) until the BZA approves the minutes of the meeting at which the decision was made; typically, at the next regularly scheduled meeting. The applicant shall not be authorized to proceed with a zoning compliance review application until the journalization of the decision, at which point the decision will become effective immediately.
- H) In approving a variance application, the BZA may impose conditions on the approval, the proposed use, and the premises to be developed or used pursuant to such approval as it determines are required to be ensure compliance with the standards of this section and the purposes of this code. Any conditions established by the BZA shall relate directly to the requested variance.
- I) Any violation of the conditions of approval shall be a violation of this code, subject to the enforcement and penalties of Chapter <>.

(5) Step 5 – Zoning Compliance Review

Following journalization of the BZA's decision, the applicant may proceed with applying for zoning compliance review in accordance with Section <>.

(c) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the BZA shall have the right to appeal the decision to the City Council in accordance with Section 7-2 of the City Charter. Such appeal must be filed with the Clerk of Council within 10 days of the journalization of the decision. See Section [1103.07\(b\)\(4\)](#).

(d) Variance Review Criteria

Variances shall not be granted on the grounds of convenience, financial hardship or profit, but only where strict application of the provisions of this code would result in a practical difficulty or unnecessary hardship as defined in more depth below.

(1) Area or Dimensional Variance³²

Where an applicant is seeking an area or dimensional variance, the following factors shall be considered and weighed by the BZA to determine if a practical difficulty exists that would justify approval of the variance. However, no single factor listed below may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts. The application for a variance shall not be based exclusively upon a desire to increase the value or income potential of the parcel of land or any structures or uses thereupon. The BZA shall take into consideration:

- A) 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 proximity to nonconforming and inharmonious uses, structures or conditions;
- B) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- C) Whether the variance is the minimum necessary to make possible the reasonable use of the land or structures;
- D) 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;
- E) Whether the variance would adversely affect the delivery of governmental services such as water, sewer, or trash pickup;
- F) Whether special conditions or circumstances exist as a result of actions of the applicant (actions of the applicant shall not include the purchase or acquisition of the property);

³² This is an expansion of the existing Section 1129.02 (Basis for Granting Variances) and procedural criteria. It contains the broader list of what is commonly referred to in case law as the Duncan factors.

- G) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- H) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance;
- I) 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; and
- J) Whether a literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this code.

(2) **Use Variance**³³

Use variances are specifically prohibited by the code. Applicants may seek approval of a use not otherwise allowed in the applicable zoning district if there is an existing building on the lot and such use is approved as an "Adaptive Reuse of a Pre-Existing Building," in accordance with [Chapter <>](#).

(e) **Time Limit**

- (1) The applicant shall submit a completed application for zoning compliance review and start work within one year of the date a variance was approved or the approval shall expire.
- (2) Upon expiration of a variance approval, a new application, including all applicable fees, shall be required before a variance application will be reviewed.
- (3) Upon written request, one extension of one year may be granted by the Zoning Administrator if the applicant can show good cause for a delay.
- (4) As part of the variance approval, the BZA may authorize alternative time limits for zoning compliance review issuance based on the scale of the proposed development.

1103.08 APPEALS (REVISED CHAPTER 1127)

(a) **Purpose**

This section sets out the procedures to follow when a person claims to have been aggrieved or affected by an administrative decision made in the administration or enforcement of this code.

(b) **Applicability**

- (1) An appeal may be made regarding any administrative decision made in the administration and enforcement of this code including, but not limited to, administrative decisions by the Zoning Administrator.
- (2) Appeals of decisions by Planning Commission or the BZA are appealable to City Council in accordance with Section 7-2 of the City Charter.

(c) **Initiation**

Appeals shall be initiated by the person aggrieved or affected by any order, decision, determination, or interpretation made by the authority having jurisdiction who is charged with the administration or enforcement of this code.

(d) **Appeals Review Procedure**

The review procedure for appeals shall be as follows:

³³ The forthcoming chapters will include a new use called "adaptive reuse of pre-existing buildings" to allow the Planning Commission to consider uses not otherwise allowed in a zoning district only if they will be located in existing buildings that are not designed for something that is otherwise allowed in the district. This is a better approach than a use variance, because if the building is demolished or destroyed, then the conditional use allowance will stop and any new development will have to comply with the zoning district. An example of this approach would be to accommodate a nonresidential use in an old church or school in a residential zoning district.

(1) Step 1 – Submission of Appeal

Within 20 calendar days³⁴ of an administrative order, decision, determination, or interpretation, the person appealing the decision or their authorized agent shall submit all required information to the Zoning Administrator in accordance [1103.03: Common Review Requirements \(New\)](#).

(2) Step 2 – Forwarding of the Record to the BZA

Upon receiving the written appeal of an administrative order, decision, determination or interpretation, the Zoning Administrator shall transmit the written appeal with all papers, documents, and other materials related to the appealed order, decision, determination or interpretation to the BZA. This material shall constitute the record of the appeal.

(3) Step 3 – BZA Review and Decision

- A) The BZA shall hold a public hearing within 45 days of the filing of the appeal, provided adequate notification is provided pursuant to Section [1103.03\(i\)](#).
- B) In reviewing the appeal, the BZA shall, at a minimum, consider the review criteria of this section.
- C) Within 45 days of the close of the public hearing, the BZA shall render a decision on the appeal. The BZA may reverse or affirm, wholly or in part, or modify any such order, decision, determination or interpretation.
- D) The Zoning Administrator shall notify the appellant of the decision of the BZA.
- E) If the BZA fails to make a decision within the established timeframe, or an extended timeframe approved by the applicant, the original decision being appealed will be upheld.
- F) Following the decision, the Zoning Administrator shall notify the applicant of the BZA's preliminary decision with notice that the decision does not become final (journalized) until the BZA approves the minutes of the meeting at which the decision was made; typically, at the next regularly scheduled meeting. The applicant shall not be authorized to proceed with a zoning compliance review application until the journalization of the decision, at which point the decision will become effective immediately.

(4) Step 4 – Zoning Compliance Review

Following journalization of the BZA's decision, the applicant may proceed with applying for zoning compliance review in accordance with Section <>.

(e) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the BZA shall have the right to appeal the decision to the City Council in accordance with Section 7-2 of the City Charter. Such appeal must be filed with the Clerk of Council within 10 days of the journalization of the decision. See Section [1103.08\(d\)\(3\)](#).

(f) Review Criteria

An administrative order, decision, determination or interpretation shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the order, decision, determination or interpretation fails to comply with either the procedural or substantive requirements of this code.

(g) Stay

A properly submitted appeal shall stay all administrative proceedings by the City in furtherance of the action appealed, unless the Zoning Administrator certifies to the BZA that a stay would cause imminent peril to life or property, in which case the administrative proceedings shall not be stayed unless a restraining order is granted by the BZA or by a court of competent jurisdiction, for good cause shown.

³⁴ The current code does not give a deadline for filing an appeal to the BZA. We have included a deadline of 20 days to appeal an administrative decision, which is longer than they have to appeal a decision to Council, but is the most commonly used timeframe.

1103.09 MINOR SUBDIVISIONS (REVISED 1111.08)³⁵

(a) Purpose

The purpose of the minor subdivision process is to allow for small subdivisions of land, consolidation of lots, or transfers of a portion of a lot to an adjacent lot where there will not be the creation of a new street, dedication of right-of-way, or a need for any public improvements. Such purposes are also intended to be in alignment with the platting allowances established in ORC Chapter 711.

(b) Applicability

- (1) For the purposes of these regulations, a minor subdivision is a lot split, lot consolidation, or transfer of land between adjacent property owners that complies with all of the following requirements:
 - A) The subdivision shall not result in or create more than five lots, including the remainder of the original lot (e.g., four new lots and the remainder of the original lot);
 - B) The subdivision shall be in compliance with all applicable site development standards in this code or with any approved variance from such standards;
 - C) All lots resulting from the minor subdivision shall have frontage and access on an existing street and shall not require the construction, expansion, or improvement of any street;
 - D) The subdivision shall not require any public improvements or the dedication of rights-of-way; and
 - E) No landlocking of parcels shall occur as a result of the minor subdivision.
- (2) A minor subdivision also includes the recombination of land, consolidation of lots, transfer of property from one lot to an adjacent lot, and the dedication of additional land for the widening of existing streets, where no new lots are created and no expansion of streets or need for public improvements.

(c) Minor Subdivision Review Procedure³⁶

The review procedure for a minor subdivision shall be as follows:

(1) Step 1 – Application

- A) The applicant shall submit an application in accordance with [1103.03: Common Review Requirements \(New\)](#), and with the provisions of this section.
- B) The application shall include a deed or other instrument of conveyance in compliance with requirements of the Montgomery County Auditor. The application shall also include an accurate and current legal description and boundary survey, of each proposed new lot.
- C) If the minor subdivision involves the transfer of land area from one lot to an adjacent lot, both property owners shall be required to authorize the application and instruments of conveyance shall be submitted for both resulting lots.

(2) Step 2 – Review and Comment by Applicable Agencies

- A) Upon determination that the application for a minor subdivision is complete, the Zoning Administrator may transmit copies of the application for review by applicable agencies including, but not limited to, the City Engineer, water, sewer, and any other agencies having authority over streets, gas, or other utilities and other public improvements.
- B) Such agencies may supply comments, recommendations, and approvals as applicable, to the Zoning Administrator for consideration prior to the Zoning Administrator's decision (Step 3).

³⁵ This section is currently called "lot splits," but we suggest using the more common term of minor subdivision that could also include combining lots or moving lot lines between two existing lots of record.

³⁶ As suggested in the code audit, this procedure would allow for the administrative approval of a minor subdivision rather than sending it to the Planning Commission. In this case, the Zoning Administrator is acting as a delegate for the Planning Commission for these technical lot splits.

(3) **Step 3 – Review and Decision by the Zoning Administrator³⁷**

- A) Within 30 days³⁸ of the determination that the application (Step 1) is complete, or within an extended timeframe approved by the applicant, the Zoning Administrator shall review the application and approve, approve with modifications that will bring the application into compliance with codes, or deny the application for a minor subdivision based on the review criteria established below. The Zoning Administrator shall also have the authority to make a decision to forward the application to the Planning Commission for review and a decision if there are any question on the applicability of the minor subdivision procedure or standards. An extension on the decision may be granted with approval from the applicant.
- B) In reviewing the minor subdivision, the Zoning Administrator, on recommendation of the City Engineer³⁹, may require the addition of easements and/or setbacks as part of a transfer of land area between two lots.
- C) If the application is approved with modifications, the applicant shall be required to revise all documents prior to final signing and recording.
- D) If the Zoning Administrator denies an application for a minor subdivision, the Zoning Administrator shall provide the applicant with written finding for the denial.

(4) **Step 4 – Recording**

- A) If the application is approved, the Zoning Administrator shall sign and date all required deeds in the minor subdivision, or other forms of conveyance required by the Montgomery County Auditor. Such documents shall be stamped by the City with "Approved by the City of Trotwood; no plat required."
- B) The applicant shall then be responsible for submitting the signed conveyance to the Montgomery County Auditor, for the transfer of property and to the Montgomery County Recorder, for the recording of the lots as legal lots of record and providing a copy of said conveyance to the Zoning Administrator, after recording.
- C) In the case of a transfer of land between two adjacent lots, the recording of the revised lots shall take place simultaneously.

(d) **Appeals**

Any person or entity claiming to be injured or aggrieved by any final action with respect to the proposed minor subdivision shall have the right to appeal the decision to the BZA as established in Section [1103.08: Appeals](#).

(e) **Review Criteria**

In order for a minor subdivision to be approved, the Zoning Administrator must determine the following:

- (1) That the minor subdivision complies with all applicable provisions of this code including, but not limited to, the lot and principal building regulations of Section [42](#);
- (2) That the minor subdivision complies with all other applicable regulations of the City; and
- (3) That all valid objections to the minor subdivision raised by the City departments have been or will be satisfactorily resolved by the applicant.

(f) **Variances**

If the proposed subdivision requires a deviation from the minimum lot or principal building regulations (e.g., lot area, lot width, etc.) or other standards mandated by this code in Section [42](#), the applicant will be required to apply for and receive variance approvals prior to approval of the minor subdivision.

(g) **Time Limit**

The minor subdivision approval shall expire six months after the Zoning Administrator signs and dates the minor subdivision conveyance unless the minor subdivision is recorded in the office of the Montgomery County Recorder, during said period.

³⁷ This section has the Zoning Administrator making the decision rather than referencing the Planning Commission's delegate.

³⁸ The current language only gives 10 days to make a decision, which is a short turn around, especially if there is a potential for staff shortages. We suggest 30 days to be on the safe side.

³⁹ Because the City does not have a formal City Engineer at this point in time, we have set the City Engineer as the person who can make engineering decisions. This role can be delegated to staff or a consultant/contractor as the City Engineer sees fit.

1103.10 MAJOR SUBDIVISIONS (REVISED CHAPTER 1111)

(a) **Purpose**

The purpose of the major subdivision process is to provide a method of review for any subdivision that exceeds the scope of a minor subdivision.

(b) **Applicability**

Any subdivision of land or replat of an existing subdivision that does not meet the applicability requirements of a minor subdivision in Section [1103.09\(b\)](#), shall be subject to the requirements of this section.

(c) **Major Subdivision Review Procedure**

(1) **Step 1 – Pre-Application Meeting (Required)**

An applicant shall be required to have a pre-application meeting with the Zoning Administrator to informally discuss the application and any concept plans. At the same time, the applicant may have the option, but shall not be required, to have a pre-application meeting with the Planning Commission. Such meetings shall be subject to Section [1103.03\(e\)](#).

(2) **Step 2 – Application and Filing of the Preliminary Plat**

A) The applicant shall submit an application, including a preliminary plat, in accordance with [1103.03: Common Review Requirements \(New\)](#), and with the provisions of this section.

B) The preliminary plat shall be prepared, signed, and sealed by an engineer or surveyor who is qualified and registered in the State of Ohio.

(3) **Step 3 – Administrative Staff Review**

A) Upon determination that the application for a preliminary plat is complete, the Zoning Administrator shall forward the application to the Planning Commission and may transmit copies of the application for review by applicable agencies including, but not limited to, any agencies having authority over streets, water, sewer, gas, or other utilities and other public improvements.

B) The Zoning Administrator may consolidate any comments from the public received in advance of the meeting and comments from themselves or other departments and agencies having jurisdiction into a report for the Planning Commission to review as part of Step 4.

(4) **Step 4 – Review and Decision on the Preliminary Plat by the Planning Commission⁴⁰**

A) The Planning Commission shall review the preliminary plat application at its next regularly scheduled meeting, or at a special meeting, after the application is determined to be complete.

B) In making its decision, the Planning Commission shall approve, approve with conditions, or deny the preliminary plat. The Planning Commission may also continue the meeting if questions regarding the plat are not satisfactorily addressed by the applicant.

C) The Planning Commission shall make a decision within 60 days of the filing of the preliminary plat, beginning when the application is determined to be complete (Step 2) unless the Planning Commission and subdivider agree to an extension of this time frame. If the Planning Commission fails to act within the 60 days or there is no agreement for an extension of time, the application for a preliminary plat will be considered denied.

D) If the Planning Commission denies the preliminary plat, the applicant shall not move forward in the review process until a preliminary plat is approved by the Planning Commission.

E) In the event the Planning Commission denies the preliminary plat or approves with conditions, the Zoning Administrator, on behalf of the Planning Commission shall provide the subdivider with a statement, in writing, setting forth the reasons for the denial or the conditions of approval.

⁴⁰ This step is just alluded to with one statement in the current code under Section 1111.04 (d), so this expands on the language to make it a complete step in the review.

- F) Following the decision, the Zoning Administrator shall notify the applicant of the Planning Commission's preliminary decision with notice that the decision does not become final (journalized) until the Planning Commission approves the minutes of the meeting at which the decision was made; typically, at the next regularly scheduled meeting. The applicant shall not be authorized to proceed with the submission of improvement plans and a final plat until the journalization of the decision, at which point the decision will become effective immediately.
- G) If the applicant proposed to construct the subdivision in phases, the Planning Commission may approve a timeframe for filing of improvement plans and final plats for each phase.
- H) Approval of the preliminary plat by the Planning Commission does not constitute approval of the subdivision, but is merely an authorization to proceed with the preparation of the final plat and improvement plans.

(5) Step 5 – Submission of Improvement Plans and the Final Plat

- A) The applicant shall submit a final plat and related improvement plans and specifications in accordance with [1103.03: Common Review Requirements \(New\)](#). Such application shall take place within two years following the Planning Commission's approval of the preliminary plat unless the Planning Commission approved an alternative schedule, in which case the applicant shall submit in accordance with the approved schedule. Failure to submit the improvement plans within this time frame shall void the preliminary plat approval and the subdivider will be required to submit a new application in accordance with these regulations.
- B) If a preliminary plat has been previously approved with changes or modifications, the final plat shall have incorporated all changes from the preliminary plat approval.
- C) In cases where the applicant proposes to develop the subdivision in phases, the final plat and improvement plans shall be submitted for each individual phase.
- D) If the applicant proposes to provide a financial guarantee for the public improvements in lieu of installing all public improvements prior to approval of the final plat, the applicant shall be required to provide all information required as part of [Section <>](#).
- E) Upon determination by the Zoning Administrator that the final plat has been properly submitted, the final plat shall be accepted as being filed.
- F) The final plat shall be prepared, signed, and sealed by an engineer or surveyor who is qualified and registered in the State of Ohio.

(6) Step 6 – Administrative Staff Review

- A) Upon determination that the submission of the final plat and improvement plans is complete, the Zoning Administrator may transmit copies of the application for review by applicable agencies including, but not limited to, any agencies having authority over streets, water, sewer, gas, or other utilities and other public improvements.
- B) Such agencies shall supply comments and recommendations to the Zoning Administrator prior to the regularly scheduled Planning Commission meeting where the final plat and improvement plans will be subject to review.
- C) **Construction of Improvements**
 - i) Applicants shall have the choice to construct all public improvements prior to the approval of the final plat, without a financial guarantee, but such public improvements must be completed and then inspected and approved by City Engineer before the City can approve the final plat. The improvements shall be constructed within a reasonable time limit as determined by the City Engineer.
 - ii) All required subdivision improvements shall be maintained in a satisfactory condition by the subdivider during any interim period between their construction and final approval and acceptance of the subdivision by the City. Additionally, such improvements shall be subject to maintenance requirements following acceptance in accordance with this section and [Section <>](#).
 - iii) If the applicant requests approval of a final plat prior to installation of the public improvements, the applicant shall be required to provide a financial guarantee in accordance with the regulations of this code at the time the final plat is submitted for review.

(7) Step 7 – Review and Decision on the Final Plat and Improvement Plans by the Planning Commission

- A)** The Planning Commission shall review the final plat and improvement plans at its next regularly scheduled meeting, or at a special meeting, after the final plat is submitted and determined to be complete.
- B)** The Planning Commission shall approve, approve with conditions, or deny the improvement plans and final plat. The Planning Commission may also continue the meeting if questions regarding the plat are not satisfactorily answered by the applicant.
- C)** The Planning Commission shall make a decision within 60 days of the filing of the final plat and improvement plans (Step 5) unless the Planning Commission and subdivider agree to an extension of this time frame. If the Planning Commission fails to act within the 60 days or there is no agreement for an extension of time, the application for a final plat will be considered approved.
- D)** If the Planning Commission denies the final plat and/or improvement plans, the applicant shall not move forward in the review process until a final plat and the improvement plans are approved by the Planning Commission.
- E)** Following the decision, the Zoning Administrator shall notify the applicant of the Planning Commission's preliminary decision with notice that the decision does not become final (journalized) until the Planning Commission approves the minutes of the meeting at which the decision was made; typically, at the next regularly scheduled meeting. The applicant shall not be authorized to proceed with the submission of improvement plans and a final plat until the journalization of the decision, at which point the decision will become effective immediately.
- F)** In the event the Planning Commission denies the final plat and improvement plans or approves with conditions, the Zoning Administrator's written notification shall provide the subdivider with a statement setting forth the reasons for the denial or the conditions of approval.
- G)** Approval of the final plat and improvement plans by the Planning Commission shall not be an acceptance by the public of the offer of dedication of any street, or other public ways or open space on the final plat unless they are accepted by the City Council in the form of the adoption of an ordinance.
- H)** The final plat shall be held until acceptance of all improvements in Step 8. No final plat shall be recorded until all improvements and areas offered for parks, open space, or public rights-of-way have been accepted by the City Council.
- I)** At the completion of construction, and before acceptance of the public improvements, the developer shall furnish the City a set of record or "as-built" reproducible drawings as well as a digital copy that is compatible with the City's software showing the locations of all public improvements, including the sizes and elevations of all underground utilities.

(8) Step 8 – Acceptance of Improvements by City Council

The City, through action by the City Council, shall review the final plat and consider acceptance of public improvements made by a subdivider only after meeting the following conditions:

- A)** The public improvements have been made in accordance with the requirements of this code, and any other manuals or documents referenced in Section <>;
- B)** Installation of the public improvements has been completed in accordance with the applicable design standards;
- C)** All final inspections required by these regulations and the City have been carried out by the City, and said public improvements were found to be acceptable by City Engineer.
- D)** After all public improvements have been installed in accordance with the subdivision approvals and these regulations, and the subdivider has complied with this section, the City Council may, by ordinance, accept the public improvements for maintenance with any applicable financial guarantee.

(9) Step 9 – Disposition of Approved Plat and Recordation

- A)** All required deeds, agreements, and other required legal instruments shall be submitted to the Zoning Administrator within 60 days from the date of the Planning Commission's approval or such approval shall thereafter be rendered null and void.

- B)** Any recorded plat which has not been approved according to the regulations in this chapter shall be considered invalid.
- C)** The subdivider shall then be responsible for submitting the signed plat to the Montgomery County Recorder, for the recording of the lots as legal lots of record and providing a copy of said plat to the City after recording.
- D)** The approval of a plat shall expire within 180 days after City Council approval is effective unless the plat has been duly filed and recorded by the applicant as required by law, and the original tracing of the plat has been filed with the Zoning Administrator.

(d) Review Criteria

In order to approve a major subdivision, the Planning Commission shall determine that:

- (1)** The major subdivision complies with all applicable provisions of this code;
- (2)** The major subdivision does not conflict with other regulations, plans, or policies of the City;
- (3)** The proposed subdivision is designed to be harmonious with the existing immediate or surrounding area or is in keeping with the intended character of such area;
- (4)** The proposed streets are in accordance with approved plans and have been coordinated with existing streets, and that adequate measures have been taken to provide ingress and egress so as to minimize traffic congestion in public streets;
- (5)** The proposed subdivision will not adversely affect the delivery of governmental services;
- (6)** The applicable review agencies have no objections that cannot be resolved by the applicant; and
- (7)** The final plat and improvement plans conform to the approved preliminary plat, if submitted and approved.

(e) Amendments of Application (New)

- (1)** No changes, erasures, modifications, or revisions shall be made in any plat of a subdivision after final approval has been given by the Planning Commission and an endorsement is made in writing on the plat, unless the plat is first resubmitted and the changes approved by the Planning Commission.
- (2)** If the applicant finds, in the process of preparing improvement plans, that the approved preliminary plat, if submitted, is not workable and changes in layout are required, the applicant shall inform the Zoning Administrator. The Zoning Administrator may require that a revised preliminary plat be submitted for re-approval following the review procedure in Section [1103.10\(c\)\(4\)](#), above, if the changes significantly alter the design of the subdivision, including changes to the number of lots, modification of street layouts, or other substantial changes. If the proposed changes are technical or minor and do not substantively alter the approved preliminary plat, the Zoning Administrator may approve the revisions. Failure to submit and receive approval of a revised preliminary plat shall void approval of the preliminary plat and any new submission shall be subject to a new application.
- (3)** During the final plat process, the City Engineer is authorized to allow minor changes related to the public improvements or design where there is minimal impact to the overall design of the subdivision. This limited authority shall not give the City Engineer the authority to vary the requirements of this code.
- (4)** If during the course of construction, any changes or modifications are encountered that are not in conformance with the original approved improvement plans, the subdivider shall submit the modified improvement plans (which have now become as-built drawings) to the City Engineer, who, if in agreement with such modifications, shall sign these drawings to indicate approval of the modifications. If the City Engineer does not approve the modifications, the applicant shall be required to bring the improvements into compliance with the approved improvement plans or the City may utilize the financial guarantee to correct the issue.

(f) **Subdivision Modifications⁴¹**

(1) **Purpose**

The purpose of a subdivision modification is to provide limited relief from standards that apply to the subdivision of land, including standards for improvements. Subdivision modifications are intended for those cases where strict application of a particular requirement will create a practical difficulty or extraordinary hardship prohibiting the use of land in a manner otherwise allowed under these regulations. It is not intended that modifications be approved merely to remove inconveniences or financial burdens that the requirements of these regulations may impose on property owners or subdividers in general.

(2) **Applicability**

- A) If the proposed subdivision requires a deviation from the minimum lot and principal building regulations (e.g., lot area, lot width, etc.) or other standards identified in Section <>, the applicant will be required to apply for and receive all the necessary variance approvals (See Section 1103.07.) prior to approval of a preliminary plat.
- B) If the applicant seeks a modification of standards required by Section <>, then the request for a modification shall be accomplished through the procedure outlined in this section.

(3) **Subdivision Modification Review**

- A) A request for a subdivision modification shall be reviewed as part of the preliminary plat review procedure.
- B) In reviewing the application, the Planning Commission shall, at a minimum, consider the review criteria of this section.
- C) The Planning Commission shall review the request and may approve, approve with conditions, or deny the request to modify any or all of the requested modifications.
- D) In approving a modification, the Planning Commission may impose conditions on the approval as it determines are required to ensure compliance with the provisions and purposes of these regulations.
- E) If the preliminary plat is denied or if the approval of the preliminary plat expires, so does the approval of the subdivision modification. Any future request for preliminary plat approval that includes the same modifications shall require a new review and decision on the request for modifications.

(4) **Review Criteria**

The review criteria for a subdivision modification shall be the same as those for a variance as established in Section 1103.07(d).

(g) **Vacating Existing Rights-of-Way and Alleys⁴²**

Where there is a request to vacate a right-of-way or alley that was part of a previously approved subdivision, the applicant shall be subject to the following:

- (1) The applicant shall submit a request to vacation to the Zoning Administrator to be forwarded to Planning Commission for consideration.
- (2) The Planning Commission shall review the request at a public meeting and make a recommendation to City Council regarding whether the request to vacate should be approved or denied. The Planning Commission shall not recommend the vacation of any right-of-way or alley if such vacation interferes with the uniformity of the existing street pattern; would landlock any lots; or interferes with any future street plans for the area.
- (3) City Council shall review the request and recommendation from the Planning Commission and make a decision to approve or deny the request to vacate. Such decision shall be made in the form of an ordinance.

⁴¹ This is an expansion of the provision that allows Planning Commission to approve variances for subdivisions. It has been renamed to clearly distinguish this between subdivisions and variances for other zoning standards.

⁴² This language was added to clarify the vacating process, which is not clearly addressed in the current regulations.

(h) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission shall have the right to appeal the decision to the City Council in accordance with Section 7-2 of the City Charter. Such appeal must be filed with the Clerk of Council within 10 days of the journalization of the decision.

1103.11 CODE TEXT AND MAP AMENDMENTS (REVISED 1125.08)**(a) Purpose**

The purpose of the code text and zoning map amendment procedure is to provide a process for amending the zoning map and/or text of this code.

(b) Applicability

This section shall apply to requests to amend the text of this code or amend the Official Zoning Map of the City of Trotwood, Ohio.

(c) Initiation

- (1) For a zoning map amendment of a specific property, any person who has authority to file an application (See Section [1103.03\(a\)](#).) for such property may initiate an amendment by filing an application with the Zoning Administrator.
- (2) Only the Zoning Administrator, City Council, or the Planning Commission may initiate code text amendments, however, any member of the public may request that the Zoning Administrator, Planning Commission, or City Council consider a text amendment during their respective public meetings in the same manner as a pre-application meeting. See Section [1103.03\(e\)](#).
- (3) City Council may initiate a code text or map amendment by referring a recommendation on an amendment to the Planning Commission.
- (4) The Planning Commission may initiate a code text or map amendment by adopting a motion to make such amendment.

(d) Code Text or Map Amendment Review Procedure

The review procedure for a code text or map amendment shall be as follows:

(1) Step 1 – Pre-Application Meeting (Required)

An applicant shall be required to have a pre-application meeting with the Zoning Administrator to informally discuss the application and any concept plans. At the same time, the applicant may have the option, but shall not be required, to have a pre-application meeting with the Planning Commission. Such meetings shall be subject to Section [1103.03\(e\)](#).

(2) Step 2 – Application

- A) For amendments that are not initiated by the Planning Commission or City Council, the applicant shall submit an application in accordance with [1103.03: Common Review Requirements \(New\)](#), and with the provisions of this section.
- B) Amendments initiated by City Council shall be referred to the Planning Commission for initiation of review.

(3) Step 3 – Administrative Staff Review

- A) Upon determination that a text or zoning map amendment application is complete, the Zoning Administrator shall forward the application to the Planning Commission and may distribute the application to other departments or agencies for review and comment.
- B) The Zoning Administrator may consolidate any comments from the public received in advance of the hearing and comments from themselves or other departments and agencies having jurisdiction into a report for the Planning Commission to review as part of Step 4.

(4) Step 4 – Planning Commission Review and Recommendation

- A) The Planning Commission shall hold a public hearing within 45 days of the filing of an application being determined complete, provided adequate notification is provided pursuant to Section [1103.03\(i\)](#).
- B) In reviewing the application, Planning Commission shall, at a minimum, consider the review criteria of this section.

- C) Within 45 days of the close of the public hearing, the Planning Commission shall make a recommendation to City Council, on the application. In making its recommendation, the Planning Commission may recommend approval, approval with some modification, or denial of the application.
- D) If the Planning Commission fails to make a recommendation within 60 days of the close of the public hearing, or an extended timeframe approved by the applicant, the application will move forward to Step 5 with a recommendation of denial.
- E) The Planning Commission's recommendation shall not be authorization to proceed with any other permit or certificate applications. The code text or map amendment only becomes effective after a decision by City Council.

(5) Step 5 – City Council Review and Decision

- A) Within 45 days of receipt of the recommendation from the Planning Commission (Step 4), the application shall schedule a time for a public hearing on the proposed amendment.
- B) Notification of the public hearing shall be provided in accordance with Section [1103.03\(i\)](#).
- C) City Council shall review a text or zoning map amendment application during the public hearing. In reviewing the application, City Council shall, at a minimum, consider the recommendation from Planning Commission and the review criteria of this section.
- D) Within 60 days of the close of the public hearing, the City Council shall adopt, adopt with some modification, or deny the recommendation of the Planning Commission.
- E) If the City council fails to make a decision within 45 days of the close of the public hearing, or an extended timeframe approved by the applicant, the application shall be considered denied.

(e) Review Criteria (New)⁴³

The review of code text or map amendment applications by Planning Commission and City Council shall be based on consideration of the following review criteria. Not all criteria may be applicable in each case, and each case shall be determined on its own facts.

- (1) The proposed amendment is consistent with the comprehensive plan, other adopted or approved City plans, and the stated purposes of this code;
- (2) The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions;
- (3) The proposed amendment will promote the public health, safety, convenience, comfort, prosperity and general welfare;
- (4) The proposed amendment, if amending the zoning map, is consistent with the stated purposes of the proposed zoning district;
- (5) The proposed amendment, if amending the zoning map, follows lot lines or the centerlines of streets, railroads, or other rights-of-way;
- (6) The proposed amendment is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- (7) The proposed amendment will not constitute spot zoning where special treatment is given to a particular property or property owner that would not be applicable to a similar property, under the same circumstances; and/or
- (8) The proposed amendment is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract.

⁴³ The current language on amendments does not include any review criteria, so these criteria have been added for consideration.

1103.12 INTERPRETATION OF THE CODE (NEW)

It is the intent of this code that all questions of interpretation related to the administration and enforcement of this code shall be first presented to the Zoning Administrator, and that such questions shall be presented to the BZA only on appeal from the decision of the Zoning Administrator. Such appeals shall be in accordance with Section [1103.08: Appeals](#).

CHAPTER 1104: ESTABLISHMENT OF ZONING DISTRICTS

1104.01 PURPOSE

The purpose of this chapter is to set out the individual purpose statements for each of the City's zoning districts as well as the list of uses that are allowed within each zoning district. The uses are either allowed or prohibited, and where they are allowed, they may be permitted, permitted with additional standards, or conditionally permitted that requires additional review by the Planning Commission. Finally, this chapter includes use-specific standards for a variety of uses that apply to those uses alone in addition to all other applicable standards of this code.

1104.02 ESTABLISHMENT OF ZONING DISTRICTS (REVISED 1139.01)

(a) Districts Established

- (1) The City hereby establishes the zoning districts in [Table 1104-1](#) to carry out the purposes of this code and to assist in the implementation of the Comprehensive Plan. All such regulations are uniform for each class or kind of building, structure, or use throughout each individual district.

TABLE 1104-1: TROTWOOD ZONING DISTRICTS	
Abbreviation	District Name
Residential Base Zoning Districts	
A	Agricultural District
RSF-L	Single-Family Low-Density District
RSF-M	Single-Family-Medium Density District
RSF-H	Single-Family-High Density District
RLA	Residential Limited Attached District
RMF-L	Multi-Family-Low Density District
RMF-H	Multi-Family-High Density District
MHP	Mobile Home Park
Nonresidential Base and Mixed-Use Zoning Districts	
NB	Neighborhood Business District
OTB	Olde Town Business District
GB	General Business District
SCB	Salem Corridor Business District
BP	Business Park District
LI	Light Industrial District
GI	General Industrial District
CPF	Community and Public Facilities District
Special Base Zoning District	
PUD	Planned Unit Development District

- (2) Whenever the abbreviated terms such as CPF, RSF-L, NB, LI, etc. are used in the code, they shall be construed as referring to their corresponding district name.

(b) Effect of Overlay District Designation

- (1) Where an overlay zoning district applies, the regulations applicable to the overlay district shall apply in combination with underlying base zoning district regulations and all other applicable standards of this code. When the standards for an overlay district conflict with the underlying base zoning district regulations, or other standards of this code, the regulations of the overlay district shall apply.
- (2) When an overlay district does not regulate an issue that is regulated by an underlying base zoning district, the underlying base zoning district regulations shall apply.

(c) References to Previous Zoning Districts

Some of the district classifications and names established within this code differ from previous versions of this code. [Table 1104-2](#) identifies how each of the previous district classifications were renamed in this code. This table shall be used for comparison purposes only.

TABLE 1104-2: ZONING DISTRICT TRANSITION TABLE			
Zoning Districts in the Planning and Zoning Code Effective Prior to <>		Zoning Districts in the Planning and Zoning Code Effective <>	
Abbreviation	District Name	Abbreviation	District Name
Residential Base Zoning Districts			
A	Agricultural District	A	Agricultural District
RE	Rural Estate District	Previous RE Districts were rezoned to A or RSF-L	
RSF-L	Residential Single Family-Low Density District	RSF-L	Single-Family Low-Density District
RSF-M	Residential Single Family-Medium Density District	RSF-M	Single-Family-Medium Density District
RSF-H	Residential Single Family-High Density District	RSF-H	Single-Family-High Density District
R-TF	Residential-Two Family District	RLA	Residential Limited Attached District
R-FF	Residential Four Family District		
RMF-L	Residential Multi-Family-Low Density District	RMF-L	Multi-Family-Low Density District
RMF-H	Residential Multi-Family-High Density District	RMF-H	Multi-Family-High Density District
MHP	Mobile Home Park District	MHP	Mobile Home Park District
Nonresidential Base and Mixed-Use Zoning Districts			
O-R	Office Residential District	NB	Neighborhood Business District
N-B	Neighborhood Business District		
OT-B	Olde Town Business District	OTB	Olde Town Business District
G-B	General Business District	GB	General Business District
R-B	Regional Business District		
---	Salem Avenue Redevelopment Area Overlay District	SCB	Salem Corridor Business District
B-P	Business Park District	BP	Business Park District
B-I	Business-Industrial Campus Park District		
L-I-1	Light Industrial 1 District	LI	Light Industrial District
L-I-2	Light Industrial 2 District	GI	General Industrial District
P/O-S	Park/Open Space District	CPF	Community and Public Facilities District
Special Base Zoning District			
PUD	Planned Unit Development District	PUD	Planned Unit Development District

1104.03 OFFICIAL ZONING MAP AND DISTRICT BOUNDARIES

(a) Official Zoning Map (Revised 1101.04)⁴⁴

- (1) All land within the City of Trotwood shall be placed into at least one of the zoning districts established in [Table 1104-1](#). Such zoning shall be shown on the Official Zoning Map of Trotwood, Ohio, hereafter referred to as the “zoning map.” The zoning map, including any notations or annotations, shall be incorporated and made a part of this code.
- (2) The Official Zoning Map shall be properly attested and remain on files at Trotwood Government Center.
- (3) No amendments to the boundaries of the zoning map may be made without conformance with the procedures outlined in Section [1103.11](#).

(b) Interpretation of Zoning District Boundaries (Revised 1139.03)

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

- (1) Where zoning district boundary lines are indicated as approximately following a lot line, such lot line shall be the zoning district boundary.
- (2) Where zoning district boundary lines are indicated as approximately following a center line of a street or highway, alley, railroad easement, or other right-of-way, or a river, creek, or other watercourse, such centerline shall be the zoning district boundary. In the event of a natural change in the location of such streams, rivers, or other water courses, the zoning district boundary shall be construed as moving with the channel centerline.
- (3) Where zoning district boundary lines are indicated as approximately following City limits, such City limits shall be the zoning district boundary.
- (4) When the actual street, right-of-way, property line boundary, or other existing ground condition is in conflict with that shown on the zoning map, the Zoning Administrator shall provide the necessary interpretation. The person contesting the location of the district boundary shall be given a reasonable opportunity to submit technical evidence to illustrate the boundary.

(c) Zoning of Vacated Properties

Whenever any street, alley, or other public right-of-way is vacated in a manner authorized by law, the zoning district adjoining each side of such street, alley, or public right-of-way shall be automatically extended to the center of such vacation and all areas included in the vacation shall then and henceforth be subject to all regulations of the extended district.

(d) Zoning of Annexed Territories

All territory which may hereinafter be annexed to the City, if already zoned, shall be continued in its existing township or county zoning classification, if applicable, until amended in conformance with the procedures outlined in Section [1103.11](#).⁴⁵

⁴⁴ This section includes language as drawn from the current code. It is important to note that in Section 7-3 of the Charter, there is a reference to the Planning Commission being responsible for making a “base map to be titled the “Official Map of the Municipality of Trotwood.” I don’t necessarily think that is about zoning, but it is important to note.

⁴⁵ The current language says the zoning is changed to that most closely related to the township zoning, if any. However, ORC Section 519.18 (Township Zoning), states that the township zoning, if applicable, remains in place and enforced by the township until the legislative authority adopts zoning for the property. For that reason, this section was modified to accommodate that provision.

CHAPTER 1105: ZONING DISTRICTS AND PRINCIPAL USES

1105.01 ZONING DISTRICT PURPOSE STATEMENTS (REVISED VARIOUS)⁴⁶

In addition to the overall purpose of this code as established in Section [1101.01](#), the following are the purpose statements for the individual zoning districts in the City of Trotwood. The purpose statement for Planned Unit Developments (PUDs) is established in [Chapter <>](#).

- (a) It is the purpose of the **Agricultural District (A)** to encourage the preservation of areas within the City for agricultural activities and related uses. It is further intended to protect and preserve areas of prime agricultural soils for continued agricultural and agriculturally related uses by discouraging small lot residential development.
- (b) It is the purpose of the **Single-Family Low-Density District (RSF-L)** to encourage the establishment and retention of single-family residential neighborhoods, with public infrastructure at a lower density than other districts to serve as a transitional density between rural areas and the more built-up areas of the City.
- (c) It is the purpose of the **Single-Family Medium-Density District (RSF-M)** to encourage the establishment and retention of single-family residential neighborhoods with development on medium-sized lots.
- (d) It is the purpose of the **Single-Family High-Density District (RSF-H)** to encourage the establishment and retention of the City's highest density single-family residential neighborhoods while expanding housing development options that will accommodate certain attached housing products.
- (e) It is the purpose of the **Residential Limited Attached District (RLA)** to accommodate residential neighborhoods that contain small-scale attached housing options ranging from single-family to four-family dwellings, including rowhouse type housing.
- (f) It is the purpose of the **Multi-Family-Low Density District (RMF-L)** to encourage the establishment and retention of residential neighborhoods consisting of multi-family uses at a low-density to accommodate a range of attached housing options.
- (g) It is the purpose of the **Multi-Family-High Density District (RMF-H)** to encourage the establishment and retention of residential neighborhoods consisting of multi-family uses at a higher-density to accommodate a range of attached housing options. This district contains the highest density of housing in Trotwood that is focused on residential uses only. Higher densities of housing may only be accommodated in Salem Corridor Business District or PUDs, as part of mixed-use development.
- (h) It is the purpose of the **Mobile Home Park District (MHP)** to accommodate mobile home parks that existed prior to <> and allow their continued existing as a conforming use while accommodating changes to the park including allowances for a range of manufactured housing types.
- (i) It is the purpose of the **Neighborhood Business District (NB)** to provide for and encourage the development of small-scale, low intensity business activities in close proximity to neighborhoods which do not generate or attract large volumes of traffic or create significant noise, and which are easily and safely accessible by pedestrians.
- (j) It is the purpose of the **Olde Town Business District (OTB)** to provide for a mixed-use environment consisting of limited residential uses, along with small commercial centers which contain certain convenience goods, specialty shops and related personal services, available primarily to the residents in the immediate surrounding area. It is the intent of this district to preserve and promote the historical, neo-traditional environment that presently exists.
- (k) It is the purpose of the **General Business District (GB)** to provide for areas that contain the most intense commercial uses from the standpoint of scale of activity, size of buildings, and amount of traffic volume generated, which serves the needs for shopping and convenience goods and services of the entire community.

⁴⁶ The current code has some purpose statements for certain districts, but not all. This is an attempt to provide more guidance to the purpose of each district.

- (l) It is the purpose of the **Salem Corridor Business District (SCB)** to establish regulations for the development of the core area of the City of Trotwood. It is envisioned that this area will provide for high-density, mixed-use options that can expand housing and business options in the City, that can ultimately be a community gathering place, both commercially and recreationally.
- (m) It is the purpose of the **Business Park District (BP)** to encourage the development of areas within the City to provide for a wide variety of distribution, office, business service, light intensity manufacturing, and other non-retail business uses where activities all take place within enclosed buildings and where such uses create minimal impacts on surrounding neighborhoods.
- (n) It is the purpose of the **Light Industrial District (LI)** to encourage the development of employment-heavy business areas within the City that will not adversely impact adjacent businesses or residential neighborhoods by permitting Industrial and manufacturing establishments which are clean, quiet and free of hazardous or objectionable elements such as noise, odor, dust, smoke or glare; and whose potentially objectionable features will be eliminated by design, complete enclosure or other appropriate measures.
- (o) It is the purpose of the **General Industrial District (GI)** to encourage the development of areas within the City that may allow industrial and manufacturing activities that would require significant outdoor storage area, or create noise, smoke and potentially objectionable features that need to be mitigated with best practices in setbacks, buffering, and other techniques.
- (p) It is the purpose of the **Community and Public Facilities District (CPF)** to:
 - (1) Provide proper zoning classification for government, civic, welfare, and recreation facilities in the proper locations and extents so as to promote public health, safety, convenience, comfort, prosperity and general welfare;
 - (2) Protect public and semi-public facilities and institutions from the encroachment of certain other uses and make such uses compatible with adjoining residential uses; and
 - (3) Provide an environment for the proper functioning of public facilities in relation to the City's Comprehensive Plan and other plans for community facilities.

1105.02 SPECIAL USE AND DISTRICT PROVISIONS FOR THE MHP DISTRICT

- (a) As stated, the purpose of MHP Mobile Home Park District is to protect existing manufactured home parks within the City and allow for their continuation as a conforming use while prohibiting the creation of new mobile home parks. Manufactured housing will continue to be allowed in Trotwood when they meet the requirements of permanently sited manufactured homes within this chapter.
- (b) After the effective date of this code, no new MHP Districts may be established in the City of Trotwood.
- (c) The following principal uses are permitted in the MHP District:
 - (1) Industrialized units;
 - (2) Manufactured homes;
 - (3) Mobile homes (not including recreational vehicles or fifth-wheel trailers);
 - (4) Tiny homes or other pre-fabricated homes provided they are secured to a foundation;
 - (5) Administrative office uses for leasing, maintenance, or operations of the manufactured homes park; and
 - (6) Residential community centers for the benefit of residents of the park.
- (d) Accessory uses are permitted in accordance with Section <>.
- (e) Any modifications to an approved plan for an existing manufactured home park shall be subject to review and approval by the Planning Commission as part of a conditional use review process.

1105.03 ALLOWED PRINCIPAL USES

- (a) [Table 1105-1](#) and [Table 1105-2](#) lists the principal uses allowed within the various base zoning districts in the City of Trotwood. [Chapter <>](#) identifies the uses that are allowed in Planned Unit Developments.
- (b) **Explanation of Permitted Uses Table**
 - (1) **Permitted Uses (P)**
 - A) A "P" in a cell indicates that a use type is allowed by-right in the respective zoning district. Permitted uses are subject to all other applicable standards of this code.

- B) Permitted uses are approved administratively by the Zoning Administrator through the zoning compliance review procedure (See Section [47](#)), unless subject to additional reviews (e.g., variance, etc.).

(2) Permitted Uses with Standards (PS)

- A) A “PS” in a cell indicates that a use type is allowed by-right in the respective zoning district if it meets the additional standards as identified in the last column of [Table 1105-1](#). Permitted uses with standards are subject to all other applicable standards of this code.
- B) Uses permitted with standards are approved administratively by the Zoning Administrator through the zoning compliance certificate [47](#) procedure (See Section [47](#)), unless subject to additional reviews (e.g., variance, etc.).

(3) Conditional Uses (C)

- A) A “C” in a cell indicates that a use may be permitted if approved by the Planning Commission through the conditional use review procedure (See Section [1103.05](#)). Conditional uses may be subject to use-specific standards as identified in the last column of [Table 1105-1](#). Conditional uses are subject to all other applicable standards of this code.
- B) The existence or lack of additional use-specific standards for conditional uses in this code shall not be implied to be the only standards the conditional use is required to meet. Any conditional use listed in the table shall be subject to the general review standards for all conditional uses established in Section [1103.05\(f\)](#).

(4) Prohibited Uses (Blank Cell)

- A) A blank cell indicates that a use is specifically prohibited in the applicable zoning district.
- B) Any use not specifically listed in the table shall be considered prohibited unless approved as a similar use (See Section [1105.03\(d\)](#)) or through a code text amendment.
- C) There may be districts where a specified use is prohibited by the use-specific standards referenced in the last column of [Table 1105-1](#).
- D) The following uses are specifically prohibited in the City of Trotwood and may not be approved as a similar use in accordance with Section [48](#):
- i) Correctional facility;
 - ii) Halfway house;[49](#)
 - iii) Marijuana cultivation facility;[50](#)
 - iv) Marijuana dispensary;
 - v) Marijuana processing facility;
 - vi) Self-Storage Facilities (Indoors and Outdoors);
 - vii) Outdoor shooting range;
 - viii) Recycling centers;
 - ix) Data centers except where the data center is solely accessory and in support of the business or land use that is the principal use on the lot and which does not occupy more than 10,000 square feet of floor area;
 - x) Vehicle washing establishments;
 - xi) Smoke lounge or smoke shop (hukkah, smoking, vaping, etc.);
 - vii. Battery reclamation or manufacturing, the manufacturing or processing of regulated substances as the principal activity, the manufacturing of paints, varnishes, lacquers, and enamels, or any similar type of use that could potentially create a brownfield site; and

[47](#) This certificate name is subject to change based on further discussions with county building permitting.

[48](#) This list may be expanded, but is intended to expressly state when certain uses are clearly prohibited.

[49](#) This will have to be defined separately than congregate housing that could serve sober living, which is protected and you cannot outright prohibit. This could apply to halfway houses for criminals, etc.

[50](#) All marijuana activities are currently listed as prohibited until the City has additional, separate discussions about the uses in September. As written in this draft, the prohibitions would cover medical and adult-use marijuana activities, but that could be refined after the September discussions.

- viii. Any gambling activity that is not expressly allowed by state law within a building or use allowed under this code.

(5) **Use-Specific Standards**

- A) The column titled “Use-Specific Standards” includes cross-references to a section containing standards that apply specifically to the listed use.
- B) Use-specific standards shall only apply if the use is permitted with standards (PS) or is a conditional use (C) in the zoning district.
- C) Standards referenced in the “Use-Specific Standards” column apply in all zoning districts unless otherwise expressly stated.
- D) The land uses and activities covered by this section shall comply with the applicable use-specific standards in all districts unless otherwise specified, in addition to all other applicable provisions of this code.

(c) **Multiple Uses**

If multiple uses are proposed on a single lot or in a single building, then each of the individual uses shall be allowed in the applicable zoning district and reviewed in accordance with how the individual use is allowed in the district (i.e., permitted, permitted with standards, or conditional use).

(d) **Similar Use Determination and Unlisted Uses (Revised Chapter 1135)⁵¹**

- (1) The Zoning Administrator shall make the determination if a proposed use is permitted, permitted with standards, conditional, or prohibited under the provisions of this chapter.
- (2) The Zoning Administrator may determine that a proposed use is substantially similar to a use that is permitted, permitted with standards, conditional, or prohibited as established in [Table 1105-1](#) based on:
 - A) The proposed use activities;
 - B) The character of the proposed use as compared to other uses;
 - C) Similarity to existing uses within the City; and/or
 - D) Information on the use that may be available from third-party or governmental land use resources such as documentation from the American Planning Association, Urban Land Institute, the U.S. Census Bureau, or similar organizations.
- (3) If the Zoning Administrator determines that the proposed use is substantially similar to a use established in [Table 1105-1](#), the application shall be processed in the same manner as the similar use.
- (4) In finding that a proposed use is similar to a use established in [Table 1105-1](#), the Zoning Administrator shall make a note of the similar use on the application form submitted by the applicant (e.g., zoning compliance review, conditional use, etc.).
- (5) If the Zoning Administrator makes the determination that a use is not allowed, the application shall be denied. Such decision may be appealed to the BZA pursuant to Section [1103.08](#).

(e) **Mobile Home Park District (MHP)**

The MHP District is not identified in Table <>, but the allowed principal uses are addressed in Section <>. Permitted accessory uses are addressed in Section <>.

TABLE 1105-1: PRINCIPAL USES ALLOWED IN RESIDENTIAL BASE ZONING DISTRICTS						
P=Permitted Use	PS=Permitted Use with Standards	C=Conditional Use		Blank Cell=Prohibited Use		
Principal Land Uses	A	RSF-L & RSF-M	RSF-H	RLA	RMF-L & RMF-H	Use-Specific Standards See Section:
Agricultural Uses						
Agriculture – Raising of Crops	P	P	P	P	P	

⁵¹ This section has changed to allow the Zoning Administrator to determine if a use is similar or not. If not, then the options are to appeal the decision to the BZA, or they can seek a zoning amendment. This is a more common practice than taking all similar use requests to the Planning Commission.

TABLE 1105-1: PRINCIPAL USES ALLOWED IN RESIDENTIAL BASE ZONING DISTRICTS						
P=Permitted Use PS=Permitted Use with Standards C=Conditional Use Blank Cell=Prohibited Use						
Principal Land Uses	A	RSF-L & RSF-M	RSF-H	RLA	RMF-L & RMF-H	Use-Specific Standards See Section:
Agricultural – Livestock or Barnyard Animals ⁵²	P					
Agriculture - Horses	PS	PS				1105.04(a)
Residential Uses – Household Living						
Dwelling, Single-Family Attached			P	P	P	
Dwelling, Single-Family Detached	PS or C	P	P			1105.04(b)
Dwelling, Two-Family				P	P	
Dwelling, Three-Family				P	P	
Dwelling, Four-Family				P	P	
Dwelling, Multi-Family					P	
Permanently Sited Manufactured Home ⁵³	PS or C	PS	PS			1105.04(c)
Rowhouses				PS	P	1105.04(d)
Residential Uses – Group Living						
Group Homes ⁵⁴	PS	PS	PS	PS	PS	Error! Reference source not found.
Residential Facility, Large ⁵⁵				C	C	1105.04(f)
Residential Facility, Small	PS	PS	PS			1105.04(g)
Skilled Nursing or Personal Care Facilities				C	C	
Public, Semi-Public, and Institutional Uses						
Active Recreational Facilities ⁵⁶	C	C	C	C	C	1105.04(h)
Cemeteries	C					
Community Gardens	PS					1105.04(i)
Cultural Facilities ⁵⁷	C	C		C		
Educational Institutions (Preschool and K-12)		C	C	C	C	
Essential Services and Rights-of-Way	P	P		P	P	
Government Facility, Office		C		C		
Government Facility, Non-Office	C	C	C	C	C	
Memorials and Monuments	P	P		P		
Passive Parks, Open Space, and Natural Areas	P	P	P	P	P	
Religious Uses and Places of Worship	C	C	C	C	C	
Residential Development Community Centers		PS	PS	PS	PS	1105.04(j)
Utility Buildings and Facilities	C	C	C	C	C	

⁵² The City recently adjusted its general ordinances to allow for livestock and barnyard animals in the A District. This is being updated to reflect that change. We will add a definition to the final chapter to reflect this change. Horses will still be the only livestock option in other districts where there are larger lots.

⁵³ Permanently sited manufactured homes have to be allowed where single-family units are allowed, provided they can meet the same design standards as a single-family house.

⁵⁴ This is reflective of draft group home language the City has prepared at the same time as this code update.

⁵⁵ The two types of residential facilities are ones the ORC says that City has to allow in certain zoning districts, with limited regulation. Small ones have to be allowed anywhere a single-family is allowed. This replaces the language of Section 1189.21, which is not in line with the ORC.

⁵⁶ These are recreational facilities that could have significant improvements (various parks, playgrounds, etc.). As such, we are suggesting they be considered as a conditional use while passive open space and recreational facilities (without significant improvements) be allowed. Both are government or non-profit-owned, not commercial.

⁵⁷ The City only currently allows libraries, museums, and other cultural facilities in business districts, but they are often found in residential districts. We suggest allowing the consideration of them as a conditional use.

TABLE 1105-1: PRINCIPAL USES ALLOWED IN RESIDENTIAL BASE ZONING DISTRICTS						
P=Permitted Use		PS=Permitted Use with Standards		C=Conditional Use		Blank Cell=Prohibited Use
Principal Land Uses	A	RSF-L & RSF-M	RSF-H	RLA	RMF-L & RMF-H	Use-Specific Standards See Section:
Commercial and Office Uses						
Agricultural Equipment and Material Sales and Leasing	C					
Animal Boarding Facilities and Day Care	PS					1105.04(k)
Bed and Breakfast Establishments	C					1105.04(l)
Miscellaneous Uses						
Adaptive Reuse of a Pre-Existing Building ⁵⁸	C	C	C	C	C	1105.04(m)

⁵⁸ This is the new use that was proposed in the code audit that would allow the Planning Commission to consider uses for buildings not designed in a way that can accommodate uses allowed in the district. For example, the Planning Commission could consider allowing an office or commercial use a former church or school in a residential district.

TABLE 1105-2: PRINCIPAL USES ALLOWED IN NONRESIDENTIAL BASE AND MIXED-USE ZONING DISTRICTS

P=Permitted Use PS=Permitted Use with Standards C=Conditional Use Blank Cell =Prohibited Use									
Principal Land Uses	NB	OTB	GB	SCB	BP	LI	GI	CPF	Use-Specific Standards See Section:
Residential Uses – Household Living									
Dwelling, Single-Family Attached		P							
Dwelling, Single-Family Detached		P							
Dwelling, Two-Family		PS							1105.04(n)
Dwelling, Three-Family		PS							1105.04(n)
Dwelling, Multi-Family				P					
Dwelling, Zero Lot Line		PS							1105.04(n)
Permanently Sited Manufactured Home		PS							1105.04(c)
Rowhouses		PS		P					1105.04(d)
Residential Uses – Group Living⁵⁹									
Group Homes		PS							Error! Reference source not found.
Residential Facility, Large		C							1105.04(f)
Residential Facility, Small		PS							1105.04(g)
Skilled Nursing or Personal Care Facilities	C		C	C				P	
Public, Semi-Public, and Institutional Uses									
Active Recreational Facilities	C	C	C	C				PS	1105.04(h)
Cemeteries								P	
Cultural Facilities		C	P	P				P	
Educational Institutions (Higher Education)			C	C				P	1105.04(o)
Educational Institutions (Preschool and K-12)	C	C						P	
Essential Services and Rights-of-Way	P	P	P	P	P	P	P	P	
Fraternal, Charitable, and Service-Oriented Clubs ⁶⁰	C	C	C					PS	1105.04(p)
Government Facility, Office	P	P	P	P	P	P	P	P	
Government Facility, Non-Office	C	P	P	P	P	P	P	P	
Hospitals								P	
Memorials and Monuments	C	P	P	P				P	
Nursery Schools and Day Care Centers (Adult or Child)	C	C	PS	PS	PS			PS	1105.04(q)
Parking Lots							C	C	1105.04(r)
Parking Garages ⁶¹			C	C			PS	C	1105.04(r)
Passive Parks, Open Space, and Natural Areas	P	P	P	P	P	P	P	P	
Religious Uses and Places of Worship ⁶²	C	C	P	P				P	

⁵⁹ We have eliminated the “boarding house/rooming house” land use. The way the code is written would allow up to five unrelated people to live together as roommates, unless you want to allow for a more intense living option.

⁶⁰ This is a suggested name change for the “community center” use because it would cover any non-city properties and uses whereas the current community center could be classified as a “government facility, non-office.”

⁶¹ This is meant to address when parking lots or parking garages are the principal use of a lot, and not accessory to another principal use.

⁶² Churches have to be allowed wherever assembly uses are allowed (e.g., event centers, what you call community centers now, schools that may have assembly spaces, etc.).

TABLE 1105-2: PRINCIPAL USES ALLOWED IN NONRESIDENTIAL BASE AND MIXED-USE ZONING DISTRICTS									
P=Permitted Use		PS=Permitted Use with Standards		C=Conditional Use		Blank Cell =Prohibited Use			
Principal Land Uses	NB	OTB	GB	SCB	BP	LI	GI	CPF	Use-Specific Standards See Section:
Residential Development Community Centers				C					1105.04(i)
Utility Buildings and Facilities	C	C	P	P	C	P	P	P	
Commercial and Office Uses									
Administrative, Business, or Professional Offices	P	P	P	P	P	P	P	P	
Adult Entertainment Establishments							C		1105.04(s)
Animal Boarding Facilities and Day Care			C						1105.04(k)
Animal Hospital/Clinics and Animal Grooming (No Outdoor Kennels)			P	P					
Assembly Halls or Conference Centers			C	C	C				1105.04(t)
Automotive Repair and Service (Heavy)							PS		1105.04(u)
Automotive Parts, Repair, and Service (Light)		C	P						1105.04(v)
Bars, Lounges, Nightclubs			C	C					1105.04(w)
Commercial and Business Support Services			P	P					
Commercial Greenhouses/Garden Stores ⁶³			P						
Commercial Recreational Facilities (Indoors)			P	P	P	P			
Commercial Recreational Facilities (Outdoors)			C						1105.04(h)
Cremation Services						PS	PS		1105.04(x)
Financial Institutions	P	P	P	P	P				
Fitness Center			P	P					
Fuel Stations	C		PS						1105.04(v)
Funeral Homes and Mortuaries		C	PS						1105.04(y)
Hotels			P	P	P				
Indoor Shooting Range			C		C	C	C		1105.04(z)
Live/Work Units	PS	PS							1105.04(aa)
Medical/Dental Clinics and Health Centers	P	P	P	P				P	
Microbrewery, Microdistillery, or Microwinery	C	PS	PS	PS	PS	PS	PS		1105.04(bb)
Mixed-Use Buildings		PS	PS	PS					1105.04(cc)
Multi-Tenant Buildings	P	P	P	P	P	P	P	P	
Personal Services	P	P	P	P					
Restaurants with Outdoor Service ⁶⁴	C	C	P	P					
Restaurants without Outdoor Service	P	P	P	P					
Retail Alcohol Sales (Ç-1 and Ç-2 Liquor License)			P	P					

⁶³ This is defined as having at least 75% of the sales area located within an enclosed building so that this does not become a primarily outdoor sales operation.

⁶⁴ The current table regulates drive-ins/drive-through restaurants distinctly. This will be addressed in the accessory use section where the allowance of a drive-through or drive-up system will be addressed as accessory to a restaurant use. Instead, this focuses on whether there can be outdoor dining or not.

TABLE 1105-2: PRINCIPAL USES ALLOWED IN NONRESIDENTIAL BASE AND MIXED-USE ZONING DISTRICTS									
P=Permitted Use		PS=Permitted Use with Standards		C=Conditional Use			Blank Cell =Prohibited Use		
Principal Land Uses	NB	OTB	GB	SCB	BP	LI	GI	CPF	Use-Specific Standards See Section:
Retail Alcohol Sales (Ç-2X Liquor License)			C	C					
Retail Businesses	P	P	P	P					
Substance Abuse Clinic			C	C					1105.04(dd)
Theaters			P	P				P	
Vehicle Sales and Leasing									1105.04(ee)
Industrial Uses									
Bulk Sale, Storage, or Distribution							P		
Concrete and Asphalt Production							C		
Contractor Equipment and Storage Yards						C	P		1105.04(ff)
Distribution Facility					C	C	P		
Food Services			P		P	P			
Industrial Service Uses						P	P		
Light Equipment Sales and Leasing (Indoors)			P						
Machinery and Equipment Sales, Leasing, Storage, and Service						P	P		
Manufacturing and Production (Heavy or Outdoors)							C		
Manufacturing and Production (Indoors)					P	P	P		
Research and Development Facilities					P	P			
									Error! Reference source not found.
									Error! Reference source not found.
Truck Terminals						C	P		
Warehouses						P	P		
Wholesale Establishments						P	P		
Miscellaneous Uses									
Adaptive Reuse of a Pre-Existing Building		C							1105.04(m)
Helipads								C	
Mineral Extraction							C		

1105.04 USE-SPECIFIC STANDARDS⁶⁵

The following standards shall apply to certain uses, as established in Table <> and specified in the following subsections.

⁶⁵ These are currently listed in the order they fall in the tables, however, they can be reorganized under subsections where they are grouped under larger land use classifications.

(a) **Agriculture – Horses (Existing 1189.19)⁶⁶**

- (1) The keeping of horses may be permitted when there is a minimum lot area of one acre for each horse.
- (2) In the RSF-L and RSF-M District, there shall be a minimum lot area of two acres to keep horses on the property, and then one additional acre for each horse kept on the land beyond the first horse.

(b) **Single-Family Dwelling**

The following standards apply only to single-family detached dwellings in the A District:

- (1) In the A District, a single-family dwelling unit is permitted when there is a minimum lot area of 20 acres.
- (2) The Planning Commission may authorize a single-family dwelling on a lot less than 20 acres if approved as a conditional use and provided there is a minimum lot area of five acres. Such conditional use approval shall include consideration of how the proposed dwelling will still allow for the continued purpose of agricultural preservation in the A District.⁶⁷

(c) **Permanently-Sited Manufactured Home (New)**

- (1) The home shall meet the definition of a permanently sited manufactured home as established in ORC Section 3781.06.
- (2) The home shall comply with all zoning requirements of a single-family dwelling in the applicable zoning district.
- (3) Travel trailers, park trailers, and mobile homes, as defined in Section 4501.01 of the ORC, do not qualify as a permanently sited manufactured home and shall be prohibited.

(d) **Rowhouses**

- (1) The maximum number of dwelling units permitted on any single lot in the RLA District shall be four units.
- (2) The maximum number of dwelling units permitted on any single lot in the OTB District shall be six units.

(e) **Group Homes**

(1) **Intent**

It is the intent of these standards to ensure that residents of group homes are provided with accommodations that are safe, clean, and maintained. Group homes for foster care, mental health care and support, addiction recovery, assistance for the elderly and other supportive care group homes are valuable housing options within the community. Group homes must be sited appropriately to gain the advantages of their location within stable neighborhoods. The planning for siting and location is often conducted by an operator who hires staff to provide direct care and support. Homes are then open to children or adults in crisis or needing supportive care. This section provides minimum standards to prevent unsafe or substandard outcomes for future residents of these homes.

(2) **Exclusion**

Group homes shall not include other group living uses defined in this code including, but not limited to “small residential facilities,” “large residential facilities,” or “skilled or personal care facilities.”

(3) **Reasonable Accommodation**

Upon request, the Zoning Administrator is empowered to provide reasonable accommodation for protected classes under the Fair Housing Act, and shall provide by policy a process for specific requests for reasonable accommodation.

⁶⁶ There needs to be a simultaneous change of language in the general ordinances.

⁶⁷ This is a change from the current practice of requiring 20 acres for any single-family home. While it is understood that the intent is to protect agricultural lands, it has caused issues for farmers who want to sell of the farmland, but still live in their house. The current provisions also means that if someone has a 15-acre farm, they cannot live on it. While in the past, variances have been approved, this is not the proper process because it is not a practical difficulty. Instead, by making it a conditional use, the Planning Commission can consider the specific situation to ensure it is compatible with the goals of the district.

(4) Permit and Proper Licensing Required

- A)** No group home operator shall operate a group home or knowingly permit the operation of a group home without first submitting an application and receiving approval of zoning compliance review pursuant to Section <>.
- B)** No group home operator shall operate a group home or knowingly permit the operation of a group home without the appropriate state and/or county license related to the type of group home.
- C)** Any approved group home shall require an annual renewal of the zoning compliance review approval. This shall include approvals issued for group homes that are still under review by any other agency. The group home operation shall be responsible for submitting the renewal request.
- D)** An application may be denied on the basis of open complaints, violations, and corrective action required by the State of Ohio affecting the group home operator's license.
- E)** Failure to provide any of the information required in a zoning compliance review application for the renewal, or providing false or misleading information may be grounds for denial.
- F)** Zoning compliance review approvals that have been issued on the basis of false representations of the details of a license, intended occupancy, or other relevant details are subject to revocation.
- G)** Due to the amount of information required, all group home applications shall receive one comment letter from staff indicating any questions, comments, or missing information from the application. This comment letter will be emailed to the email address listed on the application. Applicants are given 14 days from the date of the comment letter to answer all staff questions and send in additional information. If, after the resubmittal or resubmittal date, comments, questions, or information are still missing or outstanding, the renewal application will be denied.
- H)** Once zoning compliance review and any applicable renewals are issued to a group home operator, the approval is non-transferable. Group home operators shall be required to submit a new application prior to the transfer of the group home to a new operator.
- I)** If a renewal application is denied or revoked, the operation of the group home shall cease immediately.

(5) Group Home Requirements

- A)** To prevent danger of fire spread and negative health impacts, no foster care group home shall be sited within the same block face, or adjacent to a vacant home boarded, or declared a public nuisance by the City. This standard shall not apply retroactively should a home within this distance fall into this state during the operation of the group home. The Zoning Administrator may provide exceptions to this standard based on the specific circumstances of the home declared a nuisance, or based on other factors seen as relevant, in pursuit of meeting the intent of this standard.
- B)** The Zoning Administrator shall perform an exterior inspection of a proposed group home prior to approving a zoning compliance review. The purpose of this inspection is to ensure compliance with the property maintenance code in Part Thirteen, Title V of the Trotwood Codified Ordinances. The Zoning Administrator shall provide a reasonable time period for compliance with any violations discovered. Compliance with these code provisions is required prior to the issuance of a zoning certificate. Continued adherence to these standards after the issuance of zoning certificate is required, and is required to maintain any and all zoning compliance review approvals issued prior to the effective date of this code.
- C)** Group homes of any category shall not be located within 1,000 feet of any other group home, as measured from the nearest lot line to the nearest lot line. The Zoning Administrator may approve closer siting where two group homes are separated by natural or man-made barriers like steep terrain, waterways, or arterial roadways which mark a more significant physical separation than distance.
- D)** Group homes shall operate only from a single-unit structure, or may be located in a two-unit structure where the group home operator or a staff member resides in the second dwelling unit as their primary residence. This arrangement within a two-family dwelling must include ownership of the structure by the operator or entity who runs the group home. No more than one group home shall be located on a single lot.

- E) To ensure availability of City of Trotwood services, as well as the services provided by other agencies, and to prevent excessive concentration of foster care group homes, these residences shall not exceed the maximum of three foster care group homes per ward of the city. With four wards of the city, there is a limit to 12 foster care group homes within the City of Trotwood.

(6) Permit Requirements

- A) The group home operator shall submit the following to the Zoning Administrator:
- i) A letter of intent to apply for a state and/or county license. The letter will contain the following information:
 - a. Group home Information, which includes:
 - 1. Type of group home;
 - 2. Maximum number of occupants;
 - 3. If a foster care group home, gender and age range of occupants;
 - 4. Number of employees; and
 - 5. Proposed level of care.
 - b. The state and/or county agency which the license is issued through.
 - c. A contact at the aforementioned agency familiar with your case or application, including a phone number and email address.
 - d. The names of all owners of the property on which the group home is proposed.
 - e. The home address, phone number, and email address of each property owner.
 - f. The home address, phone number, and email address of the proposed operator.
 - g. Proof of business registration or Federal ID number.
 - ii) If the group home operator is not the owner of the property in which the group home is located, then the group home operator shall provide a notarized letter from the property owner approving the property for use as a group home.
 - iii) An emergency contact or point of contact for the proposed group home, which includes:
 - a. Name of emergency contact;
 - b. Title of emergency contact;
 - c. Phone number; and
 - d. Email address.
 - iv) A to-scale layout of the interior of the structure with room labels and dimensions. This shall also include a notation identifying the location any medications stored on-site.
- B) Proper notification of the surrounding properties shall be completed.
- i) A letter shall be mailed indicating the intention of the group home operator to open a group home. It shall include the type of group home and contact information of the operator including a phone number and email address.
 - ii) The letter shall be mailed via certified mail to all properties within 300 feet of the subject property.
 - iii) A copy of the letter, list of recipients, and verification (certified mail receipt) that the letters were mailed shall be provided to the Zoning Administrator as a part of the zoning compliance review application.
- C) The Zoning Administrator shall approve the zoning compliance review application if the group home operator demonstrates compliance all requirements of this subsection and any other applicable standards of this code. .

(7) Emergency Plan

In order to assist emergency responders, an emergency plan shall be managed and maintained by the group home operator on-site at all times. This shall contain a list of all current residents, including their name and age.

(8) Permit Renewal

- A) As stated in this section, every approval issued by the City for the establishment of a group home require an annual renewal by the group home operator, including those that are still under review by any other agency.
- B) The group home operator shall be responsible for submitting information to the Zoning Administrator to provide adequate information that the group home is still in compliance with the previous approval and that no substantive changes have occurred.
- C) Upon satisfaction that the group home is in compliance with applicable zoning regulations, fire codes, property maintenance does, and building codes, the Zoning Administrator shall renew the permit for a period of one year.
- D) Where a nonconforming group home has been voluntarily discontinued in accordance with Section [1114.03\(d\)](#), the building and site shall not longer be permitted to be used for a group home until a any subsequent proposal for a group home is approved demonstrating compliance with the provisions of this code. Otherwise, the establishment of any new use shall comply with the requirements of this code.
- E) A fire inspection conducted by the Trotwood Fire Department is required to be completed and passed following the initial approval of any zoning compliance review. A completed and passed fire inspection is required prior to the issuance of any renewal permit.

(f) Residential Facility, Large (New)

Residential facilities as defined in ORC Chapter 5119, providing services for six to 16 people, and residential facilities as defined in ORC Chapter 5123, providing services for nine to 16 people, are allowed in the RLA, RMF-L, and RMF-H Districts if approved as a conditional use. Such facilities must comply with the lot and principal building regulations (See Section [1105.05](#).) and any other standards in this code that apply to multi-family dwellings within the applicable district.

(g) Residential Facility, Small (New)

Residential facilities as defined in ORC Chapter 5119, providing services for one to five people, and residential facilities as defined in ORC Chapter 5123, providing services for six to eight people, are allowed where single-family dwellings are permitted. Such facilities must comply with the lot and principal building regulations (See Section [1105.05](#).) and any other standards in this code that apply to single-family dwellings within the applicable district.

(h) Active Recreational Facilities and Commercial Recreational Facility (Outdoors)

- (1) All structures, viewing areas, or seating areas shall be set back at least 100 feet from any lot with a residential use or any adjacent residential zoning district.
- (2) All outdoor lighting shall project downward and shall be of full cutoff design in order to minimize glare and reflection onto adjoining properties and public streets. See Section [<>](#) for additional information on outdoor lighting.
- (3) The hours of operation may be regulated by the Planning Commission, if necessary, to mitigate adverse impacts on adjacent residential uses.
- (4) No use that involves the discharge of firearms is permitted.

(i) Community Gardens (New)

- (1) Community gardens may be located in an open space area of a PUD if the space is maintained by a homeowners' association.
- (2) The owner of the property shall have an established set of operating rules addressing the governance structure of the garden, with hours of operation, maintenance and security requirements and responsibilities, and provisions for the distribution of garden plots.
- (3) The name and telephone number of the owner and any person designated as the person in-charge of garden coordination along with a copy of the operating rules shall be kept on file in the offices of the Zoning Administrator.
- (4) The site shall be designed and maintained so that water, pesticides, and fertilizer will not drain onto adjacent properties.
- (5) There shall be no retail sales on site, except for produce grown on the site.

- (6) Benches, bike racks, raised/accessible planting beds, picnic tables, seasonal farm stands, garden art, and rain barrel systems may be permitted if the community garden is located on a lot where the principal use of the lot is public, institutional, or commercial.
- (7) Fences and walls shall be subject to the provisions of Section [<>](#).

(j) Residential Development Community Centers (New)

- (1) One residential community center shall be allowed within an individual subdivision or for a multi-family dwelling development with more than 12 dwelling units.
- (2) Additional residential community centers may be approved as part of a development that is approved as a PUD. See Chapter [<>](#).
- (3) The residential community center shall only be for the use of residents of the individual subdivision, multi-family dwelling development, or PUD, as applicable, and their guests.

(k) Animal Boarding Facilities and Day Care (New)

- (1) All structures and outdoor run areas designed to house or accommodate animals, either permanently or temporarily, shall be set back a minimum of 200 feet from all lot lines in an A District. All other structures related to the use of the property shall be set back in accordance with the applicable zoning district.
- (2) Animal board facilities and day care in an A District shall have a minimum lot size of five acres and should be operated by the property owner who also resides on the same lot.
- (3) Care and boarding of animals shall be limited to domestic animals and may not include cattle, horses, swine, or other similarly sized animals.
- (4) A solid wood fence or masonry wall with a minimum height of six feet shall be constructed where a kennel or animal boarding facility is located adjacent to a residential zoning district.

(l) Bed and Breakfast Establishments (Revised 1133.04 (c))

- (1) Bed and breakfast establishments shall only be permitted within a single-family, detached dwelling.
- (2) The owner of the premises shall reside full-time in the dwelling.
- (3) No more than five bedrooms in any dwelling may be used for bed and breakfast lodging and at least one bathroom shall be dedicated to guest use.
- (4) One off-street parking space shall be provided for each bedroom used for guest lodging in addition to those normally required for the single-family dwelling.
- (5) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the bed and breakfast establishment that will indicate from the exterior that the building is being utilized in part for any purpose other than a dwelling unit.
- (6) Meals provided for cost in a bed and breakfast establishment shall only be served to the guests who are lodging at the bed and breakfast establishment.
- (7) Guests shall be permitted to reside at the facility for not longer than 14 days.⁶⁸

(m) Adaptive Reuse of a Pre-Existing Building

- (1) The adaptive reuse of a pre-existing building shall only be allowed where the Planning Commission makes a determination that an existing building on the site cannot be readily used for a principal use that is otherwise allowed in the applicable zoning district, due to the design of the building. This finding shall be in addition to the general review criteria for conditional uses found in Section [<>](#).
- (2) The proposed use of the building shall be limited to principal uses that are specifically allowed in [Table <>](#).
- (3) The adaptive reuse application must demonstrate that the exterior appearance of the building shall not be altered unless otherwise approved by the Planning Commission as part of a conditional use approval. This shall not prevent the applicant from renovating the building so that it complies with all applicable building and fire codes.

⁶⁸ The time limit of 14 days has been maintained, but we have excluded the within a calendar year just due to the fact that it would be tough to administer.

- (4) If the pre-existing building is demolished or damaged more than 60 percent of the market value of the building, then the remainder of the building shall be demolished and the adaptive reuse approval shall expire. After such expiration, only a permitted use in the applicable zoning district may be authorized in accordance with this code.

(n) **Two-Family Dwellings, Three-Family Dwellings, and Single-Family Attached Dwellings in the OTB District**

In the OTB District, two-family dwellings, three-family dwellings, and single-family attached dwellings shall only be permitted on lots that have a street frontage along Main Street or Broadway Avenue.

(o) **Educational Institutions (Higher Education)**

Educational institutions (higher education) may be permitted in the OTB, GB, RB, and SCB Districts when the uses are classrooms or offices located in office buildings or in other office-like settings.

(p) **Fraternal, Charitable, and Service Oriented Clubs (New)**

- (1) Accessory uses necessary to the operation of such use, such as clubhouses, restaurants, bars, swimming pools and similar activities, shall be permitted if they comply with the applicable standards in Section <>. However, such uses, where the conduct of business is the principal activity of the building or lot shall be prohibited, unless permitted in the applicable zoning districts.
- (2) Such facilities shall be for the use of the members or organizations and shall not be rented out for events to the general public unless such facility is approved as an “assembly hall or conference center.”

(q) **Nursery Schools and Day Care Centers (Adult or Child) (New)**

- (1) Picking up and dropping off shall not create unsafe conditions. Loading and unloading of children from vehicles shall only be allowed in the driveway or in an approved parking area.
- (2) No dormitory facilities shall be permitted.

(r) **Parking Lots or Garages (New)**

- (1) Parking lots and garages shall be subject to the design standards in [Chapter <>](#).
- (2) Parking lots and parking garages that are above-ground are subject to the setback requirements for principal uses in the applicable district.
- (3) Landscaping and screening of surface parking lots shall meet the requirements of [Chapter <>](#).
- (4) Below-grade parking garages are encouraged over above-grade.
- (5) Above grade parking garages or decks are subject to the following architectural standards except if they are not visible from a public right-of-way:
- A) Parking garages shall meet the architectural standards established for the applicable zoning district.
 - B) Parking garages shall be constructed of materials of similar quality to the principal buildings on the site or adjacent buildings.
 - C) The facades of parking garages that face public streets and are not occupied by commercial, office, institutional, public uses, or civic uses shall be articulated through the use of three or more of the following architectural features to make the parking garage appear similar in character to an occupied building:
 - i) Windows or window-shaped openings with decorative mesh or similar features as approved by the City;
 - ii) Masonry columns;
 - iii) Decorative wall insets or projections;
 - iv) Awnings;
 - v) Changes in color or texture of materials;
 - vi) Approved public art;
 - vii) Integrated landscape planters; or
 - viii) Other similar features approved by the City.

- D) Vehicle entries to off-street parking garages shall be integrated into the placement and design of adjacent buildings or oriented away from the primary street frontage. At a minimum, parking garages shall have user vehicles access from locations that minimize conflicts with pedestrian circulation.

(s) Adult Entertainment Establishments (Revised 1133.04 (e))⁶⁹

- (1) No adult entertainment premises shall be located:
 - A) Within 1,000 feet of any other adult entertainment establishment; or
 - B) Within 1,000 feet of the boundaries of any residential zoning district; or
 - C) Within 2,000 feet of a lot containing a permanent structure used for a religious use or place of worship, educational institution (Preschool and K-12), or nursery school or day care serving children under the age of 18 years old, or any active recreational facility; or
 - D) Within 1,000 feet of any Establishment for the sale of beer or intoxicating liquor for consumption on the premises;
- (2) Any existing and operational adult entertainment establishment that does not presently meet any or all of the locational requirements shall be deemed a legal nonconforming use.
- (3) The measurement of distance as provided for herein shall be measured in a straight line from and to the nearest points of the respective properties as referred to herein.
- (4) No portion of any wall of any building which separates an adult entertainment establishment from any other business activity shall be remodeled or altered in any manner to permit access to or viewing of adult entertainment in an adjoining or adjacent building.
- (5) Displays or other promotional materials shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other areas public or semi-public.
- (6) All building openings, entries, windows, etc. for adult uses shall be located in such a manner as to prevent a view into the interior from any public or semi-public area, sidewalk or street.
- (7) No screens, loudspeakers or sound equipment shall be used for adult motion picture theaters (enclosed or drive-in) that can be seen or discerned by the public from public or semi-public areas.

(t) Assembly Halls or Conference Centers

- (1) Such uses shall be limited to spaces that employee staff to lease and operate the use, including managing any events held at the establishment.
- (2) Facilities that are rented out to people or groups without employees of the establishment on-site at all times shall be prohibited
- (3) No events shall be held between the hours of 12:00 pm and 7:00 am.

(u) Automotive Repair and Service (Heavy) (New)

- (1) An automotive repair and service (major) establishment shall be subject to the same requirements as an automotive service station (minor) as established in Section [1105.04\(v\)](#), below.
- (2) The principal structure shall be set back a minimum of 150 feet from any lot line of a lot in a residential zoning district. Parking for the storage of vehicles, whether operational or non-operational, shall be set back a minimum of 50 feet from any adjacent lot line in a residential district.
- (3) The storage of non-operational vehicles for longer than 14 days shall be permitted if stored in the rear yard and screened by a solid wall or fence with a minimum height of six feet.
- (4) The use may be subject to additional screening requirement in accordance with [Chapter <>](#).
- (5) Vehicles awaiting repair shall be parked in designated parking spaces and shall not encroach on driving aisles, landscaped areas and drive approaches. No part of the street right-of-way shall be used for parking of vehicles awaiting service.
- (6) Damaged or inoperable vehicles shall not be used for storage purposes.

⁶⁹ We have eliminated provisions that related to the regulation of employee's actions unrelated to the use and building code language as those would not be enforced through zoning.

(v) **Automotive Parts, Repair, and Service (Minor), and Fuel Stations (Revised 1133.04 (b))**

- (1) Any repair work on vehicles that do not fall under Class 1, 2, or 3 vehicles, as defined by the Federal Highway Administration (FHWA), shall be defined as “automotive repair and service (major)” and subject to the applicable provisions of this chapter.
- (2) There shall be a minimum lot size of 15,000 square feet and a minimum street frontage of 125 feet.
- (3) Canopies (whether attached or detached from the principal building) shall be set back a minimum of 25 feet from all lot lines and 50 feet from all adjacent lot lines of lots in residential zoning districts.
- (4) All fuel pumps and the principal building shall be set back a minimum of 65 feet from all lot lines.
- (5) All hydraulic hoists, oil pits, and all lubricants, greasing, vehicle washing and repair equipment shall be enclosed entirely within a building. No outdoor disassembly or repair of motor vehicles shall be permitted.
- (6) All repair work must be performed in a fully enclosed building.
- (7) Activities shall be limited to:
 - A) The sale of automotive fuel;
 - B) The servicing of motor vehicles with minor repair work if done within an enclosed building;
 - C) Washing of vehicles within an enclosed building;
 - D) The retail sale of vehicle parts and products relating to minor repair work, such as, but not limited to, oil, grease, tires, antifreeze, batteries, and windshield wipers. The storage and sales of such products shall take place entirely within an enclosed building.⁷⁰
- (8) Space for overnight parking, overnight accommodations, or the inclusion of showers within the building shall be prohibited.
- (9) Any major repair work, including but not limited to, automobile body repair and painting, automobile glass work, automobile transmission work, automobile engine overhaul and repair, and radiator repair work shall be classified as “automotive repair and service (major)” and shall be subject to Section [1105.04\(u\)](#).
- (10) Vacuuming or air-filling equipment may be located outside, but shall not be placed in a front yard or any yard adjoining a residential zoning district.
- (11) Vehicles being serviced or awaiting service shall be stored for no longer than seven calendar days on the site if in unenclosed areas or areas not screened along lot lines adjacent to lots in residential zoning district or lots used for residential purposes.
- (12) No vehicles may be parked or stored for the purposes of sales or leasing.
- (13) Outdoor solid waste, storage areas, and recyclable storage areas shall be screened in accordance with Section [<>](#).

(w) **Bars, Lounges, Nightclubs (Revised 1133.04 (f))**

- (1) No bars, lounges, or nightclubs shall be permitted to be established within 500 feet of :
 - A) Any other another bar, lounge, or nightclub; or
 - B) A religious use or place of worship, educational institution (Preschool and K-12), or nursery school or day care serving children under the age of 18 years old unless located within a nonresidential or mixed-use zoning district.
- (2) The hours of operation shall not exceed the regulations governed by the Ohio Liquor Control Board.
- (3) The principal building shall be set back a minimum of 200 feet from any residential zoning district.
- (4) The operator shall with Trotwood Police Department to develop logistical coordination for events anticipated to have large crowds.
- (5) No outdoor venues shall be permitted.
- (6) Bars, lounges, and nightclubs shall not operate between the hours of 12:00 pm and 7:00 am.

⁷⁰ We have not included the prohibition of sale of merchandise not commonly associated with the use because the sales items will be indoors. Outdoor sales is controlled by accessory use regulations, which will prohibit such sales for any use.

(x) **Cremation Services**

- (1) Cremation services shall be set back a minimum of 250 feet from any lot line in a residential zoning district.

(y) **Funeral Homes and Mortuaries**

- (1) Vehicular use areas shall be designed to allow for the queuing of vehicles if funeral processions are intended to originate or terminate at the establishment.
- (2) One dwelling unit may be provided within the principal building for the use by the owner or an employee of the use.
- (3) All funeral homes shall be located so as to provide direct access from an arterial or collector street.
- (4)

(z) **Indoor Shooting Range**

- (1) Indoor shooting ranges may not generate excessive noise beyond the premises. Noise reduction measures are required to assure that the level of noise is no more than the prevailing noise levels of surrounding lots. Acceptable levels of noise or sound may be found in the most recent edition of "The NRA Range Source Book."
- (2) Indoor shooting ranges shall be set back a minimum of 250 feet from dwellings and residential zoning districts. This provision is inclusive of any nonconforming dwelling uses. This provision must not be construed to prohibit the development of dwellings, where allowed.
- (3) Indoor shooting ranges may not operate any earlier than 7:00 am and no later than 11:00 pm.
- (4) A safety plan must be submitted to the Zoning Administrator and conditioned with any approved application. At a minimum, the safety plan must include gun handling rules, general and specific range rules, and administrative rules and regulations. Approved firearms safety rules must be prominently displayed in the shooting area and range personnel must be responsible for enforcing the rules.
- (5) The shooting range must comply with all applicable federal and state rules and regulations. Moreover, the use and building must conform with all applicable Ohio Environmental Protection Agency and OSHA standards for indoor ventilation, emissions into the atmosphere, indoor sound levels, lead containment, and outside noise standards.
- (6) The design and construction of the shooting range must completely confine all fired projectiles within the building and in a controlled manner.
- (7) The design of the shooting range must be certified by a professional engineer and/or architect registered in the state. The certified plans must include the specifications and construction of the bullet traps, ceilings, exterior and interior walls, and floors. The certified plans must state what type and caliber of ammunition the range is designed to completely confine. No ammunition may be used in the range that exceeds the certified design and construction specifications of the firing range.
- (8) If retail sale and repair of weapons and/or ammunition is conducted on the premises, the management must comply with all licensing and operations requirements of the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives. Retail sales of weapons, ammunition, and food or drinks must not exceed 10 percent of the gross floor area dedicated to the indoor shooting range use.
- (9) Indoor shooting ranges must carry a minimum of \$1,000,000 of liability insurance. Such insurance must name the City of Trotwood as an additional insured party and must save and hold the City of Trotwood, its elected and appointed officials, and employees acting within the scope of their duties harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising in favor of a person or group's members or employees or third parties on account of any property damage or personal injury arising out of the acts or omissions of the permittee, their group, club, agents, or representatives. The shooting range owner must provide a copy of the certificate of insurance yearly to the Zoning Administrator and notify the City's Finance Director and Zoning Administrator, in writing, of any policy changes or lapses in coverage.

(aa) **Live/Work Units (New)**

- (1) The majority of the floor area of the unit shall be designated for the nonresidential use.
- (2) Any nonresidential use permitted in the applicable zoning district is permitted in the live/work unit. If such use is only permitted as a conditional use, then the live/work unit containing such use shall only be allowed as a conditional use.

- (3) The unit must be constructed with a complete dwelling unit but residential occupancy of the unit is not required (i.e., the living space could be used as an extension of the nonresidential use area).

(bb) Microbrewery, Microdistillery, or Microwinery (New)

- (1) A microbrewery, microdistillery, and microwinery may be allowed, with applicable approvals, in the NB, OTB, GB, RB, and SCB Districts when the majority of the floor area is dedicated to being used for restaurant service or for the serving of drinks made on site so that the use fits into the retail character of the districts. Drinks made off site may also be permitted provided the majority of drinks offered for sale are made on site.
- (2) A microbrewery, microdistillery, and microwinery in the BP, LI, or HI Districts may include a taproom area to serve customers drinks made on site provided the floor area of the taproom does not exceed 50 percent of the total footprint of the use. Food service may be included within the 50 percent total footprint. Drinks made off site may also be permitted provided the majority of drinks offered for sale are made on site.

(cc) Mixed-Use Buildings (New)

- (1) Developments consisting of multiple principal uses shall incorporate only those use types permitted in the applicable zoning district with the exception that residential dwelling units may be allowed in accordance with this subsection. See paragraph <>, below.
- (2) Mixed-use buildings may also include attached residential dwelling units where office, commercial, or other nonresidential uses are located on the first floor and residential uses are located on the upper floors. Residential dwelling units shall be prohibited on the first floor of mixed-use buildings.
- (3) The presence of a home occupation and/or a residential business in conjunction with a residential use shall not constitute a mixed-use building.

(dd) Substance Abuse Clinics

- (1) Substance abuse clinics shall be set back a minimum of 500 feet from any adjacent dwelling unit.
- (2) Substance abuse clinics shall be set back a minimum of 1,000 feet from any other substance abuse clinic.

(ee) Vehicle Sales and Leasing

- (1) Display of vehicles for sale or lease outdoors shall be located on a paved surface, and within striped parking spaces, that all comply with the parking requirements of Section <>.
- (2) All work on vehicles, including, but not limited to, cleaning, servicing, and repair, shall be done only in an enclosed building and shall be subject to the same standards as an automotive repair and service establishment (minor) or automotive repair and service (major) establishment, as applicable.
- (3) The sale or leasing of used vehicles, including the display, offering for sale and leasing of used vehicles, shall only be permitted as an accessory use to an establishment that sells new vehicles and such sale at retail, display, offering for sale and leasing of used vehicles shall be operated in conjunction with, on the same lot as, and under the same ownership and management of, the new vehicle sales or leasing establishment. Sales may take place on a separate lot if that lot is under the same ownership as the new vehicle sales or leasing establishment.

(ff) Contractor Equipment and Storage Yards

- (1) Outdoor storage must be associated with a principal building that contains the contracting or construction business associated with the stored materials.
- (2) The outdoor storage shall be limited to 20,000 square feet of open storage in the LI District.
- (3) All storage of equipment and materials must be located in the rear yard and screened in accordance with [Chapter <>](#).

1105.05 LOT AND PRINCIPAL BUILDING REGULATIONS

(a) Number of Principal Buildings Per Lot

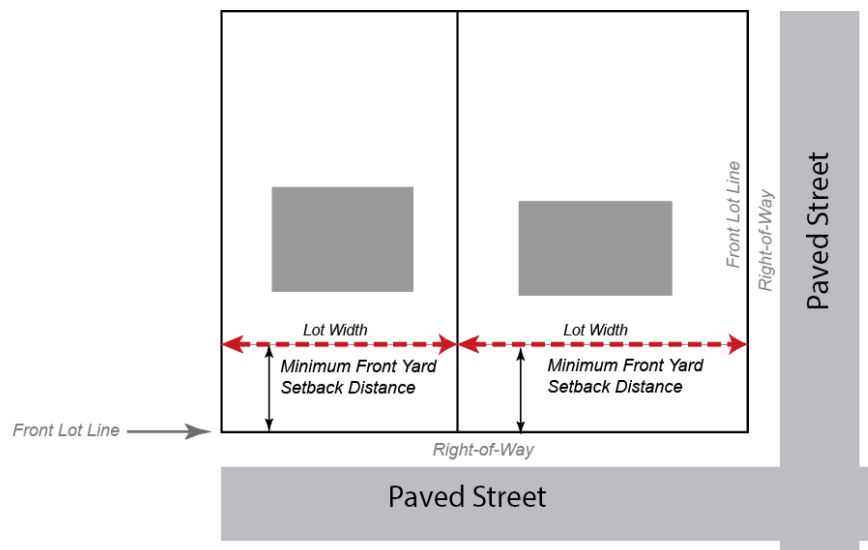
- (1) In the RSF-L, RSF-M, and RSF-H Districts, only one principal building shall be permitted on any single lot unless approved as a condominium.
- (2) There can be more than one principal building on an individual lot all other districts.

- (3) The number of principal buildings per lot in a PUD shall be as approved by Planning Commission and City Council.

(b) **Minimum Lot Area and Lot Width**

(1) **Measurements**

- A) The area of a lot includes the total horizontal surface area within the lot's boundaries (lot lines).
- B) The lot width shall be measured as the distance between the side lot lines, as measured along a straight line at the minimum front yard setback line.
- C) For corner lots, the lot width shall be measured as the distance between the side lot line and the front lot line directly opposite, as measured along a straight line at the minimum front yard setback line. See Figure <>.



Figure<>: Illustration of the location for measuring the lot width on a typical interior lot (left) and on a corner lot (right).

- D) Exceptions to this standard shall only be granted if a reduction is approved as part of a PUD or variance approval.
- E) No lot shall be reduced in area or dimensions so as to make said area or dimensions less than the minimum required by this code; and, if already less than the minimum required by this code, said area or dimensions shall not be further reduced.

(2) **Minimum Lot Area and Lot Width Requirements**

- A) [Table 1105-3](#) establishes the minimum lot area and lot width requirements for individual zoning districts.
- B) Minimum lot areas and lot widths in a PUD District shall be as established in the PUD approval process.
- C) Where a lot does not have access to a public sanitary sewer system, the minimum lot area standard may be increased based on requirements of the Dayton and Montgomery County Public Health Department for on-site sewage systems. In no case shall lots without access to a public sanitary sewer system have less than two acres in lot area.

TABLE 1105-3: MINIMUM LOT AREA AND LOT WIDTH REQUIREMENTS			
District	Uses	Minimum Lot Area (Square Feet Unless Noted)	Minimum Lot Width (Feet)
A	Single-Family Dwellings	20 Acres ^[1]	600
	Agricultural Uses	5 Acres	300
	All Other Uses	5 Acres	300
RSF-L	All Uses	15,000	80
RSF-M	All Uses	7,500	70
RSF-H	All Uses	4,000 ⁷¹	40
RLA	Single-Family Dwellings (Attached and Detached)	5,000	50
	Two-, Three-, and Four- Family Dwellings	12,000	75
	All Other Uses	One Acre	150
RMF-L	Two-Family Dwellings	6,000 per dwelling unit	100
	All Other Dwellings	8,000 per dwelling unit	100
	All Other Uses	43,460	100
RMF-H	Two-Family Dwellings	6,000 per dwelling unit	100
	All Other Dwellings	4,000 per dwelling unit	125
	All Other Uses	One Acre	125
NB	All Uses	7,500	60
OTB	Single-Family Dwellings	4,000 ⁷²	40
	All Other Uses	None	None
GB, SCB, BP, and LI	All Uses	15,000	80
GI	All Uses	One Acre	150
CPF	All Uses	15,000	80
NOTES: [1] Planning Commission may authorize a reduction in lot area and lot width through a conditional use approval. In no case shall the minimum lot area or lot width be reduced smaller than what is required for agricultural uses.			

(c) **Minimum Setbacks and Yards**

(1) **Setbacks and Yards Required for Buildings**

- A) A yard is the open area created by the required setbacks. Where required, a yard for any structure shall be located on the same lot as the structure and shall not include any yard or open space areas from an adjacent lot.
- B) While a yard is defined as an open area, certain structures and uses may be permitted in required yards as specified in this code.
- C) Where the term “required” is used before any yard type, that required yard shall be the area of the yard between the applicable lot line and the required yard setback distance from the applicable lot line, regardless of the presence of a building. See [Figure 1105-A](#).

⁷¹ Per the code audit, this is a reduction in lot size that will allow most of the existing platted lots become conforming. The current requirement is 10,000 square feet, but many lots are just above 4,000 square feet, with some smaller than that.

⁷² This was modified to reflect current platting and the updated RSF-H.

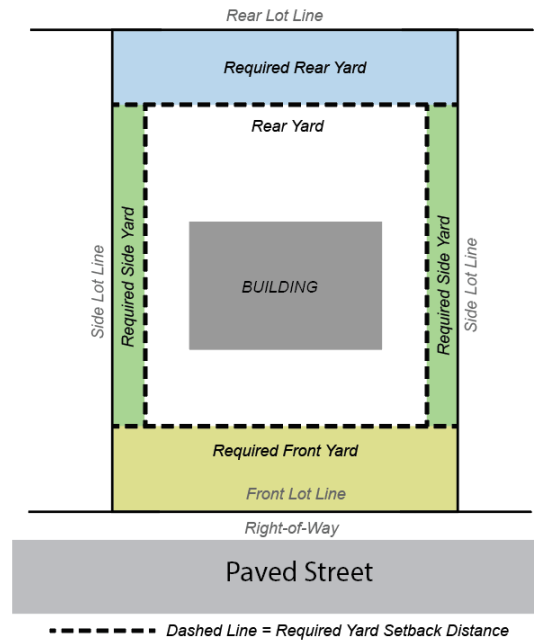


Figure 1105-A: The above image illustrates the use of the term “required yards” on a typical interior lot versus the location of the full front, side, and rear yards as defined in the next sections of this code.

(2) **Measurements and Exceptions**

- A) Setbacks refer to the unobstructed, unoccupied open area between the foundation or base of a structure and the property line (lot line) of the lot on which the structure is located. Setbacks shall not contain any structure except when in conformance with this code.
- B) A setback shall not be reduced in any manner to less than the required dimensions for the district in which it is located, and a setback of less than the required dimensions shall not be further reduced in any manner unless otherwise noted in this code (e.g., nonconforming structures or by variances).
- C) **Front Yard Exception for Partially Built-Up Blocks⁷³**

Where 50 percent or more of the block face on which a principal building is to be constructed, is occupied by buildings of the type and use permitted in the district before the effective date of this code, with a front yard setback of less than required by this code, the minimum front yard for new buildings shall be no less than the average setback distance of existing buildings located within 100 feet on either side of the applicable lot. However, front yard setback resulting therefrom shall not be less than one-half of the dimensions specified in the schedule in [Table 1105-4](#). See [Figure 1105-B](#).

⁷³ We could not find this provision, which will be helpful in the built-up neighborhoods, so we have added it for consideration.

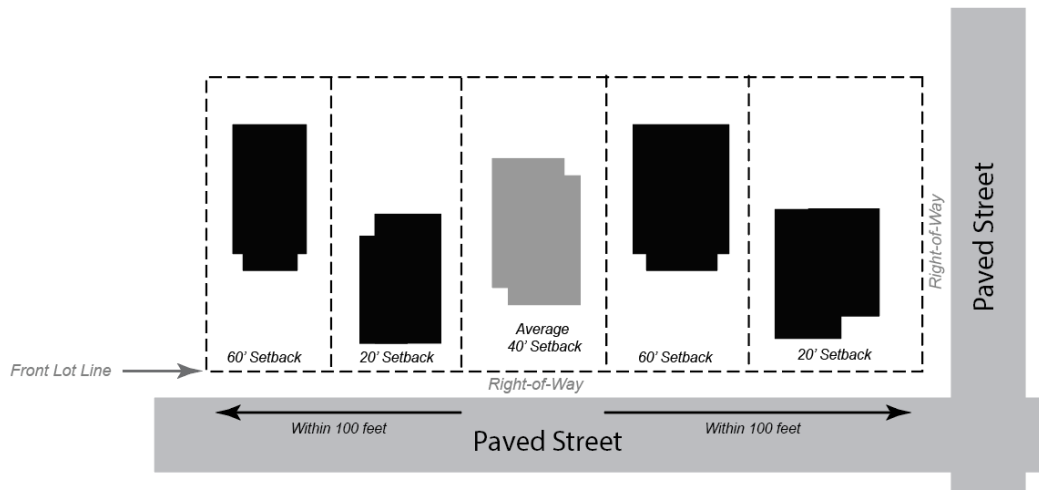


Figure 1105-B: Illustrative example of the provision for a front yard exception where structures on nearby lots do not meet the minimum front yard setback.

(3) Projections into Required Yards

Every part of a required yard shall be open to the sky and unobstructed except:

- A) As otherwise provided in this chapter;
- B) For accessory and temporary uses as allowed in [Section <>](#);
- C) For landscaping as allowed in this code;
- D) For parking and circulation as allowed in this code;
- E) For signage as allowed in this code;
- F) Walls and fences as permitted in accordance with [Section <>](#);
- G) For the ordinary projections that are a part or feature of a building which extends or projects outside of the exterior, enclosing facades. It is intended that certain features may project into required yards, but they shall be regulated so as not to substantially interfere with the reception of sun, light, air and the use of adjacent lots as follows:
 - i) Architectural features such as a belt course, balcony, cornice, gutter or chimney may project into a front and side yard for a distance of two feet;
 - ii) Entrance features such as an open platform, landing, steps, terrace, or other feature not extending above the first-floor level of a building may extend six feet into a front yard and three feet into a side yard.
 - iii) An unenclosed deck, porch, platform, landing, steps, terrace or other feature that is not fully enclosed and does not extend above the first-floor level of a building may extend into a required yard in accordance with [Section 1107.01\(f\)\(14\)](#).

(4) Lot Configurations and Rules for Setbacks and Yards

A) Interior Lots

- i) Unless otherwise stated, the required minimum front yard setback shall be measured from the street right-of-way or, where a right-of-way is not identified, the front lot line. See [Figure 1105-C](#).
- ii) The lot line located directly behind the rear of the structure, as determined by the Zoning Administrator, shall be the rear lot line and the rear yard setback shall be applied. See [Figure 1105-C](#).
- iii) All other lot lines shall be considered the side lot line and the side yard setback shall be applied. See [Figure 1105-C](#).

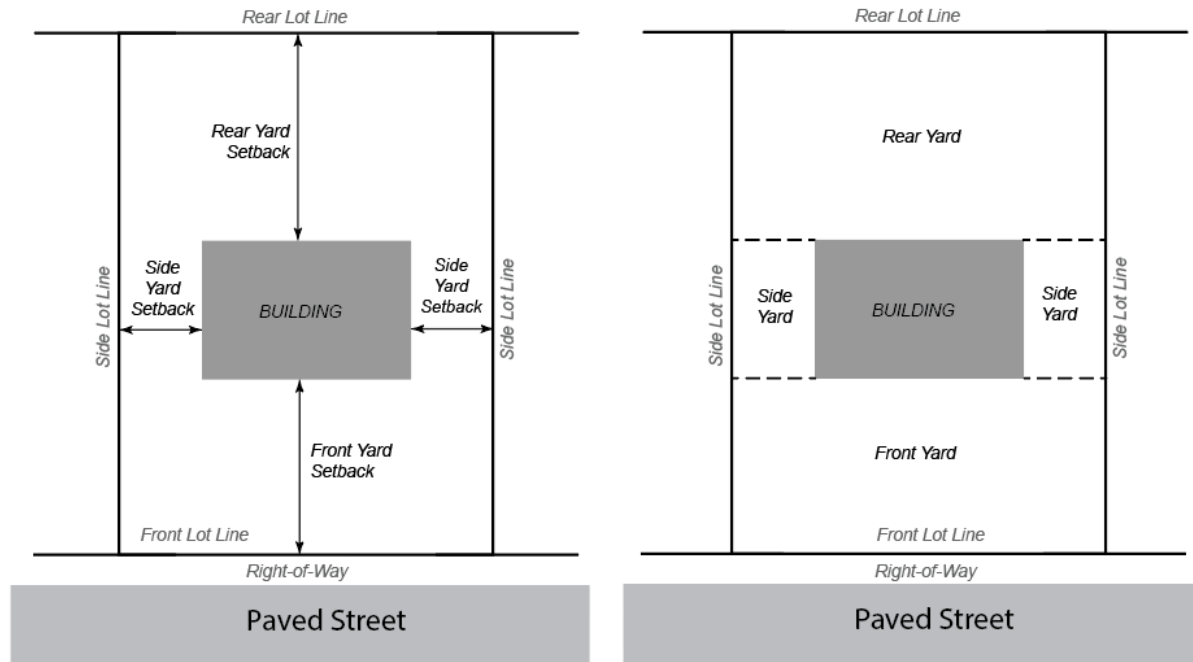


Figure 1105-C: Typical setback and yard locations for an interior lot.

B) Corner Lots

Lots that have street frontage on two intersecting streets shall be considered a corner lot, subject to the following:

- i) The required minimum front yard setback shall be provided from each street right-of-way or, where a right-of-way is not identified, the lot line adjacent to the street. See [Figure 1105-D](#).
- ii) The lot line that runs parallel with the front facade of the building on the rear of the lot shall be the rear lot line, and the minimum rear yard setback shall be applied from such lot line. See [Figure 1105-D](#).
- iii) All other lot lines shall be a side lot line, and the minimum side yard setback shall be applied from such lot lines. See [Figure 1105-D](#).
- iv) An alley shall not be considered a street for the purposes of determining a corner lot.
- v) Such setbacks and yard locations shall apply, regardless of the orientation of the building.
- vi) Buildings on corner lots should be oriented to face the street on which the lot has the narrowest frontage but may also be oriented toward the corner of the lot, in which case, the setbacks and yard locations shall be as illustrated in [Figure 1105-E](#).

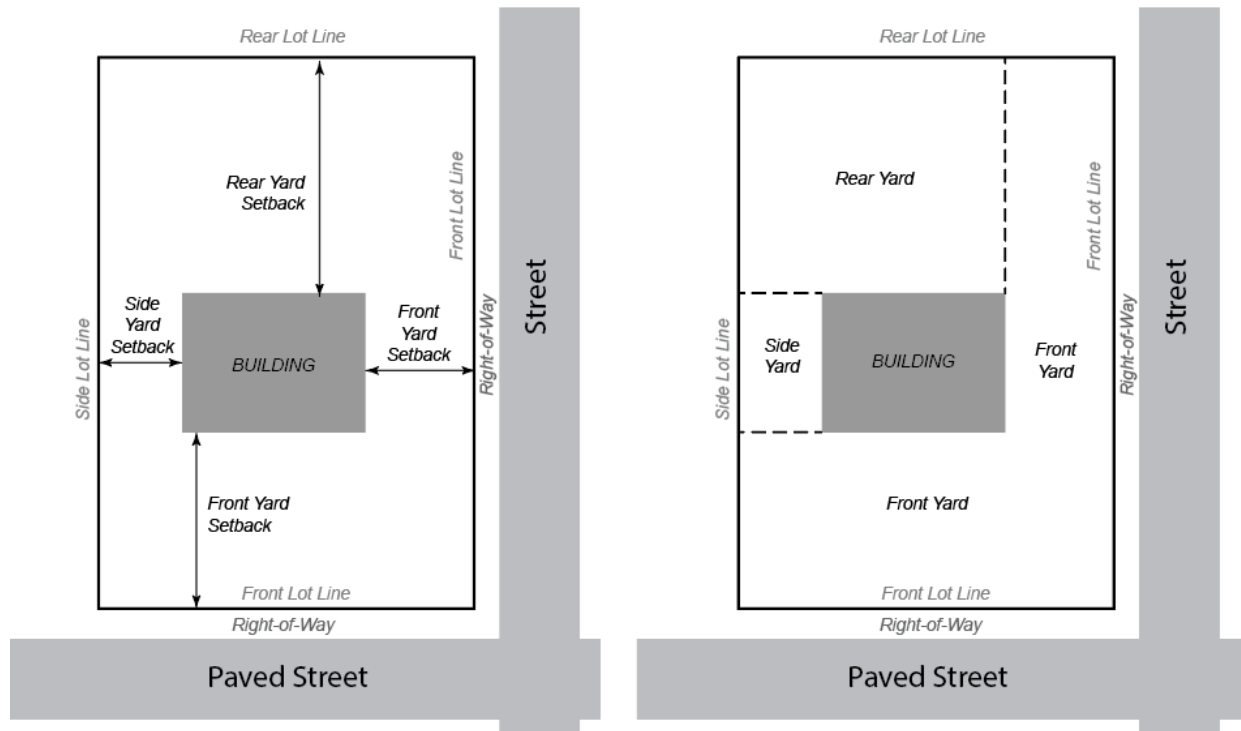


Figure 1105-D: Typical setback and yard locations for a corner lot.



Figure 1105-E: Typical setback and yard locations for a corner lot where the building is oriented toward the corner of the lot.

C) Double Frontage (Through) Lots

Double frontage lots shall be discouraged and shall only be approved if necessitated by unique topographic features or other special physical conditions as deemed necessary by the Planning Commission. Double frontage lots shall be subject to the following regulations:

- i) Where a lot is considered a double frontage (through lot) lot, the required minimum front yard setback shall be provided on all lot lines that abut a street. See [Figure 1105-F](#).

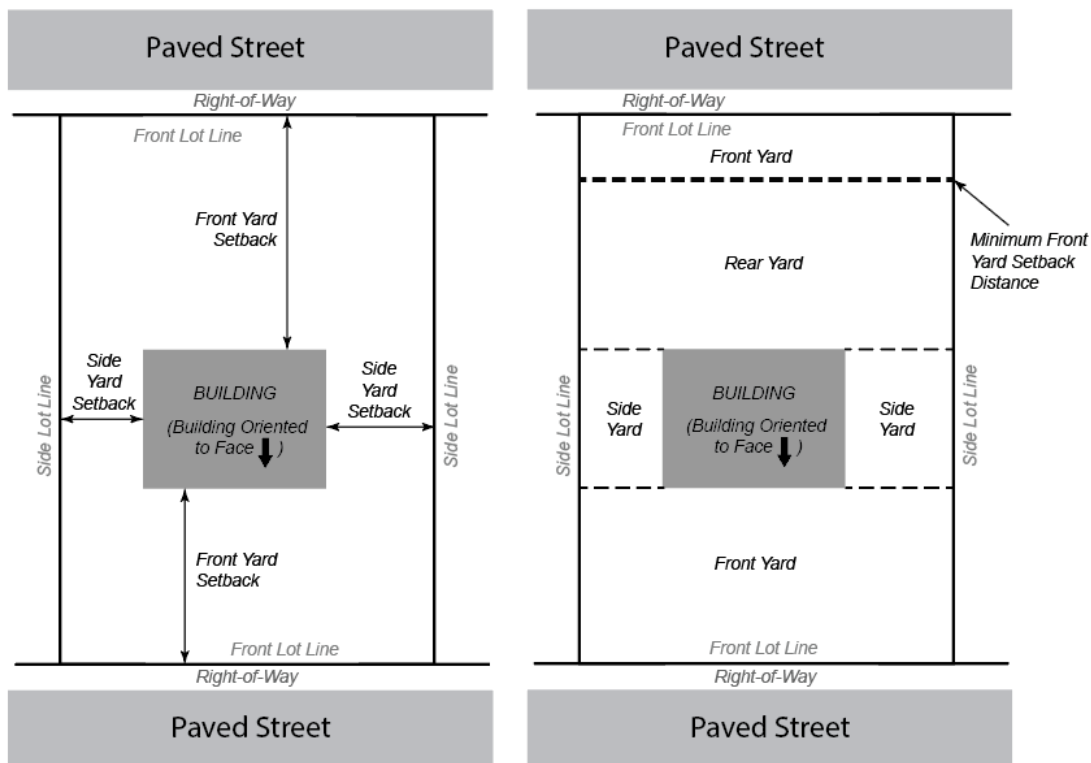


Figure 1105-F: Typical setback and yard locations for a double frontage (through) lot.

- ii) The remaining lot lines not abutting a public road right-of-way shall be considered as side yards and shall have the required minimum side yard setback provided for each side lot line. See [Figure 1105-F](#).
- iii) For the purposes of allowing accessory uses and fences, which are allowed in a rear yard, the yard that is located to the rear of the principal building shall be considered the rear yard and the setbacks of Section [1105.05\(c\)](#) shall apply to all accessory uses or structures. Such accessory uses or structures shall not be permitted in the required front yard areas adjacent to each street.
- iv) Where alleys exist in the City, any lots that have frontage along the alley shall not be considered a double frontage (through) lot and shall either be regulated as an interior lot or corner lot depending on the location of the subject lot within the block.

D) Panhandle (Flag) Lots

Panhandle lots (flag) lots shall be discouraged and shall only be approved if necessitated by unique topographic features or other special physical conditions as deemed necessary by the Planning Commission. Panhandle (flag) lots shall be subject to the following regulations:

- i) Panhandle (flag) lots shall not be used to avoid the construction of a street.
- ii) The area of the “panhandle” portion of the lot connecting the lot to the public street shall not be included in the area of the lot for the purposes of determining compliance with the required minimum lot area for the district in which the lot is located.
- iii) The stacking of panhandle (flag) lots shall be prohibited. See [Figure 1105-G](#).

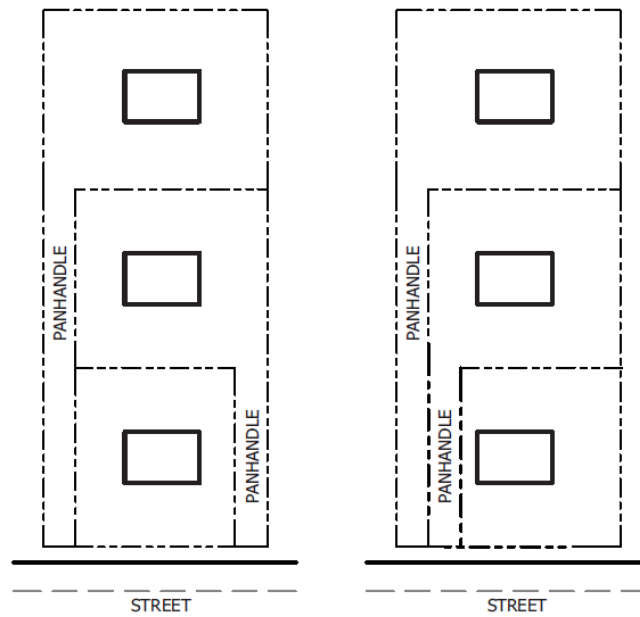


Figure 1105-G: The above illustration shows the stacking of panhandle lots, which is prohibited.

- iv) The panhandle shall have a minimum width of 10 feet along the entire width of the panhandle. The maximum width shall be 45 feet and anything with a width of 45 feet or greater shall be consider an interior, corner, or double frontage lot as may be applicable.
- v) No structures, except for fences and walls allowed by this code, shall be permitted in the panhandle portion of the lot.
- vi) The minimum front yard setback requirement shall be measured from the lot line that creates the rear lot line of the adjacent lot as illustrated in [Figure 1105-H](#).



Figure 1105-H: Typical setback and yard locations for a panhandle lot.

E) Cul-de-Sac or Curved-Street Lot

- i) For a cul-de-sac lot or a lot abutting a curved street, the front-yard setback shall follow the curve of the front property line (lot line). See [Figure 1105-I](#).
- ii) On a cul-de-sac roadway, knuckle, or eyebrow, the required street frontage shall be required and measured at the street right-of-way on the curve of the cul-de-sac, knuckle, or eyebrow.

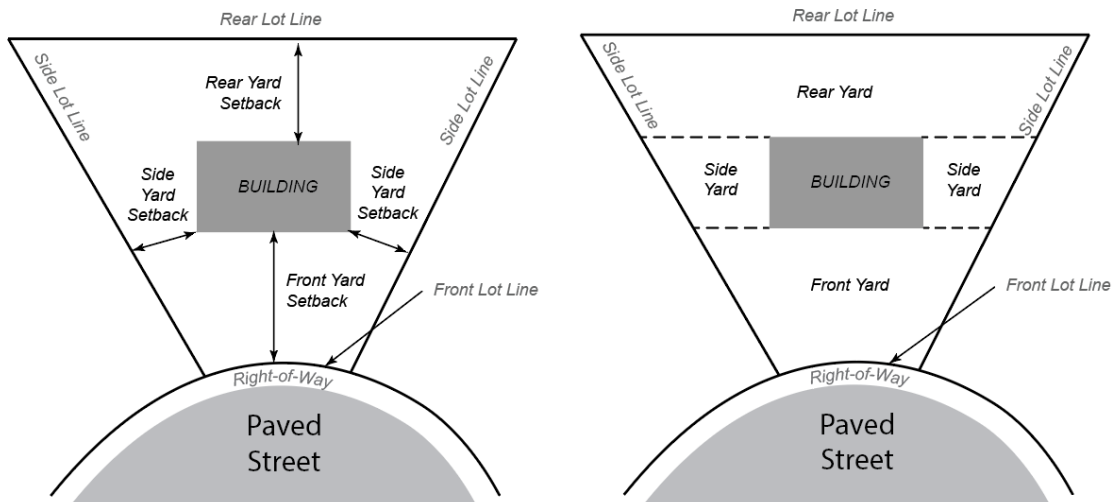


Figure 1105-I: Typical setback and yard locations for a curved street or cul-de-sac.

F) Other Lot Configurations

Where there is an instance of a lot configuration not addressed in the previous sections (e.g., interior, corner, panhandle, etc.), or where there is an atypical building orientation on any lot, the Zoning Administrator shall have the authority to make a determination regarding where front, rear, and side yard setbacks are required.

(5) **Minimum Setback Requirements**

- A) Setbacks required for accessory uses are established in Section [1107.01](#).
B) [Table 1105-4](#) establishes the minimum setback requirements for principal buildings in all zoning districts.

TABLE 1105-4: MINIMUM SETBACK REQUIREMENTS			
District	Minimum Setback Requirements (Feet)		
	Front Yard	Side Yard (Each Side)	Rear Yard
Residential Zoning Districts			
A	50	30	50
RSF-L	See Section 1105.05(c)(5)(C) , below.	10	40
RSF-M		8	40
RSF-H		5 [2][3]	40
RLA		8 [3]	40
RMF-L		10 [3]	40
RMF-H		12 [3]	45
Nonresidential Zoning Districts			
NB	See Section 1105.05(c)(5)(C) , below.	8	30
OTB		5 [2][3] ⁷⁴	20
GB	50	8 [4]	20 [4]
SCB	50	8 [4]	25 [4]
BP and LI	50	15 [4]	25 [4]
GI	50	35 [4]	50 [4]
CPF	See Section 1105.05(c)(5)(C) , below.	15 [4]	25 [4]
NOTES:			
[1] If off-street parking is not proposed to be located on the driveway in front of the dwellings, the minimum front yard setback may be decreased to 10 feet. All nonresidential uses shall comply with the full front yard setback.			
[2] For lots that have a lot width less than 50 feet, the minimum side yard setback may be reduced to three feet, but the total for both side yard setbacks shall equal eight feet.			
[3] For single-family attached dwellings, one side yard setback may be reduced to zero feet, but the other side yard shall be required to comply with the side yard setback of the applicable zoning district or shall be a minimum of 10 feet, whichever is greater.			
[4] Increased setbacks may be required to accommodate bufferyards when the lot line is adjacent to a residential zoning district. See Chapter <>.			

C) **Minimum Front Yard Setback Based on Street Classification**

The front yard setbacks for certain districts in Table <> shall be based on the following standards depending on the street classification of the street on which the lot has frontage:

- i) The minimum front yard setbacks from arterial streets shall be 50 feet.
- ii) The minimum front yard setbacks from collector streets shall be 30 feet unless no off-street parking will be located on a driveway or other surface in the front yard, in which case, the front yard setback may be reduced to a minimum of 15 feet.
- iii) The minimum front yard setbacks from local streets shall be 25 feet unless no off-street parking will be located on a driveway or other surface in the front yard, in which case, the front yard setback may be reduced to a minimum of 10 feet.

⁷⁴ Due to the small scale lots in the OTB, the side yard setbacks were adjusted to reflect the RSF-H District, where there are similarly sized lots.

(d) **Maximum Building Height**

(1) **Measurement**

Where specified in feet, building height shall be measured as the vertical distance from the average grade at the base of the structure to the mid-point between the eaves and the peak line for any sloped roof or to the highest point of a flat roof, excluding architectural features (e.g., vents, cupolas, weather vanes, chimneys, etc.), roof embellishments, or chimney extensions. See [Figure 1105-J](#).

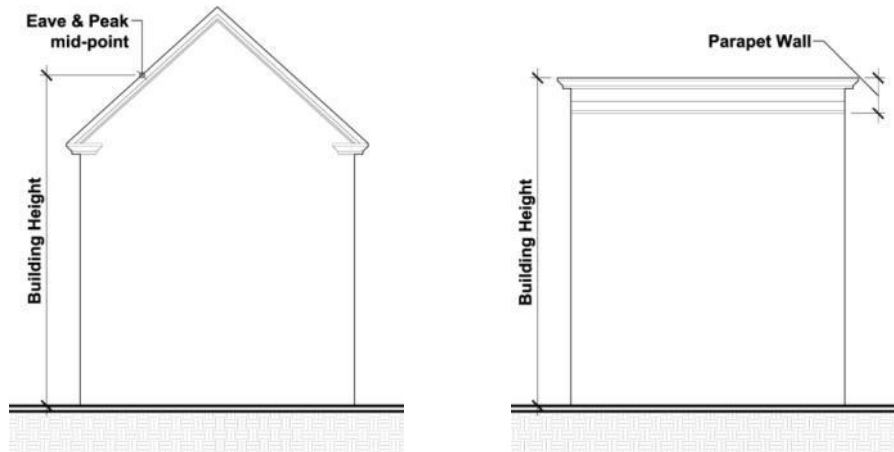


Figure 1105-J: Example of building height measurement for a sloped roof (left) and a flat roof (right).

(2) **Exceptions to Height Limits (Revised 1189.16)**

The maximum height limits established in this code shall not apply to:

- A) Barns, silos or other farm related structures on farms, provided the structures are set back a minimum of 50 feet from every lot line;
- B) Spires, belfries, cupolas, domes, or other similar feature that does not contain conditioned space and is not intended for human occupancy, or public utility facilities which by design or function must exceed the established height limits;
- C) Chimneys and parapet walls provided the addition of the feature does exceed four feet above the maximum height of principal buildings allowed in the applicable district;
- D) Fire towers, cooling towers, grain elevators, gas holders or other structures in the BP, LI, or GI Districts where the manufacturing process requires a greater height; provided, however, that, all such structures above the heights otherwise permitted in the district shall not occupy more than 25 percent of the area of the lot and shall be distant not less than 25) in all parts from every lot line; and
- E) Governmentally-owned freestanding water tanks, towers, radio or television antennae, and flag poles.

(3) **Maximum Height Standards**

- A) [Table 1105-5](#) establishes the maximum building height for principal buildings.
B) The maximum height of accessory structures is established in Section <>.

TABLE 1105-5: MAXIMUM HEIGHT OF PRINCIPAL BUILDINGS	
District	Maximum Height (Feet)
A	40
RSF-L, RSF-M, RSF-H, and RLA	35
RMF-L and RMF-H	40
NB, OTB, GB	40
GB SCB	50
BP, LI, GI, and CPF	50

(e) **Minimum Floor Area for Dwelling Units**

(1) **Calculation**

- A) The minimum floor area of a dwelling unit shall include all finished and habitable spaces including the basement floor area when more than one-half of the basement height is above the finished lot grade level at the front of the building.
B) Garages, outdoor patios, porches, or decks, and accessory buildings shall not be included in the minimum floor area of a dwelling.
C) Such requirements shall only apply to dwelling units that are classified under “Residential Uses – Household Living” in [Table 1105-1](#) (e.g., single-family dwellings, two-family dwellings, multi-family dwellings, etc.) and dwelling units located in mixed-use buildings or live/work units, as may be allowed in any zoning district. These requirements shall not apply to hospitals, nursing homes, or similar types of residential uses that are group living in nature.

(2) **Minimum Floor Area Requirements**

The minimum floor area for dwelling units shall be as established in the table below.

TABLE 1105-6: MINIMUM DWELLING FLOOR AREA	
District	Minimum Floor Area per Dwelling Unit (Square Feet)
A and RSF-L	1,400
RSF-M	1,200
RSF-H	800
RLA, RMF-L, and RMF-H	Studio or 1 Bedroom Unit = 650 2 Bedroom Unit = 750 3 or More Bedroom Unit = 900
Dwelling units in nonresidential zoning districts	500

(f) **Maximum Footprint in the NB District**

The maximum building footprint of any principal building in the NB District shall be 25,000 square feet as measured from the external walls of the building.

(g) **Maximum Lot Coverage**

(1) **Measurement**

- A) Where Table 1105-7: establishes that lot coverage is calculated by building footprints, the lot coverage shall be that portion of a lot, which when viewed directly from above, would be covered by the footprints of principal and accessory buildings. Decks, pervious paver blocks, driveways, patios, parking lots, and structures that are not buildings shall not count toward lot coverage.

- B)** Where Table 1105-7: establishes that lot coverage is calculated by impervious surfaces, the lot coverage shall be that portion of a lot, which when viewed directly from above, would be covered by the footprints of principal and accessory buildings, vehicular use areas, and other surfaces that are impermeable or substantially impervious to water.
- C)** The Code Administrator shall have the final determination of what are considered buildings and the total coverage that is considered impervious surfaces.

(2) Maximum Lot Coverage Standards

Table 1105-7: establishes the maximum lot coverage for all buildings on an individual lot within the applicable district.

TABLE 1105-7: MAXIMUM LOT COVERAGE		
District	Maximum Lot Coverage of Building Footprints	Maximum Lot Coverage of Impervious Surfaces
A, RSF-L and RSF-M	35 percent	70 percent
, RSF-H, RLA, RMF-L and RMF-H	50 percent	70 percent
NB	30 percent	70 percent
OTB	100 percent	100 percent
GB, BP, LI, GI, and CPF	85 percent	85 percent

CHAPTER 1106: PLANNED UNIT DEVELOPMENTS⁷⁵

1106.01 PURPOSE

The purpose of the Planned Unit Development (PUD) District is to provide a means for encouraging ingenuity, imagination, and flexibility in the planning and designing of medium and large-scale developments where traditional base zoning districts may be too restrictive for the range of proposed uses or design. The PUD regulations provide controlled flexibility by utilizing objectives and performance standards rather than rigid design requirements, the intent being to encourage developments that possess greater amenities and/or provide greater environmental protection than standard zoning district requirements. It is not the intent of the PUD to allow applications to circumvent the intent of this code or to permit residential density, uses, housing types, or street and utility layouts which conflict with the Trotwood Comprehensive Plan, other adopted plans and policies, or the character of the area. It is furthermore the purpose of the PUD regulations:

- (a) To provide more desirable living, shopping, and working environments by helping to achieve the goals of the Comprehensive Plan in a manner that allows for the comprehensive review of a medium to large-scale development;
- (b) To encourage creative and high-quality developments that are compatible with surrounding land uses, achieve a high degree of pedestrian-vehicular separation, and contribute to the overall quality of Trotwood;
- (c) To provide for a flexible arrangement of buildings, densities and a variety of housing types to meet the needs of the residential market;
- (d) To encourage the creation of open space and the development of recreational facilities and neighborhood commercial facilities in a generally central location within a reasonable distance of any residential components of the development;
- (e) To promote a harmonious design amongst the various elements and uses within the development while mitigating any potential negative impact on surrounding properties;
- (f) To allow phased construction with the knowledge that subsequent phases shall be approved as originally planned and approved by the City;
- (g) To ensure that there are adequate services and infrastructure to serve the proposed development; and
- (h) To reserve adequate land areas for schools, parks and other public uses.

1106.02 SCOPE AND APPLICABILITY

- (a) The intent of the PUD regulations is to provide a means for applying comprehensive and flexible planning and design techniques on properties substantially sized to accommodate such a plan. As such, the minimum size of any PUD project or plan shall be 100 acres. PUD proposals should not be applied to small areas to bypass traditional district regulations.
- (b) An application for a PUD of less than 100 acres may be authorized by the Planning Commission if the Planning Commission finds that the PUD will:
 - (1) Contain a residential density that exceeds eight units per acre;
 - (2) Contain a mixture of land uses where a minimum of 30% of the project area will contain nonresidential uses;
 - (3) Contain a mixture of residential housing products that will provide a range of housing products at a range of sales prices, including affordable housing for the local workforce;
 - (4) Be located in an area that is zoned SCB prior to the application for a PUD and that will contain mixed-use buildings; or
 - (5) Contain a mixture of uses and will be located in or adjacent to the OTB District or will be connected to the OTB District by a trail with a minimum width of eight feet.

⁷⁵ This is a complete update to the existing Chapter 1140. Per the code audit, this is an attempt to clarify the process, but also give more development guidance on what the city expects from any PUD proposal.

- (c) The Planning Commission shall consider authorizing the smaller PUD applications during a public meeting where the applicant may present a conceptual plan demonstrating that the proposed PUD will qualify, as allowed above.

1106.03 PUD REVIEW PROCESS

(a) **Ownership**

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

(b) **PUD Submission and Review Procedure**

(1) **Step 1 – Pre-Application Meeting (Required)**

- A) An applicant shall be required to have a pre-application meeting with the Zoning Administrator, and additional staff, to informally discuss the application and any concept plans.
- B) If the applicant is seeking a PUD approval for a project site of less than 100 acres in size, the applicant shall be required to have a pre-application meeting with the Planning Commission in accordance with Section <>, above. Otherwise, a pre-application meeting with the Planning Commission is optional.
- C) Any pre-application meeting shall be subject to Section [1103.03\(e\)](#).

(2) **Step 2 – Application**

The applicant shall submit an application in accordance with Section <> and the provisions of this section.

(3) **Step 3 – Preliminary Development Plan and Zoning Map Amendment**

- A) The PUD Preliminary Development Plan approval procedure involves a zoning map amendment to rezone the subject property to a PUD with an approved PUD Preliminary Development Plan.
- B) The procedure for this stage shall comply with the requirements of Section [1103.11](#).⁷⁶
- C) In accordance with the zoning map amendment review procedure, the Planning Commission shall hold a public hearing to review the PUD Preliminary Development Plan and make a recommendation to City Council to approve, approve with modifications, or deny the application. The recommendation shall be made based on review of the application using the criteria contained in Section [1106.04](#). The Planning Commission may, in its recommendation to City Council, authorize that the PUD Final Development Plan be submitted in stages upon evidence assuring completion of the entire development in accordance with the PUD Preliminary Development Plan and a phased development schedule.
- D) In accordance with the zoning map amendment review procedure, City Council shall hold a public hearing on the PUD Preliminary Development Plan and PUD zoning map amendment and decide to approve, approve with modifications, or deny the recommendation of the Planning Commission using the criteria contained in Section [1106.04](#), of this chapter.
- E) In making its recommendations or decisions, the Planning Commission and/or City Council may impose such conditions of approval as are in its judgment necessary to insure conformity to the applicable criteria and standards of this zoning code and to the Comprehensive Plan. In so doing, the Planning Commission and/or City Council may permit the applicant to revise the plan and resubmit it as a PUD Preliminary Development Plan within 60 days of such action.

(4) **Step 4 – PUD Final Development Plan Review**

- A) Within one year after the approval of the PUD Preliminary Development Plan, the applicant shall file a PUD Final Development Plan for the entire development, or when submitting in stages, for the first phase of the development. The Planning Commission may allow up to two, one-year extensions if the applicant demonstrates a need for the time extension.

⁷⁶ This is a cross-reference to the zoning map amendment process.

- B) If the established time for the filing of the PUD Final Development Plan passes and the PUD Final Development Plan has not been submitted for approval, then the PUD Preliminary Development Plan shall be deemed expired and the applicant must resubmit such plan.
- C) After the PUD Preliminary Development Plan has expired, the PUD zoning designation shall remain in place, but no development shall be authorized unless the property owner, or authorized agent, submits a new PUD Preliminary Development Plan for review pursuant to this chapter, or submits an application for a zoning map amendment to another zoning district.
- D) Once an applicant submits a PUD Final Development Plan for review and the Zoning Administrator determines that the application is complete, the application and plans shall be submitted to the Planning Commission for review at a public hearing at its next regularly scheduled meeting, or at a special meeting. The Planning Commission will review the PUD Final Development Plan to determine whether it conforms in all substantial respects to the previously approved PUD Preliminary Development Plan and to all other applicable standards of this code.
- E) Preliminary subdivision plat approval may occur concurrently with the PUD Final Development Plan approval if permitted by the Zoning Administrator. If submitting plats for subdivision review simultaneously with the PUD Final Development Plan, the plats shall be subject to all applicable subdivision standards and requirements including the applicable review process in Section <>.
- F) The Planning Commission shall review the PUD Final Development Plan at the public hearing and decide to approve, approve with modifications, or deny the application using the criteria contained in Section [1106.04](#) of this chapter.
- G) In its decision, the Planning Commission may impose such conditions of approval as are in its judgment necessary to insure conformity to the applicable criteria and standards of this code and with the Comprehensive Plan. In so doing, the Planning Commission may permit the applicant to revise the plan and resubmit it as a PUD Final Development Plan within 60 days of such action. Such conditions shall be made a part of the terms under which the development is approved. Any violation of such conditions shall be deemed a violation of this chapter and no approval shall be given for zoning compliance review.
- H) The Planning Commission may require the applicant to submit a PUD Agreement with the City, to confirm approved schedules, phasing, and conditions of any approval. Such agreement, if required, must be signed by the applicant and the Zoning Administrator prior to issuance of any zoning compliance reviews.
- I) Following the decision, the Zoning Administrator shall notify the applicant of the Planning Commission's preliminary decision with notice that the decision does not become final (journalized) until the Planning Commission approves the minutes of the meeting at which the decision was made; typically, at the next regularly scheduled meeting. The applicant shall not be authorized to proceed with a zoning compliance review application until the journalization of the decision, at which point the decision will become effective immediately.

(5) Step 5 – Zoning Compliance

Building permits or other forms of zoning compliance approval shall not be issued until the lot or applicable subdivision has been fully recorded with the Montgomery County Recorder's Office, and public improvements have been installed in accordance with the required subdivision regulations.

(c) Time Limit for the PUD Final Development Plan

- (1) Any PUD Final Development Plan shall be valid for a period of two years after the date of approval by the Planning Commission. If no development has begun (development being defined as the start of construction of the required public/private improvements as shown on the approved PUD Final Development Plan for one or more phases of the project) within two years from the date of approval, such approval shall lapse and be of no force and effect.
- (2) Two one-year extensions of the time limit set forth in section [1106.03\(c\)\(1\)](#), above, may be granted by the Planning Commission if such extension is not in conflict with the most current comprehensive land use plan and if such extension is in the best interests of the entire community. The developer/owner shall apply for an extension and shall state the reason for the extension.
- (3) If an approved PUD Final Development Plan lapses as provided in this section, the originally approved PUD Preliminary Development Plan shall also be considered void. Notice of such lapse shall be filed by the Planning Commission and forwarded to the City Council.

- (4) Voiding of the PUD preliminary and Final Development Plans shall not rezone the property. After such plans are voided, the Planning Commission, City Council, or property owners may initiate a rezoning to a base zoning district in accordance with Section [1103.11](#), or the property owner, or their agent, may resubmit a PUD Preliminary Development Plan in accordance with the procedures of this chapter.

(d) Changes to Approved PUDs

- (1) A PUD shall be constructed and completed in accordance with the approved PUD Final Development Plan including all supporting data and conditions. The PUD Final Development Plan and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees and assignees, and shall limit and control the use of premises (including the internal use of buildings and structures) and the location of structures in the PUD as set forth therein.
- (2) Where a property owner on a lot in a PUD seeks a variance from the applicable standards for an individual property that will not apply to any other property in the PUD, the property owner shall request such variance in accordance with Section [42](#). The City may only consider variances to approved zoning standards and requirements, and not for any private covenants or homeowner association requirements that are not enforced by the City.
- (3) Any request to change or otherwise modify the approved PUD Final Development Plan as it applies to more than one property owner, shall be reviewed based on whether the change is considered major or minor, in accordance with this subsection.

A) Major Change

- i) Major changes to a PUD require the prior approval of the Planning Commission and the City Council in the same process, and with the same hearings, as was used to review of the PUD Preliminary Development Plan. The Zoning Administrator shall have the authority to determine if a proposed change is a major change. Major changes include, but are not limited to:
- a. Expansion of the PUD project beyond the original tract coverage;
 - b. Removal or subtraction of land from the original tract coverage; and
 - c. Proposed changes that will result in an increase in residential dwelling units of more than five percent of the total dwelling units proposed or an aggregate increase of more than 10 percent in nonresidential square footage.
- ii) Changes that require the approval of only the Planning Commission at a public hearing include, but are not limited to, the following:
- a. Changes in the site plan relative to the size and arrangement of buildings, the layout of streets or circulation patterns, the size, configuration and location of common open space, and changes in any approved elements of the PUD; and
 - b. Amendments to the conditions that were attached to the PUD Preliminary Development Plan or PUD Final Development Plan approval.

B) Minor Changes

- i) Minor changes are those proposed by the developer/owner which do not disturb or affect the basic design and approved PUD Preliminary Development Plan, and which are essentially technical in nature, as determined by the Zoning Administrator.
- ii) Examples of minor changes include, but are not limited to, changes in the intensity of lighting, changes in the size or location of water and sewer lines within approved easements, and changes in the location or number of fire hydrants.
- iii) Additionally, the Zoning Administrator shall have the authority to approve structural dimensional changes that do not increase density, that do not change building height by more than 10 feet, or that do not change building or perimeter setbacks by more than 15 feet when necessary to accommodate minor shifts in the location of improvements or infrastructure.
- iv) The Zoning Administrator shall notify the Planning Commission of all such approved minor changes.

(e) Revocation

- (1) In the event of a failure to comply with the approved plan or any prescribed condition of approval, including failure to comply with the stage development schedule, the Planning Commission may, after notice and hearing, revoke the approval of the PUD Preliminary Development Plan or Final Development Plan. The Planning Commission shall at the same time recommend whether to maintain the PUD zoning district or to rezone the properties to another zoning district.
- (2) The revocation shall become final 30 days after City Council passes a resolution to initiate the zoning map amendment process to rezone the property to a base zoning district, other than a PUD, or immediately upon the decision by the Planning Commission to revoke the approved plans but retain the PUD zoning district.
- (3) Where the PUD zoning district remains without an approved PUD Preliminary Development Plan or a PUD Final Development Plan, the property owner or agent shall be required to submit a new PUD Preliminary Development Plan in accordance with the review procedures of this chapter.

(f) Recording

The recording of the subdivision related to the PUD approval shall be done in the same manner as outlined in Section [1103.10](#).

1106.04 REVIEW CRITERIA

(a) General Review Criteria

All PUD applications shall be reviewed based on the following general criteria and the applicable review body shall consider such criteria in the creation of its specific findings when making recommendations and decisions regarding PUD applications, especially for the review of the PUD Preliminary Development Plan:

- (1) The proposed development is in conformity with the goals, policies, and any applicable recommendations of the Trotwood Comprehensive Plan;
- (2) The proposed development meets the intent and spirit of this code and all other applicable City ordinances or adopted plans;
- (3) The development provides a harmonious relationship between land uses within the site and a harmonious relationship with surrounding development, utilizing adequate screening where necessary;
- (4) The proposed development provides a development pattern which preserves and utilizes the natural topography, geologic features, scenic vistas, natural vegetation and natural drainage patterns of the site;
- (5) The proposed development maximizes the opportunity for privacy within residential areas and minimizes nuisances between residential areas and other land uses;
- (6) The proposed development, while compatible with its surroundings, provides a more diverse environment for living, shopping and/or working than would be possible under strict application of the standard minimum design requirements of other districts provided within this code;
- (7) The proposed development promotes greater efficiency in the use of land and does not impose an undue burden on public services and facilities such as fire and police protection, public works, schools, water supply and wastewater disposal due to excessive population densities;
- (8) The proposed development is accessible from public thoroughfares adequate to accommodate the traffic which will be imposed on them by the proposed development, and the proposed streets and parking areas within the site are adequate to serve the proposed arrangement and densities of land uses;
- (9) The internal connectivity will assist in creating safe traffic patterns for pedestrians and cars while also minimizing the need for multiple curb cuts. Additionally, the internal connectivity plan should minimize pedestrian, bicycle, and vehicle conflicts;
- (10) The proposed development provides a higher quality and more useful design of landscaping, open space, and amenities than would normally be required under the strict application of existing zoning and subdivision requirements;
- (11) The proposed development contains such proposed covenants, easements, association by-laws and other such provisions as may reasonably be required for the public health, safety, convenience, comfort, prosperity and general welfare;

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

(b) Review Criteria for the PUD Final Development Plan

In addition to the general review criteria above, the following criteria shall serve as conditions that should be satisfied before the approval of the PUD Final Development Plan:

- (1) Where common open space is required, appropriate arrangements with the applicant have been made which will ensure the reservation of common open space as identified on the PUD Preliminary Development Plan and PUD Final Development Plan. Furthermore, the PUD Final Development Plan shall demonstrate how the open spaces shall be duly transferred and maintained by a legally established homeowners' association or another public or quasi-public agency for preservation and maintenance;
- (2) Appropriate agreements with the applicant have been made to ensure the proper completion of public improvements in compliance with the requirements of this code;
- (3) The proposed PUD Final Development Plan for the individual section(s) of the overall PUD is consistent in contents (building location, land uses, densities and intensities, yard requirements, and area and frontage requirements) with the approved PUD Preliminary Development Plan;
- (4) Each individual phase of the development can exist as an independent unit that can create an environment of sustained desirability and stability, or that adequate assurance will be provided that such objective can be obtained;
- (5) That any exception from the design standards provided in the PUD Preliminary Development Plan is warranted by the design and amenities incorporated in the detailed PUD Final Development Plan;
- (6) That the internal streets and thoroughfares proposed are suitable and adequate to accommodate the anticipated traffic within and through the development; and
- (7) The PUD Final Development Plan has been transmitted to all other agencies and departments charged with responsibility of review.

1106.05 PERMITTED USES

(a) Principal Uses

- (1) Only those uses listed in this code (See Section [1105.03.](#)), as a permitted use, whether permitted as-of-right, permitted with standards, or permitted as a conditional use, may be considered in the application of a PUD.
- (2) In general, any standards that apply to a specific use in this code shall also apply to those same uses in a PUD. However, the Planning Commission and City Council may adjust or waive any of those use-specific standards (See Section [1105.03.](#)) based on unique circumstances specific to the applicable development.
- (3) As part of any approval, the Planning Commission and/or City Council establish a list of uses that are allowed within the PUD by adopting a list of uses permitted within the PUD. The purpose is to allow for the change of uses within nonresidential buildings without additional review or approvals from the Planning Commission or City Council. Otherwise, any changes in uses within an approved PUD shall be required to be reviewed as part of a major PUD amendment.

(b) Accessory Uses

- (1) Unless otherwise allowed for in the approved plans, accessory uses associated with development in a PUD shall be allowed in accordance with the following:
 - A)** Accessory uses permitted in the RSF-L District shall be allowed on lots with any single-family dwelling.

- B) Accessory uses allowed in the RMF-L District shall be allowed on lots with any two-family, three-family, four-family, or multi-family dwelling.
 - C) Accessory uses allowed in the GB District shall be allowed on lots with commercial or office uses.
 - D) Accessory uses allowed in the LI District shall be allowed on lots with industrial uses.
 - E) Accessory uses allowed in the CPF District shall be allowed on lots with public and institutional uses.
 - F) Any allowed accessory uses shall still comply with the applicable accessory use-specific standards established in this code in Section [1107.01](#).
- (2) As part of any approval, the Planning Commission and/or City Council may restrict the accessory uses permitted within an individual PUD.

1106.06 DEVELOPMENT STANDARDS

(a) Lot and Density Regulations

- (1) The Planning Commission and City Council shall have the authority to restrict densities based on the compatibility of the development with surrounding development, the scale of the overall project, traffic impacts, and recommendations from the Comprehensive Plan.
- (2) In PUDs with residential dwelling units, the privacy of future residents shall be assured by setbacks, yards, creative building arrangements, screening and other design elements. For multi-family dwellings, principal buildings should be oriented in a manner that will provide the most privacy to individual dwellings through creative placement, building orientation, and increased separation.
- (3) Lot sizes shall be sufficient enough to accommodate the principal use, required parking, common accessory structures, etc. Planning Commission and City Council may consider smaller lots sizes that found in adjacent areas if the smaller lots accommodate the clustering of buildings in a manner that will provide more open space, particularly when such open spaces buffer the development from adjacent residential neighborhoods.

(b) Design and Development Standards

Where this code provides for design and development standards (e.g., lighting, parking, landscaping, architectural standards, etc.) not specifically addressed in this chapter, development within a PUD shall comply with the applicable standard found elsewhere in the code unless otherwise noted below or modified with the approval of the Planning Commission and City Council as part of the PUD Preliminary Development Plan and PUD Final Development Plan approval.

(1) Illumination

All development shall comply with the outdoor lighting standards of Section [<>](#) unless the Planning Commission and City Council allow for modification of the standards.

(2) Off-Street Parking and Loading

All development shall comply with the requirements of [Chapter <>](#) unless otherwise approved by the Planning Commission and City Council where shared parking, on-street parking, or other arrangements will not necessitate as much parking.

(3) Landscaping and Screening

- A) All uses in a PUD shall comply with the applicable landscaping and screening requirements of [Chapter <>](#), which shall be established as the minimum landscaping and screening requirements.
- B) All development and common open space shall be landscaped according to an overall coordinated plan, utilizing a variety of trees, including evergreen type trees whenever possible to maximize screening potential year-round. Plantings, walls, fencing and screens shall be so designed and located as to optimize privacy and aesthetic quality without encroaching upon required automobile sight distances.
- C) The amount of landscaping shall be comparable to the intensity of the development proposed to soften the developed areas. Particular care shall be taken to introduce trees and other landscaping into parking and other paved areas that are sustainable given the proximity to large expanses of pavement.

- D) Outdoor areas or containers holding or storing trash, garbage, recycled or reused materials shall be screened on three sides from adjoining properties, streets and other public areas. Such areas or containers shall be screened in accordance with this code and shall include a decorative gate for access.

(4) Signs

- A) Signs shall be integrated into the building and landscaping plans to enhance the overall appearance while providing adequate identification of the development.
- B) The requirements of [Chapter <>](#) may only be waived as part of the approval of the preliminary PUD plan when the applicant submits a master sign plan for the entire PUD. In such cases, the master sign plan shall not allow for more than a 10 percent increase in the total sign area allowed in [Chapter <>](#).

(5) Development Layout

Dwelling units shall be grouped or clustered to provide interest and diversity in the arrangement, maximize privacy, collect and maximize the common open space and promote the individual character and coordinated layout of each lot, cluster and grouping. Streets and cul-de-sacs shall be laid out so as to discourage through and high-speed traffic unless such through street is needed to be in compliance with approved City plans.

(6) Vehicular Access Points

- A) Adequate and properly arranged facilities for internal pedestrian and traffic circulations shall be provided.
- B) Topography, landscaping and existing vegetative clusters shall be utilized as necessary to make the project attractive and provide screening between areas of substantially different character.
- C) The street and thoroughfare network shall be designed to minimize truck and through traffic passing through residential areas of the development.
- D) Where a PUD is located adjacent to a vacant lot, connections shall be planned for the future connection to the future development of the vacant lot unless otherwise approved by the Planning Commission and City Council. Where such connections are made, a temporary turnaround may be established and the future connection shall be noted on the PUD Final Development Plan and the final subdivision plat. An easement shall be provided on the final plat of the subdivision to keep the land open in perpetuity for the connection.

(7) Circulation Plan

- A) The circulation system and parking facilities shall be designed to fully accommodate the automobile with safety and efficiency. Any driveway to arterial and collector streets shall be placed at locations where the traffic can be controlled and operated effectively with the minimum interference with the capacity and flow of the existing streets.
- B) An interconnecting walkway system shall be designed to promote easy and direct barrier-free access, using accepted criteria, to all areas of the development in a carefully conceived total service plan while also considering the security of the residents in the design. Wherever possible, the vehicular and pedestrian circulation patterns shall be completely separate and independent of one another.
- C) A PUD shall consider any transportation, sidewalk plans, and bicycle plans adopted by the City and/or a regional agency, where applicable, on or adjacent to the site.
- D) Access to the sidewalks and trails plans shall be assured for public access by public ways, easements, agreements or covenants as may be appropriate after review by appropriate departments and approval by Council.

(8) Subdivision Compliance

Unless alternative standards are approved as part of a subdivision modification, all PUDs shall comply with the applicable subdivision improvement and design standards established in [Chapter <>](#).

(9) Streets

All streets proposed within a PUD shall be public streets, dedicated to the City of Trotwood in accordance with the applicable subdivision regulations, unless otherwise approved by the Planning Commission and City Council as part of the PUD Preliminary Development Plan approval.

(10) **Lot Coverage and Common Open Space⁷⁷**

A) Lot Coverage

The maximum lot coverage of any buildings, structures, and impervious surfaces shall be as set forth in Section <>, unless modified by approval of Planning Commission and City Council as part of the PUD Preliminary Development Plan.⁷⁸

B) Amount of Open Space Required

- i) Common open space shall be required for any PUD that contains residential uses. For PUDs that do not have any dwelling units, common open space shall not be required, however, the development shall be subject to the maximum lot coverage of Section <>, above.
- ii) Residential uses on lots are also subject to lot coverage standards, in addition to common open space.
- iii) [Table 1106-1](#) Identifies the minimum amount of common open space that must be established for PUDs with residential uses.

TABLE 1106-1: OPEN SPACE REQUIREMENTS		
Proposed Gross Density	Required Open Space Set-Aside	
	Minimum % of Improved Open Space	Total % of Open Space
Under 4 Units per Acre	None Required	25%
4 to 8 Units per Acre	3%	25%
8 to 12 Units per Acre	5%	10%
12 to 30 Units per Acre ⁷⁹	10%	10%

- iv) Where a minimum percentage of open space is required to be improved open space, that percentage shall be based on the gross site area of the proposed project.
- v) The area of improved open space may also count toward the total percentage of open space for the entire project, which shall also be based on the gross site area of the proposed project, including all rights-of-way.
- vi) Planning Commission and City Council may approve a reduction in the total amount of open space as part of the PUD Preliminary Development Plan review procedure if the applicant demonstrates that there will be a beneficial increase in the percentage of improved open space.

C) Areas Counted as Improved Open Space

For the purposes of complying with this subsection, the following features shall be credited towards the improved open space requirements, if approved as such by City Council in review of the open space:

- i) Land occupied by active recreational uses such as pools, ball fields, playgrounds, tennis courts, jogging trails, and residential community centers used primarily for recreation purposes;
- ii) Formally planned and regularly maintained open areas that include arranged plantings, gardens, gazebos or similar structures, fountains, sculpture, and other forms of public art;

⁷⁷ The current language of Chapter 1140 requires that the total area of development in a residential PUD not cover more than 45%, but that coverage is lot coverage related to buildings, pavement, etc. This focuses more on the common open space, and how it is designed.

⁷⁸ We will address lot coverages together in one spot, in the general development standards section, so that it can be near the definition of what counts towards coverage.

⁷⁹ This density can only be achieved in the Salem Avenue "Mixed-Use Core" area of the comprehensive plan, where a mixed-use development with low high rises and first floor commercial is envisioned.

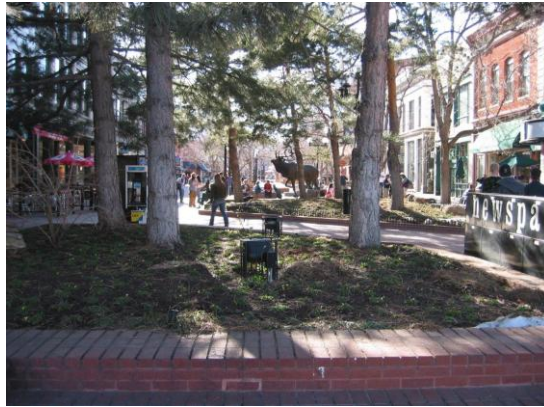


Figure 1106-A: Formally planted areas and gardens can be credited toward improved open space requirements.

- iii) Squares, forecourts, plazas, parks, public art, sculpture or fountains or other water features designed in accordance with the standards in this subsection; or
- iv) Where such features provide a clear community benefit, City Council may credit plazas and sidewalk areas exceeding the minimum sidewalk width requirements that contain at least four of the following features towards the improved open space area requirements:
 - a. Seating elements;
 - b. Specialized or decorative paving features;
 - c. Pedestrian lighting beyond that required to illuminate public rights-of-way;
 - d. Arcades, canopies, awnings, or overhangs to shield pedestrians;
 - e. Street furnishings, including but not limited to planters, waste receptacles, bicycle racks, drinking fountains, or shelters for persons utilizing public transit;
 - f. Public art; or
 - g. Community informational kiosks.



Figure 1106-B: Features such as planters, seating elements, and sidewalk arcades or overhangs can be credited towards improved open space.

D) Regulations for General Open Space

- i) Beyond any open space areas defined as improved open space, the open space may include fields, landscaped areas, natural areas, etc. that are not specifically excluded from the calculation by this chapter (See Section [1106.06\(b\)\(10\)E](#), below). Such spaces shall still comply with all general requirements for open space as established in this chapter.
- ii) Stormwater management devices, including retention ponds, and other bio-retention devices, can be counted towards the overall open space requirement when such features are treated as a site amenity and to qualify, they shall support passive recreation uses by providing access, gentle slopes less than three-to-one (3:1), and pedestrian elements such as paths, benches, and similar aspects.



Figure 1106-C: Illustrative example of a stormwater pond designed as a project amenity.

E) Areas and Uses Not Counted as Open Space

The following areas shall not be counted toward compliance with open space requirements:

- i) Private and public roads, and associated rights-of-way;
- ii) Public or private parking spaces, access ways, driveways, and other vehicular use areas;
- iii) Required minimum spacing between buildings and required yard setbacks;
- iv) Land that is subject to pre-existing conservation easements or other similar protected open spaces;
- v) Above-ground buildings, pipes, apparatus, and other equipment for community or individual use, septic or sewage disposal systems;
- vi) Substations or public utility easements;
- vii) Dry stormwater detention basins or facilities;
- viii) Leftover slivers of land that has no value for development, that is not part of a larger improved open space set aside, and is not a natural resource (e.g., river or stream corridor, large forest stand, wetland) that contributes to the quality of the overall project, as determined by Planning Commission and City Council.

F) Permitted Uses in Open Spaces

The following uses may be permitted in required open space:

- i) Areas preserved in their natural state as wetlands, woodlands, lakes or ponds, historic lands, environmentally sensitive areas, or similar conservation-oriented areas;
- ii) Outdoor active or passive recreational uses for the use and/or enjoyment of the residents of the proposed development. Any restricted open space intended to be devoted to recreational activities shall be of a usable size and shape for the intended purposes as determined by the Planning Commission. Where deemed appropriate by the Planning Commission, recreation areas shall be provided with sufficient parking and appropriate access;
- iii) Utilized for the raising of crops when authorized in a conservation easement or in the association's covenants and restrictions; and
- iv) Any other similar uses approved by the Planning Commission during the applicable review procedure.

G) Design Standards for Open Spaces

Land set-aside as open space shall comply with the following standards:

- i) All areas of open space shall be accessible to residents or users of the development by providing at least 10 feet of frontage on a public street.
- ii) All areas of the open space shall have a minimum width of 50 feet with the exception of trails and sidewalks that may provide access to the required open space, in which case, those areas of sidewalks and trails may be as narrow as 10 feet in width.
- iii) The open space shall be located and designed to the satisfaction of the Planning Commission and shall be sufficiently aggregated to create large areas of planned open space.

- iv) The open space shall conserve significant topographic and landscape natural features to the extent practicable.
- v) Any area within the open space that is disturbed during construction or otherwise not preserved in its natural state, shall be landscaped with vegetation that is compatible with the natural characteristics of the site.
- vi) All open space required by this chapter, including any recreational facilities proposed to be constructed in such space, shall be clearly shown on all approved plans.
- vii) Where open areas, trails, parks, or other open space resources are planned or exist adjacent to development, the open space shall, to the maximum extent practicable, be located to adjoin, extend, and enlarge the presently existing trail, park, or other open area land.

H) Ownership of Open Space

- i) The first priority of the open space requirement is to provide for a community wide network of parks, open spaces, greenways, or other recreational areas. As such, all open space required by this chapter shall first be offered to the City for potential public land dedication.
- ii) Such offer for public land dedication shall be made during the applicable review procedure and the Planning Commission shall include a recommendation on whether to recommend that the land should be considered by City Council for public dedication.
- iii) The City shall consider any recommendation from Planning Commission regarding the proposed land and shall make a decision on whether to accept any land offered for dedication. City Council shall not be required to accept any land offered for dedication.
- iv) Where the City chooses not to accept the open space for public dedication, the developer shall retain the open space as private open space, protected in perpetuity through conservation easements or property owners' associations in accordance with Section [1106.06\(b\)\(10\)I](#), below.

I) Protection and Maintenance of Common Open Space

Adequate provision shall be made for the long-term maintenance and/or operation of all common open space in accordance with this section.

i) Reclamation of Disturbed Open Space

Any required land areas designated for use as open space that are disturbed during construction or otherwise not preserved in their natural state, shall be landscaped with non-invasive vegetation that appeared in those respective areas prior to construction or with other native vegetation. The planting of invasive plant species is prohibited.

ii) Future Subdivision and Development of Open Space

All required open space shall be restricted from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the City of Trotwood and duly recorded in the office of the Montgomery County Recorder. Subject to permanent restrictions as set forth above, required open space in an open space residential subdivision shall be owned by a homeowners' association, a land trust or other conservation organization, or by a similar entity recognized by the City of Trotwood. Required open space may be held by the individual members of a property owners' association as tenants-in-common or may be held in common ownership by a homeowners' association, community association, or other similar legal entity.

iii) Conservation Easements

- a. At the time when an applicant records the plat for the approved subdivision or submits for zoning compliance review where no plat is required, a conservation easement shall be placed on all lands and private waters used to satisfy the open space requirements of this chapter. The conservation easement shall:
 - 1. Run with the land, regardless of ownership;
 - 2. Provide for protection of the land in perpetuity;

3. Be granted and deeded to the City, Montgomery County, State of Ohio, park district, a City approved land trust, or other qualified organization approved by the Planning Commission and Law Director; and
 4. Be solely for the purpose of ensuring the land remains undeveloped other than development of uses permitted by Section [1106.05](#).
- b. While the City, Montgomery County, State, park district, City approved land trust, or other qualified organization may hold the conservation easement, the property itself shall still be owned by the original property owner, the developer (applicant of the subdivision), or a property owners' association. If it is to be owned by an association, the association's documents shall be recorded with the subdivision plat and a copy submitted to the Zoning Administrator to be maintained as part of the City's records.
 - c. The conservation easement shall include information on how the property will be maintained by the property owner and shall also state that failure to maintain the property in accordance with the conservation easement agreements shall be considered a violation of this code. In addition, the holder of the easement may pursue any remedy provided by law or equity, including, but not limited to, the remedies in Section 5301.70 of the Ohio Revised Code.

iv) Property Owners' Associations

The following shall apply where a property owners' association, including homeowners' associations, will be established to maintain any open space or other common areas as required by this chapter.

- a. A property owners' association shall be established to permanently maintain all open space, common areas and conservation easements related to the open space unless such open space is preserved in another manner allowed by this chapter.
- b. All property owners' association agreements shall be submitted for approval as part of a zoning certificate, conditional use, planned unit development application, as applicable. Copies of the proposed covenants, articles of incorporation, and bylaws of the association shall be submitted with said agreements. No set of proposed covenants, articles of incorporation, or bylaws of a homeowners' association shall permit the abrogation of any duties set forth in this section.
- c. All property owners' associations shall guarantee maintenance of all open space and common areas within the boundaries of the development. In the event of a failure to maintain such open space or common areas, the City may do any of the following:
 1. If the open space or common area is owned by the City, a City-approved land trust or other qualified organization, county, state or park district, the City may remedy the failure to maintain at its own cost and seek reimbursement from the homeowners' association, or seek to enforce the homeowners' association's duty to maintain through an injunction or any other civil remedy.
 2. If the open space or common area exists pursuant to a conservation easement to which the City is a party, the City may seek to enforce the terms of the conservation easement as provided in Section [1106.06\(b\)\(10\)l\)iii](#).
- d. If the open space or common area is owned jointly or in common by the owners of the building lots, or by any other owner of the property to be maintained, the City may seek to enforce the association's nonperformance of its obligations and duties through an injunction or any other civil remedy.

CHAPTER 1107: ACCESSORY AND TEMPORARY USES

1107.01 ACCESSORY USES AND STRUCTURES (NEW)

(a) **Purpose**

This section authorizes the establishment of accessory uses and structures that are incidental and customarily subordinate to principal uses. The intent of this section is to allow a broad range of accessory uses while not creating adverse impacts on surrounding lands.

(b) **General Provisions**

- (1) An accessory use or structure shall be secondary and incidental to the primary use of the lot and shall not alter the character of the principal use.
- (2) Accessory uses and structures shall be constructed on the same lot as the principal use that it serves. If an accessory use or structure is proposed to be placed on an adjacent lot under the same ownership, such lots must be consolidated. Alternatively, the owner of both lots shall have the option to have an agreement recorded on both lots with the Montgomery County Recorder's Office that will prevent the sale of one lot without the other lot unless the accessory structure is demolished. No accessory structure shall be constructed across lot lines.
- (3) No accessory structure shall be constructed on any lot until the construction of the principal structure has commenced.
- (4) In cases where the principal building is demolished, an existing accessory structure shall be allowed to remain on the lot or property without the principal building to which it is supposed to be an accessory on the following conditions:
 - A) Up to 12 months consistent with that allowed by [Section <> \(Nonconformities\)](#); and
 - B) Zoning compliance review approval shall be obtained for the reconstruction of the principal structure, the construction of which shall take place within 12 months. Failure to complete reconstruction of the principal structure will be an automatic cause for the removal of the accessory structure at the owner's expense unless cause is given, in which case the Zoning Administrator may approve an extension of up to 12 months.
- (5) Small accessory structures such as doghouses, mailboxes, lending libraries, benches, garden decorations, barbeque equipment, etc. that are not otherwise addressed in this chapter, shall be exempt from the provisions of this section provided they do not have a footprint that exceeds 24 square feet and shall not exceed six feet in height. Such activities shall not encroach on any right-of-way.
- (6) An accessory building that is attached to the principal building shall be considered an integral part of the principal building and shall comply with the site development standards and all other development standards of the applicable zoning district. Any accessory structure shall be considered as an integral part of the principal building if it is connected to the principal building either by common walls or by a breezeway or roof that does not extend more than 10 feet from the principal building.
- (7) The accessory use regulations of this chapter shall not apply to any public park lands owned by the City, Montgomery County, or the State of Ohio.

(c) **Prohibited Structures for Accessory Uses**

Unless the accessory structure and material is approved as a conditional use, accessory structures that are constructed with fabric, canvas, tarpaulin, or other similar materials shall be prohibited. Inflatable garages or storage structures shall also be prohibited.

(d) **Accessory Uses in the Planned Unit Developments**

Accessory uses and structures in PUDs shall comply with Section [1106.05](#).

(e) **Permitted Accessory Uses**

The following is an explanation of [Table 1107-1](#).

- (1) The symbols for permitted uses (P), permitted uses with standards (PS), conditional uses (C), and prohibited (X) are defined in the same manner as Section [1105.03\(b\)](#).

(2) Yards Permitted

This column identifies within which yards the use may be permitted. See the use-specific standards for any restrictions related to placement in individual yards.

(3) Zoning Compliance Review Required

A “Yes” in the “Zoning Compliance Review Required” column shall mean that the applicable accessory structure or use requires a zoning compliance review in order to be established. Zoning compliance review shall be in accordance with Section <>.

(4) Use-Specific Standards

The numbers contained in the “Use-Specific Standards” column are references to additional standards and requirements that apply to the listed accessory use or structure. Standards referenced in the “Use-Specific Standards” column apply in all zoning districts unless otherwise expressly stated.

(5) Similar Use Determination and Unlisted Uses

The determination of whether a proposed accessory use or structure is permitted, permitted with standards, a conditional use, or a prohibited use under the provisions of this section shall be made in the same manner as principal uses. See Section [1105.03\(d\)](#).

TABLE 1107-1: ACCESSORY USES AND STRUCTURES					
P=Permitted Use	PS=Permitted Use with Standards		C=Conditional Use	X=Prohibited Use	
Accessory Use or Structure	A, RSF-L, RSF-M, RSF-H, RLA, RMF-L, RMF-H	NB, OTB, GB, SCB, BP, LI, GI, and CPF	Zoning Compliance Review Required	Yards Permitted F=Front S=Side R=Rear	Use-Specific Standards in Section:
Accessibility Ramps	PS	PS	No	F, S, or R	1107.01(f)(1)
Accessory Dwelling Units	PS	X	Yes	See Section 1107.01(f)(6) .	
Alternative Energy Systems	PS	PS	See Section 1107.01(f)(2) .		
Amateur Radio Antennas ⁸⁰	PS	PS	Yes	S or R	1107.01(f)(3)
Community Gardens	X	PS	Yes	F, S, or R	1107.01(f)(4)
Day Care	PS or C	PS	Yes	Interior Use	1107.01(f)(5)
Detached Accessory Buildings	PS	PS	Yes	S or R	1107.01(f)(6)
Drive-Through Facilities and Pick-Up Windows	X	See Section 1107.01(f)(7)	Yes	S or R	1107.01(f)(7)
Home Occupations	PS	PS	Yes	Interior Use	1107.01(f)(8)
Office and Residential Community Center	PS	X	Yes	See Section 1107.01(f)(9) .	
Outdoor Dining	X	PS	Yes	F, S, or R	1107.01(f)(10)
Outdoor Display or Sales	X	PS	Yes	F, S, or R	1107.01(f)(11)
Outdoor Storage and Bulk Sales	X	PS	Yes	S or R	1107.01(f)(12)
Outdoor Vending Machines and Drop-Off Boxes	X	PS	No	See Section 1107.01(f)(13) .	
Patios, Porches, and Decks	PS	PS	See Section 1107.01(f)(14) .		
Playsets, Treehouses and Trampolines	PS	X	See Section 1107.01(f)(15) .		
Recreational Courts ⁸¹	PS	PS	Yes	R	1107.01(f)(16)
Retail Commercial Uses	X	PS	Yes	Interior Use	1107.01(f)(17)
Roadside Stands	PS	X	Yes	F, S, or R	1107.01(f)(18)
Satellite Dishes	PS	PS or C	See Section 1107.01(f)(19) .		
Swimming Pools	PS	PS	Yes	S or R	1107.01(f)(20)

⁸⁰ The FCC dictates that these have to be accommodated, so we have included some baseline standards for their location.

⁸¹ This to provide for the possibility of tennis courts, basketball courts, etc.

(f) **Standards for Specific Accessory Uses and Structures**

The following requirements apply to the specific types of accessory uses and structures listed, in addition to the requirements of Section [1107.01\(b\)](#).

(1) **Accessibility Ramps (New)**

- A) Ramps that provide access to buildings for the disabled are permitted in all zoning districts and may encroach in all setbacks but shall not encroach on a public sidewalk, right-of-way, or street.
- B) Such ramps shall be an open structure, without a roof.

(2) **Alternative Energy Systems (Existing 1189.20)**

A) **Wind Turbines⁸²**

Wind energy conversion systems shall be allowed in all zoning districts as an accessory structure subject to the following conditions:

- i) No system shall be directly or indirectly lit unless required by the FAA.
- ii) No system shall produce a detectable noise at the property lines.
- iii) Wind turbines are prohibited in the front yard.
- iv) Wind turbines shall be removed within six months of being nonfunctional.
- v) The height of a wind system shall be measured from grade, base of the tower or the lowest adjacent grade of the structure in which the system is attached, to the tip of the rotor blade in a 90-degree position.
 - a. For parcels less than one acre in lot area, no ground-mounted systems are permitted.
 - b. For parcel one acre or larger in lot area, a ground-mounted system is permitted and shall not exceed the maximum height requirement of the zoning district in which it is located.
 - c. Systems are allowed to be mount to a principal or accessory building regardless of size of the lot. Such systems shall not project more than five feet above the roof of the structure and also shall not exceed the maximum height allowed for the building the structure is located on.
- vi) Ground-mounted systems shall be set back from the rear and side lot lines equal to the height of the turbine or satisfy the zoning district setback requirements, whichever is greater.

B) **Solar Panels**

Solar panels shall be allowed in all zoning districts either attached to a permitted principal use or accessory building or as an accessory structure subject to the following regulations:

- i) Freestanding solar panels shall be limited to a maximum height of 10 feet. Such freestanding solar panels shall be located in the side or rear yard where they shall meet the setbacks for principal buildings in the applicable zoning district.
- ii) Roof-mounted solar panels are permitted on principal or accessory buildings provided that when attached, the top of the panels do not exceed the maximum height allow for principal buildings in the applicable zoning district.
- iii) Roof-mounted solar panels on the front side of a roof facing a street shall be flush-mounted to the roof.
- iv) Roof-mounted solar panels that do not face a street may be mounted flush or at an angle to the roof but shall not exceed 36 inches in height from the roof plane as measured from the roof plane to the furthest point of the solar panel.
- v) In all cases, solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways.
- vi) Solar panels shall be removed within six months of being nonfunctional.

⁸² We have removed the existing language that states that the devices cannot be used for advertising, because that will be addressed for all structures in the sign chapter. We have also removed references to compliance with the property maintenance code, because that is applicable to all activities, so that is part of the general language in the first chapter of the draft code.

(3) Amateur Radio Towers and Antenna (New)

- A) No more than one amateur radio tower and/or antenna shall be permitted on each lot.
- B) Such tower shall not exceed 65 feet in height or the maximum height of the applicable zoning district, whichever is greater. The measurement shall be made from the grade directly beneath the tower to the highest point on the antenna or tower, whichever is the tallest point of the structure.
- C) Antennas and guy wire anchors shall not overhang or otherwise be located within required accessory structure setbacks or on adjacent lots.
- D) Antennas that are attached to a building or other permitted structure shall not have a height that exceeds 10 feet above the height of the building or permitted structure.
- E) When an amateur radio tower and antenna is no longer being used by an FCC amateur radio license holder for amateur radio service, the tower and antenna must be removed no more than 180 days after cessation of the FCC license or the transfer or property ownership or lease to an individual without an FCC license.
- F) Amateur radio towers and antennas that do not comply with the provisions of this section shall require a conditional use approval. The application for a conditional use approval for amateur radio towers and antennas must demonstrate that compliance with the provisions of this section would prevent the amateur radio operator from exercising the rights granted to them by the FCC or the State of Ohio by license or law. If the Planning Commission determines that expertise beyond that of City staff is necessary to determine compliance with this criterion, then the applicant shall reimburse the City for any expenses necessary for hiring a third-party consultant to make this determination.

(4) Community Gardens (New)

- A) Community gardens may be allowed as an accessory use when associated with a principal use that falls under the "Public, Semi-Public, and Institutional Uses" classification in Table <> or Table <> (e.g., religious institution or educational facility).
- B) Community gardens as an accessory use shall be subject to the provisions of Section [1105.04\(i\)](#).

(5) Day Care

- A) Type B family day care homes are permitted when accessory to any single-family dwelling unit, including dwelling units that are part of a zero-lot line dwelling, regardless of the applicable zoning district.
- B) Type A day care homes may be allowed when approved as a conditional use in a residential zoning district provided there is a minimum lot area of one acre and
- C) Day care facilities (e.g., day care centers and nursery schools) that do not qualify as Type A or B family day care homes and that are licensed by the State of Ohio are permitted in residential zoning districts when accessory to a permitted nonresidential use. Such facilities may also be permitted as an accessory use to any principal use in a nonresidential zoning district. Such facilities shall not occupy more than 25 percent of the floor area of any principal building within which they are located.
- D) The facilities shall be located within the interior of the principal building, but outdoor play areas are allowed provided they comply with state requirements for such areas and are located in the side or rear yards only.

(6) Detached Accessory Buildings

A) Detached Accessory Buildings in Nonresidential Zoning Districts

Detached accessory buildings in nonresidential zoning districts are permitted subject the requirements of Table <> and provided the accessory building complies with the setback requirements for principal buildings in the applicable zoning district;

B) Detached Accessory Buildings in Residential Zoning Districts

The following detached accessory building regulations shall apply to buildings in residential zoning districts:⁸³

- i) Detached accessory buildings in residential districts include detached garages and carports, detached accessory dwelling units, detached yard or storage barns, gazebos, pergolas, and other similar buildings, as determined by the Zoning Administrator.
- ii) Detached garages and carports shall be served by a driveway.
- iii) Detached accessory buildings shall include accessory structures that are enclosed, regardless of the materials used for enclosure including, but not limited to, screen porches, hoop houses, and greenhouses.
- iv) Only one detached accessory building on any lot may exceed 200 square feet.
- v) In no instance shall the combined total floor area of all detached accessory buildings, as measured by the outside boundary of the buildings' footprints, exceed a square footage that exceeds the square footage of the principal building's footprint.
- vi) The maximum height of accessory buildings shall be the same as the maximum height of principal uses in the applicable zoning district. In no instance shall a detached accessory building exceed the height of the principal building.⁸⁴
- vii) Setbacks for accessory buildings shall be based on the size and height of the building, as established in [Table 1107-2](#). The rear yard setback shall not apply to detached garages if the rear yard has frontage along an alley, in such case, the minimum setback shall be one foot from the edge of the alley pavement.
- viii) Detached accessory buildings that are 200 square feet or smaller shall be set back a minimum of five feet from all lot lines.

TABLE 1107-2: DETACHED ACCESSORY BUILDING SETBACK			
Lot Area	Footprint of Accessory Building (Square Feet)	Height of Accessory Building (Feet)	Setback from All Lot Lines (Feet)
Less than 7,500 Square Feet	Under 200	Under 15	3
	200 or more	Any Height	5 ⁸⁵
7,500 to 15,000 Square Feet	Under 200	Under 15	5
	200 or more	Any Height	8
15,000 to 43,560 Square Feet	Under 200	Under 15	5
	200 or more	Any Height	10
Over an Acre	Any Size	Any Height	15

- ix) Accessory buildings shall be set back a minimum of 10 feet from the principal building. If the separation of the accessory and principal building is less than 10 feet, the accessory building shall be protected with a fire-resistant material.
- x) Detached accessory buildings shall be constructed of traditional building materials and not scrap materials, untreated wood, or other similar materials not commonly found on principal buildings, as determined by the Zoning Administrator.
- xi) Portable carports and sheds are a prohibited form of detached accessory building. Permanently constructed carport are permitted when attached to the principal building.
- xii) Detached accessory buildings in the A District shall be exempt from the above regulations if the building is accessory to a permitted agricultural use. However, the maximum height of a detached accessory building shall be 35 feet.

⁸³ This is a new approach to the regulation of accessory buildings that staff and the consultants have developed to give people more flexibility in choosing what types of buildings to have that helps address ongoing issues with such buildings.

⁸⁴ This is different than the current provisions that limit height to 15 feet. This means a two-story house has the potential for a two-story accessory building, which could accommodate an ADU above a garage.

⁸⁵ On these smaller lots, this is the principal building setback.

xiii) Accessory Dwelling Units

Where the detached accessory building is to be used as an accessory dwelling unit, the accessory dwelling unit shall comply with the following:

- a. Only one accessory dwelling unit shall be permitted on a lot in a residential zoning district.
- b. Accessory dwelling units are only permitted when accessory to a single-family dwelling unit or single-family attached dwelling units.
- c. An accessory dwelling unit shall contain separate kitchen and bathroom facilities.
- d. Accessory dwelling units may be allowed when attached to the principal dwelling unit, attached to a detached accessory building (attached to the side or second story, if height allows), or may be a stand-alone detached accessory building.
- e. Detached accessory dwelling units shall have access to water and electric that are connected to the principal dwelling. Sewer may be on a separate tap, if required by the provider.
- f. Detached accessory dwelling units shall be subject to the detached accessory buildings standards in Section [1107.01\(f\)\(6\)](#), including detached accessory building setbacks and yard locations.
- g. Detached accessory dwelling units shall be permanently anchored to a foundation (e.g., no recreational vehicles or tiny homes that remain on a chassis). Additionally, they shall comply with the applicable building code.
- h. Attached accessory dwelling units shall comply with the setbacks for principal buildings in the applicable zoning district.
- i. The minimum floor area of a detached accessory dwelling unit shall be 500 square feet. There are no minimum floor area requirements for attached accessory dwelling units but they shall still be subject to lot coverage requirements established for all buildings in Section <>.
- j. Each accessory dwelling unit shall have an entrance separate from the primary dwelling.
- k. One accessible off-street parking space shall be provided for each accessory dwelling unit in addition to the off-street parking spaces required for the primary dwelling in Section <>.
- l. The owner of the lot shall reside in one of the dwelling units.
- m. Accessory dwelling units shall not be used as a short-term rental.

(7) Drive-Through Facilities and Pick-Up Windows (New)

- A)** Drive-through facilities and pick-up windows are allowed or prohibited in nonresidential zoning districts as identified in Table <>.

TABLE 1107-3: DRIVE-THROUGH FACILITY AND PICK-UP WINDOW ALLOWANCE		
District	Drive-Through Facility	Pick-Up Window ⁸⁶
NB	Conditional Use Approval Required	Permitted
OTB	Prohibited	Conditional Use Approval Required
GB and SCB	Permitted	Permitted
BPG, LI, GI, and CPF	Prohibited	Prohibited

- B)** The following standards shall apply to businesses that contain a drive-through facility regardless if the drive-through is part of another use (e.g., restaurant or financial institution) or if it is a stand-alone use (e.g., automatic teller machine), and to all pick-up windows.

⁸⁶ Pick-up windows are defined as walk-up windows or drive-through windows where there is no on-site ordering (e.g., menu-boards).

- i) Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments shall not be located within 100 feet of any residential dwelling unit.
- ii) All drive-through and pick-up window areas, including but not limited to signs, waiting lanes, trash receptacles, audio equipment, drive up windows, and other objects associated with the drive-through area shall be located in the side or rear yard of a property to the maximum extent feasible, and shall not cross, interfere with, or impede any public right-of-way.
- iii) If the drive-through window, pick-up window, signage, or any audio equipment are located in the front yard, they shall be screened with an opaque, landscaped screen of with a height that will fully screen the window, signage, or audio equipment. Such screening shall not be required for stacking spaces that are located in a front yard.
- iv) Drive-through facilities and pick-up windows shall be required to include vehicle stacking spaces as established in Section [1111.07](#).

(8) Home Occupations (Revised 1189.05)

The following standards for home occupations are intended to provide reasonable opportunities for employment within the home, while avoiding changes to the residential character of a dwelling that accommodates a home occupation, or the surrounding neighborhood, where allowed by this section.

A) General Standards

- i) The home occupation shall be clearly secondary to the full-time use of the property as a residence.
- ii) Permitted home occupations shall not create an adverse effect on the residential character of the zoning district or interfere with the reasonable enjoyment of adjoining properties. The residential building shall not be altered in any manner that is intended to change the residential appearance of the dwelling to a building with a commercial appearance. There shall be no separate entrance created solely for the home occupation.
- iii) All home occupation activities shall take place in the dwelling or in an approved accessory building. ⁸⁷
- iv) The sale of goods or services shall be limited to:
 - a. Products that are produced or processed on the premises; or,
 - b. The sale of goods as part of a mail order, online business, or direct sale product distribution (e.g., Amway, Avon, Creative Memories, Pampered Chef, etc.) where there is no stock-in-trade on the site.
- v) No equipment shall be used which will create any dust, noise, odors, glare, vibrations or electrical disturbances beyond the lot.
- vi) Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises.
- vii) Only residents of the dwelling may work in the home occupation. No outside employees are permitted.
- viii) The operator of a home occupation in a rental unit shall be able to demonstrate that the property owner has authorized the use of the unit for a home occupation.
- ix) No more than 25 percent of the floor area of the dwelling unit shall be devoted to such home occupations, regardless if located in the principal dwelling or an accessory building. In no case shall any home occupation occupy more than 500 square feet of floor area of the principal dwelling or accessory building.
- x) There shall be no signs other than the wall signs allowed on a dwelling in Section [4.02](#).
- xi) No additional off-street parking or loading facilities shall be provided beyond that traditionally used for residential uses. No additional driveways shall be established for the use of the home occupation.

⁸⁷ This is a change from the current code, which states that the home occupation can only take place in the dwelling unit.

- xii) Traffic shall not be generated by such home occupation in significantly greater volume than would normally be expected in the residential neighborhood.
- xiii) There shall be no window display or outdoor storage or display of equipment, materials, or supplies associated with the home occupation.
- xiv) When any home occupation results in an undesirable condition interfering with the general welfare of the surrounding residential area, such home occupation may be terminated by the Zoning Administrator.

B) Prohibited Home Occupations⁸⁸

The following are business activities that are prohibited as home occupations:

- i) Animal hospitals and boarding facilities;
- ii) Automotive and other vehicle repair and service, except when such repair or service is on vehicles owned or leased by the occupant of the dwelling units.
- iii) Construction, landscaping, or similar contractor facilities and storage (an office-only use is allowed in compliance with the above section) and other outdoor storage;
- iv) Fitness or health facilities or music lessons that provide group activities or services;
- v) Medical clinics, laboratories, or doctor's offices;
- vi) Parking on, or dispatching from the site, any vehicle used in conjunction with the home occupation (e.g., landscaping services, taxi services, construction, etc.) with the exception of a vehicle owned and operated by the home owner or tenant;
- vii) Uses that require explosives or highly combustible or toxic materials;
- viii) Welding and machine shop operations;
- ix) Marijuana dispensaries, cultivating, or processing and research;
- x) Wood cutting businesses;
- xi) Home occupations that require employees that are not residents of the applicable dwelling; or
- xii) Other similar uses as determined by the Zoning Administrator.

C) Home Occupations that Are Allowed

The following are examples of home occupations that are permissible provided they comply with this code:

- i) Handcrafts as well as arts and craft work including, but not limited to baking, ceramics, soap making, candy or snack making, jewelry making, pottery, painting, photography, dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, and sculpting;
- ii) Businesses that are office-only uses, including, but not limited to, an office for an architect, financial advisor, attorney, realtor, consultant, counselor, insurance agent, planner, tutor, or writer provided no clients meet at the dwelling;
- iii) Any home occupation that provides services where members of the public visit or enter the premises if designed to accommodate one customer at a time and which meets all other applicable requirements for home occupations including, but not limited to, fitness/health training, music lessons, beauty parlors, barber shops, animal grooming (no overnight boarding), or licensed massage or physical therapy;
- iv) Mail order, online businesses, or direct sale product distribution (e.g., Amway, Avon, Creative Memories, Pampered Chef, etc.); and
- v) Other similar uses as determined by the Zoning Administrator.

⁸⁸ These are expanded lists of examples of home occupations that are prohibited or allowed.

(9) Office and Residential Community Center⁸⁹

- A) Large developments that contain 25 or more dwelling units in the RLA, RMF-L, RMF-H, or SCB Districts may have an accessory office space and/or residential community center located on the same lot as the units provided the uses are for providing services or activities to residents of the development.
- B) If a residential community center is to be located on its own lot, then such use shall be regulated as a principal use in accordance with Chapter <>.

(10) Outdoor Dining (New)

- A) Outdoor dining areas shall be located either along a sidewalk adjacent to the principal building to which the outdoor dining is connected, or between the principal building and an adjacent parking area.
- B) Outdoor dining areas shall not be located in such a manner as to require customers and employees to cross driveways or parking areas to go between the café/food service area and the principal building.
- C) Outdoor dining areas shall not be located within 10 feet of a fire hydrant, fire department standpipe connection, fire escape, bus stop, loading zone, mailboxes, or traffic signal stanchions.
- D) If no grade separation is provided between vehicular traffic and the outdoor dining area, permanent railings or fencing shall be provided around the dining area. If the outdoor dining area is adjacent to a street or area that is closed to vehicular traffic, no railing or fencing shall be required.
- E) Any establishment that maintains a liquor license with service outdoors shall be required to surround the outdoor dining area with a decorative fence that has a height of four feet. Such fence shall have openings that create a minimum transparency of 50 percent along the face of the fence.
- F) If the outdoor dining area is located on a sidewalk, the area shall be designed so there is a minimum of five feet of clearance adjacent to the dining area to allow for safe pedestrian circulation. Furniture or elements of the outdoor dining shall also not block any areas of ingress or egress from the principal building.
- G) Umbrellas and awnings that shelter diners from the elements shall be secured so as not to create a hazard in windy conditions.
- H) Enclosing outdoor dining areas, either by a permanent roof or by expanding the existing structure, shall meet all the requirements of a principal building within the applicable zoning district and shall require approval through zoning compliance review.
- I) Where an outdoor dining area is located in a right-of-way, the permittee shall hold harmless, indemnify, and defend the City of Trotwood from and against any and all injuries, deaths, losses, damages (consequential and otherwise), claims, suits, liabilities, judgments, costs and expenses, and reasonable attorneys' fees, which may in any way arise out of or be connected with such outdoor dining, and which may in any way result therefrom, or from any act or failure to act by the permittee, its agents or employees. The applicant shall be required to sign an indemnification statement on the application for zoning compliance review.
- J) The City shall have the right and power, acting through the Zoning Administrator to prohibit the operation of an outdoor dining area at any time because of anticipated or actual problems and conflicts in the use of the sidewalk area. Such problems and conflicts may arise from, but are not limited to, scheduled festivals and similar events or parades or marches, or repairs to the street or sidewalk, or from demonstrations or emergencies occurring in the area.
- K) Outside entertainment, whether by band, orchestra, instrument, musician, singer, radio, television, loudspeaker, microphone, recital or any other individual, group or mechanical device shall not be permitted in any outside dining area unless approved as a conditional use.

⁸⁹ This is listed in the principal use table as allowed for large developments (single family or otherwise) where the use can be on a stand-alone lot. This reference is intended to accommodate them as secondary to multi-family developments where they may not be on its own lot.

- L) These regulations shall not apply to outdoor dining located on a roof or approved deck with the exception of Paragraph <> above (outdoor entertainment), which shall apply to all outdoor dining.

(11) Outdoor Displays and Sales (New)

Seasonal and permanent facilities for outdoor display and sales (e.g., garden supply sales, news and flower stands, and similar uses) that are accessory to a principal use may be permitted upon compliance with the following:

- A) Outdoor displays and sales shall be related to the principal use of the site and shall clearly be accessory and incidental to the principal use. Outdoor displays and sales shall be prohibited when the principal building is vacant.
- B) Outdoor displays and sales areas shall not cover an area more than 20 percent of the ground floor area of the principal building.
- C) Outdoor displays and sales areas shall be shown on the plan submitted as part of the zoning compliance review application.
- D) Outdoor display and sales areas may be permitted in the front yard provided that the merchandise is displayed along the sidewalk or walkway adjacent to the building. Outdoor display and sales areas may also be permitted in the side or rear yard without being located adjacent to the building. In all cases, the displays and sales areas shall be spaced a sufficient distance from the building, as dictated by the Fire Department, to satisfy all fire safety requirements. In no case shall such uses shall not be placed within the street right-of-way, within an interior drive, or in a location which will interfere with the vision clearance requirements.
- E) The placement of the merchandise shall not interfere with pedestrian movement on any sidewalk or walkway. A minimum of five feet of the sidewalk or walkway shall be clear of merchandise to allow for safe pedestrian movement.
- F) In all cases, any areas designated for outdoor display or sales shall be set back a minimum of 25 feet from any adjacent lot lines of lots in residential zoning districts.
- G) The outdoor display and sales areas shall be maintained in good order and appearance.
- H) The outdoor display and sale of goods and products shall be limited to those goods and products that a customer can typically pick up and carry into the building for purchase. Larger items may be displayed for sale if in compliance with the outdoor storage requirements of Section [1107.01\(f\)\(12\)](#).

(12) Outdoor Storage and Bulk Sales (New)

- A) Outdoor storage and bulk sales shall comply with the standards of outdoor displays and sales unless otherwise modified by this section.
- B) Outdoor storage and bulk sales in a parking lot shall be prohibited unless allowed as part of a temporary event or unless approved as a conditional use when such activity is proposed to occur on an annual basis.
- C) The area of the lot devoted to outdoor storage of goods and merchandise shall not exceed 50 percent of the ground floor area of the principal building.
- D) Outdoor storage and bulk sales areas shall be shown on the plan submitted as part of the zoning compliance review application.
- E) Areas devoted to outdoor storage shall be paved with asphalt or concrete and free of dust. Outdoor storage may be located on areas paved with gravel in the GI District if the storage is set back a minimum of 200 feet from any adjacent lot lines of lots in residential zoning districts.
- F) Areas devoted to outdoor storage or bulk sales shall be located in a side or rear yard. The enclosed area shall be setback 50 feet from any lot line that abuts a residential zoning district
- G) **Screening**
 - i) All aspects of outdoor storage and bulks sales of goods and materials shall be screened in accordance with Section <>.
 - ii) If the wall or fence needs to exceed eight feet in height to conceal the storage of materials, such wall or fence shall be constructed of materials similar to the principal building so that it appears to be an extension of the principal building.

- iii) All materials shall be stored in such a fashion as to be accessible to fire-fighting equipment at all times.

(13) Outdoor Vending Machines and Drop-Off-Boxes (New)

Outdoor vending machines and drop-off boxes for recycled goods, books, donations, etc., may be permitted when they comply with the following regulations.

- A) No such use or facility shall be placed within the street right-of-way, within an interior drive, or in a location which will interfere with required intersection visibility requirements.
- B) The facility or equipment shall be maintained in good operating order and appearance.
- C) Vending machines and drop-off boxes shall only be permitted in the nonresidential zoning districts. They may be permitted in residential districts only when accessory to a permitted nonresidential use.
- D) Vending machines shall only be placed along the facade of the principal building. See [Figure 1107-A](#).



Figure 1107-A: The above is an image of one vending machine that is appropriately located along the facade of the building.

- E) Drop-off boxes shall only be permitted in the side or rear yard.
- F) The container shall be emptied at least once every week. Containers that result in the overflow of donated goods shall be declared a nuisance and shall be removed immediately upon notification by the Zoning Administrator at the expense of the property owner or business owner.
- G) Drop-off boxes shall include the name and contact information of the person who owns or maintains the box.
- H) The City shall have the authority to place more than one drop-off box on a single lot when providing recycling services to the general public.

(14) Patios, Porches, and Decks

- A) Patios without a roof, building, or structure are permitted in any yard. Where a building or structure is placed on a patio, such building or structure may only be located in the yards where those buildings or structures are permitted.
- B) The edge of any patio shall be set back a minimum of five feet from any lot line.⁹⁰
- C) Patios in the front yard shall not cover more than 50 percent of the front yard and shall not allow for vehicular parking.

⁹⁰ This is different than the current regulations where we found one reference that allows patios to encroach only 25% into the yard requirement. Because we are making a distinction between an at-grade patio from unenclosed porches, we would suggest allowing them to encroach much closer to the lot lines.

- D) Enclosed decks or porches that are attached to the principal building shall meet the principal building setbacks for the applicable zoning districts. Unenclosed decks and porches that do not have a roof may encroach into any required yard a distance of up to a maximum of 25 percent of the required setback for the applicable yard. Unenclosed decks and porches with roofs or that otherwise appear that they can easily be enclosed with the addition of walls or screens shall meet the principal building setbacks in the applicable zoning district.
- E) Patios, decks, and porches may have built-in grills, kitchen areas, or entertainment areas but such activities shall be permitted in the rear yard only provided such use complies with any applicable building code requirements.
- F) Patios, decks, and porches may have seating in any yard in which the patio, deck, or porch is permitted and located.
- G) Rooftop decks in nonresidential districts shall be regulated as part of the principal building.
- H) An existing nonconforming porch or deck may be replaced in kind without regard to front, side or rear yard setbacks and without a variance, provided the replacement in kind does not perpetuate an encroachment upon any street right-of-way.

(15) Playsets, Treehouses, and Trampolines (New)

- A) If a playset or treehouse has more than 200 square feet⁹¹ of enclosed play area, the use shall require zoning compliance review approval and shall be reviewed in the same manner as a “detached accessory building.” As such, any playset or treehouse that has more than 200 square feet of enclosed play area shall also count toward the maximum floor area and lot coverage standards in this code⁹². Such area shall be measured by the smallest square or rectangle around the bottom of the playset or treehouse.
- B) Treehouses shall require zoning compliance review and shall only be permitted in a rear yard. Treehouses shall be set back a minimum of 10 feet from all lot lines.
- C) Permanent playsets and trampolines are permitted in the rear and side yards. No zoning compliance review shall be required for such structures.
- D) Portable playsets may be subject to the same standards as permanent playsets.

(16) Recreational Courts (New)

Outdoor tennis courts and courts for other sports, including basketball, pickleball, and racquetball, that are accessory to a residential or nonresidential use shall comply with the following requirements:

- A) Tennis courts or other recreational courts that exceed 900 square feet shall only be permitted on lots with a minimum lot area of one acre. Any court that is 900 square feet or less may be permitted on any lot size provided it complies with all other applicable provisions of this code.
- B) The court shall be set back a minimum of 10 feet from all lot lines.
- C) All fencing shall be subject to the fence regulations in Section [42](#) except that fencing that surrounds a tennis or recreational court may exceed the maximum fence height of this code provided that the fencing is located adjacent to the edge of the court.
- D) Any lighting for the court shall not exceed 20 feet in height and shall be directed downward and only illuminate the court. All outdoor lighting shall comply with Section [42](#).

(17) Retail Commercial Uses (New)

Retail commercial uses are permitted in the BP, LI, GI, and CPF⁹³ Districts provided:

- A) Such uses are an accessory use to an approved principal use;
- B) The uses are located completely within a principal building of a nonresidential use;
- C) In the BP, LI and GI District, the retail use shall be for the sale of goods and products manufactured on site; and

⁹¹ This has helped other communities deal with large play houses and other recreational structures that have mass like a building.

⁹² This may change based on discussions regarding lot coverage.

⁹³ This is to accommodate things like coffee kiosks in churches and hospitals, gift stores, etc.

- D) The total floor area of accessory uses shall not exceed 15 percent of the total gross floor area of the principal building.

(18) Roadside Stands (New)

- A) Roadside stands may be permitted when they are used in conjunction with any lawful agricultural use in the A District, pursuant to this code and shall be subject to the following standards in addition to any other applicable sections of this code:
- ix. A roadside stand shall only be permitted where 50% or more of the gross income received from the roadside stand is derived from produce raised on farms owned or operated by the stand operator in a normal crop year.
 - x. The roadside stand shall be located on the same property where the produce is raised.
 - xi. The structure shall not exceed 500 square feet.
 - xii. The structure shall be set back a minimum of 30 feet from all lot lines.
 - xiii. The structure and any related off-street parking shall be located and set back in such a manner as to not create a traffic hazard as determined by the Zoning Administrator
 - xiv. Any signage located on the site shall not be illuminated and shall be subject to Chapter <>.
- B) The sale of any farm produce or goods that do not meet the definition or standards of roadside stands in this section may be allowed as part of a temporary use in Section <> (Temporary Seasonal Sales).

(19) Satellite Dishes (New)

- A) Satellite dishes of one meter in diameter or less shall be exempt from the provisions of this section and shall not require zoning compliance review.
- B) To the maximum extent feasible, the dish should be located in the side or rear yard.
- C) Mounting brackets shall be removed whenever a satellite dish is removed.
- D) Satellite dishes larger than one meter in diameter may be permitted if approved by the Planning Commission as a conditional use in any nonresidential zoning district. Such dishes shall be set back 10 feet from all lot lines.

(20) Swimming Pools (Revised 1189.08)

- A) This section shall apply to all manufactured swimming pools. For the purposes of this subsection, swimming pool shall include pools, spas, and hot tubs and shall be defined as any in-ground, on-ground, or above-ground pool or spa intended for swimming, wading, or recreational bathing capable of containing in excess of 18 inches of water at its deepest point, as determined by manufacturer's specifications.
- B) The water level within a swimming pool shall not exceed six feet in height above grade. Slides associated with pools shall be exempt from this height requirement.⁹⁴
- C) Any illumination of swimming pools shall be underwater lighting or compliant with Section <>.
- D) A zoning compliance review application for a pool shall contain either information that demonstrates a barrier is already in place or shall include the simultaneous application for fencing or barrier construction.
- E) Proper drainage shall be provided to ensure that pool overflow does not affect adjacent properties.
- F) Any sound of motor or pumps in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants shall be shielded to prevent such disturbances.
- G) All swimming pool construction and operation shall be in accordance with standards and regulations established by the Board of Health having jurisdiction within the City, the Building Code, where applicable, and any other governmental regulations governing the construction and operation of such facilities.

⁹⁴ This has helped some communities keep people from putting portable pools and spas on decks or other elevated structures.

H) Setbacks

- i) When a swimming pool is accessory to a residential use, the swimming pool and all related equipment shall be set back a minimum of 10 feet⁹⁵ from all lot lines.
- ii) When a swimming pool is accessory to a nonresidential use or is a principal use of a property, the swimming pool and all related equipment shall be set back a minimum of 50 feet from all lot lines.
- iii) Any patio surrounding a pool shall be subject to the requirements of Section [1107.01\(f\)\(14\)](#), including the reduced setbacks.
- iv) Setbacks shall be measured from the edge of the water.
- v) The above setbacks shall not apply to any swimming pool that is inside a fully enclosed building. In such cases, the setbacks shall be related to the enclosed building.

I) Barrier Requirement

Any outdoor swimming pool, as defined in this subsection, shall be surrounded by a barrier which shall comply with the following:

- i) Every swimming pool shall be completely enclosed by a fence and/or structure of sturdy construction at least 48 inches⁹⁶ in height, measured from the ground level at each point along the boundary of such enclosure. The enclosure may surround the pool area or the entire yard. The enclosure shall be of such design as to prevent young children from crawling or otherwise passing through, under or over such enclosure without the use of a ladder or other implement.
- ii) Access gates into such enclosure shall be self-closing and have a self-latching device. The fence/barrier shall be equipped with at least one such access gate.
- iii) Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure and the means of access is a ladder or steps, then the ladder or steps shall be capable of being secured, locked or removed to prevent access.
- iv) The required barrier must be installed prior to filling the pool with water.
- v) Automatic pool covers are permitted but the barrier requirements of this section shall still apply.
- vi) A spa or hot tub with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.
- vii) If the proposed barrier utilizes fencing on the property line that is owned by the neighboring property owner, the pool owner shall be required to build or replace that length of the barrier if it is ever remove by the neighboring property owner.

1107.02 TEMPORARY USES AND STRUCTURES (REVISED 1189.09)

(a) Purpose

This section allows for the establishment of certain temporary uses and structures of limited duration, provided that such uses or structures do not negatively affect adjacent properties, and provided that such uses or structures are discontinued upon the expiration of a set time period. Temporary uses and structures shall not involve the construction or alteration of any permanent building or structure.

(b) General Standards for Temporary Uses and Structures

Temporary uses or structures shall:

- (1) Not be detrimental to property or improvements in the surrounding area or to the public health, safety, convenience, comfort, prosperity or general welfare;
- (2) Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;
- (3) Not include permanent alterations to the site;

⁹⁵ This is less than the 15-foot setback currently required, which is a big setback compared the vast majority of communities.

⁹⁶ The City currently requires five feet high fencing, which is not a common fencing height. Fence panels tend to be four or six feet in height. Additionally, safety requirements only require a four-foot barrier.

- (4) Not violate the applicable conditions of approval that apply to a site or use on the site;
- (5) Not interfere with the normal operations of any permanent use located on the property; and
- (6) Contain sufficient land area to allow the temporary use or structure to occur, as well as adequate land to accommodate the parking and traffic movement.

(c) **Permitted Temporary Uses and Structures**

(1) **Construction Structures**

- A) Temporary structures for construction operations may be permitted in any district where there is a subdivision or development that exceeds five acres in project size, subject to the following:
 - i) The use of such structures shall be limited to offices, buildings for the storage of lumber, equipment, and other building material, as well as construction dumpsters.
 - ii) Such construction structures shall be located on pavement or in a landscaped setting except that all construction dumpsters shall be located only a paved surface.
 - iii) Any temporary construction structure, other than a dumpster, shall be set back a minimum of 300 feet from the nearest occupied residential dwelling except for those dwellings located on the same lot. Such setback may be reduced to 50 feet for construction dumpsters.
 - iv) Temporary construction structures may be placed on the site no sooner than two weeks before the start of grading or construction and shall be removed prior to final zoning sign-off for the use (See Section <>.).
 - v) The structure shall not be located within a floodplain or in a location that will obstruct drainage flow.
 - vi) The structure shall not block or prevent access to any fire hydrant.
 - vii) Zoning compliance review is not required if the construction structures are approved as part of the subdivision or overall development review.
- B) Dumpsters are permitted on individual lots with residential dwellings, in residential zoning districts, regardless of the lot size. For such uses, the placement of a temporary construction dumpster shall be limited to 30 consecutive days in any single calendar year and shall require zoning compliance review approval. The Zoning Administrator shall have the authority to extend the timeframe an additional 90 days if the applicant demonstrates they have an active building permit for construction or renovation activities.

(2) **Gravel Surface Parking Lot (New)**

- A) All parking lots and vehicular use areas shall be paved in accordance with Section <>.
- B) A temporary gravel surface parking lot may be permitted in areas where solid pavement is otherwise required while a site is under construction, but shall only be permitted in areas for parking as established in the approved site plans associated with zoning compliance review application.
- C) The temporary gravel parking area must be paved in accordance with Section <> prior to final zoning sign-off for the use (See Section <>.).
- D) The applicant may also remove the temporary gravel surface parking lot as an alternative to paving but in such case, the area that was used as a gravel lot shall be returned to its previous state or planted as a landscaped area.
- E) A solid surface driveway shall be provided for vehicles accessing the parking lot from a public street in order to minimize the spread of dirt, dust, and gravel onto a street.

(3) **Temporary Sales Office and Model Homes (New)**⁹⁷

If a temporary sales office/model home is to be located in a subdivision, its location shall be indicated on the subdivision plats and approved by the Planning Commission. The following provisions shall be met:

⁹⁷ This is a new section that allows for sales offices/model homes as a distinct temporary use beyond the construction trailers, which is currently addressed in the existing Section 1189.08.

- A) Two temporary real estate sales office or model dwelling unit per builder or developer shall be permitted in a section or phase of a new residential subdivision, unless additional units are authorized by Planning Commission as part of the subdivision plat review.
- B) The dwelling shall comply with all of the applicable standards of this code for the final residential use regardless of the temporary use as a sales or leasing office;
- C) The sales office/model homes shall be operated by a developer, builder, or sales agent active in the same phase or section where the use is located.
- D) The sales office/model home shall be converted into a permanent residential use upon completion of construction and issuance of a building permit for the last dwelling in the subdivision or development.

(4) Portable Storage Units

- A) Portable storage units may be permitted in any zoning district as follows:
 - i) Such units may be used on construction sites, as construction structures, in accordance with Section [1107.02\(c\)\(1\)](#).
 - ii) When the occupant of a property demonstrates in the application that they are relocating or renovating the subject property, a portable storage unit may be located on the property for a period not to exceed six months in any 180-day period.
 - iii) When necessary to facilitate general temporary uses not described above, a portable storage unit shall be located on the property for a period not to exceed 30 total days per calendar year.
 - iv) The portable storage unit shall be located on a paved surface in a manner that does not block natural drainage.
 - v) The placement of any portable storage unit shall be in such a manner as not to create a public nuisance.
- B) Zoning compliance review approval shall not be required for the placement of any portable storage unit if being placed for less than seven days. Otherwise, zoning compliance review approval shall be required prior to placement of the unit on the property.
- C) Portable storage units shall not be used to store hazardous or explosive materials.
- D) Portable storage units shall not be occupied or used for any housing use.
- E) Electric cords or power lines shall not be extended to any portable storage unit.

(5) Food Truck And Mobile Vendors (Existing 1189.23)

- A) The purpose of this section is to facilitate the ability of food truck and mobile vendors to operate within the City, while ensuring:
 - i) That the vendor's use is compatible with surrounding properties;
 - ii) That the vendor's properly licensed motor vehicle fosters an aesthetically appealing streetscape; and
 - iii) That the vendor's enterprise does not create a dangerous traffic condition or pose any threat to the public health, safety, and welfare.
- B) Food truck and mobile vendors shall be required to obtain zoning compliance review approval prior to operation within the City, including all applications and fees.
- C) The approval shall be valid for one year, at which point, the food truck and mobile vendor will have to seek a renewed approval demonstrating compliance with these standards.
- D) Food truck and mobile vendors may operate in any nonresidential zoning district.
- E) In making a decision on a food truck and mobile vendor application for a Business Registration Certificate, the Zoning Administrator shall consider the applicant's compliance, and willingness to comply, with the following standards and criteria:
 - i) Food truck and mobile vendor businesses shall not match or duplicate the primary food or retail offerings sold by a permanent business located on the property.

- ii) Food truck and mobile vendors are required to obtain and maintain all applicable federal, state, county, and local licenses and permits and to comply with all federal, state, county, and local laws and regulations. Proof of approved status from the Department of Public Health for Dayton & Montgomery County, or another appropriate Department of Public Health, is required to be included with the application prior to Planning and Development Department application review and the issuance of the Business Regulation Certificate. These requirements are subject to annual review by the City of Trotwood.
 - iii) Food truck and mobile vendors shall provide proof of permission to operate on the intended site through the provision of an Agent Form or letter of authorization from the property owner. Food Truck and Mobile Vendors shall operate only at the approved location.
 - iv) The zoning compliance review application shall include information, including location, of any temporary shelters (e.g., tents and canopies), which may be utilized by the vendor.
 - v) The application may be subject to review and approval by the Trotwood Fire Department and Montgomery County Building Regulations, depending on the locations and structures/
 - vi) All vehicles, structures, and activities shall be located on improved surfaces and shall not obstruct traffic movement, impair visibility or safety on the site. Food truck and mobile vendors shall be set back a minimum of five feet from all lot lines in nonresidential zoning districts.
 - vii) Food truck and mobile vendors are not permitted to operate within 50 feet of a lot line adjacent to a lot containing a residential lot dwelling.
 - viii) Food truck and mobile vendors shall not occupy more than 10 percent of the required parking for the permitted use of the property upon which the vendor's vehicle is situated.
 - ix) Food truck and mobile vendors are responsible for the disposal of all waste in accordance with all applicable laws and are not permitted to dispose of trash or waste in public trash receptacles.
 - x) Food truck and mobile vendors shall not connect to any source of electricity, water, or sewer. Such connections are prohibited. Food Truck and Mobile Vendors must supply their own self-sufficient source of power, water, and waste disposal.
 - xi) Food truck and mobile vendors shall not operate before the hours of 8:00 a.m. or after 10:00 p.m.
 - xii) An approved Business Registration Certificate shall be conspicuously displayed at all times during operation within the City.
 - xiii) There shall be no use of any sound systems or amplified speaker systems.
- F) All provisions of Chapter 705 "General License Provisions" of the Codified Ordinances not in conflict with the provisions of this section shall apply.

(6) Temporary Events

A temporary event may be permitted in compliance with the provisions of this section.

A) Exemptions

The following activities shall be exempt from these temporary use regulations but may still be subject to other sections of this code.

- i) Any event sponsored in whole or in part by the City, Montgomery County, State of Ohio, United States government, or the school district.
- ii) Any organized activities conducted at sites or facilities typically intended and used for such activities including, but not limited to, sporting events such as golf, soccer, softball, and baseball tournaments conducted on courses or fields intended and used for such activities and religious services, wedding services, activities at rented event or community spaces, and funeral services conducted at places of worship.

B) Garage or Estate Sales⁹⁸

- i) Garage or estate sales are permitted up to two times per calendar year on any single lot with a maximum of four days per each occurrence.
- ii) Zoning compliance review shall not be required for a garage or estate sale but the sales shall be subject to the general standards applicable to all temporary uses and the time restrictions.
- iii) Zoning compliance review shall be required if there will be an auction or similar event on site, in which case, the Trotwood Police Department may review the application and require approval of a traffic management plan depending on the size of the event.

C) Farmers Markets

Farmers Markets offering outdoor sales of farm produce, homemade foodstuffs such as breads, cakes, pies, pastries and similar items, flowers and other items handmade and not store bought. Farmers markets are subject to the following conditions:

- i) Individual vendor stands, tents, stalls, etc. may be located only in nonresidential zoning districts.
- ii) No off-street parking spaces required by the use on which property the market is located may be used for display, sales or storage by the market vendors.
- iii) Vendors shall be required to provide adequate parking for the market during the operation of the market.
- iv) Farmers markets may operate no more than two days per week.
- v) Vendors shall be responsible for complying with all requirements of the Montgomery County Health Department.
- vi) Scales used for weighing products sold shall have a current certification from the Montgomery County Auditor's Office.
- vii) A temporary use permit shall be obtained by each vendor from the Zoning Administrator, including an annual fee as established by the City's fee ordinance.

D) Temporary Sales

Temporary outdoor sales of seasonal agricultural items, including the sale of such items as Christmas trees, pumpkins, seasonal produce, and similar agricultural products, may be permitted in accordance with the following standards:

- i) Zoning compliance review approval shall be required prior to operation.
- ii) If the proposed temporary outdoor sale is intended to be seasonal, in the same area, on an annual basis, the use shall be considered an accessory use and shall be regulated in accordance with Section <> (Outdoor Display and Sales).
- iii) Temporary outdoor sales are only allowed in nonresidential districts.
- iv) Temporary outdoor sales shall be limited to a maximum of 60 days in any one calendar year, on any single lot.
- v) Temporary outdoor sales are prohibited on lots occupied with residential uses unless there is an approved agricultural use on the lot (See Section <> (Roadside Stands).
- vi) The property contains an area not actively used by another use that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing open space, landscaping, traffic movements, or parking space availability.
- vii) The sale of goods shall not occur within the public right-of-way, or within 100 feet of a dwelling.

⁹⁸ This is included to prevent year-round garage sales.

- viii) The range of goods or products available for sale or for free shall be limited to food products and non-processed products obtained primarily through farming or agricultural activities, including, but not necessarily limited to: pumpkins; grains and seed crops; fruits of all kinds; vegetables; nursery, floral, ornamental, and greenhouse products; trees and forest products, including Christmas trees, and firewood; bees and beekeeping products; seafood; and dairy products.
- ix) The hours of operation of the seasonal sale of agricultural products shall be from 8:00 A.M. to 10:00 P.M., or the same hours of operation as a principal use on the same lot, whichever is more restrictive.

E) Temporary Event with Limited Impact

- i) A temporary event with limited impact may be permitted following zoning compliance review approval for a maximum of two times per calendar year on any single lot. Such events shall be subject to the general standards for all temporary uses.
- ii) The authorization of a temporary event with limited impact shall not exceed seven consecutive days per occurrence.
- iii) All activities shall take place a minimum of 200 feet from any dwelling on adjacent lots.
- iv) The temporary event make take place in all nonresidential zoning districts or on lots with nonresidential uses in residential zoning districts.
- v) Any temporary event that involves the sale of alcoholic beverages, does not require a street closure or operation in the right-of-way, attendance of over 50 people at one time, overnight stays, that exceeds two times per calendar year, or that exceeds seven consecutive days in length for any one occurrence shall only be permitted if approved as a temporary use with extensive impact.

F) Temporary Event with Extensive Impact

Any temporary event that is not classified as a temporary event with limited impact or that is not specifically exempted or prohibited by this code, shall be classified as a temporary event with extensive impact and shall require a temporary event permit subject to the following standards:

- i) The temporary event shall not create an unreasonable risk of significant:
 - a. Damage to public or private property, beyond normal wear and tear;
 - b. Injury to persons;
 - c. Public or private disturbances or nuisances;
 - d. Unsafe impediments or distractions to, or congestion of, vehicular or pedestrian travel;
 - e. Additional and impracticable or unduly burdensome on police, fire, trash removal, maintenance, or other public services demands; and
 - f. Other adverse effects upon the public health, safety, or welfare.
- ii) All activities shall take place a minimum of 500 feet from any dwelling on adjacent lots.
- iii) The temporary event make take place in all nonresidential zoning districts or on lots with nonresidential uses in residential zoning districts.
- iv) The temporary event shall require approval of a Tent and Festival Permit.
- v) The temporary event shall not be of such a nature, size, number, or duration that the particular location requested cannot reasonably accommodate the event.
- vi) The temporary event shall not occur at a time and location that has already been permitted or reserved for another permitted temporary event.
- vii) The applicant shall be able to provide proof of liability insurance to cover the event in an amount of at least one million dollars.
- viii) In reviewing the temporary event, the Zoning Administrator may seek input from the Police Department, Fire Department, or other agencies having jurisdiction over the site or adjacent public area. In approving the event, the Zoning Administrator is authorized to impose such conditions as may be necessary to reduce or minimize any potential adverse impacts upon other property in the area. Such conditions may include, but are not limited to, conditions that address the following:
 - a. Provision of adequate vehicular ingress and egress;

- b. Control of nuisance factors, such as but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat;
 - c. Regulation of number of occurrences, operational hours, or other timing limits to mitigate impacts on surrounding uses;
 - d. Regulation of temporary buildings, structures, and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards; and
 - e. Modification or elimination of certain proposed activities.
- ix)** The applicant shall be responsible for obtaining all other necessary approvals from authorities having jurisdiction including the approval of tents by the Trotwood Fire Department, electrical hookups by the Montgomery County Department of Building Inspections, etc. Failure to obtain necessary approvals for the operation of the event may result in the voiding of the zoning compliance review.

(7) Tents

- A)** The use of a tent for any purpose shall require zoning compliance review, unless all of the following provisions are met:
- i) The tent does not exceed 100 square feet in area;
 - ii) The fabric of the tent is certified as meeting the flammability standard known as “CPAI-84”; and
 - iii) The tent will be set back a minimum of 20 feet from all lot lines, buildings, and parked vehicles.
- B)** Unless exempt under Section <> above, a detailed site plan shall be submitted with the zoning compliance review application form and must include:
- i) Inside dimensions of the tent;
 - ii) Location of tent to property lines, buildings, other tents & canopies, parked vehicles and internal combustion engines;
 - iii) Parking and equipment area;
 - iv) Location and size of exits and aisles;
 - v) Seating plan;
 - vi) Location of lighting and heating (if used);
 - vii) Fire extinguisher locations;
 - viii) Location of “No Smoking” signs; and
 - ix) Information about the flame retardancy of the tent for submission and review by the Fire Marshall.
- C)** All tents subject to these provision shall be reviewed by the Fire Marshall prior to a decision on the zoning compliance review. The Zoning Administrator may use the Fire Marshall’s recommendations and decisions in making their decision on zoning compliance review.

CHAPTER 1108: GENERAL DEVELOPMENT STANDARDS

1108.01 INTERSECTION VISIBILITY⁹⁹

Development proposed adjacent to any public or private street, in every district, shall be designed to provide a clear visibility area for pedestrian and traffic safety.

- (a) A traffic safety visibility triangle area, which may include private property and/or public right-of-way, is a triangle area defined by measuring 30 feet from the intersection of the extension of the front and side street curb lines (or the right-of-way lines where there is no curb) and connecting the lines across the property. See [Figure 1108-A](#).

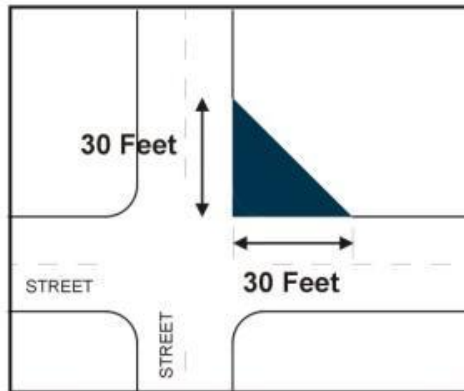


Figure 1108-A: Traffic safety visibility triangle for intersecting streets.

- (b) For intersections of streets and driveways or intersections of streets and alleys, the traffic safety visibility area shall be created by measuring 25 feet from the edge of the driveway or alley along the street and 20 feet along the driveway or alley, perpendicular from the street. See [Figure 1108-B](#).
- (c) This requirement shall not apply to lots with residential uses provide driveway access to outdoor parking lots with less than five parking spaces.

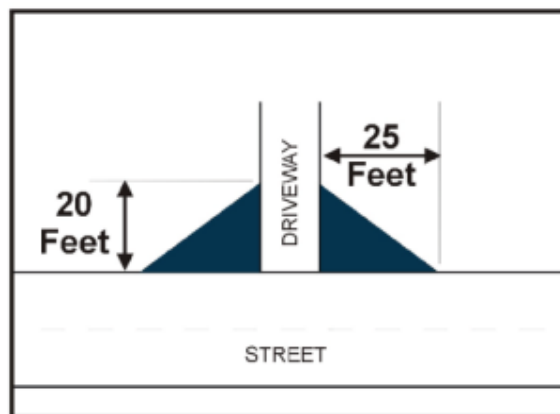


Figure 1108-B: Traffic safety visibility triangle for driveway and street intersections.

- (d) The Zoning Administrator may reduce the distance requirement where it is determined that a narrow lot frontage would excessively reduce buildable area.
- (e) These standards do not apply in the OTB.

⁹⁹ This is an expanded version of language in the existing 1175.07 and other references that prevents landscaping from block views at intersections that applies to landscaping and structures.

- (f) No structure, sign, or landscape element shall exceed 30 inches in height, measured from the top of the curb, within the traffic safety visibility area, unless approved by the Zoning Administrator.
- (g) An exception to this requirement shall be for existing trees where the canopy is trimmed to a minimum of eight feet above grade.
- (h) The Ohio Department of Transportation may impose additional restrictions along state or federal routes.

1108.02 USE OF PORTABLE CONTAINERS, SHIPPING CONTAINERS, AND SEMI-TRACTORS

Portable containers, shipping containers, semi-tractor trailers, and similar vehicles or containers (with or without wheels) shall not be used for any permanent or temporary storage, or for principal, accessory, temporary, or other forms of structure in any residential zoning district or in any nonresidential zoning district except the GI District. Temporary storage in portable storage units is permitted in accordance with Section [1107.02\(c\)\(4\)](#).

1108.03 OUTDOOR LIGHTING¹⁰⁰

(a) Purpose

The overall purpose of this section is to control the installation of outdoor lighting fixtures to prevent light pollution in the forms of light trespass and glare, and to preserve, protect, and enhance the character of the City and the lawful nighttime use and enjoyment of property located within the City. Appropriate site lighting, including lights for signs, buildings and streets, shall be arranged so as to provide safety, utility and security, and to control light trespass and glare on adjacent properties and public roadways.

(b) Applicability

The standards of this section shall apply to all development activities, subject to review under this code, with the following exceptions:

- (1) Lighting related to single-family dwellings are exempt; however, all lighting for these uses, with the exception of low-voltage landscaping lighting, shall be completely shielded from adjacent properties.
- (2) Decorative outdoor lighting fixtures with bulbs of less than 25 watts, installed seasonally, are exempt from the requirements of this section.
- (3) Fully shielded decorative lighting attached to a building or placed in landscaping and directed onto a building shall be exempt from the requirements of this section, provided direct light emissions are not intended to be visible above the building's roof line. This exception shall not include decorative lighting used to illuminate a sign, which is regulated by Section <>.
- (4) Light fixtures used to illuminate flags, statutes, and any other objects mounted on a pole, pedestal, or platform shall be exempt from the requirements of this section, provided these objects are illuminated using a narrow cone beam or light fixtures designed to minimize light spillage beyond the illuminated object.
- (5) Lighting for certain outdoor recreational uses, because of their unique requirements for nighttime visibility and their limited hours of operation, are exempt from this section. However, such uses, including but not limited to, ball diamonds, playing fields, tennis courts and other similar outdoor recreational uses, shall be required to meet the following standards:
 - A) Cutoff from a lighting source that illuminates an outdoor recreational use may exceed an angle of 90 degrees from the pole, provided that the luminaries are shielded to prevent light and glare to spill over to adjacent residential properties.
 - B) The maximum permitted illumination at the lot lines shall be two footcandles.
 - C) Exterior lighting for an outdoor recreational use shall be extinguished no later than 11:00 p.m.
- (6) Temporary construction or emergency lighting is exempt from the requirements of this section. Such lighting shall be discontinued immediately upon completion of the construction work or abatement of the emergency necessitating such lighting.
- (7) Nothing in this chapter shall apply to lighting required by the FAA or any other federal regulatory authority.

¹⁰⁰ This language expanded on the intent of exterior lighting regulations that currently apply only to the Salem Avenue Overlay District. It will now apply across all nonresidential development.

(c) **Applicability and Exterior Lighting Plan**

- (1) A lighting plan is required for all nonresidential uses and all multi-family dwellings with 10 or more dwelling units. Such plan shall be filed with the conditional use or zoning compliance review application, whichever comes first. Such lighting plan shall be required to include a photometric study if the lot is located adjacent to any lot in a residential zoning district.
- (2) All existing uses on which outdoor lighting is installed or changed shall conform to these standards, regardless if a lighting plan is required.
- (3) The lighting plan shall demonstrate compliance with the outdoor lighting standards of this section.

(d) **General Standards**

- (1) All lighting of buildings, lawns, parking areas and signs shall be designed so as not to shine onto any adjacent residential property or building, or to cause glare onto any public street or vehicle thereon.
- (2) Illumination shall be designs for consistency across the site so as not to create dark spots that may cause safety issues in such areas as where there may be pedestrians crossing vehicular use areas.
- (3) All outdoor lighting fixtures regulated according to this section, including but not limited to those used for parking areas, buildings, building overhangs, canopies, signs, displays and landscaping, shall be full-cutoff type fixtures, unless exempted per Section <>. The lighting must be fully shielded to a minimum of 10 degrees below the horizon of the fixture and located in such a manner as to not light trespass onto the public road, streets, or adjacent/nearby properties.

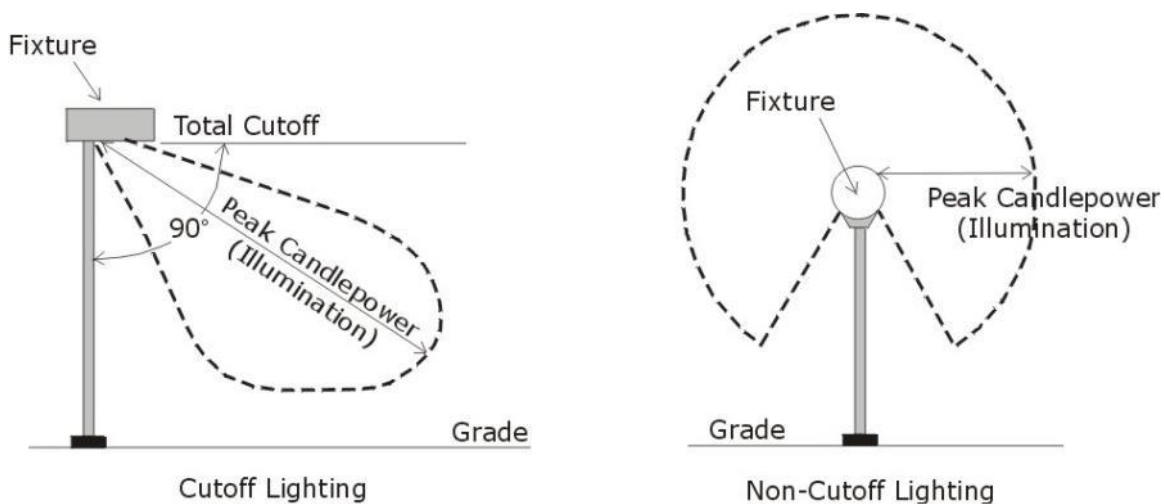


Figure 1108-C: Cutoff lighting fixtures (left) versus non-cutoff lighting fixtures (right).

- (4) Any use that has a canopy with lighting fixtures attached to the bottom of the canopy shall utilize recessed ceiling fixtures.
- (5) No exposed LED lighting shall be permitted within windows or on the exterior of a building.
- (6) All outdoor light fixtures shall be shielded to comply with the light trespass requirements except as follows:
 - A) Holiday lighting from September 15 to January 31
 - B) Lighting that illuminates a United States or Ohio flag and the flagpole to which the flag is affixed, provided these luminaires shall be shielded as necessary so that the light source is not visible from the property line.
- (7) **Light Trespass**
 - A) All nonresidential lights, fixtures, luminaires, or other light emitting devices shall be located, aimed, and shielded to eliminate light trespass across property boundaries. In every instance, installations shall utilize additional opaque shielding as needed, to eliminate light trespass onto adjacent residential or commercial properties, except for fixtures exempted from this chapter or from shielding requirements.

- B) Outdoor lighting shall be designed and located to have the following maximum illumination levels. The levels shall be measured at the finished grade at the lot line as demonstrated by a lighting plan:
 - i) The maximum illumination at a lot line that abuts a lot in a residential district shall be 0.0 foot-candles.
 - ii) The maximum illumination at a lot line that abuts a lot in a nonresidential shall be 0.5 foot-candles.
- C) Light temperature for all lighting shall not exceed 3,000 Kelvin.

(8) Measurement

- A) Light levels shall be measured in foot-candles with a direct reading, portable light meter. Readings shall be taken only after the cell has been exposed long enough to take a constant reading.
- B) Measurements shall be taken at the property line, along a horizontal plane at a height of 3.5 feet above the ground.

(e) Building-Mounted Lighting Standards

- (1) Lighting may be mounted to a building facade only at entrances, loading/service locations, or for the purpose of accent lighting.
- (2) Lighting may be mounted to a building facade to illuminate vehicular use areas only if a total cutoff fixture is utilized.
- (3) Exposed light bulbs are prohibited. The light fixtures shall be a total cutoff fixture (See [Figure 1108-C.](#)) but may direct lighting upward or downward.
- (4) In no case shall a light fixture mounted on a structure be mounted at a height where the fixture will exceed the height of the roofline.

(f) Location and Maximum Height of Light Poles

- (1) The placement of light poles within raised curb planting areas or landscaped islands should be the priority location, but conflicts with parking lot trees that can obscure the lighting shall be avoided through alternative lighting locations.
- (2) The total height of exterior lighting poles shall not exceed the following height regulations. Height shall be measured from the average grade surrounding each light pole:

TABLE 1108-1: MAXIMUM HEIGHT OF LIGHT POLES	
District	Maximum Height
A, RSF-L, RSF-M, RSF-H, RLA, RMF-L, and RMF-H	15 feet
NB, OTB, GB, SCB, BP, and CPF	15 feet along any pedestrian sidewalk or walkway and 20 feet in vehicular use areas
LI and GI	15 feet along any pedestrian sidewalk or walkway and 30 feet in vehicular use areas
Planned Unit Developments	As determined during the approval process.

(g) Light Curfew

(1) Residential Uses

All decorative lighting subject to this section shall be extinguished no later than midnight, except lighting at building entrances, walkways, parking areas, and driveways, and lighting activated by motion sensor which extinguishes 10 minutes after activation.

(2) Nonresidential Uses

- A)** All lighting, including all illuminated advertising signage, shall be extinguished no later than 10:00 p.m. or close of business, whichever is later, except lighting at the building entrances and driveway egress points, and lighting activated by motion sensor which extinguishes 10 minutes after activation. For 24-hour businesses lighting may be reduced by 50% from 10:00 p.m. until sunrise.
- B)** Lighting levels may be reduced either by turning off 50 percent of the fixtures or by reducing the lighting level by 50 percent of all fixtures, or an appropriate combination of techniques.

(3) Parking Lots

- A)** All parking lot illumination shall be reduced by 50 percent of full lighting levels at 10:00 p.m. or within one hour after the use for which the parking is used closes, whichever is later. 24-hour businesses may reduce lighting by 50 percent between 10:00 p.m. and sunrise.
- B)** Lighting levels may be reduced either by turning off 50 percent of the fixtures or by reducing the lighting level by 50 percent of all fixtures, or an appropriate combination of techniques.

1108.04 PERFORMANCE STANDARDS (REVISED 1189.03)

Any use established in the City shall comply with the performance standards set forth in this section as a precedence to occupancy and use. Any use already established in such districts shall not be altered, added to or otherwise modified so as to conflict with or further conflict with the performance standards set forth hereinafter for the district in which such use is located as a precedence to further use.

(a) Enclosure

All principal uses and accessory uses, including any related operations and storage shall be performed wholly within an enclosed building or buildings in any district with the exception of the GI District. This shall not apply to off-street parking, loading, vehicle stacking, or operations that traditionally occur outdoors (e.g., vehicle sales).

(b) Fire and Explosive Hazards

The storage, handling and use of flammable or explosive materials shall be permitted only in structures having incombustible exterior walls, and all operations in connection therewith shall be provided with adequate safety and protective devices against hazards of fire and explosion, as well as with adequate fire-fighting and suppression equipment and devices standard to the operation involved.

(c) Dust and Smoke

The emission of smoke, soot, fly ash, fumes, dust and other types of air pollution borne by the wind shall be controlled so that the rate of emission and quantity shall not be detrimental to or endanger the public health, safety, convenience, comfort, prosperity, or general welfare, or adversely affect property values and shall not exceed the amount permitted by other codes of the State, County or City.

(d) Odorous Matter

The emission of odorous matter in such quantities as to produce a public nuisance or hazard beyond the lot occupied by the use shall not be permitted.

(e) Toxic or Noxious Matter

The emission of toxic, noxious or corrosive fumes or gases which would be demonstrably injurious to property, vegetation, animals or human health at or beyond the boundaries of the lot occupied by the use shall not be permitted.

(f) Noise

The sound pressure level of any operation on a lot, other than the operation of auto-calls, bells, motor vehicles, sirens or whistles, shall not exceed the average intensity of the street traffic noise at the point of complaint and no sound shall be objectionable due to intermittence, beat frequency or shrillness.

(g) Vibration

Vibrations shall not be permitted beyond the lot line occupied by the use which would be perceptible without the aid of instruments.

(h) **Radioactive or Electrical Disturbances**

Radioactive or electrical disturbances shall not be created which would adversely affect any form of life or equipment at or beyond the boundaries of the lot occupied by the use.

(i) **Incineration Facilities**

Incineration facilities emitting neither smoke nor odor shall be provided and located within the main or accessory building. No garbage, rubbish, waste matter or empty containers shall be permitted outside of buildings, except in approved containers awaiting pickup.

(j) **Waste Materials**

Liquid wastes shall not be discharged into an open reservoir, stream or other open body of water or a sewer unless treated or controlled so that the amount of solid substances, oils, grease, acids, alkalines, and other chemicals shall not exceed the amount permitted by other codes of the State, County or City.

(k) **Litter and Trash**

There shall be adequate dumpster capacity on any site, with sufficient pick-up frequency to maintain the site litter-free.

(l) **Maintenance**

All lots shall be maintained in a manner that includes removal of trash and litter, maintenance of paved areas, maintenance of landscaping, and general upkeep of the property.

1108.05 FENCES AND WALLS (REVISED 1189.04)

(a) **Zoning Compliance Review Required**

- (1) The installation of any fence or wall shall require zoning compliance review, unless specifically exempted in this section.
- (2) Zoning compliance review is not required for repairs of existing fences or walls. However, such work or structures are still subject to the applicable standards of this section. The replacement of an existing fence or wall shall not require zoning compliance review if the replacement is for a conforming fence or wall and where the materials and height of the fence or wall are the same as the one being replaced.
- (3) Zoning compliance review is not required for fence or wall structures that are less than two feet in height.
- (4) Zoning compliance review shall not be required for short sections of fencing or walls that are designed as an architectural feature or utilized for decorative purposes and are not intended to enclose an area of land. Such sections shall not exceed 25 feet in length and shall comply with the vision clearance requirements of this code.¹⁰¹
- (5) Replacement of nonconforming fences or walls shall be subject to Section [1108.05\(c\)](#).
- (6) Hedges, shrubbery, trees, bushes and plantings shall be excluded from classification as fences but shall be subject to the intersection visibility requirements of this code. See Section [1108.01](#).

(b) **General Requirements**

- (1) Unless a specific distinction is made in this section, any regulation that applies to fences shall apply to walls and vice versa.
- (2) All fences and walls shall be subject to the intersection visibility requirements of Section [1108.01](#).
- (3) All fences and walls, and any related supporting structures or appurtenances, shall be contained within the lot lines of the applicable lot and shall not encroach into adjoining or abutting lots and/or rights-of-way. Property owners, with written permission from abutting property owners, may connect to fences or walls on adjoining properties.
- (4) Zoning compliance review shall be required for each property when a connection of existing fences or walls is proposed on two or more different properties. Such applications shall also include signatures of all property owners to document the agreement of such connection.

¹⁰¹ This is a new provision communities are adding due to the rise of small fences or walls used for entry features, particularly in nonresidential developments.

- (5) Fences or walls are permitted along property lines provided only one fence is located on the lot line. Where separate fences or walls are proposed for adjacent properties, such fences and walls shall be separated by two and one-half feet for maintenance.
- (6) The smooth finished side of the fence or wall shall be the side of the fence that faces outward from the lot or yard being fenced. If a fence has two similarly finished sides, either side may face the adjacent property.
- (7) Posts, poles, or other mechanisms used to secure the fence to the ground or support the fence shall be located on the inside of the fence (i.e., located on the property of the applicant).
- (8) All diagonal or supporting members shall face the property on which the fence or wall is constructed.
- (9) All fences and walls shall be maintained in a neat and orderly manner. This shall include keeping fences and walls clear of vegetation and growth unless such fence or wall is being used for a living fence (e.g., ivy walls), in which case, such fence or wall shall be maintained in a manner as to prevent such vegetative growth from encroaching onto the side of the fence or wall facing a neighboring lot.
- (10) Walls shall be prohibited within all utility easements. Fences that are placed in utility easements shall require the written permission from the applicable utility company. Without such permission, fences are subject to removal without notice by utility companies or the City when work is being done in the utility easements. Fences shall not be placed in any City easement unless the plat specifically permits the placement of such fence. The City of Trotwood is not responsible for the determination of easements on private properties.
- (11) Replacement of fences removed by the City or utility company shall be at the property owner's expense.
- (12) Fences and walls shall not impede, inhibit, or obstruct culverts, drains, natural watercourses, or storm water drainage in any zoning district. Solid fences shall be designed to have a minimum clearance of two inches above ground to allow for the natural drainage of water under the fence. Walls shall be designed to direct water to drainage channels or other outlets to eliminate the possibility of the accumulation of water behind the wall.
- (13) Fences and walls for conditional uses shall comply with the standards of this section unless otherwise approved by the Planning Commission as part of the conditional use review procedure.
- (14) It shall be the duty of each lot owner and contractor, or an agent thereof, to determine lot lines and to ascertain that the fence or wall does not deviate from the plans as approved by the Zoning Administrator issuing the certificate of zoning approval, and that the fence does not encroach on another lot or existing easement. The approval of a zoning compliance review application and any inspection by the City shall not be construed to mean that the City has determined the fence is not encroaching on another lot, nor shall it relieve the property owner of the duty imposed on them herein.

(c) **Nonconforming Fences and Walls (New)**

- (1) Where a nonconforming fence or wall is to be maintained or repaired, such nonconforming fence or wall may continue to exist. Repair or maintenance shall include any general maintenance of a fence or wall while still in place or a portion of a fence or wall may be removed temporarily for repair or maintenance work provided the same fence or wall is replaced in the same position.
- (2) If 50 percent or more of the length of a nonconforming fence or wall is to be removed and replaced, even as part of maintenance, such replacement shall conform with the requirements of this code and shall require the issuance of a new certificate of zoning approval. Such 50 percent shall be the aggregate over the course of time, following the effective date of this code so that full, conforming replacement shall be required once 50 percent of the length has been removed, no matter if done as a whole or partially over time.

(d) **Materials**

The following standards shall apply to the materials of all fences and walls:

- (1) Materials shall be weatherproof or weather resistant.
- (2) All sides of a decorative wall shall have a similar finish on both sides.
- (3) Fences made of rope, string, fabric, netting, or similar materials are prohibited unless an approved temporary construction fence (See Section [1108.05\(g\)\(1\)](#)).
- (4) Non-decorative concrete walls or masonry walls are prohibited.

- (5) Chicken, hog, rabbit, mesh, or woven wire fences are prohibited unless mounted on the interior of another approved form of fencing. See [Figure 1108-D](#).



Figure 1108-D: Example of where wire fencing has been mounted on the interior of an approved three-rail fence.

- (6) Chain link fencing is allowed in side and rear yards only. Slats or other materials shall not be permitted to be woven into the chain link fencing to create privacy fencing or otherwise obstruct the wires.
- (7) Plywood, particle board, fiberglass, corrugated or galvanized sheet metal panels, and non-traditional fence materials deemed unacceptable by the Zoning Administrator shall be prohibited. This may include, but is not limited to, fences or walls made from discarded materials such as shipping crates or pallets, or of tires, stacked tires or automobile parts, or stacked building materials, salvaged doors or garage doors, or similar new or used materials.
- (8) Dangerous fences installed above ground such as electrified wire, barbed wire, unfinished non-durable, sharp edge, cut or broken glass, rusted or other such fences designed to inflict pain or cause injury shall be prohibited with the exception of electric fencing as allowed in Paragraph (9), below, and sharp-edged fencing allowed in Paragraph (10), below.
- (9) Electrified wire fencing may be used for fencing of livestock pastures in the A District provided such fencing is set back a minimum of five feet from any adjacent lot in a residential district other than the A District, and from the back of any right-of-way.
- (10) In the LI and GI Districts, fences in side and rear yards may be topped with barbed wire. Such barbed wire shall only be located along the top of a fence with a height of eight feet. The barbed wire may be located above the eight-foot height, and shall not more than 12 inches above the top of the fence. The barbed wire does not count toward the maximum fence height.

(e) **Measurement**

- (1) The maximum fence or wall height shall be measured from the lowest point within three feet on either side of the fence to the top most portion of the fence between posts. See [Figure 1108-E](#).

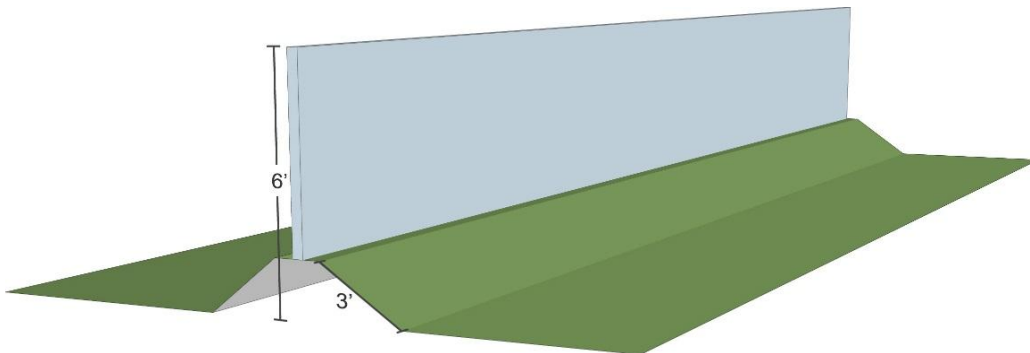


Figure 1108-E: Illustration of the measurement of the height of a fence based on the grade.

- (2) Fencing or walls should follow the natural contour of the land on which it is located. See [Figure 1108-F](#).

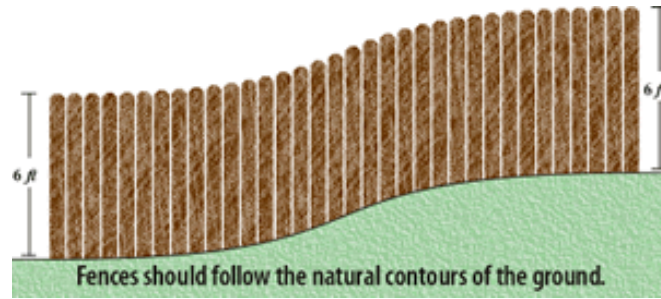


Figure 1108-F: This illustrates how fencing is measured along a natural contour.

- (3) The maximum height allowed in the subsections below may be increased by two inches where the fence or wall panels are raised to allow for natural drainage under the fence or wall.
- (4) The structure posts or finials may exceed the maximum height allowed in this section by up to six inches.
- (5) A fence may be erected on top of a wall, but the combined height of the fence and wall shall not exceed the heights specified within this section for a fence or wall. Fences or walls located on top of a retaining wall shall be measured from the top of the finished grade at the top of the retaining wall.
- (6) No fill or earthen berm, which results in a change of existing grade in developed or built-up areas of the City, shall be used to accommodate the placement of a fence or wall.
- (7) Fences used in conjunction with recreational courts and back stops for ball fields shall be exempt from the height limitation in this section; however, in no case, shall such fence exceed 12 feet in height. Such fencing shall be confined to a location adjacent to the edge of the recreational court or along a backstop.

(f) Fences and Walls in Residential Districts

The following standards apply to fences and walls in residential districts.

- (1) The requirements for swimming pool protective barriers shall take precedence where such requirements are in conflict with the regulations of this section.
- (2) The maximum height of any solid fence or wall in the front yard shall be two feet. If the fence or wall has an opacity of less than 50 percent, then the maximum height shall be four feet.
- (3) The maximum height of fences or walls in a side or rear yard shall be six feet.
- (4) Deer fencing shall be permitted in the A District, in rear yards, with a maximum height of eight feet.¹⁰²
- (5) All fences and walls shall be set back a minimum of three feet from any right-of-way.

(g) Fences and Walls in Nonresidential Districts

The following standards apply to fences and walls in nonresidential districts.

- (1) The maximum height of any solid fence or wall in the front yard shall be two feet. If the fence or wall has an opacity of less than 50 percent, then the maximum height shall be six feet in the LI and GI District and four feet in all other nonresidential districts.
- (2) The maximum height of fences or walls in a side or rear yard shall be eight feet.
- (3) All fences and walls shall be set back a minimum of three feet from any right-of-way.

(h) Temporary Construction Fences

- (1) Temporary constructing fencing is permitted to enclose active construction for the duration of any construction.
- (2) Temporary construction fences shall be maintained in good condition and shall not require zoning compliance review.
- (3) No temporary construction fencing material shall be used for permanent fencing.

¹⁰² This has become a popular necessity for some farming operations.

1108.06 DUMPSTERS (NEW)

- (a) All dumpsters shall be located to the rear of the principal building, to the maximum extent feasible, in order to minimize views from the street and neighboring properties.
- (b) Dumpsters that are located permanently on a site shall be placed on a hard, paved surface. Temporary dumpster shall be regulated as construction structures in accordance with Section [1107.02\(c\)\(1\)](#).
- (c) Dumpsters shall be screened in accordance with Section [<>](#).

1108.07 WIRELESS TELECOMMUNICATION FACILITIES (REVISED CHAPTER 1199)¹⁰³

(a) Purpose

This section, governing wireless telecommunication facilities, is established to provide for the construction, erection, maintenance, extension and removal of such facilities. The purpose of this chapter is to balance the competing interests created by the Federal Telecommunications Act of 1996 (Public Law 104-104) and the interests of the City of Trotwood in regulating wireless telecommunication towers and related facilities in order to:

- (1) Accommodate the need for wireless telecommunication facilities while regulating the location and number of such facilities within the City;
- (2) Minimize adverse visual effects of wireless telecommunication facilities and support structures through proper location, design, screening and camouflaging;
- (3) Avoid potential damage to adjacent properties from wireless telecommunication facilities and support structures;
- (4) Encourage the joint use of new and existing wireless telecommunication facilities and support structures in order to reduce the number of such structures needed in the future; and
- (5) Require public properties to be considered first for location of wireless telecommunication facilities in order to provide financial benefit to the public from the construction and use of such facilities.

(b) Review and Permit Required

- (1) Whenever a new wireless telecommunication facility is to be constructed, expanded, or modified outside of previously approved co-location spaces, the facility shall require a conditional use approval prior to any other permit or review applications.¹⁰⁴
- (2) The co-location of new antennae on existing wireless telecommunication structures or the same-for-same replacement of wireless telecommunication antennae on existing structures shall not require a conditional use approval prior to other permit or review applications.¹⁰⁵
- (3) Both a Wireless Telecommunications Facility Permit (Wireless Permit), and a zoning compliance approval are required prior to construction or installation of a wireless telecommunication facility. A site plan shall be submitted as part of the Wireless Permit application and shall include all of the following information:
 - A) Existing topography with a maximum of two-foot contour intervals;
 - B) Proposed finished grade of the development shown by a maximum of two-foot contour intervals;
 - C) The location of all existing buildings and structures on the property from which the lease parcel is created and the proposed location of the facility and support structures including square footage, dimensions, heights, and gross floor area of buildings or structures;
 - D) The location and dimensions of all curb cuts and access drives, drainage plans and illumination of the facility;
 - E) The location and dimensions of proposed fences, landscaping and screening;
 - F) The location of all existing and proposed public streets and utilities;

¹⁰³ The majority of this section remains the same as in the existing code, however, some changes have been made to clarify review distinctions between new facilities and co-locations or maintenance.

¹⁰⁴ This language is in the current section on standards, but is better related to the permit/review required.

¹⁰⁵ Most communities do not require a conditional use review for co-location where space was previously approved or replacing existing antenna.

- G)** Schedule of any phasing of the project including completion date;
- H)** A statement concerning any visual or environment mitigation proposed by the applicant;
- I)** Distances of the proposed facility from existing buildings or structures within 500 feet and the distance from the nearest residential zoning district;
- J)** A diagram showing all wireless telecommunication facilities that exist or are proposed by the applicant and all other providers and their coverage area within three miles of the proposed wireless telecommunication facility;
- K)** Any other information, as may be required by the Planning Commission and/or Zoning Administrator, to determine conformance with this code and to ensure the protection of the public health, safety and welfare of the community. Said request for information shall be provided to the applicant in a timely fashion.

(c) Exemptions¹⁰⁶

Amateur radio antennae, television antennae, citizen band (CB) antennae, satellite receiving devices used by a single user that do not exceed 65 feet in height are exempted from this section.

(d) Districts Allowed¹⁰⁷

- (1)** New wireless telecommunication facilities shall only be allowed in the A, GB, SCB, BP, LI, GI, and CPF Districts.
- (2)** New wireless telecommunication facilities may also be permitted in PUDs after the effective date of this code either through approval as part of the original PUD preliminary and final development plan or through a modification of the PUD plan approvals. See Chapter <>.
- (3)** Co-location of new antennae on existing wireless telecommunication structures shall be allowed in any zoning district when such structure has been previously approved for the co-location of new antenna.

(e) Standards

All wireless telecommunication facilities and structures shall comply with the following standards:

- (1)** Applicants for construction of a wireless telecommunication facility shall first contact the Zoning Administrator to discuss siting the facility on publicly-owned property. To the maximum extent practicable, facilities shall be sited on publicly-owned property provided that a technically suitable site is available within the proposed service area and the agency responsible for the publicly-owned land agrees to the proposed placement of the wireless telecommunication facility on the subject property in accordance with the requirements of this code and terms and conditions that are acceptable to both parties.
- (2)** No wireless telecommunication facility shall be permitted in a residential zoning district except as approved by Planning Commission for facilities constructed under Paragraph [1108.07\(e\)\(1\)](#), above.
- (3)** Photo simulations of the proposed wireless telecommunication tower as viewed from adjoining properties and public rights-of-way shall be submitted with the application.
- (4)** All wireless telecommunication towers shall be set back from property lines a distance of at least the height of the tower or the required setback in the zoning district in which it is located, whichever is greater. Setbacks from street rights-of-way shall be as approved by Planning Commission as part of the conditional use review, but in no case shall be less than the height of the tower. In no event shall a wireless telecommunication tower or facility be located in a front yard.
- (5)** All wireless telecommunication towers shall be of a monopole design, as opposed to a lattice design.
- (6)** Only one wireless telecommunication tower shall be located on a lot of record duly recorded with the Montgomery County Recorder's Office.
- (7)** The maximum height of a free-standing wireless telecommunication tower with its antenna and all appurtenances shall not exceed 200 feet.

¹⁰⁶ This is existing language, but was moved up to the first part of the section to make it clear when this section does not apply. The height was adjusted to reflect what is allowed for amateur radio antenna in the accessory use section.

¹⁰⁷ This section was modified to separate out new towers/facilities versus co-location on previously approved structures and replacement of antennae. This was not clear in the current code.

- (8) All applications for the construction or erection of wireless telecommunication towers shall include plans and designs for structures which will have sufficient structural loading capacity to accommodate at least four antenna platforms or antenna arrays of equal loading capacity for four separate providers of service to be located on the structure when constructed to the maximum allowable height. The wireless telecommunication facility shall also be designed to show that the applicant has enough space on its site for an equipment shelter large enough to accommodate at least four separate users of the facility. If an equipment shelter is initially constructed to accommodate only one user, space shall be reserved on site for equipment shelter expansions and/or equipment shelters to accommodate up to at least four separate users. Agreement to the provisions of this subsection must be included in the applicant's lease with the landowner, if different from the owner/user of the tower. Written documentation must be presented to the Zoning Administrator evidencing that the landowner of the property on which the tower is to be located has agreed to the terms of this subsection. As an additional condition of issuing a zoning compliance review approval, the owner/user/applicant shall respond in writing to any inquiries regarding collocation of another user of the facility within thirty days after receipt of a written inquiry. Copies of all written requests to collocate and all written responses shall be sent to the Zoning Administrator.
- (9) The applicant requesting permission to install a new tower shall provide evidence there is no technically suitable space for the applicant's antenna or antennae and related facilities reasonably available on an existing tower, building or structure within the geographic area to be served. With the wireless permit application:
- A) The applicant shall list the location of every tower, building or structure that could support the proposed antenna or antennae or the area where it would be technically suitable to locate so as to allow it to serve its intended function.
 - B) The applicant must demonstrate that a technically suitable location is not reasonably available on an existing tower, building or structure.
 - C) If an existing tower, building or structure is technically suitable, the applicant must demonstrate that it has made written request to collocate on the existing tower, building or structure and the request was rejected by the owner of the tower, building or structure.
 - D) In all circumstances, owners of existing towers shall promptly respond in writing to requests for collocation, but in no event shall they respond more than 30 days from the date of receipt of a written request for collocation.
 - E) If another telecommunication tower is technically suitable, the applicant must further show that it has offered to allow the owner of that other tower to collocate an antenna or antennae on another tower within the City which is owned or controlled by the applicant, if available, on commercially reasonable terms and that the offer was not accepted.
- (10) A report shall be prepared and submitted by a qualified and licensed professional engineer and shall provide proof of compliance with all applicable Federal, State, County and City regulations. The report shall include a detailed site plan, a detailed description of the telecommunication tower, the antenna or antennae, equipment shelter and appurtenances, and shall verify that radio frequency (electromagnetic) emissions are in compliance with the regulations of the Federal Communications Commission (FCC).
- (11) The applicant shall submit a plan documenting how the wireless telecommunication facility will be maintained on the site in an ongoing manner that meets industry standards.
- (12) Except as required by law, no antenna or tower shall be illuminated and no lighting fixtures or signs shall be attached to the antenna or tower. If lighting is required by Federal Aviation Administration (FAA) regulations, the most visually non-obtrusive state-of-the-art lighting available shall be used, unless otherwise required by the FAA.
- (13) A security fence not less than eight feet in height shall fully enclose those portions of the wireless telecommunication facility which come in contact with the ground. Gates shall be locked at all times.
- (14) A landscaped buffer area of not less than 15 feet in depth shall be placed between the wireless telecommunication facilities and the public rights-of-way and any adjacent properties from which a direct view can be had of the facilities, other than the tower itself. The 15-foot landscaped buffer shall have a tight screen fence of hardy evergreen shrubbery not less than six feet in height within two years of planting. The landscaping shall be continuously maintained and promptly restored, if necessary.

- (15) No signs shall be permitted anywhere on a wireless telecommunication tower or on the site except in compliance with [Chapter 1112: Signs](#).¹⁰⁸
- (16) The owner/operator shall also provide the Zoning Administrator, the City Fire Department and the City Police Department with information on whom to contact, an address and a telephone number in the event of an emergency.
- (17) There shall be no outdoor storage of equipment or other items on the site except during the facility construction period and to supply emergency power to the facility only during a power outage.
- (18) The access driveway to the wireless telecommunication facility shall, whenever feasible, be provided along with circulation driveways of the existing use on the lot, if any. Where use of an existing driveway is not feasible, the driveway to the facility shall be a minimum of eighteen feet in width with a minimum overhead clearance of eleven feet and shall be set back a minimum of twenty feet from the nearest side or rear lot line. This driveway shall meet the load limitations for fire equipment. If the access road to the facility extends more than 1,500 feet from the public right-of-way, a turnaround shall be provided for emergency vehicles at the site and a by-pass, adequate for emergency vehicles, with an approachable access shall be provided for each additional 1,500 feet of the driveway. There shall be a maximum of one off-street parking space on the site.
- (19) The wireless telecommunication antennae shall be of a panel design and mounted flush to the tower, building or structure which elevates the antennae, unless the applicant can demonstrate that it is not feasible from an engineering standpoint to use such antennae or to mount them in such a fashion.
- (20) After issuance of a building permit to construct a wireless telecommunication facility, the applicant shall commence construction within 180 days and shall complete construction within one year or the building permit shall expire.
- (21) The maximum cumulative total size of all equipment shelters accessory to a telecommunication tower or antenna on a lot shall be 600 square feet and their maximum height shall not exceed fifteen feet from building grade. Where it is technically feasible and reasonably practical, an existing building or structure on a lot shall be used to shelter the equipment associated with a wireless telecommunication facility.
- (22) All utility lines from the utility source to the wireless telecommunication facility shall be underground.
- (23) If at any time the use of the wireless telecommunication facility is discontinued for 180 consecutive days, said facility shall be deemed abandoned. The Zoning Administrator shall notify the applicant in writing and advise such applicant that the facility must be reactivated within ninety days or it must be dismantled and removed from the site within that same ninety-day period at the cost of the owner/operator. The owner/operator of the telecommunication facility shall, on no less than an annual basis from the date of issuance of the building permit, file a declaration with the Zoning Administrator as to the continuing operation of every facility which is subject to this chapter.
- (24) The owner/operator of the wireless telecommunication facility shall be required as condition of issuance of a zoning compliance approval to post a cash or surety bond acceptable to the Trotwood Law Director of not less than 300 hundred dollars per vertical foot from natural grade of the wireless telecommunication tower, which bond shall assure the faithful performance of the terms and conditions of this sections and conditions of the approvals issued under this section, and to insure that an abandoned, obsolete or destroyed wireless telecommunication antenna or tower shall be removed within 180 days of cessation of use and abandonment. Any successor-in-interest or assignee of the owner/operator shall be required to additionally execute such bond, as principal, to ensure that the bond will be in place during the period of time that the successor-in-interest or assignee occupies the facility.

¹⁰⁸ This originally said no signs are permitted, at all, but then there was a second provision that said you did have to provide one for warning. However, there are going to have to be some federal and state signage beyond just warning signs and the City cannot dictate message. Additionally, the sign regulations will exempt signage that is not visible from the street and/or is only designed to be read by a user next to the sign (e.g., small signs).

(f) Reservation of Authority to Inspect

In order to verify that the holder of a Wireless Permit for a wireless telecommunication facility and any and all lessees, renters, and/or licensees of wireless telecommunication facilities place and construct such facilities, including towers and antennae, 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 portions 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, antennae and buildings or other structures constructed or located on the permitted site.

(g) Liability Insurance

- (1)** A holder of a Wireless Telecommunication Permit for a wireless telecommunication facility 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 Wireless Permit in amounts as set forth below:
 - A)** Commercial General Liability Insurance covering personal injuries, death and property damage: \$1,000,000 per occurrence; \$2,000,000 aggregate;
 - B)** Automobile Coverage: \$1,000,000 per occurrence; \$2,000,000 aggregate;
 - C)** Workers Compensation and Disability: Statutory Amounts.
- (2)** The Commercial General Liability insurance policy shall specifically include the City and its officers, boards, employees, committee members, attorneys, agents and consultants as additional insured.
- (3)** The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State of Ohio and with a Best's rating of at least A.
- (4)** 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.
- (5)** 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.
- (6)** Before construction of a permitted wireless telecommunication facility is initiated, but in no case later than 15 days after the granting of the Wireless Permit, the holder of a Wireless Telecommunication Permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.

(h) Indemnification

Any application for a wireless telecommunication facility 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 law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the City and its officers, board, 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, whether compensatory or punitive, or expenses arising there from, either at law or in equity, which might arise out of, or are caused by the placement, construction, erection, modification, location, products, performance, use, operation, maintenance, installation, repair, replacement, removal, or restoration of said facility, excepting however, any portion of such claims, suits, demands, causes of action or award of damages that may be attributable to the negligent or intentional acts or omission of the City, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.

CHAPTER 1109: ARCHITECTURAL STANDARDS

1109.01 PURPOSE

The purpose of this section is to establish architectural and building design standards that encourage higher quality development and function in order to protect property values, and protect real estate from impairment or destruction of value. These architectural and building design criteria can encourage quality development through the use of a variety of design and site techniques while continuing to provide for a wide range of economic development.

1109.02 APPLICABILITY

The construction of new principal buildings or expansion of existing principal buildings in all districts shall be subject to the applicable provisions of this chapter.

1109.03 MODIFICATION OR WAIVER OF THIS CHAPTER

The building material requirements and other standards of this chapter may be modified or waived upon specific review and approval by the Planning Commission as part of an alternative equivalency review. See Section <>.

1109.04 ARCHITECTURAL STANDARDS FOR SINGLE-FAMILY AND TWO-FAMILY DWELLINGS

The standards of this subsection shall apply to all single-family dwellings (attached and detached) and two-family dwellings.

- (a) In the A District, single-family dwelling (attached and detached) and two-family dwellings shall be constructed with the following building materials used to cover a minimum 50 percent of the front facade:
 - (1) Natural wood;
 - (2) Engineered wood siding;
 - (3) Brick masonry;
 - (4) Fiber cement siding;
 - (5) Natural stone;
 - (6) Cultured or manufactured stone; or
 - (7) Other similar materials approved by the Planning Commission through the alternative equivalency review procedure in Section <>.
- (b) In the RSF-L, RSF-M, and RSF-H Districts, new single-family dwellings (attached and detached) and two-family dwellings in new subdivisions or other forms of greenfield development shall comply with the facade requirements above. For new single-family dwellings (attached and detached) and two-family dwellings proposed for construction on a vacant lot within a neighborhood constructed prior to the effective date (infill development) of this code, such new dwellings shall comply with the following:
 - (1) The new dwelling may be constructed to meet the architectural standards in Paragraph [\(a\)](#), above; or
 - (2) The new dwelling may be constructed with building materials that are the predominant building material on other dwellings along the same block face.
 - A) The predominant building material shall mean the material used on the greatest number of primary buildings within the established distance.
 - B) Where there are multiple materials occurring in equal frequency within the established distance, than the new building shall utilize the higher quality material.
 - C) The applicant shall be responsible for providing date-stamped photographs of dwellings within the established distance as part of the zoning compliance review application.
 - D) Such requirement shall apply to any facade that is fully visible from the street, sidewalk, or other rights-of-way.
 - E) Infill development may be required to exceed the standard in Paragraph [\(a\)](#), above, if the predominant materials of other dwellings exceed that standard.
- (c) Where vinyl siding is used on any facade, the vinyl shall be insulated vinyl or have a minimum thickness of 0.046 inches.

- (d) Any expansion of an existing single-family dwellings (attached and detached) or two-family dwelling that expands the front facade of the dwelling shall be subject to the provisions of this section.

1109.05 ARCHITECTURAL STANDARDS FOR OTHER RESIDENTIAL DWELLINGS

The standards of this subsection shall apply to all residential dwelling types except for single-family dwellings (attached and detached) and two-family dwellings.

- (a) All facades shall contain 100 percent coverage in the following materials:
- (1) Natural wood;
 - (2) Engineered wood siding;
 - (3) Brick masonry;
 - (4) Fiber cement siding;
 - (5) Natural stone;
 - (6) Cultured or manufactured stone; or
 - (7) Other similar materials approved by the Planning Commission through the alternative equivalency review procedure in Section <>.
- (b) Where there are minor areas of trim or areas that are difficult to apply the materials above, the applicant may propose to use vinyl siding. However, in no case shall more than five percent of any individual facade use vinyl.
- (c) Where vinyl siding is used on any facade, the vinyl shall be insulated vinyl or have a minimum thickness of 0.046 inches.
- (d) Any expansion of an existing dwellings that expands the front facade of the dwelling shall be subject to the provisions of this section.
- (e) To the maximum extent practicable, all roof vents, pipes, antennas, satellite dishes, and other roof penetrations and equipment (except chimneys) shall be located on the rear elevations or configured to have a minimal visual impact as seen from the street. See Section [1109.06\(i\)](#) and Section <>

1109.06 ARCHITECTURAL STANDARDS FOR NONRESIDENTIAL BUILDINGS

(a) **Building Orientation**

- (1) Buildings shall generally be parallel to the street they front to the maximum extent feasible.
- (2) The primary entrances of buildings should be oriented:
 - A) Towards a public street along the perimeter of the development or towards a public space, if located adjacent to the proposed project; or
 - B) Towards streets in the interior of the development if none of the building's facades has frontage on a public street.
- (3) Drive-through facilities and service areas for buildings should not be located between the building and the primary street frontage (i.e., front yard).

(b) **Building Facades**

Blank building walls visible from public streets (including alleys adjacent to nonresidential or mixed-use buildings) are prohibited. These requirements shall not generally apply to those walls that are not visible from a street or are completely hidden due to topography or natural features preserved as open space.

(c) **Building Materials**

- (1) A combination of materials, textures, colors, and finishes should be utilized to create visual interest. Vinyl siding and corrugated metal or steel siding material shall be prohibited unless approved by Planning Commission through alternative equivalency review.
- (2) Exposed metal panels (such as copper, bronze, or other decorative metal) may be permitted on building elevations as an accent or as a minor exterior material.

- (3) Exterior Insulation Finishing Systems (EIFS) shall be prohibited from use on the first floor of any nonresidential building.¹⁰⁹

(d) **Building Design and Mass**

- (1) All architectural elevations of principal buildings shall consist of a base, a body, and a cap. See [Figure 1109-A](#).

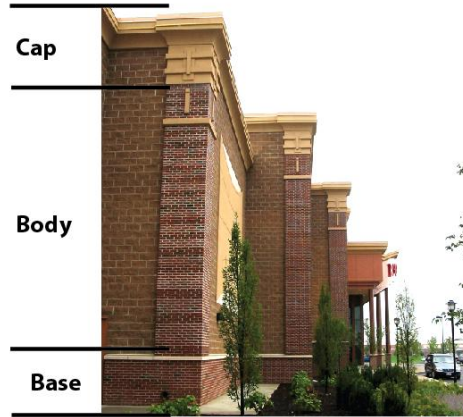


Figure 1109-A: Illustration of the cap, body, and base of a building.

- (2) The base shall occupy the lowest portion of the elevation, and should have a height no less than eight percent of the average wall height.
- (3) The body shall occupy the middle portion of the elevation, and should have a height no less than 60 percent of the average wall height.
- (4) The cap shall occupy the highest portion of the elevation, excluding the roof, and should have a height no less than eight percent of the average wall height, not to exceed the height of the base.
- (5) The base and cap shall be clearly distinguishable from the body through changes in color, material, pattern, profile, or texture.
- (6) The cap shall consist of at least one of the following architectural features: (See [Figure 1109-B](#) through [Figure 1109-D](#).)
- A) A cornice;
 - B) A parapet;
 - C) An awning;
 - D) A canopy; or
 - E) Eaves.

¹⁰⁹ This is suggested simply to prevent damage to the material/surface, which tends to happen more when on the first floor.



Figure 1109-B: Example of a cornice (left image) and parapet (right image), both highlighted in the red rectangles.



Figure 1109-C: Example of an awning (left image) and canopy (center image – highlighted in red rectangle).



Figure 1109-D: Example the use of eaves, highlighted in red rectangles.

- (7) Architectural elevations for all new buildings shall include design, massing, materials, shape, and scale that create a unified design on the premises.

(e) **Facade Massing**

(1) **Offset Required**

Front facades 60 feet wide or wider shall incorporate wall offsets of at least two feet in depth (projections or recesses) a minimum of every 40 feet. Each required offset shall have a minimum width of 20 feet. See [Figure 1109-E](#).

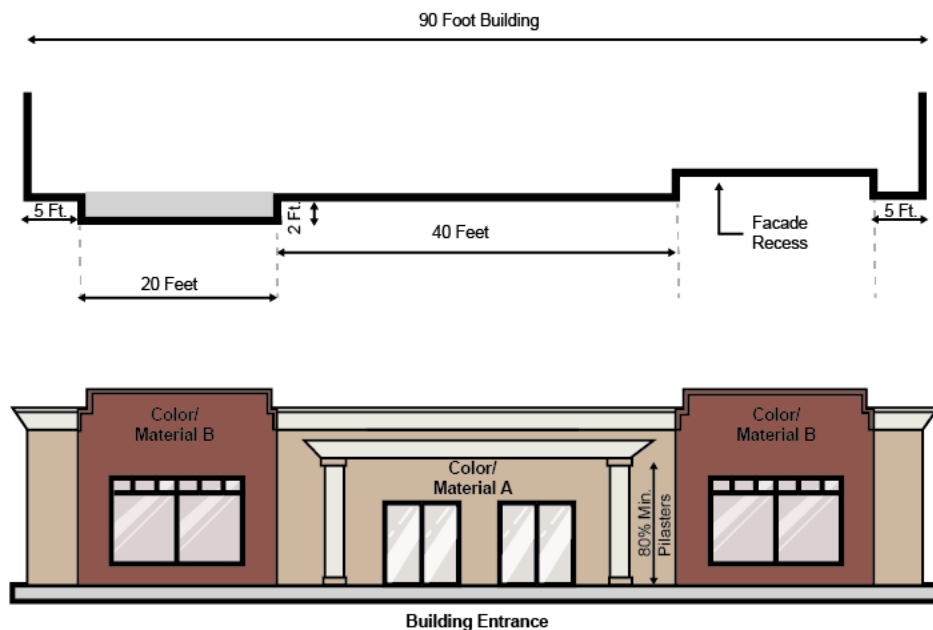


Figure 1109-E: Illustration of how the facade offset provisions may be applied.

(2) **Offset Alternative**

The following alternatives can be used in place of the required front facade offsets as shown in [Figure 1109-E](#):

- A) Facade color or material changes following the same dimensional standards as the offset requirements;
- B) Pilasters having a minimum depth of one foot, a minimum width of one foot, and a minimum height of 80 percent of the facade's height; and/or
- C) Roofline changes when coupled with correspondingly aligned facade material changes.



Figure 1109-F: The above image illustrates material changes, pilasters, and other architectural features break up the appearance of a single facade.

(f) **Wall Openings (Doors and Windows)**

- (1) Blank walls (i.e., those devoid of openings such as windows and transparent doors) shall be prohibited on the front facade of any building. In no case shall a building have blank walls parallel to a public street or to its tangent, if the street is curved.
- (2) Building elevations that are visible from a public street should contain window and door openings that occupy at least 30 percent of the total wall surface area. The bottom edge of the windows shall not be higher than three feet above grade on the ground floor.
- (3) Doors and windows should be positioned to create a uniform pattern or visual rhythm along the building elevation.

- (4) Doors and windows shall be rectangular in shape and vertical in orientation.
- (5) These requirements shall apply to all street facing building facades and the first 20 percent of any non-street facing facade located perpendicular to any street.

(g) **Roof Styles**

- (1) The height of any pitched roof shall not exceed one-half of the overall building height.

(2) **Roof Line Changes**

- A) Roofline changes shall include changes in roof planes or changes in the top of a parapet wall, such as extending the top of pilasters above the top of the parapet wall.
- B) When roofline changes are included on a facade that incorporates wall offsets or material or color changes, roof line changes shall be vertically aligned with the corresponding wall offset or material or color changes. See [Figure 1109-G](#).



Figure 1109-G: Roofline changes shall be aligned with corresponding wall offsets and/or material or color changes.

(3) **Flat Roofs**

- A) When flat roofs are used, parapet walls with three-dimensional cornice treatments shall conceal them. The cornice shall include a perpendicular projection a minimum of eight inches from the parapet facade plane.
- B) Thin parapets that extend more than two feet above the roof and have a depth of less than two feet from the facade surface, are prohibited.



Figure 1109-H: Parapet walls with cornice treatments are used to disguise flat roofs. The image on the right illustrates a tall, thin parapet wall that is prohibited.

(4) Asymmetric or Dynamic Roofs

- A)** Asymmetric or dynamic roof forms allude to motion, provide variety and flexibility in nonresidential building design, and allow for unique buildings.
- B)** Asymmetric or dynamic roof forms shall be permitted on nonresidential buildings provided the criteria for flat roofs in Section [1109.06\(g\)\(3\)](#), above, are met.



Figure 1109-I: Examples of dynamic or asymmetric roof lines

(h) Refuse Facilities

Refuse facilities shall be enclosed by fences or walls that are compatible with the architectural materials and patterns of the principal building, or they may be screened in a manner allowed in Section [<>](#)

(i) Mechanical Equipment

- (1)** Wall mounted mechanical, electrical, communication equipment, downspouts, gutters, service doors, and other building-mounted utility fixtures, shall be painted and maintained to match the building or be screened from view. All rooftop mechanical equipment, unless screened from view, should match the color of the structure or be visually compatible with the structure.
- (2)** Mechanical equipment such as transformers and HVAC units should not be located in front yards, unless appropriately screened from view.
- (3)** All mechanical equipment, including both ground-mounted and roof-mounted equipment, shall be screened from view from adjacent public rights-of-way, as well as from all property zoned or used for residential purposes.
- (4)** Screening elements may include walls (same material and color as principal structure), landscaping, mounds, parapets or enclosures constructed of the same materials used on the majority of the principal structure or any combination or as otherwise approved or required during site plan review. See [Figure 1109-J](#).

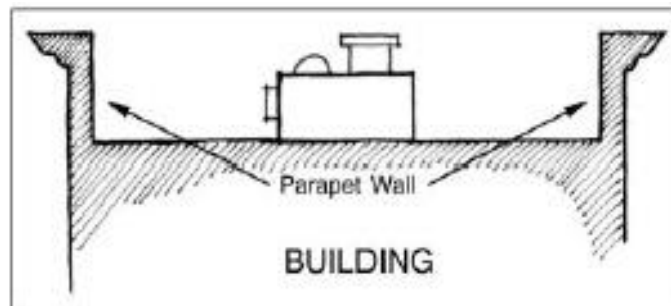


Figure 1109-J: Illustration of the use of walls for the screening of mechanical equipment.

CHAPTER 1110: LANDSCAPING AND TREE PRESERVATION

1110.01 PURPOSE (REVISED 1175.01)

The purpose of this chapter is to provide minimum standards involving the development of land to:

- (a) Provide attractive views from roads and adjacent properties;
- (b) Screen visually undesirable uses from the road and residential properties;
- (c) Require screening between incompatible land uses; and
- (d) Protect the health, safety and welfare of the community through the reduction of noise, air and visual pollution, and headlight glare.

1110.02 APPLICABILITY (REVISED 1175.02)

(a) Additions and Enlargement

- (1) The requirements of this chapter shall apply to new development and any collective, substantial expansion or change in land use. Substantial expansion or modification of the existing structures shall be defined based on the criteria established in [Table 1110-1](#).

TABLE 1110-1: LANDSCAPING AND SCREENING APPLICABILITY	
When the Existing Structure is:	A Substantial Expansion is:
0-2,500 sq. ft.	50% or greater
2,501-10,000 sq. ft.	40% or greater
10,001-25,000 sq. ft.	30% or greater
25,001-100,000 sq. ft.	20% or greater
100,001 sq. ft. and larger	10% or greater

- (2) Any collective expansion of 500 square feet or less shall be exempt from the applicability section of this chapter. Collective expansion shall include the sum of all expansions of the original structure or building, as existed on the effective date of this code, regardless of when they occur.

(b) Expansion of Vehicular Use Areas

- (1) When a vehicular use area is expanded, the landscaping requirements of Section [Error! Reference source not found.: Error! Reference source not found.](#) shall apply to the expanded vehicular use area.
- (2) If a vehicular use area is demolished and replaced or redesigned, the landscaping requirements of Section [Error! Reference source not found.: Error! Reference source not found.](#) shall apply to the entire vehicular use area.

(c) Exemptions

Unless otherwise expressly stated, the following uses and development shall be exempt from the provisions of this chapter:

- (1) Single-family detached dwellings;
- (2) Single-family attached dwellings; and
- (3) Vehicular use areas that contain five or fewer parking spaces.

1110.03 APPROVAL (REVISED 1175.04)

- (a) No zoning compliance review, conditional use application, or PUD review required under this code shall receive final approval unless a landscaping plan has been submitted and approved unless such application is exempt from the requirements of this chapter.
- (b) Final zoning compliance sign-off (See Section <>) shall not be granted unless all required landscaping has been installed prior to such sign-off.

- (c) In the event that landscape installation is delayed because of season changes, some or all required landscaping may be delayed for a period to not exceed nine months, provided that a performance guarantee in the form of an irrevocable letter of credit, performance bond, cashier's check, cash, or money order is posted with the City. Personal checks shall not be accepted. The performance guarantee shall be equal to 125 percent of the cost of the materials and installation and shall be accompanied by a written assurance that such landscaping will be completed within the specified time period.

1110.04 MODIFICATIONS

The standards of this chapter may be modified either through approval of a variance or an alternative equivalency review. See Section <> and Section <>.

1110.05 POINTS REQUIRED¹¹⁰

Landscaping shall be provided in each landscaping area as determined by a minimum number of points or a specified planting requirement, as described in this chapter. Whenever computations of points result in a fractional number, results of less than 0.5 shall be rounded down to the nearest whole number, while results of 0.5 and above shall be rounded up to the nearest whole number.

1110.06 REQUIRED LANDSCAPING AREAS

Landscaping shall be required in the following five areas. All landscaping shall meet the "minimum size at planting" requirements in the Table <>.

(a) **Area #1 – Vehicular Use Area Public Street Frontage (Front Yard)**

The area between the right-of-way and any vehicular use area in a front yard shall be landscaped. Plant material is intended to be distributed across the front yard and street frontage, but is not required to be installed in 50-foot increments, meaning the landscaping can be grouped together for a better design. For the purpose of determining the amount of landscaping required, the length of the street frontage shall be rounded to the nearest 50 feet. The front setback area shall be planted with either plantings only or berms and plantings. For areas near overhead utilities, Subsection <>, below, may be used as an alternate.

(1) **Plantings Only**

For every 50 linear feet of frontage a minimum of 1 large tree or 1.25 medium trees, plus 7.5 shrubs shall be provided.

(2) **Berms & Plantings**

A landscaped berm that is a minimum of three feet in height shall be provided. A minimum of 1 large tree or 1.25 medium trees, plus 2.5 shrubs shall be provided for every 50 linear feet of berm provided. The ornamental trees and/or shrubs shall be located on the berm.

(3) **Overhead Utility Alternate Trees**

Where overhead utilities are present and required this landscaping area (vehicular use area public street frontage) must be within 20 feet, horizontally, of the base of those utility poles, small trees with a mature height not exceeding 15 feet may be substituted for the required large or medium trees.

¹¹⁰ The landscaping chapter was largely rewritten from this point forward, with a new approach discussed with staff.

(b) **Area #2 – Front Yard Setback¹¹¹**

- (1) Any portion of a front yard setback that is not also a parking lot frontage (See Area #1, above.) shall be landscaped in a method that meets the minimum required points. The points are calculated by multiplying the linear feet of lot frontage that is not separated from the building by a vehicular use area by the multiplier in Column A (Front Yard) of Table <>, below.

TABLE 1110-2: REQUIRED POINTS FOR LANDSCAPING AREAS		
Zoning District	A – Front Yard	B – Interior Site
	Multiplier (Below) x Linear Feet of Lot Frontage = Minimum Required Points	Multiplier (Below) x Linear Feet of Outer Wall Perimeter of Principal Buildings = Minimum Required Points
RLA, RMF-L, and RMF-H	0.6	0.25
NB, OTB, GB, SCB, BP, and CBF	0.6	0.25
LI and GI	0.4	0.15

- (2) The required points are achieved by utilizing a combination of landscaping materials identified in Table <> where the aggregate of points achieved for the materials meets or exceeds the minimum required points.

TABLE 1110-3: LANDSCAPING POINT VALUE			
Material	Landscaping Material Type	Minimum Size at Planting [1]	Points (for Each Tree or Shrub)
Trees	Large Deciduous Tree (greater than 40 feet tall at maturity)	2.5 diameter measured six inches above the root ball	25
	Medium Deciduous Tree (26 to 40 feet tall at maturity)		15
	Small Deciduous Tree (13 to 25 feet tall at maturity)		10
	Large Evergreen Tree (greater than 40 feet tall at maturity)	6 feet in height measured from the top of the root ball	25
	Medium Deciduous Tree (26 to 40 feet tall at maturity)		15
	Ornamental		10
Shrubs	Evergreen	3 feet in height measured from the top of the root ball	7.5
	Deciduous		7.5

(c) **Area #3– Interior Site Landscaping**

Required landscaping shall be determined by achieving a minimum number of points, as provided in the Table based on the linear footage of the building perimeter.

- (1) Points shall be calculated for all principal buildings. The calculation shall not include any accessory structures.
- (2) The points are calculated by multiplying the linear feet of building frontage measured around the perimeter of the footprints of all principal building, by the multiplier in Column B (Interior Site) of Table <>, above
- (3) A percentage of the landscaping material used to achieve the points required by this subsection shall be located within 15 feet of the principal building, as listed below. The remaining percentage of required landscaping shall be distributed to other portions of the lot:
- A)** Lot landscaping for RLA, RMF-L, and RMF-H Districts = 30 percent

¹¹¹ We will add graphics.

- B) Lot landscaping for NB, OTB, GB, SCB, BP, and CBF Districts = 25 percent
- C) Lot landscaping for LI and GI Districts = 15 percent

(d) **Area #4 – Interior of Vehicular Use Areas**

Interior landscape areas must be provided within vehicular use areas containing 25 spaces or more:

- (1) Landscaped islands and peninsulas with a surface area equal to five percent of the area of the paved surface of the vehicular use area shall be provided in the vehicular use area.
- (2) All required landscaped islands must be a minimum of 300 square feet in area, and all peninsulas shall be a minimum of 150 square feet in area.
- (3) A minimum of one large or medium tree (excluding ornamental trees), and six shrubs shall be provided in the interior of the vehicular use area for every 300 square feet of landscaped area required.



Figure 1110-A: The above images show different options for landscaped islands with the left image illustrating landscaped islands that run the full length of parking spaces. The right image illustrates a smaller landscaped island at the end of a parking bay.

(e) **Area #5 – Screening of Service Areas**

In addition to the landscaping of the above four areas, any service areas or structures shall be screened in accordance with Section <>.

1110.07 PLANTING AND DESIGN REQUIREMENTS

The following requirements shall apply to all landscaping requirements by this chapter.

(a) **Landscape Design**

Plantings may be clustered or staggered for variety and a natural appearance, or may be spaced in equal increments for a more formal appearance.

(b) **Ground Cover Required:**

Landscaped areas shall have appropriate ground cover which stabilizes soil, reduces solar heat gain, and permits infiltration. All areas not landscaped with hedges or trees shall be provided with grass or other vegetive ground cover.

- (1) Gravel, limestone, river rock or similar stone materials may only be used for mulching around plants or for landscaping accents. Stone materials shall not be used as the primary ground cover in any required landscaped area.
- (2) When necessary to meet erosion control requirements, materials other than living ground cover may be used.

(c) **Mounds and Berms**

- (1) Earthen mounds and berms shall have a maximum slope of 3:1 (three feet of horizontal space is required for each one-foot vertical change in elevation).
- (2) The crest or top of the mound shall be rounded with elevation changes maintained one foot off of the centerline of the mound.
- (3) Earthen mounds or berms shall be designed and constructed with variations in physical alignment throughout the length of the mound or berm.
- (4) Landscape plant material installed on mounds and berms shall be arranged in an irregular pattern to accentuate the physical variation and achieve a natural appearance.

- (5) Mounds and berms shall be designed to comply with all applicable storm water regulations to prevent the redirection of stormwater onto an adjacent lot.
- (6) The landscape plan shall show sufficient detail, including a plan and profile of the berm mound, soil types and construction techniques to demonstrate compliance with the above provisions.
- (7) No part of any berm or mound which is elevated more than 18 inches above natural grade shall be located within 20 feet of any right-of-way or property line.
- (8) Adequate ground cover shall be used and maintained to prevent erosion of the earth mound.
- (9) A difference in elevation between development areas where a buffer yard is required by this chapter shall not be considered a berm.

(d) **Quality**

Plant material and ground covers shall be hardy, free of insects and diseases. All plants shall comply with the most recent edition of the American Standards for Nursery Stock ANSI 260.1, as approved by the American National Standards Institute.

(e) **Living Material**

The use of artificial plant material is prohibited.

(f) **Sight Visibility**

Landscape materials shall not obstruct sight visibility at maturity and shall be subject to the intersection visibility requirements of Section <>.

(g) **Traffic Control Signs and Lighting Features**

Landscaping materials should be placed to avoid interference with traffic control signs and devices and lighting as the landscaping matures.

(h) **Existing Trees and Shrubs**

- (1) Existing trees and shrubs may be counted towards fulfilling the planting requirements provided they meet the same requirements and size standards for the required materials.
- (2) Existing trees and shrubs to be protected shall be clearly labeled on the site plan.
- (3) No construction activity of any kind shall take place within the area defined by the drip-line of any existing tree that is to be protected. Protective measures shall be taken to ensure that heavy equipment and construction operations do not damage protected trees (e.g. snow fence around the drip-line of the tree).
- (4) Existing trees and/or shrubs to be preserved that die or are destroyed shall be replaced with new landscaping materials meeting the requirements of this chapter.

(i) **Non-Qualifying Plant Material and Prohibited Plan Materials**

The following standards shall apply to all landscaping used to meet the requirements of this chapter:

- (1) Trees that drop fruits, berries, or seeds shall be prohibited from use as part of any landscaping requirement where the tree or its canopy will hang over a vehicular use areas, sidewalks, or other paved areas;
- (2) Invasive species identified in OAC 901:5-30-01; and
- (3) Species listed in Table <> are explicitly prohibited.

TABLE 1110-4: NON-QUALIFYING PLANT MATERIAL		
Common Name	Scientific Name	Negative Features
Trees		
American Elm	<i>Ulmus Americana</i>	Insects, Disease
Ash	<i>Fraxinus</i>	Insects
Austrian (Black) Pine	<i>pinus nigra</i>	Disease prone
Autumn Olive	<i>Elaeagnus umbellate</i>	Poor form, disease prone, invasive
Black Locust	<i>Robinia pseudoacacia</i>	Invasive
Boxelder	<i>Acer negundo</i>	Aggressive, shallow roots, weak wood
Bradford Pear	<i>Pyus calleryana "Bradford"</i>	Weak branching, low branches, odor

TABLE 1110-4: NON-QUALIFYING PLANT MATERIAL

Common Name	Scientific Name	Negative Features
Cottonwood	<i>Populus deltoides</i>	Weak wood, shallow roots, seeds
European White Birch	<i>Betula pendula</i>	Insect prone
Ginkgo (Female)	<i>Ginkgo biloba - Female</i>	Fruits, Odors
Glossy Buckthorn	<i>Frangula alnus</i>	Invasive
Lombardy Poplar	<i>Populus nigra 'Italica'</i>	Insects, disease, short-lived
Mimosa	<i>Albizia julibrissin</i>	Invasive
Mulberry	<i>Morus species</i>	Fruits, shallow roots, invasive
Norway Maple	<i>Acer plantanoides</i>	Invasive
Princess Tree	<i>Paulownia tomentosa</i>	Invasive
Russian Olive	<i>Elaeagnus angustifolia</i>	Poor form, disease prone, invasive
Siberian Elm	<i>Ulmus pumila</i>	Weak wood, seeds, shallow roots
Silver Maple	<i>Acer saccharinum</i>	Aggressive, shallow roots, weak wood
Tree of Heaven	<i>Ailanthus altissima</i>	Seeds, suckers, weak wood, invasive
White Poplar	<i>Populus alba</i>	Suckers, shallow roots, weak wood, invasive
Willow	<i>Salix species</i>	Weak wood, shallow roots
Shrubs		
Lespedeza	<i>Lespedeza biclor</i>	Invasive
Black Alder	<i>Alnus glutinosa</i>	Invasive
Buckthorn	<i>Rhamnus cathartica, R. Frangula</i>	Invasive
Bush Honeysuckles (Amur, Morrow, Tartarian)	<i>Lonicera maackii, L. tatarica, L. morrowii</i>	Invasive
Butterfly Bush	<i>Buddleja davidii</i>	Invasive
Privet	<i>Ligustrum</i>	Invasive
Multiflora Rose	<i>Rosa multiflora</i>	Invasive
Winged Burning Bush	<i>Euonymus alatus</i>	Invasive

(j) **Diversity**

To prevent a monoculture among plantings, the City shall require diversity in the plantings required, as follows:

- (1) Where five to 10 trees are required, there shall be a minimum of two types of trees planted.
- (2) Where 11 to 20 trees are required, there shall be a minimum of four types of trees planted.
- (3) Where 21 to 100 trees are required, there shall be a minimum of five types of trees .
- (4) Where more than 100 trees are required, there shall be a minimum of seven types of ..

(k) **Fencing and Walls**

- (1) The general provisions for fencing and walls in Section <> shall apply to fencing and walls used to meet the requirements of this chapter.
- (2) All fences used to meet the landscaping requirements of this chapter shall have a minimum two-inch open space below the fencing material, not including support structures, to provide for the natural flow of storm water.
- (3) Fences and walls shall be made 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. Chain link fences, with or without wooded or synthetic slat material, shall not be allowed when used to satisfy the requirements of this chapter.
- (4) Materials and colors used for walls shall be similar or complementary to the principal building on the lot.

(l) **Location**

- (1) No trees shall be planted directly over any storm or sanitary sewers.

- (2) All required landscaping and screening materials shall be installed on the subject property requiring the landscaping and screening.
- (3) 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 List B, in Table <>.
- (4) Necessary accessways shall be permitted to traverse required landscaping and screening areas. The width of such accessways shall not be subtracted from the linear dimensions used to determine the minimum number of trees and shrubs required in this chapter.

(m) Other Provisions

- (1) Trees should be pollution resistant.
- (2) In no case shall any landscaping required by this chapter be used to meet the requirements of another provision in the Trotwood Codified Ordinances. The landscaping required by this chapter shall be in addition to any other requirements found in the City's ordinances.
- (3) Any trees, shrubs, or landscaping materials used to meet the standards of this chapter shall be required to meet the height and size standards of this section. Any trees, shrubs, or landscaping materials incorporated onto a site that exceeds the amount required by this chapter may be of any size.

1110.08 BUFFER YARDS REQUIRED

(a) Purpose

This section provides standards for buffer yards between different intensities of zoning and land use to provide transitions from one type of land use to another and to buffer residents and users of less intensive land uses from the impacts associated with more intensive land uses. These buffer yard standards apply to all zoning districts.

(b) Buffer Yard Required

- (1) Whenever a property in a more intensive zoning district is adjacent to land in a less intensive zoning district, the type of buffer yard indicated on in [Table 1110-5](#) shall be provided upon the property where the development is proposed.
- (2) The landscape buffer yard shall be provided along the entire lot line between the two adjacent districts identified in [Table 1110-5](#).
- (3) Buffer yards required by this section shall be located completely on the lot subject to the buffer requirement and only along the outer perimeter of the lot where it abuts another lot, and shall extend to the lot line or right-of-way line.
- (2) When required, buffer yard landscaping shall be in addition to the requirements of other sections of this chapter.
- (3) Whenever a rezoning occurs that requires a buffer yard where none was required previously, the property that is rezoned shall provide the buffer yard. The buffer yard shall be installed as an element of any subsequent change of use.
- (4) Required buffer yards shall be installed despite the presence of alleys or natural features (e.g., streams) separating property lines in conflicting zoning districts. No buffer yard shall be required where a street or road separates zoning districts.

TABLE 1110-5: REQUIRED BUFFER YARD TYPES

Zoning District of Subject Property	Zoning District of Property Adjacent to the Subject Property							
	A	RSF-L, RSF-M or RSF-H	RLA	RMF-L or RMF-H	OTB	NB, GB, or SCB	BP or LI	GI
A, RSF-L, RSF-M, or RSF-H	None	None	None	None	None	None	None	None
RLA	None	C	None	None	None	None	None	None
RMF-L or RMF-H	None	B	C	None	None	None	None	None
CPF	None	B	B	B	None	A	None	None
OTB	None	None	None	None	None	None	None	None
NB, GB, or SCB	None	B	B	B	None	None	None	None

TABLE 1110-5: REQUIRED BUFFER YARD TYPES

Zoning District of Subject Property	Zoning District of Property Adjacent to the Subject Property							
	A	RSF-L, RSF-M or RSF-H	RLA	RMF-L or RMF-H	OTB	NB, GB, or SCB	BP or LI	GI
BP or LI	None	A	A	A	A	B	None	None
GI	None	A	A	A	A	B	C	None

(c) **Buffer Yard Planting Requirements**

All plants used to fulfill buffer requirements must meet the minimum size standards indicated in [Table 1110-3](#).

(d) **Buffer Yard Types**

The following are the three buffer yard types referenced in [Table 1110-5](#).

(1) **Buffer Yard Type A**

Buffer Yard Type A shall include a buffer yard with a minimum width of 25 feet in addition to the minimum setback required by this code (no overlap). Buffer Yard Type A shall be a dense buffer consisting of a fence or wall with landscaping, an opaque tree screen, or a combination of both, as described below:

A) Fence of Wall

A fence or wall with a minimum height of six feet may be utilized as follows:

- i) At least 50 percent of the length of the fence or wall within the buffer yard shall be landscaped on the outside of the fence or wall (facing the adjacent property that is being buffered).
- ii) The maximum length of any continuous fence or wall segment without landscaping shall be 50 feet.
- iii) Landscaping placed to meet this requirement shall be located within 15 feet of the fence or wall.
- iv) The landscaping provided within the buffer shall be derived by multiplying the length of the buffer yard times 1.0 to determine the required points value. The required points value shall be met by providing landscaping consistent with the [Table 1110-3](#).
- v) At least 50 percent of the required points must be met with evergreen trees and/or shrubs.
- vi) The fence shall be completely opaque and be constructed of wood or masonry, or of composite materials such as vinyl, provided that the materials to create an opaque screen are of solid construction and can be maintained.

B) Opaque Tree Screen

Evergreen trees planted to achieve a dense screen may be utilized as follows:

- i) Columnar evergreen varieties (such as arbor vitae) shall be planted in two staggered rows and spaced three to four feet from each other, on center. Columnar varieties shall be a minimum of five feet in height at planting.
- ii) Conical evergreen varieties (e.g., as White Pine or Spruce) shall be planted in two staggered rows and spaced eight to ten feet apart, on center. Conical varieties shall be a minimum of five feet high at planting.

C) Berms

A berm shall be permitted within the buffer, subject to the requirements of Section <>.

D) Maintenance

The fence, wall, or planting screen shall be placed within the buffer to allow access to all sides so that the screen may be properly maintained without needing to enter upon adjacent property. Gates and openings shall be provided where necessary to accommodate access for maintenance purposes.

(2) Buffer Yard Type B

Buffer Yard Type B shall include a buffer yard with a minimum width of 15 feet in addition to the minimum setback otherwise required by this code (no overlap). Buffer Yard Type B shall meet the following requirements:

A) Landscaping Required

- i) A minimum of 65 landscape points shall be provided within every 50 linear feet of buffer yard required. Any buffer yard segment of less than 50 feet shall be provided with plant material equal to 1.3 points for every linear foot of that segment. The required points value shall be met by providing landscaping consistent with [Table 1110-3](#).
- ii) At least 50 percent of the required points must be met with evergreen trees and/or shrubs.

B) Landscaping Placement

The required landscaping for Buffer Yard Type B may be located within the additional 15-foot setback or anywhere within the adjacent required setback.

C) Berms

A berm shall be permitted within the buffer, subject to the requirements of Section <>.

D) Fences or Walls

Fences or walls shall be permitted within a Type B Buffer Yard, subject to the construction requirements of Section [1110.08\(d\)\(1\)A\)vi](#)), above; however, no fence or wall shall be counted towards meeting the buffer yard requirement. If utilized, fences or walls shall meet the maintenance requirements of Section [1110.08\(d\)\(1\)D](#)).

(3) Buffer Yard Type C

Buffer Yard Type C shall include a minimum buffer yard width of 15 feet in addition to the minimum setback otherwise required by this code(no overlap). Buffer Yard Type C shall comply with the following requirements:

A) Landscaping Required

- i) A minimum of 50 landscape points shall be provided within every 50 linear feet of buffer yard required. Any buffer yard segment of less than 50 feet shall be provided with plant material equal to 1.0 points for every linear foot of that segment. The required points value shall be met by providing landscaping consistent with [Table 1110-3](#).
- ii) At least 50 percent of the required points must be met with evergreen trees and/or shrubs.

B) Landscaping Placement

The required landscaping for Buffer Yard Type C may be located within the additional 15-foot setback or anywhere within the adjacent required setback. However, where the buffer is adjacent to agricultural zoning districts, the landscaping materials shall not be located within 10 feet of the property line to prevent interference with agricultural activities.

C) Berms

A berm shall be permitted within the buffer, subject to the requirements of Section <>.

D) Fences or Walls

Decorative fences or walls shall be permitted within a Type C Buffer Yard, subject to the construction requirements of Section [1110.08\(d\)\(1\)A\)vi](#)), above; however, no fence or wall shall be counted towards meeting the buffer yard requirement. If utilized, fences or walls shall meet the maintenance requirements of Section [1110.08\(d\)\(1\)D](#)).

(b) Development within Required Buffers

The required buffer yard shall not contain any development, impervious surfaces, or site features that do not function to meet the standards of this section or that require removal of existing vegetation, except for the following features:

- (1) Fences or walls;
- (2) Sidewalks, trails, and other elements associated with passive recreation, if all required landscaping is provided;

- (3) Signs and light posts;
- (4) Driveways, access roads, and similar uses if they cross perpendicularly across a required buffer, are designed to limit disturbance of vegetation, and have a maximum width of 24 feet; or
- (5) Overhead and underground utilities required or allowed by the City.

1110.09 STREET TREES¹¹²

1110.10 SCREENING OF SERVICE AREAS (REVISED 1175.09)

In addition to the other forms of landscaping required in previous sections, screening shall be required to conceal specific areas of high visual or auditory impact or hazardous areas from adjacent, less intensive uses and from views from public rights-of-way. Such areas shall be screened at all times, unless otherwise specified, regardless of adjacent uses, districts, or other proximate landscaping material.

- (a) The following areas shall be screened in accordance with this section:
 - (1) Large waste receptacles (e.g., dumpsters and cardboard recycling containers) and refuse collection areas;
 - (2) Accessory outdoor storage and bulk sales;
 - (3) Pipes, conduit, and cables associated with the building or use;
 - (4) Outdoor service areas that are necessary to support common business operations (e.g., outdoor freezer or refrigeration units, storage units, etc.);
 - (5) Ground-level or facade-mounted mechanical equipment; and
 - (6) Roof top equipment that is not otherwise hidden by the roofline, parapet wall, or other similar feature.
- (b) Screening shall not be required if any of the above items are not visible from adjacent rights-of-way or from adjacent lots in residential zoning districts.
- (c) All sides of the item shall be screened with the exception that one side of the item may be screened with a gate or other similar feature to allow access while screening the item when access is not necessary.
- (d) **Screening Methods**
 - (1) The following items are permitted for use as screening materials, and more than one method may be used on a lot or site.
 - A) Vegetative materials that provide a fully opaque screen to the minimum height necessary to fully screen the facility from off-site views (See [Figure 1110-B](#)); or
 - B) An opaque fence or wall consistent with the standards of Section [1108.05](#); or
 - C) Integration into the building design (e.g., false walls or other architectural screening) that utilizes the same building materials and colors as the principal building.

¹¹² DISCUSSION FOR PC AND CC – Does the City want to require street trees, which would be in the right-of-way? The landscaping requirements of this chapter will provided for a lot of front yard landscaping in nonresidential districts, but not in residential districts.



Figure 1110-B: The above image illustrates a vegetative screen that hides HVAC equipment and a dumpster.

- (2) The required screening shall have a height sufficient enough to screen the applicable item(s) provided it is in accordance with any other applicable sections of this code.
- (3) To the maximum extent feasible, pipes, conduit, and cables should be located along the rear facade of buildings if conditions do not allow for them to be enclosed within the building itself. Pipes, conduit, and cables shall be located as far away from public view as practical and shall be painted a similar color as the building facade to further reduce visibility.
- (4) In all cases, fences and walls are limited to the heights allowed by Section <> unless the wall used for screening is an extension of the principal building, in which case, the wall may be the same height as the principal building wall that from which it is extended. See [Figure 1110-C](#).



Figure 1110-C: The above image illustrates a wall and fence that is an extension of the principal building that is designed to screen outdoor storage areas.

1110.11 MONARCH TREE PRESERVATION

(a) **Purpose**

The purpose of this section to protect existing trees from destructive pruning practices and to preserve “Monarch Trees” as defined herein. It is thereby further the purpose of this section to promote the public health, safety, and general welfare, to beautify and enhance improved and undeveloped land, to preserve and protect both the natural and historic amenities within the City, and to ensure that the destruction of monarch trees and the unauthorized pruning of other trees within the City of Trotwood does not reduce property values.

(b) **Removal of Monarch Tree**

- (1) No person, firm, organization, society, association or corporation, or any agent or representative thereof shall directly or indirectly destroy or remove any monarch tree, unless otherwise authorized under provisions of this section, in which case a permit from the City of Trotwood for such removal may be required.

- (2) This section shall not restrict the ability of the City, public utilities, and electric suppliers from maintaining reasonable safe clearance around utility lines with full disclosure to the City of Trotwood and approval of a permit by the Zoning Administrator. Within City easements and road rights-of-way, the City Engineer may authorize the pruning or removal of trees as necessary to maintain the easement and rights-of-way.

(c) **Documentation Required**

Where an application for a building permit or zoning compliance review, or any other development activity is submitted to the City of Trotwood, a landscape plan in accordance with the requirements of this chapter of this code shall be submitted. In addition, the following information with regard to monarch trees, shall also be submitted along with any other information required to be submitted with the application.

- (1) A survey of monarch trees; and
(2) Specifications for protection of monarch trees to be maintained during development.

(d) **Exceptions and Appeals**

- (1) In the event that any tree shall be determined to be in hazardous or dangerous condition so as to endanger the public health, safety, or welfare, and to require immediate removal without delay, written authorization shall be given by the Zoning Administrator and the tree removed, except where it is deemed that an emergency exists within a public road right-of-way, or public easements, the City Engineer may authorize the removal of trees as necessary to protect the public health and safety.
(2) During the period of an emergency, such as a tornado, hurricane, ice storm, flood, or any other act of nature, the requirements of this section may be waived by the Zoning Administrator or Trotwood Tree Preservation Board.¹¹³
(3) Any decision of the Zoning Administrator relative to the administration of the requirements of this section may be appealed to the Trotwood Tree Preservation Board.
(4) Trees grown specifically for sale or harvest by commercial nurseries are exempt from the provisions of this section.

1110.12 MONARCH TREE REQUIREMENTS

(a) **Protective Barriers**

Protective barricades shall be placed around all Monarch trees located in development areas prior to the commencement of any work, and shall remain in place until development activities are complete or construction in accordance with standards set forth in this section commences. The area within the protective barricade shall remain free of all building materials, dirt, or other construction materials, debris, vehicles, and development activities. Barricades shall be erected at a minimum distance from the base of Monarch Trees. Protective barricades shall be placed at a minimum distance equal to ten (10') feet from the base of a Monarch Tree, plus an additional one (1') foot for each additional one (1") inch DBH greater than ten (10") inches DBH or to drip line, whichever is greater.

(b) **Passive Tree Protection**

Passive forms of tree protection may be utilized to delineate tree save areas which are remote from areas of land disturbance. These areas must be completely surrounded with continuous rope or flagging [heavy mill, minimum two (2") inches wide]. All passive tree protection must be accompanied by "Keep Out" or "Tree Protection Area" signage.

(c) **Encroachment:**

- (1) Construction within the protective barricade. Changes in grade or construction of impervious surfaces or utilities within the required protective barricade shall be permitted subject to the following guidelines: construction of impervious surfaces shall not be permitted within five (5') feet of the base of the Monarch Tree, unless special construction methods, including, but not limited to, tree feeders and porous paving materials are used and certified as acceptable by a reputable tree service, arborist, or other qualified organization.

¹¹³ This board does not exist at the moment. The board will be defined as the Planning Commission, by default, unless the City appoints a separate board.

- (2) Roots outside barricade. All roots outside of the protective barricade to be removed during the development shall be served clean and a two (2") inch layer of mulch be applied over the surface of exposed roots during development.

(d) **Trenching**

The installation of utilities through a protective zone should occur by way of tunneling rather than trenching. If roots must be cut, proper root pruning procedures must be employed.

(e) **Pruning**

Remedial site reclamation and tree care procedures shall be implemented when encroachment within protective zones either will cause damage or has caused damage to either the tree or the tree growing site, and the damage is repairable. If encroachment is anticipated, or has happened, these practices should be employed as preemptive measures to improve survival.

(f) **Fertilizer**

Fertilizer applications will enhance the vigor of trees stressed by site disturbances, thereby promoting root development. Information regarding appropriate fertilizers and application rates may be obtained from the County Soil Conservation Office.

(g) **Soil**

A tree's ability for adequate root development, and ultimately its chances for survival, are improved with reclamation of the growing site.

- (1) Wherever possible, the soil should be brought back to its natural grade. Unnecessary fill, compaction, erosion sedimentation, concrete washout, and construction debris should be removed. When machinery is required for site improvement, it is recommended that a skid steer or similar lightweight, rubber tire vehicle be used so as to minimize soil compaction.
- (2) Compacted soil within the critical root zones of trees should be aerated. This is best accomplished with a two-inch diameter auger. Holes should be drilled to a depth of six inches to twelve inches, approximately two to three feet apart, and radiating outward from the tree's trunk in a bicycle spoke configuration. This aeration technique is also recommended for areas affected by minor fill or the sedimentation of erosion materials.
- (3) The air exchange, nutrient, and water-holding capabilities of soils can be improved with soil amendments. This is best accomplished by back-filling holes from aeration, with mineral amendments such as perlite, vermiculite, isolate and the like.

(h) **A four-to-six-inch layer of mulch material, such as pine straw, pine bark, or wood chips, spread within the critical root zones of trees on construction sites is extremely beneficial. Tree Replacement Required**

Removal of each monarch tree without approval of the City of Trotwood Tree Preservation Board is a violation of this chapter and shall require replacement in caliper inches (American Nursery Stock Standard) equal to the number of inches DBH removed from the site. For example, a 30-inch tree removed could be replaced with 10 trees each of which is three inches in diameter. A minimum diameter of two inches shall be allowed for replacement trees.

(i) **Relocation of Monarch Tree**

An applicant may propose the relocation of a monarch tree provided the relocation is accomplished:

- (1) By relocating the protected tree to another lot under the same ownership of the land on which the tree is being removed or relocated to a property owned by the City, if City Council accepts such relocation; and
- (2) Ensuring that the monarch tree is relocated and protected with best practices to ensure the best chances of survival. The Trotwood Tree Preservation Board may require a financial guarantee, in accordance with those acceptable by the City (See Section <>), for a period of up to two years to ensure that the monarch tree survives the relocation. The guarantee shall be the same amount as would be required for a fee-in-lieu of replacement, as noted below.

(j) Fee In Lieu of Replacement Trees

In cases replacement trees cannot be adequately accommodated on a site, the developer/owner shall, in lieu of planting the trees, pay a fee to the City of Trotwood, equal to the fair market cost of the installed trees that would be required on the site. This money shall be put into a special account ("Tree Bank") to be used solely for the beautification of public lands. The Trotwood Tree Preservation Board shall make a recommendation to City Council as to whether or not to accept the fee or require the onsite placement of the trees. The Tree Preservation Board shall recommend and approve expenditures from the Tree Bank.

(k) Similar Species & Replacement

At least one of the replacement trees shall be of the same species as the monarch tree that was removed unless the species has demonstrated issues with health or insects, in which case, the Tree Preservation Board may approve an alternative species. If any of the replacement trees are damaged or diseased during the first two years after planting, they shall be replaced.

1110.13 MAINTENANCE

- (a)** Light, water, soil conditions, and on-going maintenance requirements should be considered in selecting plant material.
- (b)** The owner of the property shall be responsible for the continuous proper maintenance of all required landscaping materials, and shall keep them free of refuse and debris and in a healthy, growing condition at all times.
- (c)** Landscape materials are intended to grow, spread, and mature over time. Landscaping materials used to fulfill requirements of this chapter may not be removed, pruned, or otherwise treated as to reduce overall height or level of opacity. Excessive pruning, including limbing-up, topping, and other inhibiting measures, may only be practiced to insure the public safety or to preserve the relative health of the material involved.
- (d)** Pruning that results in removal of more than one-third of the height of the tree at the time of pruning shall be considered the same as removal; the pruned tree shall be removed and a new tree, meeting the requirements of this chapter, shall be planted in its place. The new tree shall match the height of the tree prior to its pruning.
- (e)** Required plant material that is unhealthy, dying, or dead shall be replaced within three months of discovery of its condition, or if discovered at the end of the planting season, by June 30 of the next year for spring planting and October 30 for fall planting.
- (f)** Violation of these provisions shall be subject to the enforcement provisions of <>.

CHAPTER 1111: PARKING, ACCESS, AND CONNECTIVITY

1111.01 PURPOSE (REVISED 1181.01)

The purpose of this chapter is to protect the public health, safety, convenience, comfort, prosperity and general welfare, and to:

- (a) Regulate the appropriate amount of land for parking, loading, stacking, and maneuvering;
- (b) Relieve the congestion so the streets can be utilized more fully for movement of vehicular traffic;
- (c) Promote the safety and convenience of pedestrians and shoppers by locating parking areas so as to lessen car movements in the vicinity of intensive pedestrian traffic;
- (d) Encourage alternative modes of transportation by providing facilities for pedestrians and bicyclists;
- (e) Protect the light, air, visual amenities, and property values of residential areas by limiting the parking and storage of recreational vehicles, boats, trailers and trucks in residential areas; and
- (f) Reduce surface water run-off by considering the use of pervious surfaces, where applicable.

1111.02 APPLICABILITY (REVISED 1181.02)

- (a) Compliance with this section shall be reviewed as part of an application for zoning compliance review.
- (b) Unless otherwise stated, the requirements of this chapter shall apply to all new development where there is the construction of a new building or the establishment of a new use, including new uses within existing buildings.
- (c) Unless otherwise stated, the requirements of this chapter shall apply to any expansion or modification of existing buildings, uses, and activities that result in an increase in square footage or seating, or an increase in the number of dwelling units.
- (d) Accessory and temporary uses shall be exempt from the requirements of this chapter unless specifically required in Section <>.
- (e) All development in a PUD District shall be subject to the standards of this chapter unless otherwise modified through the PUD review and approval process.

1111.03 GENERAL REQUIREMENTS (REVISED 1181.02)

The following requirements shall apply to all vehicular use areas including off-street parking, stacking, and loading spaces.

(a) Location

- (1) Parking and loading spaces shall be provided on the same lot as the principal use they are intended to serve unless otherwise regulated in this chapter.
- (2) In residential districts, no parking or storage of vehicles shall take place in the front yard except on driveways permitted in accordance with this code.

(b) Modification to Existing Vehicular Use Areas

The modification of any existing off-street parking area, including, but not limited to, reduction, enlargement, restriping or remarking of any vehicular use area in a manner that differs from the existing approved plans, shall require a review of the modification in accordance with the following:

- (1) Minor modifications related to maintenance and upkeep, including, but not limited to, repaving of the existing paved area, restriping, remarking, or other similar maintenance work, are permitted without zoning compliance review.
- (2) All other modifications, including, but not limited to, the removal or expansion of existing paved areas, shall be reviewed through the zoning compliance review process.

(c) **Setback Requirements¹¹⁴**

Vehicular use areas with more than five parking spaces shall be subject to the following setback requirements:

(1) **Front Yards**

- A) Unless otherwise stated, all vehicular use areas shall be setback a minimum of 10 feet from any street or alley right-of-way except for permitted driveways.
- B) This setback area shall be landscaped pursuant to Section <>.

(2) **Side and Rear Yards**

In all cases, vehicular use areas shall be set back a minimum of 10 feet along the side and rear yards. For vehicular use areas in the RMF-L, RMF-H, NB, GB, SCB, BP, LI, GI, and CPF that are located on lots adjacent to a lot in the A, RSF-L, RSF-M, or RSF-H, the vehicular area shall comply with the minimum side and rear yard setbacks for principal buildings, or 10 feet, whichever is greater.

(d) **Driveways¹¹⁵**

(1) Driveways in the A, RSF-L, RSF-M, and RSF-H Districts shall comply with the following:

- A) Driveways shall be set back a minimum of one foot from all lot lines except from the right-of-way lot line. Such driveways shall maintain proper drainage and shall be a minimum of 10 feet wide with a maximum width of 25 feet at the right-of-way line.
- B) No more than 30 percent of the front yard in the A, RSF-L, and RSF-M Districts may be paved for parking.
- C) No more than 50 percent of the front yard in the RSF-H District may be paved for parking.
- D) There shall be a maximum of one driveway apron along a street frontage unless the applicable lot has a minimum street frontage of 100 feet, then a second driveway apron may be allowed. Where two driveway aprons are permitted, this shall include an allowance for two separate driveway spaces or for one connected, circular driveway (in and out), but in all cases, the lot shall not exceed the maximum front yard coverage of this subsection.

(2) Driveways in all other districts shall be subject to the following:

- A) The location, width and number of entrance and exit driveways serving private vehicular use areas shall be planned in such a manner as to interfere as little as possible with the use of adjacent property and the flow of traffic on the streets to which they connect.
- B) Vehicular use areas that contain up to 20 parking spaces shall have at least one, two-lane driveway located a minimum distance of 50 feet from the right-of-way line of the nearest intersecting street.
- C) Vehicular use areas that contain 20 or more parking spaces should, if possible, have two, two-lane driveways located a minimum of 50 feet from the right-of-way line of the nearest intersecting street.
- D) The angle of intersection between the driveway and the street shall be between 70 degrees and 90 degrees. The radii of the edge of the driveway apron shall be at least 20 feet.
- E) Entrance or exit driveways shall not exceed three lanes in width and shall be designed so that all vehicles can be driven forward into the street. The width of such driveways, measured at the street right-of-way line, shall conform with [Table 1111-1](#).

TABLE 1111-1: WIDTH OF DRIVEWAYS		
Number of Lanes	Width (Feet)	
	Minimum	Maximum
One	10	12
Two	18	24

¹¹⁴ We found some basic setback requirements for vehicular use areas that we have tried to clarify here, including allowing for no setbacks when parking areas are adjacent to uses in similar zoning districts.

¹¹⁵ These are some basic driveways standards that build off the city's current requirements.

TABLE 1111-1: WIDTH OF DRIVEWAYS		
Number of Lanes	Width (Feet)	
	Minimum	Maximum
Three	27	36

- (3) All vehicular use areas that have five or more parking spaces have access to a public street or alley in such a manner that any vehicle leaving or entering the parking area from or onto a public street or alley shall be traveling in a forward motion.

(e) **Striping, Marking, and Maintenance**

- (1) All parking spaces in vehicular use areas that contain more than five parking spaces shall be striped and maintained in good condition.
- (2) Each parking space and aisle shall be clearly designated and marked to ensure approved utilization of the space, direction of traffic flow and general safety.
- (3) Markings may be accomplished with paint lines, curb stones, or other clear markers a minimum of four inches in width, or in some other manner approved by the Zoning Administrator and shall be maintained in a clearly visible condition.
- (4) When a parking space is designated for handicapped accessibility or small car use, it shall be clearly marked as such.
- (5) The owner of property used for parking shall maintain such area in good condition without holes and free of all trash, abandoned or junk vehicles, and other rubbish.

(f) **Surface and Grading**

- (1) The surface of any parking area, aisle, driveway or maneuvering area shall be paved with a hard, durable, dust free surface such as asphalt or concrete (excluding compacted gravel) and approved by the Zoning Administrator.
- (2) In the A District, driveways used as part of a permitted agricultural use shall be paved at least 50 feet back from the right-of-way line.
- (3) All vehicular use areas shall be graded and drained so that surface water shall not flow onto adjacent property and shall be improved with asphalt concrete or Portland cement pavement.

(g) **Wheel Stops and Curbing**

- (1) Wheel stop devices consisting of parking blocks, permanent curbs, or other suitable barriers shall be installed to prevent any part of a parked motor vehicle from extending beyond the required parking space area, overhanging a pedestrian circulation way or sidewalk or damaging any structure or landscaping.
- (2) The minimum height of a wheel stop device shall be five inches and the minimum distance from a wheel stop device to a property line or protected area shall be two and one-half feet.
- (3) Wheel stops shall be adequately anchored to the ground to prevent any movement.
- (4) Continuous curbing is discouraged, but if curbing is used, it should be cut curbing or scissor curbing to allow for the passage of stormwater. See [Figure 1111-A](#).



Figure 1111-A: Cuts in the continuous curb allow for stormwater to be directed into landscaped areas.

(h) **Lighting**

Any lighting of vehicle use areas shall be subject to Section [1108.03](#).

(i) **Landscaping and Screening**

Landscape and screening shall be pursuant to [Section <>](#).

(j) **Prohibited Activities (New)**

- (1) The display, sales, or storage of any goods, wares, or merchandise shall not be permitted within any areas designated for required off-street parking, circulation, and loading unless approved as part of an accessory or temporary use.
- (2) No part of any building, structure, or related improvements shall be temporarily or permanently located or stored in areas designated for off-street parking, circulation and loading, unless as part of an approved accessory or temporary use, or if approved as part of a site plan.

(k) **Bicycle and e-Scooter Parking**

When bicycle or e-Scooter parking accommodations are provided on a site, they shall be located in an area adjacent to the primary building and separate from vehicular or pedestrian traffic circulation to prevent unnecessary conflicts and safety hazards between vehicles, people, bicycles and e-Scooters.

(l) **Visibility**

- (1) Access of driveways for parking areas shall be located in such a way that any vehicle entering or leaving such parking area shall be clearly visible by any pedestrian or motorist approaching the access or driveway from a public street, private street or alley.
- (2) All parking plans shall demonstrate compliance with the intersection visibility standards of Section <>.

(m) **Maintenance**

Any owner of property with a vehicular use area shall maintain such areas in good condition without holes and free from all dust, trash, weeds and other debris.

1111.04 OFF-STREET PARKING STANDARDS

(a) **Number of Off-Street Parking Spaces Required¹¹⁶**

- (1) Applications for single-family, two-family, and multi-family dwellings shall be required to provide the number of required off-street parking spaces as established in [Table 1111-2](#). The spaces may be located within a garage, on an approved driveway, or in an approved parking lot. Fractional numbers shall be increased to the next highest whole number.
- (2) In residential use areas, garages or carports may be counted as a part of the required parking.

¹¹⁶ This is a new, more flexible approach to parking requirements that was outlined in the code audit. For any uses, other than basic residential uses, the applicant has to demonstrate they have enough parking with staff maintaining the ability to look to outside resources to deny an application if it is clearly not enough.

TABLE 1111-2: RESIDENTIAL PARKING REQUIREMENTS	
Use	Required Parking Spaces
Single-Family (Detached and Attached) and Two-Family Dwellings	2 spaces per dwelling unit
Multi-Family Dwellings – Studio or One-Bedroom Units	1.5 spaces per dwelling unit
Multi-Family Dwellings – Two or More-Bedroom Units	2 spaces per dwelling unit [1]
NOTE: [1] For multi-family dwelling developments with more than 20 units, an additional parking space shall be provided for every four dwelling units to provide additional guest parking.	

- (3) All applications for development except for residential uses identified in [Table 1111-2](#), above, are required to demonstrate that the proposed number of off-street parking spaces provided is sufficient to serve the proposed use or activity through the submission and review of a parking plan. As part of the parking plan, the applicant shall provide a written analysis of parking requirements based on the following information:
- A) Availability of on-street parking near the use and the distances to those spaces;
 - B) Building square footage for each specific use to be served by off-street parking;
 - C) Hours of operation;
 - D) Estimated number of patrons/customers at peak hours of operation;
 - E) Maximum numbers of employees present on one shift;
 - F) Availability of joint parking areas;
 - G) Building occupancy loads; and
 - H) Any additional information as requested by the Zoning Administrator.
- (4) When multiple uses are proposed on the site, the Zoning Administrator shall consider the parking requirements of all uses and may utilize the most intense use when determining if the proposed plan has sufficient parking spaces.
- (5) The Zoning Administrator has the authority to deny an application if they determine that an adequate amount of parking has not been provided. The Zoning Administrator shall provide, in writing, the reasons for the rejection. The Zoning Administrator may refer to the estimates of parking demand based on recommendations of the American Planning Association (APA), the Urban Land Institute (ULI), and/or the Institute of Traffic Engineers (ITE) in making their determination. Prior to a formal denial, the Zoning Administrator shall also have the ability to discuss joint or shared parking options, as permitted in [Section <>](#) as a potential solution to providing sufficient parking.
- (6) The Zoning Administrator's decision regarding parking requirements for a specific use is appealable to the BZA as established in [Section <>](#).

(b) Dimensional Requirements for Parking Spaces and Drive Aisles

- (1) Areas for off-street parking facilities shall be designed in accordance with the minimum dimensional requirements established in [Table 1111-3](#) and illustrated in [Figure 1111-B](#). No variances may be approved to reduce the dimensional requirements of this section.
- (2) If parking along a drive aisle shall have parking at two or more different angles, the width of the aisle required shall be the largest width required in [Table 1111-3](#).

TABLE 1111-3: PARKING SPACE DIMENSIONS				
Angle	Parking Space Width (Feet)	Parking Space Length (Feet)	Drive Aisle Width (Feet)	
			One-Way	Two-Way
	A	B	C	D
Parallel (0°)	10 feet	23 feet	12 feet	20 feet
30°	10 feet	20 feet	12 feet	24 feet
45°	10 feet	20 feet	14 feet	24 feet
60°	10 feet	19 feet	22 feet	24 feet

TABLE 1111-3: PARKING SPACE DIMENSIONS				
Angle	Parking Space Width (Feet)	Parking Space Length (Feet)	Drive Aisle Width (Feet)	
			One-Way	Two-Way
Perpendicular (90°)	9 feet	18 feet	24 feet	24 feet

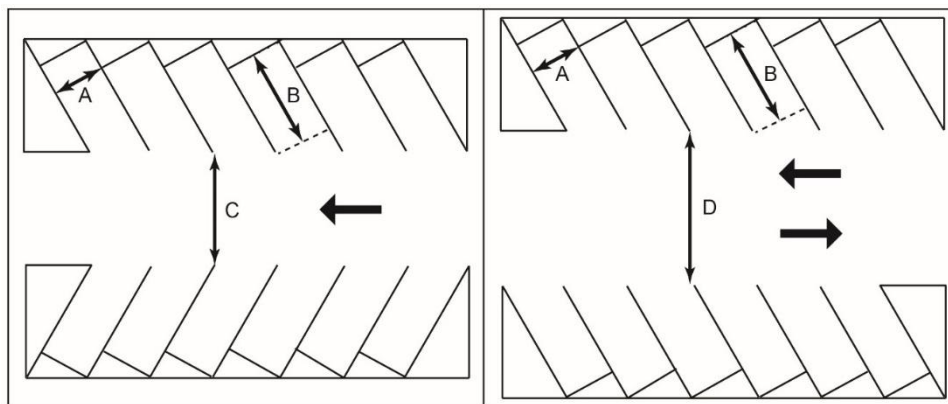


Figure 1111-B: Parking area dimensions

(3) **Compact Spaces (New)**

- A) All compact car spaces must be a minimum of eight feet wide by 16 feet long.
- B) The design and placement of all compact spaces are subject to the review of the Zoning Administrator.
- C) The location of all compact spaces shall be readily identified and grouped in one or a series of locations.
- D) Compact spaces are not permitted for vehicular use areas with less than 50 parking spaces unless the compact spaces provided are in addition to the number of spaces required to comply with Section <>. For nonresidential uses with 50 or more parking spaces, up to 10 percent of the total parking spaces may be compact spaces.

(c) **Parking for Handicapped Persons**

- (1) Parking spaces for handicapped and elderly persons shall, at a minimum, meet the dimensional requirements of Section 1111.04(b), above, in addition to any other dimensional or design requirements of the Accessible Parking Guide published by the Secretary of State of Ohio¹¹⁷, which outlines requirements of the most recent ADA Standards for Accessible Design.
- (2) Each handicap space may be included in the computation of spaces required by this chapter.

(d) **Electric Vehicle Charging Stations**

- (1) Electric charging stations are permitted to be located in any approved off-street parking space, in any zoning district.
- (2) All new single-family dwelling units (attached and detached), two-family dwelling units, and three-family dwelling units constructed after the effective date of this code shall be required to have one parking space (interior or exterior) that is Electric Vehicle (EV) Ready. This means that the space shall have dedicated electrical panel capacity, conduit, and wiring installed with termination at an outlet to the EV Ready parking space.
- (3) For all new vehicular use areas that have under 50 parking spaces, there shall be a minimum of two parking spaces that are EV Ready, as defined above, or that have an installed EV charging station.
- (4) For all new vehicular use areas that have over 50 parking spaces, a minimum of two percent of the parking spaces shall include EV charging stations.

¹¹⁷ This document spells out the number of handicapped spaces needed, sizes, etc., eliminating the need for the City to specify.

- (5) In all cases, an applicant may have additional EV Ready spaces or charging stations.

(e) **Alternative Parking Solutions**

(1) **Shared or Off-Site Parking**¹¹⁸

A portion of the required parking spaces may be located on an adjacent or nearby property if the parking area complies with the following standards.

- A) Shared parking is encouraged and permitted if the multiple uses that the shared parking will benefit can cooperatively establish and operate the facilities.
- B) Off-site parking shall not be used to satisfy the off-street parking standards for residential uses.
- C) Required parking spaces reserved for persons with disabilities shall not be located in an off-site parking area.
- D) Shared or off-site parking shall not be permitted on a vacant lot in a residential zoning district unless permitted by the Planning Commission as part of a conditional use review.
- E) Shared or off-site parking areas shall adhere to the regulations of the same or a more intensive zoning classification than that required for the use served.
- F) In the event that a shared or off-site parking area is located on multiple parcels, a written parking agreement shall be required and must be approved by the Zoning Administrator.
- G) No shared or off-site parking space shall be located more than 500 feet from the primary entrance of the use served, measured along the shortest legal, practical walking route. This route may include crossing a right-of-way provided it uses a legal crosswalk.
- H) The applicant shall have the burden of proof for reduction of the total number of parking spaces and shall document and submit information substantiating their request. Shared or off-site parking may be approved if it complies with the following standards:
 - i) A sufficient number of spaces shall be provided to meet the highest demand of the participating uses.
 - ii) Evidence shall be submitted by the parties operating the shared parking area, to the satisfaction of the Zoning Administrator, documenting the nature of uses and the times when the individual uses will operate so as to demonstrate the lack of potential conflict between the users of the parking spaces.
 - iii) Shared or off-site parking shall not account for more than 50 percent of the required parking spaces as established in Section <>.
 - iv) Any change in use of the activities served by a shared or off-site parking area will be deemed an amendment to the shared or off-site parking area plan and will require review and approval by the Zoning Administrator.
 - v) All shared or off-site parking plans and agreements shall be provided to the Zoning Administrator prior to any zoning compliance review decision. Such plans and agreements continue to apply to the land, regardless of future ownership.

(2) **Land Banked Parking**¹¹⁹

Up to 50 percent of the required parking spaces may remain landscaped and unpaved, or paved with pervious pavement, provided that the parking and unpaved areas comply with the following standards and are authorized in accordance with this section. See [Figure 1111-C](#), below.

¹¹⁸ The City currently has shared parking provisions, but this would allow for the potential sharing of off-site lots, in limited cases.

¹¹⁹ This is a new provision that would allow an applicant to plan for future parking expansion, if it is needed, but not have to construct it up front. This is most beneficial in industrial districts where you may have a use that does not have a high parking demand at first.

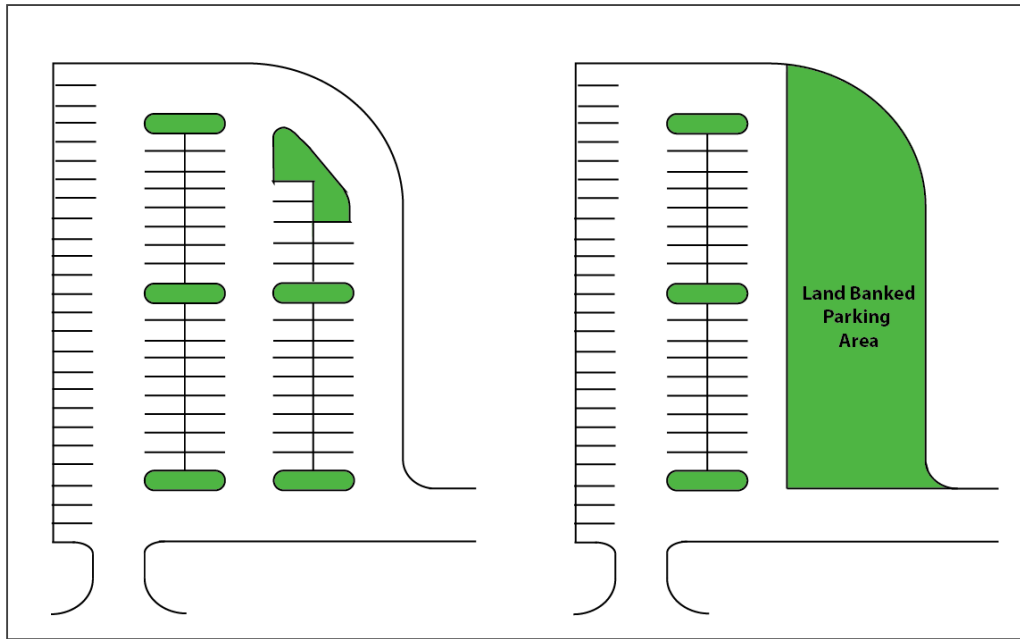


Figure 1111-C: The parking lot shown on the left is a traditional parking lot with interior parking islands while the parking lot on the right illustrates where an area is unimproved but is designated for future parking spaces if the demand arises.

- A) Land banked parking shall only be permitted in the BP, LI, and GI Districts.
- B) The parking plan submitted with the zoning compliance review application shall denote the location and layout of that portion of the parking area that currently is deemed not required. The plan shall indicate that the “land banked” parking spaces will be constructed according to these regulations if the Zoning Administrator determines at any time that all or any portion of this parking is necessary.
- C) The applicant shall be required to design the site for full compliance with the applicable stormwater regulations, lighting regulations, and landscaping regulations even though a portion of the parking area may not be developed initially.
- D) Any conditions required by the City, and the design for the site as established above, shall be illustrated on a final site plan, approved as part of the zoning compliance review application and maintained as part of the City’s official records.
- E) At no time shall any portion of the land banked parking area that is designated for future development be used for the construction of any structure or paved surface with the exception that pervious pavement may be used to provide temporary parking, provided that the pavers allow for grass and other vegetation to grow through the material.
- F) At no time shall any portion of the land banked parking or loading area that is so designated for future construction as provided herein be counted as open space or other non-paved areas required by other provisions of this code.
- G) The owner shall initiate construction of the approved land banked parking area(s), as identified on the approved parking plan, within three months of the receipt of a certified letter or a letter through normal postal service (if the certified letter is not accepted) sent to the owner of record from the Zoning Administrator, identifying that such parking is determined to be necessary. Such determination may be made when the Zoning Administrator:
 - i) Is reviewing an application related to a change of use or activity; or
 - ii) Documents that vehicles related to the use are consistently parked on the grass, landscaping area, or on the street.
- H) Off-site or shared parking alternatives shall not be permitted where land bank parking is utilized.

1111.05 PARKING AND STORAGE OF VEHICLES IN RESIDENTIAL DISTRICTS (REVISED 1189.07)

(a) Commercial Vehicles

- (1) Only those vehicles that are classified as a Light Duty Truck, Class 1 or Class 2 by the Federal Highway Administration are permitted to be parked or stored on residential lots. All other classification of vehicles may only be parked or stored on residential lots when within a fully enclosed building.
- (2) Residents who rent or lease a commercial moving vehicle for the purpose of moving or storing goods may park the vehicle in their driveway for up to 48 hours for the purpose of loading and unloading.
- (3) Vehicles used in conjunction with providing a service to a residence or residential district and that otherwise would not be permitted by this code, shall be permitted to be parked in a residential district for the duration of the service.

(b) Parking and Storage of Recreational Vehicles, Boats, Equipment and Trailers

- (1) One utility trailer with a maximum length of 16 feet and no more than one axle may be parked or stored on a hard surface in any front, side or rear yard. Such trailer shall not have walls or supports on the side of the trailer that exceed more than two feet in height above the bed of the trailer. Such trailers shall not be used for continuance storage of items or debris. Any such storage shall be cleared after a period of 48 hours.
- (2) Recreational vehicles, recreational equipment, boats, trailers, utility trailers exceeding 16 feet in length, motor homes or similar equipment shall not be stored in front of the building line of the dwelling. Such vehicles, trailers, and equipment shall comply with the following:
 - A) They may be temporarily parked in the front yard, on a driveway or paved surface, for the purposes of loading or unloading for a period of not more than 24 hours;
 - B) The vehicle or equipment may only be parked or stored on a lot owned or leased by the owner of the vehicle;
 - C) The vehicle shall not be used as living quarters, whether temporary or permanent, and no business shall be conducted in the recreational vehicle while the vehicle is stored;
 - D) The vehicle shall be parked behind the existing front line of the building foundation at a point furthest from the street right-of-way, to the maximum extent practicable, but in no case shall the vehicle be located any closer than 10 feet from any lot line;
 - E) The vehicle shall not have permanent connection to electric, water, gas or sewer facilities;
 - F) The vehicle shall be kept in good repair and carries the current year's license and/or registration as required by the State of Ohio;
 - G) Only covers and tarpulins designed specifically to fit the vehicle may be used to cover the vehicle or components; and
 - H) The entire area under the parking or storage of a recreational vehicle, trailer or similar equipment shall be paved with a hard surface (concrete, asphaltic concrete, or other hard surface by excluding gravel) or on a solid surface of pervious pavers, as approved by the Zoning Administrator.
- (3) Recreational vehicles including mobile homes, boats and trailers of any size may be stored in an enclosed garage or permitted accessory building in any residential district provided that no living quarters are maintained and no business is conducted in the recreational vehicle while the vehicle is stored;

1111.06 OFF-STREET LOADING (REVISED 1181.09)¹²⁰

A permanently paved and maintained area for standing, loading, and unloading of delivery vehicles shall be provided for principal uses in the nonresidential districts. These off-street loading facilities shall be in accordance with the following specifications:

(a) **Number of Spaces**

This code does not require a minimum number of off-street loading spaces. However, uses which receive frequent deliveries are required to provide adequate space, built to the standards as identified in this subsection.

(b) **Size**

Loading spaces shall conform to the following minimum dimensions. Unless otherwise noted, all dimensions are exclusive of any driveway, aisle or other circulation area:

- (1) Clearance height: 14 feet
- (2) Minimum width: 12 feet
- (3) Minimum length: 55 feet

(c) **Location and Activities**

- (1) All loading spaces and maneuvering areas shall be located on the same lot as the use they are intended to serve.
- (2) A required loading space shall not face, or be visible from the street on which the lot fronts. This requirements shall not apply if a loading space is entirely enclosed within the building.
- (3) Off-street loading spaces shall be so arranged that they may be used without blocking, and they shall not obstruct or occupy, any parking space, circulation or drive aisles, sidewalks, or vehicle stacking spaces for drive through lanes.
- (4) No loading ramp, dock, door or space, or any portion thereof, shall be located closer than 50 feet from any lot zoned for any residential use, unless located completely within an enclosed building.
- (5) An off-street loading space shall not be used for repairing or servicing motor vehicles.

(d) **Access**

- (1) All required off-street loading spaces shall have access to a public street or alley in such a manner that any vehicle entering or exiting the premises shall be traveling in a forward motion onto such street or alley.
- (2) Each required off-street loading space shall be designed for direct vehicular access by means of a driveway, or driveways, to a public street in a manner which shall least interfere with adjacent traffic movements and interior circulation. The access drive of an off-street loading facility shall be located so that the driveway center line shall not be less than 50 feet from the nearest intersecting street right-of-way line.

(e) **Improvements**

All off-street loading spaces shall be improved as required for all vehicular use areas as set forth in Section [1111.03](#).

1111.07 STACKING SPACE REQUIREMENTS (NEW)

- (a) Drive-through facilities, pick-up windows, and other establishments or features which, by their nature, create lines of customers waiting to be served within automobiles, shall provide off-street stacking areas, on the same lot as the use, in addition to the required number of parking spaces specified in this chapter.
- (b) The number of required stacking spaces shall be as provided for in [Table 1111-4](#). See [Figure 1111-D](#) for an illustration of stacking spaces:

¹²⁰ This update removes a mandate to provide a specific number of loading spaces based on square footage, because many uses can accommodate loading without a designated space. Furthermore, those uses that have high truck volumes, likely understand the need to plan for the spaces, regardless of mandates. For this reason, this section establishes design standards for when the spaces are provided without dictating a number.

TABLE 1111-4: STACKING SPACE REQUIREMENTS		
Activity	Minimum Stacking Spaces (per lane)	Measured From:
Financial Institution or Automated Teller Machine (ATM)	3	Teller or Window
Restaurant	6	First Drive-Through Window or Stall
Establishment with a pick-up window not associated with a separate ordering or other stopping point along the stacking lane	3	Pick-Up Window
Fuel Stations	2 per accessible side of the pump island	Fuel Pump
Other	As determined by the Zoning Administrator	

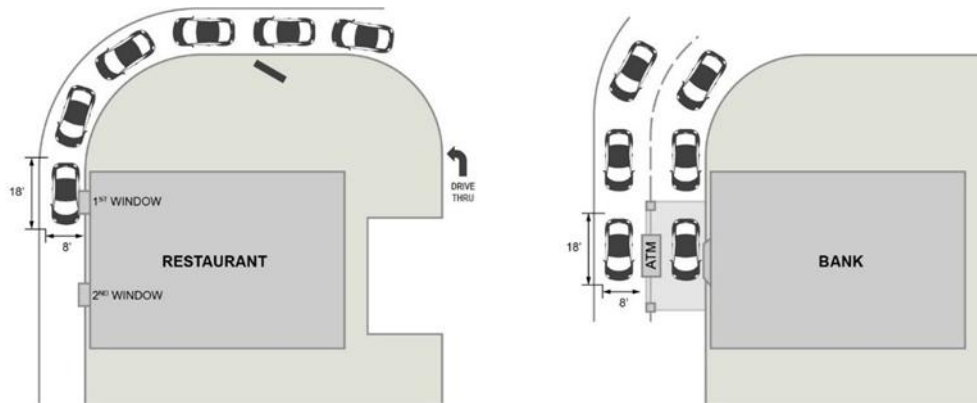


Figure 1111-D: Illustrative example of stacking space requirements for a bank and a restaurant.

- (c) Stacking lanes and spaces shall be provided for any use having a drive-through facility and shall comply with the following standards:
- (1) Drive-through stacking lanes shall have a minimum width of eight feet and a minimum length of 18 feet for each space required.
 - (2) When stacking lanes are separated from other stacking lanes, bypass lanes, or from other site areas, the separation shall be by means of a raised concrete median, concrete curb, landscaping, or painted striping.
 - (3) The number of stacking spaces required by [Table 1111-4](#) shall be required for each separate stacking lane. If two or more stacking lanes converge into one lane (e.g., two separate lanes to order at a restaurant converge to one lane after the drive-through sign), the stacking spaces shall be measured in accordance with [Table 1111-4](#) with the spaces located after the convergence point counting toward both stacking lanes.
 - (4) Vehicles shall not be permitted to wait within the public right-of-way for service at such drive-in or drive-thru facilities.
- (d) For conditional uses, the Planning Commission may reduce the number of spaces required or mandate additional stacking spaces based on the specific use, the design of stacking lanes, and the planned vehicular circulation through the site with the purpose of ensuring sufficient and safe vehicle circulation that will not impact the public streets or pedestrians.

1111.08 SIDEWALKS AND SIDEWALK CONNECTIONS TO A RIGHT-OF-WAY

(a) **Public Sidewalks**¹²¹

- (1) New public sidewalks, constructed to meet Trotwood standards, shall be required along the street frontage of any lot being developed when the following conditions exist:
 - A) The development includes new construction on a vacant lot or complete redevelopment of an existing principal building (e.g., the principal building is torn down and replaced);
 - B) There is a public sidewalk connection along one or more of the public street rights-of-way adjacent to the lot; and
 - C) There is adequate existing right-of-way for the public sidewalk.
- (2) New sidewalks shall also be required when proposed sidewalks or paths are identified in the transportation plans approved by City Council for the lot or lots that are part of the applicable development or application.

(b) **Internal Pedestrian Access**¹²²

The following requirement for internal pedestrian access shall apply to any new development in nonresidential zoning districts.

- (1) Where a sidewalk exists in a public right-of-way adjacent to a site subject to zoning compliance review, is required to be constructed as part of the development approval, or where a public transit stop is located along any of the applicable site's frontages, a paved pedestrian connection shall be constructed from the sidewalk to the entrance of the building.
- (2) The pedestrian connection shall have a minimum width of five feet.
- (3) All pedestrian walkways located within a site (internal pedestrian circulation) shall be physically separated from the drive lanes and driveways. Additionally, all sidewalks and crosswalks shall be constructed of an impervious surface and shall be visually distinct from the driving surface by use of pavers, color, bricks, scored concrete, or other material approved by the Zoning Administrator or Planning Commission, as applicable. See [Figure 1111-E](#).



Figure 1111-E: This photograph illustrates how a sidewalk connecting the public sidewalk to the business can be integrated into the required landscaping.

¹²¹ Sidewalks will be required as part of subdivisions in the subdivision design chapter, but this is requiring the expansion of sidewalks where a sidewalk ends into a property being developed.

¹²² This requires a designated pedestrian connection between sidewalks along a frontage and entries.

CHAPTER 1112: SIGNS¹²³

1112.01 PURPOSE AND INTENT (REVISED 1185.01)

- (a) These sign regulations, including provisions related to the type, design, size, location, motion, illumination, enforcement, and maintenance thereof, are established for the same purpose of this overall planning and zoning code and, furthermore, to support the following specific purpose statements:
 - (1) To maintain high-quality residential districts and promote attractive public facilities by focusing on sign types and sizes that maintain the lower-intensity uses of such districts;
 - (2) To provide reasonable, yet appropriate conditions for identifying establishments in office, business, and industrial districts by relating the size, type, and design of signs to the type and size of the office, business, and industrial establishments;
 - (3) To eliminate any conflict between advertising signs and traffic control signs, which would be hazardous to the safety of the motoring public or pedestrians;
 - (4) To control the design and size of signs to ensure that their appearance will be aesthetically harmonious with an overall urban design for the area;
 - (5) To ensure that signs are located and designed to maintain a safe and orderly pedestrian and vehicular environment; and
 - (6) To foster the most desirable developments and economic activity consistent with the objectives of the planning and development program of the City of Trotwood.
- (b) In establishing these purpose statements, the City recognizes that signs which do not comply with these regulations (type, size, location, and limitation on the number of signs) may be declared a public nuisance. Unregulated signs are unduly distracting to motorists and pedestrians, thereby creating a traffic hazard and reducing the effectiveness of signs needed to direct the public.
- (c) The City does not intend to infringe on the rights of free speech as protected by the First Amendment to the United States Constitution and Chapter I, §11 of the Ohio Constitution.

1112.02 APPLICABILITY

- (a) No person shall erect, place, relocate, expand, modify, maintain, or otherwise alter a sign, or cause a sign to be erected, placed, relocated, expanded, modified, maintained, or otherwise altered, unless all provisions of this code have been met.
- (b) The construction, erection, safety, and maintenance of all signs shall be in accordance with the applicable municipal codes. The provisions of this chapter shall not amend or in any way interfere with other codes, rules, or regulations governing traffic signs within the municipality.
- (c) Unless otherwise provided, this chapter shall apply to any sign, in any zoning district, that is visible from a public right-of-way or from an adjacent property.
- (d) Any sign legally established prior to the effective date of this code, or amendment, and which sign is rendered nonconforming by the provisions herein, shall be subject to the nonconforming sign regulations of Section [1159.12](#).
- (e) If the type of any sign that legally existed prior to the effective date of this amendment is reclassified by this amendment, such sign shall be classified as the sign type defined in this chapter and shall be subject to the applicable standards for such sign type from the effective date of this amendment. Such reclassification shall be regardless of any variances that were approved prior to the effective date of this amendment.

¹²³ This entire chapter was rewritten to avoid any references or mandates related to the message of a sign to conform with case law. The focus is primarily on the sign structure, area, and height, with some reference to on-premise versus off-premise, which is allowed by case law. The only other reference to the message of a sign is whether it is a commercial message or a noncommercial message (e.g., political, opinion, religious, etc.). There is no further division of sign messages or differences in regulations based on the message.

1112.03 ADMINISTRATION AND ZONING COMPLIANCE REVIEW REQUIREMENTS

- (a) To ensure compliance with these regulations, zoning compliance review in accordance with Section <> shall be required unless specifically exempted in this chapter.
- (b) No sign shall be erected, placed, relocated, expanded, modified, maintained, or otherwise altered until zoning compliance review approval and any required building permits, or other permits, have been issued.
- (c) Zoning compliance review approval is required for the exchanging of sign panels when a sign is designed to have replaceable sign faces.
- (d) A new zoning compliance review approval shall be required if a person seeks to modify a sign that has been previously approved and installed or erected.
- (e) The Zoning Administrator may review and approve minor modifications of an approved sign that has not been installed or erected provided the Zoning Administrator finds that the modification is technical in nature and the sign still complies with this code, Such review can be done without a formal application or new fee.

1112.04 EXEMPTIONS TO ZONING COMPLIANCE REVIEW (REVISED 1185.03)

The following signs are subject to the requirements of this chapter but do not require zoning compliance review or related fees. Exempt signs may still require permits, reviews, or approvals under the building code or other applicable codes:

- (a) Certain temporary signs, as established in Section <>;
- (b) Window signs as regulated in Section [1112.10\(e\)](#);
- (c) Any signs located on umbrellas, seating, or similar patio furniture, provided they are located outside of the right-of-way;
- (d) A single wall sign placed on the facade of an individual dwelling unit that is not illuminated and does not exceed two square feet in area;¹²⁴
- (e) Flags with noncommercial messages located on flagpoles that do not exceed the maximum height allowed for principal uses in the applicable zoning district or on wall-mounted posts;¹²⁵
- (f) Signs that are an integral part of the historic character of a structure that has been designated an official landmark or historic structure by any agency or body of the governments of the United States, the State of Ohio, Montgomery County, or the City of Trotwood;
- (g) Any signs with a noncommercial message, including illuminated signs, or related decorations erected in observance of religious, national, or state holidays, which are not intended to be permanent and which contain no advertising material;
- (h) Any sign on a truck, bus, or other vehicle that contains a noncommercial message or is used in the normal course of a business (e.g., deliveries or fleet vehicles for contractors) for transportation (See also Paragraph <>.), or signage required by the State or Federal government;
- (i) Changes of copy on signs with changeable copy, including electronic message centers; and
- (j) **Signs Not Visible**
 - (1) Signs that are an integral part of the original construction of vending or similar machines, fuel pumps, automated teller machines (ATMs), drive-through signage, or similar devices that are not to be visible from a public or private street;
 - (2) Any sign that is located completely inside a building that is not visible from the exterior or that is not classified as a "window sign;"
 - (3) Signs that are located within a stadium, cemetery, open-air theater, park, arena, or other outdoor uses that are not intended to be visible from a public right-of-way, private street, or adjacent property, and can be primarily viewed only by persons within such stadium, open-air theater, park, arena, or other outdoor use; and

¹²⁴ This will allow people to have address numbers, family names, home occupation signage, or other messages without dictating the message.

¹²⁵ The City cannot limit flags to "countries, states, or local government," so the specification has been updated to noncommercial messages only.

(k) Government or Public Agency Signs

- (1) Signs and/or notices issued by any court, officer, or other person in performance of a public duty. Any such sign shall be removed no later than seven days after the last day it is required to be displayed;
- (2) Any warning signs or traffic safety signs required by public utility providers;
- (3) Any address numbers required by the City of Trotwood, Montgomery County, or the State of Ohio; and
- (4) Signs installed or required by a governmental agency, including the City of Trotwood, Montgomery County, State of Ohio, and United States, including local and regional transit agencies.

(l) Maintenance and Repair

- (1) Whenever a conforming sign is required to be removed for the purpose of repair, relettering, or repainting, the work may be done without zoning compliance review or any payment of fees, provided that all of the following conditions are met:
 - A) There is no structural alteration or remodeling to the structure or the mounting of the sign itself;
 - B) There is no enlargement or increase in the sign area, change in any of the dimensions of the sign, or other changes to its structure;
 - C) There is no change in illumination; and
 - D) The sign is accessory to a legally permitted use or a legal nonconforming use.
- (2) General maintenance, painting, repainting, cleaning, and other normal maintenance and repair of any legal sign or any sign structure shall also be permitted without zoning compliance review or any payment of fees unless a structural change is made to the sign, in which case zoning compliance review shall be required.

1112.05 PROHIBITED SIGNS (REVISED 1185.04)

The following types of signs are specifically prohibited within the City of Trotwood:

- (a) Any sign that copies or imitates a sign installed by any governmental agency or purports to have been authorized by a governmental agency, but is not a governmental agency or given authority by a governmental agency;
- (b) Signs that interfere with, obstruct the view of, or are similar in appearance to any authorized traffic sign, signal, or device because of its position, shape, use of words, or color;
- (c) Signs that constitute a hazard to safety or health because of inadequate or inappropriate design, construction, repair, or maintenance, as determined by the Zoning Administrator or City Engineer;
- (d) Signs that employ any parts or elements that revolve, rotate, whirl, spin, or otherwise make use of motion to attract attention. This shall not include electronic message centers or feather signs as allowed in this chapter;
- (e) Signs with moving or flashing lights except for electronic message centers as allowed in this chapter;¹²⁶
- (f) Signs with exposed light bulbs or strings of lights not permanently attached to a permanent background;
- (g) Windblown devices, pennants, streamers, and similar signs that are designed to move by atmospheric, mechanical, electrical, or other means, whether containing words or numerals or containing no message.
- (h) Air-activated graphics and balloon signs;
- (i) Roof signs;
- (j) Signs that are applied to trees, bus shelters, utility poles, benches, trash receptacles, newspaper vending machines or boxes, or any other unapproved supporting structure, or otherwise placed in the public right-of-way except as otherwise specifically provided for in this code;
- (k) Signs erected in a manner that will obstruct sight lines along any public right-of-way, including railroad, or visibility of traffic control lights, street name signs at intersections, or signals at railroad grade crossings (See Section <>.);
- (l) Signs that obstruct or substantially interfere with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress to any building;

¹²⁶ We have eliminated the reference to a prohibition on beacons and searchlights because that is generally just a type of light, which is already addressed earlier in the code. This new language would prohibit them from being used as signage.

- (m) Signs which are not securely affixed to the ground or otherwise affixed in a permanent manner to an approved supporting structure unless specifically permitted as a temporary sign;
- (n) Portable signs except those types specifically allowed as a temporary sign;
- (o) Permanent freestanding signs on a vacant lot;¹²⁷
- (p) Signs placed on any surface located on public property or on, over, upon, or across any public street or right of way, unless expressly allowed by this chapter;
- (q) Signs that convey visual information that are prohibited under the obscenity statutes of the State of Ohio;
- (r) Vehicle with signage that is parked solely to serve as advertising and that provides signage not otherwise allowed by this chapter. A vehicle sign shall be considered to be used for the primary purpose of advertising if the vehicle fails to display current license plates, inspection sticker, or municipal decal; if the vehicle is inoperable; if the vehicle is parked illegally or in conflict with the requirements of this code; if evidence of paid-to-date local taxes cannot be made available; or if the sign alters the standard design of such vehicle. Vehicle signs include those attached to or placed on a vehicle or trailer. This does not apply to a vehicle parked at a driver's residence and is the primary means of transportation to and from his or her place of employment. See also Section [1112.04\(h\)](#); and
- (s) Any sign not specifically allowed by this chapter.

1112.06 MEASUREMENTS (REVISED SEVERAL)

(a) Sign Setback

All required setbacks for signs shall be measured as the distance in feet from the lot line or right-of-way, whichever is applicable, to the closest point on the sign structure.

(b) Sign Height

- (1) The height of a sign shall be measured from the base of the sign at normal grade (average grade at the base of the sign) to the top of the highest attached component of the sign. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely undertaken for the purpose of locating or increasing the height of the sign.
- (2) The filling of a small hole, depression, or other low area to create an average grade at the same level as that surrounding grade is permitted, provided such filling is allowed by other ordinances.

(c) Sign Area

- (1) The surface of a sign to be included when computing the maximum allowable square footage of sign area shall be calculated as established in this subsection.
- (2) The calculation of sign area shall not include any supporting framework, bracing, or decorative fence or wall unless such structural support is determined to constitute an integral part of the sign design by means of text or other message, as determined by the Zoning Administrator. See [Figure 1112-A](#).
- (3) For sign copy mounted or painted on a background panel, cabinet or surface distinctively painted, textured, lighted or constructed to serve as the background for the sign copy, the sign area shall be computed by means of calculating the square footage of the area that encompasses the extreme limits of the background panel, cabinet or surface. See [Figure 1112-A](#) and [Figure 1112-B](#).

¹²⁷ This list does not include a complete prohibition on off-premise signs or billboards. The reason is there is no provision in the code that would accommodate a sign the size of a billboard, and this prohibition furthers a stop to billboards. Additionally, there are many temporary sign messages that are considered off-premise (e.g., community event signs), that the existing language would prohibit unintentionally.

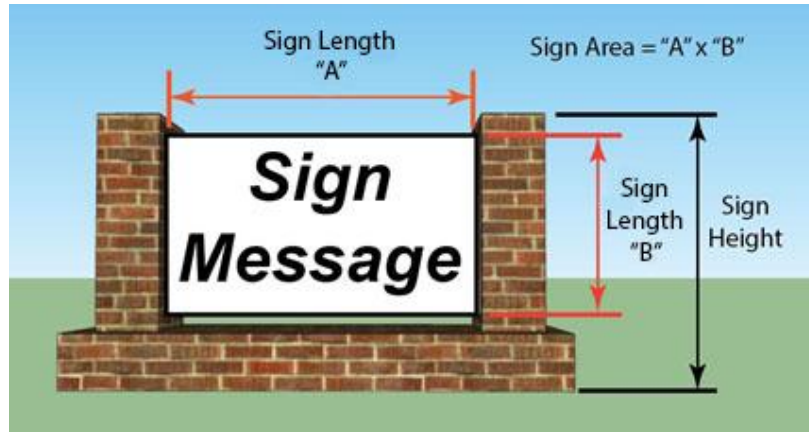


Figure 1112-A: Illustration of sign area calculation for a monument sign with a copy on a distinct, rectangular cabinet. The brick structural support is not included in the sign area calculation.



Figure 1112-B: Illustration of computing the sign area for wall signs with a background panel or cabinet.

- (4) For sign copy where individual letters or elements are mounted on a building façade or window where there is no background panel, cabinet or surface distinctively painted, textured, lighted or constructed to serve as the background for the sign copy, the sign area shall be computed by means of calculating the square footage of the area that encloses all the letters or elements associated with the sign. See [Figure 1112-C](#).¹²⁸
- (5) Figure 1112-C: In cases where there are multiple sign elements of sign copy on the same surface, any areas of sign copy that are within two feet of one another shall be calculated as a single sign area that shall be computed by means of the smallest permitted shape, or combination of permitted shapes, that encloses all sign copy within two feet of one another, otherwise the sign area shall be computed for each separate piece of sign copy. See [Figure 1112-D](#).¹²⁹

¹²⁸ We will be updating this graphic.

¹²⁹ This has become increasingly helpful in determining when a sign is one sign or multiple signs.

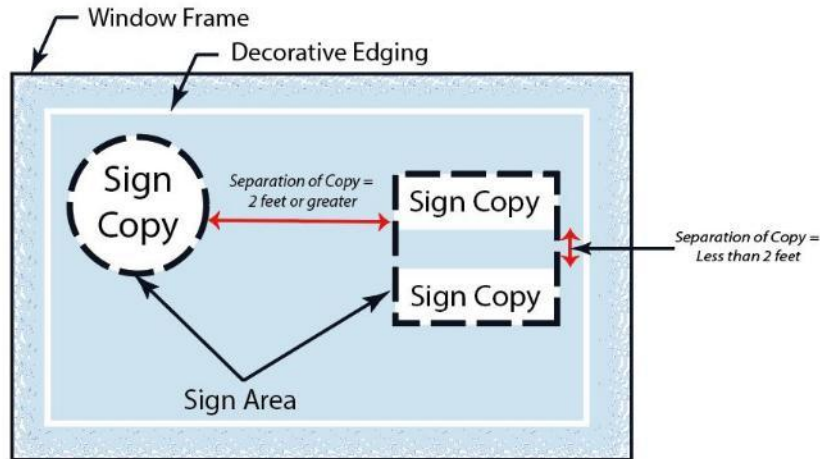


Figure 1112-D: Illustration of sign area calculations for multiple sign areas on a window sign.

- (6) Decorative edging or other window treatments that are not an integral part of the sign copy shall not be considered a part of the sign for the purposes of this chapter. See [Figure 1112-D](#).
- (7) A sign may contain a maximum of two sign faces that are either mounted back-to-back or at an angle of less than 45 degrees. Except for three-dimensional signs, the sign area for a sign with more than one face (multi-faced signs) shall be computed by adding together the area of all sign faces when the interior angle of the two faces is 45 degrees or less. In such cases, the sign area shall be computed by the measurement of one of the sign faces. If the two faces are unequal, the sign area shall be calculated based on the larger of the two faces.

(d) **Facade Measurements**

- (1) When calculating the permitted sign area based on the width of any facade, such calculation shall be based on viewing the facade from a 90-degree angle (i.e., straight on), regardless of facade insets, offsets, or angles. See [Figure 1112-E](#).

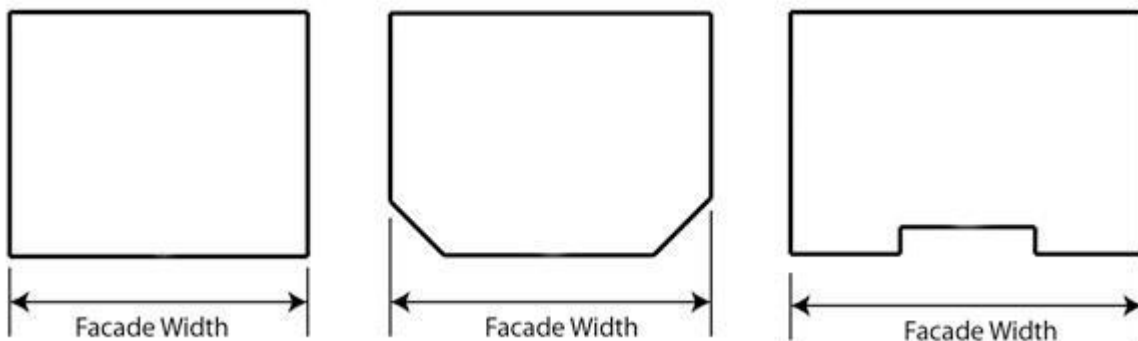


Figure 1112-E: Illustration of facade width measurement on varied facade shapes

- (2) Facades may be classified as a primary facade or secondary facade in accordance with Section <>.

(e) **Building Unit Types¹³⁰**

Building units shall be individually defined as follows:

- (1) A stand-alone, nonresidential building that contains one tenant or occupant shall be considered a single building unit.

¹³⁰ This is new and intended to help have a qualifying term when you can have signage in a multi-tenant or mixed-use situation.

- (2) Where a building is divided into individual spaces for nonresidential uses, and the primary entrance or access point for each space is from outside of the building, then each individual space shall be considered a building unit. For example, in the case of a shopping center with multiple tenant spaces that each have a separate exterior entrance, each of the tenant spaces shall be considered a building unit.
- (3) Where a building contains individual spaces that are all accessed from the interior through a joint entry, such building shall be considered one building unit. For example, in the case of an office building where all of the office spaces are accessed internally, the entire office building shall be considered one building unit. Similarly, where apartments are located above nonresidential uses, the apartments as a whole shall be considered one building unit.
- (4) The term “building unit” shall not be used to define an apartment building or similar residential-only building that is divided into individual dwelling units.
- (5) Where a lot contains multiple principal buildings, each principal building shall be considered a building unit based on the above provisions.
- (6) For mixed-use buildings that contain residential and nonresidential uses, or for multi-story buildings with separate uses on the upper floors, the number of building units on any given lot shall be determined by the number of nonresidential enterprises, businesses, firms, or other nonresidential occupants where the spaces are accessed from the exterior of the building on the ground floor. All upper-floor uses and activities shall be considered one building unit, regardless of the number of occupants. For example, a building with three tenant spaces on the first floor, with exterior entrances, and apartments or office spaces on the upper floors, shall be considered to have four building units. One building unit for each of the three ground-floor tenants and one building unit total for all upper-level tenants.



Figure 1112-F: The above image shows how the upper floors of buildings only represent one building unit each, regardless of the number of tenants in those spaces or whether occupied by residential or nonresidential uses. The first/ground floors have several building units based on the number of nonresidential businesses, tenants, etc., with the primary access from the exterior of the building.

1112.07 STANDARDS FOR ALL SIGNS

- (a) Signs shall be professionally designed, constructed, and installed.
- (b) Signs shall be constructed of materials that are of appropriate quality and durability and that are compatible with the materials of the building upon which such signs are placed.
- (c) The construction, erection, and maintenance of all signs shall be in compliance with the Building Code and all other applicable municipal standards and regulations.
- (d) Signs shall comply with the visibility standards of Section <>.

(e) Vertical Clearance

- (1) The lowest member of all signs that are supported or suspended from a building shall have a clearance of not less than eight feet between the finished grade of a sidewalk or other pedestrian way and the bottom-most portion of the sign.
- (2) If a sign is located over a pavement used for vehicular traffic or within 18 inches of the vertical projection of the edges of such pavement, the lowest member of the sign shall not be less than 15 feet above the finished pavement.

(f) Maintenance of Signs

- (1) All signs and sign structures shall be maintained in a clean, safe, and functional condition. A sign in good repair shall exhibit the following conditions:
 - A) Free of peeling, faded paint, or rust;
 - B) No broken panels or exposed electrical or lighting components;
 - C) No chipped, cracked, broken, bent, or missing letters, panels, framing, lights, support structure, or other part of the sign;
 - D) Not leaning to a discernible degree;
 - E) Free of weeds and debris in its planter, if applicable;
 - F) Adequately supported and secured to safely bear the weight of the sign and pressure created by the wind.
- (2) Sign maintenance shall be accomplished with proper materials that are designed for sign construction and maintenance (e.g., no string, duct tape, or other temporary materials may be used).
- (3) It shall be the responsibility of the property owner, or other entity having legal control or interest in the property, to maintain all signs and sign structures in accordance with this code.
- (4) Whenever the Zoning Administrator finds a sign in need of repair, support, replacement, cleaning, repainting, or any maintenance service necessary to maintain reasonable and proper appearance and public safety, they shall issue an order to the property owner allowing a maximum of 30 days to effect needed repairs or maintenance. If the Zoning Administrator determines that the existing condition of the sign creates an immediate hazard to the health or safety of the general public, they shall issue an order to the owner requiring the sign to be removed immediately. See Section [1112.14](#).

(g) City Inspection

- (1) The City reserves the right to inspect signs following installation to verify the operating condition, maintenance, structural safety, and conditions under which the certificate or permit was issued.
- (2) The Zoning Administrator and/or Building Official is authorized to access any premises in the City upon which a sign is located for the purposes of inspection of the sign to ensure compliance with this chapter.

(h) Signs in Rights-of-Way

- (1) Signs shall be prohibited in any right-of-way except for:
 - A) Signs installed by the City of Trotwood, Montgomery County, State of Ohio, or the United States, including local and regional transit agencies;
 - B) Sidewalk signs as allowed in Section <>;
 - C) Permanent monument signs at entrances if approved in accordance with Section [1112.09\(a\)](#) and where a homeowners' or property owners' association agreement or covenants provide for the maintenance of the sign; or
 - D) Any warning signs or traffic safety signs required by public utility providers.
- (2) The Zoning Administrator or City Engineer may remove or cause to be removed any unlawful sign in the public right-of-way without prior notice.

(i) Illumination

Signs shall be permitted to be illuminated in compliance with the following:

- (1) Internally illuminated signs shall be illuminated with LED (light emitting diode) only. No intermittent, flashing, or moving illumination shall be permitted.

- (2) Where illuminated signs are permitted, such illumination may be through internal or external lighting sources, unless expressly noted.
- (3) The illumination of signage shall be considered part of the outdoor lighting of a site, subject to Section <> in addition to any provisions in this chapter.
- (4) Light sources shall be shielded from all adjacent buildings and streets and shall be focused exclusively on the sign.
- (5) Lights shall not be of such brightness so as to cause glare that is hazardous to pedestrians or motorists, or will cause reasonable objection from adjacent residential districts.
- (6) An illuminated sign or lighting device shall employ only light of constant intensity.
- (7) Electronic message centers are a permitted form of illuminated signs that are allowed as part of freestanding signs in accordance with this chapter. The following standards shall apply to all electronic message centers:¹³¹
 - A) Electronic message centers are only permitted on monument signs.
 - B) Any message on an electronic message center shall remain static for a minimum of eight seconds. The transition interval between messages shall be accomplished within 1 second or less and no animation is permitted during the transition.
 - C) Transitions between message shall be instant where one message changes to another message instantly without scrolling, flashing, or other movement of the message.
 - D) The complete message must fit on one screen.
 - E) The electronic message center shall be set back a minimum of 200 feet from any lot that contains a residential use.¹³²
 - F) The electronic message center shall come equipped with an automatic dimming photocell, which automatically adjusts the display's brightness based on ambient light conditions.
 - G) Illumination shall not exceed 0.3 footcandles over ambient lighting conditions when measured at 50 feet in any direction from an electronic message sign.
 - H) Audio emissions from electronic message centers shall be prohibited.

(j) Landscaping Permanent Freestanding Signs

- (1) All permanent freestanding signs shall be located in a landscaped area equal to the total sign area of the applicable sign or 40 square feet, whichever is more. Such landscaped area may be an area that fulfills any landscaping requirements of this code.
- (2) The landscaped area shall include all points where sign structural supports attach to the ground.

(k) Substitution And Protection Clause

- (1) Wherever a sign with a commercial message is allowed or permitted under this chapter, an owner may replace the message with a noncommercial message, subject to the time, place and manner provisions of this chapter, without applying for zoning compliance review and/or paying a fee that otherwise would be required for the placement of a commercial message sign on the lot; provided, that the sign structure or mounting device is legal without consideration of message content.
- (2) This provision prevails over any provision to the contrary in this chapter. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message.
- (3) This provision does not create a right to increase the total amount of signage on a lot or parcel, nor does it affect the requirement that a sign structure or mounting device be properly permitted.

1112.08 SIGNS IN PUDS (REVISED 1185.13)

- (a) All development in a PUD District shall be subject to the standards of this chapter unless otherwise modified through the PUD review and approval process. In general:

¹³¹ This is an expanded version of your current provisions.

¹³² This provision was added to balance allowing digital signage in residential districts (schools churches, etc.), but not when in close proximity to residential uses.

- (1) Single-family residential uses and public and institutional uses in a PUD shall comply with the sign requirements of the RSF-M District.
 - (2) Multi-family residential uses in a PUD shall comply with the sign requirements of the RMF-L District.
 - (3) Industrial uses in a PUD shall comply with the sign requirements of the LI District.
 - (4) Public and institutional uses shall comply with the sign requirements of the CPF District.
 - (5) All other nonresidential uses in a PUD shall comply with the sign requirements of the GB District.
- (b) This section shall apply to both permanent and temporary signs.

1112.09 PERMANENT SIGNS IN RESIDENTIAL DISTRICTS

The following provisions shall apply to permanent signs in the A, RSF-L, RSF-M, RSF-H, RLA, RMF-L, and RMF-H Districts:

(a) **Entrance or Development Signs**

Permanent wall signs or permanent freestanding signs may be permitted for any subdivision or multi-family dwelling development that contains 25 or more dwelling units or lots¹³³, provided that the sign meets the following requirements:

(1) **General Standards**

- A) For subdivisions or multi-family dwellings with 25 to 50 dwelling units or lots, only one permanent wall sign¹³⁴ or one permanent freestanding sign is permitted for the entire development in accordance with this section. The sign shall have a maximum sign area of 24 square feet.
- B) For subdivisions or multi-family dwellings with over 50 dwelling units or lots, a maximum of two permanent wall signs or one permanent freestanding sign is allowed at each entrance to the subdivision or development from a collector or arterial street, as determined by the Zoning Administrator. The maximum sign area of each sign shall be 36 square feet.
- C) The signage shall be an on-premise sign with the entire subdivision or lot counting as the premises.
- D) The signs shall not contain a manual changeable copy sign or electronic message center.
- E) No such sign or any portion of the structure shall exceed six feet in height.
- F) If the sign is to be illuminated, it shall be illuminated through an external light source or through an internal source provided that the sign is not designed as a cabinet that can be fully illuminated.
- G) The establishment of wall or freestanding signs for a subdivision that was platted before the effective date of this chapter may be permitted only if a homeowners' association, or similar property owners' association, is in place to pay for installation and the maintenance of such signs. Any such sign shall be required to comply with this chapter.

(2) **Freestanding Sign**

- A) A freestanding sign may include a monument sign or a post and arm sign.
- B) The sign shall be set back a minimum of five feet from the public right-of-way line. An additional setback may be required in order to comply with the intersection visibility requirements of Section <>.
- C) The freestanding sign shall be set back a minimum of 50 feet from any dwelling or 10 feet from any lot lines adjacent to nonresidential uses.
- D) The freestanding sign is prohibited from being located within the right-of-way, including in boulevard entrances.
- E) If an applicant proposes to use a freestanding sign, no wall signs, as allowed in Section [1112.09\(a\)\(3\)](#) below, shall be permitted.

¹³³ The existing code just connects this sign to any subdivision or multi-family development, which could, in theory, be a lot split of two units. This revision puts in a threshold to allow for the sign, but the number is up to the City.

¹³⁴ This will allow for a wall sign on a multi-family use or even a wall sign mounted to a decorative wall or fence.

(3) **Wall Signs on Entry Fences, Walls, or Features**

- A) The signs shall be mounted to a decorative wall, fence, or architectural feature adjacent to the entrance street.
- B) The placement of wall signs on architectural features shall only be permitted if such architectural feature is approved as part of a subdivision plat or PUD. See [Figure 1112-F](#).

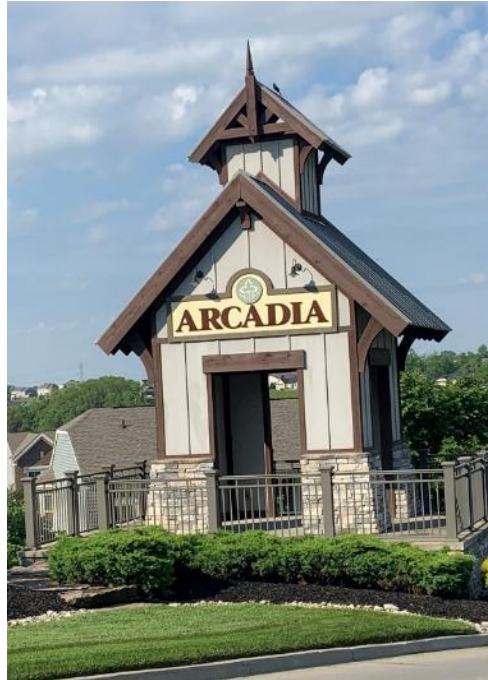


Figure 1112-G: Example of an architectural feature at the entrance of a subdivision.

- C) The sign shall be set back a minimum of five feet from the public right-of-way line. An additional setback may be required in order to comply with the intersection visibility requirements of Section <>.
- D) If an applicant proposes to use wall signs, no freestanding sign, as allowed in Section [1112.09\(a\)\(2\)](#) above, shall be permitted.

(b) **Signs for Conditionally Permitted Uses and for Agricultural Uses in Residential Districts¹³⁵**

- (1) One permanent monument or post and arm sign may be permitted on a lot containing a use approved as a conditional use in a residential district or an agricultural use, in the A District, on a lot with a lot area over five acres, provided the sign meets the following requirements:
 - A) The sign shall be set back a minimum of five feet from the public right-of-way line. An additional setback may be required in order to comply with the intersection visibility requirements of Section <>.
 - B) The freestanding sign shall be set back a minimum of 25 feet from any adjacent lot line with a residential use or 10 feet from any adjacent lot lines.
 - C) The maximum sign area shall be 36 square feet.
 - D) Up to 50 percent of a monument sign may include manual changeable copy signs or electronic message centers. Electronic message centers shall be subject to the provisions of Section <>. The freestanding sign shall not contain both manual changeable copy and an electronic message center at the same time.
 - E) No such sign or any portion of the structure shall exceed six feet in height.

¹³⁵ This is an expansion of current provisions that allow for ground signs for conditional uses to also allow for some building signs and driveway signs, which are not allowed now.

- (2) Building signs shall be permitted on a lot containing a use approved as a conditional use, provided the signs meet the requirements of Section [1112.10\(b\)](#).
- (3) Driveway signs are permitted in accordance with Section [1112.10\(c\)](#).

1112.10 PERMANENT SIGNS IN NONRESIDENTIAL ZONING DISTRICTS.

The following provisions shall apply to permanent signs in the NB, OTB, GB, SCB, BP, LI, GI, and CPF Districts:

(a) Freestanding Signs

All freestanding signs in nonresidential zoning districts shall meet the following requirements:

- (1) Unless otherwise noted, freestanding signs may be pole signs, monument signs, or post and arm signs.
- (2) Freestanding signs shall be set back a minimum of five feet from the public right-of-way line. An additional setback may be required in order to comply with the intersection visibility requirements of Section <>.
- (3) The freestanding sign shall be set back a minimum of 50 feet from any adjacent lot line with a residential use or 10 feet from any other adjacent lot lines.
- (4) Only one freestanding sign shall be permitted along each street frontage, per lot, unless an additional sign is permitted for long street frontages in [Table 1112-1](#).
- (5) [Table 1112-1](#) establishes the permitted freestanding sign allowance and maximum sign height based on zoning districts.

TABLE 1112-1: PERMANENT FREESTANDING SIGN ALLOWANCE			
Zoning District	Maximum Sign Area	Maximum Sign Height	Length of Street Frontage Required for Second Sign [1]
NB	36 Square Feet	6 Feet	Not Applicable
OTB	20 Square Feet	6 Feet	Not Applicable
GB, SCB, BP, LI, and GI	0.75 square feet of sign area per linear foot of lot width ¹³⁶ with a maximum of 150 square feet	15 Feet	300 Feet (200 Feet)
CPF	50 Square Feet	8 Feet	
Note: [1] One additional freestanding sign shall be allowed per street frontage if the total length of the street frontage exceeds the higher number and provided the additional freestanding sign is separated from any other freestanding sign on the sign by the distance established in parenthesis. Any additional freestanding signs shall comply with the standards of this subsection.			

- (6) Monument signs may include manual changeable copy signs or electronic message centers as regulated below:
 - A) A maximum of 50 percent of the total sign area may be manual changeable copy or an electronic message center in the NB and OTB Districts.
 - B) A maximum of 50 percent of the total sign area may be manual changeable copy or an electronic message center in the GB and SCB District for lots that contain two or fewer building units. If the lot has three or more building units, then a maximum of 75 percent of the total sign area may be manual changeable copy or an electronic message center.
 - C) A maximum of 75 percent of the total sign area may be manual changeable copy or an electronic message center in the BP, LI, GI, and CPF Districts.
 - D) All electronic message centers shall be subject to the provisions of Section <>.
 - E) The freestanding sign shall not contain both manual changeable copy and an electronic message center at the same time.

¹³⁶ We intentionally use lot width rather than street frontage in this table. See Paragraph 10 below. It helps for large developments that may have outlots and the main lot sits behind, without much street frontage. It also helps when a single building sits across multiple lots.

- (7) Freestanding signs shall be on-premise signs.
- (8) Where a freestanding sign serves a multi-tenant building, it shall be the responsibility of the property owner to determine the messaging on the sign.
- (9) Exposed sign foundations shall be constructed with a finished material such as brick, stone, wood, or a decorative finished metal.
- (10) For the purposes of measuring lot width for this section on freestanding signs, the lot width shall be measured along a straight line that runs parallel with the street frontage at the widest point of the lot. This measurement shall be regardless of the presence of driveway entrances to the lot or the presence of smaller outlots in front of the applicable lot. See [Figure 1112-H](#).¹³⁷

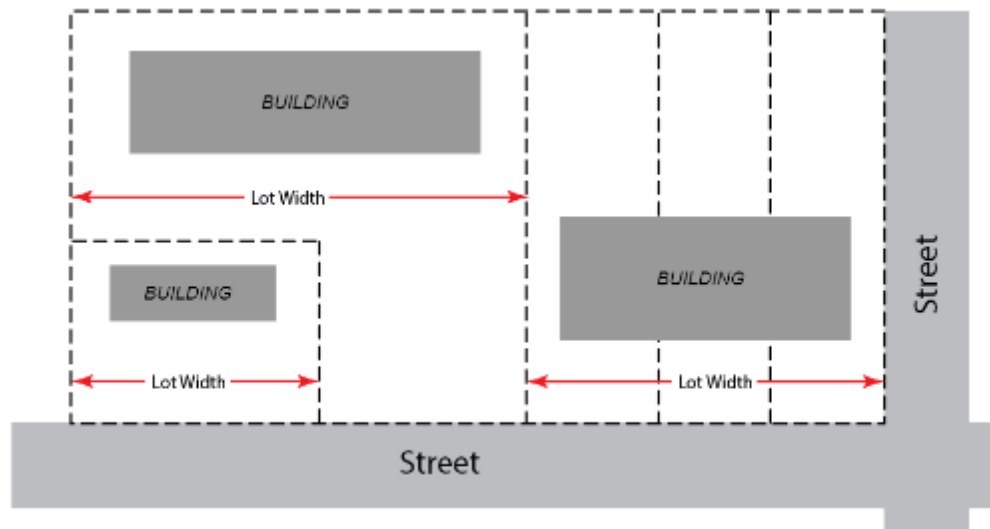


Figure 1112-H: The above image illustrates different methods of measuring lot width when calculating the amount of freestanding sign area permitted on a lot.

(b) Building Signs

- (1) The building sign area allowed in this section shall include the total amount of all wall, canopy, awning, and projecting signs¹³⁸ on each facade wall. Standards for each building sign type are established in this section.
- (2) Building signage shall be an on-premise sign.
- (3) Building signs shall not extend above the top of the roofline of the building to which it is attached. For canopy signs, the signs may be attached above the canopy, which is attached permanently to the building, provided that the sign does not extend above the top of the roofline of the building.
- (4) Building signs shall not include electronic message centers.
- (5) Building signs shall be subject to the applicable building sign type standards in Section <>.
- (6) **Building Sign Allowance**
 - A) There is no maximum number of permitted building signs, however, the total aggregate amount of sign area shall not exceed that allowed in [Table 1112-2](#).
 - B) Signs are allowed
 - C) Signs attached to roofed structures over fueling stations, to stand-alone structures such as Automated Teller Machines (ATMs), or detached accessory buildings shall be counted as part of the building sign allowance, regardless of the total building sign allowance being based on the principal building (i.e., no additional sign allowance is given for accessory buildings or detached structures on the same lot as a principal building.).

¹³⁷ This is helpful for large developments that have outlots.

¹³⁸ This approach gives applicants a range of sign types that are attached to the building, so they have more flexibility in design.

- D) Building signs may be internally or externally illuminated except when attached to a facade that faces a residential zoning district or use, in which case the illumination of the wall sign is prohibited.
- E) Building signs may be attached to any facade of a building, however, the maximum amount of building sign allowed on any given facade shall be based on the ratios and maximum established in [Table 1112-2](#) (e.g., an applicant cannot combine sign allowances from multiple facades to located on only one of the facades.).

TABLE 1112-2: PERMANENT BUILDING SIGN ALLOWANCE		
Zoning District	Ratio of Building Sign Area Permitted	Maximum Aggregate Sign Area per Facade
NB and OTB	1.0 square feet of lineal width of the facade	150
GB, SCB, BP, and CPF	1.5 square feet of lineal width of the facade	500 ¹³⁹
LI, and GI	5 percent of the facade	None

(7) **Building Sign Type Standards**¹⁴⁰

A) Wall Sign Standards

Any wall sign shall comply with the following standards:

- i) Wall signs shall be mounted on or flush with a wall and shall not project more than 18 inches from the wall or face of the building to which it is attached.
- ii) The outside edge of all wall signs shall be set back three feet from the edge of all side facades or shared party wall (between building units or tenant spaces).
- iii) No wall sign shall cover or obscure any wall opening (e.g. window or door).
- iv) No wall sign shall extend above the parapet of the main building to which it is attached, nor beyond the vertical limits of such building.
- v) A wall sign may be mounted on the facade wall or mounted on a raceway or wireway.

B) Canopy or Awning Sign Standards

Any canopy or awning sign shall comply with the following standards:

- i) Signage shall not cover more than 24 square feet of any individual awning or canopy.
- ii) Canopy or awning signs shall only be permitted on canopies or awnings that do not extend more than three feet from the facade.
- iii) Signage may be mounted above any canopy that extends over a customer entrance provided that the maximum sign height over the canopy shall be 24 inches as measured from the top of the canopy to the top of the sign.
- iv) Only the sign copy may be illuminated on an awning or canopy. Internal lighting of the full awning or canopy shall be prohibited.

C) Projecting Sign Standards

Any projecting sign shall comply with the following standards:

- i) Only one projecting sign shall be permitted for each building unit.

¹³⁹ Only very large buildings with a single building unit/tenant, would be able to achieve this amount of building signs (e.g., Walmart, Lowes, Kroger, etc.). Given the height of most nonresidential buildings and the length of the facades, the ratios would likely only result in signage that covers 5 to 7% of the entire facade.

¹⁴⁰ All of these standards have been simplified, where possible.

- ii) A projecting sign shall be perpendicular to the wall of the building to which it is attached and shall not extend more than four feet from the facade wall to which it is attached.
- iii) Projecting signs shall not extend into a right-of-way.
- iv) The sign area of a projecting sign shall maintain a minimum six-inch clearance from the facade of any building.
- v) Decorative supporting structures for projecting signs are encouraged and shall not count toward the maximum square footage of signs allowed; however, in no case shall the supporting structure exceed six square feet. See [Figure 1112-I](#).

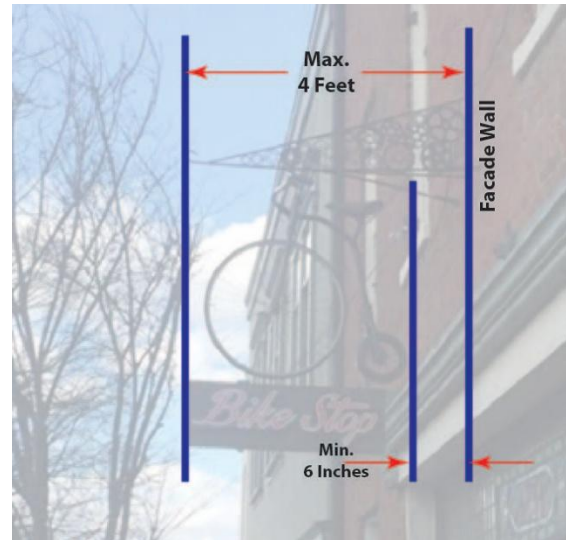


Figure 1112-I: Example of a decorative supporting structure supporting a projecting sign (left). Illustrative example of minimum clearance and maximum projection standards (right).

- vi) The maximum sign area for a projecting sign shall be 24 square feet.
- vii) Projecting signs must be suspended from brackets or other supports approved by the building code and contain no exposed guy wires or turnbuckles.
- viii) Projecting signs shall be subject to the vertical clearance standards of Section [1112.07\(e\)](#).

(c) **Driveway Signs**¹⁴¹

- (1) Driveway signs shall not be permitted in a residential zoning district except when accessory to an approved conditional use. In all other districts, driveway signs shall be permitted provided each sign complies with the standards of this section.
- (2) Driveway signs shall only be permitted near driveway entrances to a public street.
- (3) A maximum of two driveway signs is permitted per individual driveway.
- (4) Driveway signs shall be located within 50 feet of the right-of-way. There shall be no minimum setback from a right-of-way or lot line, but such signs shall not encroach into a right-of-way and shall comply with the intersection visibility requirements of Section <>.
- (5) Each driveway sign shall not exceed four square feet in area and 3 feet in height in every district except the BP, LI, and GI Districts.
- (6) In the BP, LI, and GI Districts, each driveway may have two driveway signs that comply with the standards established in this section or may have one driveway sign with a larger maximum sign area of 12 square feet and a maximum height of six feet.¹⁴²
- (7) Driveway signs may be mounted on a post or pole provided the post or pole does not exceed one foot in height.

¹⁴¹ This is an allowance for your current "directional signs."

¹⁴² This provides an option to have a directional or other sign ("truck loading here") that is line of sight of truck drivers.

- (8) Driveway signs may be internally or externally illuminated provided that any illumination shall not glare onto an adjacent right-of-way.
- (9) Driveway signs shall not count toward any other sign allowance in this chapter.

(d) **Drive-Through Facility Signs**

- (1) Drive-through facility signs are only permitted as an accessory to a permitted drive-through facility.
- (2) One drive-through facility sign shall be allowed for each stacking lane in a drive-through facility provided the total aggregate sign area of all freestanding signs associated with each drive-through facility does not exceed 72 square feet. In no case shall a single drive-through facility sign exceed 36 square feet in sign area.
- (3) Such signs shall be oriented so as to only be visible to occupants of vehicles in the stacking lanes of the drive-through facility.
- (4) No drive-through facility sign under this section shall exceed six feet in height measured from the grade of the adjacent driving surface to the top of the sign.
- (5) Drive-through facility signs may be internally or externally illuminated. Up to 100 percent of each sign may be an electronic message center if they comply with the following standards:
 - A) Any message change shall be a static, instant message change.
 - B) Only Light Emitting Diodes (LED) technology or similar quality signs shall be permitted for electronic message centers.
 - C) The electronic message center shall come equipped with an automatic dimming photocell, which automatically adjusts the display's brightness based on ambient light conditions.
 - D) The electronic message center shall be turned off during the hours when the related business is closed.
- (6) Illumination of the signs, regardless of the existence of the electronic message centers, shall be subject to the outdoor lighting provisions of Section <>.
- (6) There shall be no maximum drive-through facility sign area in instances where the signs are fully screened from view of any public street or adjacent residential use.¹⁴³
- (7) Sites that have drive-through signs that are located adjacent to lots in residential zoning districts shall be required to have a privacy fence, with a minimum height of 6 feet, located between the drive-through signage and the residential lot.
- (8) Audio devices attached to drive-through signs shall be subject to the regulations in Section [1107.01\(f\)\(7\)](#), related to the design of drive-through facilities.
- (9) The sign area of drive-through facility signs shall not be counted as part of any other sign allowance in this chapter.
- (10) Drive-through facility signs attached to a wall of building shall be calculated as part of the building signage allowance in Section <>.

(e) **Window Signs**

- (1) Window signs do not require zoning compliance review, but shall be subject to the requirements of this subsection.
- (2) Window signs may be temporarily or permanently attached to the window surface.
- (3) Window signs shall not be illuminated, except that a maximum of one window sign may be illuminated, provided it does not exceed two square feet in sign area.¹⁴⁴
- (4) Window signs shall not occupy more than 50 percent of the window area. The sign area is based on the total window area, regardless of the presence of an awning. Window areas separated by piers, architectural elements, or similar features that are not glass or window framing or support shall be considered separate and distinct window areas. See Figure <>.
- (5) Window signs shall not count toward any other sign allowance in this chapter.

¹⁴³ This is intended to encourage drive-through signs to be located in the rear.

¹⁴⁴ This allows for digital open signs or small signs for menus or other purposes.



Figure 1112-J: The window area is illustrated within the dashed line area for the two storefronts in the above image. The dashed lines highlight two separate window areas due to the separation by an architectural feature not related to the windows.

1112.11 TEMPORARY SIGNS

The following are the types of temporary signs allowed in the City of Trotwood and the applicable regulations for each type of sign.

(a) Standards Applicable to All Temporary Signs

- (1) Temporary signs shall not be posted in any place or in any manner that is destructive to public property, including, but not limited to, rights-of-way, utility poles, public trees, etc.
- (2) Temporary signs shall not be mounted, attached, affixed, installed, or otherwise secured in a manner that will make the sign a permanent sign.
- (3) No temporary sign shall be mounted, attached, affixed, installed, or otherwise secured to protrude above the roofline of a structure.
- (4) Unless otherwise specifically stated, temporary signs shall not be illuminated.
- (5) No temporary sign shall require a foundation, support, wiring, fittings, or elements that would traditionally require a building permit or electrical permit.
- (6) Temporary signs shall not be affixed to any permanent sign or permanent structure except when a banner sign is permitted to cover a permanent sign in accordance with Section <>.
- (7) All temporary signs shall be secured in such a manner as to prevent swinging or other significantly noticeable movement resulting from the wind that could pose a danger to people, vehicles, or structures.
- (8) Temporary signs shall be required to comply with the vision clearance requirements of Section <>.
- (9) Lots that have a monument sign that contains an electronic message center shall not be permitted to have temporary signs because the electronic message centers provides an opportunity for multiple temporary messages per minute.
- (10) Because of the nature of materials typically used to construct temporary signs and to avoid the unsightliness of deteriorating signs and all safety concerns which accompany such a condition, temporary signs shall be removed or replaced when such a sign deteriorates.
- (11) The City of Trotwood shall be held harmless from any liability resulting from accident or injury caused by the placement and/or maintenance of temporary signs.

(b) **Temporary Signs Allowances with No Time Limits**¹⁴⁵

[Table 1112-3](#) establishes the number, size, type, and height of temporary signs allowed in each zoning district without any time limits. Such signs shall not zoning compliance review but shall be required to comply with the sign-specific standards in Section [1112.11\(d\)](#).

TABLE 1112-3: TEMPORARY SIGN ALLOWANCES WITH NO TIME LIMITS				
Message	Noncommercial Message	Commercial Message		
Zoning District	All Districts	Residential Districts [1]	Nonresidential Districts	
Permitted Sign Types	Yard or Window	Yard or Window	Yard	Sidewalk
Maximum Number or Area per Lot	Unlimited	2 signs	1 sign per 200 lineal feet of public street frontage	One sidewalk sign per building unit [2]
Maximum Area per Sign	18 square feet	6 square feet [3]	12 square feet	12 square feet
Maximum Height	4 feet	4 feet [3]	4 feet	6 feet
Notes [1] For lots that contain an approved conditional use in a residential zoning district, such a lot is allowed the same temporary sign with a commercial message as allowed in nonresidential zoning districts. [2] The sign must be located within five feet of the exterior entrance into the building unit. [3] For vacant lots in residential zoning districts that exceeds 10 acres in lot area, the maximum sign area may be increased to 12 square feet and the maximum height may be increased to six feet.				

(c) **Temporary Signs with Time Limits**

[Table 1112-4](#) establishes the number, size, type, and height of temporary signs allowed in addition to those allowed in [Table 1112-3](#), with time limitations, based on the following permitted activities. All such signs shall be required to comply with the sign-specific standards in Section [1112.11\(d\)](#).

- (1) Where an approved temporary use is authorized pursuant to this planning and zoning code the signage in [Table 1112-4](#) is allowed with the following additional requirements:
 - A) The sign shall be located within five feet of the temporary use.
 - B) Where sidewalk signs are utilized, such signs may be placed on a paved surface or grass area adjacent to the temporary use, provided that there is a minimum of four feet of paved clearance around the sign. The sign shall not be required to be placed on a private sidewalk or walkway as required in Section [1112.11\(d\)\(3\)](#).
- (2) Where a zoning compliance review is approved for a permanent change in use or nonresidential tenancy, additional signage is allowed in accordance with [Table 1112-4](#).
- (3) For applications related to the establishment of a new use within an existing building where there are existing permanent signs, a banner sign may be approved to cover the existing permanent signs in accordance with [Table 1112-4](#).
- (4) In residential districts, additional temporary yard signs are permitted in accordance with [Table 1112-4](#) for subdivisions under development that have a minimum of 10 new lots.
- (5) In nonresidential districts, additional temporary yard signs are permitted on all lots in accordance with [Table 1112-4](#).
- (6) As part of the zoning compliance review approval, the applicant may be issued a sticker or other form of identification to be attached to the sign stating the dates the sign is authorized to be used.

¹⁴⁵ The current regulations for temporary signs were confusing and heavily content based. This is an alternative model that staff and the consultants have developed.

TABLE 1112-4: TEMPORARY SIGN ALLOWANCES WITH TIME LIMITS

Activity	Approved Temporary Uses	New Occupancy/ Change of Use	New Nonresidential Use with Existing Permanent Signs	Additional Temporary Yard Signs [1]	
Zoning District	All Districts	Nonresidential Districts	All Districts [2]	Residential Districts [3]	Nonresidential Districts
Permitted Sign Types	Feather, Sidewalk, or Banner	Banner or Feather	Banner	Yard	Yard
Maximum Number or Area per Lot	1 per temporary use	1 per lot	1 banner sign per permanent sign to be covered	1 per subdivision	1 per lot
Time Limitation	Sign may be posted during hours of operation while temporary use is authorized	14 days after issuance of certificate of occupancy or change of use certificate.	Until permanent sign is installed or 60 days, whichever is first.	24 months from the recording of the final plat	Maximum of 30 days, twice a calendar year
Maximum Area per Sign	24 square feet	24 square feet	No more than existing sign the banner is covering	18 square feet	24 square feet
Maximum Height	8 feet	8 feet	Not Applicable	6 feet	6 feet
Zoning Compliance Review Required [4]	Yes	Yes	Yes	Yes	Yes

Notes

[1] Additional temporary yard signs shall be set back 10 feet from all lot lines.

[2] Additional signage is not allowed for the change of tenancy in a residential dwelling.

[3] For lots that contain an approved conditional use in a residential zoning district, such a lot is allowed the same additional temporary yard sign as allowed in nonresidential zoning districts.

[4] The approval for the temporary sign may be a separate zoning compliance review or may be part of the zoning compliance review approval authorizing the listed activity..

(d) **Specific Standards for Certain Temporary Sign Types**

(1) **Banner Signs**

- A) Banner shall be secured in a manner so that there is no movement of the banner sign.
- B) Banner signs shall not have a maximum height, but in no case shall a banner sign be mounted above the roofline of the building.

(2) **Feather Signs**

- A) Feather signs shall be weighted or secured in a manner so that it is stable and windproof.
- B) Feather signs shall be located in a manner that any movement of the sign will not impede traffic or create safety issues for nearby pedestrians.

(3) **Sidewalk Signs**

- A) Sidewalk signs shall only be placed outside during the hours of the establishment's operation.
- B) If a sidewalk sign is used, it shall only be permitted on a private sidewalk or walkway, provided it is placed on pavement and not in any landscaped areas or on pavement used for vehicles (e.g., driveways and parking lots). There shall be a minimum width of seven feet of any paved sidewalk or walkway to accommodate the placement of a sidewalk sign.
- C) Sidewalk signs may be placed in the right-of-way only in the OTB provided the sign complies with all of the requirements of this chapter.

- D) The width and placement of the sign shall be such that there shall be a minimum width of four feet of clear and passable sidewalk or walkway for pedestrians.
 - A. The sign must be freestanding and shall not be affixed, chained, anchored, or otherwise secured to the ground or to any pole, parking meter, tree, tree grate, fire hydrant, or other structure.
 - B. The sign must not obstruct access to parking meters, bicycle racks and other features legally in the right-of-way.
 - C. The sign must not interfere with the opening of car doors in legal spaces, or with the operation of wheelchair lifts and ramps, cab stands, loading zones or bus stops.
 - E) Sidewalk signs shall be internally weighted so that it is stable and windproof.
 - D. The City of Trotwood shall be held harmless from any liability resulting from accident or injury caused by the placement and/or maintenance of such sign.
- (4) **Window Signs**
- A) Temporary window signs shall be mounted or placed on the interior of the building.
 - B) Temporary and permanent window signs in nonresidential districts are regulated in accordance with Section 1159.10 [1112.10\(e\)](#).
- (5) **Yard Signs**
- A) There shall be a maximum of two faces to the sign, mounted back-to-back.
 - B) The signs shall be located in grass or landscaping areas outside of the right-of-way.

1112.12 NONCONFORMING SIGNS (REVISED 1185.15)

Any sign that was lawfully in existence at the time of the effective date of this code, or amendment thereto, that does not conform to the provisions herein shall be deemed a legal nonconforming sign and may remain on a lot of record except as qualified in this section.

- (a) A sign shall lose its legal nonconforming status if any of the following occurs:
- (1) If such sign is damaged to an amount exceeding 50 percent of the sign's replacement value, not including the cost or value related to the foundation or work below grade;
 - (2) The structure of the sign is altered in any form, excluding face or panel changes as allowed by this section;
 - (3) The sign is relocated;
 - (4) The sign is defined as a temporary sign and has been in use for more than one year following the effective date of this amendment;¹⁴⁶ or
 - (5) The nonconforming sign and its structure, including any supports, framing, and panels, are determined by the Zoning Administrator, Building Official, or their designee, to be unsafe or in violation of this code and are declared a nuisance.
- (b) Any sign that loses its legal nonconforming status must be brought into compliance with the provisions of this chapter and any other City laws and ordinances by an application for, and issuance of, a zoning certificate or by complete removal.
- (c) Failure to bring a sign into compliance after loss of a legal nonconforming status shall cause the sign to be considered an illegal sign, subject to removal.
- (d) Minor repairs and routine maintenance of legal nonconforming signs shall be permitted.
- (e) Nonconforming signs shall be maintained in good condition pursuant to all applicable City codes.

¹⁴⁶ This is a new provision recognizing that a temporary sign was never meant to be permanent, so at some reasonable point, it should become conforming by sheer time alone.

1112.13 SIGNS ACCESSORY TO ABANDONED OR VACATED USES (REVISED 1185.16)

- (a) When a business or use is vacated or abandoned, any on-premise sign related to the use shall be removed by the property owner and/or tenant within 30 days of notification for removal by regular mail from the Zoning Administrator. A use shall be deemed abandoned if it has ceased operations for at least six consecutive months.
- (b) If a sign has replaceable panels or sign faces that can be replaced or repainted, the sign may not be required to be removed if the sign face is replaced with:
 - (1) A blank panel or face that does not contain any message;
 - (2) Another on-premise sign or message; or
 - (3) A sign face with a noncommercial message allowed pursuant to the substitution clause of Section <>.
- (c) If the sign is not removed, it shall still be subject to the maintenance requirements of Section <>.
- (d) Notification required under this section shall be deemed sufficient if mailed to the property owner of record as shown with the Montgomery County Auditor.

1112.14 REMOVAL OF SIGNS (REVISED 1185.14)

- (a) The Zoning Administrator shall cause to be removed any temporary or permanent sign that constitutes a public nuisance in that it endangers the public safety, such as a sign which has been abandoned, is illegal, is dangerous, or is materially, electrically, or structurally defective.
- (b) The Zoning Administrator shall also cause to be removed any temporary or permanent sign that does not comply with the maintenance requirements of Section [1112.07\(f\)](#).
- (c) The Zoning Administrator shall also cause to be removed any sign except a valid nonconforming sign for which no zoning compliance approval has been issued or a sign which is not in compliance with the related zoning compliance approval.
- (d) Before removing any such sign, however, the Zoning Administrator shall first prepare and serve upon the property owner or occupant a notice which describes the sign and specifies the violation involved. This notice shall require that a permanent sign shall be removed or the violation corrected within the next 10 days or that a temporary sign shall be removed or the violation corrected within the next 24 hours. If this notice is not complied with, the sign shall be removed immediately following the applicable time frames by the Zoning Administrator in accordance with the provisions of this code.
- (e) All notices issued by a Zoning Administrator may be served by certified mail or delivery to the property owner, current occupant, to a person temporarily or permanently in charge of the establishment or the sign owner in case of temporary signs. Any time periods provided in this section shall be deemed to commence on the date of the service of the notice.
- (f) The applicant, or in the absence of the applicant, the property owner shall be jointly and severally obligated to reimburse the city immediately for all third party and administrative expenses incurred in removing any sign including but not limited to costs to the city of time of city employees. If the violations are corrected and removal obligations paid, the applicant or the property owner may reclaim the sign from the city.
- (g) The sign shall become the property of the city after 30 days if removal costs are not paid or if violations are not corrected. Thereafter the sign shall be disposed of in any manner deemed appropriate by the City Manager. This possible result shall also be explained by the served notice.

1112.15 VIOLATION AND PENALTIES (REVISED 1185.18)

- (a) The erection or maintenance of a prohibited sign, the erection of signs without required zoning compliance review or in contradiction with the standards of this chapter shall be considered a violation of this code.
- (b) Any violation shall be punishable under the same terms of the provisions of Chapter <>.

CHAPTER 1113: SUBDIVISION DESIGN AND PUBLIC IMPROVEMENTS

1113.01 PURPOSE (REVISED 113.01)

The purpose of this chapter is to:

- (a) Establish standard requirements, conditions, and procedures for the design and review of subdivisions and for the installation, inspection, and maintenance of public improvements;
- (b) Provide for the orderly subdivision of land;
- (c) Encourage the wise use and management of land and natural resources throughout the City;
- (d) Ensure that adequate public infrastructure, facilities, and services are available concurrent with development;
- (e) Encourage a beneficial relationship between the uses of land and circulation of traffic throughout the City, and provide for the proper location and design of streets;
- (f) Provide adequate utility systems to support the future needs of residents and the community; and
- (g) Promote efficient and logical placement of utility structures so as to promote the public health, safety, convenience, comfort, prosperity, morals and general welfare of the City.

1113.02 APPLICABILITY (NEW)

- (a) The developer of a subdivision, or the developer of a multi-family development or nonresidential development requiring public improvements¹⁴⁷, shall dedicate all land required for rights-of-way and shall furnish and install all required improvements serving the subdivision or development in accordance with the provisions of this chapter.
- (b) All improvements shall be extended to the boundary of the subdivision or development in order to provide a complete and coordinated system of streets and utilities in accordance with adopted plans or policies of the City of Trotwood.

1113.03 CONFORMITY TO DEVELOPMENT PLANS, ZONING, AND ENGINEERING STANDARDS (NEW)

- (a) The arrangement, character, extent, width, grade, and location of all streets and improvements shall conform to adopted plans or policies related to public improvements. These plans shall be considered in their relation to existing and planned streets, topographical conditions, public convenience, and safety, as well as in their appropriate relation to the proposed uses of the land to be served by such streets. Where not shown on adopted plans, the arrangement and other design standards of streets shall conform to this chapter.
- (b) All subdivisions shall comply with the requirements for lots within the applicable zoning district.
- (c) Any plans or documents submitted for subdivision or development approval shall comply with the City's standard drawings and specifications, and any subsequent amendments.
- (d) Where specifications have not been identified for public improvements, such public improvements shall be subject to the applicable standards and rules:
 - (1) For streets, subdivisions shall comply with any applicable standards in the Ohio Department of Transportation's manual and design standards¹⁴⁸; and
 - (2) For all other public improvements, subdivisions shall comply with any other plans, profiles, design manual, or other technical standards as identified and maintained by the City Engineer.

1113.04 RESPONSIBILITY AND TIMING FOR PUBLIC IMPROVEMENTS

- (a) All public improvements shown on the subdivision plats or on development plans are the responsibility of the subdivider, unless otherwise expressly indicated, and shall be installed in accordance with this chapter.

¹⁴⁷ This is a new clarification that these standards apply to any public improvements, even if there isn't any land subdivision.

¹⁴⁸ NOTE – This is the start of requirements and standards that will necessitate the City's engineer to review to ensure they can establish the clear requirements, or in this case, cross-reference adopted standards.

- (b) The subdivider or developer shall be required to construct the public improvements prior to the recording of the final plat or prior to issuance of any building permits. In lieu of actual construction of the physical improvements, the subdivider may assure completion of construction by furnishing a financial guarantee in accordance with Section <> in an amount equal to 100 percent of the City Engineer's estimate of the cost of the construction of the physical improvements within the portion of the subdivision submitted for recording. Actual construction shall be as shown on the public improvement plans and in accordance with this chapter.
- (c) **Protection of Streets, Utilities, and Other Installations (New)**
- (1) The subdivider or developer shall provide the City Engineer with a plan for the routing of construction equipment and traffic with the objective of alleviating any need to traverse adjacent off-site residential streets.
 - (2) The subdivider and their contractors shall protect the pavement against all damage prior to final acceptance of the work, including damage created by the contractor's construction equipment and vehicles, as well as general traffic. As soon as curing and sealing are completed, the contractor shall clean the pavement free of all debris and construction equipment.
 - (3) The subdivider and their contractors shall at all times protect and mark all utilities constructed by the subdivider and their contractors until as-built drawings are submitted to and approved by the City Engineer.
 - (4) The subdivider and their contractors shall at all times take proper precautions for the protection of utility lines, the presence of which can be determined by contacting the Ohio Utilities Protection Service (OUPS). The subdivider shall be financially responsible for the repair of any damage to such utility lines.

1113.05 FINANCIAL GUARANTEES FOR PUBLIC IMPROVEMENTS (REVISED 115.02)

- (a) The subdivider or developer shall execute financial guarantees and shall file such financial guarantees with the City prior to certification of a final plat or application for zoning compliance review if the applicant does not propose to construct the required public improvements or private streets prior to receiving certification of the final plat or the first application for zoning compliance review. Such financial guarantee shall take any form allowed in Section [1113.05\(g\)](#).
- (b) The financial guarantee shall be an obligation for the faithful performance of any and all work and the construction and installation of all public improvements required to be done by the subdivider or developer, together with all engineering and inspection costs and fees incurred by the City.
- (c) When, in the judgment of the City Engineer, public improvements have been completed in accordance with the improvement plans as approved by City, City Council shall, at the recommendation of the City Engineer, accept such improvements and authorize the full or partial release of the financial guarantee.
- (d) The terms of such financial guarantees shall be determined by the City's Law Director, with confirmation by the City Engineer.
- (e) Financial guarantees shall be made payable to the City of Trotwood and shall be acceptable to the City Engineer, the City's Law Director, and the City Finance Director.
- (f) Incomplete public improvements that the City Engineer determines will constitute a safety hazard or maintenance issue, or will prevent the effective functioning of the public improvements, shall be required to be completed prior to the approval of a final plat or application for zoning compliance review.

(g) **Types of Financial Guarantees**

The following are the types of financial guarantees allowed by the City. The standards for each type of guarantee shall apply to any situation where a financial guarantee is required, regardless if it is related to a subdivision application or not.

(1) **Certified Check or Wire Transfer**

The following standards shall apply if cash is utilized as a financial guarantee:

- A) The subdivider shall provide a certified check or wire transfer for the amount of the guarantee, payable to the City of Mount Vernon and posted with the City Auditor.
- B) When the public improvements are complete, the City shall issue a check for the released amount based on this subsection.

- C) The City shall not be responsible for paying interest for the period of time the City retains the guarantee.

(2) Irrevocable Letter of Credit

The following standards shall apply if an irrevocable letter of credit is utilized as a financial guarantee:

- A) The subdivider shall provide an irrevocable letter of credit from a bank or other reputable institution or individual subject to the approval of the Law Director and City Engineer.
- B) The letter shall be deposited with the City, and shall certify the following:
 - i) The creditor guarantees funds in an amount equal to the cost, as estimated in accordance with Section <> for completion all required public improvements.
 - ii) In the case of failure on the part of the subdivider to complete the specified public improvements within the required time period, the creditor shall pay to the City immediately and without further action such funds as are necessary to finance the completion of those public improvements, up to the limit of credit stated in the letter.
 - iii) This irrevocable letter of credit may not be withdrawn or reduced in amount until released by the City Engineer in accordance with this chapter.

(3) Bonds

The following standards shall apply if a bond is utilized as a financial guarantee:

- A) A bond in the amount determined in accordance with this section shall be posted with the City Auditor.
- B) The bond may be in the form of a surety bond or a cash bond of the kind approved by law for securing deposits of public money.
- C) The bond shall be executed by the subdivider as principal, and if a surety bond, shall be executed by a corporation authorized to act as a surety under the laws of the State of Ohio.
- D) The bond shall provide that it cannot be terminated or canceled without the approval of the City, and shall remain in force until such improvements have been accepted by City Council.

1113.06 DEVELOPER'S AGREEMENT (NEW)¹⁴⁹

- (a) As part of any major subdivision or any development that requires the installation of public improvements, a subdivider or applicant will be required to enter into developer's agreement. Such agreement shall be submitted as part of the improvements plan and shall include, at a minimum:
 - (1) The timing of the construction of public improvements, including estimates for inspections;
 - (2) Estimated costs and fees, as required by this code including, but not limited to, pavement guarantees, and inspection fees;
 - (3) Financial guarantee agreements, including the length of the guarantee;
 - (4) Protection requirements for existing street, utilities, and other installations;
 - (5) That the applicant will hold the City free and harmless from any and all claims for damages of every nature arising or growing out of the construction of such improvements, and shall defend, at his or her cost and expense, any suit or action brought against the City by reason thereof, until the improvement has been accepted by the City;
 - (6) That in the event of any violation of or noncompliance with any of the provisions and stipulations of the agreement, the City may stop the work forthwith and complete or cause the completion of such improvements according to the approved plat and agreement, and that in such event, the owner shall reimburse the City for any and all expenses incurred thereby; and
 - (7) Any additional information or requirements as deemed necessary by the City Engineer.
- (b) The developer's agreement shall be approved as to content and form by the City's Law Director, with confirmation by the City Engineer, prior to approval of the final plat.

¹⁴⁹ This section will only stay in if the City is interested in having an agreement that can cover issues and timing that might not be detailed elsewhere.

(c) Maintenance Financial Guarantee (Revised 1115.02 (d))

- (1) Upon acceptable completion of installation of the required improvements, the subdivider shall execute a maintenance financial guarantee with the City Finance Director equaling 10 percent of the cost of actual cost of construction of the improvements. Such guarantee is intended to ensure the maintenance of public improvements for a period of one year following acceptance of the improvements by City Council.
- (2) The financial guarantee may be in a form allowed by Section <>.
- (3) At the end of the 12-month maintenance period, the City Engineer shall issue a letter to City Council, and such letter shall be sufficient evidence for the release of the financial guarantee by City Council.

(d) Acceptance

When the proper administrative officials, following final inspection of a subdivision, certify to City Council, that all improvements have been constructed in accordance with City specifications, City Council may proceed to accept the facilities for which the financial guarantee was posted. See also Section <>.

(e) Failure to Comply

Whenever public improvements have not been constructed in accordance with the agreement, and with specifications as established, City Council may exercise its rights of foreclosure under the financial guarantee agreement.

1113.07 INSPECTIONS (EXISTING 1115.04)

The installation of any required improvement may not proceed until the City Engineer has been notified of the subdivider's intention to proceed. The subdivider shall assume responsibility for notifying the City Engineer at least two business days in advance of his intention to carry out the required improvement. In addition, the subdivider shall be responsible for any fees for inspection or for any fees requiring the developer to reimburse the City for all costs associated with individual inspections.

1113.08 GENERAL DESIGN REQUIREMENTS

(a) General Suitability of Land for Development (Revised 1113.03)

If the Planning Commission finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, poor drainage, topography or inadequate water supply, wastewater treatment facilities, transportation facilities, or such other conditions as may endanger health, life or property, and if, from investigations conducted by the public agencies concerned, it is determined that, in the best interest of the public, the land should not be developed for the subdivision proposed, the Planning Commission shall not approve the land for the purpose unless adequate methods are advanced by the subdivider for solving the problems that will be created by the development of the land.

(b) Materials (New)¹⁵⁰

All work and materials shall conform to the Ohio Department of Transportation, Construction and Material Specifications as amended to date, and to the Standards and Specifications of the City of Trotwood. Ohio Department of Transportation Standards are acceptable and may be required at the discretion of the City Engineer.

(c) Topography, Floodplain Areas, Wetlands, and Natural Areas (New)

- (1) Natural amenities (including views, creeks, riparian corridors, and similar features) shall be preserved and incorporated into proposed development to the greatest extent feasible.
- (2) All subdivisions of land and installation of public improvements involving areas subject to flooding, as defined by National Flood Insurance Program Maps and Data, shall conform to Section <> of the Codified Ordinances.

¹⁵⁰ Please confirm this with the City Engineer.

- (3) Land which is determined by the Planning Commission to be unsuitable for subdivision or development due to flooding, the presence of State and Federal Jurisdictional Waters or Wetlands, or other features which will reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas shall not be subdivided or developed unless methods adequate to resolve the problems are formulated by the developer and approved by City Council, upon recommendation by the Planning Commission and upon advice of the City Engineer.
- (4) Whenever any stream or important surface drainage course is located in the area being subdivided and open drainage is permitted, the owner shall provide an adequate easement for benefit of the proper political subdivision along each side of the stream or open drainage course for the purpose of widening, deepening, relocating, improving or protecting the stream or open drainage course for drainage or water control.
- (5) Whenever any documented drainage system, including, but not limited to field tiles or other drainage systems, is located in the area being subdivided, an adequate easement shall be provided to allow for the long-term protection and maintenance of such drainage systems.
- (6) The natural topography of such streams and drainage courses shall be retained wherever possible in order to reduce excessive runoff onto adjoining property and to avoid extensive regrading of the site.
- (7) The City reserves the right to deny any subdivision application which is subject to periodic flooding or which contains extremely poor drainage facilities. However, if the owner agrees to make such improvements as will make the area completely safe for residential occupancy, the subdivision may be approved, subject, however, to the approval by the Planning Commission.

(d) **Subdivision Names (New)**

The proposed name of the subdivision shall not duplicate or too closely approximate phonetically, the name of any other subdivision in the City or Montgomery County. The Planning Commission shall have final authority to approve the name of the subdivision.

(e) **Traffic Control Devices (New)**

The subdivider shall provide all traffic control devices for the proposed development, including, but not limited to, traffic signals, signs, pavement markings, and the like. This shall include the provision of any traffic control devices needed temporarily during construction. Refer to the Ohio Manual of Uniform Traffic Control Devices (OMUTC) for details of the devices to be used, and, in some cases, warrants for their use.

(f) **Debris and Waste (New)**

No cut trees, diseased trees, timber, debris, earth, rocks, stones, soil, junk, rubbish or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of the zoning compliance inspection. No items and materials as described in the preceding sentence shall be left or deposited in any area of the subdivision at the time of dedication of public improvements.

(g) **Survey Monuments (Revised 1115.05)¹⁵¹**

Before the approval of the final plat, permanent reference monuments shall be located and placed within the subdivision in accordance with the Ohio Administrative Code Section 4733-37.

(h) **Blocks (Revised 1113.08)**

- (1) The arrangement of blocks shall be such as to conform to the street planning criteria set forth in Section <> and shall be arranged to accommodate lots and building sites of the size and character required by this code.
- (2) Subdivisions shall be designed with blocks of sufficient width to permit two tiers of lots of appropriate depth, except where an interior street parallels a limited access highway, arterial street, or railroad right-of-way.
- (3) Irregularly shaped blocks, including superblocks, indented by cul-de-sacs, containing interior parks or playgrounds and adequate parking spaces, will be acceptable when properly designed and covered by agreements as to the maintenance of any common areas.

¹⁵¹ Unless the City has unique monument requirements, most communities now just reference the ORC's requirements.

- (4) Block lengths are encouraged to be between 800 and 1,000 feet in length. In no case shall a block exceed a maximum length of 1,200 feet. In reviewing the subdivision plat, the Planning Commission can modify these requirements for blocks that will be located adjacent to nonresidential uses or where there are unusual topographic or natural features.
- (5) Blocks intended for business or industry shall be of such length as may be considered most suitable for their prospective use, including adequate provision for parking and deliveries.
- (6) Where a subdivision adjoins a major thoroughfare, the block shall be oriented so that there will be the fewest points of direct ingress and egress along such major thoroughfare as possible.

(i) **Lots (Revised 1113.09)**

- (1) The lot size, width, depth, shape and orientation, and the minimum building lines shall be appropriate for the location of the subdivision and for the type of development and use proposed.
- (2) Lots shall be subject to design requirements established by the applicable zoning district and shall be of sufficient width and depth to permit the required building setbacks. This includes compliance with minimum lot areas, lot widths, and lot depths, as may be applicable.
- (3) Where a new subdivision is being proposed for an area adjacent to an existing subdivision with lot areas that average more than 20 percent larger than the lots in the proposed subdivision, the subdivider shall be required to provide a row of lots adjacent to the existing subdivision equal to or larger than the first tier of lots in the existing subdivision. The purpose of this is to provide a transition between lot area design.¹⁵²
- (4) The lots shall be generally rectangular in form. Triangular, elongated, or other shapes that restrict its use as a building site shall be avoided to the maximum extent feasible unless the applicant can demonstrate special circumstances requiring irregular lots to the Planning Commission.
- (5) All side lot lines shall be at right angles to street lines and radial to curved street lines except where the Planning Commission determines that a variation to this rule will provide a better street and subplot layout.
- (6) Any lot that is deemed to be non-buildable due to landlocking or other reasons, shall be documented as non-buildable on the recorded plat and in the deed unless if part of the subdivision application includes the consolidation of such non-buildable lots with an adjacent buildable lot that complies with these regulations.
- (7) Every lot in a subdivision shall have a lot frontage along an improved public or private street that is a minimum of 40 feet in the RSF-H and OTB Districts measured at the right-of-way line. In all other districts, there shall be a minimum lot frontage of 50 feet,¹⁵³ however, the subdivision shall be required to comply with the minimum lot width requirement in Section <> in addition to the street frontage.
- (8) Double frontage lots shall be avoided except where essential to provide separation of residential development from arterial streets or to overcome particular topographic and orientation disadvantages.
- (9) Excessive depth in relation to the width of lots shall be avoided. A proportion of three feet of depth to one foot of width, measured at the building setback line, will normally be considered the maximum, unless a greater proportion shall be approved by the Planning Commission.
- (10) Land subject to flooding and land deemed to be topographically unsuitable for residential development shall not be platted for residential use or for any other use which may increase the danger to health, life or property or aggravate erosion or flood hazards. Such land within the subdivision shall be set aside on the plat for such uses as will not be endangered by periodic or occasional inundation or will not result in conditions contrary to the public welfare.

¹⁵² This was a request to have transitional areas where higher density subdivisions go into areas adjacent to lower density subdivisions.

¹⁵³ The City has a range of frontages from 50 to 100 feet in the current code, if not more in the A and RE Districts. However, because lots have to be generally rectangular in nature, it would have to be a unique issue for a lot in the A District to have a 50-foot frontage and a 600-foot lot width. The purpose of the frontage requirement is to ensure that there is enough room for access, where necessary.

(j) **Condominiums (New)**¹⁵⁴

(1) **Applicability**

The requirements of this section shall apply whenever a condominium development, as defined in Chapter 5311 of the ORC, is proposed within the City.

(2) **Standards**

- A) Any condominium development shall comply with the requirements of Chapter 5311 of the ORC.
- B) Where a condominium is proposed that would require an initial subdivision of lots and/or installation of public improvements, then such condominium application shall also be subject to the major subdivision procedure, as established in Section [§ 5311.02](#).
- C) If multiple condominium properties are proposed within the same subdivision application, then the entirety of the area containing condominium properties shall be reviewed as one major subdivision application, subject to all applicable standards, regardless if the individual condominium properties will be platted in phases.¹⁵⁵
- D) Any addition or expansion of approved condominiums shall require a new major subdivision application if the expansion of public improvements is required.

(3) **Conveyance**

- A) No interest in a unit shall be conveyed until:
 - i) All public improvements have been installed, inspected, and approved by the City Engineer; and
 - ii) The declaration, bylaws, and drawings have been filed for record with the Secretary of the Planning Commission and a permit issued by the Secretary of the Planning Commission.
- B) Errors or omissions in the declaration, bylaws, or drawings, or failure to file the same for the record, shall not, however, affect the title of a grantee of a unit.

1113.09 STREET DESIGN

(a) **General Street Design (Revised Multiple)**

- (1) All street types, including public and private street types, shall be subject to the standards of this section.
- (2) The arrangement, character, width, grade, construction, and location of all streets shall conform to any adopted plans of the City that are in effect at the time of final plat submission.
- (3) The street layout shall provide access to all lots and parcels of land within the subdivision.
- (4) Access control at major arterials and highways shall be taken into consideration in the design of the subdivision plat. The City or ODOT has the right to define and limit access along major arterials or highways.
- (5) The subdivider shall provide, within the boundaries of the subdivision plat the necessary right-of-way for the widening, continuance, or alignment of such streets in conformity with any adopted plans of the City.
- (6) In order to further the sense of neighborhood, the development of greater numbers of loop and cul-de-sac streets shall be encouraged. In addition, grid street systems shall be encouraged where no direct connection with major arterials will occur.
- (7) Except where waivers may be approved by the Planning Commission, or unless otherwise provided in this chapter, all new streets shall be graded and improved with pavement, sidewalks, driveway approaches, curbs, gutters, water mains, sanitary sewers, storm sewers, fire hydrants and necessary appurtenance.

¹⁵⁴ The City may not have to deal with condominium plats very often, but this language can be helpful.

¹⁵⁵ This has come up because of developers stating an intent to condo multiple properties, building one, and then ultimately screwing up drainage and stuff because it was not considered comprehensively.

- (8) The class of streets in a new subdivision shall be not less than the minimum class established in these regulations. The street and alley arrangement shall not cause a hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it.
- (9) Residential local streets shall be designed to discourage through traffic, but offset streets shall be avoided whenever possible.
- (10) Where practical, the arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas.
- (11) The Planning Commission shall not approve streets which will be subject to inundation or flooding. All streets must be located at elevations which will make them flood-free in order that portions of the subdivision will not be isolated by floods. Where flood conditions exist, the Planning Commission shall require profiles and elevations of streets in order to determine the advisability of permitting the proposed subdivision activity.
- (12) Where a subdivision borders on or contains a railroad right-of-way, the Planning Commission may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land.
- (13) Wherever possible a proposed street shall be arranged such that adjacent building sites are at, or above, the grades of the street.
- (14) Buffer strips or lots intended to restrict access from adjacent private or public areas shall be prohibited.
- (15) A street that is not constructed to City standards will not be accepted by the City for dedication as a public street.
- (16) **Extensions (New)**
 - A) The street layout of the proposed subdivision shall provide for the continuation or projection of streets already existing in areas adjacent to the area being subdivided unless the Planning Commission deems such continuation or extension undesirable for specific reasons of topography or design.
 - B) Where, in the opinion of the Planning Commission, it is desirable to provide street access to adjoining properties, proposed streets shall be extended by dedication to the boundaries of such properties. Where the Planning Commission deems it necessary, such dead-end streets shall be provided with turn-around having a radius designed in accordance with Table <>.
 - C) The street system for the proposed subdivision shall provide for extending existing streets at the same or greater width, but in no case shall a street extension be of less width than the minimum width required in these regulations for a street in its category.

(b) Street Construction Plan and Profile (Revised 1115.06)

- (1) Street construction plans shall conform with all the requirements of these regulations and shall be filed with the City Engineer prior to the approval of the final plat.
- (2) Streets shall be completed in accordance with the standard drawings, design criteria and construction and materials specifications prepared by the City Engineer.
- (3) The plans shall contain the width of the right-of-way, the profile of the existing terrain, the centerline grade, typical cross section, estimated quantities, the size of all drainage structures, the area draining into each structure, and the direction of flow. If the drainage outlet is not located within the subdivision, it shall be shown in the plan.

(c) Street Names, Signs, and Numbering (Revised 1113.12)

- (1) The developer shall be required to install durable street name signs according to City standards and bearing approved street names at all intersections as well as all other appropriate signs for adequate traffic control.
- (2) Street names shall be selected that will not duplicate or be confused with the names of existing streets in the City, irrespective of modifying terms such as street, avenue, boulevard, etc.
- (3) Street names shall be included on the preliminary plat and final plat.
- (4) Street names shall generally follow the rules below:
 - A) Avenue shall be used only for streets that run in a generally east-west direction;
 - B) Boulevard or drive shall be used only for a large meandering type street with a center tree lawn other median;

- C) Circle or court shall be used only for cul-de-sac type streets that run in a generally east-west direction;
 - D) Lane or place shall be used only for cul-de-sac type streets that run in a generally north-south direction;
 - E) Road or way shall be used only for streets that run in a diagonal manner;
 - F) Street shall be used only for thoroughfares that run in a generally north-south direction; and
 - G) The words north, south, east or west should be avoided as part of a street name whenever possible.
- (5) When a new street is a direct extension of an existing street, the name shall remain the same.
 - (6) Whenever a cul-de-sac serves not more than three lots, the name of the intersecting street shall apply to the cul-de-sac.
 - (7) Address numbers shall be assigned by the City in accordance with the current numbering system.
 - (8) The developer, at their expense, shall install traffic control devices within the subdivision and where subdivision streets connect with existing streets. These devices shall meet all applicable standards as established by the City.
 - (9) The proposed names of all streets shall be subject to the approval of the Planning Commission.

(d) Street Types and Minimum Design Standards

(1) Street Dimensional Standards

All proposed streets shall be built according to the standards contained in Table <> below.

TABLE 1113-1: STREET DIMENSIONAL STANDARDS							
Street Functional Classification	Minimum Lane Width	Parking [1]	Minimum Sidewalk Width [2]	Bikeway [3]	Landscaped Area	Median Including Left Bay	Back-to-Back Curb
Local (Low volume)	2 at 11' 22' Total	None	2 at 5' 10' Total	Class III	2 at 9' 18' Total	None	25'
Local (High volume) Collector (Low volume)	2 at 11' 22' Total	1 at 9' 9' Total	2 at 5' 10' Total	Class III	2 at 9.5' 19' Total	None	31'
Collector (Medium volume)	2 at 11' 22' Total	1 at 9' 9' Total	2 at 5' 10' Total	Class II	2 at 12.5' 25' Total	None	31'
Collector (High Volume)	4 at 11' 44' Total	None	2 at 5' 10' Total	Class II	2 at 8' 16' Total	None	44'
Collector (Industrial/ commercial)	4 at 11' 44' Total	None	2 at 5' 10' Total	Class II	2 at 8' 16' Total	10' Minimum (Painted)	54'
Minor Arterial	4 at 12' 48' Total	None	2 at 5' 10' Total	Class I	2 at 8' 16' Total	(Painted) 14' Minimum 16' Maximum	62' - 64'
Principal Arterial (Low volume - 4 lanes)	4 at 12' 48' Total	None	2 at 5' 10' Total	Class I	2 at 8' 16' Total	(Curbing) 14' Minimum 18' Maximum	62' - 66'
Principal Arterial (High volume)	6 at 12' 72' Total	None	2 at 5' 10' Total	Class I	2 at 9' 18' Total	(Curbing) 14' Minimum 20' Maximum	86' - 92'
NOTES: [1] Whenever a public thoroughfare which does not permit on-street parking has been approved City Council shall adopt a no on-street parking ordinance specific to said thoroughfare. [2] The Planning Commission shall reserve the right to modify the requirement of sidewalks on both sides of a street. See also Section <>. [3] Class I = Exclusive facility, parallel to roadway. Class II = In buffer zone or on pavement adjacent to roadway. Class III = Share roadway with automobile.							

(2) Grading (Revised 115.06)

- A)** All streets shall be graded to their full width, including side slopes. The street subgrade shall be properly rolled, shaped and compacted, and shall be free of sod, vegetative or organic matter, soft clay and other objectionable materials. All street improvements shall be inspected and approved by the City Engineer.
- B)** Before grading is started, the entire right-of-way area shall be first cleared of all tree stumps, roots, brush, and other objectionable materials and of all trees not intended for preservation. The subgrade shall be properly shaped, rolled, and uniformly compacted to conform to the accepted cross-section and grades.
- C)** In cuts, all tree stumps, boulders, organic materials, soft clay, spongy material, and other objectionable materials shall be removed to a depth of at least two feet below the graded surface. Rock, when encountered, shall be scarified to a depth of at least 12 inches below the graded surface.
- D)** In fills, all tree stumps, boulders, organic materials, soft clay, spongy materials, and other objectionable materials shall be removed to a depth of at least two feet below the natural ground surface. This objectionable matter as well as similar matter from cuts shall be removed from the right-of-way area and disposed of in such a manner that it will not become incorporated in fills or hinder proper operation of the drainage system.
- E)** Grades of proposed streets shall conform as closely as possible to the original topography.
- F)** Adequate underdrainage shall be provided wherever good engineering practice dictates.

(3) Additional Right-of-Way Required (New)

Subdivisions which adjoin or include existing streets that do not conform to required street widths shall be required to dedicate additional right-of-way along either or both sides of such street, and shall construct improvements as are necessary to bring the street or streets up to the standards specified in this chapter. See Table <>.

(4) Hillside and Topography Adjustments

Where there are unusual topographical or other physical conditions, the Planning Commission may require a greater or lesser right-of-way width than that indicated in this section.

(5) Pavement Design Standards (Existing 1115.07)

All streets, unless otherwise approved by the Planning Commission, shall be designed in accordance with the pavement designs specified and approved by the City Engineer.

(6) Curbs and Gutters (Existing 1115.08)

- A)** Curbs and gutters shall be required along all public streets.
- B)** All curb and gutter improvements shall be completed in accordance with the standard drawings, design criteria and construction and materials specifications prepared by the City Engineer, and shall be inspected and approved by the City Engineer.

(7) Marginal Access Street

Where required, a marginal access street (service road) shall contain a minimum pavement width of 20 feet and shall consist of a minimum right-of-way width of 50 feet.

(8) Cul-de-Sac

- A)** Cul-de-sacs shall be required whenever a street is intended to be permanently dead ended.
- B)** An approved cul-de-sac shall not be permitted to exceed 800 feet in length, and shall be required to have a minimum curb radius, for the vehicular turnaround, of forty feet.

(9) Half Streets

The dedication of half streets shall not be permitted except in special situations. Where there exists a dedicated or platted half street or alley adjacent to the tract being subdivided, the other half shall be platted if deemed necessary by the Planning Commission.

(10) **Alleys**

Alleys shall not be permitted in residential districts except in special situations. Alleys are required in the rear of all commercial and industrial lots if no other provisions are made for adequate service access or for parking. Dead-end alleys shall not be permitted.

(11) **Dead-End Streets**

- A) Permanent dead-end streets are prohibited unless they include a turnaround (cul-de-sac) in accordance with this subsection.
- B) Temporary dead-end streets shall be permitted only where there are future plans to continue the street into another phase of the subdivision or into an adjacent, future subdivision. In such cases, a temporary turnaround shall be provided that is satisfactory in design to the Planning Commission, and for which provisions for maintenance and removal are approved.
- C) Provisions for maintenance and the removal of the temporary dead-end street shall be required of any additional plat approvals.
- D) Temporary dead-end streets longer than 600 feet are prohibited.
- E) A “T” turnaround (temporary only) may be permitted in lieu of a cul-de-sac that is required for permanent dead-end streets. Such turnarounds shall be designed to allow vehicles to turn around with only one backing-up movement. See [Figure 1113-A](#). The turnaround area shall be the same width as the street it abuts and shall be at least 75 feet long.

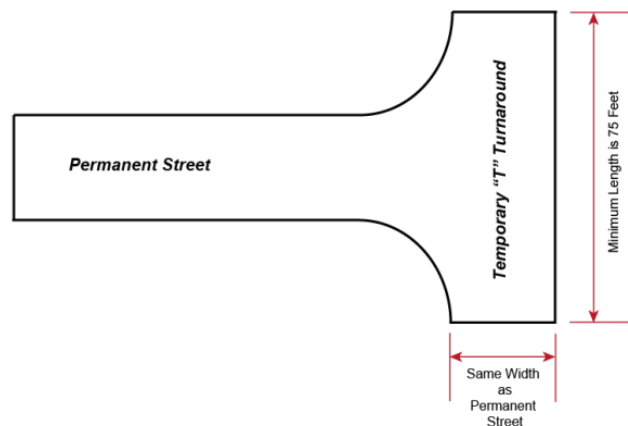


Figure 1113-A: Illustrative example of a temporary “T” turnaround.

- F) If a temporary dead-end street extends one lot depth or less past a street intersection, a “T” turnaround will not be required.
- G) A T-intersections shall be encouraged whenever a proposed street is to intersect with a collector or arterial street, in which case, the City Engineer may request alternative dimensions that this subsection..

(12) **Boulevards (Existing 1113.06)**

The Planning Commission may reserve the right to require the dedication of a landscaped boulevard median in place of additional right-of-way paving which would otherwise be used for on-street parking purposes, whenever the provision of a boulevard is required, the following dimensions shall apply:

- A) Two traffic lanes with a minimum width of 14 feet each. (No on-street parking shall be permitted.);
- B) A 14-foot-wide landscaped median;
- C) Two, five-foot wide sidewalks;
- D) Two, landscaped areas that comply with the following:
 - i) Four feet each for 60-foot-wide rights-of-way; and
 - ii) Seven feet apiece for 66-foot-wide rights-of-way rights of way.

(e) **Intersection Design Standards**

- (1) Streets shall intersect as nearly as possible at right angles unless the intersection contains a roundabout design as approved by the City Engineer.



Figure 1113-B: Streets should intersect as nearly as possible at right angles (right image) with the exception of approved roundabouts.

- (2) Multiple intersections involving junctions of more than two streets shall be avoided.
(3) Street jogs are prohibited.

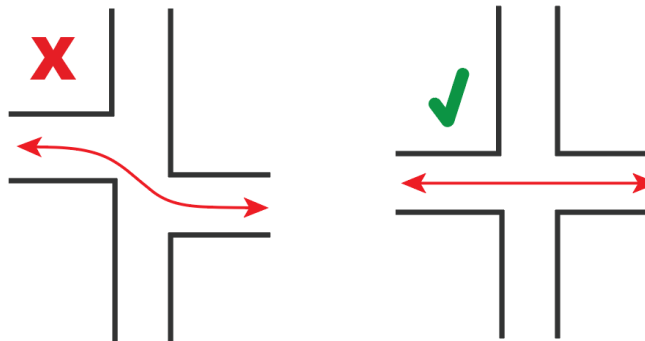


Figure 1113-C: Street jogs (left image) are prohibited with straight travel through a four-way intersection (right image) the appropriate intersection type unless a roundabout is approved.

- (4) The distance between the centerline of offset street intersections shall not be less than 150 feet.

1113.10 SIDEWALKS AND CROSSWALKS (REVISED 1115.09)

- (a) Public sidewalks shall be constructed on each side of the street in all residential subdivisions.
(b) Public sidewalks shall be required on one or both sides of a street where commercial, office, mixed use, or other lots where other uses are proposed except for residential or industrial uses.
(c) Public sidewalks shall, at the discretion of the Planning Commission, be required on one or both sides of a street where industrial lots exist or are proposed for platting, dependent upon the nature of the area.
(d) Sidewalks shall have a minimum width of five feet.
(e) All sidewalks shall be completed in accordance with the standard drawings, design criteria and construction and materials specifications prepared by the City Engineer, and shall be inspected and approved by the City Engineer.
(f) Sidewalks shall be located in the street right-of-way.
(g) The sidewalk requirements of these regulations shall not be waived unless the Planning Commission determines that, due to unique features of the site or use, sidewalks would not be feasible.
(h) Crosswalks shall have a minimum width of six feet.
(i) Handicap ramps shall be provided that are compliant with the Americans with Disabilities Act (ADA) and the Public Right-of-Way Accessibility Guidelines (PROWAG) on all corners unless the Planning Commission waives a requirement for crosswalk connections on a corner.

1113.11 UTILITIES

(a) General Requirements for Utilities and Underground Facilities (New)

- (1) All public and common electric, cable, and telephone lines and other utilities shall be located underground in all residential, office, commercial, and industrial subdivisions and districts, and shall be placed in their own easement, shown on the final or record plat. These underground utility requirements shall also apply to any lines required to serve the new development that extend outside the boundary of the development. The conduits or cables shall be located within easements or public rights-of-way in separate trenches, in a manner that will not conflict with other underground services.
- (2) In industrial subdivisions where the electric power provider advises the City that the power load requirements are sufficiently large as to make underground service impractical or unfeasible, electric, cable, and telephone lines may be installed overhead along rear lot lines with the approval of the City Engineer. Should the City Engineer approve an overhead distribution system, all connections to it shall be made underground. All facilities are to be constructed on one side of the road without overhead crossovers.
- (3) All sewer and utility pipelines shall preferably be placed outside the limits of the pavement. All excavations for public utilities made under paved areas shall be properly backfilled with approved granular materials thoroughly compacted in place and subject to approval by the City Engineer.¹⁵⁶

(b) Sanitary Sewers (Revised 1115.13)

The following requirements shall govern sanitary sewer improvements:

- (1) Where an adequate public sanitary sewer system is available, public sanitary sewers shall be installed to adequately serve all lots, including lateral connections to the public system. In no instance shall sanitary sewers and storm sewers be combined.
- (2) All sanitary sewer improvements shall be constructed in accordance with the standard drawings, design criteria and construction and materials specifications prepared by the City Engineer and the County Sanitary Engineering Department, and shall be inspected and approved by the City Engineer and by the appropriate utility company supplying sanitary and wastewater sewer service.
- (3) Where the installation of individual sewage disposal systems is considered, the suitability of the soil for individual systems, the absorptive ability of the soil, surface drainage, ground water level and topography shall be the criteria for determining whether or not the installation of individual systems is permissible. Written authorization from the City Engineer and the Dayton & Montgomery County Public Health Department must be forthcoming before the installation of individual sewage disposal systems shall be permitted.

(c) Water Supply (Revised 1115.10)

The following shall govern water supply improvements:

- (1) The subdivider shall be required to install a complete water main system which is connected to a public water supply system.
- (2) All improvements shall be constructed in accordance with the standard drawings, design criteria and construction and materials specifications prepared by the City Engineer, and shall be inspected and approved by the City Engineer and the County Sanitary Engineering Department.
- (3) Water lines shall be extended across the complete road frontage of a subdivision.
- (4) All plans for water distributions systems shall be reviewed and approved by the City of Dayton, the City of Trotwood, the OEPA or the County Sanitary Department as so required.
- (5) The type, size, and location of water lines shall be approved by the City Engineer.

(d) Fire Hydrants (Existing 1115.11)

- (1) The subdivider shall provide fire hydrants within all subdivisions served by public water lines.
- (2) All fire hydrants shall be located between the back of curb and individual property lines. Further, fire hydrants shall be spaced at intervals not to exceed 300 feet.

¹⁵⁶ It is unclear if this is something the City would prefer to see as a standard. Many communities have avoided allowing for utilities under the pavement.

- (3) All fire hydrants shall have a minimum main valve opening of five inches and shall have a four-inch pumper connection and two, two and one-half-inch hose connections, and shall be designed in accordance with the construction and materials specifications standards specified by the City Engineer and the County Sanitary Engineering Department.

(e) **Electric, Telephone, Cable, and Fiber Optic (Revised 1115.14)**

- (1) Electric service and telephone service shall be provided within each subdivision.
- (2) Gas service and fiber optics shall be required where reasonably accessible.
- (3) All electric, telephone, cable, fiber optic, and similar transmission lines shall be designed and installed in compliance with the applicable standards of these regulations and the authority having jurisdiction.
- (4) Where cable, fiber optic, television, or similar services or conduit is or will be in operation, the applicant shall install cable or conduit for such service simultaneously with and in the same manner as electric and telephone cables are installed, both within the right-of-way and to individual building connections.
- (5) All excavations for public utilities made under paved areas shall be properly backfilled with approved granular materials thoroughly compacted in place, and the pavement shall be restored in kind.

(f) **Street Lights**

- (1) While the City shall be responsible for the installation and financing of all street lights, the subdivision developer shall be responsible for all required trenching and backfilling.
- (2) Street lights shall be installed at all intersections, and within a residential subdivision shall be situated not less than 300 feet from one another.
- (3) All street lighting shall be as approved by the City of Trotwood.

(g) **Stormwater Management Systems (Existing 1115.12)**

- (1) Where an adequate public storm sewer is available, a developer shall be required to construct a storm sewer system and connect with that storm sewer line. All storm drainage improvements shall be constructed in accordance with the standard drawings, design criteria and construction and materials specifications prepared by the City Engineer, and shall be inspected and approved by the City Engineer.
- (2) Provision for the disposition of storm water via adequate on-site and off-site underground facilities to a City-approved natural stream shall be provided. In no instance shall storm drainage, including drain tile around basements, be permitted to discharge into any sanitary sewer. Rather, it shall be required to connect to an adequate underground drainage system. In instances where an adequate public storm sewer is not available, natural drainage channels, with easements of adequate width, shall be provided. Where natural drainage channels intersect any street right of way, it shall be the responsibility of the subdivider to have satisfactory bridges or, culverts constructed. The adequacy of all proposed natural drainage systems shall be determined by the City Engineer, and approved by the Planning Commission.

1113.12 EASEMENTS (REVISED 113.07)

- (a) In general, easements shall be a minimum of 20 feet wide centered along rear lot lines and 10 feet wide along side lot lines where it is necessary to provide for sanitary sewers, water mains, gas mains, electric lines and other services.
- (b) Where it is not feasible to center an easement on a lot line, the location and width of the easement shall be approved by the City Engineer
- (c) Where a subdivision is traversed by a water course, acceptable drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way, not less than 20 feet in width, conforming substantially with the lines of such water course.
- (d) If the Planning Commission deems it necessary, pedestrian easements or dedications of not less than 10 feet shall be required in order to provide access to parks and recreational facilities, open space, schools, shopping centers, or other community facilities.
- (e) In addition, where boulevards will be built, easements shall be provided for the purpose of meeting the street tree planting requirements of this code.

1113.13 GREEN INFRASTRUCTURE (NEW)¹⁵⁷

- (a) The City encourages the use of green infrastructure techniques because of their connection to sustainable development practices and environmental quality. The proper use of green infrastructure can dramatically improve storm water runoff quality, decrease runoff volume, protect downstream streams and rivers, and create more interesting places to live.
- (b) The following green infrastructure techniques may be incorporated into new subdivisions with approval from the City Engineer provided that the applicant submits documentation that the proposed green infrastructure technique is effective and will equal or exceed the function of traditional infrastructure techniques and meet the requirements of these regulations:
 - (1) Grassy swales and shoulders without curb and gutter;
 - (2) Pedestrian walkways that do not constitute the sidewalks required by these regulations;
 - (3) Bioretention swales;
 - (4) Planter boxes;
 - (5) Other techniques as may be suggested in the ODN Rainwater and Land Development Manual, approved by the City Engineer.
- (c) **Criteria for Green Infrastructure Waivers**
The City Engineer may grant a green infrastructure waiver for use of the green infrastructure techniques provided:
 - (1) The techniques will utilize the landscape or nature's ability to reduce, slow, filter, and/or absorb storm water runoff from streets, parking lots, and buildings in a method that equals or exceeds the existing infrastructure requirements of the City;
 - (2) The techniques are consistent with best management practices;
 - (3) Covenants or other agreements have been presented to the City, in a format acceptable by the Knox County Prosecutor, that provide for the long-term maintenance of any approved green infrastructure;
 - (4) The technique has been designed by a professional engineer and is accompanied by documentation stating that the proposed technique does not pose a threat to public safety;
 - (5) Site geotechnical reports with infiltration rates are provided;
 - (6) A draft operation and maintenance manual with expected costs is provided; and
 - (7) The entity responsible for the operation and maintenance is established.

1113.14 PARK DEDICATION (EXISTING 1115.16)

- (a) The Planning Commission shall require the dedication of five percent of the gross area of a proposed residential subdivision in order to better meet the future open space needs of the City. Where such a dedication is required, steep slopes, streams, lakes, watercourses and floodplains shall constitute a maximum of 40 percent of the dedicated land. In addition, all land proposed for dedication must have public access by adjoining street frontage of not less than 100 feet, or by a public easement of equal size. In no instance shall the Planning Commission require the dedication of parkland where the size of the proposed parcel would amount to less than one-half acre.
- (b) In any residential subdivision where the dedication of land for park purposes is deemed by the Planning Commission not to be in the best interest of the general public, the Commission shall require, as a condition to approval, fees to be paid according to a fee schedule as established by City Council.
- (c) Where a fee in lieu of dedication is required as a result of the construction of new housing within the City, that money shall be payable upon issuance of a zoning permit by the Zoning Administrator. In addition, all fees collected as a result of new residential subdivision development shall be deposited in a special account which may subsequently be used for the purpose of either parkland acquisition or development.
- (d) The requirements of this section shall apply to Planned Unit Developments where open space and parks shall be included in the development pursuant to Chapter <>.¹⁵⁸

¹⁵⁷ This included as an option for subdividers, not a mandate.

¹⁵⁸ This was added because the PUD has pretty specific requirements for open space and open space improvements.

CHAPTER 1114: NONCONFORMITIES¹⁵⁹

1114.01 PURPOSE

Within the districts established by this code, some lots, uses of lands or structures, or combinations thereof may exist which were lawful prior to the effective date or amendment of this code, but that are prohibited, regulated, or restricted under the terms of this code. The legitimate interests of those who lawfully established these nonconformities, especially when dealing with a person's residence, are herein recognized by providing for the continuance of such uses, subject to regulations limiting their completion, restoration, reconstruction, extension, and/or substitution. Nevertheless, while it is the intent of this code that such nonconformities be allowed to continue until removed, they should not be encouraged to survive, unless otherwise allowed in this chapter or specifically addressed in this code. This chapter has the further purposes for nonconformities:

- (a) To permit their continuance but control nonconformities so as to minimize any adverse effect on the adjoining properties and development;
- (b) To regulate their maintenance and repair;
- (c) To restrict their rebuilding if substantially destroyed;
- (d) To require their permanent discontinuance if not operated for certain periods of time; and
- (e) To require conformity if they are discontinued, and to bring about eventual conformity in accordance with the objectives of the Comprehensive Plan and this code.

1114.02 GENERAL PROVISIONS

- (a) Any structure, land, or use of land or a structure that existed at the time of the effective date of this code, that was legally established under a previous code amendment or versions, may be continued even if such use, building, structure, or use of land does not conform to the provisions of this code.
- (b) An applicant for any development review procedure (e.g., zoning compliance review, conditional use, variance, etc.) that involves a nonconformity shall bear the burden of proof in demonstrating that the use, building, or structure, or combination thereof, was a legal nonconformity after the effective date of this code.
- (c) Passage of this code in no way legalizes any illegal uses existing at the time of its adoption.
- (d) Whenever any nonconformity has been changed so that the use, structure, or condition conforms to the requirements of this code, such use, structure, or condition shall no longer be defined as a nonconformity, nor shall the property or structure be returned to the former nonconformity.
- (e) **Nonconformities and Conditional Uses**
 - (1) Any use which has been approved as a conditional use in a district under the terms of this code shall not be deemed a nonconforming use in such district, but shall be considered a conforming one.
 - (2) In the event an existing use that was permitted by right at the time the use was established is thereafter reclassified as a conditional use in the applicable district due to a zoning text amendment, such use shall be considered to be an approved conditional use without any further action. However, any subsequent change to such use shall require review and approval in accordance with Section [1103.05](#). Such use, provided it is conditionally permitted in the applicable district, shall not be considered a nonconforming use.
- (f) **Nonconformities and Variances**
 - (1) Where a variance for any area, dimension, or use is granted under the terms of this code, such varied area, dimension, or use shall not be considered nonconforming.
 - (2) When a property owner or authorized agent is granted a variance for a nonconformity that addresses the nonconformity, the structure or lot shall no longer be considered nonconforming. In no case shall the resolved nonconformity be expanded or altered to create further nonconformities.

¹⁵⁹ This chapter is an expansion of the existing Chapter 1131, that treats all nonconformities the same. In this version, nonconforming uses are separately regulated from nonconforming structures and site conditions, the latter of which would have a conforming use, but only not conform to setbacks, heights, etc. As such, it is typically not the intent to stop the use of a building if the use is conforming but it encroaches into a setback.

- (3) If a property owner or authorized agent is granted a variance for a nonconformity that addresses some nonconformities but additional nonconformities continue, the structure or condition that remains a nonconformity shall still be subject to the provisions of this chapter.

1114.03 NONCONFORMING USES

Where, at the time of adoption of this code, lawful uses of land or structures, or a combination thereof, exist that would not be permitted by the regulations of this code, the uses may be continued so long as they remain otherwise lawful and provided:

- (a) No such nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land or structure than was occupied at the effective date of adoption or amendment of this code.
- (b) No such nonconforming use shall be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this code.
- (c) No additional structures shall be constructed on a lot with a nonconforming use unless such new structure complies with the requirements of this code and the applicable zoning district.

(d) **Termination of Nonconforming Uses**

(1) **Termination of Use through Discontinuance**

- A) When any nonconforming use is discontinued or abandoned for more than one year, any new use shall conform to the regulations of the district in which it is located, and the nonconforming use may not thereafter be resumed. The intent to continue a nonconforming use shall not be evidence of its continuance.
- B) There may be cases when a structure, or structure and premises in combination, may not be converted to a conforming use because of the original floor plan and design (e.g., townhouses in a single-family residentially zoned area). In these cases, the Planning Commission may determine that the nonconforming use may continue if the nonconforming use is the original use of the structure and/or premises. Appropriate safeguards, conditions and design standards may be required by the Planning Commission so as to minimize the impact of such continuance on the area. The Planning Commission shall review such requests through the conditional use procedure.

(2) **Termination of Use by Damage or Destruction**

- A) If a nonconforming residential use, in any district, is damaged or destroyed to any extent, such structure and use may be reestablished on the same lot provided the structure and use meet the same size in height and footprint, as well as complying with the same setbacks as previously existed.¹⁶⁰
- B) If any building containing a nonconforming use, other than a residential use, is damaged, but not to an extent greater than 50 percent of the principal structure's market value, as determined by the Montgomery County Auditor,¹ such structure and use may be reestablished on the same lot to the same size and intensity of use as was previously existing immediately prior to the damage. Such reestablishment of the use shall require the issuance of a building permit, which must be issued within 12 months of the damage or the use shall not be reestablished.
- C) If any building containing a nonconforming use, other than a residential use, is damaged beyond 50 percent of the principal structure's market value, as determined by the Montgomery County Auditor, such structure and use may only be reestablished in accordance with this code.

1114.04 NONCONFORMING STRUCTURES AND SITES

A nonconforming structure or site may continue to be used or occupied by a use permitted in the applicable zoning district so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:

¹⁶⁰ This is somewhat accommodated in the current code, with flexibility given to residential uses. This language states that any nonconforming residential can be rebuilt if destroyed, to the manner it was previously built. This will allow for financing of homes when they are sold and most communities do not want to tell people they cannot rebuild their homes.

- (a) Any nonconforming structure or site may be enlarged, maintained, repaired, or altered provided, however, no such enlargement, maintenance, repair or alteration shall either create an additional nonconformity or increase the degree of the existing nonconformity of all or any part of such structure or site, unless otherwise specified in this code.¹⁶¹
- (b) A nonconforming structure shall not be relocated in whole or in part to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the applicable zoning district after being relocated.
- (c) The principal use of a nonconforming building may be changed to any other use permitted in the applicable zoning district as long as the new use complies with all regulations of this code specified for such use, except the regulations to which the building did not conform prior to the change in use.
- (d) The governmental acquisition of a portion of a lot for a public purpose that results in reduction in a required yard or building setback below that required in the applicable zoning district shall not render a structure nonconforming.
- (e) **Damage or Destruction of a Nonconforming Structure Containing a Conforming Use**
 - (1) If a nonconforming structure is damaged, but not to an extent greater than 50 percent of the structure's market value, as determined by the Montgomery County Auditor, such structure and use may be reestablished on the same lot to the same size and intensity of use as was previously existing immediately prior to the damage. Such reestablishment of the use shall require a zoning compliance review approval within 12 months of the initial damage. If an owner rebuilds a legally nonconforming structure under this provision, they may expand the structure provided any expansion or change does not increase the nonconformity that existed prior to the damage.
 - (2) If a nonconforming structure is damaged beyond 50 percent of the structure's market value, as determined by the Montgomery County Auditor, such structure shall only be rebuilt in compliance with the requirements of this code. Such reconstruction shall require the application and issuance of all necessary zoning and building permits.
 - (3) If the owner voluntarily removes a nonconforming structure, or reduces the nonconformity of a nonconforming structure that has not been damaged or destroyed, that owner shall not be permitted to rebuild the structure to the original height, size, or setback.

1114.05 NONCONFORMING LOTS OF RECORD¹⁶²

A lot of record which does not comply with the lot or yard regulations of the district in which it is located on the effective date of this code or any amendment thereto which made it nonconforming, may be used as follows:

- (a) If occupied by a building, such building may be maintained, repaired or altered. However, the building may not be enlarged in floor area unless the depth of front yard, total width of side yards, and the rear yard regulations are complied with.
- (b) If vacant, the lot may be used provided that:
 - (1) No adjoining vacant lot or parcel of land was owned by the same owner on the effective date of this code;
 - (2) Not owning adjoining land, other vacant land adjoining the lot cannot be equitably acquired; and
 - (3) All other regulations of this code, except the lot area and lot width regulations, shall be complied with.

1114.06 NONCONFORMING SIGNS

See Section [1114.06](#) for the regulation of nonconforming signs.

1114.07 NONCONFORMING FENCES AND WALLS

See Section [1108.05\(c\)](#) for the regulation of nonconforming fences and walls.

¹⁶¹ This will let someone expand a nonconforming structure, provided it doesn't increase the level of nonconformity. For example, someone can add on to the rear of their building if the nonconformity is that the front of the building encroaches into the front yard.

¹⁶² The current code does not appear to address nonconforming lots of records. This would allow someone to build on such lots, provided they cannot be consolidated into a single zoning lot and/or they can comply with other requirements of this code.

1114.08 REPAIR AND MAINTENANCE

- (a) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, provided that the footprint and height of the structure as it existed, when it became nonconforming, shall not be increased unless in accordance with this chapter.
- (b) Nothing in this section shall be deemed to prevent the strengthening or restoring to safe condition of any building, or part thereof, declared to be unsafe by any official charged with protecting the public safety, including, but not limited to the Zoning Administrator, fire inspector, or building inspector, upon order of such official. Where appropriate, a building permit for such activities shall be required.

CHAPTER 1115: ENFORCEMENT AND PENALTIES¹⁶³

1115.01 ENFORCEMENT BY THE ZONING ADMINISTRATOR

- (a) The Zoning Administrator is hereby designated as the enforcing officer of this code.
- (b) The Zoning Administrator is hereby authorized to enforce as well as issue orders to prevent and stop violations of the provisions of this code.
- (c) The Zoning Administrator may request and shall receive, so far as may be necessary in the discharge of their duties, the assistance of the City Engineer in fixing grades, of the Chief of Police in enforcing orders, of the Law Director in the prosecution of violations and of other City officials.

1115.02 RECORDS

The Zoning Administrator shall keep careful and comprehensive records of applications, permits issued, certificates issued, inspections made, reports rendered and notices or orders issued. They shall retain on file copies of all papers in connection with building work so long as any part of the building or structure to which they relate may be in existence. All such records shall be open to public inspection, at reasonable hours, but shall not be removed from the office of the Zoning Administrator.

1115.03 VIOLATIONS

- (a) It shall be unlawful to:
 - (1) Use or occupy any land or place; build, erect, alter, remodel, restore, or rebuild thereon any building or structure; permit any building or structure to remain on such land; or use, occupy, or operate such building or structure, in any way or for any use or purpose which is not permitted by the provisions of this code;
 - (2) Use or occupy any parcel of land; use or occupy a new building; or enlarge, substitute, or otherwise change the use, occupancy, or configuration of any land or building, without having received a certificate of zoning compliance approval, site plan approval, conditional use approval, subdivision plat approval, or other required approvals indicating compliance with the provisions of this code;
 - (3) Violate or fail to perform any condition, stipulation or safeguard set forth in any certificate issued pursuant to this code, or continue to use or occupy the premises or building as previously authorized by such certificate beyond the duration limit therein stated;
 - (4) Continue construction, renovation, or improvements contrary to a stop work order or notice of violation;
 - (5) Knowingly make any materially false statement of fact in an application to the Zoning Administrator for any approvals required by this code;
 - (6) Subdivide land in a manner contrary to the standards and regulations contained in this code; or
 - (7) Sell land that has not been subdivided in accordance with the regulations in this code.
- (b) Each day's continuation of a violation of this section may be deemed a separate offense.

1115.04 PERMIT REVOCATION

The Zoning Administrator may issue a revocation notice to revoke a permit, certificate, or administrative approval that was issued contrary to this code or that was based upon false information or misrepresentation in the application.

1115.05 COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this code occurs, or is alleged to have occurred, any person may file a complaint. Such written or verbal complaints shall fully state the causes and basis of the complaint and shall be filed with the Zoning Administrator.

¹⁶³ This pulls together several pieces of language from across the existing code that all relate to enforcement and penalties.

1115.06 INSPECTION OF PROPERTY

The Zoning Administrator may inspect any building erected, altered, moved, razed or converted, and any use of land or premises carried on in alleged violation of any of the provisions of this code.

1115.07 INJUNCTION

No person may erect, construct, alter, repair or maintain any building or structure, or use any land in violation of this code or the regulations enacted pursuant thereto. In the event of any such violation, or imminent threat thereof, upon the request of the Mayor or City Council, the Law Director, on behalf of the City, shall institute a suit for injunction to prevent or terminate such violation.

1115.08 NOTICE OF VIOLATION

Upon finding a violation, the Zoning Administrator shall order, in writing, the owner, agent, occupant or operator of such building or premises to correct, within a stated reasonable time, all conditions that are found to be in violation of this code. After such a notice is served, no work, except to correct the violation or comply with the notice, shall proceed on any building or premises included in the violation.

1115.09 PENALTIES AND REMEDIES

- (a) If the Montgomery County Recorder records a plat in violation of any of the provisions of this code, they shall be fined not less than 100 dollars nor more than 500 dollars, as provided in Ohio R.C. 711.12, to be recovered with costs in a civil action by the prosecuting attorney in the name and for the use of the City.
- (b) Whoever transfers or negotiates to transfer any lot in a subdivision before the final plat of such subdivision has been approved by the Planning Commission and recorded in the Montgomery County Recorder's office, or attempts the description of land by metes and bounds in violation of this code, shall be fined not less than 10 dollars nor more than 1,000 dollars.
- (c) Failure to correct the conditions in violation with the provisions of this code, as ordered by the Zoning Administrator, shall constitute a misdemeanor of the fourth degree and shall be fined in up to 250 dollars per day of violation.
- (d) Repeated offenses that occur within the same year shall result in escalating penalties as established below:¹⁶⁴
 - (1) On a first offense, misdemeanor of the fourth degree, a fine of up to 250 dollars;
 - (2) On a second offense within one year, misdemeanor of the third degree, a fine of up to 500 dollars;
 - (3) On a third offense within one year, misdemeanor of the second degree, a fine of up to 750 dollars;
 - (4) On a fourth and any subsequent offense within one year, misdemeanor of the first degree, a fine of up to 1,000 dollars.
- (e) Each day a violation continues after due notice has been served in accordance with the terms and provisions hereof, shall be deemed a separate offense. Any other person, who commits, participates in or assists in the continuation of said violation may each be found guilty of a separate offense and suffer the penalties provided.
- (f) In any instance where the City incurs any expenses, including but not limited to legal costs and fees, because of any person or entity's non-compliance with any provision of this code, the expenses incurred, plus an administrative fee equal to the expenses incurred shall be recovered from the person or entity.
- (g) Any amounts owed to the City of Trotwood pursuant to any provision of this chapter, whether for work completed by the City or for assessed penalties or expenses, may be certified by the Zoning Administrator as a lien against the property with the Montgomery County Auditor for collection in the same manner as property taxes and assessments.

¹⁶⁴ This is an escalating penalty for repeat offense that many communities like to include in codes now.

1115.10 AFFECTED PARTIES

The owner or tenant of any building, structure, premises, or part thereof, and any architect, engineer, surveyor, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation may be found guilty of a separate offense and suffer the penalties herein provided.

1115.11 OTHER ACTIONS

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

CHAPTER 1116: DEFINITIONS

1116.01 PURPOSE

It is the purpose of this chapter to define words, terms, and phrases, or identify references, contained in this code.

1116.02 TERMS NOT DEFINED

If a term used in this code is not defined in this chapter, the Zoning Administrator shall have the authority to provide a definition based upon the definitions used in accepted sources, including but not limited to, A Planners Dictionary, A Glossary of Zoning, Development, and Planning Terms, and A Survey of Zoning Definitions, published by the American Planning Association. The Zoning Administrator may also rely on Webster's Dictionary or a similar source for the definition of terms.

Abut, Adjoin, or Adjacent

The land, lot, or property adjoining the property in question along a lot line or separated only by an alley, easement, or street.

Access

Any driveway or other point of entry and/or exit onto or from a street, road, or thoroughfare, which connects to the general street system.

Accessibility Ramps

Permanent or portable ramps utilized to provide a disabled person with accessibility to a structure.

Accessory Dwelling Unit

A secondary dwelling or dwelling unit that is added, created, or constructed on a parcel of land on which an existing dwelling or dwelling unit already exists. A secondary dwelling unit may or may not be attached to or a part of the pre-existing principal dwelling.

Active Recreational Facilities

Any park or recreational facility that is owned, managed, or operated by the City of Trotwood, a local township, Montgomery County, the State of Ohio, or a nonprofit agency. Such park or recreational facility requires grading of the land, construction of facilities, lighting, or is developed for athletic fields, tennis courts, swimming pools, skate parks, disc golf, golf courses and other similar outdoor facilities. Such uses may include accessory retail uses that are customarily incidental recreational uses including, but not limited to, souvenir or concession stands.

Adaptive Reuse of a Pre-Existing Building

The permitted use of a building that existed prior to the effective date of this code for a use that is not otherwise allowed in the applicable zoning district where the design of the building is found by the Planning Commission to not be designed in a manner that would readily allow a use permitted in the applicable zoning district.

Administrative, Business, or Professional Offices

A building or portion of a building wherein services are performed involving predominately administrative, professional or clerical operations, and wherein no retail trade is carried on and no stock of goods for retail sale are maintained on the premises.

Adult Arcade

Adult arcade shall mean any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing specified sexual activities or specified anatomical areas.

Adult Bookstore, Adult Novelty Store, or Adult Video Store

A commercial establishment that, for any form of consideration, has as a significant or substantial portion of its stock-in-trade in, derives a significant or substantial portion of its revenues from, devotes a significant or substantial portion of its interior business or advertising to, or maintains a substantial section of its sales or display space for the sale or rental of any of the following:

- Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations, which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
- Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment as defined in section 2907.38 of the Ohio Revised Code. An establishment may have other principal business purposes that do not involve the offering for sale, rental, or viewing of materials exhibiting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an "adult bookstore," "adult novelty store," or "adult video store." The existence of other principal business purposes does not exempt an establishment from being categorized as an "adult bookstore," "adult novelty store," or "adult video store" so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, such materials that exhibit or describe "specified sexual activities" or "specified anatomical areas."

Adult Cabaret

A night club, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, that regularly features any of the following:

- Persons who appear 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, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult Entertainment

The sale, rental, or exhibition, for any form of consideration, of books, films, video cassettes, magazines, periodicals, or live performances that are characterized by an emphasis on the exposure or display of "specified anatomical areas" or "specified sexual activity."

Adult Entertainment Establishments

An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, sexual encounter establishment, or a nude or semi-nude model studio. An establishment in which a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized therapy, including, but not limited to, massage therapy, as regulated by the ORC, is not defined as an adult entertainment establishment.

Adult Motion Picture Theater

A commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

Adult Theater

A theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state of nudity or semi-nudity or live performances that are characterized by their emphasis upon the exposure of "specified anatomical areas" or "specified sexual activities."

Agricultural Equipment and Material Sales and Leasing

Any building or land where new or used farm equipment (e.g., tractors, combines, attachments, etc.) or materials (e.g., seeds, fertilizer, etc.) are sold or leased to customers.

Agriculture – Horses

An agricultural use where horses are raised and kept for the personal use of the resident that is accessory to a single-family dwelling.

Agriculture – Raising of Crops

Any use of land for the growing and harvesting of legal agricultural crops and trees for commercial agricultural purposes. Agricultural uses include, but not limited to, raising of crops, horticulture, floriculture, and viticulture and the necessary accessory uses for parking, treating or sorting the products; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities. Buildings occupied as residences by persons engaged in agricultural operations shall not be considered to be used for agricultural purposes. See also “community gardens.”

Air-Activated Graphic

A sign, all or any part of, which is designed to be moved by action of forced air so as to make the sign appear to be animated or otherwise have motion. See also the definition for “Sign, Balloon.”

Alley

A public or private way not more than twenty feet wide which provides secondary access to the rear or side of an abutting property.

Alternative Energy Systems

Accessory structures that use wind or solar radiation for the generation of electricity for use on the same lot as the structures. See the definition of “wind turbines” and “solar panels.”

Amateur Radio Antennas

A system of cables, electrical conductors, insulators, metallic or nonmetallic tubing, poles, reflecting discs, rods, wires, or similar objects used for transmission or reception of radio signals or electromagnetic waves for amateur radio service.

Animal Boarding Facilities and Day Care

Any building, structure, land, or combination thereof, used, designed or arranged for the boarding, breeding or care of six or more domestic animals or pets more than four months of age, for profit. Such use may also include training and daycare facilities.

Animal Hospital/Clinics and Animal Grooming (No Outdoor Kennels)

A building where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Such uses shall not have any outdoor facilities for the boarding or keeping of animals. Temporary boarding indoors is permitted for animals under treatment of a veterinarian. Such use may include facilities for animal grooming.

Appeal

A review procedure by which a person may call into question an administrative decision made in accordance with this code. See Section [1103.08](#).

Applicant

Unless otherwise specified, an owner of a property or an agent for the owner, including, a subdivider, developer, attorney, or similar representative, who has filed an application for review pursuant to [Chapter 1103: Review Procedures](#) or other review procedures established in this code.

Application

The process by which the applicant submits a request for any type of review or approval identified in [Chapter 1103: Review Procedures](#). Applications include all written documentation, verbal statements, and representations, in whatever forms and quantities as required by the City.

As Built Drawings

A set of drawings supplied by the contractor or developer indicating the final subdivision as constructed. These drawings shall indicate all changes made during construction with respect to the construction drawings and grading; utility plans submitted with the final plat.

Assembly Halls or Conference Centers

Facilities or buildings available for lease by private parties that may include kitchen facilities for the preparation or catering of food, the sale of alcoholic beverages for on-premises consumption during scheduled events not open to the public, and/or outdoor gardens, decks, or reception facilities.

Automotive Parts, Repair, and Service (Light)

Any structure or premises used for the sale of vehicle parts and fluids, excluding fuel sales, including lubrication of motor vehicles and replacements or installation of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair, or spray painting. Such uses shall also include establishments that sell parts or tires for vehicles as a retail establishment, regardless if the parts are installed on-site.

Automotive Repair and Service (Heavy)

Any general repair, rebuilding, reconditioning, body or fender work, framework, painting or the replacement of major parts of motor vehicles (e.g., major engine repair). This use type may also include towing services that provide towing or conveyance of a wrecked, inoperable, disabled, or illegally parked motor vehicle but shall not include storage of such vehicles on site.

Awning

A shelter projecting from and supported by the exterior wall of a building, constructed of non-rigid materials on a supporting framework. See also definition of “canopy.”



Figure 1116-A: Examples of traditional awnings

Bar, Lounge, Nightclub

A business establishments where the principal use is the serving of alcoholic beverages for consumption on the premises including beer, wine and mixed drinks.

Basement

A story all or partially underground but having at least one-half of its height below the average level of the adjoining ground. See also the definition of “story.”

Bed and Breakfast Establishments

Any place of lodging that provides five or fewer rooms for rent on a temporary basis, is the owner’s personal residence, is occupied by the owner at the time of rental, and where meals are served to guests.

Bedroom

A private room planned and intended for sleeping, separable from other rooms by a door, and accessible to a bathroom without crossing another bedroom or living room.

Berm

An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise. The height of a berm shall be measured from the average natural grade at the base of the berm.

Bikeway

A dedicated public way for nonmotorized vehicular use, whether along the side of a road or not. Bikeways may be part of sidewalks and walkways.

Block

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

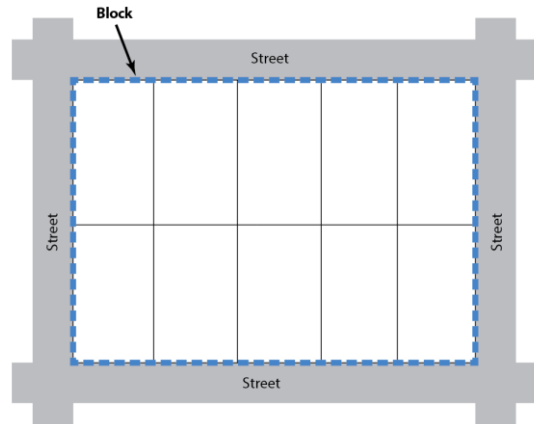


Figure 1116-B: Illustration of block

Block Face

All lots that have frontage on the same street as the subject lot between an intersecting street or other boundary.

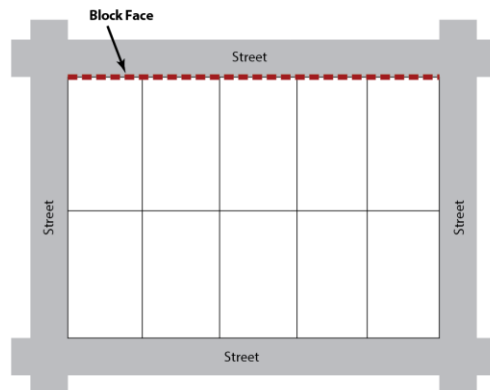


Figure 1116-C: Illustration of block face

Board of Zoning Appeals

A local decision-making board, created by ordinance, whose responsibility is to hear appeals from decisions on local administrative decision; to consider requests for variances permissible under terms of this code; and undertake other roles as established in Section [1102.04\(c\)](#).

Buffer (Wireless Telecommunications)

A landscape screen and/or wall that is planted or constructed for the purpose of blocking visual access to the telecommunications facility from adjacent properties.

Buffer Yard

A landscaped area located between uses of a different intensity, based on the applicable zoning districts, that helps screen the more intense use from the adjacent properties.

Building

Any structure, of more or less permanent construction, having one or more floors and a roof supported by columns or walls, which is completely enclosed and is designed or intended for the shelter or protection of persons, animals, or property. When separated by party walls, each portion of such building shall be considered a separate structure. The term shall be used synonymously with "structure," unless otherwise noted, and shall be construed as if followed by the words "parts or parts thereof."

Building Height

The vertical distance of a building as measured in Section [1105.05\(d\)](#).

Building Lines

The lines along the interior side of required front, rear and side yards setbacks.

Building Permit

A permit issued after review to a party proposing to fall trees, clear, excavate, or fill land, or commence alterations to a structure or commence erection of a structure; such permit recognizing that the proposed work complies with the provisions of this chapter, the applicable zoning district regulations as well as all other requirements of the Trotwood Planning and Zoning Code, and other pertinent ordinances of the Municipality.

Building Unit

Any building subdivided into separate units or spaces and any interior space occupying any portion of the ground floor of any building provided that each unit or space has its own exterior entrance and is separated from other such spaces by a party wall or walls. See further definitions in Section [1112.06\(e\)](#).

Building, Accessory

A subordinate building detached from, but located on the same lot as, the principal or main building, the use of which is incidental and accessory to the principal building or use.

Building, Nonconforming

A building or portion thereof, lawfully existing on the effective date of this code, or amendments thereto, and that does not conform to the provisions of the code in the district in which it is located.

Building, Principal or Main

A building occupied by the main use of the lot on which said building is located.

Bulk Sale, Storage, or Distribution

An establishment that sells, stores, or distributes materials in bulk containers that could include fuel, oils, grains, or other food products, etc.

BZA

City of Trotwood Board of Zoning Appeals

Canopy

A permanent structure made of cloth, metal or other material attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure but typically is supported by features other than the building facade (e.g., structural legs, building extensions, etc.). See also the definition of “awning.”



Figure 1116-D: Example of a canopy and related sign

Carport

A roofed shelter, open on at least two sides, designed as a shelter for operable automobiles. A carport may be freestanding or may be formed by the extension of a roof from the side of a building.



Figure 1116-E: Example image of a detached carport.

Cemeteries

Land used for the burial of the human dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

Channel

A natural stream that conveys water; a ditch or channel excavated for the flow of water.

City Engineer

Any person, firm, or organization designated by the City Manager to review and advise the City public improvements, the subdivision of land, and other technical requirements of the City's ordinances.

Clearing

Clearing, grubbing, scalping, removal of trees and stumps, and removing and disposing of all vegetation and debris within the site, and shall include the conditions resulting therefrom.

Collocation

The use of a wireless telecommunication facility by more than one wireless telecommunication provider.

Commercial and Business Support Services

A profit-making activity which renders services to other commercial or industrial businesses such as, but not limited to, courier services, information technology consultants, and internet providers.

Commercial Greenhouses/Garden Stores

An establishment used for the growing, storage, and sale of legal garden plants, shrubs, trees, or vines for retail or wholesale sales where at least 75 percent of the floor area of sales takes place within an enclosed building. Greenhouses that are part of a larger agricultural use shall be considered accessory to the principal agricultural use of the land.

Commercial Recreational Facilities (Indoors)

A facility for any indoor profit-making activity which is providing participatory and/or spectator activities, such as, but not limited to, live performances, bowling alleys, commercial recreation, video game rooms, billiard halls, indoor skating rinks, bingo parlors and similar entertainment activities. Commercial recreational facilities shall not include "adult entertainment establishments."

Commercial Recreational Facilities (Outdoors)

Land or facilities for any profit-making activity which is providing outdoor participatory and/or spectator activities such as, but not limited to, privately managed or owned parks, amusement park, water parks, rollerblade rental, pay-to-play athletic fields, golf courses, miniature golf courses, driving ranges, outdoor ice-skating rinks, batting cages or swimming pools. Commercial recreational facilities shall not include "adult entertainment establishments."

Commission

The Planning Commission of the City of Trotwood.

Community Gardens

A single piece of land that is gardened collectively by a group of people that may include individual garden plots designated for individual gardens.

Comprehensive Plan

The officially adopted land use plan of the City as may be amended from time to time.

Concrete and Asphalt Production

A facility where raw materials are processed into concrete or asphalt for sale and/or immediate use. Facilities typically include all necessary equipment for both transport and application of the finished product.

Construction

The erection, alteration, repair, renovation, demolition or removal of any building or structure; and the clearing, stripping, excavating, filling, grading and regulation of sites in connection therewith.

Contractor Equipment and Storage Yards

An unenclosed area or portion of a lot upon which a construction contractor maintains its principal office or a permanent business office used to store and maintain construction equipment and other materials customarily used in the trade carried on by a construction contractor. Such uses can include contractors including, but not limited to, landscaping and building contractors, who operate an office and storage yard on the same lot.

Correctional Facility

A publicly or privately operated facility housing persons awaiting trial and/or persons serving a sentence after being found guilty of a criminal offense. A correctional institution would include a jail, prison, work-release center, and any other similar facility. A correctional institution may also include the offices of a sheriff's department and other similar uses.

Covenant

A series of controls included in a record plan which acts to further regulate development within a subdivision.

Cremation Services

A facility that reduces human remains or animal remains, upon death, to bone fragments or ash through heat or other methods acceptable and regulated by the State of Ohio.

Cultural Facilities

Public or private facilities used for display, performance, or enjoyment of heritage, history, or the arts. This use includes, but is not limited to, museums, libraries, art performance venues, cultural centers, and interpretative sites. Such use shall not include "theaters."

Cut

For the purposes of excavation, a cut is the difference between a point on the original ground and a designated point of lower elevation on the final grade. The term also means the material removed in excavation.

Day Care (Accessory Use)

An accessory uses that includes a facility operated for the purpose of providing care, protection, and guidance to individuals during part of a 24-hour day. This term includes nursery schools, preschools, adult day care centers, child day care centers, Type-A day care homes, Type B day care homes, and similar uses. Day care center does not include public or private educational facilities or any facility offering care to individuals for a full 24-hour period.

DBH

See definition of "diameter at breast height."

Debris

Loose refuse or earth material not suitable for use as presently situated or constituted as determined by the approving agent.

Dedication

The granting of land by its owner for any of a number of public uses.

Detached Accessory Buildings

See definition of "building, accessory."

Developer

Any individual, subdivider, firm, association, syndicate, partnership, corporation, trust, or other legal entity commencing proceedings under this code to affect the development of land for himself or herself or for another.

Development

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

Diameter at Breast Height (DBH)

The diameter of a tree measured at 4.5 feet above ground level. Diameter can be measured with diameter tape (available from a forestry or arborist supplier) or a tape measure and convert using this ratio (3-inch on a tape measure = 1-inch on a diameter tape).

Distribution Facility

A use where goods are received and/or stored for delivery to the final consumer at off-site locations.

District

See definition of "zoning district."

Drainageway

An area of concentrated water flow other than a river, stream, ditch or grassed waterway.

Drive-Through Facilities

Any portion of a building from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions. The term "drive-through" shall also include "drive-up" and "drive-in" but shall not include car washes, automotive fuel sales, or automotive repair and service establishments. See also the definition of "pick-up windows."

Driveway

A private access way used by vehicles and pedestrians for access to a parking space, garage, dwelling, structure, or a use of land.

Driveway Apron

A driveway apron is the portion of the driveway starting at the curb of a street and ending at the street's right-of-way line that creates the space where vehicles can drive from the street onto the driveway. This is the area known as a curb cut.

Dwelling Unit

A single unit of one or more rooms providing complete, independent living facilities for one family, or alternatively by one housekeeping unit. For any attached dwelling units allowed by this code, each individual dwelling unit must have access to water, sewer, and electric that have separate meters and billing from other dwelling units in the same building

Dwelling, Four-Family

A building, or portion thereof, designed with four separate dwelling units.

Dwelling, Multi-Family

A building, or portion thereof, designed with five or more separate dwelling units.

Dwelling, Single-Family

A building designed for or used exclusively for residential purposes by one family or housekeeping unit per lot, but which includes both "single-family detached dwellings" and "single-family attached dwellings."

Dwelling, Single-Family Attached

A building designed with two separate dwelling unit that are separated by a shared wall that follows a shared side lot line, resulting in a single-family dwelling located on each of two lots.

Dwelling, Single-Family Detached

A building designed for or used exclusively for residential purposes by one family or housekeeping unit.

Dwelling, Three-Family

A building, or portion thereof, designed with three separate dwelling units located on a single lot.

Dwelling, Two-Family

A building, or portion thereof, designed with two separate dwelling units located on a single lot.

Earth-Disturbing Activity

Any grading, excavation, filling, or other alteration of the earth's surface where natural or manmade ground cover is destroyed and which may result in or contribute to erosion and sediment pollution.

Easement

A right granted by the owner of land to other parties to use such land for a specific purpose, such as public utility lines or for access to other properties.

Educational Institutions (Higher Education)

Any private or public secondary educational institution that includes, but is not limited to: secretarial schools, colleges and universities, business schools, cosmetology schools, seminaries, or any other institution providing collegiate level curriculum and other post-secondary school educational opportunities. Where such schools include a dormitory or other forms of housing for students or staff, such housing shall be considered a part of the educational institution provided it is on the same lot or within the same development as the educational institution.

Educational Institutions (Preschool and K-12)

A public or private facility that provides a curriculum of primary, elementary, secondary or college preparatory academic instruction, including, but not limited to, preschools, kindergartens, elementary schools, junior high schools, and high schools. This definition shall not be deemed to include colleges, trade or business schools, or other post-secondary education facilities. Where such schools include a dormitory or other forms of housing for students or staff, such housing shall be considered a part of the educational institution provided it is on the same lot or within the same development as the educational institution.

Engineer

Any person registered to practice engineering in Ohio.

Enterprise Data Centers

A physical facility or building that houses groups of networked computer servers, storage systems, and computing infrastructure used to store, process, and share digital data and applications. Such facilities are explicitly prohibited in the City of Trotwood unless accessory to the use it serves.

Erosion

The wearing away of the land surface by running water, wind, ice or other geological agents, including such processing as gravitational creep; detachment and movement of soil or rock fragments by wind, water, ice or gravity.

- "Accelerated erosion" means erosion much more rapid than normal, natural or geologic erosion, primarily as a result of the influence of the activities of man.
- "Rill erosion" means an erosion process in which numerous small channels only several inches deep are formed; occurs mainly on recently disturbed soils.
- "Sheet erosion" means the removal of a fairly uniform layer of soil from the land surface by wind or runoff.

Essential Services

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

EV Ready

See definition in Section <>.

Excavation

Any act by which earth, sand, gravel, rock or any similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed, and the conditions resulting therefrom.

FAA

The Federal Aviation Administration

Facade

The exterior walls of a building or building face exposed to public view; the exterior face of a building that gives it a distinctive character.

Facade, Front

The facade of a building that is the major facade facing the street on which the lot has street frontage.

Family

One or more persons, with their direct lineal descendants and adopted children (and including the domestic employees thereof), together with not more than two persons not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit.

Farmer's Market (Permanent)

A commercial operation and/or facility through which one or more farms offer seasonal products for sale. A farmers' market includes only those sales operations which occur in a pre-designated location and in which the vendors are the same entities which have raised the products for sale. A farmers' market occurs off-site from the location where the products have been raised. A farmers' market may include products in which items raised on the farm are the primary ingredients (such as pies, jams, jellies, etc.)

Fence

An enclosure or barrier which physically and/or visually contains certain uses and activities which are carried out on a particular parcel of property. Fences may be constructed of natural or manmade materials.

Fill

Any act by which earth, sand, gravel, rock, or any other material is placed, pushed, dumped, pulled, transported, or moved to a new location above the natural surface of the ground or on top of the stripped surface and shall include the conditions resulting therefrom. "Fill" also means the difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade.

Financial Institutions

Any building, property or activity of which the principal use or purpose of which is for depository purposes and including the provision of financial services including, but not limited to banks, credit unions, savings and loan institutions.

Finished Grade

The final grade or elevation of the ground surface conforming to the approved grading plan.

Fitness Center

A place or building where passive or active exercises and related activities are performed for the purpose of education, physical fitness, improved circulation or flexibility, and/or weight control.

Floor Area

- See Section <> for the calculation of floor area as it relates to minimum floor area requirements for dwelling units.
- For the purposes of measuring the footprint of buildings for other purposes in the code, it shall mean the sum of the horizontal areas of each story of the building measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches, but includes basement areas which are approved under the building code and designed and used for dwelling purposes.

Food Services

An establishment whose principal business is the preparation of food and beverages for serving off-site. This includes catering services where there is no on-site restaurant or area for the serving of prepared foods and drinks.

Food Truck Vendor

Any commercially manufactured, self-contained motorized vehicle currently licensed by the Ohio Department of Motor Vehicle and Public Health Dayton & Montgomery County selling food prepared specifically on site within the self-contained vehicle.

Footprint (Building)

The footprint of a building shall be the area of a lot covered by the first floor, at ground level, of the applicable building. The footprint is the area measured from the exterior faces of the exterior walls for that first floor.

Fraternal, Charitable, and Service-Oriented Clubs

A building or portion thereof or premises owned or operated by an entity, person or group of persons for a social, educational, religious, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Frontage, Building

The length of an enclosed building facing a public or private street. When a business does not front a public right-of-way the Zoning Administrator shall have the authority to designate the building frontage. In structures with more than one business, the frontage of each business shall be calculated separately in determining its sign area. See [Figure 1116-F](#).

Frontage, Street or Lot

The distance between the side lot lines measured along the required front setback line. In the case of a corner lot, frontage shall be measured along the shortest front lot line. Property lines which abut limited access roads shall not be construed to be included within any calculation of frontage. See [Figure 1116-F](#).

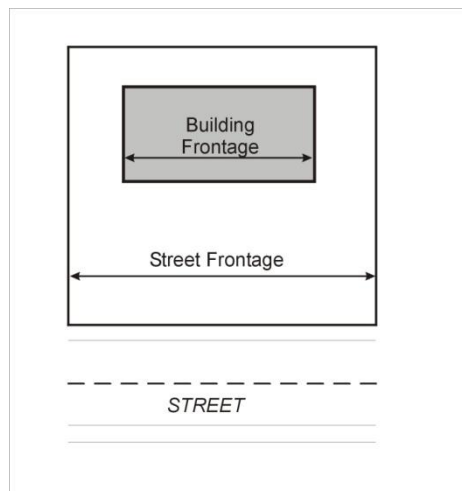


Figure 1116-F: Illustration of building frontage versus street frontage.

Fuel Stations

An establishment that sells unleaded and diesel gasoline or any other fuel used for in vehicles as part of a retail activity available to the general public. Such use shall not include electric charging stations that are located in individual parking spaces.

Funeral Homes and Mortuaries

Any dwelling or establishment used and occupied by a professional licensed mortician for human burial preparation and funeral services.

Government Facility, Non-Office

Buildings utilized for the provision of services by the City of Trotwood, Montgomery County, the State of Ohio, or the Federal Government that does not office space. Such uses include, but are not limited to, fire stations, police stations, salt barns, and other similar uses.

Government Facility, Office

An office space or similar facility occupied by the City of Trotwood, Montgomery County, the State of Ohio, or the Federal Government that provides a governmental service to the public.

Grading

The stripping, cutting, filling, stockpiling or any combination thereof of earth-disturbing activity inclusive of land in its cut or filled conditions.

Group Home

A group home shall include group living uses defined as:

- A residential facility that takes place within a dwelling that provides room, board, personal care, and supervision to foster children in a group setting. This term includes residential facilities licensed under Chapter 5103 of the ORC. Facilities providing the services and functions of Protective Care Facilities or Transitional Housing as defined in this Code shall not be considered foster care group homes. This term does not include "foster homes" as defined in Section 5103.02 of the ORC.
- A residential-facility use in a dwelling that provides room, board, personal care, and supervision for its residents. This term includes any of the following definitions: a Class II residential facility for individuals recovering from alcohol or drug addiction or requiring mental health support as defined by Chapter 5119 of the ORC; or, a residential facility for individuals with developmental disabilities as defined by Chapter 5123 of the Ohio Revised Code. Within the home, residents function in a family-like setting. Facilities providing the services and functions of Protective Care Facilities or Transitional Housing as defined in this Code shall not be considered supportive care group homes.

Group Home Operator

Any person or persons, firm, partnership, agency, governing body, association, corporation, or other entity that is responsible for the administration and management of a residential facility and that is the group home operator for a residential facility license and/or zoning compliance review approval.

Halfway House

A halfway house is a transitional living residence that helps people transition from jail or prison to community living. This term does not include group living facilities defined as "group homes" or "residential facilities." In this code.

Helipads

Any area of land designated and set aside for the landing and taking off of helicopters. This shall also include any appurtenant areas, including fueling facilities, hangars, terminal buildings and maintenance and repair facilities.

Home Occupations

A business, profession, occupation, or trade that is conducted within a residential dwelling unit for the economic gain or support of a resident of the dwelling and is incidental and secondary to the residential use of the lot and does not adversely or perceptively affect the character of the lot or surrounding area.

Hospitals

An institution providing inpatient and outpatient medical and/or surgical care, diagnosis and treatment for sick or injured persons including beds for overnight care, laboratories, medical offices, training facilities, and other necessary accessory facilities. Such uses may include ambulance service.

Hotels

A facility offering fewer than 30 days of consecutive lodging accommodations, in individual rooms or suites, on a daily rate, to the general public and potentially providing additional accessory services such as, but not limited to, restaurants, meeting rooms and recreational facilities. Such facilities shall provide only internal access to the individual rooms or suites.

Housekeeping Unit

Five or fewer unrelated persons occupying a single dwelling unit, living as a single group, and doing their own cooking on the premises as distinguished from a group occupying a hotel, motel, or other group living arrangement.

Industrial Service Uses

Establishments primarily engaged in rendering services to office, business, retail, or industrial establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services; office equipment rental and leasing; commercial research; development and testing; photo finishing; machine repair, and personal supply services.

Infill Development

The construction of new principal buildings on lots where more than 50 percent of the lots along the same block face are occupied by existing principal buildings.

Landscaping

The placement of materials such as grass, flowers, shrubs, hedges, trees, decorative walls and fences, and berms improved with ground cover, within a designated area.

Landscaping Area

A specific area of a lot that is required to have landscaping in accordance with Section <>.

Lattice Tower

A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation.

Light Equipment Sales and Leasing (Indoors)

An establishment engaged in the temporary storage for the sale or rental of small-scale general equipment or vehicles used by the general public for contracting and repair work.

Light Fixture

The assembly that holds the lamp in a lighting system. It includes the elements designed to give light output controls, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

Light, Cutoff

An artificial outdoor light source designed to ensure that no light is directly emitted above a horizontal line parallel to the ground as regulated and illustrated in Section <>.

Light, Non-Cutoff

An artificial outdoor light source designed to allow light to be directly emitted above a horizontal line parallel to the ground as regulated and illustrated in Section <>.

Live/Work Units

A use that combines a commercial activity allowed in the zoning district with one dwelling unit in the same building. See also the definition of "mixed-use building."

Loading Area

An off-street space or berth for the loading or unloading of freight carriers on the same lot as the structure they serve.

Loading Space

An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials that has an appropriate means of access. Loading spaces are considered a part of vehicular use areas

Lot

A parcel of land occupied, or to be occupied, by a main building and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such open spaces as are required and having the minimum size required for a lot under the provisions of this code. Every lot shall abut upon and have permanent access to a public street and have a minimum frontage required in the zoning district in which the lot is located. Lot line is synonymous with the term "property."

Lot Area

The total area within the lot lines of a lot, excluding any street right-of-way or other legal public dedication. See Section [1105.05\(b\)](#).

Lot Coverage

That portion of a lot, which when viewed from directly above, would be covered by a building or impervious pavement as established in Section <>.

Lot Depth

The average horizontal distance between the front and rear lot lines.

Lot Frontage

The distance between the side lot lines as measured by a line drawn parallel with the front lot line at a point of required minimum front yard depth as established by the setback line.

Lot Line

The boundary line defining the limits of the lot. Lot line is synonymous with the term "property line."

Lot Line, Front

In the case of an interior lot, means that line separating such lot from the street. In the case of a corner lot or double frontage lot, the front lot line is that line separating such lot from either street. See Section [1105.05\(c\)](#).

Lot Line, Rear

A lot line opposite a front yard. A rear lot line is generally parallel to or less than 45 degrees to the front street right-of-way line. See Section [1105.05\(c\)](#).

Lot Line, Side

A lot line generally extending perpendicular to the front and rear lot lines. The side lot line extends between the front lot line and the rear lot line. See Section [1105.05\(c\)](#).

Lot of Record

A lot which is part of a subdivision, the part of which has been recorded in the office of the Knox County Recorder, or a parcel of land the deed to which was recorded, prior to adoption of this code.

Lot Width

The horizontal distance between the side lot lines measured at along the minimum front yard setback line. See Section [<>](#).

Lot, Corner

A lot which adjoins the point of intersection or meeting of two or more streets and in which the interior angle formed by the street lines is one 135 degrees or less. See [Figure 1116-G](#).

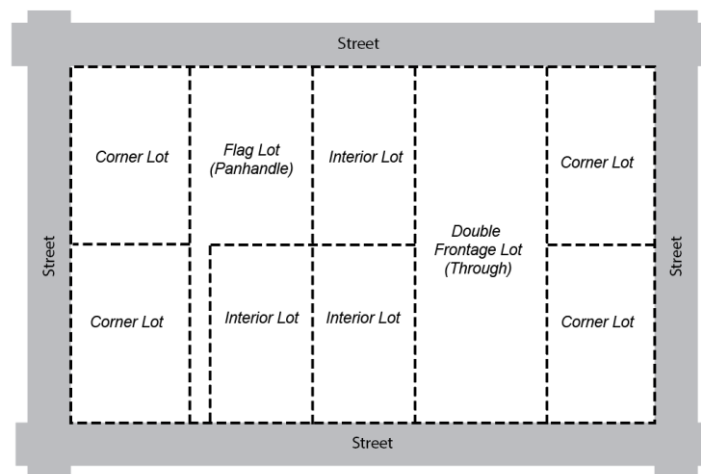


Figure 1116-G: Illustration of typical lot types.

Lot, Curved or Cul-De-Sac

A lot with frontage along a curved street or cul-de-sac. See Section [1105.05\(c\)](#).

Lot, Double Frontage (Through)

A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot. See Section [1105.05\(c\)](#).

Lot, Flag (Panhandle)

A lot that has a frontage on, or is abutting, a public street but where access is provided through a narrow strip of land that fronts or has access to the street. See Section [1105.05\(c\)](#).

Lot, Interior

A lot that has a single street frontage, a rear lot line, and at least two side lot lines. See Section [1105.05\(c\)](#).

Lot, Nonconforming

A lot that does not meet the minimum lot width, street frontage, and/or lot area requirements of the applicable zoning district.

Luminaire

The complete lighting unit, including the lamp, the fixture and other parts.

Machinery and Equipment Sales, Leasing, Storage, and Service

An establishment engaged in the temporary storage for the sale or repair of tractor trailer trucks and other equipment or vehicles used in commercial, industrial or construction enterprises such as, but not limited to, bulldozers, cranes, backhoes, rollers, and lifts.

Manufacturing and Production (Heavy or Outdoors)

An establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials, or the bulk storage and handling of such products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors or vibration beyond its lot line. Such use shall also include any manufacturing or assembly facility that requires outdoor storage areas that exceed 500 square feet in area.

Manufacturing and Production (Indoors)

The manufacturing, processing, or assembly of products within a fully enclosed structure where noise, odor, light, or vibrations is not noticeable from the adjacent properties. See also “manufacturing and production (heavy or outdoors).”

Marijuana

Marijuana that is cultivated, processed, dispensed, tested, possessed, or used for medical or recreational purposes as defined in the ORC.

Marijuana Cultivation Facility

An entity that has been issued a certificate of operation by the Ohio Department of Commerce to grow, harvest, package, and transport marijuana as permitted under the ORC.

Marijuana Dispensary

An entity licensed by the State of Ohio to sell marijuana in accordance with rules established in the ORC.

Marijuana Processing Facility

A facility used for the processing of marijuana, as licensed by the State of Ohio.

Maximum Extent Feasible

That no feasible and prudent alternative exists, and all possible efforts to comply with the regulation or to minimize the potential harm or adverse impacts have been undertaken. Economic considerations may be taken into consideration.

Maximum Extent Practicable

Under the circumstances, reasonable efforts have been undertaken to comply with the regulation or requirement, that the cost of additional compliance measures clearly outweigh the potential benefits to the public or would unreasonably burden the proposed project and reasonable steps have been undertaken to minimize any potential harm or adverse impacts resulting from the non-compliance.

Medical/Dental Clinics and Health Centers

Office or clinic uses concerned with the diagnosis, treatment, and care of human beings. This definition includes 24-hour urgent care centers but does not include “hospitals,” “medication maintenance facilities or dispensaries,” “skilled nursing facilities,” or “personal care facilities.” The use shall not include any ambulance service or overnight stays.

Memorials and Monuments

A statue, building, or other structure erected to commemorate a famous or notable person, place, or event.

Message or Speech, Commercial

Any sign, wording, logo, or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service, or other commercial activity. This term may be referred to as a “commercial message” or “commercial speech.”

Message or Speech, Noncommercial

Any sign, wording, logo, or other representation that does not directly or indirectly name, advertise, or call attention to a business, product, service, or other commercial activity on-premises or off-premises.. This may include signage commonly referred to as political signs, religious signs, opinion signs, and other free-speech signs. This term may be referred to as a “noncommercial message” or “noncommercial speech.”

Microbrewery, Microdistillery, or Microwinery

An establishment where beer, liquor, wine, or other alcoholic beverage is manufactured on the premises. The manufacturing may be the principal use of the facility or may be subordinate to a restaurant, bar, or tavern. A microbrewery, microdistillery or microwinery may include some off-site distribution of its alcoholic beverages consistent with state law.

Mineral Extraction

Any operation where soil, topsoil, water, loam, sand, gravel, clay, rock, peat, or other mined material is removed from its natural location or where it is handled for use off-site, including incidental uses and activities such as processing facilities, access roads, structures, offices, parking areas, and stockpiles.

Mixed-Use Buildings

A building that contains a commercial or office use and a residential use within a single building as provided for in this code and where the residential uses are located on upper floors only.

Mobile Home

A building unit or assembly of closed construction that is fabricated in an off-site facility, is more than 35 body feet in length or, when erected on site, is 320 or more square feet, is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home as defined in division (C)(4) of Section 3781.06 of the Revised Code or as an industrialized unit as defined in division (C)(3) of Section 3781.06 of the Revised Code.

Mobile Vendor

Any commercially manufactured, self-contained motorized vehicle currently licensed by the Ohio Department of Motor Vehicles and Public Health Dayton & Montgomery County selling retail items and prepackaged food products.

Modification

Any change in use, addition or alteration of a building or structure, or any change in type and/or increase in quantity of regulated substances used, stored, handled or produced.

Monopole

A structure consisting of a single, self-supporting hollow metal tube securely anchored to a foundation on which wireless telecommunication antenna(e) are mounted.

Monument (Subdivision)

A box with an iron pin at the intersection of the centerlines of two streets or at a location where the point of tangency meets the point of curvature for curved sections of streets.

Multi-Tenant Buildings

A principal building with multiple uses of a similar use classification (e.g., commercial, industrial, etc.) but that has multiple tenant spaces and/or multiple use types. A strip mall or strip center with a mixture of retail uses such as restaurants, retail stores, and personal service establishments is an example of a multi-tenant building. Such use does not include any use within the residential use classification.

Nonconforming Site Condition

A site improvement that was legally established, but no longer conforms to the parking, landscaping, architectural, or other design standards for the site exclusive of the lot area, lot width, or other site development standards established in this code. See also “lot, nonconforming”.

Nonconformity, Legal

Lots, uses of land, structures, and uses of structures and land in combination, lawfully existing at the time of enactment of this ordinance or its amendments, which do not conform to the regulations of the applicable zoning district, and are therefore incompatible. See also the definitions for “use, nonconforming,” “lot, nonconforming,” “building, nonconforming,” “nonconforming site condition,” and “structure, nonconforming.”

Nudity, Nude, or State of Nudity

The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering; or the showing of the female breasts with less than a fully opaque covering of any part of the nipple.

Nuisance

A public nuisance as known by common law or in equity jurisprudence.

Nursery Schools and Day Care Centers (Adult or Child)

A facility administering to the needs of infants, toddlers, pre-school children, and school children outside of school hours, by persons other than their parents or guardians, custodians, or relatives by blood, marriage or adoption for any portion of the 24-hour day in a building other than the child's own home. This use may include, but is not limited to, after school programs, office day care centers and principal structures used for only day care/nursery school programs. This term may also include adult day care centers where persons other than children, family members, or guardians care for an adult for a portion of a 24-hour day in a building other than the adult's home.

Occupant

A person who, on a regular basis, spends nights at a residence. A person is considered an occupant regardless of whether they spend the majority of their nights at a residence, 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.

Office and Residential Community Center (Accessory Use)

A space on a lot where the principal use is residential, typically multi-family dwellings, where there is a provision for an accessory space for a leasing office or a community gathering space for use by residents on the property.

Off-Street Parking

For the purpose of this code, an off-street parking space shall consist of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, but shall be located totally outside of any street or alley right-of-way. Off-street parking spaces shall be considered a part of vehicular use areas.

Open Space

An area substantially open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, water areas, swimming pools, and tennis courts, any other recreational facilities that the zoning commission deems permissive. Streets, parking area, structures for habitation, and the like shall not be included.

Outdoor Dining

Areas on sidewalks (public or private), patios, or other unenclosed areas, excluding vehicular use areas, that are designated for outdoor seating where patrons may be served food and beverage for on-site dining.

Outdoor Display or Sales

The placement of products or materials for sale or storage outside of a retail or wholesale sales establishment.

Outdoor Lighting

Any source of light that is installed or mounted outside of an enclosed building or structure, but not including streetlights installed or maintained along public streets by a government agency or public utility. See Section [1108.03](#).

Outdoor Storage and Bulk Sales

A facility or lot used for the outdoor storage of materials and/or vehicles that are to be used for construction or for manufacturing processes and where such uses are the principal use of the lot. Such use may also include the sales of materials related to construction or manufacturing where the sales are direct to contractors or business and not open to the general public for retail sales. This use may also include the outdoor storage of fleet vehicles.

Outdoor Vending Machines and Drop-Off Boxes

Vending machines are small machines that are capable of accepting money in return for the automatic dispensing of goods (e.g., drink machines, snack machines, video machines). Drop-off boxes are small collection facilities where recyclable materials, clothing, or household goods are accepted from the public (e.g., neighborhood recycling stations and thrift store collection boxes).

Owner

Any individual, firm, association, syndicate, co-partnership corporation, trust or any other legal entity, having legal title to or sufficient proprietary interest in the land.

Parcel

See definition of "lot."

Parking Aisle

The driveway or access drive by which a vehicle enters and departs a parking space.

Parking Area

An area designed for the parking of vehicles that includes parking spaces and any driveways or access drives specifically related to the parking spaces.

Parking Garage

A structure that contains marked parking spaces and associated access drives where motor vehicles may be stored for the purpose of temporary off-street parking that is open for public use. Such structures are either a structural component of a principal building (e.g., parking garage under a building) or is a stand-alone structure with multiple levels of parking.

Parking Lot

An outdoor area made up of marked parking spaces and associated access drives where motor vehicles may be stored for the purpose of temporary off-street parking. Also known as a parking area.

Parking Space

A suitably surfaced and permanently maintained area on privately owned property, either within or outside of a building, of sufficient size to store one standard automobile.

Passive Parks, Open Space, and Natural Areas

Any park or recreational facility where there is no grading of the land, and no construction of facilities, lighting, or development of ball fields, with the exception that such passive parks, recreational facilities, and conservation areas may include the development of trails and sidewalks.

Patio

An unenclosed outdoor hard-surfaced area that is no higher than 18 inches above the ground. If a pergola or other roof structure is attached to the principal building and extends over the patio, then the patio and roofing shall be considered a porch.



Figure 1116-H: Illustrative example of a patio.

Pennants

A triangular or irregular piece of fabric or other material, whether or not containing a message of any kind, commonly attached by strings or strands, or supported on small poles, intended to flap in the wind.

Performance Standard

A criterion established to control enclosure, dust, smoke, fire and explosive hazards, lighting, glare and heat, noise, odor, toxic and noxious matter, vibrations and other conditions created by or inherent in uses of land or buildings. See Section [1108.03\(g\)\(3\)B](#).

Permanently Sited Manufactured Home

A building unit or assembly of closed construction as defined in the ORC and permitted where single-family dwellings are allowed.

Person

Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county or State agency within Ohio, the federal government, or any combination thereof. An agency is further defined in the Ohio R.C. 111.15 as any governmental entity of the State and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district or state community college. Agency does not include the general assembly, the controlling board, the adjutant general's department, or any court.

Personal Care

Personal care means the provision of personal services, such as help in walking and getting in and out of bed; assistance with bathing, dressing, and feeding; preparation of a special diet; and supervision over medications which can be self-administered.

Personal Services

Establishments that are primarily engaged in providing services generally involving the care of the person or person's possessions. Personal services may include, but are not limited to, laundry and dry-cleaning pick-up and drop-off, barber shops, beauty salons, health and fitness studios, music schools, informational and instructional services, tanning salons, and portrait studios.

Pick-Up Window

Any portion of a building from which business is transacted, or is capable of being transacted, directly with customers who walk-up to the window or door during such business transactions. Such term shall include windows or doors where a person in a vehicle may pick up items (e.g., food, dry cleaning, etc.), but where there will be no ordering stations (e.g., for restaurant drive-throughs) or other stops that will require vehicle stacking spaces. See also the definition for "drive-through facilities."

Pick-Up Window

Any portion of a building from which business is transacted, or is capable of being transacted, directly with customers who walk-up to the window or door during such business transactions. There shall be no direct vehicular access to the pick-up window.

Planned Unit Development (PUD)

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

Planning Commission

The City of Trotwood Planning Commission.

Plat

A map graphically indicating a proposed land subdivision or re-subdivision prepared in a form suitable for filing for record, with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots, blocks, streets, alleys, public areas, and other dimensions of land.

Plat, Final

The final map of all or a portion of the subdivision which is presented to the Planning Commission and City Council for final approvals in accordance with this code, and which, if approved, shall be filed with the proper county recording officer. May also be referred to as the "final subdivision plat."

Plat, Preliminary

A plat of all parts of a subdivision prepared by a professional registered engineer or surveyor, incorporating recommendations and requirements of planning authorities, and showing topography, means of drainage, roadways, grades, sanitary and water service, and other information for preliminary approval by the Planning Commission in accordance with Section [1103.10](#). May also be referred to as the “preliminary subdivision plat.”

Playsets, Treehouses and Trampolines

Recreational equipment for children that may include, but is not limited to, swings, slides, monkey bars, and play enclosures.

Porch

An unenclosed area with a roof that is attached to a building but not used for livable space. A porch also includes paved areas without a roof if the surface area is higher than 18 inches above the adjacent grade (e.g., stoops).



Figure 1116-I: Examples of a front porch (left) and back porch (right).

Post and Arm Sign

A permanent freestanding sign that is supported by a single pole or post with a support arm that allows the sign copy to hang from the arm.



Figure 1116-J: The above image provides an example of a post and arm sign.

Public Hearing

A public hearing is where a decision-making board (City Council, Planning Commission, or BZA) holds a special review of an application where specific notice is provided to the public and the public is afforded an opportunity to speak and be heard. Public hearings take place during a public meeting of the applicable decision-making body.

Public Improvements

See definition of “improvements.”

Public Meeting

A public meeting is a prearranged gathering of a majority of the members of a public body (City Council, Planning Commission, or BZA) for the purpose of discussing public business. Public meetings are subject to the Open Meetings Act of Ohio. Both public hearings and adjudication hearings, as defined and addressed in this code, can only take place at a public meeting.

Public Utility

A closely regulated enterprise with a franchise for providing to the public a utility service, such as gas and electric, deemed necessary for the public health, safety and welfare.

Public Way

An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right of way, road, sidewalk, street, subway, tunnel, viaduct, walkway, bikeway or other ways in which members of the general public or a public entity have a right, or which are dedicated, whether improved or not.

Raceway or Wireway

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

Recreational Courts

An area of a yard that is permanently improved and surfaced for the recreational use of the property owner for games such as tennis, pickleball, basketball, racquetball, and similar sports or games.

Recycling Center

An establishment engaged in the processing, collection, and transfer of recyclable materials. Typical recyclable materials include: glass, paper, plastic, cans, motor oil, or other source-separated, non-decayable materials.

Religious Uses and Places of Worship

A religious institution where a congregation of any denomination regularly participates in or holds religious services, meetings, and other activities, including buildings in which the religious services are held and which may include accessory indoor uses such as, but not limited to, day care or educational institution facilities. This use may include residential accommodations for pastors, priests, nuns, and similar leaders of the place of worship, to include, but not be limited to, monasteries, rectories, convents, or novitiates.

Research and Development Facilities

An establishment or facility for carrying on investigation in the natural, physical, or social sciences, or engineering and development as an extension of investigation with the objective of creating end products. Such establishment shall not include the manufacturing or assembly of products beyond the development of prototype systems or products. All activities shall take place within an enclosed building.

Residential Development Community Centers

A building used for the meeting, recreation, or social activity designed to accommodate and serve the residents of a subdivision or development with which the use is associated and that may be privately owned or jointly owned by property owners.

Residential Facility, Large

Any residential facility meant as a permanent residence for persons, licensed by the State of Ohio, designed to allow not more than 16 persons, needing specialized care, counseling, ongoing medical treatment or supervision to live in the same building or complex of buildings and engage in some congregate living activity in a non-institutional environment as regulated by Chapters 5119 and 5123 of the Ohio Revised Code. Such facilities shall not include "group homes" as defined in this chapter.

Residential Facility, Small

Any residential facility meant as a permanent residence for persons, licensed by the State of Ohio, designed to allow not more than eight persons, needing specialized care, counseling, ongoing medical treatment or supervision to live in the same building or complex of buildings and engage in some congregate living activity in a non-institutional environment as regulated by Chapters 5119 and 5123 of the Ohio Revised Code. Such facilities shall not include "group homes" as defined in this chapter.

Restaurants with Outdoor Service

An establishment whose principal business is the selling of food and beverages to the customer in a ready-to-consume state, in individual servings, to be consumed within the building or as take-away, through a drive-through facility or drive-in facility, or to curb service for customers waiting in their vehicles for consumption on or off the premises.

Restaurants without Outdoor Service

An establishment whose principal business is the selling of food and beverages to the customer in a ready-to-consume state, in individual servings, to be consumed within the building or as take-away, but shall not be served through a drive-through facility, drive-in facility, or to customers waiting in their vehicles for consumption on or off the premises.

Retail Alcohol Sales (C-1 and C-2 Liquor License)

A store that offers retail and/or wholesale alcohol that requires a C-1 or C-2 liquor permit from the State of Ohio. Such establishment may also sell including wine and beer. Consumption of those items does not occur on-site.

Retail Alcohol Sales (C-2X Liquor License)

A store that offers retail and/or wholesale liquor that requires a C-2X liquor permit from the State of Ohio. Such establishment may also sell including wine and beer.

Retail Businesses

Any business selling goods, wares or merchandise directly to the ultimate consumer for direct consumption and not for resale. A retail business use includes, but is not be limited to such activities as: supermarkets; stores that sell electronics, hardware, apparel, footwear, appliances, furniture, department stores, and discount stores.

Retail Commercial Uses (Accessory Use)

For the purposes of accessory uses, this term shall mean “retail businesses” that are accessory to the principal use.

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.
- A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other similar uses.
- Generally, the right of one to pass over the property of another.

Road

See definition of “Street.”

Road or Roadway

See definition of “street.”

Roadside Stands

Any small structure or land used for the sale of produce by farmers on the land where the produce is grown.

Roof Line

Either the edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette. In regards to sign placement, where a building has several roof levels, the pertinent roofline or parapet shall be the one belonging to that portion of the building on whose wall the sign is located.

Rowhouses

Buildings where the dwelling units are structurally attached to one another, side-by-side, with shared walls. Each dwelling unit shall only be accessible by individual, exterior entrances.

Satellite Dishes

A parabolic dish antenna including its structural supports, used for reception of various satellite television programming signals.

Screening

A method of visually shielding or obscuring a structure, parking, mechanical equipment, refuse collection center or incompatible land use, from another and from public view by fencing, walls, beams or densely planted vegetation.

Sediment

Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity or ice, and has come to rest on the earth's surface either above or below water.

Sediment Pollution

Failure to use management or conservation practices to abate wind or water erosion of the soil or to abate the degradation of waters by soil sediment in conjunction with land grading, excavating, filling or other soil-disturbing activities on land used within the scope of provisions as described in this code.

Self-Storage Facilities (Indoors)

A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, or controlled-access stalls or lockers for the dead storage of a customer's goods or wares. The stalls or lockers used for storage shall only be accessible internally within the building and there shall be no storage of goods or wares outside.

Self-Storage Facilities (Outdoors)

A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, or controlled-access stalls or lockers for the dead storage of a customer's goods or wares. The stalls or lockers used for storage may be accessible from outside and the use may include the outdoor storage of goods and wares, including recreational vehicles, in an orderly manner.

Semi-Nudity or Semi-Nude Condition

A state of dress in which opaque clothing covers not more than the genitals, pubic region, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

Setback

Setback means the required minimum horizontal distance between a lot line or the proposed right-of-way, whichever is more restrictive and a building, surface parking lot or structure as established by this code.

Setback Line

A line established by this code generally parallel with and measured from the lot line or the right-of-way, whichever is more restrictive, defining the minimum distance a building, structure, parking area or outdoor storage area shall be located from the said lot or thoroughfare line, except as may be provided in this code. For example, a front yard setback line is the line formed by applying the minimum front yard setback from any applicable front lot lines.

Setback, Building

The setback required from any right-of-way and the principal or accessory building as established in this code.

Setback, Front

The minimum distance required between a building, structure, parking area, outside storage area, or other use of the property, and the front lot line. See Section [1105.05\(c\)](#).

Setback, Rear

The minimum distance required between a building, structure, parking area, outside storage area, or other use of the property, and the rear lot line. See Section [1105.05\(c\)](#).

Setback, Side

The minimum distance required between a building, structure, parking area, outside storage area, or other use of the property, and a lot line that is shared with another lot where such lot line is defined as a side lot line. See Section [1105.05\(c\)](#).

Sexual Encounter Establishment

A business or commercial establishment that, as one of its principal business purposes, offers for any form of consideration a place where either of the following occur:

- Two or more persons may congregate, associate, or consort for the purpose of engaging in specified sexual activities.
- Two or more persons appear nude or seminude for the purpose of displaying their nude or seminude bodies for their receipt of consideration or compensation in any type or form.

An establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized therapy, including, but not limited to, massage therapy, as regulated pursuant to section 4731.15 of the Revised Code, is not a “sexual encounter establishment.”

Shooting Range, Indoor

A specialized facility, venue, or field designed for firearm practice, training, and competitions where all shooting takes place within an enclosed building that complies with all state and federal regulations.

Shooting Range, Outdoor

A specialized facility, venue, or field designed for firearm practice, training, and competitions where shooting takes place outside of an enclosed structure that complies with all state and federal regulations. An outdoor shooting range shall remain classified as an outdoor range even if shooting takes place in both an indoor range and outdoors on the same lot.

Short-Term Rentals

An accommodation for transient guests as defined and regulated by Chapter 736 of the Trotwood Codified Ordinances. “Bed and breakfast establishments” and “hotels” are regulated separately pursuant to this code.

Shrub

A long-lived deciduous, evergreen, or coniferous woody plant, typically multi-stemmed and having a mature height of between three and 15 feet and does not include perennials.

Shrub

A self-supporting, deciduous or evergreen woody plant, normally branched near the base, bushy, and less than 15 feet in height.

Sidewalk

An improved public way, five feet or more in width, for pedestrian use only, whether along the side of the road or not.

Sidewalk

That portion of the road right-of-way, easement, or private property that is improved for the use of pedestrian traffic by the general public.

Sign

Any object, device, display or structure or part thereof situated outdoors or adjacent the interior of a window or doorway which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, pictures, logos, figures, designs, symbols, fixtures, colors, illumination or projected images.

Sign Area

The entire display area of a sign including the advertising surface located on one or more sign faces and any framing, trim and molding, but not including the supporting structure as measured pursuant to Section [1112.06\(c\)](#).

Sign Copy

Those letters, numerals, and figures, symbols, logos, and graphic elements comprising the content or message of a sign.

Sign Face

The surface of the sign upon, against or through which the message of the sign is exhibited.

Sign Height

The vertical distance of a sign, from top to bottom, as measured in accordance with Section [<>](#).

Sign Structure

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

Sign, A-Frame

A freestanding sidewalk sign which is ordinarily in the shape of an “A” or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure. See also the definition of T-frame signs.

Sign, Animated

Any sign or part of a sign that changes physical position by any movement or rotation or that gives the visual impression of such movement.

Sign, Awning

A permanent sign painted on, printed on or attached flat against the surface of an awning.

Sign, Balloon

A sign that is an air inflated object, which may be of various shapes, made of flexible fabric, resting on the ground or a structure, and equipped with a portable blower motor that provides a constant flow of air into the device. Balloon signs are restrained, attached or held in place by a cord, rope, cable, or similar method. See also the definition for “Air-Activated Graphic.”

Sign, Banner

A temporary sign constructed of canvas, plastic, fabric or similar lightweight, non-rigid material that can be mounted to a structure with cord, rope, cable, or a similar method. Where a banner sign is supported by stakes or another type of supporting structure for posting in the ground, such sign shall be classified as a temporary “yard sign.”

Sign, Building

Any permanent sign attached to any part of a building including awning, canopy, projecting, or wall signs.

Sign, Canopy

A permanent sign attached to the soffit or fascia of a canopy of a covered entrance or walkway, or to a permanent awning or marquee.

Sign, Changeable Copy

A sign designed so that the characters, letter or illustrations can be changed or rearranged manually or electronically without altering the sign display surface. See also the definition of “sign, manual changeable copy” and “electronic message center.”

Sign, Driveway

A small permanent sign located near driveway access points and/or at the intersection of internal access drives.

Sign, Feather

A temporary sign that is constructed of cloth, canvas, plastic fabric or similar lightweight, non-rigid material and that is supported by a single vertical pole mounted into the ground or on a portable structure.

Sign, Flashing

A sign or graphic which in any manner, as a whole or in part, physically changes in light intensity or gives the appearance of such change.

Sign, Freestanding

Any sign supported upon the ground by a monument, pedestal, pole, bracing, or other permanent measure and not attached to any building or other structure.

Sign, Illuminated

Any sign which has characters, letters, figures, designs, or outlines illuminated externally or internally by any light source other than non-reflected natural daylight.

Sign, Manual Changeable Copy

A changeable copy sign designed so that the characters, letter or illustrations can be changed or rearranged manually. May also be known as readerboards.

Sign, Monument

A permanent freestanding sign, not attached to a building, that is placed upon or supported by the ground independently of any other structure. Monument signs are mounted on a base or pedestal structure that has a width that is at least equal to or exceed 75 percent of the sign area width.



Figure 1116-K: The above image provides an example of two monument signs.

Sign, Nonconforming

Any sign which was erected legally prior to the adoption of this code, but which does not comply with subsequently enacted sign restrictions and regulations or a sign which does not conform to the sign code requirements.

Sign, On-Premises

A sign directing attention to a use, product, commodity or service that is sold or provided on the same lot where the sign is located.

Sign, Permanent

A sign permitted by this code to be located on the premises for an unlimited period of time and designed to be permanently attached to a structure or the ground and that is constructed of rigid, non-flexible materials.

Sign, Pole

A permanent freestanding sign that is supported from below by poles, posts, or other structural members, regardless of material or dimension, where the sign does not otherwise meet the definition of a “monument sign” or a “post and arm sign.”



Figure 1116-L: The above image provides an example of a pole sign.

Sign, Projecting

A permanent sign that is affixed perpendicular to a building or wall and extends more than 18 inches beyond the face of such building or wall.

Sign, Roof

Any sign erected on a roof.

Sign, Sidewalk

A temporary sign that may be placed outside, during business hours, in accordance with this code and all other applicable ordinances. See definition of “Sign, T-frame” and “Sign, A-frame.”

Sign, Temporary

A sign that is neither permanently anchored to the ground, nor permanently affixed to a structure, nor mounted on a chassis, and/or is intended for a limited period of display.

Sign, T-Frame

A temporary sidewalk sign which is ordinarily in the shape of an upside down “T” or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure. See also the definition for A-frame signs.

Sign, Wall

A permanent sign attached directly to an exterior wall of a building and which does not extend more than 18 inches from nor above the roof line or beyond the limits of the outside wall, with the exposed face of the sign in a plane parallel to the building wall. Murals and other painted signs are considered wall signs pursuant to this section.

Sign, Window

Any sign that is applied to the interior or exterior of a window or door, or a sign located near a window or door within a building, for the purpose of being visible and read from the outside of the building.

Sign, Yard

Any temporary sign placed on the ground or attached to a supporting structure, posts, or poles, that is not attached to any building.

Signage

Shall have the same meaning as “sign.”

Skilled Nursing

Those nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond those which the untrained person possesses. It involves administering medications and carrying out procedures in accordance with the orders, instructions, and prescriptions of the attending physician or surgeon.

Skilled Nursing or Personal Care Facilities

A long-term or short-term in-patient care facility that provides skilled nursing services or personal care in a facility that is not in a traditional dwelling type (e.g., single-family dwelling). Such facility shall not mean the same as “hospitals,” “group homes,” or “residential facility.”

Slope

The face of an embankment or cut section; any ground whose surface makes an angle with the plane of the horizon. Slopes are usually expressed in a percentage based upon vertical difference in feet per 100 feet of horizontal distance.

Smoke Lounge or Smoke Shop

Any building, room, space, establishment, facility or portion thereof that is dedicated, in whole or in part, to the sale or use of pipes, hookah pipes, electronic cigarettes, and other similar devices in smokers' lounges, hookah bars, and vapor bars/lounges and other similar uses as determined by Zoning Administrator.

Soil

All earthen material that overlies bedrock, and may include the decomposed zone of bedrock which can be readily excavated by mechanical equipment.

Solar Panels

The equipment and requisite hardware that provides and is used for collecting, transferring, converting, storing, or using incident solar energy for water heating, space heating, cooling, generating electricity, or other applications that would otherwise require the use of a conventional source of energy such as petroleum products, natural gas, manufactured gas, or electricity produced from a nonrenewable resource. Such systems include passive solar energy systems that capture the sun's energy in building design and construction components; solar thermal energy systems that convert sunlight to heat as in a hot water tank or swimming pool; and photovoltaic solar energy systems that convert sunlight to electricity

Specified Anatomical Areas

- The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola.

Specified Sexual Activities

Specified sexual activities means any of the following:

- The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or
- Excretory functions as part of or in connection with any of the activities set forth in Section [<>](#).

Stacking Space

A portion of the vehicular use area on a site that is dedicated to the temporary storage or "standing" of vehicles engaged in drive-through use of the site or development.

Story

That portion of a building included between the surface of any floor and the surface of the floor next above it; or, if there is no floor above it, then the space between the floor and the ceiling next above it.

- "First story" means the lowest story or the ground story of any building, the floor of which is less than four feet below the average contact ground level at the exterior walls of the building.
- "Half story" means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are less than four feet above the floor of such story.

Stream

A body of water running or flowing on the earth's surface or channel in which such flow occurs. Flow is continuous or seasonally intermittent.

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.

Street

An improved public right-of-way which provides a public means of access to abutting property. The term "street" shall include avenue, drive, circle, court, road, parkway, boulevard, highway, thoroughfare or other similar term, except alley.

Street, Arterial

A street whose primary function is to move large volumes of traffic.

Street, Collector

A street whose primary purpose is to conduct traffic from local or minor residential streets to an arterial.

Street, Cul-de-sac

A local or minor street of relatively short length with one end open to traffic and the other end terminating in a vehicular turnaround.

Street, Dead-End

A street temporarily having only one outlet for vehicular traffic and intended to be extended or continued in the future.

Street, Minor or Local

A local street whose primary function is to move traffic within residential neighborhoods.

Structure

That which is constructed on or under the ground or attached or connected thereto, including but not limited to: buildings, barriers, bridges, bulkheads, chimneys, fences, garages, outdoor seating facilities, parking areas, platforms, pools, poles, streets, tanks, tents, towers, sheds, signs, walls and walks; and excluding trailers and other vehicles whether on wheels or other supports.

Structure, Accessory

A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

Structure, Nonconforming

A structure or portion thereof, lawfully existing on the effective date of this code, or amendments thereto, and which does not conform to the provisions of the code in the district in which it is located.

Structure, Temporary

A structure permitted for limited duration with the intent that such use will terminate or the structure will be removed automatically upon expiration of the fixed time period. A temporary structure is without a foundation or footing.

Subdivider

Any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under this code to affect a subdivision of land hereunder for himself or for another. May also be referred to as “applicant” or “developer.”

Subdivision

The division of any parcel of land, shown as a unit or as contiguous units on the last preceding tax roll, into two or more parcels, sites or lots, for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures, not involving the division, combination, alteration, or allocation of land for the opening, widening or extension of any street or streets, and the division or allocation of land as open spaces for common use by owners, occupants or lease holders or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities, shall be exempted.

Subdivision Modification

A modification to any of the public improvement or subdivision design standards of [Chapter 1113: Subdivision Design and Public Improvements](#), as authorized by the Planning Commission in accordance with Section [1103.10\(f\)](#).

Subdivision, Major

A subdivision that is not classified as a minor subdivision.

Subdivision, Minor

A division of a parcel of land along an existing street not involving the opening, widening or extension of any street or road and involving no more than five lots after the original tract has been completely subdivided. See further distinction in Section [1103.09](#).

Substance Abuse Clinic

A facility or use where treatment for substance abuse and addiction, including therapeutic and medical intervention, is provided on-site. Such use shall not include a medical/dental clinics or health centers that provide routine medical evaluation and treatment. Such use may include, but is not limited to, certificate opioid treatment programs licensed by the State of Ohio.

Surveyor

Any person registered to practice surveying in Ohio.

Swimming Pool

A water filled enclosure, permanently constructed or portable, as further defined and regulated in Section <>.

Technically Suitable (Wireless Telecommunications)

This term means that the location of a wireless telecommunication antenna or antennae reasonably serves the purpose for which it is intended within the band width of frequencies for which the owner or operator of the antenna or antennae has been licensed by the FCC to operate without a significant loss of communication capability.

Telecommunications

The technology which enables information to be exchanged through the transmission of voice, video or data signals by means of electrical or electromagnetic systems. Telecommunication includes, but is not limited to the receiving or transmitting of signals of cellular phones, pagers, personal telecommunication services, or other ground-wired telecommunication systems.

Temporary Sales

The temporary sale of food items, seasonal produce, or other seasonal items pursuant to Section <>.

Temporary Sales Office or Model Home

A dwelling unit temporarily converted into a sales and display office or a temporary sales office established in a development or subdivision for the purpose of providing an example of the units in the development.

Tent

A temporary structure having a roof and/or walls of fabric.

Theaters

Any building or part of a building used for the showing of motion pictures or for dramatic, dance, musical, live or pre-recorded performances. Such use may include a lobby area and refreshment stand for the patrons.

Thoroughfare

See definition of "Street."

Thoroughfare Plan

The Official Thoroughfare Plan of, and as adopted by, the City of Trotwood Planning Commission, establishing the location and official right-of-way widths of principal highways and streets in the City, together with all amendments thereto subsequently adopted.

Tree

A self-supporting woody, deciduous or evergreen plant with a well-defined central trunk or stem which normally grows to a mature height of 15 feet or more in Montgomery County.

Tree

A self-supporting woody, deciduous or evergreen plant with a well-defined central trunk or stem which normally grows to a mature height of 15 feet or more in Southwestern Ohio.

Tree, Deciduous

Generally, a tree that loses all of its leaves for part of the year. Sometimes called a broad-leaf tree or a hardwood tree.

Tree, Evergreen

A tree that remains green throughout the year.

Tree, Monarch

See Section <>.

Tree, Ornamental

A tree, typically 15- to 20-feet tall at maturity, which is planted for its decorative value, perhaps in screening applications rather than for shading purposes. Ornamental trees are usually deciduous, but may include short-growing conifers such as upright junipers, pinion- and bristle-cone pines.

Tree Preservation Board

The City of Trotwood Tree Preservation Board, which shall be the Planning Commission unless the City Council establishes a separate board by ordinance.

Truck Terminals

The use of property or buildings for a business establishment that is primarily related to the distribution of goods and merchandise and/or the temporary parking of motor freight vehicles or trucks during loading and unloading, and between trips. While truck terminals may include necessary warehouse space for storage or transitory freight, such storage shall be short-term (30 days or less). Truck terminals may include building facades that are occupied entirely or partially by loading docks and garages for access by trucks.

Type-A Day Care Homes

A permanent residence of the provider in which child day care is provided for seven to 12 children at one time or that cares for four to 12 children at one time if four or more children are under the age of two years old. 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 A Home shall be counted. A Type A Home does not include a residence in which the needs of children are administered, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings.

Type-B Day Care Homes

A permanent residence of the provider in which child day care is provided for one to six children at one time and in which no more than three children may be 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. A Type B Home does not include a residence in which the needs of children are administered, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings.

Use

Any purpose for which a lot, building, or other structure, or a tract of land may be designated, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

Use, Accessory

A use located on the same lot with the principal use of building or land, but incidental and subordinate to and constructed subsequent to the principal use of the building or land.

Use, Conditional

A use which may be appropriate or desirable in a specified zoning district, but requires special approval through the conditional use approval process (See Section [1103.05](#).) because, if not carefully located or designed, it may create special problems such as excessive height or bulk or abnormal traffic congestion.

Use, Nonconforming

Any building or land lawfully occupied by a use that was in accordance with the zoning regulations, if any, in existence when the use commenced and which, through subsequent enactments or changes of zoning regulations either prior to the passage of this code or by the passage of this code or amendments thereto, does not conform or did not conform thereafter with the use regulations of the district in which it is situated.

Use, Permitted

A use which is permitted in a specified zoning district through zoning compliance review approval.

Use, Permitted with Standards

A use which is permitted in a specified zoning district through either zoning compliance review approval, provided such use meets the additional use-specific standards set forth in this code.

Use, Principal or Main

The main use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted, permitted with standards, or conditionally permitted.

Use, Temporary

A use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time and does not involve the construction or alteration of any permanent structure. See Section <>.

Utility Buildings and Facilities

Structures and land used for storage, transmission, or recovery facility for water, sewerage, telephone, electric or gas and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission (PUCO). Such uses may also include solar arrays, salt storage or other outdoor activities necessary for the efficient operations of the local, state, or federal government.

Utility Trailer

An open, non-motorized, flatbed vehicle that attaches to a vehicle to transport debris, cargo, equipment, or other items.

Variance

A modification of the strict terms of these regulations where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of these regulations would result in a practical difficulty. See Section [1103.07](#).

Vehicle

Every device, including a motorized bicycle, in, upon or by which any person or property may be transported or drawn upon a street or highway, except motorized wheelchairs and devices other than bicycles moved by human power. Where a vehicle type is not specifically defined in this code, such vehicle shall be considered as defined by the Ohio Revised Code.

Vehicle Sales and Leasing

Any building or land where new or used passenger cars, pick-up trucks, motorcycles, boats, trailers, and other recreational vehicles, in operational condition, are sold or leased to customers.

Vehicle Washing Establishments

The use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment. This shall include establishments that provide car detailing services.

Vehicle, Recreational

A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

Vehicular Use Area

The entire paved area that encompasses all parking spaces, loading areas, stacking spaces, and the access drives that provide access to those spaces but that does not include the entry drive or driveway with no direct access to a parking space, stacking space, or loading space. For residential uses, the vehicular use area shall include the driveway, garage, and any other parking areas.

Violation

The failure of a structure or other development to be fully compliant with the regulations of this code.

Walkway

See definition of "sidewalk."

Wall

An architectural partition with a height and length greater than its thickness; used to divide or enclose an area or to support another structure.

Wall, Retaining

A retaining wall is a structure that holds back soil or rock from a building, structure or area. Retaining walls prevent downslope movement or erosion and provide support for vertical or near-vertical grade changes.

Warehouses

A business establishment primarily engaged in the long-term storage (over 30 days) of goods and merchandise within a single building (not individual compartments) that may contain, loading and unloading docks. Warehouses shall not include any building facade that is contain loading docks or garages that occupy more than 40 percent of the facade width. See also "self-storage facilities" or "truck terminals."

Wholesale Establishments

An establishment or place of business primarily engaged in selling merchandise to retailers, including associated showrooms and warehousing; to industrial, commercial, institutions, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wind Turbines

A device that turns the kinetic energy of wind into electrical energy through the use of spinning blades or similar elements.

Windblown Devices

Objects and signs designed to inform or attract attention, all or part of which is set in motion by or remains inflated by wind, mechanical, electrical, or any other means and may include, but are not limited to pennants, ribbons, streamers, spinners, or similar objects.

Wireless Telecommunication Facility

A facility containing not more than 2,500 square feet of area measured from the buffer perimeter which includes all of the necessary equipment and structures required for receiving wireless telecommunications signals from a mobile communications source and transmitting those signals to a central switching computer which connects a mobile unit with other mobile units or land-based telephone lines. The facility includes the wireless telecommunications tower, wireless telecommunications antennae, equipment shelters, any other apparatus associated with the facility, and the buffer surrounding the shelter,

Wireless Telecommunications Antenna

The physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission (FCC) are transmitted or received. These may be placed on the monopole or on a structure. Antennae used by amateur radio operators are regulated separately as an accessory use.

Wireless Telecommunications Equipment Shelter

The structure in which the electronic receiving and relay equipment for a wireless telecommunication facility is housed.

Wireless Telecommunications Tower

A monopole structure intended to support equipment used to transmit and/or receive telecommunications signals. This definition also applies to "lattice-type wireless telecommunication towers" constructed before the effective date of this code.

Yard

An open space on the same lot with a building unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this code. See Section [1105.05\(c\)](#) for rules of measurement and determination for all yard types.

Yard, Front

Unless otherwise stated in Section [1105.05\(c\)](#), a front yard is an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.

Yard, Rear

Unless otherwise stated in Section [1105.05\(c\)](#), a rear yard is an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building.

Yard, Side

Unless otherwise stated in Section [1105.05\(c\)](#), a side yard is an open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the main building.

Zoning Administrator

The individual designated by the City Manager to administer and enforce this code. The Trotwood Planning and Development Director shall automatically serve as the Zoning Administrator unless otherwise specified by the City Manager.

Zoning Compliance Review

A procedure that allows the Zoning Administrator to make a decision on if a proposed activities, development, structure, etc. complies with the requirements of this code either through the building permit process or through the issuance of alternative permit and certificates. See Section [1103.04](#).

Zoning District

An area within the City limits for which the regulations and requirements governing use are uniform as defined by Section [1104.02](#).

Zoning District, Base

The base zoning district is the zoning district established for each property that includes any of the residential and nonresidential zoning districts established in this code.

Zoning District, Nonresidential Base

The term “nonresidential base zoning district” shall include the NB, OTB, GB, SCB, BP, LI, GI, and CPF Districts, regardless if residential uses are permitted. This term may also be referred to as “nonresidential zoning districts.”

Zoning District, Overlay

A special secondary zoning district that lies over an underlying base zoning district. Such overlay district provides development control which alters some of the base zoning district regulations.

Zoning District, Residential Base

The term “residential base zoning district” shall include the A, RSF-L, RSF-M, RSF-H, RLA, RMF-L, RMF-H, and MHP Districts. This term may also be referred to as “residential zoning districts.”

Zoning Map

An official and accurate map depicting the City of Trotwood, Ohio, and indicating the official boundaries of the zoning districts established by this code. See Section [1104.03](#).