



**Adopted by Ordinance O-18-68
December 20, 2018**

Effective Date: January 20, 2019

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ARTICLE I: AUTHORITY, ADMINISTRATION AND ENFORCEMENT

CHAPTER 1: ZONING AUTHORITY

§ 1.101 TITLE

This zoning code, consisting of this text document and the accompanying Official Zoning Map, as amended, may be cited as the “Official Zoning Code of the City of Wilmington, Ohio,” or referred to as the “Zoning Code” or the “Zoning Ordinance” to the same effect.

§ 1.102 PURPOSE

The purpose of this Zoning Code shall be to promote the public health, safety, morals, and general welfare of the City of Wilmington, referred to as the “City,” and the residents thereof.

§ 1.103 JURISDICTION

1.103.1 The provisions of this Zoning Code shall apply to all land, land development, use of all structures, and uses of land within the incorporated area of Wilmington, Ohio.

1.103.2 When a parcel of land is partially located within another jurisdiction, outside of the municipal corporation, this Zoning Code shall only apply to that portion of the parcel that is within the municipal corporation.

§ 1.104 FILE COPIES

The Mayor’s office is directed to keep on file at least two (2) copies of the Zoning Code and all ordinances amendatory thereto, and the Zoning Code shall be available for public inspection during all regular office hours.

§ 1.105 INTERPRETATION AND CONFLICTS

1.105.1 The specifications in this Zoning Code shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, morals, prosperity, convenience and general welfare, with the intent to achieve the purposes stated in ORC Section 713, et seq., or as may be amended.

1.105.2 The City Planning Commission has given consideration to the future probable use of land in the territory affected by this Zoning Code, and has prepared a Comprehensive Plan showing the future

ARTICLE I, CHAPTER 1: ZONING AUTHORITY

development of the City of Wilmington, which has served as a guide in the preparation of this Zoning Code.

1.105.3 When the provisions of this Zoning Code are inconsistent with one another or with the provisions found in another adopted ordinance, the most restrictive provision shall govern as determined by the Zoning Administrator.

1.105.4 Where this Zoning Code imposes a greater restriction than imposed or required by other provisions of law or by other rules, regulations, or ordinances, the provisions of this Zoning Code shall control provided it complies with the ORC and any state or federal laws that may preempt this Zoning Code.

§ 1.106 RELATIONSHIP WITH PRIVATE PARTY AGREEMENTS

1.106.1 This Zoning Code is not intended to interfere with or repeal any easements, covenants, or agreements between parties, provided that wherever this Zoning Code proposes a greater restriction upon the use of buildings or land, upon the location or height of buildings or structures, or upon requirements for open areas than those that are imposed or required by such easements, covenants, or agreements between parties, the provision of this Zoning Code shall govern.

1.106.2 In no case shall the City be obligated to enforce the provisions of any easements, covenants, or agreements between private parties except for those that may be held by the City. As such, the Zoning Administrator cannot use the regulations of a private party agreement to deny a zoning permit when the proposed use, structure, or building meets the requirements of this Zoning Code.

§ 1.107 ZONING PERMIT REQUIRED

1.107.1 It shall be unlawful for an owner to use or to permit the use of any structure, building or land, or part thereof, hereafter erected, created, changed, converted or enlarged, wholly or partly, until a zoning permit is issued by the Zoning Administrator in accordance with Section 1.304 (Zoning Permit Application).

1.107.2 Such zoning permit shall state that such building, premises or a part thereof, and the proposed use thereof, are in conformity with the provisions of this Zoning Code.

§ 1.108 SEVERABILITY

1.108.1 If any court of competent jurisdiction invalidates any provision of this Zoning Code, then such judgment shall not affect the validity and continued enforcement of any other provision of this Zoning Code.

1.108.2 If any court of competent jurisdiction invalidates the application of any provision of this Zoning Code to a particular property, structure, or situation, then such judgment shall not necessarily affect the application of that provision to any other building, structure, or situation not specifically included in that judgment.

1.108.3 If any court of competent jurisdiction judges invalid any condition attached to the approval of a development review application, then such judgment shall not necessarily affect any other

conditions or requirements attached to the same approval that are not specifically included in that judgment.

- 1.108.4** Whenever a condition or limitation is included in an administrative action authorizing regulatory activity, then it shall be conclusively presumed that the administrative authority, such as an officer, commission, or Board, considered such condition or limitation necessary to carry out the spirit and intent of this Zoning Code, and that the officer, commission, or Board would not have granted the authorization to which the condition or limitation pertained except in belief that the condition or limitation was lawful.

§ 1.109 TRANSITIONAL RULES

1.109.1 EFFECTIVE DATE

This Zoning Code became effective on January 20, 2019.

1.109.2 VIOLATIONS CONTINUE

Any violation under previous Zoning Ordinances that existed in the City prior to the adoption of this Zoning Code shall continue to be a violation under this Zoning Code and is subject to penalties and enforcement under Section 1.314 (Violations and Penalties), unless the use, development, construction, or other activity complies with the provisions of this Zoning Code.

1.109.3 NON-CONFORMITIES CONTINUE

- (A) Any legal non-conformity that exists at the time of the enactment of this Zoning Code shall continue to be a legal non-conformity under this Zoning Code, as long as the situation that resulted in the non-conforming status under the previous Zoning Ordinance continues to exist. Such non-conformities shall be subject to the provisions of Section 1.313 (Non-Conformity Provisions).
- (B) If a legal non-conformity that exists at the time of the enactment of this Zoning Code becomes conforming because of the adoption of this Zoning Code, then the situation will be considered conforming and shall no longer be subject to the non-conformities regulations of Section 1.313 (Non-Conformity Provisions).

1.109.4 APPROVED PROJECTS

- (A) Any building, structure, or development for which a zoning permit, conditional use approval, or variance approval was issued prior to the effective date of this Zoning Code may, at the applicant's option, be completed in conformance with the issued permit or approved use along with any other applicable permits and conditions, even if such building, structure, or development does not fully comply with the provisions of this Zoning Code. Such building, structure, or development shall be considered a legal non-conforming use upon the issuance of a Certificate of Occupancy from the Building Department.
- (B) If the building or structure is not completed within the time allowed under the original zoning permit, conditional use approval, or variance approval or any extension granted thereof, then the building, structure, or development may be constructed, completed, or occupied only in compliance with this Zoning Code.

- (C) Any application for a project where the zoning permit, conditional use approval, or variance approval has expired shall meet the standards in effect at the time of re-application.
- (D) Any development application approved as part of a Planned Development (PD) prior to the effective date of this Zoning Code shall continue to be valid and shall remain under the provisions of the applicable set of zoning standards established for the PD, until such time when an approved PD is proposed to undergo a major modification, pursuant to Section 1.310.13(C)(1), in which case the PD must be re-established as a new PUD overlay district following the procedures and standards established in Section 1.310 (Planned Unit Developments). Minor modifications to previously-approved PDs may be reviewed and approved by the Zoning Administrator.

§ 1.110 BURDEN OF PROOF

The burden of demonstrating that an application or any development subject to this Zoning Code complies with the applicable review and approval standards is to be borne by the applicant. Neither the City, nor any other party shall have any burden to show that the standards set forth in the Zoning Code have or have not been met by the applicant, or any person responsible for the proposed development.

§ 1.111 USE OF GRAPHICS AND ILLUSTRATIONS

Where a conflict occurs or appears to occur between a provision in the text and any graphic, illustration or figure, the text shall control.

CHAPTER 2: ZONING ADMINISTRATION

§ 1.201 PURPOSE

The purpose of this chapter is to identify the roles and responsibilities of various elected and appointed Boards, as well as the duties of City staff, in the administration of this Zoning Code.

§ 1.202 ADMINISTRATIVE AUTHORITIES AND ROLES

1.202.1 CITY COUNCIL

For the purpose of this Zoning Code, the Wilmington City Council shall have the following duties:

- (A)** Initiate proposed text and map amendments to this Zoning Code;
- (B)** Review and decide on all proposed zoning text and map amendments to this Zoning Code;
- (C)** Review and decide on all PUD applications which are a legislative matter;
- (D)** Perform all other duties as may be specified elsewhere in this Zoning Code.

1.202.2 PLANNING COMMISSION

City Council, for the purpose and intent of this Zoning Code and in accordance with ORC 713, hereby creates and establishes the Wilmington City Planning Commission, hereafter referred to as the Planning Commission.

(A) Appointment and Organization

- (1)** The Planning Commission shall be composed of the following seven (7) members, or if not consistent with current state statute shall be established in accordance with ORC 713.01 as amended:
 - (a)** The Mayor;
 - (b)** The Director of Public Service;
 - (c)** The President of the Board of Park Commissioners; and
 - (d)** Two (2) citizens of the municipal corporation and two (2) public members, where all four are to be appointed by the Mayor, each serving six (6) year terms, with the term of one (1) citizen member expiring each year. Public members need not

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be residents of the municipal corporation but shall be residents of Clinton County or a township adjacent to Clinton County.

- (2) Each member shall serve until his or her successor is appointed and qualified. Members may be reappointed.
- (3) Vacancies shall be filled by appointment by the Mayor and shall be for the time remaining in the unexpired term.
- (4) Members of the Planning Commission shall be removable for nonperformance of duty, misconduct in office, or other cause, by City Council, upon written charges being filed, and after a public hearing has been held regarding such charges, a copy of charges having been served upon the member so charged at least ten (10) days prior to the hearing, either personally or by registered mail, or by leaving the same at the member's usual place of residence. The member shall be given the opportunity to be heard and answer such charges.

(B) Roles and Powers

- (1) Convene public meetings or hearings to:
 - (a) Make requests to City Council for initiation of proposed text or map amendments to the Zoning Code;
 - (b) Review and make recommendations to City Council on all proposed zoning text and map amendments to this Zoning Code pursuant to Section 1.309 (Zoning Text and Map Amendments); and
 - (c) Review and make recommendations on PUD applications, and make decisions on Final PUD Plans.
 - (d) Review and decide on all Site Plan Review applications.
 - (e) Review and decide on all major subdivision applications pursuant to Title One (Subdivision Regulations) of the Wilmington Planning and Zoning Code.
 - (f) Review and decide on all Certificate of Appropriateness applications pertaining to the Commercial Historic (H-1) Overlay District.
- (2) Perform all other duties as specified for Planning Commissions in ORC 713 and as specified in this Zoning Code.

(C) Alternates

- (1) The Planning Commission may appoint two (2) or more alternate members for a term of six (6) years each.
- (2) An alternate member may take the place of an absent regular member at any meeting of the Planning Commission. An alternate member shall not take the place of an absent regular member if such alternate has not been present to hear all testimony regarding the matter at hand.

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- (3) Whenever an alternate takes the place of an absent regular member in a matter that requires a vote, the alternate member shall take the place of the absent regular member for all meetings and hearings related to such issue.
- (4) An alternate member shall meet the same appointment criteria as a regular member.
- (5) When attending a meeting on behalf of an absent regular member, the alternate member may vote on any matter on which the absent member is authorized to vote.

(D) Rules

The Planning Commission may organize and adopt the rules for it to operate in keeping with ORC Chapter 713, or as amended, and elect the Chair and Vice Chair persons from its members as membership changes and/or upon call of the commission through a motion.

(E) Meetings

- (1) Meetings shall be held at the call of the Chair, Vice Chair, or acting Chair, and at such other times as the Commission may determine. The Chair, or, if absent, the Vice Chair or acting Chair as otherwise determined by the Commission, may call a meeting to order.
- (2) All meetings shall be open to the public, except as exempted by law.
- (3) The Planning Commission shall keep minutes of its proceedings showing the vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall be a public record, unless exempted by law, and be filed in a timely manner in the City offices.

(F) Quorum

- (1) Any combination of four (4) regular or alternate members of the Planning Commission shall constitute a quorum.
- (2) The Planning Commission shall act when a majority of a quorum concurs and every decision shall be accompanied by written findings specifying the reason for granting or denying the application, or making its recommendation.

1.202.3 BOARD OF ZONING APPEALS

City Council, for the purpose and intent of this Zoning Code and in accordance with ORC 713.11, hereby creates and establishes the City of Wilmington Board of Zoning Appeals, hereafter referred to as the BZA.

(A) Appointment and Organization

- (1) The BZA shall consist of five (5) members, to be appointed by the Mayor.
- (2) Members shall be residents of the municipal corporation.
- (3) Members shall not hold any other elective or appointive office.

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- (4) Members shall serve four (4) year terms with the term of one (1) member expiring each year on January 1.
- (5) Each member shall serve until their successor is appointed and qualified. Members may be reappointed.
- (6) Vacancies shall be filled by appointment by the Mayor and shall be for the time remaining in the unexpired term.
- (7) Members of the BZA shall be removable for nonperformance of duty, misconduct in office, or other cause, by City Council, upon written charges having been filed, and after a public hearing has been held regarding such charges, a copy of the charges having been served upon the member so charged at least ten (10) days prior to the hearing, either personally or by registered mail, or by leaving the same at the member's usual place of residence. The member shall be given an opportunity to be heard and answer such charges.

(B) Roles and Powers

- (1) Convene public meetings or hearings to:
 - (a) Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Zoning Code;
 - (b) Authorize, upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of this Zoning Code will result in unnecessary hardship, and so that the spirit of the Code shall be observed and substantial justice done;
 - (c) Approve or deny issuance of a zoning permit for a conditional use specified in this Code;
 - (e) Approve or deny zoning permit requests for completion, restoration, reconstruction, in whole or in part, extension, or substitution of a non-conforming use or structure;
 - (f) Determine if the event arises, as specified in Section 3.102 (District Boundaries Location and Interpretation), the certain location of a zoning district boundary that is in question or dispute for purposes of regulation in accordance with this Zoning Code; and
 - (g) Make a determination as to whether a use not listed in Sections 2.101.2 (Principal Uses Not Listed), 2.201.2 (Accessory Uses Not Listed) or 2.302 (Table of Temporary Uses), as applicable, shall be allowed as a permitted or conditional use or otherwise prohibited.
- (2) In exercising the above-mentioned powers, the BZA may, in conformity with such sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end has all powers of the administrative official from whom the appeal is taken.

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- (3) All other powers conferred upon Boards of zoning appeals in Section 713.11 of the ORC, or as authorized by City Council in compliance with state law.

(C) Alternates

- (1) The Mayor may appoint up to two (2) alternate members to the BZA for a term of four (4) years each.
- (2) An alternate member may take the place of an absent regular member at any meeting of the BZA. An alternate member shall not take the place of an absent regular member if such alternate has not been present to hear all testimony regarding the matter at hand.
- (3) Whenever an alternate takes the place of an absent regular member in a matter that requires a vote, the alternate member shall take the place of the absent regular member for all meetings and hearings related to such issue.
- (4) An alternate member shall meet the same appointment criteria as a regular member.
- (5) When attending a meeting on behalf of an absent regular member, the alternate member may vote on any matter on which the absent member is authorized to vote.

(D) Rules

- (1) The BZA may organize and adopt the rules for it to operate in keeping with ORC Chapter 713.11, or as amended. Such rules and regulations shall be subject to approval by City Council.
- (2) The BZA may annually elect the Chair and Vice Chair persons from its members.
- (3) The Public Service Director shall designate someone to serve as Secretary.

(E) Meetings

- (1) Meetings of the BZA shall be held at the call of the Chair and at such other times as the BZA may determine.
- (2) The Chair, or in their absence, the Vice Chair or acting Chair, may administer oaths and the BZA may compel the attendance of witnesses.
- (3) A member shall not hear an appeal in which that member has a personal, professional or financial interest.
- (4) The appellant, the appellant's representative, the Zoning Administrator, Building Inspector or other Code Official, and any person whose interests are affected shall be given an opportunity to be heard.
- (5) All meetings of the BZA shall be open to the public, except as exempted by law.
- (6) The BZA shall keep minutes of its proceedings showing the vote, indicating such fact, and shall keep records of its examinations and official actions, all of which shall be filed in a timely manner in the City offices and shall be a public record, unless exempted by law.

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(F) Quorum

- (1) Any combination of three (3) regular or alternate members of the BZA shall constitute a quorum.
- (2) The BZA shall act when a majority of a quorum concurs. Every decision shall be accompanied by written findings of fact, based on testimony and evidence and specifying the reason for granting or denying the application.
- (3) When any member is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

1.202.4 ZONING ADMINISTRATOR

A Zoning Administrator, as designated by the Mayor, along with any assistant(s) as deemed necessary, shall be responsible for administering and enforcing this Zoning Code. In the absence of a designated Zoning Administrator, the City Planner, the City Building Inspector, the Code Enforcement Officer, the Director of Public Service, or a combination of these individuals, may fulfill the duties and responsibilities of the Zoning Administrator.

(A) Roles and Powers

- (1) Maintain the Zoning Code text and map, and the record of all amendments thereto.
- (2) Provide information regarding the Zoning Code and all related matters so involving.
- (3) Assist applicants for a zoning permit, site plan review, conditional use, variance, rezoning, or other zoning matter by explaining how to complete required applicable forms and procedures.
- (4) Review proposed subdivision plats and parcel splits submitted for approval to the Planning Commission, or as otherwise submitted for recording not needing Planning Commission approval, to determine compliance with the requirements of this Code.
- (5) Review zoning permit applications, ensuring compliance with the requirements of this Code, as well as any additional applicable case-specific conditions, and accordingly, either approve or deny said permit and maintain record thereof.
- (6) Perform periodic inspections of zoning permit sites to confirm that requirements are being met.
- (7) Investigate complaints of alleged zoning violations as specified in this Code.
- (8) Process, and maintain record of all zoning violations as specified in this Code. Issue written order via certified mail to the person(s) responsible for said zoning violation(s), to discontinue use of any land, building or structure, and/or to stop work and/or remove any building or structure, in whole or in part, that has been found in violation of any requirement(s) of this Zoning Code, informing them of their right to appeal the order should they might otherwise object or refuse to comply with said order.

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- (9) Maintain records of legal non-conforming uses, structures, and lots that existed before the effective date of this Zoning Code and update the record as necessary when applicable conditions or amendments of the Zoning Code eliminate the nonconforming status.
- (10) Forward complete applications submitted in accordance with this Code for zoning cases requiring review and recommendation and/or action in determination of approval, denial or modification to the Planning Commission, Board of Zoning Appeals, or City Council as required by this Zoning Code.
- (11) Schedule, attend, and provide information for Planning Commission and BZA meetings and attend and provide information at City Council meetings involving zoning matters.
- (12) Maintain public records regarding all zoning matters, inclusive of all information submitted and formal decisions made regarding each case.
- (13) Make grammatical, numerical, and section reference corrections to the Zoning Code as may be needed; in these cases, such changes shall not be subject to the review process of Section 1.309 (Zoning Text or Map Amendments) provided that such changes do not alter the meaning of the Code.
- (14) Perform other related duties as required to administer and enforce this Zoning Code.

§ 1.203 DEVELOPMENT REVIEW PROCEDURES

1.203.1 Section 1.203.3 (Summary Table of Review Bodies and Procedures) summarizes the review and decision-making responsibilities of the entities that have roles in the procedures as set forth in Article I, Chapter 3 (Zoning Enforcement). This table does not limit or impede the ability of other boards, commissions, government agencies, or other non-government organizations to review applications.

1.203.2 The following are symbols and associated meanings which are used in Section 1.203.3:

Symbol	Meaning
D	Decision
H	Hearing
M	Meeting
R	Recommendation
S	Staff Report

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1.203.3 SUMMARY TABLE OF REVIEW BODIES AND PROCEDURES

PROCEDURE	Zoning Administrator	Planning Commission	BZA	City Council
Zoning Permit (Section 1.304)**	D			
Site Plan Review (Section 1.305)**	S	M-D		
Conditional Use (Section 1.306)***	S		H-D	
Variance (Section 1.307)***	S		H-D	
Administrative Appeals (Section 1.308)***			H-D	
Zoning Text or Map Amendment (Section 1.309)*	S	M-R		H-D
Concept PUD Plan – Standard (Section 1.310)*	S	H-R		H-D
Preliminary PUD Plan – Standard (Section 1.310)**	S	H-R		H-D
Final PUD Plan – Standard (Section 1.310)**	S	M-D		
Preliminary PUD Plan – Expedited (Section 1.310)*	S	H-R		H-D
Final PUD Plan – Expedited (Section 1.310)**	S	M-D		
Certificate of Appropriateness (Section 1.311)**	S	M-D		
Certificate of Occupancy (Section 1.312)**	D			

- * Legislative Procedure
 ** Administrative Procedure
 *** Quasi-Judicial Procedure

CHAPTER 3: ZONING ENFORCEMENT

§ 1.301 PURPOSE

This Chapter specifies the applications and procedures by which requirements of the Zoning Code are enforced, pursuant to and in accordance with the Ohio Revised Code. Enforcement measures applied in the event of a violation are described, along with potential recourse or relief by variance or appeal from requirements of the Code.

§ 1.302 COMMON REVIEW REQUIREMENTS

The requirements of this section shall apply to all review applications and procedures required by this Zoning Code, inclusive of those outlined in Sections 1.304 through 1.312, unless otherwise stated.

1.302.1 AUTHORITY TO FILE APPLICATIONS

(A) The person having legal authority to take action in accordance with the approval sought shall file an application for any review in accordance with this Zoning Code. The person having legal authority shall be:

- (1) The owner of the property that is the subject of the application; or
- (2) A lessee of the property that is the subject of the application; or
- (3) The owner or lessee's authorized agent.

(B) When a lessee or authorized agent files an application under this Zoning Code, the property owner shall be required to sign the application, which shall bind all decisions, and related conditions of approval, to the owner of the property.

(C) City Council may initiate zoning text and map amendments under this Zoning Code, with or without an application from a property owner who may be affected. The Planning Commission may also submit a request to City Council to initiate a zoning text or map amendment, with or without an application from a property owner who may be affected.

1.302.2 APPLICATION CONTENTS

(A) Submittal Requirements

Applications required under this Zoning Code shall be submitted in a form and in such numbers as established by the Building Department and made available to the public. A list of submittal requirements shall be available at the office of the Zoning Administrator.

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(B) Complete Application Determination

- (1) The Zoning Administrator shall only initiate the review and processing of applications submitted in accordance with this Chapter if such application is determined to be complete.
- (2) The Zoning Administrator shall make a determination of application completeness within ten (10) business days of the application filing.
- (3) If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this Zoning Code.
- (4) If an application is determined to be incomplete, the Zoning Administrator shall provide 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 in a future re-submittal application.
- (5) If the applicant fails to re-submit a complete application within sixty (60) days, the original fee shall be forfeited and the applicant shall be required to submit a new application including fees.
- (6) If any materially false or misleading information is submitted or supplied by an applicant on an application, that application shall be deemed incomplete.

(C) Submission of Fees

- (1) City Council shall by Ordinance establish a schedule of fees for amendments, zoning permits, certificates of occupancy, appeals, variances, conditional use permits, plan approvals, and other procedures and services pertaining to the administration and enforcement of this Zoning Code. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by City Council.
- (2) Each application specified necessary in this Chapter for zoning enforcement is to be accompanied by the fee required when submitted to the Zoning Administrator for filing and processing.
- (3) Until all such application fees, charges and expenses have been paid in full, no action shall be taken on any application, appeal or other administrative or legislative procedure.

(D) Refund of Fees

Application or review 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 shall be refunded to the applicant.

1.302.3 SIMULTANEOUS PROCESSING OF APPLICATIONS

Whenever two (2) or more forms of review and approval are required under this Zoning Code, the Zoning Administrator shall determine the order and timing of review. The Zoning Administrator may authorize a simultaneous review of applications.

§ 1.303 NOTIFICATION FOR PUBLIC HEARINGS

1.303.1 CONTENT

Notices for public hearings, whether by publication or mail (written notice), shall, at a minimum:

(A) Identify the Application

Identify the address or location of the property subject to the application and the name, address, and telephone number of the applicant or the applicant's agent.

(B) Specify the Date, Time, and Place of the Public Hearing

Indicate the date, time, and place of the public hearing.

(C) Describe the Subject Property

Describe the land involved by street address, or by legal description and the nearest cross street, and project area (size).

(D) Describe the Nature and Scope of the Application

Describe the nature, scope, and purpose of the application or proposal.

(E) Notify the Public Where to View the Application

Identify the location (e.g., the Building Department) where the public may view the application and related documents.

(F) Notify the Public Where They May Be Heard

Include a statement that the public may appear at the public hearing, be heard, and submit evidence and written comments with respect to the application.

(G) Allow for Written Comments

Include a statement describing where written comments will be received prior to the public hearing.

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1.303.2 NOTICE REQUIREMENTS

Published and mailed notice for public hearings shall be provided as defined in the table below. Applications for development approval that require public hearings shall comply with the applicable Ohio Revised Code requirements.

PROCEDURE	Mailed Notice	Published Notice
Conditional Use (Section 1.306)	Written notice shall be mailed a minimum of twenty (20) days before the BZA public hearing.	Published notice required a minimum of thirty (30) days before a public hearing.
Variance (Section 1.307)		
Administrative Appeals (Section 1.308)		
Zoning Map Amendment (Section 1.309)	If the amendment involves ten (10) or less parcels, written notice shall be mailed a minimum of twenty (20) days before the City Council public hearing. Otherwise, none required.	
Zoning Text Amendment (Section 1.309)	None required.	
Concept PUD Plan – Standard (Section 1.310)	Written notice shall be mailed a minimum of twenty (20) days before the public hearings for both the Planning Commission and City Council.	
Preliminary PUD Plan – Standard (Section 1.310)	None required.	
Preliminary PUD Plan – Expedited (Section 1.310)	Written notice shall be mailed a minimum of twenty (20) days before the public hearings for both the Planning Commission and City Council.	

1.303.3 PUBLISHED NOTICE

When the provisions of this Zoning Code require that notice be published, the agency responsible for notification shall prepare the content of the notice and publish the notice in a newspaper of general circulation. The content and form of the published notice shall be consistent with the requirements of Section 1.303.1 (Content) and state law.

1.303.4 WRITTEN NOTICE

- (A) It shall be the duty of the applicant to furnish the Building Department with the names and addresses of the owners of all properties adjacent to the subject property.
- (B) The Building Department shall notify the owners of property adjacent to the subject property by regular mail, of information required in Section 1.303.1 (Content) and state law.
- (C) Written notice to adjacent property owners shall be postmarked no later than the minimum number of days required in Section 1.303.2 (Notice Requirements).

1.303.5 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 error, 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 agency having responsibility for notification to make a formal finding as to whether there was substantial compliance with the notice requirements of this Zoning 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 posting of notices as required by Section 1.303 (Public Notification for Public Hearings), it shall be presumed that notice of a public hearing was given as required.

§ 1.304 ZONING PERMIT APPLICATION

1.304.1 PURPOSE

A zoning permit shall be required in accordance with the provisions of this section in order to ensure that proposed development complies with the standards of this Zoning Code, and to otherwise protect the public health, safety, and general welfare of the citizens of the City.

1.304.2 APPLICABILITY

- (A) A zoning permit shall be required for any of the following:
 - (1) New construction of structural alteration of any building or structure, including principal structures, accessory structures, and temporary use structures;
 - (2) Occupancy and use of vacant land;
 - (3) New construction or alteration of a permanent or temporary sign, in accordance with the provisions of Article IV Chapter 5 (Signs).
- (B) The Zoning Administrator shall issue a zoning permit for a conditional use only following receipt of notice from the Board of Zoning Appeals that the application has been approved by the Board.

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- (C) An application for a zoning permit prepared in satisfaction with the requirements of Section 1.304.3 (Permit Application Requirements) shall be submitted to and approved by the Zoning Administrator before the owner(s) of property or the agent(s) acting in their behalf commence any change in use or places or begins to erect, construct, reconstruct, enlarge, or alter any building or other structure. Zoning Code compliance must be determined by the Zoning Administrator prior to the issuance of a zoning permit.
- (D) A zoning permit is not required for any of the following:
- (1) Change in the ownership of any land or structure;
 - (2) Exterior or interior maintenance and repair of any existing use structure, provided there is no expansion of the building footprint (although exterior changes may be subject to approval of a Certificate of Appropriateness if the property is located within the H-1 Overlay District);
 - (3) Interior alteration of a building used for an approved principal or accessory use;
 - (4) Re-occupancy of any building or re-use of any structure with a previously permitted use;
 - (4) A change of occupancy to another permitted use, provided no modification of the site is proposed or required by the standards of this Code, such as an increase in the number of required parking spaces or sufficient landscaping/buffering, and that such change maintains compliance with all applicable requirements of this Code – in such cases, a Certificate of Occupancy shall be required.

1.304.3 PERMIT APPLICATION REQUIREMENTS

The following contents and information must be submitted to the Zoning Administrator for evaluation, unless the Zoning Administrator determines that certain information is not necessary to meet the intent of this Section:

(A) **Plot Plan**

Two (2) copies of a plot plan, drawn to scale, shall be provided and shall express the following information:

- (1) Accurate dimensions of the boundary lines (based on a recorded survey), legal description, and square footage or acreage of the site;
- (2) The location of each existing and proposed structure, with notation of the type and size (square footage area and outer wall footprint dimensions as applicable) of each structure;
- (3) Indication of the respective distances in feet from the outermost edges of each existing and proposed structure to property lines;
- (4) Identification of any existing structures to be removed;

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- (5) The total height of the proposed structure, and number of stories;
- (6) If proposing residential structure(s), the number of dwelling unit(s) within each, total living space by floor (square footage), and the number and size of bedrooms in each dwelling unit;
- (7) Indication of the existing and/or proposed vehicle access, parking provisions and traffic circulation;
- (8) Provisions for landscaping, screening, signage and lighting; and
- (9) Other applicable information required by the Zoning Administrator to determine compliance of the permit request. This may include, but is not limited to, the location of drainage, public utility, common access, conservation easements, regulatory floodplain and stream protection areas, right-of-way or easement line(s), boundaries of waterways, and finished floor elevations.

(B) Application Form

The required application form must provide or be accompanied by the following information:

- (1) Name, address, phone number, fax number, and e-mail address of the applicant property owner and agent, if applicable or available;
- (2) Date submitted to, and accepted complete, by the Zoning Administrator;
- (3) The identification number of the parcel(s), name of the zoning district in which located, site address, and if applicable, the name of the subdivision and the lot number(s) in which located;
- (4) Written certification of an approved or anticipated sewage disposal system permit by the approving authority and a plan showing existing and proposed systems for sanitary sewer;
- (5) Signature of the applicant attesting to the truth and correctness of all information provided on the application form, the accompanying plot plan and other documents submitted. Such signature shall indicate the applicant's acknowledgement that the permit may be revoked if the use and/or structure is not progressing or completed in a manner consistent with the information provided and approved; and
- (6) The permit application fee as established in the Schedule of Fees. Additional fees may apply if construction has commenced prior to permit approval.

1.304.4 REVIEW PROCEDURE

(A) Step 1 – Application

The applicant shall submit an application to the Zoning Administrator, prior to submitting for a Certificate of Occupancy or Building Permit, all application and submittal requirements pursuant to Section 1.304.3 (Permit Application Requirements).

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(B) Step 2 – Review

Within a reasonable amount of time, the Zoning Administrator shall review the application for conformance with the provisions of this Zoning Code.

(C) Step 3 – Decision

- (1) The Zoning Administrator shall either approve the Zoning Permit and issue a Zoning Certificate, or deny the application and in so doing state in writing the reasons for the action taken.
- (2) Upon approval, the Zoning Administrator shall return one (1) signed copy of the application and maintain a second copy of the application as a public record.
- (3) If the application is denied, the applicant may submit a new application and plans for review in accordance with Section 1.304.3 (Permit Application Requirements), including a new fee, or the applicant may appeal the decision to the BZA in accordance with Section 1.308 (Administrative Appeals) of this Zoning Code.

1.304.5 REVIEW CRITERIA

All applications for a Zoning Permit shall demonstrate conformity with the provisions of this Zoning Code.

1.304.6 EXPIRATION

- (A)** Construction shall begin within twelve (12) months of issuance of a Zoning Permit. Construction shall be considered “begun” if the footers of the structure have been installed. If no footers are required, construction shall be considered “begun” when the slab or foundation of said structure is constructed.
- (B)** Failure to begin construction within twelve (12) months shall result in the expiration of the Zoning Permit, unless the applicant requests and receives an extension from the Zoning Administrator for good cause. Factors to be considered by the Zoning Administrator when determining whether to grant an extension shall include:
 - (1) The length of additional time necessary to complete construction;
 - (2) The reason for the delay;
 - (3) Good faith on the part of the applicant;
 - (4) The existence of or potential for any substantial detriment to adjoining property as a result of the extension; and
 - (5) Conformance with this Zoning Code.
- (C)** Upon expiration of a Zoning Permit, a new Zoning Permit application, including all applicable fees, shall be required before construction or resumption of construction can begin.

1.304.7 RECORD OF APPLICATIONS

A record of all zoning permit applications and approvals shall be kept on file in the office of the Zoning Administrator and copies shall be furnished upon request to any person having a proprietary or tenancy in the building or land affected.

1.304.8 POST ZONING PERMIT APPROVAL

- (A) A Certificate of Occupancy shall be applied for concurrently with the application for a building permit.
- (B) No building permit shall be issued for excavation or the erection, reconstruction or structural alteration of any building, before application has been made for a Certificate of Occupancy in accordance with Section 1.312.

§ 1.305 SITE PLAN REVIEW

1.305.1 PURPOSE

The purpose of Site Plan Review is to ensure compliance with the development and design standards of this Zoning Code and to encourage sound planning principles in the arrangement of buildings, the preservation of open space, the utilization of topography, and other site features and to promote overall quality development. A zoning permit shall not be issued for uses requiring Site Plan Review until the site plan is approved pursuant to this section.

1.305.2 APPLICABILITY

- (A) Except as specifically provided herein, no person shall commence any use or construct or alter any structure, or grade any lot or parcel in zones where a site plan is required without first obtaining an approved site plan pursuant to this section.
- (B) Unless exempted by subsection (C) below, site plan review by the Planning Commission is required for the following types of development prior to the issuance of a zoning permit:
 - (1) All non-residential development;
 - (2) All residential development;
 - (3) All conditional uses.
- (C) The following uses and circumstances shall be exempt from site plan review:
 - (1) All uses listed as not requiring Site Plan Review in Section 2.102 (Table of Principal Uses by Zoning District), including single-family and two-family dwellings;
 - (2) Greenspace, open space, or other unimproved areas;
 - (3) Any change in use or alteration that would otherwise also not require approval of a Zoning Permit, as provided in Section 1.304.2(D); and

- (4) Exterior alteration of a building used for an approved principal or accessory use which does not expand the building footprint by more than twenty-five (25) percent.

1.305.3 APPLICATION REQUIREMENTS

The required application form, fee, and information to accompany the site plan must satisfy the following requirements, unless the Zoning Administrator determines otherwise:

(A) Site Plan Drawing Format

The site plan shall be drawn to a scale specified appropriate by the Zoning Administrator. Information must be clear and legibly drawn.

(B) Number of Copies

Three (3) folded copies of the site plan are required. The site plan must be drawn on sheets no greater than twenty-four (24) inches by thirty-six (36) inches.

(C) Site Plan Minimum Information

The minimum information, which must be provided on the site plan and/or in other documents submitted for site plan review, unless determined otherwise by the Zoning Administrator, follows:

- (1) Name, address, phone number of the applicant site owner, and agent, if applicable, and the fax number and e-mail address of each, if available. If applicable, the name, identification number, and seal of the architect, landscape architect, engineer, or surveyor;
- (2) A title block giving a name for the proposed development, and a legend, notes, and/or labels explaining the drawn content shown on each drawing, and; a legal description, parcel identification number, and address of the property in question;
- (3) Notation of the month and year submitted and a place for noting revision date(s);
- (4) Written and graphic scale of the plan drawing(s);
- (5) Vicinity map drawn to scale with a north arrow and in display of the site location in relation to the surrounding road network and local jurisdictions;
- (6) Legal and common description of the site boundary and the parcel(s) involved shown on the plan, detailing the bearing and dimension of each course of the boundary line;
- (7) The acreage and/or square footage of the site;
- (8) The zoning classification(s) of the site and of all abutting parcels;
- (9) Location and dimensions of existing and proposed streets, driveways, sidewalks, and any other walkway within the site, with notation of Thoroughfare Plan specified right-of-way, the pavement type, width, and construction design details noted and depicted for each;
- (10) Schematic depiction of existing and proposed locations of gas, electric, phone, fiber-optic, and other telecommunication lines and terminal facilities, sanitary sewer lines or septic

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system components, water service lines, wells, fire hydrants and emergency connections, storm water drainage management components, and sewer lines;

- (11) Location and dimensions of existing and proposed easements and notation of the percentage of the site occupied by the easements;
- (12) Existing and proposed topography on and in proximity to the site represented with elevation contour lines at intervals not exceeding:
 - (a) One (1) foot for zero (0) to six (6) percent slopes;
 - (b) Two (2) feet for six (6) to eighteen (18) percent slopes; and
 - (c) Five (5) feet for slopes over eighteen (18) percent.
- (13) Location of existing surface water features, natural or man-made, including lakes, ponds, runoff control basins, marshes, wetlands, rivers, creeks, streams, or other drainage ways;
- (14) A tree survey that includes information on all existing trees which have a 6" diameter at breast height (DBH) or larger. Information shall include the location, size, and condition of each tree. If the site is heavily wooded and large areas are to be protected, individual trees do not need to be surveyed. The survey shall indicate and distinguish areas based on the intended level of preservation, alteration, and/or disturbance;
- (15) The types of soils found on the site and seasonal wind directions;
- (16) All flood prone areas, using the one-hundred (100) year flood plain as a standard; and
- (17) Any additional information that may be deemed necessary for proper and complete review when a proposed development presents difficult or unusual problems.

(D) Development Specific Information

The following information, as determined applicable and necessary by the Zoning Administrator, must be provided on and/or accompany the site plan:

- (1) Existing and proposed land development on and around the site.
- (2) Notation and depiction of any variance from this Code which has been secured.
- (3) A Time Schedule which indicates the anticipating starting and completion dates for construction. If the development is to be staged, indication shall be made as to how the staging is to proceed.
- (4) The location of each existing and proposed structure with notations of:
 - (a) The type, number, and size of each;
 - (b) The respective distances in feet from the boundary lines of the site;
 - (c) The lowest foundation opening and first finished floor elevations of each building;

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- (d) Existing structures or part(s) thereof which are to be altered or removed;
 - (e) For residential proposals: a site summary indicating the number of dwelling unit(s) within each building, the number of bedrooms per unit, floor plans, floor area square feet, density computation, recreation facilities and open spaces;
 - (f) For non-residential proposals: the number of offices and number of employees; the number of floors, floor plans, floor area square feet, total square footage, and exterior elevations; and
 - (g) The number of floors, floor plans, floor area square feet, total square footage, and exterior elevations.
- (5) The height of each proposed structure as measured in accordance with Section 3.103.10 (Height Measurement) and Section 3.103.11 (Height Measurement Exceptions).
 - (6) Off-street parking provisions: the total number, typical dimensions and square footage of the parking spaces, handicapped use designation, widths and turning radii dimensions of all driveways, and pavement material.
 - (7) Off-street loading/unloading provisions, showing the locations and noting the dimensions and square footage of each space.
 - (8) The location of outdoor storage, waste disposal and/or trash containment area along with detailed screened and/or buffered plans for each.
 - (9) The location of fences and walls, and cross-section diagram for proposed fences and walls.
 - (10) Landscaping plan, with details of plantings for buffers and screening in accordance with requirements of this Code.
 - (11) The location, type, intensity, height, and orientation of all building exteriors.
 - (12) Documentation of site lighting, along with a photo-metric analysis.
 - (13) Depiction and description of the location, type, number, and size of display faces, height, setback, and illumination, if any, of all existing and proposed signs.

(E) Supplementary Information

Additional information may be required if deemed necessary by the Planning Commission or Zoning Administrator. Such additional information may include, but is not limited to, their requirement of a traffic impact study (TIS), market analysis, environmental assessment, condominium documents, and any study or report in evaluation of the proposed impact on public facilities and services. The following information may be required as determined applicable and necessary by the Zoning Administrator:

- (1) Front, side, and rear elevation drawings of structures; drawn with sufficient details to evaluate visual appearance and function;
- (2) Written certification of the required sewage disposal permits having been issued or able to be issued by the applicable authority;

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- (3) Certification by the City Engineer or Ohio Department of Transportation (ODOT), and the City of Wilmington Fire Department, that the sight-distance location, configuration and number of existing and/or proposed street and/or driveway access intersections for the development are acceptable;
- (4) Certification from the City Building Department, City Engineer, and Federal Emergency Management Agency (FEMA) that proposed structure(s) and/or fill within one-hundred (100) year floodplain is compliant with applicable regulations and requirements;
- (5) Stormwater drainage quantity and quality management provisions to the approval of the City Engineer;
- (6) Soil erosion and sedimentation control measures as may be required. Control measures address pre- and post-development, soil type boundaries, pre-development land cover, clearing limits, wooded areas proposed to remain or be cleared, and soil stockpiling and sediment trap basins;
- (7) Identification of local airport airspace and indication that the proposed development meets Federal Aviation Administration (FAA) and/or the Ohio Division of Aviation standards; and
- (8) A statement documenting potential impacts to groundwater and air quality, and other environmental impacts.

1.305.4 REVIEW PROCEDURE

(A) Step 1 – Consultation with Zoning Administrator

- (1) Prior to submitting a site plan application, the applicant or property owner shall first consult with the Zoning Administrator.
- (2) The purpose of this informal consultation is to:
 - (a) Discuss applicable standards and technical issues pertinent to the proposal;
 - (b) Comment on required compliance of the proposal to standards of this Code; and
 - (c) Comment on whether or not the site plan application is the necessary and appropriate process for making a decision on the proposed development.
- (3) The applicant or Zoning Administrator may request input on the proposal from staff or other potentially involved regulatory authorities or consultants.
- (4) A concept sketch plan is not required at this time, but it would be helpful for the applicant to explain:
 - (a) The location of the project;
 - (b) The proposed development (in general terms);

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- (c) The proposed layout of buildings, parking, access points, open spaces, and drainage facilities;
- (d) The relationship to existing surrounding development; and
- (e) Any other conditions/items relevant to the processing of the application.

(B) Step 2 – Formal Submittal and Processing

- (1) The applicant shall formally submit the required application to the Zoning Administrator in accordance with the requirements specified in Section 1.305.3 (Application Requirements).
- (2) The Zoning Administrator has the duty to determine whether the application is complete within ten (10) working days of receipt of the application.
- (3) If the Zoning Administrator determines that the application is not complete, the applicant shall be notified, in writing, of the specific deficiencies of the application including any additional information that must be supplied. The applicant shall be informed that no further action will be taken by the City on the application until the deficiencies are corrected.
- (4) Upon receipt of a complete application, the Zoning Administrator shall notify the applicant of completeness. The Zoning Administrator shall then provide the accepted application to applicable authorities/departments involved for review of the plan and allow fifteen (15) days to respond and receive comments before the Zoning Staff Report is sent to the Planning Commission.

(C) Step 3 – Review and Action

The Planning Commission shall hold a public meeting to consider comments and recommendations regarding the site's development. The board shall within a reasonable amount of time choose to approve or deny the site plan application as submitted, or to approve with conditions. Conditions may include plan revisions and safeguards to be performed by the applicant. Appeal of the Planning Commission decision is to the Court of Common Pleas.

1.305.5 REVIEW CONSIDERATIONS

The Planning Commission shall review the site plan in the interest of public health and safety, as well as public convenience, comfort, prosperity, or general welfare, as applicable, by considering the following factors:

- (A)** To protect the long-term public interest by reviewing the internal and external relationship of development that may have considerable potential significance and impact to the City;
- (B)** To ensure the application of quality design principles within new and redevelopment projects;
- (C)** To determine the impact on the public, including, but not limited to, the neighboring properties;
- (D)** To ensure that new development contains elements of internal cohesiveness and factors that promote good neighborhood atmosphere;

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- (E) Suggestions of the Comprehensive Plan;
- (F) To promote the orderly and safe flow of vehicular and pedestrian traffic;
- (G) To confirm that all requirements of this Code applicable to the development and operation of the use are satisfied; and
- (H) To confirm that the proposed plan satisfies other County, State, and/or Federal standards which are applicable to permitting the proposed development.

1.305.6 REVIEW CRITERIA

The site plan review is conducted to determine anticipated impacts on the public health and safety, as well as the public convenience, comfort, prosperity, or general welfare, as applicable. Factors to be considered include those in Section 1.305.5 (Review Considerations), and the following additional criteria:

(A) Adequacy of Information and Compliance with Zoning Code

- (1) The plan contains the Code required information and is presented in an understandable manner that provides an accurate description of the proposed development, structure(s), site improvements, and impacts.
- (2) The plan complies with all applicable requirements of the Zoning Code pertinent to the proposal.

(B) Design Layout Sufficiency and Compatibility

The design components proposed and used are considered sufficient and compatible with respect to the following features:

- (1) Site topography;
- (2) Drainage;
- (3) Parcel configuration;
- (4) Adjacent properties;
- (5) Traffic operations;
- (6) Adjacent streets and driveways;
- (7) Pedestrian access; and
- (8) The type, size, and location buildings.

(C) Design Character, Operational Compatibility, and Coordination

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- (1) The appearance and design character of the proposed development and all corresponding operational activities are considered compatible and coordinated with surrounding, existing, and planned developments.
- (2) The proposed structures must also be identified as either primary or secondary, and must be coordinated to function with internal operations of the site.

(D) Preservation of Significant Features

The plan preserves:

- (1) Architecturally, historically, and/or culturally significant buildings;
- (2) Wetland(s);
- (3) Floodplain(s);
- (4) Streams;
- (5) Aquifer recharge areas;
- (6) Soil(s) areas with severe limitations for use;
- (7) Steep slopes; and
- (8) Tree lines, hedge-rows, wooded areas, and trees that are determined valuable to retain.

(E) Pedestrian Access and Circulation

The plan proposes provision of pedestrian circulation and access. Determination of adequacy is based on such provisions being designed to be safe, comfortable, compatible, connected, conflict-free, and compliant with applicable Americans with Disabilities Act (ADA) regulations.

(F) Vehicular Access and Circulation Streets

Driveways, parking aisles, and other related elements designed for vehicle access and circulation demands are determined sufficient per evaluation by the City Engineer and Fire/EMS department. These elements are evaluated for safety and function.

(G) Parking and Loading

Off-street parking and loading provisions are determined sufficient based upon the proposed number, size, location, and arrangement of parking spaces and provisions for shared-parking and for compliance with Article IV, Chapter 4 (Parking and Circulation).

(H) Signage

Signage is evaluated for compliance with Article IV, Chapter 5 (Signs).

(I) Landscaping and Screening

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Landscaping and screening are evaluated based on the design and effectiveness of landscaping/building material to screen and mitigate negative visual impacts and for compliance with Article IV, Chapter 6 (Buffering and Landscaping)

(J) Exterior Lighting

Lighting is evaluated for compliance with Article IV, Chapter 2 (Lighting).

(K) Public Service Impact

The impacts to the following public services facilities and utilities are evaluated in terms of their capacity to accommodate the proposed development:

- (1) Water;
- (2) Sanitary sewer;
- (3) Natural gas;
- (4) Electricity;
- (5) Telephone and cable;
- (6) Roadways;
- (7) Police protection;
- (8) Fire and EMS protection;
- (9) Sidewalks and bikeways; and
- (10) Public schools.

(L) Stormwater Drainage and Management Plan

The site plan is evaluated based on the quantity and quality of runoff, impact on upstream or downstream property, and a maintenance plan, to the approval of the City Engineer.

(M) Soil Erosion and Sediment Control

Provisions for minimizing soil erosion during development and preventing sedimentation during and after development are determined acceptable.

(N) Emergency Access and Service Facilities and Public Safety

The plan provides for emergency access and service facilities (fire lanes, hydrants, and suppression supply connections) within the site as determined necessary per evaluation by the Fire/EMS Department in conjunction with the Building Department. The proposed development does not pose a threat to public safety.

(O) Building Design

Building design is found harmonious in character with the surrounding area with regard to scale, mass, and orientation.

(P) Compliance with Public Health and Safety

The application must provide plan of procedures to mitigate nuisances to surrounding areas such as, but not limited to, odors, excess noise, and/or unsanitary operations. Any externalities must be with the realm of public health, safety, and wellness.

1.305.7 CASE FILE RECORD

(A) Application files maintained by the Zoning Administrator shall contain all written information submitted. The application file is numbered by the year in which the application was reviewed and consecutive to other applications within the same year.

(B) Written meeting minutes and/or audio recording(s) of the proceedings of a hearing may be referenced at the offices of the City.

(C) The letter of the Planning Commission in decision of the site plan is placed in the case file and provided to the applicant.

1.305.8 POST SITE PLAN APPROVAL REQUIREMENTS

(A) Permits or Approvals from Other Involved Authorities

The applicant is responsible to obtain necessary permits or approvals from any other applicable authority before issuance of a Zoning Permit.

(B) Development and Maintenance

Per the approved Site Plan the property owner is responsible for the improvement and maintenance of the site in accordance with the approved site plan and all conditions of approval. Failure to comply with the approved site plan and all conditions of approval may result in an enforcement action being brought in a court of competent jurisdiction.

(C) Expiration and Extension of Plan

(1) If development has not commenced within two (2) years following the site plan approval, the approval shall become null and void, requiring re-application.

(2) The applicant may only request an extension prior to the site plan approval expiration date. A written request for an extension shall be submitted to the Zoning Administrator.

(3) The Planning Commission may grant up to twelve (12) months in extension of its initial approval of the plan and entertain subsequent extensions thereafter.

1.305.9 MODIFICATION OF THE APPROVED SITE PLAN

(A) Minor Modifications

The following are considered minor modifications allowable for approval by the Zoning Administrator:

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- (1) Changes made during development to improve safety, protect natural features, and/or accommodate unanticipated site constraints or to comply with further requirements of other authorities. These changes should not affect surrounding property or the approved plan layout.
- (2) Changes in landscaping species that is consistent with the standards of this Code and that do not reduce the total amount of landscaping or buffering required.
- (3) Change in the boundary or arrangement of a structure that does not violate minimum zoning required setbacks nor affect locations of other components of the approved site plan requirements or conditions.
- (4) Adjustments in the alignment of vehicular and pedestrian access and circulation components for purposes of improved safety or to eliminate conflict with other components in the site which will not create off-site conflicts.
- (5) Reduction in signage or changes in lighting which will not negatively affect off-site properties.

(B) Major Modifications

Any proposed change to a site plan that does not meet the minor modification qualification criteria specified above in Section 1.305.9(A) shall be considered a major modification and is subject to approval of a revised site plan by the Planning Commission.

§ 1.306 CONDITIONAL USE APPLICATION

1.306.1 PURPOSE AND APPROVAL

- (A) Conditional use is provided as a category and means of permitting certain uses listed in the Table of Principal Uses by Zoning District (Section 2.102), or listed elsewhere in the Code, as potentially acceptable.
- (B) Allowance of a conditional use is contingent on the Board of Zoning Appeals (BZA) granting approval in request for such use.
- (C) A conditional use may only be approved if the BZA finds that the proposal is in accordance with this Section and meets applicable use-specific requirements specified in Article II, or any additional conditions specified by the BZA.

1.306.2 APPLICATION REQUIREMENTS

The applicant shall submit the required application form and fee. The information to accompany the application for conditional use shall be the same as the information required for site plan review as specified in Section 1.305.3 (Application Requirements).

1.306.3 REVIEW PROCEDURE

(A) Step 1 – Consultation with Zoning Administrator

- (1) Prior to submitting a conditional use application, the applicant or property owner shall first consult with the Zoning Administrator.
- (2) The purpose of this informal consultation is to:
 - (a) Discuss applicable standards and technical issues pertinent to the proposal;
 - (b) Comment on whether or not the conditional use application is the necessary and appropriate process.

(B) Step 2 – Formal Submittal and Processing

- (1) The applicant shall formally submit the required application to the Zoning Administrator.
- (2) The Zoning Administrator has the duty to determine whether such application is complete within ten (10) working days of receipt of the application.
- (3) If the Zoning Administrator determines that the application is not complete, the applicant shall be notified, in writing, of the specific deficiencies of the application including any additional information that must be supplied. The applicant shall be informed that no further action will be taken by the City on the application until the deficiencies are corrected.
- (4) Upon receipt of a complete application, the Zoning Administrator shall notify the applicant of completeness. The Zoning Administrator shall provide the accepted application to applicable authorities/departments involved for review of the plan and allow fifteen (15) days to respond and receive comments before the Zoning Staff Report is sent to the Board of Zoning Appeals (BZA).

(C) Step 3 – Review and Action

- (1) The BZA shall hold a quasi-judicial hearing to hear sworn testimony and consider evidence regarding the proposed conditional use.
- (2) Upon closing the quasi-judicial hearing, the BZA shall approve or deny the conditional use application as submitted, or approve with conditions. Conditions may include plan revisions and safeguards to be performed by the applicant. Appeal of the BZA decision is to the Court of Common Pleas.

1.306.4 REVIEW CRITERIA

- (A)** In reviewing conditional uses, the BZA shall consider the following in the interest of public health and safety, public convenience, comfort, prosperity, or general welfare:
- (1) The use is a conditional use, permitted with approval by the BZA, in the district in which the subject lot is located (except as provided in Section 1.313, Nonconformity Provisions);

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- (2) Whether the use deviates from the suggestions of the Comprehensive Plan; and
- (3) The conditional use will not substantially and/or permanently injure the appropriate use of neighboring properties and will serve the public convenience and welfare.

(B) In order to approve a conditional use, the BZA shall consider the following review criteria:

- (1) The use will be harmonious with, and in accordance with, the purpose of this Zoning Code;
- (2) The use will conform to the general character of the neighborhood in which it will be located;
- (3) Imposing special conditions or requirements that would mitigate the special characteristics which are inherent to the use and enable compatibility with the existing neighborhood;
- (4) The use complies with all applicable provisions of this Zoning Code, including any use specific standards;
- (5) The use be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and the use will not change the essential character of the area;
- (6) The use will not create excessive additional requirements, at public cost, for public facilities and services and will not be detrimental to the economic welfare of the community;
- (7) That the proposed use at a particular location shall be shown as necessary or desirable in providing a service or facility that will not be detrimental to the general well being of the surrounding area.
- (8) That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity; and
- (9) Only one (1) conditional use is allowed on a parcel of property.

1.306.5 APPLICABLE REQUIREMENTS AND PROVISIONS FOLLOWING USE APPROVAL

(A) Permits or Approvals from Other Involved Authorities

The applicant is responsible for obtaining all necessary permits or approvals from other approving authorities before issuance of a Zoning Permit.

(B) Development and Maintenance in Compliance with Approved Plan

It is the responsibility of the owner of the property for which the conditional use approval has been granted, or of their duly authorized agent(s) acting in their behalf, to develop, improve, operate, and maintain the site, including the buildings, structures, and all development component elements of the use, in accordance with the approved plan and all conditions of approval.

1.306.6 CASE FILE RECORD

- (A) Application files maintained by the Zoning Administrator shall contain all written information submitted. The application file is numbered by the year in which the application was reviewed and consecutive to other applications within the same year.
- (B) Written meeting minutes and audio recording(s) of the proceedings of a hearing may be referenced at the offices of the City.
- (C) The decision on the amendment is placed in the case file. A copy of the decision is provided to the applicant.

§ 1.307 VARIANCE APPLICATION

1.307.1 PURPOSE

Variance is provided as a type of application for appeal to the Board of Zoning Appeals (BZA) by which a property owner may be granted relief or release from a dimensional and/or numeric requirement of this Zoning Code.

1.307.2 APPROPRIATENESS

Applying for a variance is inappropriate for any of the following:

- (A) Use variances;
- (B) Development within a Planned Unit Development (PUD);
- (C) Changes which would increase the allowable density of a property; and
- (D) Before a Zoning Permit has been denied by the Zoning Administrator.

1.307.3 APPLICATION REQUIREMENTS

The required application form and information to accompany the request for variance shall satisfy the requirements specified in Section 1.305.3 (Application Requirements), or as determined by the Zoning Administrator. In addition, the following information should be provided to the greatest extent possible:

- (A) The specific variance requested;
- (B) The special conditions supporting the request;
- (C) Why a variance is not contrary to the public interest;
- (D) Setting forth demonstrable facts showing that special conditions exist; and
- (E) Describing the unnecessary hardship that would result if the variance were not granted.

1.307.4 REVIEW PROCEDURE

(A) Step 1 – Consultation with Zoning Administrator

- (1) Prior to submitting a variance application, the applicant or property owner shall first consult with the Zoning Administrator.
- (2) The purpose of this informal consultation is to:
 - (a) Discuss applicable standards and technical issues pertinent to the proposal;
 - (b) Comment on whether or not the variance application is the necessary and appropriate process.

(B) Step 2 – Formal Submittal and Processing

- (1) The applicant shall formally submit the required application to the Zoning Administrator.
- (2) The Zoning Administrator has the duty to determine whether such application is complete within ten (10) working days of receipt of the application. If the Zoning Administrator believes that legally adequate grounds for the variance have not been properly stated in the application, then he or she may refer the matter to the City Law Director for an opinion.
- (3) If the Zoning Administrator determines that the application is not complete, the applicant shall be notified, in writing, of the specific deficiencies of the application including any additional information that must be supplied. The applicant shall be informed that no further action will be taken by the City on the application until the deficiencies are corrected.
- (4) Upon receipt of a complete application, the Zoning Administrator shall notify the applicant of completeness. The Zoning Administrator shall then provide the accepted application to applicable authorities/departments involved for review of the plan and allow fifteen (15) days to respond and receive comments before the Zoning Staff Report is sent to the Board of Zoning Appeals (BZA).

(C) Step 3 – Review and Action

- (1) The BZA shall hold a quasi-judicial hearing to hear sworn testimony and consider evidence regarding the proposed variance.
- (2) Upon closing the quasi-judicial hearing, the BZA shall either approve or deny the variance as submitted. Appeal of the BZA's decision is to the Court of Common Pleas.

1.307.5 REVIEW CRITERIA, FACTORS, AND CONSIDERATIONS

(A) Review Criteria

In granting a variance, the BZA shall determine that one or both of the following factors are met by the request:

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- (1) The conditions upon which an application for a variance is based are particular to the subject property with respect to the physical size, shape or other characteristics of the premises or adjoining premises, differentiating it from other premises in the same district; or
- (2) The variance would result in an improvement of the property that is more appropriate and more beneficial to the community than would be the case without granting of the variance.

(B) Review Factors

In granting a variance, the BZA shall also determine that all of the following factors are met by the request:

- (1) The essential character of the neighborhood would not be substantially altered, and adjoining properties would not suffer a substantial detriment as a result of the variance;
- (2) The spirit and intent behind the subject zoning requirement would be observed and substantial justice done by granting the variance;
- (3) The variance is not substantial and is the minimum necessary to afford relief to the applicant and achieve an appropriate and beneficial improvement of the property; and
- (4) The variance would not adversely affect the delivery of governmental services (e.g. water, sewer, garbage).

(C) Review Considerations

In granting a variance, the BZA shall also consider the following factors:

- (1) Whether the property owner purchased the property with knowledge of the zoning restriction;
- (2) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; and
- (3) Whether the property owner's predicament feasibly can be obviated through some method other than a variance.

1.307.6 RESTRICTIONS ON BOARD ACTION

No variance in the application of the provisions of this Zoning Code shall be approved by the BZA relating to buildings, land or premises now existing or to be constructed, unless, after a public hearing, the BZA shall find that such variance will not:

- (A)** Alter the land use characteristics of the district, except as otherwise provided in this Zoning Code.
- (B)** Impair the adequate supply of light and air to adjacent property.
- (C)** Increase the hazard of fire, flood and other dangers on the property.

- (D) Diminish the marketable value of adjacent lands and buildings.
- (E) Increase the congestion in the public streets.
- (F) Otherwise impair the public health, safety, convenience, comfort and general welfare.

1.307.7 APPLICABLE REQUIREMENTS AND PROVISIONS FOLLOWING VARIANCE APPROVAL

(A) Permits or Approvals from Other Involved Authorities

The applicant is responsible for obtaining all necessary permits.

(B) Development and Maintenance Per the Approved Variance(s)

It is the responsibility of the property owner to develop, improve, operate, and maintain the site, including the buildings, structures, and all elements in accordance with the approved conditions and restrictions.

(C) Modification of the Approved Variance

Modification of the approved variance(s) requires re-application to the BZA.

1.307.8 CASE FILE RECORD

- (A) Application files maintained by the Zoning Administrator shall contain all written information submitted. The application file is numbered by the year in which the application was reviewed and consecutive to other applications within the same year.
- (B) Written meeting minutes and audio recording(s) of the proceedings of a hearing may be referenced at the offices of the City.
- (C) The letter of the BZA in decision on the variance is placed in the case file and provided to the applicant.

§ 1.308 ADMINISTRATIVE APPEALS

1.308.1 PURPOSE

This Section sets out the procedure to follow when a person claims to have been aggrieved or affected by an administrative decision of the Zoning Administrator, other administrative official, or administrative decisions of a board of the City.

1.308.2 INITIATION

Administrative appeals shall be initiated by the person aggrieved or affected by any order, decision, determination, or interpretation made by the Zoning Administrator, other administrative official, or administrative decision of a board of the City charged with the administration or enforcement of this Zoning Code.

1.308.3 APPLICATION REQUIREMENTS

- (A) Name, address, fax number, e-mail address, and phone number of the owner/agent of the property;
- (B) Date submitted to, and accepted complete, for processing by the Zoning Administrator;
- (C) The identification number of the parcel(s) of the appeal submitted; the name of the zoning district and the applicable Section, Town, and Range or Military Survey number(s) in which the site is located; the road address of the site, if issued; and, if applicable, the name of the subdivision and the lot number(s) of the site and other identifying references provided, if necessary, to accurately establish the location of the appeal site;
- (D) Statement of the grounds as reason(s) for submitting the application for administrative appeal;
- (E) Signature of the applicant on the application form attesting to the truth and correctness of all information provided on the application form and in any other accompanying information; and
- (F) The applicable submittal fee established by City Council in accordance with Section 1.302 (Common Review Requirements).

1.308.4 REVIEW PROCEDURE

The review procedure for an administrative appeal shall be as follows unless otherwise specified in this Zoning Code:

(A) Step 1 – Submission of Appeal (Application)

- (1) An appeal pursuant to this Section shall be initiated by filing a written appeal of the administrative decision or determination within thirty (30) days of the date of the order, decision, determination, or interpretation with the Building Department.
- (2) An administrative appeal shall be made in accordance with Section 1.302 (Common Review Requirements).

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

The Zoning Administrator shall forthwith transmit to the BZA all papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings.

(C) Step 3 – BZA Hearing and Decision on Appeal

- (1) The BZA shall hold a public hearing for the appeal within sixty (60) days of the application and give public notice in accordance with Section 1.303 (Notification for Public Hearings).
- (2) The affected party may appear at the hearing in person or by attorney.
- (3) The BZA shall make a decision on the appeal within sixty (60) days of the date of the hearing.

1.308.5 REVIEW CRITERIA

An 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 Zoning Code, state law, or the federal or state constitutions.

1.308.6 CONDITIONS

The BZA may impose conditions upon an affirmative decision to ensure that the requirements and purposes of this Zoning Code are followed in the order, decision, determination, or interpretation.

1.308.7 STAY

A properly submitted appeal shall stay all administrative proceedings by the City in furtherance of the action appealed, unless the Zoning Administrator or other administrative official from whom the appeal is taken 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 for good cause shown.

1.308.8 APPEAL

The decision of the BZA may be reviewed by the Court of Common Pleas as provided in Chapter 2505 and 2506 of the Ohio Revised Code.

§ 1.309 ZONING TEXT AND MAP AMENDMENTS

1.309.1 PURPOSE

The purpose of a text or map amendment is to make adjustments due to changed conditions, changes in public policy, recommendations of the Wilmington Comprehensive Plan or changes necessary to advance the health, safety, and general welfare of the City. Official Zoning Map or Zoning Code text amendments may be proposed at any time in accordance with the requirements and procedures specified in this section.

1.309.2 APPLICABILITY

This section shall apply to requests to amend the text of this Zoning Code or to amend the Official Zoning Map of the City of Wilmington, hereafter referred to as the “Zoning Map.”

1.309.3 AMENDMENT INITIATION

Amendments or supplements to this Zoning Code may be initiated in one of the following ways:

- (A)** By the filing of an application with the City via the Zoning Administrator from one (1) or more owner(s) or authorized representative(s) of property in the area proposed to be changed or affected by the amendment; or
- (B)** By adoption of a motion by City Council.

1.309.4 APPLICATION REQUIREMENTS

When an amendment is initiated in the manner as described in Section 1.309.3(A), a complete application form with the following information must be submitted to the Zoning Administrator for filing and processing:

- (A) Name, address, and phone number of the owner(s) and authorized representative(s);
- (B) Date submitted to, and accepted complete, by the Zoning Administrator;
- (C) Reason(s) for requesting the proposed text/map amendment;
- (D) Signature of the applicant attesting to the truth and correctness of all information provided on the application form and documents submitted;
- (E) The submittal fee;
- (F) For text amendments: A written description of the proposed text amendment; and
- (G) For map amendments:
 - (1) The parcel identification number of the parcel(s) for which the rezoning is requested;
 - (2) A list of the owners of property adjacent to the parcel lines of each property that is the subject of the public hearing, and two sets of mailing labels;
 - (3) Legal description of the subject site;
 - (4) Total acreage;
 - (5) Indication of the current zoning district(s) and the requested zoning district(s);
 - (6) Description of the current and proposed use(s); and
 - (7) Statement of how the proposed amendment relates to the goals, objectives, and policies of the Wilmington Comprehensive Plan.

1.309.5 REVIEW PROCEDURE

(A) Step 1 – Consultation with Zoning Administrator

- (1) A pre-submittal consultation with the Zoning Administrator is required prior to submitting a formal application.
- (2) The intent of the consultation is to allow the applicant the opportunity to provide an overview of the proposal. The Zoning Administrator and/or other staff will outline plans, policies, and regulations affecting the proposal, identify issues, and discuss applicable zoning requirements and Comprehensive Plan recommendations. The Zoning Administrator will inform applicants of procedural requirements, checklist, timelines, and fees.

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- (3) Discussions that occur during a pre-submittal consultation 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.

(B) Step 2 – Formal Submittal and Processing

Within five (5) days upon the adoption of a motion by City Council, or the filing of an application by one or more property owners or lessees, the Zoning Administrator shall do the following:

- (1) Set a date for a public meeting of the Planning Commission on the proposed amendment;
- (2) Review the application and prepare a staff report; and
- (3) Forward the application and staff report to the Planning Commission and the applicant for their review.

(C) Step 3 – Planning Commission Review and Recommendation

- (1) The Planning Commission shall review the proposed amendment during a public meeting.
- (2) The Planning Commission shall recommend approval, approval with modifications, or disapproval of the proposed amendment to City Council. The Planning Commission may also continue the meeting for further consideration.
- (3) The Planning Commission shall submit their recommendation to City Council in the form of a motion, and shall include the application and corresponding text or map proposed.

(D) Step 4 – City Council Hearing and Decision

- (1) Within a reasonable amount of time after receipt of the Planning Commission's recommendations and findings concerning the proposed amendment, City Council shall hold a public hearing on the proposed amendment and give public notice prior to the hearing in accordance with Section 1.303 (Notification for Public Hearings).
- (2) Within ninety (90) days of the Planning Commission's public meeting and recommendations, City Council shall take action to approve, approve with conditions, or disapprove the proposed amendment.
- (3) The recommendation of the Planning Commission shall not be changed except by the passage of an ordinance by a three-fourths vote.

1.309.6 DECISION-MAKING CONSIDERATIONS

- (A)** The applicable authorities shall review the proposed zoning amendment in the interest of the public health and safety, as well as the public convenience, comfort, prosperity, or general welfare, as applicable.
- (B)** Factors the applicable authorities should consider include, but are not limited to, the following:
 - (1) Is this proposed amendment consistent with the purposes and intent of this Zoning Code?

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- (2) Does the proposed amendment deviate from the suggestions of the Wilmington Comprehensive Plan?
- (3) Is the proposed zoning compatible with the present zoning, nearby uses, and the character of the surrounding area?
- (4) Is the site suitable for the uses to which it has been restricted, or does the current zoning deprive the site of all economically viable uses?
- (5) How long has the property remained vacant as zoned and is it zoned different from adjacent properties?
- (6) Are there available sites elsewhere in the City that are already zoned for the proposed use?
- (7) Are public central sanitary sewer, stormwater facilities, roads, and other public facilities available and do they have adequate capacity to serve allowable uses?
- (8) Will approval of this amendment result in existing land uses, parcels, or structures becoming non-conforming or somehow result in conflict with any provision, restriction, or requirement of this Zoning Code?
- (9) Is the proposed amendment justified because of changed or changing conditions of the surrounding area since the time the current zoning designation for the property was established, and have assumptions on capital investments, road locations, population trends, land committed to development, density, use, or other elements changed to justify the amendment?

1.309.7 CASE FILE RECORD

- (A) Application files maintained by the Zoning Administrator shall contain all written information submitted. The application file is numbered by the year in which the application was reviewed and consecutive to other applications within the same year.
- (B) Written meeting minutes and audio recording(s) of the proceedings of a public hearing may be referenced at the offices of the City.
- (C) The decision on the amendment is placed in the case file and provided to the applicant.

1.309.8 CHANGES TO OFFICIAL ZONING MAP

Upon approval of a zoning map amendment, the Official Zoning Map shall be amended to illustrate the map amendment as approved.

§ 1.310 PLANNED UNIT DEVELOPMENTS

1.310.1 PURPOSE

The purpose of the Planned Unit Development (PUD) regulations is to encourage innovative land planning and design, and avoid monotony sometimes associated with large developments by:

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- (A) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
- (B) Allowing greater freedom in selecting the means to provide access, mobility, light, open space, and design amenities;
- (C) Encouraging a sensitive design that respects the surrounding established land use character and natural or man-made features of the site; and
- (D) Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Zoning Code.

1.310.2 INITIATION

A PUD may be initiated voluntarily by an applicant, who may be the property owner, or by City Council.

(A) Applicant

The applicant must own in fee simple or have an option to purchase all lands within the proposed PUD. The exception to this is if the applicant is the authorized agent for the property owner, in which case, the applicant need not own the lands.

(B) City Council

- (1) City Council may, on its own initiative or upon the recommendation of the Planning Commission, establish a PUD on properties within the City of Wilmington that mandates that any development be reviewed as a PUD. In such case, the PUD overlay zoning district will be in place but the applicant shall be required to go through one (1) of the review processes described in Section 1.310.6 (Choice of Review Process).
- (2) City Council may alternatively, on its own initiative or upon the recommendation of the Planning Commission, establish a PUD on properties within the City of Wilmington that allows some development by right based on the property's base zoning.
- (3) When establishing a PUD, the City will submit general regulations but not be required to submit site plans. Additionally, the City will not be subject to the approval, revocation, or expiration requirements of this Section.

1.310.3 RESUBMISSION

Whenever an application for a PUD has been denied, no application for the same area, or any portion thereof, shall be filed by the same applicant within six (6) months after the date of denial unless the new application is substantially different from the original application as determined by the Zoning Administrator.

1.310.4 GENERAL PROVISIONS

- (A) The requirements as set forth in the underlying base zoning district regulations shall prevail except as modified in this Section. This Section sets forth the requirements for PUDs, allowing for the creation of a PUD overlay district that may overlay one (1) or more underlying base zoning districts.

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- (B) The permitted uses within the PUD shall be based on the underlying base zoning districts. If an applicant wants to incorporate uses other than those permitted in the underlying base district, the applicant may request a change of the underlying base zoning district or alternatively request the addition of up to three (3) permitted uses as part of the PUD Regulating Plan.
- (C) Whenever a Regulating Plan and any subsequent underlying base zoning district changes are approved, the zoning map shall be clearly marked to indicate that all tracts in any PUD are in a Planned Unit Development district overlaying the base zoning district.
- (D) Approval of Planned Unit Development (PUD) zoning for a site does not constitute approval of a Subdivision Plat as may be required in Title One of the Planning and Zoning Code. Separate approval of subdivision plats must be obtained from the Planning Commission, but may be obtained at the same time as and as a part of the PUD approval process. Except for the manner of submission and processing, the Subdivision Regulations may be waived, where applicable. Those requirements not specifically waived by the Planning Commission shall conform to the Subdivision Regulations.
- (E) After approval of a Regulating Plan and the designation of the property as a PUD on the Zoning Map, any approval or disapproval of subsequent use or development of property in the PUD as being in compliance with regulations established as authorized by this Section of the Code shall not be considered an amendment to the Code, but may be appealed pursuant to Chapter 2506, et. seq., of the ORC.
- (F) No zoning or building permits may be issued until a Final PUD Plan is approved by the Planning Commission.

1.310.5 DEVELOPMENT STANDARDS

All PUDs shall comply with the provisions and standards of Section 3.504 (Planned Unit Development Overlay).

1.310.6 CHOICE OF REVIEW PROCESS

When a PUD is initiated voluntarily by an applicant, the applicant must choose to undergo one (1) of the following review processes:

(A) Standard PUD Review Process

The Standard PUD Review Process is a voluntary nine-step process comprising three (3) plan approvals for Concept PUD Plan, Preliminary PUD Plan, and Final PUD Plan. In this process, the Concept PUD Plan is a legislative decision by City Council and becomes the Regulating Plan to compare against all future development plans or plan modifications submitted as Preliminary and Final PUD Plans. Preliminary and Final PUD Plans are administrative decisions which may be appealed pursuant to Chapter 2506, et. seq., of the ORC. This process may be the best choice for an applicant wishing to obtain legislative approval prior to committing substantial financial investment and executing detailed plans for a project, and potentially offers the most flexibility in the design of Preliminary and Final PUD Plans in accordance with an approved Concept PUD Plan.

(B) Expedited PUD Review Process

The Expedited PUD Review Process is a voluntary six-step process comprising two (2) plan approvals for Preliminary PUD Plan and Final PUD Plan. In this process, the Preliminary PUD Plan

is a legislative decision by City Council and becomes the Regulating Plan to compare against all future development plans or plan modifications submitted as Final PUD Plans. Final PUD Plans are administrative decisions which may be appealed pursuant to Chapter 2506, et. seq., of the ORC. This process may be the best choice for an applicant seeking to obtain all required zoning approvals for a development project as quickly as possible, though the applicant may assume a greater amount of financial risk in the event that Preliminary PUD Plan approval is not obtained or that additional revisions and re-submissions are necessary.

1.310.7 STANDARD PUD REVIEW PROCESS

The following procedures shall apply to all PUD applications where the applicant has chosen to undergo the Standard PUD Review Process:

(A) Step 1 – Pre-Submittal Consultation with Zoning Administrator

- (1) A pre-submittal consultation with the Zoning Administrator is required prior to submitting a formal application.
- (2) The applicant shall supply preliminary information to the Zoning Administrator in a form established by the Building Department. Such information shall be submitted at least three (3) days prior to the pre-application conference.
- (3) The purpose of the pre-submittal consultation shall be to discuss the proposed development, review submittal requirements, and discuss compliance with the provisions of this Zoning Code and the Comprehensive Plan prior to the submission of an application.
- (4) Discussions that occur during a pre-submittal consultation 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.

(B) Step 2 – Filing of Concept PUD Plan and Application

- (1) The applicant shall submit an application for a Concept PUD Plan review in accordance with Section 1.302 (Common Review Requirements) and Section 1.310.9 (PUD Application Requirements). The application must indicate that the applicant has agreed to the Standard PUD Review Process.
- (2) The application and the official filing of the Concept PUD Plan and application shall be in

(C) Step 3 – Planning Commission Recommendation on Concept PUD Plan

- (1) Upon determination that the Concept PUD plan and application (Step 2) is complete, the Zoning Administrator shall schedule a public hearing with the Planning Commission, review the application, and prepare a staff report.
- (2) The Planning Commission shall review the Concept PUD 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 1.310.10 (Review Criteria).

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(D) Step 4 – City Council Decision on Concept PUD Plan

- (1) Upon receipt of the Planning Commission's recommendation, the Clerk of Council shall schedule a public hearing for City Council review of the Concept PUD plan.
- (2) City Council shall review the Concept PUD Plan at a public hearing, and shall approve, approve with modifications, or deny the application based on consideration of the recommendation from the Planning Commission and evaluation of the application using the review criteria in Section 1.310.10 (Review Criteria).
- (3) To deviate from the recommendation of the Planning Commission, the motion made by City Council must be passed by a three-fourths vote.

(E) Step 5 – Filing of Preliminary PUD Plan and Application

- (1) Following approval of a Concept PUD Plan by City Council, the applicant shall submit an application for a Preliminary PUD Plan review in accordance with Section 1.302 (Common Review Requirements) and Section 1.310.9 (PUD Application Requirements).
- (2) The applicant shall certify that the talents of the following professionals shall be utilized in the planning process for the development and shall identify any such professionals at this meeting:
 - (a) An architect licensed by any state;
 - (b) A landscape architect, an urban planner, or similar professional; or
 - (c) A registered civil engineer or a registered civil engineer and land surveyor, licensed by any state;
- (3) One (1) of the professional consultants chosen by the applicant from either division (a), (b), or (c) above shall be designated as the project coordinator, who will be responsible for conferring with the City and shall serve as the City's primary contact related to the project. The project coordinator shall be responsible for presenting the developer's plan in all the broad professional aspects to the Planning Commission.
- (4) The application and the official filing of the Preliminary PUD Plan and application shall be in accordance with the applicable submittal deadlines of the Planning Commission.

(F) Step 6 – Planning Commission Recommendation on Preliminary PUD Plan

- (1) Upon determination that the Preliminary PUD Plan and application (Step 5) is complete, the Zoning Administrator shall schedule a public hearing with the Planning Commission, review the application, and prepare a staff report.
- (2) The Planning Commission shall review the Preliminary PUD 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 1.310.10 (Review Criteria).
- (3) The Planning Commission may, in its recommendation to City Council, require that the Final PUD Plan be submitted in stages corresponding to different units or elements of the

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development. It may do so only upon evidence assuring completion of the entire development in accordance with the Preliminary PUD Plan and Time Schedule.

(G) Step 7 – City Council Decision on Preliminary PUD Plan

- (1) Upon receipt of the Planning Commission's recommendation, the Clerk of Council shall schedule a public hearing for City Council review of the Preliminary PUD Plan.
- (2) City Council shall review the Preliminary PUD Plan at a public hearing, and shall approve, approve with modifications, or deny the application based on consideration of the recommendation from the Planning Commission and evaluation of the application using the review criteria in Section 1.310.10 (Review Criteria).

(H) Step 8 – Filing of Final PUD Plan and Application

- (1) Following approval of the Preliminary PUD Plan by City Council, the applicant shall submit an application for a Final PUD Plan review in accordance with Section 1.302 (Common Review Requirements) and Section 1.310.9 (PUD Application Requirements).
- (2) The application and the official filing of the Final PUD Plan and application shall be in accordance with the applicable submittal deadlines of the Planning Commission.

(I) Step 9 – Planning Commission Decision on Final PUD Plan

- (1) The Planning Commission shall review the Final PUD Plan at a public meeting to determine whether it conforms to all substantial aspects of the Preliminary PUD Plan and to all other applicable standards of this Zoning Code.
- (2) The Planning Commission shall approve or deny the Final PUD Plan. In its decision, the Planning Commission may impose such conditions of approval as are in its judgment necessary to ensure conformity to the applicable criteria and standards. In so doing, the Planning Commission may permit the applicant to revise the plan and resubmit the Final PUD Plan within thirty (30) days of such action.

1.310.8 EXPEDITED PUD REVIEW PROCESS

The following procedures shall apply to all PUD applications where the applicant has chosen to undergo the Expedited PUD Review Process:

(A) Step 1 – Pre-Submittal Consultation with Zoning Administrator

- (1) A pre-submittal consultation with the Zoning Administrator is required prior to submitting a formal application.
- (2) The applicant shall supply preliminary information to the Zoning Administrator in a form established by the Building Department. Such information shall be submitted at least three (3) days prior to the pre-application conference.
- (3) The purpose of the pre-submittal consultation shall be to discuss the proposed development, review submittal requirements, and discuss compliance with the provisions of this Zoning Code and the Comprehensive Plan prior to the submission of an application.

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- (4) Discussions that occur during a pre-submittal consultation 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.

(B) Step 2 – Filing of Preliminary PUD Plan and Application

- (1) The applicant shall submit an application for a Preliminary PUD Plan review in accordance with Section 1.302 (Common Review Requirements) and Section 1.310.9 (PUD Application Requirements). The application must indicate that the applicant has agreed to the Expedited PUD Review Process.
- (2) The applicant shall certify that the talents of the following professionals shall be utilized in the planning process for the development and shall identify any such professionals at this meeting:
 - (a) An architect licensed by any state;
 - (b) A landscape architect, an urban planner, or similar professional; or
 - (c) A registered civil engineer or a registered civil engineer and land surveyor, licensed by any state;
- (3) One (1) of the professional consultants chosen by the applicant from either division (a), (b), or (c) above shall be designated as the project coordinator, who will be responsible for conferring with the City and shall serve as the City's primary contact related to the project. The project coordinator shall be responsible for presenting the developer's plan in all the broad professional aspects to the Planning Commission.
- (4) The application and the official filing of the Preliminary PUD Plan and application shall be in accordance with the applicable submittal deadlines of the Planning Commission.

(C) Step 3 – Planning Commission Recommendation on Preliminary PUD Plan

- (1) Upon determination that the Preliminary PUD Plan and application (Step 2) is complete, the Zoning Administrator shall schedule a public hearing with the Planning Commission, review the application, and prepare a staff report.
- (2) The Planning Commission shall review the Preliminary PUD 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 1.310.10 (Review Criteria).
- (3) The Planning Commission may, in its recommendation to City Council, require that the Final PUD Plan be submitted in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the Preliminary PUD Plan and stage development schedule.

(D) Step 4 – City Council Decision on Preliminary PUD Plan

- (1) Upon receipt of the Planning Commission's recommendation, the Clerk of Council shall schedule a public hearing for City Council review of the Preliminary PUD Plan.

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- (2) City Council shall review the Preliminary PUD Plan at a public hearing, and shall approve, approve with modifications, or deny the application based on consideration of the recommendation from the Planning Commission and evaluation of the application using the review criteria in Section 1.310.10 (Review Criteria).
- (3) To deviate from the recommendation of the Planning Commission, the motion made by City Council must be passed by a three-fourths vote, pursuant to ORC Section 713.12.

(E) Step 5 – Filing of Final PUD Plan and Application

- (1) Following approval of the Preliminary PUD Plan by City Council, the applicant shall submit an application for a Final PUD Plan review in accordance with Section 1.302 (Common Review Requirements) and Section 1.310.9 (PUD Application Requirements).
- (2) The application and the official filing of the Final PUD Plan and application shall be in accordance with the applicable submittal deadlines of the Planning Commission.

(F) Step 6 – Planning Commission Decision on Final PUD Plan

- (1) The Planning Commission shall review the Final PUD Plan at a public meeting to determine whether it conforms to all substantial aspects of the Preliminary PUD Plan and to all other applicable standards of this Zoning Code.
- (2) The Planning Commission shall approve or deny the Final PUD Plan. In its decision, the Planning Commission may impose such conditions of approval as are in its judgment necessary to ensure conformity to the applicable criteria and standards. In so doing, the Planning Commission may permit the applicant to revise the plan and resubmit it as a Final PUD Plan within thirty (30) days of such action.

1.310.9 PUD APPLICATION REQUIREMENTS

(A) Concept PUD Plan

The Concept PUD Plan must be depicted on one (1) or more legible maps drawn at one (1) inch equals one hundred (100) feet or different intuitive scale specified by the Zoning Administrator, and prepared by a registered architect, landscape architect, engineer, surveyor, or other professional planning consultant. The requirements to be shown on or included with a Concept PUD Plan application shall be the following, as deemed necessary by the Zoning Administrator:

- (1) Required application form and fee;
- (2) Basic project site information, including total site acreage, legal description, and Parcel ID;
- (3) Existing property lines, easements, public road centerlines and right-of-way, contour lines at suitable intervals, generalized locations of public and private utilities, and regulatory floodplain boundaries if involved;
- (4) Existing land uses and zoning classifications within and surrounding the project site;
- (5) Delineation of steep slope areas, where the slope exceeds twenty five (25) percent;

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- (5) Existing and proposed land use areas, including common open space and natural resource areas, with the following information displayed or noted:
 - (a) General boundaries and location of each land use area;
 - (b) Percentage of the project site within each land use area;
 - (c) Definitions of each type of land use area, including density ranges and product types if applicable;
- (6) Proposed layout and network of vehicular and pedestrian access and circulation;
- (7) General locations for signage; and
- (8) Development standards for the PUD, including the following as applicable:
 - (a) Maximum total dwelling units and minimum floor area for each dwelling unit type;
 - (b) Minimum setbacks, lot sizes, lot widths, and lot frontages;
 - (c) Maximum non-residential floor area, site coverage percentage, and impervious surface ratio;
 - (d) Minimum open space percentage or acreage;
 - (e) Additional uses to be allowed within the PUD;
 - (f) Any performance standards, including operational characteristics and impacts such as hours of operation; visual, noise, odor, or other environmental impacts; and
 - (g) Any other standards or requirements under the base zoning district which are to be modified, and any additional development standards imposed upon the PUD.

(B) Preliminary PUD Plan

The requirements to be shown on or included with a Preliminary PUD Plan application shall be the following, as deemed necessary by the Zoning Administrator:

- (1) Required application form and fee; and
- (2) The same information as required for Site Plan Review in Section 1.305.3 (Application Requirements), except detailed plans for landscaping, lighting, and signage shall not be required.

(C) Final PUD Plan

The requirements to be shown on or included with a Final PUD Plan application shall be the following, as deemed necessary by the Zoning Administrator:

- (1) Required application form and fee;

- (2) The same information as required for Site Plan Review in Section 1.305.3 (Application Requirements), including detailed plans for landscaping, lighting, and signage.
- (3) All necessary legal documentation relating to the incorporation of a homeowners' association or property owners' association for residential PUDs, or other similar associations for non-residential PUDs. Such legal documentation shall demonstrate how the open space will be maintained over the life of the development; and
- (4) Copies of any restrictive covenants, easements or agreements that are to be recorded.

1.310.10 REVIEW CRITERIA

The Planning Commission and City Council shall consider the following criteria in order to make a decision on all applications for a PUD:

- (A) The proposed PUD is consistent with the recommendations and policies of the City of Wilmington Comprehensive Plan or other applicable City plans;
- (B) The proposed PUD will not adversely affect adjacent properties;
- (C) The proposed PUD illustrates an exemplary and creative design;
- (D) The proposed PUD is comprehensively planned and integrated, and, where feasible, linked by pedestrian and vehicular connections to surrounding properties;
- (E) The proposed PUD will ensure efficient development within the City and result in a logical and orderly development pattern;
- (F) The proposed PUD is in compliance with applicable PUD development standards, pursuant to Section 1.310.5 (Development Standards) of this Zoning Code.
- (G) The proposed PUD is in compliance with all other standards and requirements of this Zoning Code and of the base zoning district not modified by the PUD proposal;

1.310.11 COMPLIANCE WITH APPROVED PLANS

- (A) When applicable, Preliminary PUD Plans shall generally conform to any approved Concept PUD Plan in place for the project site and must adhere to all development standards established as part of the Concept PUD Plan approval.
- (B) Final PUD Plans shall meet all requirements established as part of prior Preliminary PUD Plan approval, and shall conform to the Preliminary PUD Plan in a manner which does not constitute a "major modification" as described in Section 1.310.13 (Modifications) herein.
- (C) An approved Final PUD Plan shall control the issuance of all zoning and building permits and shall restrict the nature, location and design of all uses. The applicant shall agree in writing to be bound, for himself or herself and his or her successors in interest, by the conditions prescribed for approval of a PUD.

1.310.12 PUD PLAN REVOCATION AND EXPIRATION

- (A) In a Standard PUD Review Process, failure to submit an application for a Final PUD Plan for the entire development, or for the first unit of development when submission in stages was authorized by the Planning Commission during Preliminary PUD Plan review, within one (1) year of approval of the Preliminary PUD Plan shall deem the Preliminary PUD Plan expired. The applicant may request City Council to grant a one (1) year extension to this time period. In no case shall a Preliminary PUD Plan be valid for more than two (2) years.
- (B) In both Standard and Expedited PUD Review Processes, failure to begin construction of the development within one (1) year of Final PUD Plan approval shall deem the Final PUD Plan expired. The applicant may request City Council to grant a one (1) year extension to this time period.
- (C) In the event of failure to comply with an approved Final PUD Plan or any prescribed condition of approval, including failure to comply with the Time Schedule, City Council may, upon recommendation of the Planning Commission, hold a public hearing with reasonable public notice and take one (1) of the following actions:
 - (1) Grant a specified amount of time to allow the applicant to bring the development into compliance with the approved Final PUD Plan; or
 - (2) Revoke the approved Final PUD Plan. If revoked, the applicant may resubmit an application for Final PUD Plan review under the same requirements. Once the Final PUD Plan is revoked, the City Council may initiate a zoning map amendment to rezone and remove the approved PUD overlay district.

1.310.13 MODIFICATIONS

- (A) Modifications to an approved Final PUD Plan may be considered in accordance with this section. A request for a modification shall be submitted to the Zoning Administrator.
- (B) The Zoning Administrator shall have the authority to determine if the proposed modification is a major modification or minor modification in accordance with this section. Such decision may be appealed to the BZA.
- (C) **Major Modifications**
 - (1) Major modifications to an approved Final PUD Plan shall include but not be limited to:
 - (a) Changes to the PUD boundaries;
 - (b) An increase in residential density;
 - (c) An expansion in non-residential floor area that exceeds ten (10) percent of the total floor area that was previously approved;
 - (d) Changes in the amount (percentage of the total development) or location of different land uses;
 - (e) An addition of a use that is specifically prohibited, or not specifically approved for the PUD unless the use is otherwise permitted in the underlying base zone;

- (f) A decrease in the total amount of open space or landscaping;
 - (g) A significant alteration of circulation patterns (vehicular or pedestrian);
 - (h) Changes that are not consistent with the purposes and general character of the PUD; or
 - (i) Any other major deviation from the requirements of the PUD or the Zoning Code.
- (2) Major modifications shall require approval of a revised Preliminary PUD Plan submission, in accordance with the process and procedures outlined in Section 1.310.7 (Standard PUD Review Process) or Section 1.310.8 (Expedited PUD Review Process), as applicable.

(D) Minor Modifications

Other amendments or modifications shall be classified as a minor modification and shall be reviewed and approved by the Zoning Administrator.

§ 1.311 CERTIFICATE OF APPROPRIATENESS

1.311.1 PURPOSE

The purpose of Section 1.311 is to provide for the review of development, construction, alteration, or demolition of structures within the Commercial Historic (H-1) Overlay District.

1.311.2 APPLICABILITY

- (A)** A Certificate of Appropriateness shall be required before any change may be instituted within the H-1 Overlay District, whether or not such change requires a Zoning Permit. A “change” is defined as any alteration, reconstruction, or restoration of the exterior of a structure; construction of a new structure; demolition of an existing structure; placement of new landscaping; erection of new signs; or any material alteration in the landscaping, signage, exterior color(s) or external architectural features of any property.
- (B)** No building permit or sign permit within the H-1 Overlay District shall be issued without the prior issuance of a Certificate of Appropriateness.
- (C)** No change shall be instituted or made within the H-1 Overlay District except in strict conformity with the plans and application approved by the Planning Commission in its approval and issuance of a Certificate of Appropriateness.
- (D)** A Certificate of Appropriateness issued for a particular change shall be effective only for such change. Further or continued change shall be authorized only after the issuance of a new Certificate of Appropriateness.

1.311.3 INITIATION

Pursuant to Section 1.302 (Common Review Requirements), any person having authority to file applications may initiate an application for a Certificate of Appropriateness.

1.311.4 EXEMPTIONS

The following shall be exempt from the provisions of Section 3.503 (Commercial Historic (H-1) Overlay District) and shall not require a Certificate of Appropriateness:

(A) Private Residences

Any property which is occupied by the owner solely as his or her private residence and where no portion of which is used for commercial purposes, shall be exempt.

(B) Government Buildings

Any property owned and used by a governmental entity, or any property by such an entity and leased to any private person or entity as integral part of the government entity's function, shall be exempt.

(C) Churches and Places of Worship

Any property which is owned by a church and used as either a place of public worship or a residence of the church's minister, pastor or priest, shall be exempt.

(D) Unsafe or Dangerous Conditions

Nothing in Section 1.311 (Certificate of Appropriateness) or Section 3.503 (Commercial Historic (H-1) Overlay District) shall prevent any change which the Building Inspector determines to be required for the public safety because of an unsafe or dangerous condition.

(E) Ordinary Maintenance and Repair

Ordinary maintenance and repair, defined as an activity where the purpose of the work is to correct deterioration to the structure or where no change is made to the appearance of the building or grounds, which includes:

- (1) Repainting of a building;
- (2) Replacement of window glass but not replacement of the style or type of window;
- (3) Caulking and weather-stripping;
- (4) Minor landscaping, including vegetable and flower gardens, shrubbery, and tree plantings, except when part of an overall landscaping or replanting of the entire yard;
- (5) Repairs to walks, patios, fences, and driveways where the replacement materials match the original or existing materials in detail and color;
- (6) Replacement of missing or deteriorated siding, trim, roof coverings, porch flooring, steps, etc. as long as the replacement materials match the original or existing materials in detail and color and where the replacement covers less than twenty five (25) percent of the total area of the material (i.e. replacement of less than twenty five (25) percent of the existing siding with matching materials);

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- (7) Replacement of gutters and downspouts as long as the shape, color, and details match the original or existing materials;
- (8) Replacement of roof ventilators when not visible from the right-of-way;
- (9) Replacement of chimney caps;
- (10) Installation of house numbers and mailboxes; and
- (11) Repair of existing street or yard lighting.

1.311.5 REVIEW PROCEDURE

The Planning Commission shall be responsible for reviewing and deciding on Certificates of Appropriateness pursuant to the procedure set forth below:

(A) Step 1 – Application

An application for a Certificate of Appropriateness shall be made in accordance with Section 1.302 (Common Review Requirements).

(B) Step 2 – Zoning Administrator Staff Report

The Zoning Administrator shall review the application for a Certificate of Appropriateness and make a recommendation to the Planning Commission to approve, approve with conditions, or deny the certificate. The Zoning Administrator may also recommend the continuance of the matter to allow for further review.

(C) Step 3 – Planning Commission Review and Decision

- (1) The Planning Commission will review applications for Certificates of Appropriateness at a regularly scheduled public meeting.
- (2) The Planning Commission shall take action to approve, approve with conditions, or disapprove the proposed Certificate of Appropriateness. The Planning Commission may also continue the meeting for further consideration.
- (3) The Planning Commission may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the Commission's minutes and on the Certificate of Appropriateness.

1.311.6 GUIDELINES APPLICABLE TO A CERTIFICATE OF APPROPRIATENESS

In making a determination on an application for a Certificate of Appropriateness, the Planning Commission shall refer to Section 3.503.5 (Development Guidelines).

1.311.7 APPROVAL CRITERIA FOR MODIFICATIONS

In order to approve a Certificate of Appropriateness, the Planning Commission shall first make a determination if the structure or site is significant pursuant to subsection (A) below and then shall make a decision based on the appropriate approval criteria in subsections (B) and (C).

(A) Determination of Significance

The Planning Commission shall determine whether a structure or site is significant based on the following criteria:

- (1) Its value as a reminder of the cultural or archaeological heritage of the City, state, or nation;
- (2) Its location as a site of a significant local, state, or national event;
- (3) Its identification with a person or persons who significantly contributed to the development of the City, state, or nation;
- (4) Its identification as the work of a master builder, designer, or architect whose individual work has influenced the City, state, or nation;
- (5) Its value as a building that is recognized for the quality of its architecture and that it retains sufficient elements showing such architectural significance;
- (6) Its characteristic of an architectural style or period; or
- (7) Its character as a contributing element in the H-1 Overlay District.

(B) Approval Criteria for Significant Structures or Sites

If the structure or site is determined to be significant, the Planning Commission shall state the basis for such determination and shall make the following findings in order to approve the proposed modification:

- (1) That the proposed work is consistent with the standards of Section 3.503 (Commercial Historic (H-1) Overlay District) and the historic and architectural character of the building, structure, appurtenance, or site will be properly preserved;
- (2) That the proposed project will not have a detrimental impact on the historic or architectural character of the property; and
- (3) That the proposed project is compatible with other significant and/or contributing properties in the H-1 District in terms of form, proportion, mass, texture, configuration, building materials, color, the location of the building on the lot, and the land use.

(C) Approval Criteria for Non-Significant Structures or Sites

If the structure or site is not determined to be significant, the Planning Commission shall state the basis for such determination and shall make the following findings in order to approve the proposed modification:

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- (1) That the proposed project is compatible with other significant and/or contributing properties in the H-1 District in terms of form, proportion, mass, texture, configuration, building materials, color, the location of the building on the lot, and the land use; and
- (2) That the proposed work does not increase the incompatibility of an existing structure.

(D) Failure to Make a Positive Finding

If the Planning Commission fails to make a positive finding under subsections (B) or (C) above, then a Certificate of Appropriateness shall not be issued unless the Planning Commission finds:

- (1) That the proposed modification(s) are necessary for the continued viability of the structure and the cost of making said improvements in such manner as to meet the appropriate findings will result in the building being incapable of earning a reasonable economic return upon its value at the time, or upon future sale of the property (the Planning Commission may require cost estimates for an alternative that would comply with the requirements of Section 3.503); or
- (2) That the proposed project is required for the physical functioning of the building for health and/or safety reasons and no reasonable alternative is available to meet this need.
- (3) If the Planning Commission finds that either of the two circumstances in paragraphs (1) and (2) exists, every effort shall be made to minimize the adverse impact of the proposed work and to allow for the work to be reversed in the future.

1.311.8 APPROVAL CRITERIA FOR NEW CONSTRUCTION

If new construction is involved (infill and/or additions to an existing structure), the Planning Commission shall make the following findings in order to approve a Certificate of Appropriateness:

- (A)** That the proposed work is consistent with the standards of Section 3.503 (Commercial Historic (H-1) Overlay District); and
- (B)** That the proposed project is compatible with other significant and/or contributing properties in the H-1 District in terms of form, proportion, mass, texture, configuration, building materials, color, the location of the building on the lot, and the land use.

1.311.9 APPROVAL CRITERIA FOR DEMOLITION

- (A)** If demolition of all or part of an existing structure is involved, the Planning Commission shall evaluate the application based on the following criteria:
 - (1) There is an imminent health or safety issue;
 - (2) The structure is not structurally sound;
 - (3) The structure cannot practically be moved; or
 - (4) The demolition is requested for a structure that has no historic significance.

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- (B) The Planning Commission may review the moving of a structure when:
- (1) The new surrounding would be harmonious with the historical and architectural character of the building; and
 - (2) The relocation would help preserve and protect a building that the Planning Commission determines to be significant pursuant to Section 1.311.7(A) (Determination of Significance).
- (C) In addition to making at least one (1) of the findings of subsection (A) above, the Planning Commission shall be required to also make all the following findings in order to approve a Certificate of Appropriateness for the demolition of a building or structure:
- (1) The structure does not contribute to the historic district;
 - (2) Demolition will not have an adverse effect on the integrity of the district; and
 - (3) Demolition will be inconsequential to the historic preservation policies of the City.
- (D) The applicant shall have one (1) year to demolish or move the structure under an approved Certificate of Appropriateness or the certificate shall be deemed null and void. The applicant shall then be required to submit a new application pursuant to this Section.

1.311.10 EFFECT OF A CERTIFICATE OF APPROPRIATENESS

- (A) Approving a Certificate of Appropriateness does not exempt the applicant from complying with all of the requirements of this Zoning Code, the Building Code, and other regulations of the City.
- (B) Approvals granted under a Certificate of Appropriateness shall run with the land and shall not be affected by a change in ownership.
- (C) The breach by the applicant of any condition, safeguard, or requirement expressed or referred to on the Certificate of Appropriateness shall render the certificate void and shall constitute a violation of this Zoning Code.
- (D) The Planning Commission shall have the power to revoke a Certificate of Appropriateness for noncompliance with the conditions contained thereon. Furthermore, the Planning Commission shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in person and for such cost.

1.311.11 SUBSEQUENT DEVELOPMENT

Development authorized by a Certificate of Appropriateness shall not be carried out until the applicant has secured all other approvals required by this Zoning Code or any other applicable provisions of the City. The approval of a Certificate of Appropriateness shall not ensure that the development approved as a certificate shall receive subsequent approval for other applications for development approval unless the relevant and applicable portions of this Zoning Code or other applicable provisions are met.

1.311.12 APPEAL AND REAPPLICATION RIGHTS

- (A) Any final determination of the Planning Commission made in approving or denying an application for a Certificate of Appropriateness and any decision of the Building Inspector or Zoning Administrator made in the enforcement of the provisions of this Chapter may be appealed to City Council by any person claiming to be adversely affected, provided however, that such appeal must be made within thirty (30) days after receipt of notice or posting of such final determination or decision, whichever last occurs.
- (B) An applicant may file one (1) reapplication for a Certificate of Appropriateness within a twelve (12) month period from the date of the original application with regard to a particular change.

1.311.13 ENFORCEMENT AND VIOLATIONS

- (A) The Building Inspector or the Zoning Administrator is designated and authorized to enforce the provisions of Section 1.311 to prevent, correct or abate any unlawful change.
- (B) The Planning Commission, the Zoning Administrator, or any person, firm or corporation jointly or severally aggrieved, may institute a suit for injunction in the Common Pleas Court of Clinton County to restrain an individual or governmental unit from violating the provisions of Section 1.311. The Planning Commission or Zoning Administrator may also institute a suit for mandatory injunction directing an individual, entity, or governmental unit to remove a structure erected in violation of Section 1.311.
- (C) Any building or property that is changed in violation of Section 1.311 is declared to be a common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under existing law.

§ 1.312 CERTIFICATE OF OCCUPANCY

1.312.1 PURPOSE

A Certificate of Occupancy shall be required in accordance with the provisions of Section 1.312 in order to ensure that new construction and changes in tenants or uses comply with the provisions of this Zoning Code.

1.312.2 APPLICABILITY AND REVIEW PROCEDURE

- (A) It shall be unlawful for an owner to use or permit the use of any building or land or part thereof, hereafter created, changed, converted, or enlarged, wholly or partly, until a Certificate of Occupancy is issued.
- (B) The Certificate of Occupancy shall be issued as part of the building permit review process established in other sections of the Wilmington Codified Ordinances.
- (C) The Certificate of Occupancy shall show that such building or land or part thereof and the proposed use thereof are in conformity with the provisions of this Zoning Code. It shall be the duty of the Zoning Administrator to issue a Certificate of Occupancy, provided that he or she has checked and is satisfied that the building and the proposed use thereof conform to all requirements of this Zoning Code, Building Code, and other City regulations.

1.312.3 INITIATION

Pursuant to Section 1.302 (Common Review Requirements), any person having authority to file applications may initiate an application for a Certificate of Occupancy.

1.312.4 CONDITIONAL CERTIFICATE OF OCCUPANCY

- (A) The Zoning Administrator may issue a conditional Certificate of Occupancy for a specified period of time when a building or structure has been substantially completed so that its occupancy would not be hazardous or detrimental to the general welfare and when full compliance with all applicable codes, ordinances, and permits has not been achieved, provided there are extenuating circumstances beyond the applicant's control which necessitate allowing such occupancy on a temporary basis. Delay of outside work because of cold weather is an example of an extenuating circumstance.
- (B) Where a conditional Certificate of Occupancy is requested by an owner, the Zoning Administrator shall require that the owner and any other interested party, such as a tenant, sign a statement guaranteeing full completion of all zoning and ordinance regulated items before expiration of the specified time and agreement to the cut-off of any or all utility services without recourse from the date of expiration of the conditional Certificate of Occupancy until all work is satisfactorily completed.

1.312.5 CERTIFICATE OF OCCUPANCY FOR EXISTING BUILDINGS

Upon written request from the owner, the Zoning Administrator shall issue a Certificate of Occupancy for any building or land existing at the time of enactment of this Zoning Code, certifying, after inspection, the extent and kind of use made of the building or land, and whether such use conforms with the provisions of this Zoning Code.

1.312.6 CERTIFICATE OF OCCUPANCY FOR NON-CONFORMING USES AND BUILDINGS

- (A) A Certificate of Occupancy shall be required for all lawful non-conforming uses of land or buildings created by this Zoning Code.
- (B) A fee as established in the Fee Schedule shall be charged for said certificate.
- (C) Applications for Certificates of Occupancy for non-conforming uses of land and buildings shall be filed with the Zoning Administrator by the owner of the land or building occupied by such non-conformities within six (6) consecutive calendar months of the effective date of this Zoning Code. Failure to apply for such Certificate of Occupancy will place upon the owner the entire burden of proof that such use of land or buildings lawfully existed on the effective date of this Zoning Code.
- (D) It shall be the duty of the Zoning Administrator to issue a Certificate of Occupancy for lawful non-conforming uses upon application and such certificate shall identify the extent to which the non-conforming use exists at the time of issuance of such certificate.

§ 1.313 NON-CONFORMITY PROVISIONS

1.313.1 PURPOSE

- (A) The non-conforming provisions of Section 1.313 permit the continuation of a lawful use, structure, or lot, which exists at the time of enacting the Zoning Code or as an amendment to the Zoning Code.
- (B) Provisions in Section 1.313 permit such non-conformities to continue in accordance with certain conditions and restrictions. This Section applies to the following categories of non-conformities:
 - (1) Non-conforming lots of record;
 - (2) Non-conforming uses of land and structures;
 - (3) Non-conforming buildings/structures.

1.313.2 NON-CONFORMING LOTS OF RECORD

(A) Legal Non-Conforming Lots

Legal (grandfathered) non-conforming lots of record are those which do not conform to one (1) or more of the dimensional requirements in this Zoning Code, but were recorded prior to the effective date of this Zoning Code.

(B) Approved Preliminary Plat Lots

Lots which do not conform with the regulations of this Zoning Code but are shown on preliminary plats approved by the Planning Commission prior to the effective date of this Zoning Code, where such approval has not expired by reason of inactivity as provided in the City of Wilmington Subdivision Regulations, shall be allowed to be recorded as shown on the preliminary plan. Once such lots are recorded on a final plat, the lots shall then be considered legally non-conforming.

(C) Procedures

- (1) In any zoning district, an allowable structure may be permitted on a single non-conforming lot of record provided that the lot has at least thirty five (35) feet of road frontage. If placement of the structure cannot conform to the required setbacks of this Zoning Code, the following rules shall apply:
 - (a) The sum of the side yard setbacks of any sub-standard sized lot shall be thirty (30) percent of the width of the lot and at least ten (10) percent of the lot width for any one (1) side yard.
 - (b) The depth of the rear yard setback of any sub-standard sized lot need not exceed twenty (20) percent of the depth of the lot, but in no case less than ten (10) percent.
 - (c) The front yard setback shall follow the district standard.
- (2) If two (2) or more adjacent lots of sub-standard width for the zone in which they are located belong to one (1) owner, they shall be combined into new lot sizes as follows:

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- (a) If the total combined width is less than the required minimum width for one (1) lot for the zone in which they are located, they shall be combined to form one (1) lot.
- (b) If the total combined width is greater than the minimum required width for one (1) lot for the zone in which it is located, but not a multiple of said width, the lots shall be divided into equal width lots, so as to result in one (1) more lot than the number of lots of the minimum width required in the zone in which they are located.
- (3) Recombination of lots is not required, if:
 - (a) Two (2) or more of the lots are developed with principal buildings, and the recombination of lots would create non-conforming structures;
 - (b) The combination of lots would materially disrupt the character of the area, as determined by the Zoning Administrator; or
 - (c) Each lot is capable of individually supporting sanitary service.

1.313.3 NON-CONFORMING USES

- (A) A non-conforming use of record which would not be allowable by the most recent regulations shall be grandfathered, recognized to legally continue so long as the use remains otherwise lawful in accordance with the following:
 - (1) The non-conforming use shall not be enlarged, increased in intensity, or extended to occupy a greater area of land on a lot than was occupied on the date when the use became non-conforming.
 - (2) The non-conforming use may be extended throughout any part of the building(s) in which it existed on the date when the use became non-conforming, provided no structural alterations are made therein, except required by law. The use shall not be extended to occupy any more land outside of any such buildings(s) on the lot where located.
 - (3) No such non-conforming use shall be moved, in whole or in part, to any other portion or location of the lot or parcel than which was occupied by the use on the effective date of the regulation which made the use non-conforming, unless such would improve conformity with the current regulations.
 - (4) A non-conforming use shall not be permitted to resume if the building(s) or other structure(s) in which it existed become damaged or destroyed beyond seventy five (75) percent of the replacement cost.
- (B) The legal non-conforming status of a use is terminated upon abandonment or discontinuation of the use for more than one (1) year.
- (C) No provision of this Code shall render an existing single-family detached dwelling as a non-conforming use except for such use within a floodplain area.
- (D) Any existing use pre-dating the effective date of this Zoning Code which is allowed as a conditional use in the given zoning district, and which also conforms to the standards applicable to the use,

shall not be deemed a non-conforming use and shall without further action be considered a conforming use.

- (E) The lawful use of land for open storage purposes, which does not conform to the provisions of this Zoning Code, shall be discontinued within five (5) years from the date of passage of this Zoning Code, and the use of land for storage purposes, which may become a non-conforming use by reason of an amendment to this Zoning Code, shall be discontinued within five (5) years from the date of passage of such amendment.

1.313.4 NON-CONFORMING STRUCTURES/BUILDINGS

A non-conforming structure is a building or other structure of record which predated the adoption or amendment of this Zoning Code and is not permitted, by reason of restrictions on type, area, bulk, height, setbacks, or other similar requirements. These structures may remain provided they remain lawful in accordance with the following:

- (A) The structure shall not be enlarged or altered in any way which increases non-conformity, but may be altered to decrease non-conformity;
- (B) The structure shall not be moved, in whole or in part, unless for purpose of coming into complete compliance with zoning requirements;
- (C) If the structure becomes damaged or destroyed beyond seventy five (75) percent of the replacement cost, reconstruction shall comply with the current zoning requirements.
- (D) Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a zoning permit has been heretofore issued and the construction of which has been diligently pursued within ninety (90) days of the date of such permit and which shall be completed according to such plans, as filed, within three (3) years from the date of passage of this Zoning Code. Subsequent routine maintenance and repair is also permitted for such buildings.

1.313.5 PROCEDURE FOR BECOMING CONFORMING

In many instances, non-conforming uses or buildings/structures are integral parts of the community's fabric. In these instances, the classification "non-conformity" and resulting restriction on investment may not be what the community desires. As such, the use may be made conforming pursuant to this Section. Non-conformities may become conforming as follows:

(A) Types of Situations

The following are three types of situations whereby a non-conforming use, building, or structure can become conforming and/or be changed to another use:

(1) Correcting the Non-Conformity

Correct the non-conforming situation. Where a non-conforming use is proposed to be changed to another use which requires a conditional use permit, those procedures must be followed.

(2) Conditional Use Application to Change to Another Non-Conforming Use

Apply for a conditional use permit to change the existing non-conforming use to another non-conforming use; in such cases, the BZA must find that the use proposed for

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substitution is equally appropriate or more appropriate to the district than the existing non-conforming use. Whenever the BZA allows a non-conforming use to be changed to another non-conforming use per this section, it shall not thereafter be allowed to come back before the BZA for a change to another non-conforming use.

(3) Conditional Use Application to Make Use Conforming

Apply for conditional use permit as conforming. Under this process, where there is no change of use, the non-conforming situation may be mitigated and made conforming through application for, and approval by, the BZA for a conditional use permit.

(B) Procedure

Owners of non-conforming uses, buildings or structures may apply for a conditional use permit to become conforming without changing the use or necessarily modifying the entire physical nature of the non-conformity. The conditional use permitting application shall be reviewed by the Zoning Administrator, and he or she shall provide a recommendation to the BZA for a final decision. The BZA, at their discretion, may require an operation plan or additional studies and reports from the property owner as part of their consideration.

(C) Review Criteria

- (1) In addition to the standards and criteria for Conditional Use review, the applicant shall demonstrate that the non-conformity, as conducted and managed, has minimal incompatibilities that have been integrated into the community's function. Factors to evaluate this criterion include the following:
 - (a) The area residents patronize or are employed at the use;
 - (b) Current management practices that eliminate problems such as noise, waste materials, competition for on-street parking, or similar conflicts;
 - (c) The non-conformity's history of complaints against it; and,
 - (d) The non-conformity has been maintained in good condition or that the non-conformity represents a disincentive for such maintenance.
- (2) The BZA shall determine that the non-conformity is generally integrated into the community and has minimal adverse impacts. The BZA may require appropriate conditions and safeguards to assure that the non-conformity does not adversely affect orderly development and the value of nearby property, including, but not limited to:
 - (a) Required improvement of, or modifications to existing improvements on the property;
 - (b) Limitations on hours of operations;
 - (c) Limitations on the nature of operations.

(D) Effect

The granting of a conditional use approval eliminates the non-conformity.

§ 1.314 VIOLATIONS AND PENALTIES

1.314.1 PROVISIONS TO CITE AND IMPOSE

- (A) No person shall locate, erect, construct, reconstruct, enlarge, change, maintain, or use any building or use any land in violation of this Zoning Code, or amendment or supplement thereto, and each day such violation continues is a separate offense.
- (B) In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, or any land is or is proposed to be used in violation of this Zoning Code or any amendments or supplements thereto, City Council, the City Law Director, the City Planning Commission, the Board of Zoning Appeals, the Zoning Administrator, the Building Inspector, the Code Enforcement Officer, or any adjacent or neighboring property owner who would be specially damaged by such violation and elects to pursue such action at their own cost and expense, in addition to other remedies provided by law, may institute an action seeking injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful location, erection, construction, enlargement, change, maintenance, or use.
- (C) For the purposes of the violations and penalties provided for herein, “person” shall include the owner or tenant of any building, structure, land or premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, allows or maintains such violation may be subject to the jurisdiction of a court of competent jurisdiction and each be found liable for each separate offense and be subject to the order of the court, if processed to such conclusion after any such person involved in the violation has been duly notified by the Zoning Administrator in ordering the violation to be abated within a time period specified in accordance with Section 1.314.3 (Violation and Remedies Notification Requirements).

1.314.2 DECLARATION OF COMMON NUISANCE

Any building, erected, raised or converted, or land or premises used in violation of any provisions of this Zoning Code or the requirements thereof, may be declared to be a common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under existing law.

1.314.3 VIOLATION AND REMEDIES NOTIFICATION REQUIREMENTS

Notice of violation made in accordance with requirements of this Section shall be provided by the Zoning Administrator to the violator(s) involved in the event the Zoning Administrator finds a violation exists as described in Section 1.314.1 (Provisions to Cite and Impose), as observed by the Zoning Administrator or from investigation into a verbal or written complaint of such made to the Zoning Administrator. The violation notice shall also state the remedy ordered of the violator(s), the time period within which to do so and advise the violator(s) of their right to appeal the order and of the potential consequences if convicted of not complying with the order if upheld valid to impose. The provisions so regarding are specified as follows:

(A) Notice of Violation

The required written notice of violation to be provided by the Zoning Administrator shall contain the following:

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- (1) The name(s) and address(es) of the violator(s);
- (2) The parcel identification number and road address of the parcel(s) where the violation exists;
- (3) Description of the violation and citation of the zoning requirements being violated;
- (4) Statement of the remedy ordered necessary and time period allowed to do so; and,
- (5) Statement of violator(s) right to appeal and potential consequences of non-compliance.

(B) Violation Notice Delivery

The required notice of violation shall be delivered by the Zoning Administrator in any of the following ways for purpose of notifying the violator(s) involved:

- (1) By Certified Mail addressed to the violator(s) last known address, service shall be deemed complete when a Certified Mail receipt (printed or electronic) is received or returned undeliverable or refused; or,
- (2) By Certified Mail and ordinary U.S. first-class mail with a Certificate of mailing simultaneously, addressed to the violator(s) last known address. Service shall be deemed complete when a Certified Mail receipt is received or ordinary U.S. first-class mail is not returned after fifteen (15) days of mailing or returned undeliverable or refused; or,
- (3) By personal delivery to the violator(s) responsible, or by leaving the notice at the usual place of residence thereof; or
- (4) By posting a copy of the notice at a conspicuous place on the premises of the violation, as signed and dated by an adult witness on the notice so delivered and by the same on file copy.

1.314.4 REQUIRED REMEDY, POTENTIAL APPEAL, AND NON-COMPLIANCE CONSEQUENCES

(A) Required Remedy

Each violation specified in the violation(s) notice prepared and delivered in accordance with Section 1.314.3 (Violation and Remedies Notification Requirements) is required to be remedied by the violator(s) as specified in the violation(s) notice within the time period allowed to do so.

(B) Remedy Time Period

The time period allowed to a violator to remedy a violation shall be as specified in the notice of violation delivered by the Zoning Administrator, as determined reasonable by the Zoning Administrator, or as otherwise specified in this Zoning Code. The Zoning Administrator may order a violation to cease and desist immediately if the nature of the violation constitutes a readily apparent danger to public health or safety.

(C) Potential to Appeal

The violator(s) may file an appeal to the Board of Zoning Appeals (BZA) for relief or release from having to comply with the remedy ordered in violation(s) notice delivered by the Zoning

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Administrator, provided the appeal meets all requirements specified in Section 1.308 (Administrative Appeals) of this Zoning Code. Filing of an appeal to the BZA shall stay the time period ordered in the notice for compliance. If the BZA denies the appeal, the applicant may seek relief from the Common Pleas Court of Clinton County.

(D) Non-Compliance Potential Consequences

Failure of the violator(s) to comply with the remedy ordered and the time period in which to do so specified in the violation(s) notice delivered would be considered an additional violation, in the absence of an appeal to the order being granted by the BZA or the Court of Common Pleas. Consequences of non-compliance may result in penalties as determined by the applicable Court of jurisdiction.

(E) Penalties

Any person found, by a court of competent jurisdiction, in violation of the Zoning Code shall be subject to such court ordering all legal and equitable remedies available, including but not limited to:

- (1) The court issuing a temporary injunction or restraining order;
- (2) The court ordering abatement within thirty (30) days of the filing of a final and appealable judgment; and in the event the person so ordered fails to timely abate any violations, if the party bringing the action is City Council, the City Law Director, the Planning Commission, the Board of Zoning Appeals, the Zoning Administrator, the Building Inspector or the Code Enforcement Officer, the court granting such party access to the property upon which the violations are located in order to abate the violations and assessing the costs, charges and expenses of abating such violations against the property upon which the violations are located and certifying such costs to the County Auditor to be placed on the real property tax duplicate to be collected by the County Treasurer; and,
- (3) Permanently enjoining the person from further violations of the Zoning Code and subjecting such person to contempt upon a showing of failure to comply with the Court's Order or further violations without cause including but not limited to imposing a fine of not more than five hundred (500) dollars for each offense. Each day a violation continues shall be a separate offense.

ARTICLE II: USE PROVISIONS

CHAPTER 1: PRINCIPAL USE PROVISIONS

§ 2.101 GENERAL PROVISIONS

2.101.1 PERMITTING DESIGNATIONS OF PRINCIPAL USES

Certain symbols are used in Section 2.102 (Table of Principal Uses by Zoning District) to designate whether or not a certain use listed is allowed in the various zoning districts of this Zoning Code. The following paragraphs provide an explanation of abbreviations and column headings in Section 2.102:

(A) Permitted Uses (P)

A “P” in a cell indicates that the use is permitted by-right in the respective zoning district. Permitted uses are subject to all other applicable regulations of this Zoning Code, including the use-specific standards set forth in this Chapter, the zoning district provisions of Article III, and the site development provisions of Article IV.

(B) Conditional Uses (C)

A “C” in a cell indicates that, in the respective zoning district, a use is permitted if reviewed and approved as a conditional use pursuant to Section 1.306 (Conditional Use Review). Conditional uses are subject to all other applicable regulations of this Zoning Code, including the use-specific standards of this Chapter, the zoning district provisions of Article III, and the site development provisions of Article IV.

(C) Prohibited Uses (Shaded)

A shaded cell indicates that the listed use is prohibited in the respective zoning district.

(D) Site Plan Review Required (Yes, No, N/A)

This column indicates whether the principal use listed is subject to Site Plan Review pursuant to Section 1.305 (Site Plan Review). The Planning Commission is responsible for reviewing site plans for both permitted uses and conditional uses.

(E) Additional Standards

Regardless of whether a use is permitted by-right or allowed as a conditional use, there may be additional regulations which apply specifically to the use. The existence of these use-specific standards is noted through a cross-reference in the last column of the table. These standards apply in all zoning districts unless otherwise specified.

2.101.2 PRINCIPAL USES NOT LISTED

(A) Procedure to Determine Designation

When a principal use is not listed in Section 2.102 (Table of Principal Uses by Zoning District), the Zoning Administrator shall convene the Board of Zoning Appeals (BZA) to make a determination as to whether the use not listed shall be allowed as a permitted or conditional use or otherwise prohibited, based on being similar or not to one or more uses listed.

(B) Accessory Use Determination

The BZA may determine that the use is an accessory use, associated with a principal permitted use. Accessory uses and structures are permitted only in connection with, incidental to, and on the same lot with, a principal permitted use/structure which is permitted within such district. Accessory uses are subject to the provisions of Article II Chapter 2 (Accessory Use Provisions).

2.101.3 USES PREEMPTED BY FEDERAL STATUTE

Uses that are required to be permitted in any zoning district by state or federal statute may be permitted in accordance with such laws whether or not the use is included in Section 2.102 (Table of Principal Uses by Zoning District).

ARTICLE II, CHAPTER 1: PRINCIPAL USE PROVISIONS

§ 2.102 TABLE OF PRINCIPAL USES BY ZONING DISTRICT

Section 2.102 consists of all tables on pages 3-8 of this Chapter.

LAND USES	ZONING DISTRICTS										SITE PLAN REVIEW REQUIRED (YES, NO, N/A)	ADDITIONAL STANDARDS
	BUSINESS			MIXED USE		RESIDENTIAL						
	LI	GI	SC	DC	DT	MF	MH	RR	SN	TN		
AGRICULTURAL USES												
Agriculture – Raising of Crops	P	P	P	P	P	P	P	P	P	P	No	
Agriculture – Raising of Livestock								P			No	Section 2.103.1
Greenhouses and Nurseries	P	P						P			Yes	
Marijuana Cultivation	P	P									Yes	
Marijuana Processing	P	P									Yes	
RESIDENTIAL USES												
Single Family Dwellings					P	C	C	P	P	P	No	Section 2.103.2
Two Family Dwellings					P	C		C	C	P	No	Section 2.103.3
Multi Family Dwellings				C	C	P				C	Yes	Section 2.103.4
Upper Story Residential				P	P					C	Yes	Section 2.103.5
Adult Family Homes or Small Residential Facilities					P	P		P	P	P	No	
Adult Group Homes or Large Residential Facilities					C	C			C	C	Yes	Section 2.103.6
Nursing/Convalescent Homes and Assisted Living Facilities			C		C	C		C	C	C	Yes	Section 2.103.7
Manufactured Home Parks							P				Yes	Section 2.103.8
PUBLIC AND INSTITUTIONAL USES												

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Active Parks, Playgrounds, and Recreational Facilities			C	C	C	C	C	C	C	C	Yes	
LAND USES	ZONING DISTRICTS										SITE PLAN REVIEW REQUIRED (YES, NO, N/A)	ADDITIONAL STANDARDS
	BUSINESS			MIXED USE		RESIDENTIAL						
	LI	GI	SC	DC	DT	MF	MH	RR	SN	TN		
Cemeteries			P		P	P	P	P	P	P	Yes	
Churches and Places of Worship	C	C	P	P	P	C	C	C	C	C	Yes	
Community Garden	C	C	C	C	C	C	C	C	C	C	Yes	
Educational Institutions	C	C	P	P	P	C	C	C	C	C	Yes	
Educational Institutions, Higher	C	C	P	C	C					C	Yes	
Fraternal Organizations or Social Clubs	C	C	P	P	P	C	C	C	C	C	Yes	
Police or Fire Station	P	P	P	P	P	P	P	P	P	P	Yes	
Government Facilities	P	P	P	P	P	C	C	C	C	C	Yes	
Hospitals and Outpatient Centers			P		C						Yes	
Libraries or Cultural Centers			P	P	P	C	C	C	C	C	Yes	
Passive Parks, Open Space, and Conservation Areas	P	P	P	P	P	P	P	P	P	P	Yes	
Public Infrastructure	P	P	P	P	P	P	P	P	P	P	No	
Public Utilities	C	C	C	C	C	C	C	C	C	C	Yes	
Telecommunications Facility (New Facility/Tower)	C	C	C		C			C			Yes	Section 2.103.9(A)
Telecommunications Facility (Existing Tower Modification)	P	P	P	P	P	P	P	P	P	P	No	Section 2.103.9(B)
Telecommunications Facility (Small Cell Facility)	P	P	P	P	P	P	P	P	P	P	No	Section 2.103.9(C)

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LAND USES	ZONING DISTRICTS										SITE PLAN REVIEW REQUIRED (YES, NO, N/A)	ADDITIONAL STANDARDS
	BUSINESS			MIXED USE		RESIDENTIAL						
	LI	GI	SC	DC	DT	MF	MH	RR	SN	TN		
COMMERCIAL USES												
Adult Entertainment Facilities		C									Yes	Section 2.103.10
Banquet/Assembly Halls or Conference Centers			P	P	P						Yes	
Automobile Body Repair Shops	C	C	P		C						Yes	
Automobile Fueling Stations			P		C						Yes	Section 2.103.11
Automobile General Repair	C	C	P		C						Yes	Section 2.103.12
Automobile Oil Change, Lube, or Light Service			P		C						Yes	
Automobile Sales or Rental Establishments			P		C						Yes	
Automobile Washing Facility			P		C						Yes	
Bed and Breakfasts			C		C			C		C	Yes	Section 2.103.13
Bars, Brewpubs and Taverns	P	P	P	P	C						Yes	
Casino or Skilled Gaming Facility			C								Yes	
Clinics			P	P	P						Yes	
Convenience Stores			P	P	C					C	Yes	
Day Care Centers			P	P	P					C	Yes	Section 2.103.14
Drive-Through Facilities			P		C						Yes	Section 2.103.15
Equipment Sales and Leasing	P	P	C								Yes	

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LAND USES	ZONING DISTRICTS										SITE PLAN REVIEW REQUIRED (YES, NO, N/A)	ADDITIONAL STANDARDS
	BUSINESS			MIXED USE		RESIDENTIAL						
	LI	GI	SC	DC	DT	MF	MH	RR	SN	TN		
Family Day Care – Type A (7-12 children)			P		P	C		C	C	C	Yes	
Family Day Care – Type B (1 to 6 children)					P			P	P	P	Yes	
Financial Institutions			P	P	P						Yes	
Flea Markets			C					C			Yes	
Funeral Homes			P	P	P	C		C	C	C	Yes	
Garden Centers			P					P			Yes	
Hotels or Motels			P	P	C						Yes	
Kennels or Animal Shelters	C		C					C			Yes	Section 2.103.16
Marijuana Dispensary	P	P									Yes	
Micro-breweries, Micro- distilleries, or Micro-wineries	P	P	C	C	C						Yes	
Moving Truck and Trailer Rental	P	P	P		C						Yes	
Offices	P	P	P	P	P					C	Yes	
Private Parking Lots or Garages	P	P	P	P	C						Yes	
Personal Service Establishments	C		P	P	C					C	Yes	
Recreational Facility (Indoor)	C		P	C	C						Yes	
Recreational Facility (Outdoor)	C		C	C	C	C		C	C		Yes	
Retail and Service Uses (under 75,000 SF)	C		P	P	C					C	Yes	

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LAND USES	ZONING DISTRICTS										SITE PLAN REVIEW REQUIRED (YES, NO, N/A)	ADDITIONAL STANDARDS
	BUSINESS			MIXED USE		RESIDENTIAL						
	LI	GI	SC	DC	DT	MF	MH	RR	SN	TN		
Retail and Service Uses (over 75,000 SF)	C		P	C	C						Yes	
Restaurants			P	P	C					C	Yes	
Self-Storage Facilities	P	P	P								Yes	Section 2.103.17
Shooting Range (Indoor)	C	C	C								Yes	
Shooting Range (Outdoor)		C						C			Yes	
Short-Term Loan Establishments	C		P	C							Yes	
Short Term Rentals				P	C						Yes	Section 2.103.18
Theaters			P	P	C						Yes	
Truck Stops		C	C								Yes	
Veterinary Clinics or Animal Grooming			P	C	C						Yes	
INDUSTRIAL USES												
Building/Lumber Yards	P	P									Yes	
Contractor Yards	P	P									Yes	
General Industrial Services	C	P									Yes	
Heavy Industrial Uses		P									Yes	
Junk Yard											N/A	
Light Industrial Uses	P	P	C								Yes	
Research and Development Facilities	P	P									Yes	

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LAND USES	ZONING DISTRICTS										SITE PLAN REVIEW REQUIRED (YES, NO, N/A)	ADDITIONAL STANDARDS
	BUSINESS			MIXED USE		RESIDENTIAL						
	LI	GI	SC	DC	DT	MF	MH	RR	SN	TN		
Warehouses and Distribution Centers	P	P									Yes	
Wholesale Businesses	P	P									Yes	

§ 2.103 USE-SPECIFIC STANDARDS

2.103.1 AGRICULTURE – RAISING OF LIVESTOCK

The keeping of chickens on a residential property is considered an accessory use, regulated by the provisions of Article II, Chapter 2 (Accessory Use Provisions).

2.103.2 SINGLE FAMILY DWELLINGS

No more than one (1) principal structure is permitted on a single property.

2.103.3 TWO FAMILY DWELLINGS

No more than one (1) principal structure is permitted on a single property.

2.103.4 MULTIPLE FAMILY DWELLINGS

- (A) Multi-family development which is a part of a mixed use development proposal is encouraged to utilize the Planned Unit Development (PUD) process outlined in Section 3.502 (Planned Unit Development Overlay).
- (B) In the Traditional Neighborhood (TN) District, multi-family uses are limited to a maximum of three to four units per building.

2.103.5 UPPER STORY RESIDENTIAL

Upper Story Residential is limited to occur in mixed use structures only, where other principal commercial or public/institutional uses are included in the structure. Upper Story Residential may serve as one of multiple principal uses in the structure, but shall not be located on the first floor.

2.103.6 ADULT GROUP HOMES OR LARGE RESIDENTIAL FACILITIES

- (1) The minimum lot area shall be thirty thousand (30,000) square feet.
- (2) All structures and activity areas, except off-street parking, shall be set back a minimum of thirty five (35) feet from all property lines.

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- (3) Each individual home shall have a person or persons maintaining permanent residence in the unit to avoid shift changes and to provide the same type of use and activities otherwise typical in residences in the area.
- (4) No more than one (1) adult group home shall be permitted within the same block or within a five hundred (500) foot radius of another adult group home.
- (5) The residential character of all structures shall be maintained.
- (6) An adult group home shall not be permitted to be constructed or operated until the agency, organization or institute supervising such home satisfies the Board of Zoning Appeals that the home and its operation will comply with all licensing or certification requirements of the appropriate state or local agency, pursuant to law.
- (7) A conditional use shall be granted for a specific type of group home. The type of home shall be defined as and by the specific nature of the individuals being treated or rehabilitated. Any change in the type of adult group home shall require a new conditional use permit.

2.103.7 NURSING/CONVALESCENT HOMES AND ASSISTED LIVING FACILITIES

- (A) The minimum lot area shall be five (5) acres.
- (B) All structures and activity areas, except off-street parking, shall be set back a minimum of one hundred (100) feet from the front property line and forty (40) feet from all other property lines.
- (C) The density shall not exceed fifteen (15) patient rooms per acre.

2.103.8 MANUFACTURED HOME PARKS

- (A) No zoning permit shall be issued unless a site plan for the use has first been approved in accordance with the Ohio Public Health Council rules so regarding, as administered and enforced by the Ohio Department of Health, and licensed by and in accordance with applicable rules of the State of Ohio.
- (B) All aspects of development internal to a site in a manufactured home park are subject to plan approval and subsequent licensing of the developed use, in accordance with the Ohio Public Health Council rules so regarding, as administered by the Ohio Board of Health.
- (C) Sanitary sewer, water supply and trash disposal provisions shall be designed, installed, operated, and maintained in accordance with the Ohio Public Health Council rules adopted so regarding, as administered by the Ohio Board of Health.
- (D) The design of a manufactured home park is subject to the review satisfaction of the local fire and emergency service provider, as to all applicable aspects of site development and use complying with related accessibility requirements and any other concern to such regard.
- (E) Stormwater drainage for a manufactured home park must be controlled to the satisfaction of the City Engineer.
- (F) The location and design of any required private driveway entrance from and/or exit to a public road shall be to the satisfaction of the City Engineer or the Ohio Department of Transportation (ODOT), as applicable.

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- (G) The intensity of any exterior lighting relative to adjacent off-site residential use or district shall not exceed 0.2 foot-candles at the border of the manufactured home park, unless otherwise a lower threshold is specified by the Ohio Department of Health.
- (H) A manufactured home park shall contain only the following:
- (1) Single family residential use of rented or leased spaces accessed by private streets and driveways as individual sites for temporary placement of mobile homes or other types of non-permanently sited manufactured homes; or
 - (2) Accessory buildings and uses for the manufactured home park including, but not limited to, clubhouse, administrative office, laundry and swimming pool, and other similar on-site facilities for the exclusive use of the park residents and their guests.
- (I) A manufactured home park shall comply with all of the following minimum site and development requirements:
- (1) The site shall be at least five (5) acres in size, not including the minimum required setback specified in subsection (2) below.
 - (2) A setback of at least one hundred (100) feet is required from any residential district or property.
 - (3) The site configuration shall not exceed a one-to-five (1:5) ratio of width-to-depth.
 - (4) At least one hundred (100) feet of frontage on a public road is required.
- (J) No individual home site in a manufactured home park shall be subdivided from or sold as ownable or buildable lots independent of the overall homes park property that they are part of as a rentable or leasable space.

2.103.9 TELECOMMUNICATIONS FACILITIES

(A) New Facility/Tower

All telecommunications facilities which do not qualify as a “micro wireless facility” shall conform to the following standards:

- (1) **Property and Setback Requirements**
- (a) Towers shall be located centrally on a continuous parcel having a dimension at least equal to the height of the tower measured from the center of the base of the tower to all points on each property line.
 - (b) All accessories related to the tower, including but not limited to, guy wires, equipment sheds, parking, and fencing shall all be located on the same lot as the tower.
 - (c) Towers shall be set back a minimum of five hundred (500) feet from any off-site dwelling unless a reduced setback is approved by the Board of Zoning Appeals as part of a conditional use review of the tower.

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- (d) Towers shall also comply with the setback requirements of Section 2.103.9(A)(5) (Additional Standards Table).

(2) Co-Location and Use Requirements

- (a) Towers shall provide at least two (2) co-location opportunities.
- (b) The owner of such a tower shall agree to permit use of the tower by other communication service providers, on reasonable terms, so long as such use does not conflict with the applicant's and/or any other pre-existing user's use of the tower and does not violate the structural integrity of the tower.

(3) Site Development Standards

- (a) Existing trees and shrubs shall be maintained to the greatest degree possible to screen the view of the tower and base facility. Additionally, the perimeter of the tower and base facility shall be planted with evergreen landscaping capable of forming a continuous visual buffer at least five (5) feet in height within two (2) years of planting.
- (b) A security fence, not less than six (6) feet tall with a locking gate, shall enclose the equipment areas and the base of the tower. Fencing shall be set back at least twenty (20) feet from any adjacent property line.
- (c) Accessory structures, such as cabinets, are subject to the maximum building height permitted for accessory structures in the zoning district in which the facility is located.
- (d) Lights, beacons, or strobes shall not be permitted on any such structures and such structures shall not be illuminated in any way, unless required by the Federal Aviation Administration (FAA).
- (e) No advertising is permitted anywhere upon or attached to any such structures.
- (f) Additional site development standards are shown in Section 2.103.9(A)(5) (Additional Standards Table).

(4) Required Documentation and Inspections

- (a) Proof shall be provided by the applicant in a form satisfactory to the Zoning Administrator that the proposed application has been approved by all agencies and governmental entities with jurisdiction, including but not limited to, the Ohio Department of Transportation (ODOT), the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), or the successors to their respective functions.
- (b) Structural sufficiency of a telecommunications tower or other support structure shall be certified by an Engineer licensed in the State of Ohio. To ensure structure integrity and the health and safety of the public, telecommunications tower inspections shall, at a minimum, take place as follows:
 - (i) Mono-pole towers every ten (10) years;

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- (ii) Lattice towers every five (5) years; and
- (iii) Guy-wire cable secured towers every three (3) years.
- (c) Structural sufficiency inspections are the sole responsibility of the tower operator of record and shall be performed by an individual or company that is a member of the National Association of Tower Erectors. Results of inspections shall be provided in writing to the Zoning Administrator; based upon the results, the City of Wilmington may require the repair or removal of a telecommunications tower.
- (d) The property owner, tower owner and/or any successor or assign shall be required to notify the City of Wilmington, in writing, of the intent to abandon any tower and/or related equipment. The City of Wilmington will issue a certified mail notice to the property owner to verify the use has permanently ceased or is abandoned. Abandoned towers, including all related equipment and structures, shall be removed within one hundred eighty (180) days after verification is confirmed the use has permanently ceased or is abandoned.

(5) **Additional Standards Table**

REQUIREMENT	TELECOMMUNICATION TOWERS	
	Towers Greater than 150 Feet in Height	Towers Less than or Equal to 150 Feet in Height
Districts Allowed	LI and GI Districts	DT, GI, LI, RR, and SC Districts
Conditional Use Review Required	Yes	Yes
Minimum Lot Area	4 acres	2 acres
Required Setback from any Residential District or Use	500 feet	200 feet
Yard Requirement	Cannot occupy a front yard	Cannot occupy a front yard
Maximum Height	300 feet	150 feet
Appearance	Gray or as required by federal statute	Gray or as required by federal statute
Structure Type	Any	Restricted to freestanding mono-pole only (no lattice or guy-wire cable towers)

(B) **Existing Facility/Tower Modifications**

- (1) Modification of an existing facility/tower may involve one (1) or more of the following:
 - (a) Co-location of new transmission equipment;

- (b) Removal of transmission equipment; and/or
- (c) Replacement of transmission equipment.

(2) **Substantial Changes**

- (a) A modification request that constitutes a “substantial change” to the physical dimensions of an existing facility is required to conform to the same standards and provisions provided for new facilities/towers in Section 2.106.14(A) (New Facility/Tower Request). The Planning Commission shall approve as submitted, approve with conditions, or deny the application within ninety (90) days after submitted to the Zoning Administrator, plus any tolling periods that may have been granted per Section 2.106.14(B)(4) (Tolling).
- (b) Modifications of an existing facility are deemed a “substantial change” subject if the modification meets any of the following criteria:
 - (i) For towers not in the public right-of-way, the height of the structure is increased by more than ten (10) percent or more than twenty (20) feet, whichever is greater. For towers in the public right-of-way and all base stations, the height of the structure is increased by more than ten (10) percent or more than ten (10) feet, whichever is greater;
 - (ii) For towers not in the public right-of-way, an appurtenance added to the body of the tower would protrude by more than twenty (20) feet from the edge of the tower or more than the width of the tower structure at the level of the appurtenance, whichever is greater. For towers in the public right-of-way and all base stations, an appurtenance added to the body of the structure would protrude by more than six (6) feet from the edge of the structure;
 - (iii) Entails any excavation or deployment outside the existing site;
 - (iv) Would defeat the concealment elements of the eligible support structure; or
 - (v) Would not comply with conditions associated with site approval for the construction or modification of the eligible support structures or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in items (i) through (iv) above.

(3) **Eligible Facilities Request**

A modification request that does not constitute a “substantial change” to the physical dimensions of an existing telecommunications facility/tower, per the criteria outlined in Section 2.103.9(B)(2)(b), is considered an “Eligible Facilities Request.” Eligible Facilities Requests are exempt from zoning and shall be approved by the Zoning Administrator within sixty (60) days following submission, plus any tolling periods that may have been granted per Section 2.103.9(B)(4) below.

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(4) **Tolling**

- (a) The review period begins when the application is filed, and may be tolled only by mutual agreement by the Zoning Administrator and the applicant, or in cases where the Zoning Administrator determines that the application is incomplete.
- (b) To toll the time frame for incompleteness, the Zoning Administrator must provide written notice to the applicant within thirty (30) days of receipt of the application, specifically delineating all missing documents or information required in the application. Tolling begins on the date when such notice is mailed.
- (c) Following a supplemental submission, the Zoning Administrator will notify the applicant within ten (10) days about the completeness of the application. Subsequent notices of incompleteness shall not specify missing documents or information that was not delineated in the original notice of incompleteness. Tolling ceases on the date when the Zoning Administrator mails notice to the applicant specifying that the application is complete.

(C) **Small Cell Facilities**

(1) **Definition**

A “small cell facility” is defined as a wireless facility that meets both of the following requirements:

- (a) Each antenna is located inside an enclosed structure of not more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of not more than six (6) cubic feet in volume.
- (b) All other wireless equipment associated with the facility is cumulatively not more than twenty eight (28) cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

(2) **Exemption from Zoning**

Small cell facilities, as defined in subsection (1) above, shall be exempt from any zoning requirements; however, such facilities must comply with all other applicable codes and regulations of the City.

2.103.10 ADULT ENTERTAINMENT FACILITIES

- (A) Distances as specified below in subsections (B)-(E) shall be measured in a straight line from the nearest wall of the proposed adult entertainment establishment to the property line of the potentially restrictive structure.

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- (B) No adult entertainment facility shall be established within one thousand (1,000) feet of any area zoned for residential use, including mixed use districts.
- (C) No adult entertainment facility shall be established within a radius of one thousand (1,000) feet of any property devoted to a school, library or educational facility, whether public or private, governmental, or commercial, if attended by persons less than eighteen (18) years of age.
- (D) No adult entertainment facility shall be established within a radius of one thousand (1,000) feet of any property devoted to a religious place of worship attended by persons less than eighteen (18) years of age.
- (E) No adult entertainment facility shall be established within a radius of one thousand (1,000) feet of any park or recreational facility attended by persons under eighteen (18) years of age.
- (F) All building openings, entries, windows, and the like for adult entertainment facilities shall be located or covered in such a manner as to prevent a view from the interior from any public area, sidewalk, or street. For new construction, the building shall be oriented so as to minimize any possibility of viewing the interior from any public or semi-public areas.
- (G) No screens, loudspeakers, or sound equipment shall be used for any adult drive-in theater or adult motion picture theater that can be seen or discerned by the public from any public area, street, or sidewalk.
- (H) Live Sex Act Businesses are prohibited in all zoning districts.

2.103.11 AUTOMOBILE FUELING STATIONS

- (A) Automotive fueling stations that are located on a corner lot shall have a minimum of one hundred fifty (150) feet of frontage on each street;
- (B) Fuel pumps and related driveways and paved areas may be erected in a front yard, but not less than thirty (30) feet from an existing or proposed street right-of-way.
- (C) A canopy may be constructed over the pump island(s), provided that the canopy shall extend no closer than twenty (20) feet from an existing or planned right-of-way.

2.103.12 AUTOMOBILE GENERAL REPAIR

- (A) Repair work shall be conducted completely within an enclosed building and all automobile parts, dismantled vehicles, and similar materials shall be stored within an enclosed building.
- (B) Vehicles shall not be parked or stored as a source of parts.

2.103.13 BED AND BREAKFASTS

- (A) The owner of the premises used for the bed and breakfast establishment shall reside full-time in the dwelling, or in a dwelling on an adjoining lot.
- (B) No more than four (4) bedrooms in any dwelling may be used for bed and breakfast lodging and at least one (1) bathroom shall be dedicated to guest use.

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- (C) The owner shall keep a current register of guests including names, addresses, and dates of occupancy of all guests.
- (D) 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.
- (E) Each bed and breakfast establishment shall be permitted to have one (1) wall-mounted sign with a maximum sign area of four (4) square feet and/or a free-standing ground sign with a maximum sign area of six (6) square feet with a maximum height of five (5) feet. Such signs shall not be illuminated. All signs shall be approved by the Planning Commission before installation.

2.103.14 DAY CARE CENTERS

- (A) Outdoor play areas, tot lots, or activity centers designed to be used by children under eight (8) years of age shall be fully enclosed by a fence subject to approval by the Planning Commission.
- (B) The parking and circulation plans shall include a drop-off/pick-up point for children.

2.103.15 DRIVE-THROUGH FACILITIES

- (A) A drive-through lane which serves a Drive-Through Facility shall be subject to the same standards and provisions as an accessory drive-through use, as found in Section 2.204.10 (Drive-Throughs).
- (B) All drive-through facilities shall comply with the following:
 - (1) A drive-through facility shall be designed and located to minimize visual, traffic, and noise impacts on neighboring development.
 - (2) The drive-through facility shall be oriented to face an alley, driveway, or interior parking area, and not a street.
 - (3) Drive-through facility queuing areas shall be designed so that vehicles do not obstruct a driveway, fire access lane, walkway, or public right-of-way.
 - (4) The drive access, entry and/or exit, shall be a minimum of fifty (50) feet from any street intersection. A traffic study addressing both on-site and off-site traffic and circulation impacts may be required.
- (C) The following regulations shall apply to any and all drive-through facilities adjacent to a residential use or district:
 - (1) Audible communication devices shall be a minimum of one hundred (100) feet from an adjacent residential use or district and/or a suitable acoustical barrier erected.
 - (2) The drive-through lane shall be located on the site to maximize the distance from residential uses or districts.
 - (3) Drive lanes designated for drive-through facilities shall not be located immediately adjacent to residential development.

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- (4) Drive-through facilities may only be operated between the hours of 7:00 a.m. and 9:00 p.m.

2.103.16 KENNELS OR ANIMAL SHELTERS

- (A) All structures and activities related to the subject kennel use shall be located a minimum distance of one hundred (100) feet from side and rear property lines.
- (B) All non-soundproofed structures or area where animals are confined shall be located a minimum distance of five hundred (500) feet from any residential district.
- (C) Soundproofed, air-conditioned buildings shall be located a minimum distance of one hundred (100) feet from any residential district.
- (D) All non-soundproofed structures for the confinement of animals shall be screened by a solid fence or wall a minimum of six (6) feet in height located within fifty (50) feet of the structure.
- (E) Animals shall be confined in an enclosed building between the hours of 10:00 p.m. and 6:00 a.m. of the following day.
- (F) There shall be no burial or incineration of animals on the premises.

2.103.17 SELF-STORAGE FACILITIES

- (A) All items shall be stored within a building.
- (B) Buildings shall not exceed one (1) story, with a maximum height of twenty two (22) feet.
- (C) No door shall exceed fifteen (15) feet in either height or width.
- (D) Access to the facility shall be limited to one (1) entrance and one (1) exit per abutting street.
- (E) Loading and unloading of storage units shall be oriented toward the side and rear lot lines.

2.103.18 SHORT TERM RENTALS

- (A) The maximum number of guest rooms is five (5).
- (B) The property owner must obtain a license from the City to operate a Short Term Rental.

CHAPTER 2: ACCESSORY USE PROVISIONS

§ 2.201 GENERAL PROVISIONS

2.201.1 PERMITTING DESIGNATIONS OF ACCESSORY USES

Certain symbols are used in Section 2.202 (Table of Accessory Uses by Zoning District) to designate whether or not a certain use listed is allowed in the various zoning districts of this Zoning Code. The following paragraphs provide an explanation of abbreviations and column headings in Section 2.202:

(A) Permitted Uses (P)

A “P” in a cell indicates that the accessory use is permitted by-right in the respective zoning district. Permitted uses are subject to all other applicable regulations of this Zoning Code, including the use-specific standards set forth in this Chapter, the zoning district provisions of Article III, and the site development provisions of Article IV.

(B) Conditional Uses (C)

A “C” in a cell indicates that, in the respective zoning district, an accessory use is permitted if reviewed and approved as a conditional use pursuant to Section 1.306 (Conditional Use Review). Conditional uses are subject to all other applicable regulations of this Zoning Code, including the use-specific standards of this Chapter, the zoning district provisions of Article III, and the site development provisions of Article IV.

(C) Prohibited Uses (Shaded)

A shaded cell indicates that the listed accessory use is prohibited in the respective zoning district.

(D) Yards Allowed

This column identifies which yards (front, side, rear) the listed accessory use is allowed, or may specify another type of location where the use is allowed. See also Section 3.103.6 (Yards).

(E) Counts Toward Max. Number of Accessory Structures

Certain accessory uses which are incidental to a principal residential use (e.g. single-family dwellings, two-family dwellings, etc.) are subject to maximum number restrictions. This column indicates whether the accessory use listed is subject to the provisions of Section 2.203 (Maximum Number of Accessory Structures).

(F) Additional Standards

Regardless of whether a use is permitted by-right or allowed as a conditional use, there may be additional regulations that are applicable to the use. The existence of these use-specific standards is noted through a cross-reference in the last column of the table. These standards apply in all zoning districts unless otherwise specified.

2.201.2 ACCESSORY USES NOT LISTED

When an accessory use is not listed in Section 2.202 (Table of Accessory Uses by Zoning District), the Zoning Administrator shall convene the Board of Zoning Appeals to make a determination as to whether the accessory use not listed shall be allowed or otherwise prohibited, in accordance with the provisions of Section 1.306 (Conditional Use Application).

2.201.3 GENERAL STANDARDS

All accessory uses and structures must comply with the following requirements:

- (A)** The building or use is incidental to and customarily found in connection with a principal building or use permitted in the district in which it is located;
- (B)** The use is subordinate to and serves the principal building or use;
- (C)** The use is subordinate in size, area, extent, and purpose to the principal building or use;
- (D)** The use is located on the same lot as the principal use for which it serves;
- (E)** An owner applies for and receives a zoning permit unless exempted by this Chapter;
- (F)** Accessory structures that are used to house vehicles shall be located so access can be made to the accessory structure over a paved surface such as a driveway.
- (G)** Accessory structures/uses which are attached to, or contained within, a principal structure shall comply with the principal use height and setback requirements of the zoning district wherein located, unless otherwise specified. Detached accessory structures shall comply with the accessory use height and setback requirements of the zoning district wherein located. District setback requirements for principal and accessory uses can be found in Article III (Zoning District Provisions).
- (H)** Accessory structures and uses shall be allowed in any yard (front, side, or rear), unless otherwise specified.
- (I)** Accessory buildings or structures located on residential premises shall comply with the following:
 - (1)** For accessory buildings or structures of two hundred (200) square feet or less, the structure shall consist of a finished pitched roof surface or standing seam metal, seal-tab asphalt shingles, clay tile, slate or wood shingles and shall include other finish surfaces of wood, brick, stone, vinyl, or any combination thereof.
 - (2)** For accessory buildings or structures greater than two hundred (200) square feet, the structure shall be architecturally consistent with the character of the house of the premises including roof material, roof pitch, and façade material and color.

§ 2.202 TABLE OF ACCESSORY USES BY ZONING DISTRICT

This Section consists of the tables on pages 3-4 of this Chapter.

ACCESSORY USES	ZONING DISTRICTS							YARDS ALLOWED F = Front S = Side R = Rear	COUNTS TOWARD MAX. NUMBER OF ACCESSORY STRUCTURES (Section 2.203)	ADDITIONAL STANDARDS
	BUSINESS		MIXED USE		RESIDENTIAL					
	GI LI	SC	DC	DT	MF MH	RR	SN TN			
Accessory Dwelling Units				C		C	C	R	Yes, if detached	Section 2.204.1
Agricultural Buildings	P	P	P	P	P	P	P	F, S, or R	No	Section 2.204.2
Amateur Radio Antennas				P	P	P	P	R	No	Section 2.204.3
Automated Teller Machines (ATMs)		P	P	C				F, S, or R	Yes, if detached	Section 2.204.4
Commercial Vehicle Parking on Residential Premises	P	P	P	P		P	P	S or R	No	Section 2.204.5
Community Gardens	C	C	C	C	C	C	C	F, S, or R	No	Section 2.204.6
Decks, Porches, and Unenclosed Patios		P	P	P	P	P	P	F, S, or R	No	Section 2.204.7
Detached Garages or Carports	P	P	P	P	P	P	P	S or R	Yes	Section 2.204.8
Detached Storage/Utility Sheds	P	P	P	P	P	P	P	R	Yes	Section 2.204.9
Drive-Throughs		P		C				S or R	Yes	Section 2.204.10
Drop-Off Boxes		P	C					S or R	No	Section 2.204.11
Electric Charging Stations – Level 1 and 2	P	P	P	P	P	P	P	F, S, or R	No	Section 2.204.12
Electric Charging Stations – Level 3 and Battery Exchange	P							F, S, or R	No	Section 2.204.12
Home Occupations				P	P	P	P	Inside principal building	No	Section 2.204.13
Keeping of Chickens						P	P	S or R	No	Section 2.204.14

ARTICLE II, CHAPTER 2: ACCESSORY USE PROVISIONS [DRAFT]

LAND USES	ZONING DISTRICTS							YARDS ALLOWED F = Front S = Side R = Rear	COUNTS TOWARD MAX. NUMBER OF ACCESSORY STRUCTURES (Section 2.203)	ADDITIONAL STANDARDS
	BUSINESS		MIXED USE		RESIDENTIAL					
	GI LI	SC	DC	DT	MF MH	RR	SN TN			
Keeping of Miniature Pigs	P	P	P	P	P	P	P	S or R	No	Section 2.204.15
Outdoor Dining		P	P	C				F, S, or R	No	Section 2.204.16
Outdoor Sales or Display	P	P	P	C				F, S, or R	No	Section 2.204.17
Outdoor Storage	P	P						S or R	No	Section 2.204.17
Outdoor Trash Container Enclosures	P	P	P	P	P			S or R	No	Section 2.204.18
Radio and Television Antennas	P	P	P	P	P	P	P	R	No	Section 2.204.19
Residential Recreational Equipment/Facilities					P	P	P	R	Yes	Section 2.204.20
Roadside Stands						P		F, S, or R	Yes	Section 2.204.21
Satellite Dishes	P	P	P	P	P	P	P	See Section 2.204.20	No	Section 2.204.22
Short Term Rentals			P	C		C	C	Inside principal building	No	Section 2.204.23
Solar Panels	P	P	P	P	P	P	P	See Section 2.204.21	Yes, if detached	Section 2.204.24
Swimming Pools, Community		P	P	P	P	P	P	S or R	Yes	Section 2.204.25
Swimming Pools, Private		P	P	P	P	P	P	S or R	Yes	Section 2.204.26
Wind Energy Conversion System, Small	C					C		R	No	Section 2.204.27
Other Accessory Uses Not Listed ¹	C	C	C	C	C	C	C	As determined by the BZA		

¹ A Zoning Permit is required, unless otherwise determined by the BZA.

§ 2.203 MAXIMUM NUMBER OF ACCESSORY STRUCTURES

2.203.1 APPLICABILITY

This Section applies only to accessory structures and uses which are associated with a principal residential use (e.g. single family dwellings, two family dwellings, etc.), as listed in Section 2.102 (Table of Principal Uses by Zoning District).

2.203.2 TABLE OF REQUIREMENTS

Accessory structures, including detached garages and car ports, shall be permitted as an accessory use to principal residential use structures in any zoning district in accordance with the following requirements:

STANDARD	SIZE OF LOT			
	1 acre or Less	1 to 3 acres*	3 to 5 acres*	Greater than 5 acres
Number of Structures Permitted	2	3	3	4
Number of Structures Greater than 200 Sq. Ft. Permitted	1	1	2	3
Maximum Total Footprint as a Percentage of Principal Structure*	50%	100%	200%	None

***1 to 3 acres:** Includes lot sizes which are less than or equal to three (3) acres, but greater than one (1) acre.

***3 to 5 acres:** Includes lot sizes which are less than or equal to three (3) acres, but greater than one (1) acre.

***Maximum Total Footprint as a Percentage of Principal Structure:** The total footprint of all accessory structures on a lot shall not exceed the percentage of the principal structure footprint as shown for each lot size category.

§ 2.204 ACCESSORY USE STANDARDS

2.204.1 ACCESSORY DWELLING UNITS

(A) Standards

One (1) accessory dwelling unit is allowed per lot in conjunction with an owner-occupied single-family residential unit (elsewhere in this Section referred to as the “primary dwelling unit”), in accordance with the following requirements:

- (1) The accessory dwelling unit is located entirely within the principal structure, or within a detached accessory structure. In the case of such a unit being located within a detached accessory structure, such structure shall be subject to the same zoning district setback requirements as the principal structure.

- (2) The accessory dwelling unit must share the same address and utility bill as the primary dwelling unit.
- (3) Off-street parking is sufficient to accommodate all occupants of both the primary dwelling unit and accessory dwelling unit.
- (4) The secondary dwelling unit's maximum living space shall be fifty (50) percent of the total living space of the primary dwelling unit, but at no time shall exceed fifteen hundred (1,500) square feet of living space.
- (5) Mobile homes, recreational vehicles, and travel trailers shall not be used as accessory dwelling units.
- (6) Exterior building materials shall be durable, of the same, or higher, quality as surrounding development, and shall not adversely impact adjacent uses.
- (7) Accessory dwelling units shall not be sold apart from the principal dwelling unit.
- (8) Accessory dwelling units shall not be leased or rented.
- (9) Home occupations shall be prohibited within an accessory dwelling unit.

(B) Floor Plans Required

For accessory dwelling units located within the principal structure, floor plans showing separation between the primary dwelling unit and accessory dwelling unit must be submitted for review and approval in accordance with the zoning permit review process specified in Section 1.304 (Zoning Permit Application).

(C) Conditional Use Limit

Another conditional use may be approved on the same lot as an approved secondary dwelling unit (a secondary dwelling unit subject to the conditional use process shall not be counted toward the maximum conditional use allowance per Section 1.306.4(B)(9)).

2.204.2 AGRICULTURAL BUILDINGS

Accessory buildings (barns, etc.) used for agricultural purposes shall only be permitted on properties where a principal agriculture use is established.

2.204.3 AMATEUR RADIO ANTENNAS

(A) Non-commercial amateur radio antenna structures are permitted in compliance with the following standards:

- (1) The structure is for use by licensed amateur radio operators.
- (2) Such tower shall not exceed one hundred (100) feet in height, except by conditional use permit.

- (3) The construction shall be of such type as may be required by the City to form a safe and durable structure.
 - (4) Components of the antenna shall not be permitted to extend across the property line of the property on which the antenna is located.
 - (5) The antenna structure shall be set back a distance equal to the height of the tower plus an additional twenty (20) feet.
- (B) Amateur Radio Antennas do not require a zoning permit.

2.204.4 AUTOMATED TELLER MACHINES (ATMs)

- (A) ATMs are permitted when they are constructed of the same or better materials as the principal structure.
- (B) No part of an ATM structure shall exceed fifteen (15) feet in height unless the ATM is built into the side of the principal structure.
- (C) All structures and activity areas, except off-street parking, shall be set back a minimum of fifty (50) feet from all property lines abutting a residential zoning district and minimum of thirty five (35) feet from all other property lines.
- (D) All ATMs that are built into a drive-through facility shall be subject to the requirements of Section 4.405 (Vehicle Stacking Requirements).
- (E) To the maximum extent feasible, ATMs shall be located in the side or rear yard.

2.204.5 COMMERCIAL VEHICLE PARKING ON RESIDENTIAL PREMISES

- (A) On lots less than five (5) acres, one (1) commercial vehicle (with or without a connected trailer) not exceeding thirteen (13) tons combined gross vehicle weight may be parked in an unenclosed area.
- (B) On lots greater than or equal to five (5) acre, two (2) commercial vehicles (with or without connected trailers) each not exceeding thirteen (13) tons combined gross vehicle weight, may be parked in an unenclosed area.
- (C) The parking of commercial vehicles on residential premises does not require a zoning permit.

2.204.6 COMMUNITY GARDENS

- (A) Community gardens are permitted in any yard.
- (B) The owner of the property shall have an established set of operating rules addressing the governance structure of the garden; hours of operation; maintenance and security requirements and responsibilities; and distribution of garden plots.
- (C) The Zoning Administrator shall have on file 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.
- (D) The site shall be designed and maintained so that water and fertilizer will not drain onto adjacent

properties.

- (E) There shall be no retail sales on site, except for produce grown on the site.
- (F) Benches, bike racks, raised/accessible planting beds, picnic tables, seasonal farm stands, garden art, and rain barrel systems are permitted.

2.204.7 DECKS, PORCHES, AND UNENCLOSED PATIOS

Decks, porches, and patios shall meet all applicable safety and building codes.

2.204.8 DETACHED GARAGES OR CARPORTS

- (A) Garages/Carports which are an integral part of a principal building and not separated by a porch, walkway, breezeway, or other similar structure shall not be subject to the accessory use provisions for detached garages/carports; such uses shall be considered part of the principal building and shall be subject to the principal structure standards of the applicable zoning district.
- (B) Garages/Carports located within five (5) feet of a principal structure and connected by a permanently enclosed porch, walkway, breezeway, or other similar structure, shall still be considered part of the principal building and shall be subject to the principal structure standards of the applicable zoning district.
- (C) Garages/Carports located more than five (5) feet from a principal structure shall be considered detached accessory buildings and thus subject to the accessory use standards of this Chapter, even if the garage/carport is connected by a permanently enclosed breezeway, walkway, or other similar structure. Such structures shall not be located in the front yard – however, an exception to this standard is made for corner lots, where a garage/carport may be located in the front yard on the non-address side of the property.
- (D) Garages/Carports shall comply with the architectural standards of Section 2.201.3(I), as well as all other applicable standards.

2.204.9 DETACHED STORAGE/UTILITY SHEDS

Detached storage/utility sheds shall not be located in the front or side yards.

2.204.10 DRIVE-THROUGHS

A drive-in or drive-through service lane shall satisfy the following requirements:

- (A) **Development and Operation Requirements**
 - (1) Stacking requirements specified in Section 4.405 (Vehicle Stacking Requirements) shall be provided and shall not prevent obstruction of any street, sidewalk or sight-distance;
 - (2) Ingress and egress shall only be permitted from an internal private driveway serving the principal use of the site;
 - (3) All access driveway intersection(s) of public streets shall only be permitted to the allowance, design and construction specifications of the City Engineer or the Ohio Department of Transportation (ODOT), as applicable;

- (4) The location shall not impair or obstruct provision of emergency services of the site, as determined to the satisfaction of the Fire/EMS Department;
- (5) The turning radius of any curve in a driveway lane shall be sufficient to require only forward movement; i.e., no backing up to get through any curve in the drive-through lane.

(B) Facility Support Requirements

- (1) Signage shall comply with requirements specified in Article IV Chapter 5 (Signs), except for the following menu board and clearance sign provisions:
 - (a) May have two-way audio communication broadcasting;
 - (b) Limited to forty-eight (48) square feet;
 - (c) Shall not exceed eight (8) feet in height with the exception of clearance signs and they may be determined by the height and width of the structure or opening to be protected; and,
 - (d) Shall not be visible or audible from any off-site residential use or district.
- (2) A buffer shall be provided to prevent visual, noise and light impact, if no such requirements are specified in Article IV, Chapter 1 (Buffering and Landscaping).
- (3) The height and width of vehicles the facility can accommodate shall be posted.

2.204.11 DROP-OFF BOXES

- (A)** Drop-off boxes and dumpster style recycling collection containers for public use are permitted in accordance with the following standards:
- (1) One (1) drop-off box may be located in any yard area, but shall not be located in any area that is required to be landscaped.
 - (2) Drop-off boxes must be placed on a hard paved surface and located outside of driveways and parking spaces required in accordance with Article IV, Chapter 4 (Parking and Circulation).
 - (3) Drop-off boxes must be enclosed per the requirements of Section 4.109 (Screening Requirements) if not kept in a clean, new appearing condition. Drop-off boxes which are not kept within an enclosure shall not have dents, any deformation to the outside painted surface, any dirt or residue on the outside surface, graffiti, etc.
 - (4) No more than three (3) boxes may be kept on a single site.
 - (5) If two (2) or three (3) drop-off boxes are kept on a site, all boxes shall be kept within a common enclosure in conformance with Section 4.109 (Screening Requirements). The common enclosure for multiple boxes shall not be located in any area that is required to be landscaped, nor shall it be located in the front yard.
 - (6) Each drop-off box shall be limited in size to ten (10) cubic yards and shall have a lid.

- (B) The installation of drop-off boxes does not require a zoning permit.
- (C) Trash/garbage collection areas and recycling collection containers for private on-site use are not considered “drop-off boxes” and are instead subject to the provisions of Section 2.204.18 (Outdoor Trash Container Enclosures).

2.204.12 ELECTRIC CHARGING STATIONS – LEVELS 1-3

- (A) Except when located in conjunction with single-family residences, electric vehicle charging stations shall be reserved for parking and charging of electric vehicles only.
- (B) Electric vehicle charging stations located within parking lots or garages may be included in the calculation of the minimum required parking spaces.
- (C) Each electric vehicle charging station located in a non-residential district shall be posted with signage indicating that the space is only for electric vehicle charging purposes. Wayfinding signs conveniently located to guide motorists to the charging stations are permitted with approval from the Zoning Administrator.
- (D) The following information shall be posted at all electric vehicle charging stations:
 - (1) Voltage and amperage levels;
 - (2) Hours of operation if time limits or tow-away provisions are to be enforced by the property owner;
 - (3) Usage fees;
 - (4) Safety information;
 - (5) Contact information for reporting when the equipment is not operating or other problems;
- (E) Equipment for electric vehicle charging stations shall comply with the following standards:
 - (1) Equipment mounted on pedestals, lighting posts, bollards, or other devices for on-street charging stations shall be designed and located as to not impede pedestrian travel or create trip hazards within the right-of-way.
 - (2) Charging station outlets and connectors shall be no less than thirty six (36) inches and no higher than forty eight (48) inches from the top of the surface where mounted and shall contain a retraction device or a place to hang cords and connectors above the ground surface.
 - (3) Equipment shall be protected by wheel stops or concrete-filled bollards.

2.204.13 HOME OCCUPATIONS

- (A) The purpose of the home occupation provisions is to allow for home occupations that are compatible with the neighborhood in which they are located. Home occupations are allowed as either a permitted use or a conditional use in accordance with this section.

- (B)** Home occupations which comply with the following standards shall be permitted, and shall require a zoning permit in order to establish and maintain such uses:
- (1) A home occupation shall be conducted within a dwelling and shall be clearly incidental to the use of the structure as a dwelling.
 - (2) Home occupations shall not use more than twenty-five (25) percent of the floor area used for human occupancy.
 - (3) No home occupation shall be conducted in any accessory building, although an accessory structure no larger than two hundred (200) square feet may be used for storage.
 - (4) There shall be no outside storage of equipment, vehicles, or supplies associated with the home occupation, except as provided in Section 2.204.5 (Commercial Vehicle Parking on Residential Premises).
 - (5) There shall be no display of products visible in any manner from outside of the dwelling.
 - (6) There shall be no change in the outside appearance of the dwelling or premises or any visible evidence of the conduct of a home occupation.
 - (7) Not more than one (1) person, who is not a resident of the premises, may participate in the home occupation as an employee or volunteer.
 - (8) There shall be no clients or customers visiting the site.
 - (9) No sign, other than one non-illuminated nameplate, five (5) square feet in area and mounted flat on the front face of the dwelling or on a driveway lamppost, shall be erected or maintained on the premises.
 - (10) No equipment or process shall be used in such home occupation, which creates noise, vibrations, glare, fumes, odors or electrical interference detectable off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receiver off the premises, or causes fluctuations in the voltage off the premises.
- (C)** Should a home occupation be proposed which deviates from one (1) or more of the standards and requirements listed above in subsection (B), the home occupation shall be subject to the conditional use process with the BZA. The BZA may choose to approve, deny, or approve with additional conditions, the proposed home occupation based on impacts to surrounding properties and the character of the existing neighborhood.
- (D)** The following home occupations shall be prohibited:
- (1) Homes that serve as a gathering point for employees engaged in the business that takes place off premises. This may include, but is not limited to, landscape business offices, construction offices, or a trucking business where drivers or employees gather at the home before being dispatched from the home for the purposes of the home occupation;
 - (2) Home occupations that involve the use or storage of tractor trailers, semi trucks, or heavy equipment such as construction equipment used in a business, except as provided in Section 2.204.5 (Commercial Vehicle Parking on Residential Premises);

- (3) Home occupations that require fire safety inspections, precautions or permits or other regulatory inspections or permits involving public health and safety;
- (4) Home occupations that require the use of mechanical ventilation systems to exhaust hazardous by-products of the home occupation; or
- (5) Home occupations that involve the use of controlled substances.

2.204.14 KEEPING OF CHICKENS

- (A) The keeping of up to ten (10) chickens is permitted provided that:
 - (1) The principal use is a single-family dwelling;
 - (2) No person shall keep any rooster;
 - (3) No person shall slaughter any chickens for commercial sales;
 - (4) The chickens shall be provided with a covered enclosure for protection from the elements;
 - (5) Chickens must always be confined within a fenced area of the yard at all times; and
 - (6) A covered structure or fenced area shall be located no closer than twenty five (25) feet to any residential structure on an adjacent lot, or shall comply with the accessory structure setbacks of the applicable zoning district, whichever is greater.
- (B) The keeping of chickens does not require a zoning permit.

2.204.15 KEEPING OF MINIATURE PIGS

- (A) The keeping of miniature pigs shall comply with Section 505 of the Wilmington Codified Ordinances.
- (B) All swine not defined as a miniature pig in Section 505 of the Wilmington Codified Ordinances are prohibited within the City.
- (C) The keeping of miniature pigs does not require a zoning permit.

2.204.16 OUTDOOR DINING

- (A) Outdoor cafes and food service areas shall be designated on the site plan.
- (B) If no grade separation is provided between vehicular traffic and the outdoor café or food service area, permanent railings or fencing shall be provided around the café or food service area.
- (C) Umbrellas that shelter diners from the elements shall be secured so as not to create a hazard in windy conditions.

- (D) Enclosing outdoor cafes or food service areas either by a permanent roof or to expand the existing structure shall meet all requirements of a building within the applicable zoning district and shall require the issuance of a zoning permit.

2.204.17 OUTDOOR SALES, DISPLAY, AND STORAGE

(A) Purpose

The purpose of these regulations is to ensure the proper use of land for outdoor displays, sales, and storage so as to minimize impacts on surrounding property owners and uses.

(B) Applicability

The provisions of this Section shall apply to all uses except single-family dwellings, two-family dwellings, and uses exempted pursuant to subsection (C) below.

(C) Exemptions

The following uses where the outdoor displays and sales are the permitted principal use of the lots shall be exempt from these regulations:

- (1) Outdoor display, sales, and storage areas approved as part of a site plan prior to the effective date of this Zoning Code;
- (2) Automotive sales or rental;
- (3) Greenhouses;
- (4) Temporary sales on a lot;
- (5) Tool rental or sales facilities; and
- (6) Similar uses as determined by the Planning Commission during Site Plan Review.
- (7) Uses integral to the permitted principal use of the lot as determined by the Zoning Administrator. Such determination may be appealed to the Board of Zoning Appeals.

(D) General Standards

All outdoor sales, display, and storage areas shall require a zoning permit and shall be illustrated on the corresponding site plan unless exempted in subsection (C) above.

- (1) Outdoor sales, display, and storage areas shall not be located in any required setback, parking and circulation area, right-of-way, or required landscape or buffer area.
- (2) Such sales, display, and storage areas shall be prohibited if they will create any safety hazard for pedestrians. A minimum pathway in areas used for outdoor displays, sales, and storage shall be provided to allow for the flow of pedestrian traffic outside of designated vehicular traffic drives. Such pathways shall have a minimum clearance width of four (4) feet, or the width required to meet the minimum standards of the Americans with Disabilities Act or the City of Wilmington Building Code, whichever is greater.

- (3) Where screening or security fencing is provided or required, decorative cast iron, aluminum, wood material, or materials used in the principal building, shall be used for the fencing. Other materials may be permitted with the approval of the Planning Commission.
- (4) Chain link fencing shall be permitted only where the fencing is not visible from any public right-of-way.
- (5) All outdoor sales, display, and storage areas shall be maintained free of garbage and other debris.
- (6) Outdoor sales, display, and storage areas shall be limited to five (5) percent of the gross floor area of the principal structure.

(E) Standards for Outdoor Sales and Displays

Outdoor sales and displays may be permitted where such sales and display areas comply with the following requirements:

- (1) Outdoor sales and displays are prohibited on vacant lots unless approved in advance by the Planning Commission as a temporary use.
- (2) Outdoor sales and displays may be permitted provided that the merchandise is displayed along the sidewalk, the walkway adjacent to the building, or in the side yard;
- (3) Outdoor displays and sales of bulk or large products that exceed twenty (20) pounds, including, but not limited to mulch (bag or bulk), concrete, salt, or other similar products that cannot be easily carried into the store for purchase shall be required to meet the requirements of subsection (F).

(F) Standards for Outdoor Storage Areas

Outdoor storage areas may be permitted where such storage areas comply with the following regulations:

- (1) Outdoor storage shall be prohibited on vacant lots.
- (2) Outdoor storage may be permitted provided that the storage areas are located in the side or rear yard.
- (3) Storage of any goods or materials shall not exceed six (6) feet in height unless the storage is fully screened by a wall that is architecturally compatible with the main structure in material type and color.
- (4) All outdoor storage areas shall be screened from view from the public right-of-way by a six (6) foot fence or in conformance with subsection (D) above unless screened by an architecturally compatible wall as provided for in paragraph (3) above.
- (5) Screening shall not be required if the outdoor storage area is located out of view from any public right-of-way.
- (6) In all residential zoning districts, the outdoor storage of wood used for fireplaces, fire pits, smokers, etc., shall be stored in the rear yard a minimum of ten (10) feet from any lot lines. Stacked wood shall not exceed four (4) feet in overall height unless stored within a

fully enclosed accessory structure located on the property or enclosed by a privacy fence tall enough to effectively conceal its elements from off-street views at ground-level.

2.204.18 OUTDOOR TRASH CONTAINER ENCLOSURES

Trash and/or recycling container areas on non-residential and multi-family residential use sites shall be located in the side or rear yard and are subject to Section 4.109 (Screening Requirements).

2.204.19 RADIO AND TELEVISION ANTENNAS

Radio, television, or other similar receiving dish, antenna, or structure, shall not be located closer to the street than the front building line and does not require a zoning permit.

2.204.20 RESIDENTIAL RECREATIONAL EQUIPMENT/FACILITIES

Outdoor recreation facilities, including game courts (e.g. tennis courts, basketball courts, etc.) and play structures (e.g. play sets, tree houses, trampolines, etc.), are subject to the following:

- (A) The facility shall be located in the rear and/or side yard and shall be set back ten (10) feet from any adjacent property line.
- (B) The use does not create a nuisance, disturb the peace, or result in a health or safety violation as reported to, acted upon by, an enforcement authority.
- (C) Trampolines must be secured to the ground in a way which withstands normal weather patterns.

2.204.21 ROADSIDE STANDS

- (A) Roadside stands shall only be permitted for the sale of products grown on the premises.
- (B) Roadside stands shall be set back a minimum of thirty (30) feet from the road right-of-way.
- (C) Roadside stands shall not exceed one hundred (100) square feet in floor area.

2.204.22 SATELLITE DISHES

- (A) Satellite dishes that are one (1) meter (3.28 feet) in diameter or less shall be subject to the following standards:
 - (1) Such dishes shall not require a zoning permit.
 - (2) To the maximum extent feasible, such dishes should be located to the side or rear of a structure. However, the City shall not have the authority to prevent the location of these smaller satellite dishes in the front yard.
- (B) Satellite dishes that exceed one (1) meter (3.28 feet) in diameter shall be subject to the following standards:
 - (1) Installation of these satellite dishes shall require a zoning permit.
 - (2) Satellite dishes may be erected or installed on the ground of any property.
 - (3) Roof mounting of dishes is only permitted in Business Districts.

- (4) Ground-mounted satellite dishes shall be set back a minimum of ten (10) feet from all lot lines.
- (5) Satellite dishes shall be prohibited in the front yards of any property on which it is located.
- (6) The maximum height of the satellite dish shall be fifteen (15) feet as measured from the average grade.
- (7) The maximum diameter of the satellite dish shall be twelve (12) feet.

2.204.23 SHORT TERM RENTALS

- (A) Accessory short term rentals are permitted as either of the following:
 - (1) Rentals within an owner-occupied principal single-family dwelling (e.g. a spare bedroom); or
 - (2) A single unit within a principal two-family dwelling, where both units are under the same ownership and the other unit is occupied by the owner.
- (B) The maximum number of guest rooms for any accessory short term rental is three (3).
- (C) The maximum number of guests at any one time is six (6).
- (D) Common bathroom facilities may be provided rather than private baths for each room.
- (E) The property owner must be present during guest stays, and must obtain a license from the City to operate a Short Term Rental.

2.204.24 SOLAR PANELS

- (A) Solar energy equipment shall be set back twenty (20) feet from all property lines and shall meet principal building height requirements for the district.
- (B) Ground-mounted solar energy equipment shall be limited to a maximum height of five (5) feet and shall be located in the rear yard or side yard and screened from the public right-of-way.
- (C) A ground-mounted solar energy system shall count toward the maximum number of accessory structures permitted on the property and shall require a zoning permit.
- (D) Non-functioning solar energy equipment shall be removed within three (3) months of becoming nonfunctional.
- (E) The system's apparatus shall be properly maintained to prevent both unsightly and unsafe conditions.

2.204.25 SWIMMING POOLS, COMMUNITY

- (A) Swimming pools shall be surrounded by a wall or fence not less than six (6) feet in height with access gates that are lockable, self-closing, and self-latching and shall be maintained in good condition.

- (B) Pumps, filtering equipment, and other appurtenances shall be located at least two hundred (200) feet from off-site property lines.
- (C) Community and public pools and all related supportive installations, such as restrooms, changing rooms, food service, and eating areas must satisfy the construction and operation requirements of the Ohio Department of Health.

2.204.26 SWIMMING POOLS, PRIVATE

- (A) Swimming pools shall be located only in the side or rear yard and shall be set back twenty (20) feet from any adjacent property line. This setback shall be measured from the edge of the pool water.
- (B) Swimming pools shall be surrounded by a wall or fence not less than four (4) feet in height with access gates that are lockable, self-closing, and self-latching and shall be maintained in good condition. The fencing requirement does not apply to residential swimming pools that:
 - (1) Are installed with a retractable rigid cover, tested per ASTM Standard F 1346; or
 - (2) Are above ground pools with sides greater than four (4) feet in height and the access point is secured in one of the following ways:
 - (a) With a fence that has a lockable, self-closing, and self-latching gate; or
 - (b) With a removable ladder or a ladder that swivels and latches in a position so that all parts of the ladder are above four (4) feet in height and capable of being locked.

2.204.27 WIND ENERGY CONVERSION SYSTEM, SMALL

- (A) The minimum lot area is two and a half (2.5) acres. However, if the proposed turbine is attached to a building and the turbine (to the top of the blades) does not exceed the maximum building height requirement of the applicable zoning district, there shall be no minimum lot area requirement.
- (B) The maximum height of a stand-alone system shall be one hundred fifty (150) feet from natural grade to the top of an extended rotor blade.
- (C) All portions of the system's support structure must, meet the setback requirements normally required for principal structures in the applicable zoning district. Systems must also be set back a minimum distance equal to one hundred ten (110) percent of the height of the system, as measured to the top of the rotor blades, from all property lines.
- (D) Only a single tower and single turbine shall be permitted on a property. Multiple turbines may be permitted with a conditional use permit if attached to a non-residential building and if the diameter of the rotor is less than six (6) feet.
- (E) Climbing access to the tower structure shall be limited by
 - (1) Placing fixed climbing apparatus no lower than ten (10) feet from the ground; and

- (2) Placing a six (6) foot tall fence or shielding around the system.
- (F)** Systems shall be of a scale intended for on-site power consumption and shall not be designed to produce energy to sell to electric providers. This regulation shall not prohibit a property owner that is installing a Small Wind Energy Conversion System from connecting to the local electric system if mandated by the electric provider for the purposes of safety.

CHAPTER 3: TEMPORARY USE PROVISIONS

§ 2.301 PURPOSE

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

§ 2.302 TABLE OF TEMPORARY USES

This Section consists of the table below. All temporary uses or structures are also subject to the requirements listed in Section 2.303 (Temporary Use Standards), as well as any additional standards indicated in the table. Any other temporary use or structure not listed in the table may be brought forward for as a conditional use to the BZA.

TEMPORARY USES	ALLOWABLE DURATION (PER SITE)	ZONING PERMIT REQUIRED (Yes, No)	ADDITIONAL STANDARDS
Construction Dumpster	Until completion of construction	No	Sections 2.303.1 & 2.303.2
Construction Trailer	Until completion of construction	Yes	Sections 2.303.1 & 2.303.3
Gravel Surface Parking Lots	Until completion of construction	No	Sections 2.303.1 & 2.303.6
Home Sales	Not more than three (3) days per event, and not more than two (2) sales per residential lot annually	No	Sections 2.303.1 & 2.303.5
Mobile Food Vending	See Section 2.303.4	See Section 2.303.4	See Sections 2.303.1 & 2.303.4
Real Estate Sales Office/ Model Homes	Until 85% occupancy of the section or phase is reached	Yes	Sections 2.303.1 & 2.303.7
Seasonal Agricultural Sales	Ninety (90) days per calendar year	Yes	Sections 2.303.1 & 2.303.8
Temporary Special Events	See Section 2.303.8	Yes	Sections 2.303.1 & 2.303.9
Temporary Storage in a Portable Container	Maximum of thirty (30) consecutive days	Yes	Sections 2.303.1 & 2.303.10
Temporary Structure for Institutional Uses	One (1) year	Yes	Sections 2.303.1 & 2.303.11
Tents, Stages, and Seasonal Covers	Maximum of fourteen (14) consecutive days	No	Sections 2.303.1 & 2.303.12

§ 2.303 TEMPORARY USE STANDARDS

2.303.1 GENERAL STANDARDS

(A) General Requirements

All temporary uses or structures shall:

- (1) Obtain a zoning permit if required by Section 2.302 (Table of Temporary Uses);
- (2) Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;
- (3) Be compatible with the principal uses taking place on the site;
- (4) Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;
- (5) Not include permanent alterations to the site;
- (6) Not maintain temporary signs associated with the use or structure after the activity ends;
- (7) Not violate the applicable conditions of approval that apply to a site or use on the site;
- (8) Not interfere with the normal operations of any permanent use located on the property;
- (9) Not encroach on established landscaped areas of developed sites; and
- (10) Comply with the same district height and setback requirements as accessory uses, unless otherwise specified.
- (11) Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate the parking and traffic movement.

(B) Public Property Exemption

Publicly-owned land and property shall be exempt from the requirements of this Chapter.

2.303.2 CONSTRUCTION DUMPSTER

(A) Temporary trash receptacles or dumpsters shall be permitted provided the use is:

- (1) Located outside the public right-of-way;
- (2) Located to the side or the rear of the site, to the maximum extent feasible;
- (3) Located as far as possible from lots containing existing development;
- (4) Not located within a floodplain or otherwise obstruct drainage flow; and
- (5) Not placed within five (5) feet of a fire hydrant or within a required landscaping area or buffer.

- (B) All dumpsters/receptacles shall be removed within thirty (30) days after issuance of the last Certificate of Occupancy for the development.

2.303.3 CONSTRUCTION TRAILER

- (A) Construction trailers may be permitted on a construction site provided that the trailer is:
 - (1) Located on the same site or in the same development as the related construction;
 - (2) Not located within a required open space set-aside or landscaping area or buffer; and
 - (3) Associated with development subject to a valid building permit.
- (B) All construction trailers shall be removed within thirty (30) days after issuance of the last Certificate of Occupancy for the development.

2.303.4 MOBILE FOOD VENDING

- (A) The provisions for Mobile Food Vending in this Zoning Code shall not apply to those operating in the public right-of-way, inclusive of streets and/or sidewalks in such right-of-way.
- (B) Mobile food vendors are prohibited on all residential properties and in all residential districts, except when operating as part of a Temporary Special Event involving multiple vendors. This provision does not apply to food trucks, such as ice cream trucks, which are operating in the public right-of-way.
- (C) Mobile food vendors which are parked and operating on a private property for a duration lasting ten (10) days or less are permitted and do not require a temporary zoning permit.
- (D) Mobile food vendors which are parked and operating on a private property for a duration lasting longer than ten (10) days do require a temporary zoning permit. The applicant shall specify in their application the duration of the requested permit, not to exceed thirty (30) days. The total cumulative number of days a food truck may be parked and in operation on a single parcel of property annually shall not exceed thirty (30) days.
- (E) Mobile food vendors which are parked and operate on a private property longer than thirty (30) days are prohibited.

2.303.5 HOME SALES

Home sales shall comply with Chapter 725 of the Wilmington Codified Ordinances.

2.303.6 GRAVEL SURFACE PARKING LOTS

- (A) A gravel surface parking lot may be permitted while a site is under construction but shall only be permitted in areas for parking as established in the approved site plan.
- (B) A solid surface or gravel access drive shall be provided so vehicles may access the parking lot from a public street.

ARTICLE II, CHAPTER 3: TEMPORARY USE PROVISIONS

2.303.7 REAL ESTATE SALES OFFICE/MODEL HOMES

- (A) One (1) temporary real estate sales office or model home per builder or developer shall be permitted in a section or phase of a new residential or non-residential development.
- (B) The office/home shall be located on a platted lot.
- (C) The office/home shall be aesthetically compatible with the character of surrounding development in terms of exterior color, predominant exterior building materials, and landscaping.
- (D) The office/home must be operated by a developer or builder active in the same phase or section where the use is located.
- (E) Once the section or phase of the development that the office/home serves is eighty five (85) percent occupied, the use must either be removed or converted into a permanent residential use consistent with the principal use requirements of this Code.

2.303.8 SEASONAL AGRICULTURAL SALES

- (A) Seasonal agricultural sales, 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:
 - (1) The property contains an area not actively used that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing vegetated areas, open space, landscaping, traffic movements, or parking space availability.
 - (2) The sale of goods shall not occur within the public right-of-way, or within two hundred (200) feet of a dwelling.
 - (3) The range of goods or products available for sale shall be limited to 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.
 - (4) The hours of operation of the seasonal sale of agricultural products shall be limited to hours between 7:00 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.
- (B) Only one (1) seasonal agricultural sale activity shall be permitted on any single lot. Farmers markets or other similar temporary activities whether more than one person or group is selling seasonal agricultural products shall be permitted on city-owned property with approval from the City of Wilmington.
- (C) There shall be a minimum of four (4) parking spaces available to serve the seasonal agricultural sales.

ARTICLE II, CHAPTER 3: TEMPORARY USE PROVISIONS

- (D) Seasonal agricultural sales or produce sold on the same property where such produce is grown shall not be subject to the standards in this Section. Such sales may be subject to Section 2.204.21 (Roadside Stands), if a structure is to be used for the sale of the produce.

2.303.9 TEMPORARY SPECIAL EVENTS

- (A) A zoning permit shall be required for temporary special events on privately owned property such as festivals, circuses, concerts, and similar uses when such event must meet all of the following criteria:
- (1) Will last more than one (1) day;
 - (2) Is designed to attract more than forty (40) people to a property in a residential district or more than one hundred (100) people to a property in a business or mixed use district; and
 - (3) Is open to the public, for free or for a fee.
- (B) The zoning permit shall be valid for no more than two (2) weeks, provided the applicant receives all other applicable permits from the City of Wilmington.
- (C) The application for a zoning permit may be subject to review by the City's police department, fire department, or other staff for the purpose of establishing specific conditions that may be necessary to protect the public health, safety, and welfare (e.g., traffic flow, emergency access, public safety, waste collection and disposal, etc.).
- (D) The Zoning Administrator shall have the authority to deny the application by recommendation of the police department, fire department, or other staff if the event or related impacts will pose a threat to the public health, safety, and welfare. The Zoning Administrator may allow the applicant to offer mitigating measures to address the City's concerns for approval prior to the formal denial of the application. In denying the application, the Zoning Administrator shall provide written reasons for the denial.

2.303.10 TEMPORARY STORAGE IN A PORTABLE CONTAINER

Portable Storage Containers (e.g. PODS™) that are loaded with materials and placed on a property for the purpose of temporarily storing materials shall be permitted in accordance with the following requirements:

- (A) Portable storage containers shall be kept in the driveway of the property at the furthest accessible point from the street. The location of the portable storage container on a driveway shall not obstruct visibility nor block the sidewalk. If no driveway is present, containers shall be located within the side or rear yard and no closer than ten (10) feet to any lot line.
- (B) No more than one (1) portable storage container shall be placed on any residential parcel at one time.
- (C) The Zoning Administrator, upon good cause shown, may approve a one-time extension of the zoning permit for an additional fourteen (14) consecutive days. Portable storage containers shall not be located on any parcel for a period exceeding forty four (44) days per calendar year.

2.303.11 TEMPORARY STRUCTURE FOR INSTITUTIONAL USES

Temporary structures serving public or institutional uses shall comply with the following standards:

ARTICLE II, CHAPTER 3: TEMPORARY USE PROVISIONS

- (A) The use shall be located to the side or rear of the principal structure(s) and at least five (5) feet from any other structure.
- (B) The use shall meet all minimum setback requirements and shall not be located within required off-street parking, open space set-aside, or required landscaping areas.
- (C) Under skirting or other materials shall be used to prevent unauthorized access underneath the structure.
- (D) The use is permitted if approved by the Zoning Administrator, and may remain on the site for no more than one (1) year. This period may be renewed for two (2) three-hundred-sixty-five (365) day periods, for good cause shown, upon approval of a written request, submitted to the Zoning Administrator at least thirty (30) days prior to the expiration of the zoning permit. In no event, however, shall such extensions allow the temporary structure to remain on the site for more than three (3) years.

2.303.12 TENTS, STAGES, AND SEASONAL COVERS

A temporary tent, stage or seasonal cover may be located in any yard of a lot on a temporary basis under the following regulations:

- (A) The location of the tent or seasonal cover shall not obstruct visibility nor block the sidewalk.
- (B) Only one (1) tent or seasonal cover shall be placed on any residential property at one time.
- (C) The Zoning Administrator, upon good cause shown, may approve a one-time extension of the zoning permit for an additional fourteen (14) days. Tents and seasonal covers shall not be located on any parcel for a period exceeding twenty eight (28) days per calendar year.
- (D) Temporary tents for outdoor sales may be permitted for a fourteen (14) day period, once every ninety (90) days.
- (E) Temporary tents associated with home/yard sales shall adhere to the standards of Section 2.303.5 (Home Sales), inclusive of any timing or duration provisions.

ARTICLE III: ZONING DISTRICT PROVISIONS

CHAPTER 1: GENERAL PROVISIONS

§ 3.101 ESTABLISHMENT OF ZONING DISTRICTS AND OVERLAYS

3.101.1 LIST OF DISTRICTS AND OVERLAYS

The City of Wilmington is hereby classified and divided into ten (10) base zoning districts and four (4) types of overlay districts designated as follows:

ABBREVIATION	ZONING DISTRICT NAME	STANDARDS SECTION
BUSINESS DISTRICTS		
LI	Light Industrial District	Section 3.202
GI	General Industrial District	Section 3.203
SC	Suburban Commercial District	Section 3.204
MIXED USE DISTRICTS		
DC	Downtown Core District	Section 3.302
DT	Downtown Transition District	Section 3.303
RESIDENTIAL DISTRICTS		
MF	Multi-Family District	Section 3.402
MH	Manufactured Home Park District	Section 3.403
RR	Rural Residential District	Section 3.404
SN	Suburban Neighborhood District	Section 3.405
TN	Traditional Neighborhood District	Section 3.406
OVERLAY DISTRICTS		
AZD	Airport Overlay Districts	Section 3.502
H-1	Commercial Historic Overlay District	Section 3.503
PUD	Planned Unit Development Overlay District	Section 3.504
SR	Stream and Riparian Overlay District	Section 3.505

3.101.2 OFFICIAL ZONING MAP

The boundaries of the zones and overlays as established are indicated upon the zoning map of the incorporated area of Wilmington, Ohio, said map being a part of this Zoning Code and duly filed in the office of the Zoning Administrator. The said zoning map inclusive of all notations, references and other matters set forth thereon is properly attested in being the Official Zoning Map for this Zoning Code.

3.101.3 ZONING CLASSIFICATIONS FOR NEWLY ANNEXED PROPERTY

After the effective date of this Zoning Code, parcels annexed into the City of Wilmington shall be automatically rezoned to the RR "Rural Residential" District in accordance with this Zoning Code and state law. After annexation, the zoning of the subject property may be amended in accordance with Section 1.309 (Zoning Text and Map Amendments).

3.101.4 VACATION OF PUBLIC WAYS

Whenever any street, alley, or other public way is vacated by official action of City Council, the zoning district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation.

§ 3.102 DISTRICT BOUNDARIES LOCATION AND INTERPRETATION

3.102.1 Where the location or interpretation of existing zoning district boundaries is uncertain, the following rules shall apply in resolving such problem:

- (A) Boundaries that appear to follow the center lines of public streets, roads or highways shall actually be interpreted to follow the right-of-way easement line.
- (B) Boundaries that appear to follow the parcel division lines shall be interpreted as following such lines.
- (C) Boundaries that appear to follow the corporation limit line of a municipality shall be interpreted as following such line.
- (D) Boundaries that appear to follow an abandoned railroad shall be interpreted as following the centerline of such, except where such has been re-utilized for purpose of a public right-of-way, in which case the boundary shall be to the outside edge(s) of such right-of-way.
- (E) Boundaries that appear to follow a watercourse, such as a river, creek or stream, or the shoreline of a lake or pond shall be interpreted as following the outside edge of such watercourse or body of water and as changing with such physical edge as it may change.

3.102.2 Boundaries that do not appear to follow any recognizable natural features or man-made line of occupation or physical improvement shall in absence of any zoning case action or legal description in the initial establishment of such boundary be resolved by the Board of Zoning Appeals (BZA).

§ 3.103 SITE MEASUREMENT PROVISIONS

3.103.1 DISTANCE MEASUREMENTS

Unless otherwise expressly stated, distances specified in this Zoning Code are to be measured as the length of an imaginary straight line joining those points.

3.103.2 LOT AREA MEASUREMENTS

- (A) The area of a lot includes the total horizontal surface area within the lot's boundaries.
- (B) The area of a panhandle on a panhandle lot shall not count toward the minimum lot area requirement.

3.103.3 REDUCTIONS IN AREA PROHIBITED

No lot, yard, court, parking or other space shall be reduced in area or dimensions so as to make said area or dimensions less than the minimum required by this Code unless approved as part of a Planned Unit Development (PUD) overlay or Conservation Design Option (CDO) subdivision; and, if already less than the minimum required by this Code, said area or dimensions shall not be further reduced.

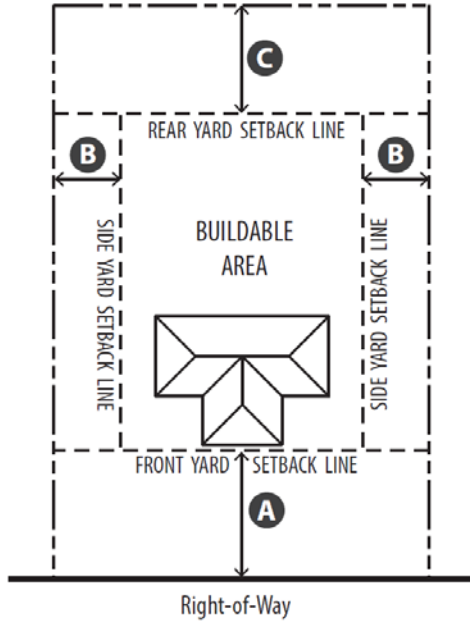
3.103.4 PERMITTED OBSTRUCTIONS IN SETBACKS

- (A) The following architectural features may project into any required front or rear yard setbacks:
 - (1) Cornices, canopies, eaves or other architectural features may project a distance not exceeding two (2) feet, six (6) inches. This dimension is measured horizontally from the adjacent exterior wall, and shall include allowance for eave, gutter and any other attachment.
 - (2) Fire escapes may project a distance not exceeding four (4) feet, six (6) inches.
 - (3) An uncovered stair and necessary landing may project a distance not to exceed six (6) feet, provided such stair and landings shall not extend above the front entrance floor of the building except for a railing not exceeding three (3) feet in height or as required by the applicable Building Code.
 - (4) Bay windows, balconies and chimneys may project a distance not exceeding three (3) feet, provided that such features do not occupy, in the aggregate, more than one-third (1/3rd) of the length of the building wall on which they are located.
- (B) The architectural features identified in subsection (A) above may project into any required side yard a distance not to exceed one-fifth (1/5th) of the required width of such side yard.

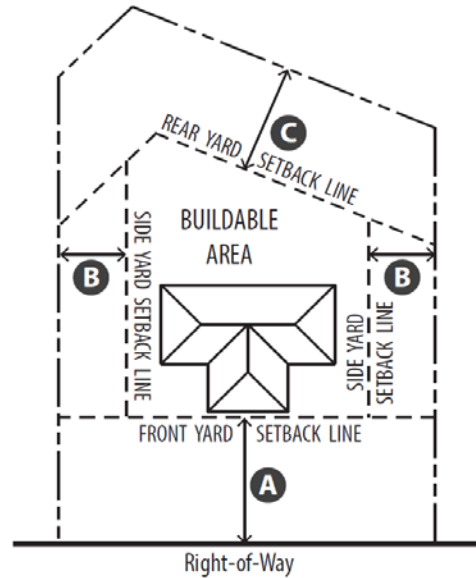
3.103.5 SETBACKS

The illustrations in this section dictate the manner in which setbacks shall be measured for different lot types. Setbacks are measured from property lines except where street right-of-way is present, in which case setbacks shall be measured from the right-of-way. All structures, inclusive of any additions/add-ons/expansions excepting the features listed in Section 3.103.4 (Permitted Obstructions in Setbacks), shall be built within the buildable area only.

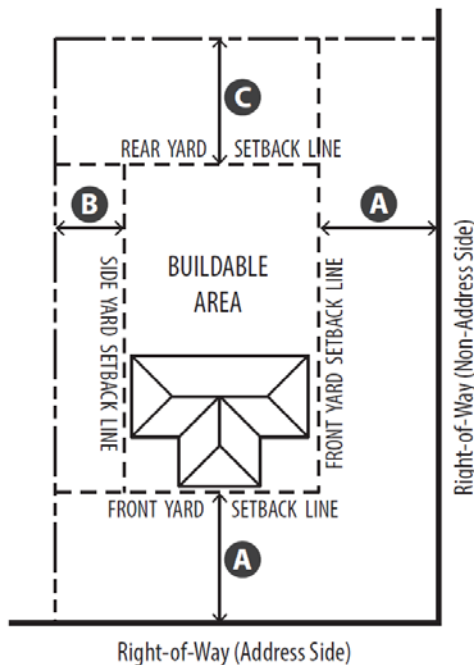
Standard Lot



Irregular Lot



Corner Lot

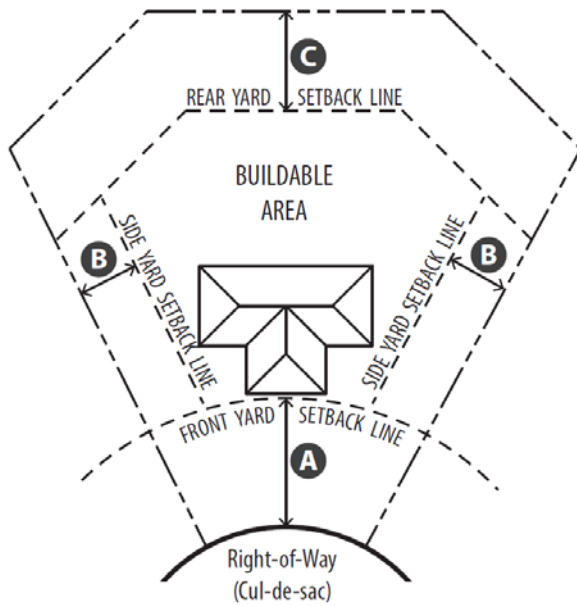


A Front Yard Setback

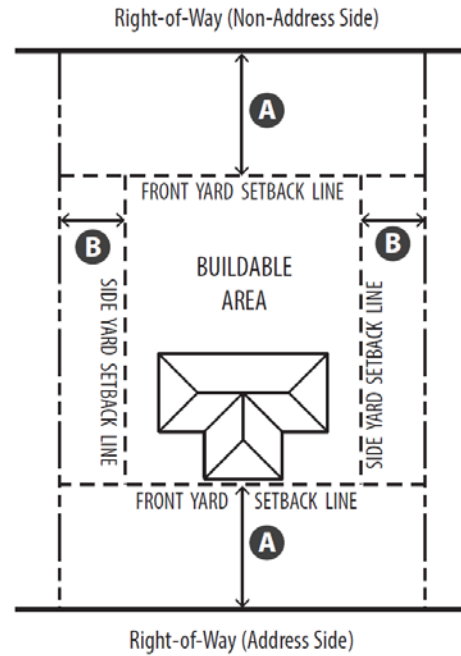
B Side Yard Setback

C Rear Yard Setback

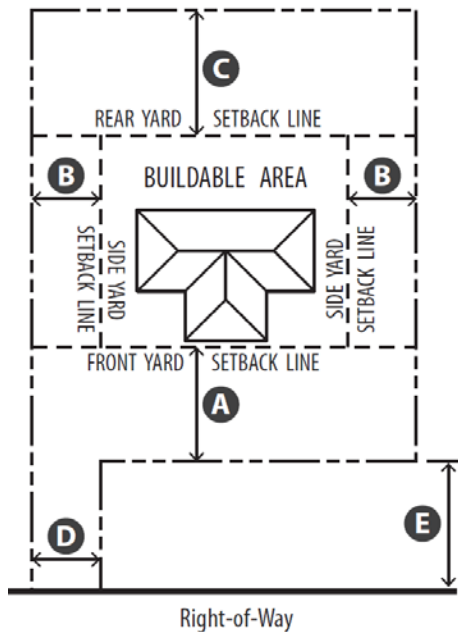
Cul-de-sac Lot



Double Frontage Lot



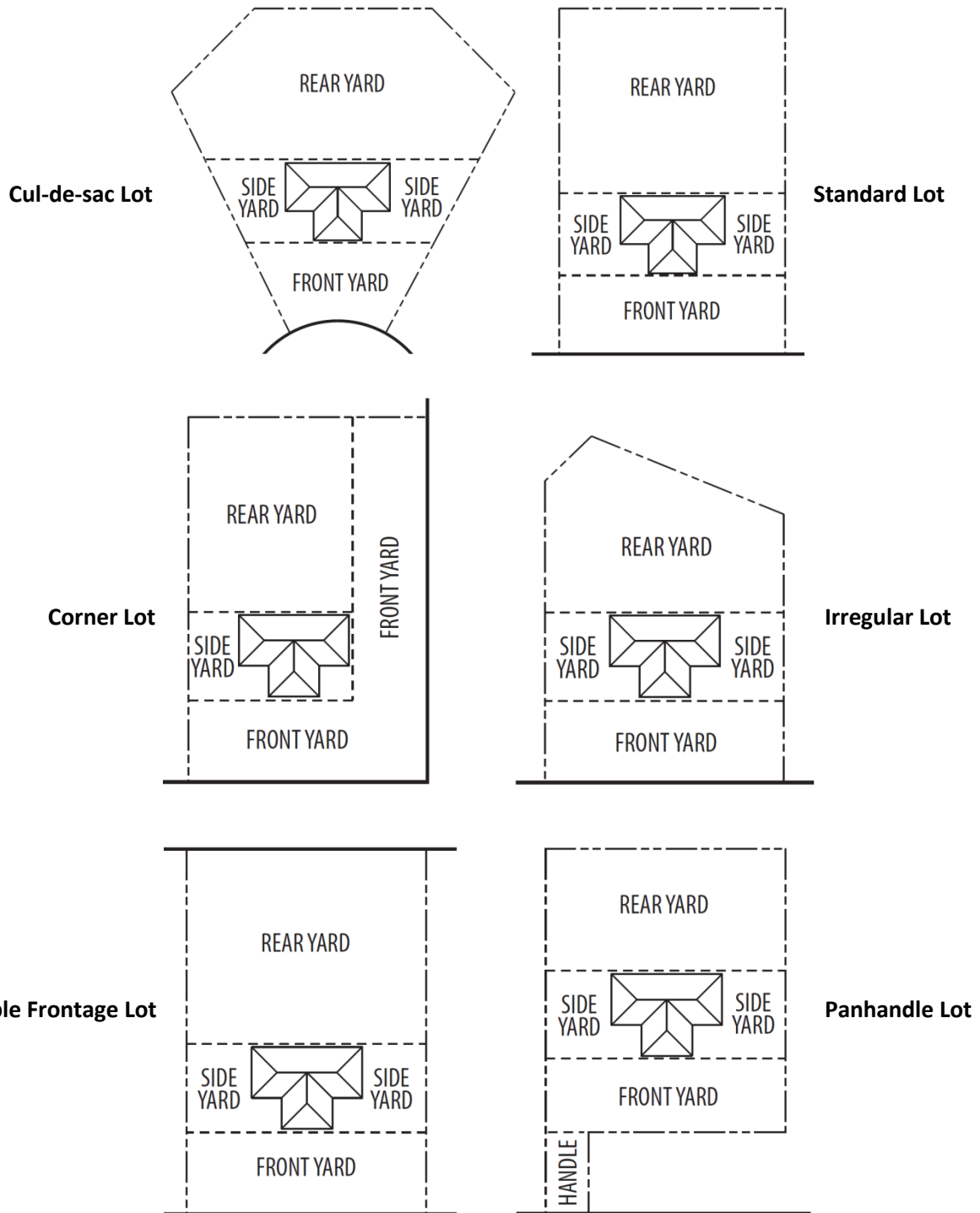
Panhandle Lot



- A** Front Yard Setback
- B** Side Yard Setback
- C** Rear Yard Setback
- D** Continuous panhandle width
- E** Continuous width from the right-of-way to the body of the panhandle

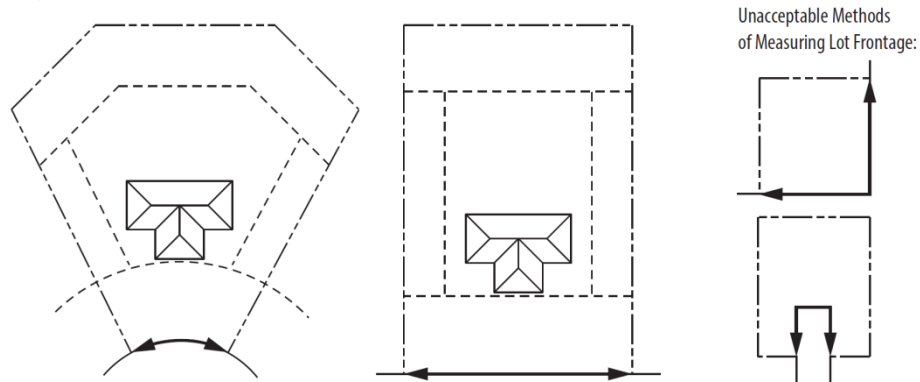
3.103.6 YARDS

The illustrations in this section dictate the manner in which yards shall be measured for different lot types. The locations of yards are dependent upon on the location of the principal structure. If more than one structure exists on the same lot, the measurement of yards will be different for each structure.



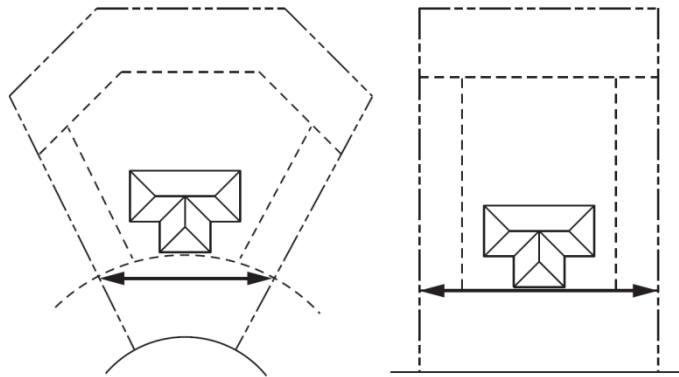
3.103.7 LOT FRONTAGE

Lot frontage is the common boundary line between a private or public lot and adjacent road right-of-way, measured in accordance with the illustrations below.



3.103.8 LOT WIDTH

Lot width is the distance between the side lot lines measured at the points of intersection with the minimum front yard setback line.



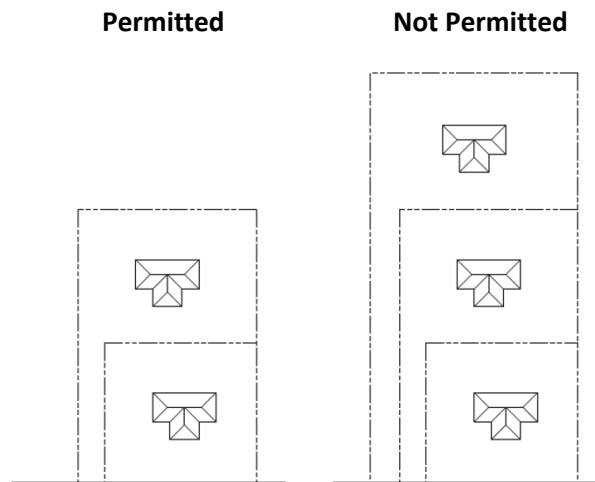
3.103.9 PANHANDLE LOTS

Panhandle lots (also referred to as 'flag lots') shall be discouraged and may only be approved if necessitated by unique topographic features or other special physical conditions. Panhandle lots shall be subject to setback measurement provisions as shown in Section 3.103.5 (Minimum Setbacks), as well as the following provisions:

- (A) Panhandle lots shall not be used to avoid the construction of a street.
- (B) The panhandle shall have a minimum width of forty (40) feet along the entire width of the panhandle, and thus are not subject to normal minimum lot frontage and lot width requirements required by the base zoning district. The length of the panhandle portion of a lot shall be a maximum of three hundred (300) feet.
- (C) The panhandle portion of the lot shall not be used for storage nor shall any structures be permitted in such portion of the lot.

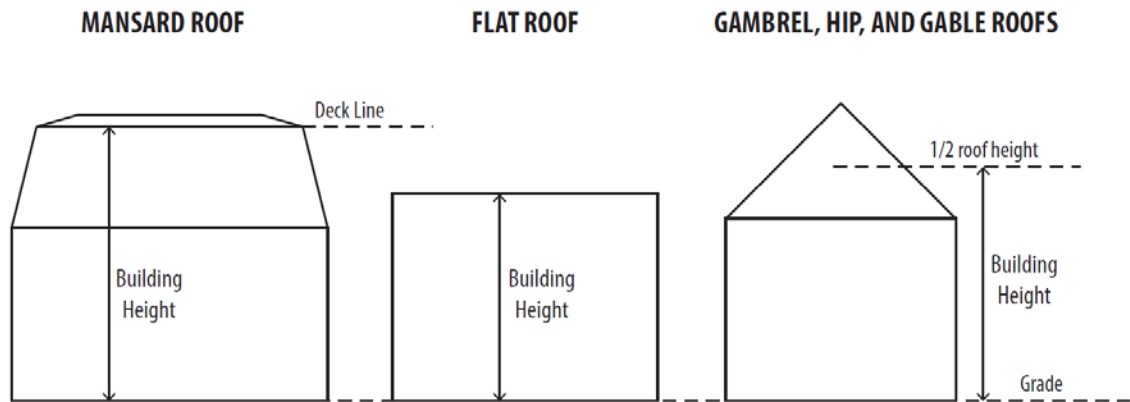
ARTICLE III, CHAPTER 1: GENERAL PROVISIONS

- (D) Minimum front yard setbacks shall be measured from the front property line that parallels the roadway from which the panhandle lot has access, as shown in the Panhandle Lot illustration in Section 3.103.5 (Setbacks).
- (E) There shall be a continuous width from the right-of-way to the body of the panhandle lot, as shown in the Panhandle Lot illustration in Section 3.103.5 (Setbacks).
- (F) The minimum lot area requirement for panhandle lots shall be two (2) times the minimum lot area requirement of the applicable zoning district.
- (G) There shall be not more than one (1) panhandle lot behind a frontage lot, as shown in the illustration below.



3.103.10 HEIGHT MEASUREMENT

- (A) Where specified in stories, building height shall be measured in number of complete stories above the finished grade for any elevation fronting on a public street including attics, half-stories, mezzanines, at-grade structured parking, but excluding features that are greater than one-half story or completely below grade, such as basements, cellars, crawl spaces, subbasements, and underground parking structures.
- (B) Where specified in feet, building height shall be measured as the vertical distance from grade at the front door/entrance of the structure to:
 - (1) The highest point of a flat roof;
 - (2) The deck line of a mansard roof; or
 - (3) The mean height between the eaves and ridge on gable, hip, or gambrel roofs.



3.103.11 HEIGHT MEASUREMENT EXCEPTIONS

Permitted height exceptions in all districts shall be as follows:

- (A) The height limitations of this Zoning Code shall not apply to chimneys, clocks, or bell towers, spires, belfries, water tanks, public monuments, steeples, personal radio or TV antennae, flag poles, vent pipes, structures housing or screening fans, air conditioning units or elevator machinery, and other similar features provided that nothing on a structure shall exceed twice the district height.
- (B) Architectural features that include building and roof line elements (parapet walls, cornice) that are intended to add architectural interest and not for the purpose of adding signage to the building may be allowed to exceed the maximum height of the district by not more than ten (10) feet.

§ 3.104 GENERAL STANDARDS

3.104.1 APPLICABILITY

The standards of Section 3.104 shall be applicable to all zoning districts within the City of Wilmington.

3.104.2 MOBILE HOME USE

Mobile homes, and manufactured homes that do not qualify as permanently sited, shall not be used as a single family dwelling or permanent residence in any district, except within a manufactured home park as defined in ORC Section 4781.01(D).

3.104.3 INGRESS AND EGRESS

No building shall be erected in any zoning district on any lot that does not have permanent means of ingress and egress to a public road or street.

3.104.4 RAILROAD RIGHT-OF-WAY LOCATION

Railroad right-of-way, exclusive of such uses as marshalling yards, spur lines, passenger and freight terminals, maintenance shops, fueling facilities, and round houses, may be located in any zoning

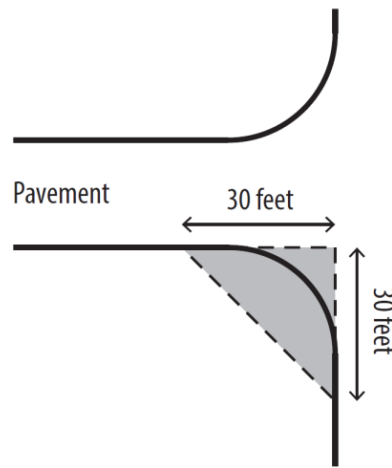
district in this Zoning Code provided such railroad right-of-way meets the requirements of the applicable sections of the Ohio Revised Code.

3.104.5 INTERFERENCE WITH TRAFFIC CONTROL DEVICES

No sign, structure, tree, planting, vegetation, or other obstruction shall protrude into any right-of-way so as to create confusion around, or otherwise interfere with, traffic signals and/or signage of any kind unless otherwise specified in this Zoning Code.

3.104.6 TRAFFIC SAFETY VISIBILITY TRIANGLE

- (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 thirty (30) feet from the intersection of the extension of the front and side curb lines (or pavement lines if there is no curb) and connecting the lines across the property, as shown in the illustration below.



- (B) No structure, sign, or landscape element within any zoning district except the Downtown Core (DC) District, shall exceed thirty (30) inches in height, measured from the top of the curb, within the traffic safety visibility area, unless approved by the Zoning Administrator.
- (C) An exception to this requirement shall be that trees with at least eight (8) feet of limbless trunk may be permitted in the visibility triangle.
- (D) The provisions of subsections (A) through (C) above only apply to intersections of public roads and streets. Driveways and private streets are not applicable.

3.104.7 DESIGN AND CONSTRUCTION OF PUBLIC IMPROVEMENTS

- (A) Any proposed development requiring the construction of public streets (including curb and gutters) sidewalks, sewers (sanitary and storm), water lines, or other improvements, which does not constitute a subdivision, as herein defined, shall be required to be designed and constructed in accordance with the applicable chapters and sections of the Subdivision Regulations.
- (B) Where the street is in existence, Council may delay curb, gutter, sidewalk, and road widening, until such time as it is determined that the improvements are necessary. If such delay is granted, the property owner shall execute an agreement committing to such improvements of curb, gutter, sidewalk, and road widening, and will without protest, submit to the method of financing directed by the City. Such agreement shall be filed for record with the Clinton County Recorder as a covenant on the property.

3.104.8 GENERAL RETAIL SALES PROHIBITED

General retail sales or commercial activities in residential districts are prohibited except as otherwise expressly authorized by this Zoning Code. Garage sales are permitted only insofar as they are conducted consistent with the limitations set forth in Article II Chapter 3 (Temporary Use Provisions).

3.104.9 COMPLIANCE WITH BUILDING CODE

All development within the City of Wilmington shall comply with the provisions of Part Thirteen (Building Code) of the Codified Ordinances of Wilmington Ohio, inclusive of Flood Hazard Permit provisions in Chapter 1305 and Flood Damage Prevention provisions in Chapter 1307.

3.104.10 COMPLIANCE WITH PROPERTY MAINTENANCE CODE

All development within the City of Wilmington shall comply with the provisions of Part Seventeen (Property Maintenance Code) of the Codified Ordinances of Wilmington Ohio.

3.104.11 WATER AND SANITARY SEWER SERVICE REQUIREMENT

If a building or use can be reasonably served by the extension of an existing public sanitary sewer, as determined by the City Engineer, the subdivider or developer shall provide sanitary sewer mains connecting to such existing sewer and shall provide lateral connections for each lot.

3.104.12 FENCING

(A) Residential Fencing

The standards of this subsection (A) shall apply to properties which are exclusively used for residential. Within the side and rear yards, as depicted in Section 3.103.6 (Yards), the maximum fence height shall be seven (7) feet. Within the front yard, also depicted in Section 3.103.6 (Yards), only ornamental fence designs are allowed and the maximum fence height shall be four (4) feet. Fences may be erected along the boundaries of yards, or erected within yards.

(B) Non-Residential Fencing

Fencing locations and materials for non-residential uses shall be approved by the Planning Commission as part of the Site Plan Review process.

3.104.13 PERFORMANCE STANDARDS

(A) Purpose and Applicability

It is the purpose of the performance standards to provide for the peaceful and quiet enjoyment of property and to set forth regulations so that no use shall be constructed or operated so as to create a nuisance or to create any noxious, objectionable or other undesirable effect on persons or property outside of the property line of said use. Materials, uses and products produced shall be adequately housed, shielded or screened so that the health, safety and welfare of persons occupying the property or adjacent properties are not jeopardized. The performance standards are applicable to all land uses in all zoning districts within the City, and both initial and continued compliance is required.

ARTICLE III, CHAPTER 1: GENERAL PROVISIONS

(B) Noise

(1) Purpose & Intent

It is the intent of these performance standards in Section 3.104.13(B) to regulate those noises and sounds which are associated with the activities pertaining to the use of land and sites in the City of Wilmington, and are often times a consistent or recurring problem causing disturbance to nearby properties. Issues of noise which occur on a one-time basis (e.g. a party event on a residential property) are generally not the concern of these regulations, unless they become a consistently present problem. One-time or event-based noise complaints should first be directed to the police department of jurisdiction prior to contacting the Zoning Administrator.

(2) Noise Control

No activity on private property shall emit noise in excess of the sound levels listed in subsection (2), with the exception that when the existing ambient noise level meets or exceeds the maximum permitted level, a source may not add more than two (2) dBA to the ambient noise level.

(3) Maximum Permitted Sound Levels

This table assembles a listing of noise source properties organized by use category with their corresponding maximum permitted sound levels for receiving properties during the times specified.

SOURCE PROPERTY		RECEIVING PROPERTY		
Use Category	Time	Residential	Commercial & Public/Institutional	Industrial
Residential	7am – 10pm	60 dBA	65 dBA	65 dBA
	10pm – 7am	55 dBA	55 dBA	55 dBA
Commercial & Public/Institutional	7am – 10pm	60 dBA	65 dBA	70 dBA
	10pm – 7am	55 dBA	55 dBA	60 dBA
Industrial	7am – 10pm	60 dBA	65 dBA	75 dBA
	10pm – 7am	55 dBA	55 dBA	65 dBA

(4) Measurement of Noise

Sound levels shall be measured and determined subject to the following conditions:

- (a) Sound levels shall be determined by the use of a sound meter designed to give A-weighted measurements designated as dBA or dB(A). The use of the fast, slow,

ARTICLE III, CHAPTER 1: GENERAL PROVISIONS

or impulse response setting on the sound level meter shall be at the discretion of the Zoning Administrator.

- (b) Measurement shall be taken, at the discretion of the Zoning Administrator, at the property line or anywhere beyond the property line of the source property.
- (c) The property used to collect the sound level measurement need not be contiguous to the property creating the noise.

(5) Noise Source Exemptions

Certain noise sources shall be exempt from the standards contained within this subsection (C) subject to the following conditions:

- (a) The following noise sources shall be exempt during the hours of 7am through 10pm:
 - (i) Firearms on authorized ranges;
 - (ii) Legal blasting;
 - (iii) Construction equipment and activity;
 - (iv) Installation of utility services; and
 - (v) Lawn, yard, and garden equipment, such as lawn mowers, blowers, and chain saws.
- (b) The following noise sources shall be exempt at all times:
 - (i) Aircraft;
 - (ii) Railroads;
 - (iii) Emergency vehicles and equipment;
 - (iv) Warning devices operating continuously for not more than five (5) minutes;
 - (v) The repair of essential utility services;
 - (vi) The improvement of the public right-of-way; and
 - (vii) Officially sanctioned parades and other public events.

(C) Odors

No use shall cause or allow the emission of odorous air contaminants from any source sufficient to result in detectable odors beyond any lot line on which the use occurs.

(D) Vibrations

ARTICLE III, CHAPTER 1: GENERAL PROVISIONS

Every use shall be so operated that ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on or outside the property line of the property on which the use is located.

(E) Glare and Heat

Any operation producing intense light or heat, including high temperature processes such as combustion or welding, shall not be visible or felt beyond any lot line bounding the property wherein the use is conducted. All exterior lighting on private property shall be positioned as to extend glare away from adjacent properties or right-of-ways.

(F) Air and Water Pollutants

The emission of air and water pollutants shall not violate the standards and regulations of any local, state or federal agency having jurisdiction in this matter.

(H) Hazardous Materials

The storage, utilization and manufacture of solid, liquid and gaseous chemicals and other materials shall be permitted subject to the standards and regulation of any local, state or federal agency having jurisdiction in this matter.

(I) Smoke

All development shall comply with the City of Wilmington's Fire Prevention Code.

§ 3.105 CONSERVATION DESIGN OPTION

3.105.1 PURPOSE AND INTENT

The Conservation Design Option (CDO) provides for and encourages flexible and creative development techniques aimed toward providing a natural and built environment that is both healthy and safe. The CDO is available to properties located in the Rural Residential (RR) and Suburban Residential (SR) zoning districts, and is optional at the landowner/applicant's request. Developments utilizing this option shall undergo the Major Subdivision process (i.e. a subdivision involving extension of public or private streets) in accordance with the City of Wilmington Subdivision Regulations.

3.105.2 PROPERTY REQUIREMENTS

- (A)** The applicant must own in fee simple or have the option to purchase all lands within the CDO subdivision. Any lawful ownership arrangement including, but not limited to fee simple lots or condominiums is permitted in a CDO subdivision.
- (B)** The arrangement of dwelling units shall comply with all development standards contained in the applicable zoning district as modified in this Section, and shall comply with all applicable subdivision requirements.
- (C)** The minimum size for a CDO subdivision is ten (10) acres.

3.105.3 MAXIMUM NUMBER OF UNITS

The maximum number of units allowed for a Conservation Design Option (CDO) shall be determined by the following steps:

- (A) Determine gross tract square footage (total project area);
- (B) Multiply the gross tract square footage by 0.85;
- (C) Divide by the minimum lot area (in square feet) in the underlying zoning district;
- (D) Multiply by 1.3; and
- (E) Round down to the nearest whole number.

3.105.4 MODIFICATIONS TO ZONING DISTRICT PROVISIONS

(A) Setbacks

Developments utilizing the Conservation Design Option (CDO) need not meet the minimum setback standards of the applicable underlying zoning district for principal structures and accessory structures. Minimum setback standards shall be determined at the time of subdivision approval by the Planning Commission.

(B) Lot Dimensions

Developments utilizing the Conservation Design Option (CDO) need not meet the minimum Lot Dimension standards (lot area, lot frontage, and lot width) of the applicable underlying zoning district, except for:

- (1) Panhandle lots, which shall meet the requirements of Section 3.103.9 (Panhandle Lot Standards); and
- (2) Lots fronting on a cul-de-sac, which shall have a minimum frontage of twenty-five (25) feet.
- (3) Lots which may otherwise be required to be larger in size by the Clinton County Combined Health District to accommodate on-site wastewater systems.

3.105.5 OPEN SPACE REQUIREMENT

Developments utilizing the Conservation Design Option (CDO) shall comply with the open space requirements of Article IV Chapter 3 (Open Space).

CHAPTER 2: BUSINESS DISTRICTS

§ 3.201 GENERAL PROVISIONS

3.201.1 APPLICABILITY

The provisions of this Chapter shall apply to all uses (including all principal, accessory, and temporary uses), buildings and structures which are established and/or constructed within the base zoning districts identified as “Business Districts” in Section 3.101.1 (List of Districts and Overlays) and shown on the Official Zoning Map of the City of Wilmington.

3.201.2 PRINCIPAL USES ON LOTS

Properties which are wholly zoned as a Business District, or properties partly zoned as a Business District but only within the portions of each property zoned as such, may contain multiple principal buildings and may include multiple principal uses within each building, as permissible under Section 2.102 (Table of Principal Uses by Zoning District), although principal residential uses are excluded from being housed on the same property or within the same building as another principal use.

3.201.3 SITE DEVELOPMENT

All site development within Business Districts shall comply with the provisions in the following Chapters of this Zoning Code:

- (A) Article IV, Chapter 1 – Buffering and Landscaping
- (B) Article IV, Chapter 2 – Lighting
- (C) Article IV, Chapter 4 – Parking and Circulation
- (D) Article IV, Chapter 5 – Signs

3.201.4 RULES OF MEASUREMENT

Setbacks, yards, structure heights, and other dimensional standards shall be measured in accordance with the provisions specified in Section 3.103 (Site Measurement Provisions).

3.201.5 NON-CONFORMITIES

Any non-conforming lots, uses, or structures/buildings present are subject to the provisions of Section 1.313 (Non-Conformity Provisions).

§ 3.202 LI – LIGHT INDUSTRIAL DISTRICT

3.202.1 PURPOSE STATEMENT

The purpose of the LI “Light Industrial” District is to provide for appropriate areas within the City of Wilmington for light industrial, manufacturing, and warehouse uses with limited objectionable external effects, where public sewer and water utilities are available.

3.202.2 DISTRICT STANDARDS

PRINCIPAL STRUCTURES		ACCESSORY STRUCTURES	
Structure Height	50 feet max.	Structure Height	50 feet max.
Front Yard Setback	20 feet min.	Front Yard Setback	Not permitted in Front Yard
Side Yard Setback (Individual)	8 feet min.	Side Yard Setback (Individual)	8 feet min.
Side Yard Setback (Combined)	20 feet min.	Side Yard Setback (Combined)	20 feet min.
Rear Yard Setback	20 feet min.	Rear Yard Setback	20 feet min.
Setback from Property Line of Residential Use or District	50 feet min.	Setback from Property Line of Residential Use or District	50 feet min.
STRUCTURAL COVERAGE		IMPERVIOUS COVERAGE	
Maximum Combined Footprint of All Structures	50% of lot	Maximum Impervious Surface	60% of lot
LOT DIMENSIONS		PARKING LOCATION	
Lot Area	4,000 square feet min.	Parking in Front Yard	Permitted
Lot Frontage	35 feet min.	Parking in Side Yard	Permitted
Lot Width	35 feet min.	Parking in Rear Yard	Permitted

3.202.3 PERFORMANCE STANDARDS

For Industrial Uses, there shall be no outside operations associated with the use; all operations and activities shall be conducted completely within the confines of one (1) or more buildings and pose no adverse impact to surrounding properties. An exception to the above provision is made for outdoor storage, which shall occupy no greater than five (5) percent of the site and must be completely screened from the view of adjacent properties and public right-of-way.

§ 3.203 GI – GENERAL INDUSTRIAL DISTRICT

3.203.1 PURPOSE STATEMENT

The purpose of the GI “General Industrial” District is to provide for appropriate areas within the City of Wilmington for high impact industrial and manufacturing uses where external effects may be objectionable and need to be mitigated, and where public sewer and water utilities are available. GI zoned areas should be appropriately located so as to cause minimal disturbance to residential areas.

3.203.2 DISTRICT STANDARDS

PRINCIPAL STRUCTURES		ACCESSORY STRUCTURES	
Structure Height	60 feet max.	Structure Height	60 feet max.
Front Yard Setback	75 feet min.	Front Yard Setback	Not permitted in Front Yard
Side Yard Setback (Individual)	50 feet min.	Side Yard Setback (Individual)	50 feet min.
Side Yard Setback (Combined)	100 feet min.	Side Yard Setback (Combined)	100 feet min.
Rear Yard Setback	50 feet min.	Rear Yard Setback	50 feet min.
Setback from Property Line of Residential Use or District	100 feet min.	Setback from Property Line of Residential Use or District	100 feet min.
STRUCTURAL COVERAGE		IMPERVIOUS COVERAGE	
Maximum Combined Footprint of All Structures	60% of lot	Maximum Impervious Surface	70% of lot
LOT DIMENSIONS		PARKING LOCATION	
Lot Area	3 acres min.	Parking in Front Yard	Permitted
Lot Frontage	200 feet min.	Parking in Side Yard	Permitted
Lot Width	200 feet min.	Parking in Rear Yard	Permitted

3.203.3 PERFORMANCE STANDARDS

For Industrial Uses, no more than fifty (50) percent of the site may be utilized for outside storage, operations, or activities associated with the use. If an applicant seeks approval for an otherwise permitted Industrial Use which proposes a percentage greater than fifty (50) percent, the use shall be required to go through the conditional use process with the BZA.

§ 3.204 SC – SUBURBAN COMMERCIAL DISTRICT

3.204.1 PURPOSE STATEMENT

The purpose of the SC “Suburban Commercial” District is to provide for appropriate areas within the City of Wilmington for a range of commercial uses, including retail, restaurants, offices, and other personal and professional service businesses, with access and circulation that is primarily oriented toward the private automobile. Activities in this district are often large space uses along arterial or major collector roadways, with conveniently located off-street parking areas.

3.204.2 DISTRICT STANDARDS

PRINCIPAL STRUCTURES		ACCESSORY STRUCTURES	
Structure Height	50 feet max.	Structure Height	50 feet max.
Front Yard Setback	50 feet min.	Front Yard Setback	Not permitted in Front Yard
Side Yard Setback (Individual)	20 feet min.	Side Yard Setback (Individual)	20 feet min.
Side Yard Setback (Combined)	40 feet min.	Side Yard Setback (Combined)	40 feet min.
Rear Yard Setback	40 feet min.	Rear Yard Setback	40 feet min.
Setback from Property Line of Residential Use or District	50 feet min.	Setback from Property Line of Residential Use or District	50 feet min.
STRUCTURAL COVERAGE		IMPERVIOUS COVERAGE	
Maximum Combined Footprint of All Structures	30% of lot	Maximum Impervious Surface	60% of lot
LOT DIMENSIONS		PARKING LOCATION	
Lot Area	None	Parking in Front Yard	Permitted
Lot Frontage	100 feet min.	Parking in Side Yard	Permitted
Lot Width	100 feet min.	Parking in Rear Yard	Permitted

CHAPTER 3: MIXED USE DISTRICTS

§ 3.301 GENERAL PROVISIONS

3.301.1 APPLICABILITY

The provisions of this Chapter shall apply to all uses (including all principal, accessory, and temporary uses), buildings and structures which are established and/or constructed within the base zoning districts identified as “Mixed Use Districts” in Section 3.101.1 (List of Districts and Overlays) and shown on the Official Zoning Map of the City of Wilmington.

3.301.2 PRINCIPAL USES ON LOTS

Properties which are wholly zoned as a Mixed Use District, or properties partly zoned as a Mixed Use District but only within the portions of each property zoned as such, may contain multiple principal buildings and may include multiple principal uses within each building, as permissible under Section 2.102 (Table of Principal Uses by Zoning District). However, in the Downtown Transition (DT) zone, when a principal commercial use is located in the same structure as a principal residential use, the commercial use shall be restricted to the first floor of the structure only.

3.301.3 SITE DEVELOPMENT

All site development within Mixed Use Districts shall comply with the provisions in the following Chapters of this Zoning Code:

- (A)** Article IV, Chapter 1 – Buffering and Landscaping
- (B)** Article IV, Chapter 2 – Lighting
- (C)** Article IV, Chapter 4 – Parking and Circulation
- (D)** Article IV, Chapter 5 – Signs

3.301.4 RULES OF MEASUREMENT

Setbacks, yards, structure heights, and other dimensional standards shall be measured in accordance with the provisions specified in Section 3.103 (Site Measurement Provisions).

3.301.5 NON-CONFORMITIES

Any non-conforming lots, uses, or structures/buildings present are subject to the provisions of Section 1.313 (Non-Conformity Provisions).

§ 3.302 DC – DOWNTOWN CORE DISTRICT

3.302.1 PURPOSE STATEMENT

The purpose of the DC “Downtown Core” District is to demarcate the City’s central business district (CBD) and subsequently allow for an appropriate mix of uses, including but not limited to storefront commercial business uses, public/institutional uses, and upper-story residential. Development in this district should be designed in a way that engages the street and public realm, with parking areas and facilities preferably located to the rear of structures.

ARTICLE III, CHAPTER 3: MIXED USE DISTRICTS

3.302.2 DISTRICT STANDARDS

PRINCIPAL STRUCTURES		ACCESSORY STRUCTURES	
Structure Height	50 feet max. ¹	Structure Height	35 feet max. ¹
Front Yard Setback	5 feet min. ¹	Front Yard Setback	Prohibited in Front Yard
Side Yard Setback (Individual)	3 feet min. ¹	Side Yard Setback (Individual)	3 feet min. ¹
Side Yard Setback (Combined)	10 feet min. ¹	Side Yard Setback (Combined)	10 feet min. ¹
Rear Yard Setback	15 feet min. ¹	Rear Yard Setback	15 feet min. ¹
Setback from Property Line of Residential District ²	50 feet min. ¹	Setback from Property Line of Residential District ²	50 feet min. ¹
STRUCTURAL COVERAGE		IMPERVIOUS COVERAGE	
Maximum Combined Footprint of All Structures	No max.	Maximum Impervious Surface	No max.
LOT DIMENSIONS		PARKING LOCATION	
Lot Area	No min.	Parking in Front Yard	Prohibited ¹
Lot Frontage	No min.	Parking in Side Yard	Prohibited ¹
Lot Width	No min.	Parking in Rear Yard	Permitted

¹ Or as may be modified and approved by the Planning Commission as part of a Site Plan Review or PUD review. Uses which do not require Site Plan Review and are not proposed as part of a PUD are not included in this provision.

² For non-residential and multi-family uses only.

3.302.3 HISTORIC PRESERVATION STANDARDS

Development and/or re-development within the DC Downtown Core District shall comply with the standards and provisions of the H-1 Commercial Historic Overlay District, as provided in Section 3.503, as applicable according to the boundaries of the overlay district.

§ 3.303 DT – DOWNTOWN TRANSITION DISTRICT

3.303.1 PURPOSE STATEMENT

The purpose of the DT “Downtown Transition” District is to demarcate areas along major arterial and collector thoroughfares outside of the CBD which currently support a mix of uses, including but not limited to single-family residential, multi-family residential, public/institutional uses, storefront commercial businesses, and automobile-oriented commercial uses with off-street parking provided. This is a primarily residential district which allows for some commercial uses so long as such uses are on the first floor and have direct automobile and pedestrian access to a major thoroughfare.

3.303.2 DISTRICT STANDARDS

PRINCIPAL STRUCTURES		ACCESSORY STRUCTURES	
Structure Height	40 feet max. ¹	Structure Height	25 feet max. ¹
Front Yard Setback	10 feet min. ¹	Front Yard Setback	Prohibited in Front Yard
Side Yard Setback (Individual)	3 feet min. ¹	Side Yard Setback (Individual)	3 feet min. ¹
Side Yard Setback (Combined)	10 feet min. ¹	Side Yard Setback (Combined)	10 feet min. ¹
Rear Yard Setback	15 feet min. ¹	Rear Yard Setback	15 feet min. ¹
Setback from Property Line of Residential Use or District ²	50 feet min. ¹	Setback from Property Line of Residential Use or District ²	50 feet min. ¹
STRUCTURAL COVERAGE		IMPERVIOUS COVERAGE	
Maximum Combined Footprint of All Structures	60% of lot	Maximum Impervious Surface	75% of lot
LOT DIMENSIONS		PARKING LOCATION	
Lot Area	4,000 square feet min. ¹	Parking in Front Yard	Prohibited ¹
Lot Frontage	35 feet min. ¹	Parking in Side Yard	Prohibited ¹
Lot Width	35 feet min. ¹	Parking in Rear Yard	Permitted

¹ Or as may be modified and approved by the Planning Commission as part of a Site Plan Review or PUD review. Uses which do not require Site Plan Review and are not proposed as part of a PUD are not included in this provision.

² For non-residential and multi-family uses only.

3.303.3 HISTORIC PRESERVATION STANDARDS

Development and/or re-development within the DT Downtown Transition District shall comply with the standards and provisions of the H-1 Commercial Historic Overlay District, as provided in Section 3.503, as applicable according to the boundaries of the overlay district.

CHAPTER 4: RESIDENTIAL DISTRICTS

§ 3.401 GENERAL PROVISIONS

3.401.1 APPLICABILITY

The provisions of this Chapter shall apply to all uses (including all principal, accessory, and temporary uses), buildings and structures which are established and/or constructed within the base zoning districts identified as “Residential Districts” in Section 3.101.1 (List of Districts and Overlays) and shown on the Official Zoning Map of the City of Wilmington.

3.401.2 PRINCIPAL USES ON LOTS

Properties which are wholly zoned as a Residential District, or properties partly zoned as a Residential District but only within the portions of each property zoned as such, shall be allowed no more than one (1) principal use as permissible under Section 2.102 (Table of Principal Uses by Zoning District). However, properties may contain multiple principal buildings which serve the same use on a single property, as permissible specific to uses under the standards of Article II, Chapter 1 (Principal Uses).

3.401.3 SITE DEVELOPMENT

All site development within Residential Districts shall comply with the provisions in the following Chapters of this Zoning Code:

- (A)** Article IV, Chapter 1 – Buffering and Landscaping
- (B)** Article IV, Chapter 2 – Lighting
- (C)** Article IV, Chapter 4 – Parking and Circulation
- (D)** Article IV, Chapter 5 – Signs

3.401.4 RULES OF MEASUREMENT

Setbacks, yards, structure heights, and other dimensional standards shall be measured in accordance with the provisions specified in Section 3.103 (Site Measurement Provisions).

3.401.5 NON-CONFORMITIES

Any non-conforming lots, uses, or structures/buildings present are subject to the provisions of Section 1.313 (Non-Conformity Provisions).

ARTICLE III, CHAPTER 4: RESIDENTIAL DISTRICTS

§ 3.402 MF – MULTI-FAMILY DISTRICT**3.402.1 PURPOSE STATEMENT**

The purpose of the MF “Multi-Family” District is to provide for appropriate areas within the City of Wilmington for multi-family residential development, including apartments, condominiums, landominiums, townhomes, and other similar uses. All principal commercial uses are prohibited in this zoning district.

3.402.2 DISTRICT STANDARDS

PRINCIPAL STRUCTURES		ACCESSORY STRUCTURES	
Structure Height	35 feet max.	Structure Height	35 feet max.
Front Yard Setback	25 feet min.	Front Yard Setback	Prohibited in Front Yard
Side Yard Setback (Individual)	15 feet min.	Side Yard Setback (Individual)	15 feet min.
Side Yard Setback (Combined)	25 feet min.	Side Yard Setback (Combined)	25 feet min.
Rear Yard Setback	25 feet min.	Rear Yard Setback	25 feet min.
Setback from Accessory Structure(s)	10 feet min.	Setback from Principal Structure(s)	10 feet min.
STRUCTURAL COVERAGE		IMPERVIOUS COVERAGE	
Maximum Combined Footprint of All Structures	40% of lot	Maximum Impervious Surface	No maximum
LOT DIMENSIONS		PARKING LOCATION	
Lot Area	14,000 square feet min. per building	Parking in Front Yard	Permitted
Lot Frontage	65 feet min.	Parking in Side Yard	Permitted
Lot Width	65 feet min.	Parking in Rear Yard	Permitted

§ 3.403 MH – MANUFACTURED HOME PARK DISTRICT

3.403.1 PURPOSE STATEMENT

The purpose of the MH “Manufactured Home Park” District is to provide for appropriate areas within the City of Wilmington for private manufactured home park developments, where individual lots within the park are leased to occupants for the purpose of permanent habitation. Manufactured home parks are distinguished from recreational vehicle parks (campgrounds), which are for recreation, vacation, or business purposes.

3.403.2 MANUFACTURED HOME PARKS

Manufactured home parks, as defined in ORC 4781.01(D), are subject to the rules and regulations of the Ohio Manufactured Homes Commission (OMHC) in accordance with state law, and thus shall not be subject to the provisions of Section 3.403.3 (District Standards). Manufactured Home Parks are still required to comply with the applicable use-specific standards of this Zoning Code in Section 2.103.8 (Manufactured Home Parks).

3.403.3 DISTRICT STANDARDS

The district standards for the MH “Manufactured Home Park” District for uses other than manufactured home parks shall be the same as the standards provided for the RR “Rural Residential” District in Section 3.404.2 (District Standards).

§ 3.404 RR – RURAL RESIDENTIAL DISTRICT

3.404.1 PURPOSE STATEMENT

The purpose of the RR “Rural Residential” District is to recognize the existence of the demand for residential lots of a relatively rural and spacious nature on which agricultural activities may represent only a minor use by the occupants. This district is intended for application in outlying rural areas where urbanization and the extension or creation of central water supply and wastewater disposal systems are either not appropriate or not expected to occur for an extended period of time into the future.

3.404.2 DISTRICT STANDARDS

PRINCIPAL STRUCTURES		ACCESSORY STRUCTURES	
Structure Height	35 feet max.	Structure Height	25 feet max.
Front Yard Setback	50 feet min.	Front Yard Setback	Prohibited in Front Yard*
Side Yard Setback (Individual)	25 feet min.	Side Yard Setback (Individual)	10 feet min.
Side Yard Setback (Combined)	50 feet min.	Side Yard Setback (Combined)	10 feet min.
Rear Yard Setback	50 feet min.	Rear Yard Setback	10 feet min.
Setback from Accessory Structure(s)	10 feet min.	Setback from Principal Structure(s)	10 feet min.
STRUCTURAL COVERAGE		IMPERVIOUS COVERAGE	
Maximum Combined Footprint of All Structures	No maximum	Maximum Impervious Surface	No maximum
LOT DIMENSIONS		PARKING LOCATION	
Lot Area	2 acres min.	Parking in Front Yard	Permitted
Lot Frontage	150 feet min.	Parking in Side Yard	Permitted
Lot Width	150 feet min.	Parking in Rear Yard	Permitted

* Except in cases where the accessory structure is set back at least one hundred fifty (150) feet from right-of-way.

ARTICLE III, CHAPTER 4: RESIDENTIAL DISTRICTS

§ 3.405 SN – SUBURBAN NEIGHBORHOOD DISTRICT

3.405.1 PURPOSE STATEMENT

The purpose of the SN “Suburban Neighborhood” District is to provide for appropriate areas within the City of Wilmington for primarily single-family residential dwelling units in a suburban neighborhood setting. Some public/institutional uses are allowed on a conditional basis, such as schools, churches/places of worship, parks, and other similar uses.

3.405.2 DISTRICT STANDARDS

PRINCIPAL STRUCTURES		ACCESSORY STRUCTURES	
Structure Height	35 feet max.	Structure Height	20 feet max.
Front Yard Setback	Average of setbacks on adjacent properties*	Front Yard Setback	Prohibited in Front Yard
Side Yard Setback (Individual)	5 feet min.	Side Yard Setback (Individual)	5 feet min.
Side Yard Setback (Combined)	15 feet min.	Side Yard Setback (Combined)	15 feet min.
Rear Yard Setback	20 feet min.	Rear Yard Setback	20 feet min.
Setback from Accessory Structure(s)	10 feet min.	Setback from Principal Structure(s)	10 feet min.
STRUCTURAL COVERAGE		IMPERVIOUS COVERAGE	
Maximum Combined Footprint of All Structures	50% of lot	Maximum Impervious Surface	No maximum
LOT DIMENSIONS		PARKING LOCATION	
Lot Area	7,200 square feet min.	Parking in Front Yard	Permitted
Lot Frontage	60 feet min.	Parking in Side Yard	Permitted
Lot Width	60 feet min.	Parking in Rear Yard	Permitted

* The required front yard setback shall be calculated by averaging the front yard setbacks on adjacent properties to either side of the lot in question, but in no case shall be less than twenty five (25) feet. If no principal structures exist on adjacent properties, the required setback shall be calculated by averaging the front yard setbacks for the entire length of the block (only on the side of the street where the lot in question is located).

§ 3.406 TN – TRADITIONAL NEIGHBORHOOD DISTRICT

3.406.1 PURPOSE STATEMENT

The purpose of the TN “Traditional Neighborhood District” is to recognize areas of the City of Wilmington which have historically developed on a gridiron pattern of streets and alleys, and to allow for any additional (re)development of such areas which blends in with the existing context already established. This district is primarily for single-family residential uses, though some two-family residential uses, small-scale commercial office/retail uses, and public/institutional uses (such as schools, churches/places of worship, parks, and other similar uses) may also be allowed on a conditional basis.

3.406.2 DISTRICT STANDARDS

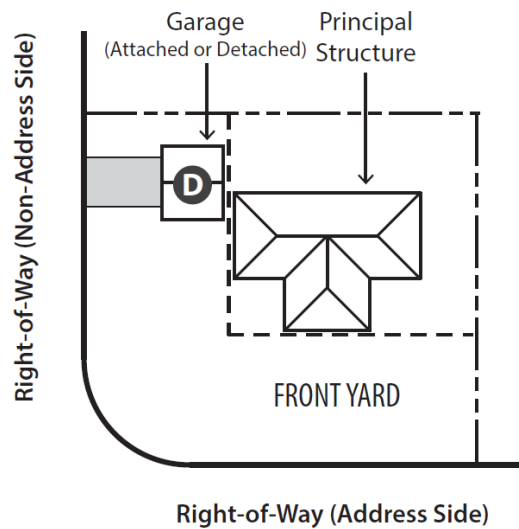
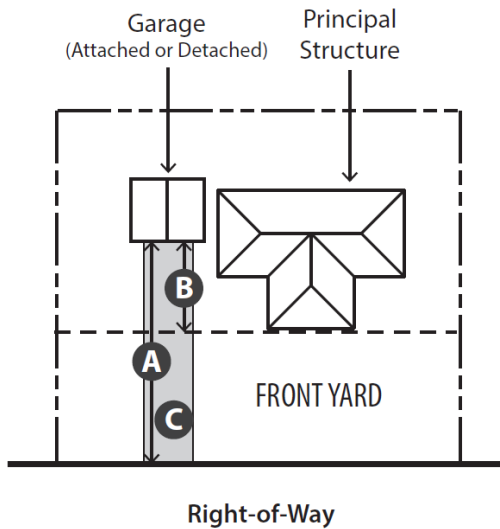
PRINCIPAL STRUCTURES		ACCESSORY STRUCTURES	
Structure Height	35 feet max.	Maximum Height	20 feet max.
Front Yard Setback	Average of setbacks on adjacent properties*	Front Yard Setback	Prohibited in Front Yard
Side Yard Setback (Individual)	3 feet min.	Side Yard Setback (Individual)	3 feet min.
Side Yard Setback (Combined)	10 feet min.	Side Yard Setback (Combined)	10 feet min.
Rear Yard Setback	15 feet min.	Rear Yard Setback	10 feet min.
Setback from Accessory Structure(s)	10 feet min.	Setback from Principal Structure(s)	10 feet min.
STRUCTURAL COVERAGE		IMPERVIOUS COVERAGE	
Maximum Combined Footprint of All Structures	60% of lot	Maximum Impervious Surface	No maximum
LOT DIMENSIONS		PARKING LOCATION	
Lot Area	5,000 square feet min.	Parking in Front Yard	Permitted (See Section 3.406.3)
Lot Frontage	45 feet min.	Parking in Side Yard	Permitted
Lot Width	45 feet min.	Parking in Rear Yard	Permitted

* The required front yard setback shall be calculated by averaging the front yard setbacks on adjacent properties to either side of the lot in question, but in no case shall be less than five (5) feet. If no principal structures exist on adjacent properties, the required setback shall be calculated by averaging the front yard setbacks for the entire length of the block (only on the side of the street where the lot in question is located).

3.406.3 DEVELOPMENT STANDARDS

(A) Garage and Parking Locations

- (1) Garages shall be located no closer than forty five (45) feet to the right-of-way of the street where the address of the principal structure is located.
- (2) Garages shall neither be located in, nor share a boundary with, the front yard on the address side of the property.
- (3) Garages shall be recessed at least thirty (30) feet from the closest front yard line. Garages on corner lots which are oriented toward non-address right-of-way need not conform to this provision.
- (4) Parking of vehicles is otherwise permitted on driveways located in the front, side, and rear yards.



- A** No closer than 45 feet to address right-of-way line
- B** No closer than 30 feet to front yard line
- C** Parking allowed anywhere on driveway (grey area)
- D** Garages oriented toward non-address right-of-way need not conform to these provisions

CHAPTER 5: OVERLAY DISTRICTS

§ 3.501 APPLICABILITY

Where land is classified into an overlay district as well as a base zoning district, the regulations governing development in the overlay district shall apply in addition to the regulations governing the underlying base zoning district. In the event of an express conflict between the standards of the overlay zoning district and the base zoning district, the standards governing the overlay district shall control.

§ 3.502 AIRPORT OVERLAY DISTRICTS

3.502.1 PURPOSE

It is the purpose of Section 3.502 to regulate land uses in the areas surrounding the Wilmington Air Park Airport, formerly the Clinton County Air Force Base herein referred to as ILN, in order to minimize injury, loss of life, and hazards to the safety of persons or to the security of property within such zones, and to assist in the implementation of the Clinton County Comprehensive Plan. Accordingly, it is declared that:

- (A) The creation or establishment of non-compatible land uses which have the potential to reduce the size of the area available for taking off, maneuvering, and landing of aircraft, thus tending to impair or destroy the utility of the Airports, and the investment therein, is a public nuisance and an injury to the regions served by the ILN and I66;
- (B) Certain other land uses in the vicinity of the Airports also have the potential for being hazardous to normal aircraft operations or to increase the potential for personal and property damage in the event of an aircraft accident; therefore, it is necessary in the interest of the public health, public safety, and general welfare that non-compatible uses of land within the areas surrounding the Airports be prevented; and
- (C) The prevention of these non-compatible land uses should be accomplished, to the extent legally possible, by the exercise of the police power.

3.502.2 DEFINITIONS

The following definitions shall apply in the interpretation of this section:

- (A) **Airport** – Any area of land designated and set aside for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars, and other necessary buildings, and open spaces, designated for the storage, repair, and operation of aircraft, and utilized or to be utilized for such purposes.

ARTICLE III, CHAPTER 5: OVERLAY DISTRICTS

- (B) **Airport Hazard** – Any structure or object of natural growth or use of land within an Airport Hazard Area that obstructs the air space required for flight of aircraft in landing or taking off at the Airports or is otherwise hazardous to such air navigation.
- (C) **Airport Hazard Area** – Any area of land adjacent to the Airports which includes any of the following areas and surfaces:
- (1) **Runway Landing Areas** – The Runway Landing Areas, or “primary surfaces,” are rectangular areas symmetrically about the runway centerline with an overall width of one thousand (1,000) feet for ILN and 500 feet for I66, and with their length extending to a line two hundred (200) feet beyond each end of the runways, which line is defined as the landing area end.
 - (2) **Approach Surfaces** –
 - (a) The Approach Surface for each end of the instrument runways at ILN is the airspace above a plane sloping upward and outward from the end of the runway landing area to its outer boundary at the uniform rate of one (1) foot in elevation for each fifty (50) feet measured horizontally along the extended centerline of said runway. This plane shall increase in width at a uniform rate symmetrically about the extended runway centerline from one thousand (1,000) feet at its beginning to four thousand (4,000) feet at its outer boundary which, at ten thousand (10,000) feet distance from the end of the runway landing area measured horizontally along the extended centerline of the runway, is two hundred (200) feet above the elevation at the end of the runway.
 - (b) The Approach Surface for each end of the instrument runway at I66 is the airspace above a plane sloping upward and outward from the end of the runway landing area to its outer boundary at the uniform rate of one (1) foot in elevation for each twenty (20) feet measured horizontally along the extended centerline of said runway. This plane shall increase in width at a uniform rate symmetrically about the extended runway centerline from five hundred (500) feet at its beginning to three thousand five hundred (3,500) feet at its outer boundary which, at ten thousand (10,000) feet distance from the end of the runway landing area measured horizontally along the extended centerline of the runway, is two hundred ninety four (294) feet above the elevation at the end of the runway.
 - (3) **Transitional Surfaces** – The Transitional Surfaces consist of the airspace above planes which slope upward and outward laterally from the sides of the planes forming the base of the Approach/Departure Surfaces and from the sides of the Runway Landing Areas. These planes shall be contiguous with the sides of the planes forming the base of the Approach/Departure Surfaces and, with the sides of the Runway Landing Areas and extending upward and outwardly at the uniform rate of one (1) foot in elevation for each seven (7) feet in horizontal distance. These planes extend upward and outward until they intersect with the planes forming, respectively, the bases of the Horizontal and Conical Surfaces, which are described in the following paragraphs.
 - (4) **Horizontal Surfaces** –
 - (a) The Horizontal Surface at ILN is the airspace above a horizontal plane one hundred fifty (150) feet above the airport elevation established by swinging arcs of ten thousand (10,000) feet from the center of each end of the primary surface

ARTICLE III, CHAPTER 5: OVERLAY DISTRICTS

of each runway (a point of 200 feet beyond the runway end) and connecting the adjacent arcs by drawing lines tangential to those arcs.

- (b) The Horizontal Surface at I66 is the airspace above a horizontal plane one hundred (150) feet above the airport elevation established by swinging arcs of ten thousand (10,000) feet from the center of each end of the primary surface of each runway (a point 200 feet beyond the runway end) and connecting the adjacent arcs by drawing lines tangential to those arcs.

(5) **Conical Surface –**

- (a) The Conical Surface is the airspace above a conical surface extending upward and outward at a uniform rate of one (1) foot in elevation for each twenty (20) feet in horizontal distance starting at the periphery of the Horizontal Surface at a slope of 20 to 1 for a horizontal distance of four thousand (4,000) feet.
- (b) This definition of “Airport Hazard Area” is to be construed in conformity with *Title 14: Aeronautics and Space, of the Code of Federal Regulations, Federal Aviation Regulation Part 77, Objects Affecting Navigable Airspace*. Furthermore, the definition of the “Airport Hazard Area” may be amended from time-to-time by the approved Airport Layout Plans (ALP) for the Airports.

- (D) **Airport Notice Area –** The space within a horizontal distance of twenty thousand (20,000) feet of the nearest point of the nearest runway of either the ILN or I66 and above a surface extending out from the nearest point, which surface rises at a slope of 100:1 horizontally, i.e., one hundred (100) feet horizontally for each one (1) foot vertically.
- (E) **Blanket Approval –** Approval by the FAA, given to a local jurisdiction, to waive FAA approval requirements for buildings or structures located within the boundaries of specifically defined areas. The waiver of FAA approval shall only apply if a building or structure does not exceed a maximum height detailed in an FAA Blanket Approval Agreement for a specifically defined area. Transmitting devices and/or buildings or structures which exceed the maximum height shall not be included in a “Blanket Approval” and proof of FAA Approval must be provided before any building permit may be issued.
- (F) **FAA –** The Federal Aviation Administration and any legally appointed, designated or elected agent or successor.
- (G) **FCC –** The Federal Communications Commission and any legally appointed, designated or elected agent or successor.
- (H) **Feed Lot –** An area of land for the fattening or finishing of animals, generally beef cattle, in which the stocking densities – the number of animals per unit of land at a particular time – exceed six (6) cattle per acre.
- (I) **Fish Processing –** A factory or other place where fish are prepared for canning, or other commercial uses.
- (J) **Landfill –** A place where waste material is disposed by the process of reclaiming areas of the ground.

ARTICLE III, CHAPTER 5: OVERLAY DISTRICTS

- (K) **Person** – Any individual, firm, co-partnership, corporation, company, association, joint stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof.
- (L) **Political Subdivision** – Any municipal corporation, township, or county.
- (M) **Pond** – A small, natural, or man-made body of standing fresh water filling a surface depression, usually smaller than a lake, where the retention of water takes place.
- (N) **Sewage Pond** – A shallow pond where sunlight, bacterial action, and oxygen work to purify wastewater.
- (O) **Slaughter House** – A building or place where animals are butchered for food.
- (P) **Sludge Disposal** – The collection and removal of the concentration of solids from sewage during wastewater treatment in conjunction with the use of a spread area.
- (Q) **Transfer Station** – Any site, location, tract of land, installation or building that is used or intended to be used primarily for the purpose of transferring solid waste that is generated off the premises of the facility from vehicles or containers into other vehicles or containers for transportation to a solid waste disposal facility. The term does not include any facility that consists solely of portable containers that have an aggregate volume of fifty (50) cubic yards or less, nor any facility where legitimate recycling activities are conducted.
- (R) **Water Fowl Production** – Any activity or plan which promotes and/or aides the reproduction or breeding of water fowl species.
- (S) **Water Reservoir** – A multipurpose project may generate hydro-electric power, controls floods, provides recreational benefits and supplies water.
- (T) **Wildlife Sanctuary** – An area of land set aside for, among other purposes, providing a refuge for wildlife species, or a small area in private ownership for breeding purposes.

3.502.3 AIRPORT ZONING DISTRICTS

The following Airport Zoning Districts (see Airport Overlay Zone Map) are hereby established and shall be governed by the accompanying regulations:

(A) Airport Zoning District One (AZD-1)

- (1) AZD-1 encompasses the land on which ILN is situated. The boundary for the AZD-1 zone for ILN is set forth in yellow on the referenced map.
- (2) Permitted uses within AZD-1 include open space and airport-related uses.

(B) Airport Zoning District Two (AZD-2)

- (1) AZD-2 generally encompasses land that experiences direct overflights to and from ILN. The boundary for the AZD-2 zone for ILN is set forth in blue on the referenced map.
- (2) Permitted uses within AZD-2 include open space, airport-related uses, agriculture, general commercial, industrial, and existing institutional and educational uses.

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- (3) Those uses specifically prohibited in AZD-2 include residential uses, nursing care facilities, hospitals, schools, libraries, landfills, transfer stations, sewage ponds, sludge disposal, feed lots, slaughter houses, waterfowl production, wildlife sanctuary, or fish processing. Lakes or ponds intended to attract or harbor waterfowl are prohibited (see *Federal Aviation Administration Advisory Circular (AC) 150/5200-33B Hazardous Wildlife Attractants On or Near Airports*).
- (4) All new primary buildings and alterations to existing residential buildings in AZD-2 shall be constructed so as to reduce noise by 30 dBA.

(C) Airport Zoning District Three (AZD-3)

- (1) AZD-3 generally encompasses land that would occasionally experience direct overflights to and from the ILN. The boundary for the AZD-3 zone for ILN is set forth in green on the referenced map.
- (2) Permitted uses within AZD-3 include open space, agricultural, airport-related uses, general commercial, industrial, institutional, single-family residential, and those uses otherwise permitted by the applicable base zoning under this Zoning Code, unless prohibited in paragraph (3).
- (3) Those uses specifically prohibited in AZD-3 include multi-family residential, libraries, landfills, transfer stations, sewage ponds, sludge disposal, feed lots, slaughter houses, waterfowl production, wildlife sanctuary, or fish processing. Lakes or ponds intended to attract or harbor waterfowl are prohibited (see *Federal Aviation Administration Advisory Circular (AC) 150/5200-33B Hazardous Wildlife Attractants On or Near Airports*).
- (4) Any new single-family residential minor or major subdivision of lots occurring within AZD-3 shall include deed covenants and restrictions:
 - (a) Notifying the occupants that they will reside within the Airport Zoning District of ILN;
 - (b) Acknowledging that they understand that they will be exposed to noise from aircraft;
 - (c) Notifying the residents that they are prohibited from using any equipment which can interfere with the communications or other electronics of the ILN;
 - (d) Waiving the occupants' right to oppose any continued use or growth of the ILN for its current purposes.
- (5) Platted subdivisions shall include these covenants and restrictions on the final plat.
- (6) All new primary buildings and alterations to existing residential buildings in AZD-3 shall be constructed so as to reduce noise by 25 dBA.
- (7) Drawings for the construction of any new single-family dwelling in AZD-3 shall be submitted to the Building Department for review and certification that the proposed materials and construction techniques comply with the provisions of this AZD-3.

(D) Airport Zoning District Four (AZD-4)

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- (1) AZD-4 generally encompasses land that would occasionally experience direct overflights to and from the Airports. The boundary for the AZD-4 zone for the ILN is set forth in red on the referenced map.
 - (2) Permitted uses within AZD-4 include open space, agricultural, airport-related uses, general commercial, industrial, institutional, single-family residential, and those uses otherwise permitted by the applicable base zoning under this Zoning Code, unless prohibited within paragraph (3).
 - (3) Those uses specifically prohibited in AZD-4 include multi-family residential, libraries, landfills, transfer stations, sewage ponds, sludge disposal, feed lots, slaughter houses, waterfowl production, wildlife sanctuary, or fish processing. Lakes or ponds intended to attract or harbor waterfowl are prohibited (see *Federal Aviation Administration Advisory Circular (AC) 150/5200-33B Hazardous Wildlife Attractants On or Near Airports*).
 - (4) Any new single-family residential minor or major subdivision of lots occurring within AZD-4 shall include deed covenants and restrictions:
 - (a) Notifying the occupants that they will reside within the Airport Zoning District of ILN;
 - (b) Acknowledging that they understand that they will be exposed to noise from aircraft;
 - (c) Notifying the residents that they are prohibited from using any equipment which can interfere with the communications or other electronics of the ILN;
 - (d) Waiving the occupants' right to oppose any continued use or growth of ILN for its current purposes.
 - (5) Platted subdivisions shall include these covenants and restrictions on the final plat.
 - (6) All new primary buildings and alterations to existing residential buildings in AZD-4 shall be constructed so as to reduce noise by 20 dBA.
 - (7) Drawings for the construction of any new single-family dwelling in AZD-4 shall be submitted to the Building Department for review and certification that the proposed materials and construction techniques comply with the provisions of this AZD-4.
- (E) Notwithstanding any other provision of this Section, no use may be made of land within any zone established by this Section in such a manner as to create electrical interference with radio communication between the Airports and aircraft, to make it difficult for pilots to distinguish between airport lights and other lights, to create glare in the eyes of pilots using the Airports, to impair visibility in the vicinity of the Airports, or to otherwise endanger the landing, taking off, or maneuvering of aircraft.
- (F) Notwithstanding any other provision of this Section, no use may be made of and no installation may be placed on land within any Airport Hazard Area that will produce smoke, fumes, gases, or odors that would interfere with the safe use by aircraft of the Airports. Notwithstanding any other provisions of this Section, no use may be made of, or an installation placed on, land within any airport zone for public or private rifle ranges, or private aircraft landing fields, which would

interfere with the safe use by aircraft of the Airports. No owner or occupant of real property shall construct or create, or permit to be constructed or created, an Airport Hazard.

3.502.4 CERTIFICATION OF “NO HAZARD” REQUIRED

The Zoning Administrator may require any person who proposes to construct, erect, place or otherwise locate a structure that will be within the Airport Notice Area, as defined, to receive written certification from the Federal Aviation Administration (FAA) and the Ohio Department of Transportation, Division of Aviation (ODOT-DOA), that the proposed project does not constitute an Airport Hazard.

§ 3.503 COMMERCIAL HISTORIC (H-1) OVERLAY DISTRICT

3.503.1 FINDINGS

- (A) Council hereby finds and determines that the establishment of restrictions on the construction, erection, alteration, removal, moving or demolition of buildings and structures in areas of historic significance or of landmark designation is vital to the preservation of the educational, cultural, economic and general welfare of the City of Wilmington and of its citizens.
- (B) Council further finds that the Wilmington Commercial Historic District (WCHD) is significant for historical, architectural, aesthetic, cultural, social and economic reasons. The architecture in the district, which covers a variety of architectural styles and reflects the growth of the City from 1810 to the present, is very distinctive in southern Ohio and unique within Clinton County. The maintenance and enhancement of the distinctive and unique character of the district, as the same has been recognized (and in satisfying the criterion necessary for inclusion of a substantial part thereof on the National Register of Historic Places) is dependent in large part on the harmonious and compatible external appearance of the properties within the district.
- (C) Council further finds and determines, on the basis of its own observations and knowledge, and the information in the application for inclusion of the WCHD on the National Register of Historic Places, that the purposes set forth below will be served by the enactment of this Ordinance.

3.503.2 DECLARATION

Council declares as a matter of public policy that preserving, protecting, and enhancing the distinctive and unique character of the Wilmington Commercial Historic District, and designated Landmark Properties in the City of Wilmington, and fostering the harmonious and compatible external appearance of the properties within the district, are matters of public necessity and are required in the interest of the public safety, health, morals, convenience, prosperity, and welfare.

3.503.3 PURPOSES

The purposes of Section 3.503 (Commercial Historic (H-1) Overlay District) are:

- (A) To maintain and enhance the distinctive character of the historic and architecturally significant buildings within designated districts or for properties designated as landmarks;
- (B) To insure architectural harmony between buildings of widely varying architectural periods and styles;

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- (C) To insure the compatibility of the exteriors of any and all construction of new improvements and buildings and changes on the exterior of existing structures within the historic and architectural character of the historic district or landmark property;
- (D) To protect and enhance the visual and aesthetic character, diversity and interest in the City of Wilmington;
- (E) To contribute to the economic, recreational, cultural and educational development of the City of Wilmington by:
 - (1) Encouraging the development of vacant properties in accordance with the character of the designated districts and landmark properties;
 - (2) Protecting and enhancing the City's attractions to prospective residents, tourists, and visitors;
 - (3) Stabilizing, improving, and protecting property values;
 - (4) Fostering civic pride in the beauty and notable accomplishments of the past and present;
 - (5) Facilitating the reinvestment and revitalization of the designated districts and landmarks properties;
 - (6) Promoting the use and preservation of historic sites and structures for the education and general welfare of the people of the City of Wilmington and visitors.

3.503.4 APPLICABILITY

- (A) A Certificate of Appropriateness shall be required before any change may be instituted within the H-1 Overlay District, whether or not such change requires a building permit. A "change" is defined as any alteration, reconstruction, or restoration of the exterior of a structure; construction of a new structure; demolition of an existing structure; placement of new landscaping; erection of new signs; or any material alteration in the landscaping, signage, exterior color(s) or external architectural features of any property.
- (B) The requirements of this Section shall be met in addition to the established requirements and standards of this Zoning Code, and other applicable ordinances of the City. Where conflicts exist between requirements of this Section and other ordinances adopted by Council, the strictest requirements shall apply and supersede the less strict requirements.

3.503.5 DEVELOPMENT GUIDELINES

In making a determination on an application for a Certificate of Appropriateness, the Planning Commission shall consider the following:

- (A) **The U.S. Secretary of the Interior's Standards for Rehabilitation**
 - (1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

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- (2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- (3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- (4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
- (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- (7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- (8) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- (10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(B) Colors for Buildings and Signage

(1) Color Palette

For the exterior of buildings, structures and signage, applicants will choose paint colors from the color palette adopted by the Planning Commission. If historically accurate or architecturally appropriate, black, white, and metallic colors may be used as trim colors, as accent colors, and on signs. Exceptions to the use of the colors in the color palette may be made by the Planning Commission if the applicant provides historical or architectural justification.

(2) Main Body Color

The more simple the building design, the fewer the number of colors should be used on it, but never more than three (3) different colors on the same building. The main body of the building should be painted all the same color.

(3) **Trim and Accent Color**

The body trim of the building should be painted in different, complimentary colors. Select colors which complement abutting buildings. If historically accurate or architecturally appropriate, black, white, and metallic colors may be used as trim and accent colors.

(4) **Historical Accuracy and Complimentary Colors**

The Planning Commission may deny the use of a color on a part of the building if not historically accurate or complimentary. If paint was used on a building in the past, an applicant should research the original paint colors as a starting point when selecting a color. Most historic color schemes were fairly simple. Colors must be appropriate to the building's age and style.

(5) **Exceptions to Color Palette**

The Planning Commission may, in its sole discretion, make exceptions to the use of the color palette for murals, significant works of exterior art, or restorations of historical murals. Colors in murals, significant works of exterior art, or restorations of historical murals may be exempted from the color palette.

(D) Fonts for Lettering on Buildings and Signs

The Planning Commission may adopt fonts that will be approved for use in the H-1 Overlay District. Exceptions to the use of the approved fonts may be made if the applicant provides historical or architectural justification for using a font not on the approved font palette.

(E) Sign Design and Placement

- (1) The addition of or removal of a sign to a property or alteration of a sign is a "change" as defined by Section 3.503.4(A) herein.
- (2) Prior to the installation or placement of a sign, the applicant must obtain both a Certificate of Appropriateness from the Planning Commission for the sign as well as a Sign Permit (if applicable) from the Zoning Administrator. A sign permit will not be issued until the Certificate of Appropriateness is issued by the Planning Commission.
- (3) The Zoning Administrator will evaluate the size, placement and other characteristics of signs in H-1 Overlay District pursuant to the criteria set forth in Article IV Chapter 5 (Signs). The Zoning Administrator will report to the Planning Commission whether the proposed sign or change in a sign complies with the provisions of Article IV Chapter 5 (Signs).
- (4) In evaluating a sign for the issuance of a Certificate of Appropriateness, the Planning Commission shall consider not only the Zoning Administrator's report regarding the sign's compliance with Article IV Chapter 5 (Signs), but also the following regulations:
 - (a) There shall be not more than two (2) styles nor more than three (3) sizes of lettering used for any sign, including characters or trademarks used for identification.
 - (b) The number of items, letters, symbols, and shapes shall be consistent with the amount of information which can be comprehended by the viewer, reflect simplicity, avoid visual clutter and improve legibility.

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- (c) The shape of the sign shall be simple, and the sign should be consolidated into a minimum number of elements. It should be a basic geometric form, usually a rectangle. Except for extraordinary circumstances, no element of the sign should violate the boundaries of the basic shape.
- (d) A ratio between the message and the background shall permit easy recognition of the message.
- (e) The size, style and location of the sign shall be appropriate to the activity of the site.
- (f) The sign shall complement the building and adjacent buildings by being designed and placed to enhance the architecture.
- (g) There shall not be more than five (5) colors, including black, white and metallic colors, used on any sign. Florescent colors are prohibited. Colors shall be in conformity with the approved Color Palette for the historic district or landmark property under consideration. There are no exceptions or variances to the Color Palette.
- (h) Signs identifying multiple tenants of a building should be designed to allow changes in tenant occupancy. Unused tenant identification areas shall be filled with matching decorative panels so as to minimize the appearance of vacancy.
- (i) Signs, if seen in series, shall have a continuity of design with the style of sign generally consistent throughout the building or block.
- (j) Incidental signs shall contain the minimum information and the minimum area necessary to convey the message and instruct the viewer in the safe and efficient use of the facility.
- (k) A sign should be constructed with a minimum of different types of material so as to provide a consistent overall appearance. Materials shall be consistent with those of the building or of older origin such as brick, stone, masonry, and wood. Undisguised contemporary materials such as aluminum, plaster, fiberglass and glass shall not be used.

(F) Awnings

- (1) Fixed or retractable awnings are permitted if they complement the building's architectural style, material, color and details.
- (2) Awnings should be diagonal, concave or umbrella shaped. Other shapes may be considered by the Commission.
- (3) Any visible supporting framework should be painted a dark color corresponding to either the awning or the awning's building.
- (4) Striped patterns or solid colors should be selected.
- (5) An awning may not conceal architectural features (such as cornices, columns, pilasters, or decorative details).

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- (6) Metal and aluminum awnings are not permitted.
- (7) Awnings may be made of solution-dyed acrylic, canvas or marine fabric. The material may be opaque.
- (8) Any signage text must comply with this Section and any other applicable provisions of the Zoning Code.
- (9) Awning signage text may be screen-printed on the skirt or sewn using the same fabric type of white or translucent color.
- (10) Awning colors shall be those in the approved color palette chosen by the Planning Commission.
- (11) Awnings must not be under lighted.
- (12) Awnings over an entrance shall be centered on the entrance with a minimum seven (7) foot clearance between the bottom of the skirt and the pavement or ground.
- (13) Perpendicular canopies shall match the slope of any existing stairs or ramps.

(G) Site/Structure Appearance & Compatibility

- (1) Documentation of the original appearance of a building or property or similar properties in the City of Wilmington may be considered.
- (2) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure or site and its environment, or to use a property for its originally intended purpose.
- (3) The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- (4) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
- (5) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
- (6) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
- (7) Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

- (8) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
- (9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.
- (10) Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

§ 3.504 PLANNED UNIT DEVELOPMENT (PUD) OVERLAY DISTRICT

3.504.1 PURPOSE

The purpose of the Planned Unit Development (PUD) Overlay District shall be as specified in Section 1.310.1 (Purpose).

3.504.2 REVIEW PROCEDURE

The initiation, review, approval, and modification of a PUD overlay shall comply with the provisions of Section 1.310 (Planned Unit Developments).

3.504.3 DEVELOPMENT STANDARDS

(A) Prohibited Uses

The following non-residential uses are expressly prohibited in all PUDs, and may not be added as a permitted use to any PUD overlay:

- (1) Adult Entertainment Facilities
- (2) Outdoor Shooting Range
- (3) Asphalt or Concrete Batch Plant or Products Manufacturing
- (4) Slaughterhouse and Stockyard
- (5) Mineral Extraction
- (6) Sanitary Landfills
- (7) Solid Waste Disposal Facility
- (8) Motor Vehicle Impound Lots
- (9) Scrap Metal Salvage Yard and Recycling Centers

- (10) Outdoor Storage or Displays associated with Industrial Use

(B) Open Space Requirements

PUD overlays shall comply with the open space requirements and standards of Article IV Chapter 3 (Open Space).

§ 3.505 STREAM & RIPARIAN (SR) OVERLAY DISTRICT

3.505.1 PURPOSE

The purpose of the Stream & Riparian Overlay is to maintain a strip of land adjacent to streams and rivers in which natural vegetation is retained and/or re-vegetated, in order to reduce the velocity of overland water flow, trap sediment and eroded soil from cropland or land being developed, and limit pollutants from entering the waterway. All streams and rivers shown on the USGS Quadrangle Maps as a blue line shall be subject to the requirements of the Riparian Overlay. Such stream locations may be field verified, and modified as necessary by the Zoning Administrator in consultation with the Planning Commission.

3.505.2 LOCATION

A fifty (50) foot stream buffer zone shall be established on both sides of all perennial streams and watercourses indicated as a solid blue line on the USGS Quadrangle maps along with all current and/or future designated floodways and flood-fringe areas as defined and/or determined by the Federal Emergency Management Agency (FEMA).

3.505.3 REQUIREMENTS AND RESTRICTIONS

- (A)** No development of any kind, including placement of all structures and all soil-disturbing activities, shall occur within this the buffer area described in Section 3.505.2 (Location), except as listed in the subsections below.
- (B)** Open space reserves in subdivisions or developments should be located to maximize the preservation of riparian corridors.
- (C)** Generally, stream buffer areas within this overlay zone shall remain undisturbed. When agricultural soil disturbing activities such as plowing, grading, ditching, excavating, placement of fill materials, or similar activities must occur, they shall conform to all State and Federal regulations. Other unnamed agricultural activities that would result in significant disturbance of the existing soil, increase erosion, or destroy plant and wildlife habitats are prohibited and can only occur with an approved replacement program consistent with Ohio Department of Natural Resources standards.
- (D)** Permitted activities/uses within the buffer areas include sewer easements, providing the activities strictly adhere to applicable State, Federal and local soil and erosion control regulations and guidelines. Permanent appropriate native perennial vegetation must be established as a necessary step in completing the construction of any sewer facilities. Sewer easements should be as close to perpendicular to the stream channel to minimize the impact on the stream buffer. Other overhead and/or underground utilities (e.g. water lines), roads, streets, bridges, trails, railways, or similar

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structures should be placed within existing right-of-ways or existing corridors (where active or abandoned) if possible, but in any case, must cross the buffer as close to perpendicular as possible.

- (E) All disturbed areas within the buffer zone shall be re-vegetated with permanent appropriate native perennial vegetation immediately after the disturbance. This includes the re-forestation of forest areas with more mature growth as detailed by the Service Director or Planning Commission.

ARTICLE IV: SITE DEVELOPMENT PROVISIONS

CHAPTER 1: BUFFERING AND LANDSCAPING

§ 4.101 PURPOSE

- 4.101.1** The purpose of this Chapter is to protect and promote the public health, safety, general welfare, and beautification of Wilmington by establishing minimum standards for the design, installation, and maintenance of landscaping along public thoroughfares, within buffer areas, between uses, on the interior of a site, within parking lots, and adjacent to buildings. Landscaping is viewed as a critical element contributing to aesthetics, development quality, environmental integrity, stability of property values, and the overall character of the City.
- 4.101.2** The landscape standards of this Chapter are considered the minimum necessary to achieve the intent. In several instances, the standards are intentionally flexible to encourage creative design and to reflect unique conditions and accommodate the specific circumstances of a site. Applicants are encouraged to provide additional landscaping to improve the function, appearance, and value of their property.
- 4.101.3** It is the specific intent of this Chapter to require the installation and maintenance of buffering between residential uses of land and non-residential land uses; to require the installation and maintenance of landscaping around the perimeter of and within off-street parking facilities and other vehicular use areas outside of public right-of-way, and to require the planting of street trees in an effort to foster community wide reforestation.
- 4.101.4** It is not intended by this Chapter that a business should screen its sign from public view, but incorporate and accentuate the sign through the use of landscaping. Any business which normally displays its product outdoors (e.g. automobile dealerships, lumber yards, produce stands, garden centers, etc.) should enhance its product through the use of landscaping.

§ 4.102 COMPLIANCE AND MAINTENANCE

- 4.102.1** Wherever any property is affected by these landscape requirements, the property owner or developer shall prepare and submit a landscape plan to the Zoning Administrator in a form and number as established by the Building Department.
- 4.102.2** Where landscaping is required, no building permit shall be issued until the required landscaping portion of the site plan or zoning permit application has been submitted and approved.
- 4.102.3** All required landscaping and buffering shall be installed prior to the issuance of a Zoning Certificate of Occupancy. If weather conditions necessitate a delay in installation of landscaping, a Zoning Certificate of Occupancy may be issued only if collateral is filed with the City in an amount designated by the Building Department, along with a schedule of completion, and a development

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agreement. The amount of the collateral will reflect one hundred twenty five (125) percent of the estimated cost of purchasing and installing the landscaping.

- 4.102.4** Initial maintenance of all landscaping is the responsibility of the builder/developer, but may be assumed by the owner/occupant on the date of occupancy. If so, a written agreement between the builder/developer and owner/occupant shall be made, and a copy filed with the City. The agreement shall delineate the responsibility for continuous maintenance and the replacement of all unhealthy or dead plant material during first two (2) years of occupancy.

§ 4.103 APPLICABILITY

4.103.1 NEW DEVELOPMENTS

For all new property developments, the provisions of this Chapter shall apply to the entire site involved.

4.103.2 SUBSTANTIAL EXPANSIONS OF EXISTING DEVELOPMENTS

The provisions of this Chapter shall apply to the entire site when substantial expansion of an existing development occurs in one (1) or more of the following manners:

- (A) Substantial expansion of existing structures, which shall be defined based on the criteria established in the table below:

SUBSTANTIAL EXPANSION	
When Existing Structure is...	A Substantial Expansion is...
0 – 1,000 Square Feet	50% or Greater
1,001 – 10,000 Square Feet	40% or Greater
10,001 – 25,000 Square Feet	30% or Greater
25,001 – 50,000 Square Feet	20% or Greater
50,001 Square Feet or Larger	10% or Greater

- (B) Substantial expansion of an existing parking area, defined as an expansion which exceeds twenty-five (25) percent of the square footage of the existing parking area. For the purpose of this Chapter, parking areas shall include parking spaces, parking aisles, access drives, and loading areas.

4.103.3 MINOR EXPANSIONS OF EXISTING DEVELOPMENTS

When neither (A) nor (B) of Section 4.103.2 applies for an existing development, the provisions of this Chapter shall only apply to the affected area(s) of the site.

§ 4.104 GENERAL STANDARDS

4.104.1 EFFECTIVENESS

At the time of installation, landscaping, screening and buffering elements shall be immediately effective in meeting the objectives of this Chapter, and shall maintain that effectiveness as the plant materials mature.

4.104.2 GENERAL LOCATION

Landscaping shall be installed in locations such that, when mature, it does not obscure traffic signs or light nor obstruct access to fire hydrants nor interfere with adequate motorist sight distance or overhead utility lines.

4.104.3 EXISTING LANDSCAPE MATERIALS

Unless otherwise noted, existing landscape material in healthy condition can be used to satisfy the requirements of this Chapter in whole or in part provided that the existing landscape material meets the minimum standards of this Chapter. The Zoning Administrator shall determine satisfaction of this requirement.

4.104.4 EASEMENTS

Required landscaping shall not be installed within any underground or overhead utility, drainage, or gas easement without the consent of the easement holder.

4.104.5 LANDSCAPING MATERIALS

Existing vegetation shall be preserved as much as possible in accordance with acceptable nursery industry standards. The following items are suitable for landscaping materials used individually or in combination with each other, subject to the requirements of this Zoning Code and the review and approval by the Zoning Administrator.

(A) Walls and Fences

In addition to any other requirements for walls and fences established in this Zoning Code, walls and fences used to fulfill the buffering/landscaping/screening requirements of this Chapter shall be subject to the following:

- (1) Walls and fences are limited to four (4) feet high in the front yard or as the Planning Commission requires.
- (2) When walls or fences are used to fulfill screening requirements, a detailed drawing shall be shown on the plan.
- (3) When materials are not otherwise specified, walls and fences shall be constructed of weather-proof and non-corroding materials such as pressure treated or painted lumber, redwood, cedar, vinyl, aluminum, brick veneer, or galvanized metal. Under no circumstances shall a wall be constructed of unfinished concrete or cinder block.
- (4) Chain link fences shall not be allowed to satisfy the buffering and screening requirements of this Chapter.

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- (5) Walls and fences shall be designed to orient the best or most attractive side away from the subject lot, or be equally attractive on both sides.

(B) Plants

- (1) All plant materials shall be installed and maintained according to accepted nursery industry procedures. The owner of the property shall be responsible for the continued property maintenance of all landscaping materials and shall keep them in a proper, neat, and orderly appearance free from refuse and debris at all times.
- (2) Plants shall be non-invasive and should be selected based on insect and disease resistance and long life expectancy.
- (3) Unhealthy and dead plants shall be replaced within one (1) year, or by the next planting season, whichever comes first. The determination of whether a plant is unhealthy shall be at the discretion of the Zoning Administrator or a recognized landscape professional.

(C) Species Diversity

- (1) When fewer than forty (40) trees are required on a site, at least two (2) different species shall be utilized, in roughly equal proportions. For deciduous trees, no more than twelve (12) trees of any one variety shall be used.
- (2) When forty (40) or more trees are required on a site, at least three (3) different species shall be utilized, in roughly equal proportions. For deciduous trees, no more than twelve (12) trees of any one variety shall be used.
- (3) Required shrubs shall utilize the same species diversity requirements.

(D) Earth Mounds

- (1) Earth mounds shall conform to the grading requirements of the Clinton County Soil and Water Conservation District and shall be designed to not be an impediment for drainage.
- (2) The slope of any berm or earth mound shall not exceed a 3:1 ratio.
- (3) Landscaping plant materials may be installed on berms and earth mounds and shall be arranged in an irregular pattern to accentuate the physical variation and to achieve a natural appearance.
- (4) Berms and earth mounds shall be located and designed to minimize the disturbance of existing trees located on, or adjacent to, the site.
- (5) Adequate ground cover shall be used and maintained to prevent erosion of the earth mound.
- (6) No mound wastewater treatment system or other similar on-site wastewater treatment system shall count toward the buffering requirement.

(E) Ground Cover

Grass or ground cover shall be planted on all portions of required buffer yards and landscaped areas not occupied by other landscaped material.

§ 4.105 PERIMETER BUFFER REQUIREMENTS

4.105.1 APPLICABILITY

(A) When Applicable

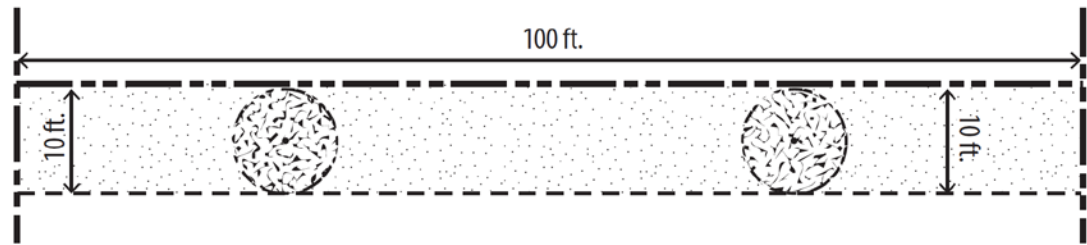
The table in Section 4.105.3 sets forth the minimum perimeter buffers required for a new or expanded use based upon adjacent land uses. The table is applicable to all uses listed, except as provided in subsection (B) below.

(B) Exceptions

- (1) No perimeter buffer is required to abut public right-of-way, except as required for major subdivisions in Section 4.106 (Thoroughfare Buffer Yard Requirements).
- (2) Driveways and parking areas are prohibited within the required perimeter buffer area, except for cross-access purposes.
- (3) Development within the Downtown Core (DC), Downtown Transition (DT), and Traditional Neighborhood (TN) districts shall be exempt from the provisions of Section 4.105 (Perimeter Buffer Yard Requirements).
- (4) The Planning Commission may determine during site plan review that one (1) or more of the following will serve as a sufficient substitute for the required perimeter buffer:
 - (a) An increased setback of all structures, parking areas, and all other impervious surface areas, to no less than one hundred (100) feet from the property lines of adjacent uses requiring a buffer; or
 - (b) A solid wood or masonry fence at least six (6) feet in height along the full length of all property lines of adjacent uses requiring a buffer, and supplemented with a minimum of six (6) deciduous trees and five (5) shrubs per one hundred (100) lineal feet of buffer area; or
 - (c) An existing naturally wooded/vegetated area of sufficient size, width, and density on the development property that will effectively serve as a buffer.

4.105.2 BUFFER TYPES

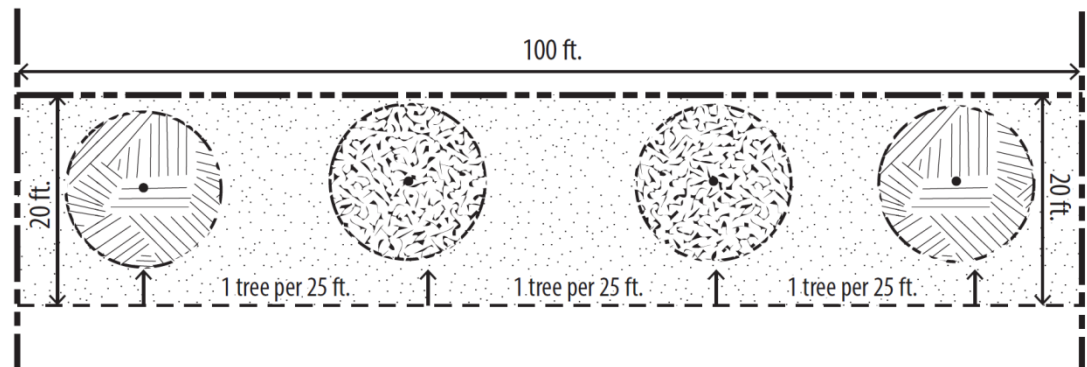
(A) Buffer Type A



Buffer Type A, as shown above and abbreviated as an “A” in Section 4.105.3 (Schedule of Required Buffers), consists of:

- (1) A ten (10) foot wide buffer area.
- (2) One (1) deciduous or evergreen tree per every forty (40) lineal feet.
- (3) No minimum screen height, unless required by the Planning Commission.

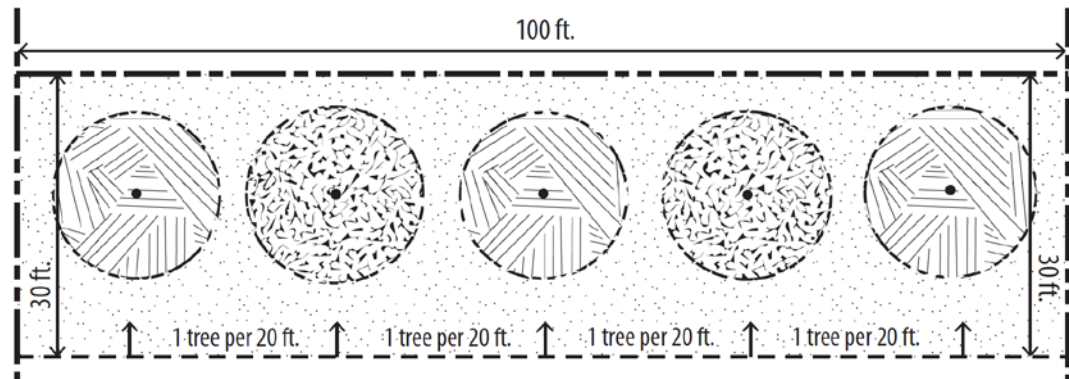
(B) Buffer Type B



Buffer Type B, as shown above and abbreviated as a “B” in Section 4.105.3 (Schedule of Required Buffers), consists of:

- (1) A twenty (20) foot wide buffer area.
- (2) One (1) tree per twenty five (25) lineal feet with a minimum of forty (40) percent evergreen trees.
- (3) A minimum screen height of six (6) feet.

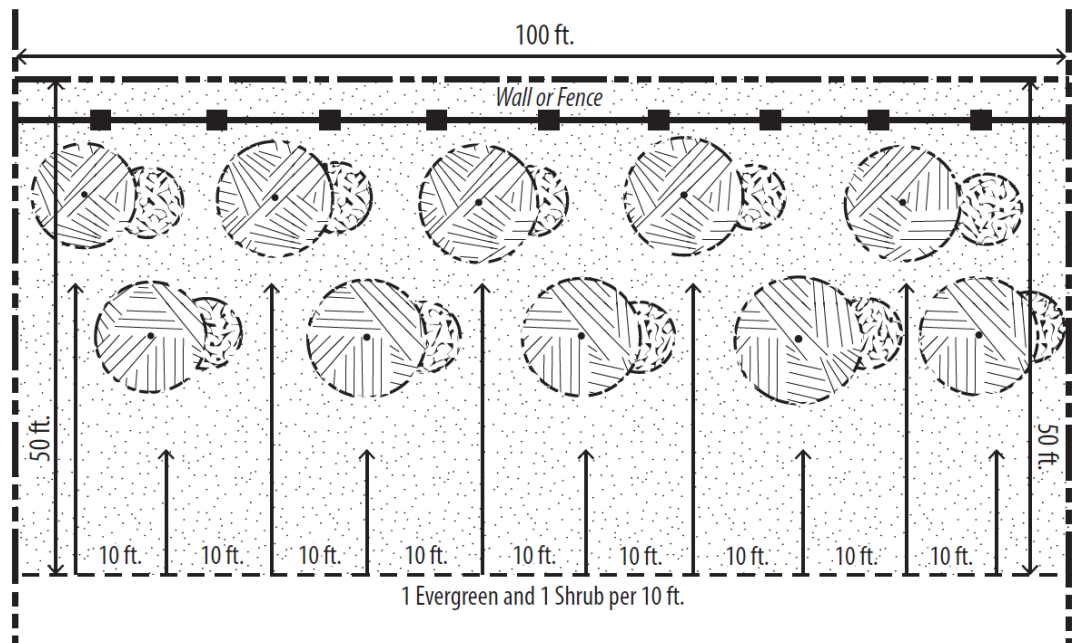
(C) Buffer Type C



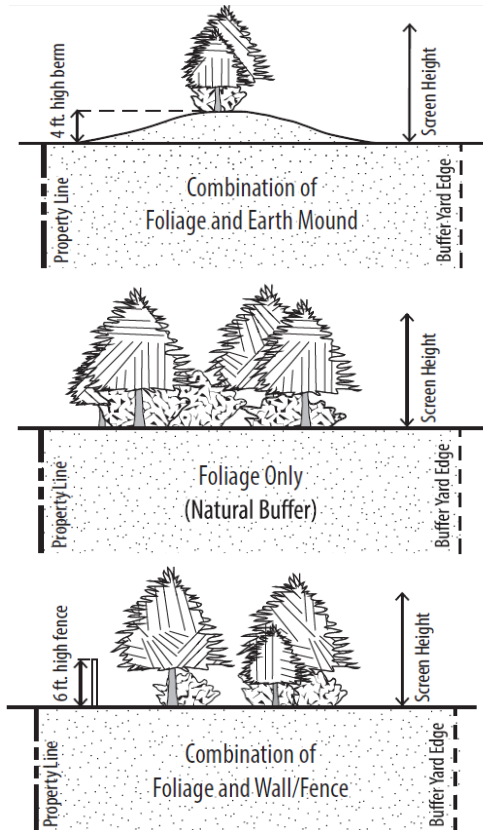
Buffer Type C, as shown above and abbreviated as a "C" in Section 4.105.3 (Schedule of Required Buffers), consists of:

- (1) A thirty (30) foot wide buffer area.
- (2) One (1) tree per twenty (20) lineal feet with a minimum of fifty (50) percent evergreen trees.
- (3) A minimum screen height of eight (8) feet.

(D) Buffer Type D



ARTICLE IV, CHAPTER 1: BUFFERING AND LANDSCAPING



Buffer Type D, as shown above and abbreviated as a “D” in Section 4.105.3 (Schedule of Required Buffers), consists of:

- (1) A fifty (50) foot wide buffer area.
- (2) One (1) evergreen and one (1) shrub per ten (10) lineal feet along the residential side of the wall or fence. At the time of planting, evergreens shall be a minimum height of five (5) feet.
- (3) Landscaping and/or screening elements collectively consisting of trees, shrubs, fencing/walls, or berms, to a minimum screen height of ten (10) feet and installed to one hundred (100) percent opacity. Cross-section examples of different combinations of natural and man-made features to achieve the screen height and one hundred (100) percent opacity requirements are shown at left.

ARTICLE IV, CHAPTER 1: BUFFERING AND LANDSCAPING

4.105.3 SCHEDULE OF REQUIRED BUFFERS

The table below sets forth the minimum required perimeter buffers required for a new or expanded use based upon adjacent land uses. Where an abutting property falls under more than one of the abutting land use categories listed, the most stringent perimeter buffer requirements shall be applied.

DEVELOPMENT LAND USES	EXISTING ADJACENT LAND USE						
	Single Family or Two-Family Dwellings	Multi-Family Dwellings	Public and Institutional Uses	Commercial Uses		Industrial Uses	
				≤ 10,000 SF	> 10,000 SF	≤ 20,000 SF*	All Other Uses
AGRICULTURAL USES							
All Uses	N	N	N	N	N	N	N
RESIDENTIAL USES							
Single Family or Two Family Dwellings	N	N	N	N	N	N	N
Multiple Family Dwellings	A	N	A	A	B	C	D
Adult Family Homes or Group Homes	N	N	N	N	N	N	N
Nursing/Convalescent Homes and Assisted Living Facilities	A	N	A	A	B	C	D
Manufactured Home Parks	D	C	C	C	C	C	C
PUBLIC AND INSTITUTIONAL USES							
All Uses	A	A	N	B	B	B	C
COMMERCIAL USES							
Commercial Uses ≤ 10,000 SF	B	A	B	N	A	B	D
Commercial Uses > 10,000 SF	C	B	B	A	N	B	C
INDUSTRIAL USES							
Industrial Uses ≤ 20,000 SF (fully enclosed)*	C	C	B	B	B	N	C
All Other Industrial Uses	D	D	C	D	C	C	N

* Industrial use activities in this category must be fully enclosed within a structure.

§ 4.106 THOROUGHFARE BUFFER REQUIREMENTS

4.106.1 APPLICABILITY

The requirements of this Section shall apply to major residential subdivisions proposed within the Rural Residential (RR) District or Suburban Neighborhood (SN) District, including those proposed as a Planned Unit Development (PUD) Overlay where requirements may be modified per the PUD process.

4.106.2 REQUIREMENTS

A thoroughfare buffer is required along a subdivision boundary that abuts a major thoroughfare, as may be determined by the City Engineer and/or classified by official plans of the City (e.g. thoroughfare plan), and shall utilize one (1) of the following design options:

(A) Option 1

Buffer width less than one hundred (100) feet:

- (1) A landscaped berm seven (7) feet high located outside the road right-of-way and also outside of utilities easements unless approved, or;
- (2) Seven (7) trees and seven (7) shrubs per every one hundred (100) feet of road frontage.

(B) Option 2

Buffer width equal to or greater than one hundred (100) feet and less than three hundred (300) feet:

- (1) A landscaped berm four (4) feet high located outside of the road right-of-way and also outside of utilities easements unless approved, or;
- (2) Five (5) trees and five (5) shrubs per every one hundred (100) feet of road frontage.

(C) Option 3

Sufficient existing vegetation effectively screens and maintains rural character. The buffer shall be maintained in its natural state.

4.106.3 ADDITIONAL STANDARDS

The following additional standards shall apply to thoroughfare buffers required in Section 4.106.2 (Requirements):

- (A)** The minimum height of a deciduous or evergreen tree at the time of planting shall not be less than six (6) feet in height. Required trees shall be arranged to provide the maximum screening effect.
- (B)** Height of a required berm shall be measured from the elevation of the paved roadway.
- (C)** Existing vegetation may be used to satisfy the buffer requirements as determined by the Planning Commission. To qualify, trees shall be two (2) inches or greater in caliper.
- (D)** The buffer area shall be owned and maintained in one (1) of the following manners:

- (1) Owned by a Homeowners' Association and maintained by such association; or
- (2) Owned by a private lot owner with an easement placed upon the buffer area to allow for maintenance by a Homeowners' Association or similar organization.

§ 4.107 LANDSCAPING IN VEHICULAR USE AREAS

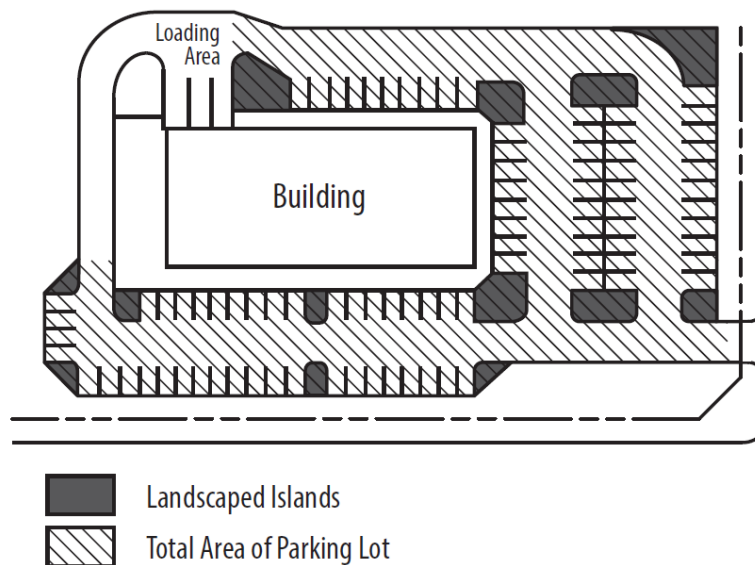
4.107.1 APPLICABILITY

Parking and/or loading areas that are more than fifty (50) spaces or over ten thousand (10,000) square feet of area are subject to the requirements of this Section.

4.107.2 INTERIOR LANDSCAPING REQUIREMENTS

(A) Minimum Area

Ten (10) percent of the total parking area shall contain islands for landscaping. The calculation of the total parking area shall be based on the image shown below.



(B) Island Dimensions/Area

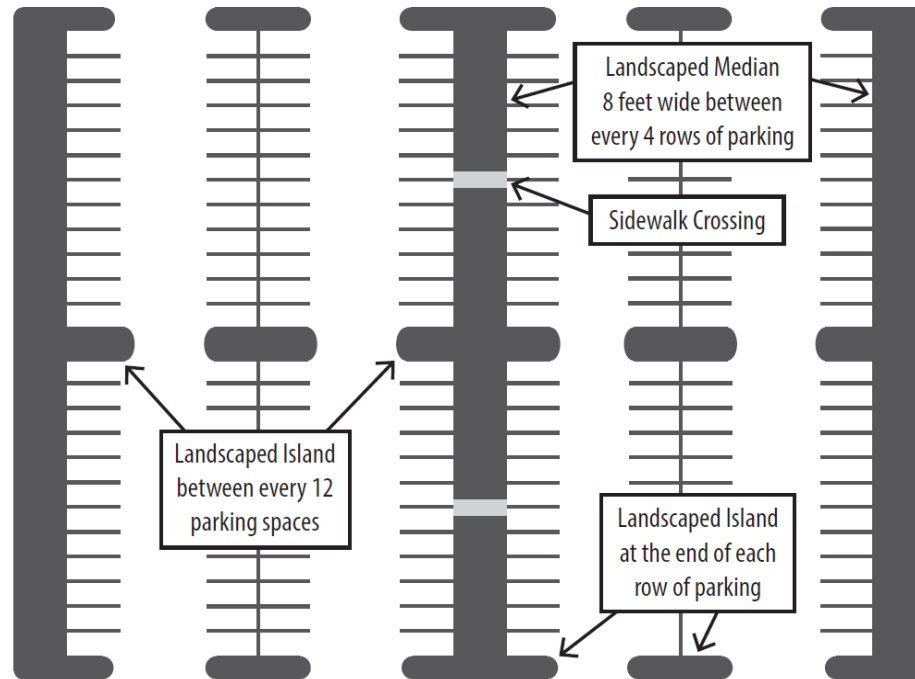
Islands shall be a minimum of eight (8) feet in width and have a minimum area of one hundred forty four (144) square feet.

(C) Distribution

Islands shall be designed and distributed with the following standards:

- (1) Islands shall be required at the end of each parking row. See the image below.
- (2) A maximum of twelve (12) parking spaces in a row can occur before a landscaped island is required. See the image below.

- (3) A continuous island is required every four (4) rows and must include a pedestrian sidewalk crossing every sixty (60) feet to allow for safe automobile and pedestrian circulation. See the image below.



(D) Trees and Shrub Specifications

The following standards shall apply to islands within parking areas:

- (1) All trees shall have, at minimum, a one and three-fourths inch (1 3/4") diameter, as measured six (6) inches above the ground, at the time of planting.
- (2) There shall be a four (4) foot minimum distance to all tree centerlines from the edge of the parking area.
- (3) For single-loaded parking rows, end islands and middle islands must contain at least one (1) tree and five (5) shrubs.
- (4) For double-loaded parking rows, end islands and middle islands must contain at least two (2) trees and four (4) shrubs.
- (5) For continuous islands, one (1) tree and five (5) shrubs per every forty (40) lineal feet is required.
- (6) Trees shall retain visibility near the ground and provide for a clear sight distance.
- (7) Shrubs shall not exceed more than three (3) feet in height or be placed in a location that could cause a traffic or visual hazard.

4.107.3 PERIMETER LANDSCAPING REQUIREMENTS

(A) Perimeter Adjacent to Property Line

- (1) The provisions of this subsection (A) shall only apply to properties located within the Downtown Core (DC), Downtown Transition (DT), and Traditional Neighborhood (TN) districts. Perimeter landscaping in all other districts, irrespective to the presence of surface parking, is subject to the standards of Section 4.105 (Perimeter Buffer Requirements).
- (2) Vehicular use areas shall maintain a minimum perimeter planting strip along adjacent private property lines with an average width of eight (8) feet unless the vehicular use area is adjacent to or a continuation of a vehicular use area on an adjacent property.
- (3) Along adjacent properties the minimum planting strip width may be reduced to five (5) feet through the provision of an ornamental metal fence or masonry wall constructed in accordance with the following:
 - (a) The wall or fence shall have a minimum height of three (3) feet and a maximum height of six (6) feet;
 - (b) A masonry wall shall have a minimum opacity of seventy five (75) percent of the entire wall surface along any single lot line;
 - (c) The wall or fence shall be supplemented with twenty four (24) inch high evergreen shrubs planted between the fence/wall and the property line a maximum of four (4) feet on center.

(B) Perimeter Adjacent to Right-of-Way

- (1) The provisions of this subsection (B) shall apply to all zoning districts.
- (2) For vehicular use areas located in the front and side yards, there shall be a perimeter adjacent to public rights-of-way, consisting of grass/ground cover and required landscaping, with a minimum width of ten (10) feet as measured from the outer edge of the vehicular use area to the right-of-way.
- (3) Within the perimeter area there shall be a planting strip containing a continuous hedge composed of shrubs with a minimum planting height of eighteen (18) inches and a maximum on-center spacing of four (4) feet. Up to fifty (50) percent of the shrubs may be deciduous.
- (4) In addition to the required shrubs, the planting strip shall include canopy trees that shall be provided at a rate of three (3) trees per one hundred (100) lineal feet of the perimeter of the vehicular use area. Clustering or grouping of these trees is permitted.
- (5) Understory or ornamental trees may be used in areas where the presence of overhead utilities prevents the use of canopy trees.
- (6) Trees may be planted in front of, behind, or within the hedge, as long as a continuous hedge is maintained.

§ 4.108 OVERALL SITE LANDSCAPING

4.108.1 APPLICABILITY

Site landscaping, for the purpose of this Section, shall include all landscaping on a site except for landscaping required in Section 4.107 (Landscaping in Vehicular Use Areas). The standards of this Section shall apply to all development within the City, except for sites within the DC district.

4.108.2 PURPOSE

Site landscaping material is intended to soften the visual impact of building foundations and provide for even dispersal of trees across a development site.

4.108.3 REQUIRED PLANTINGS

Site landscaping shall be supplied in the amounts identified in the table below:

REQUIRED SITE LANDSCAPING PLANTINGS	
Principal Use Category	Required Plantings per Site
Agricultural Uses	No minimum required plantings
Residential Uses (Single-Family and Two-Family)	No minimum required plantings
Residential Uses (Multi-Family)	Eight (8) canopy trees per acre and four (4) shrubs per ten (10) feet of outer building perimeter
Public and Institutional Uses	Eight (8) canopy trees per acre and four (4) shrubs per ten (10) feet of outer building perimeter
Commercial Uses	Eight (8) canopy trees per acre and four (4) shrubs per each ten (10) feet of outer building perimeter
Industrial Uses	Eight (8) canopy trees per acre and three(3) shrubs per each eighteen (18) feet of outer building perimeter

4.108.4 STANDARDS

(A) Placement

Required shrubs shall be placed around the building perimeter, a minimum of three (3) feet from the building, with emphasis placed on building foundations visible from public right-of-way. Where there is limited space, shrubs may be placed closer to the building to fulfill the requirement. A minimum of one (1) canopy tree shall be planted within the front yard.

(B) Species

At least thirty three (33) percent of the required shrubs shall be of an evergreen variety. Evergreen trees may be required instead of a canopy tree by the Planning Commission on sites where increased buffering is necessary due to impacts on adjacent uses.

§ 4.109 SCREENING REQUIREMENTS

4.109.1 APPLICABILITY

The following areas and items shall be screened in accordance with this section:

- (A)** Large waste receptacles (dumpsters) and refuse collection points (including cardboard recycling containers), also subject to the provisions of Section 2.204.18 (Outdoor Trash Container Enclosure).
- (B)** Drop-off boxes for use by the public which meet the criteria specified in Section 2.204.11(A)(3).
- (C)** Loading and service areas, including any areas where tractor-trailers will be stored.
- (D)** Outdoor storage areas (including storage tanks), also subject to the provisions of Section 2.204.17 (Outdoor Sales, Display, and Storage).
- (E)** Mechanical equipment and utility meters, including those attached to the roof or wall of a building.

4.109.2 STANDARDS

- (A)** All screening shall be approved during site plan review, or if not required, during zoning permit review.
- (B)** All items to be screened shall be shielded from view from public right-of-way and adjoining properties.
- (C)** All items to be screened shall be provided with a visual screen consisting of fences, walls, mounds or plant materials or a combination thereof. The screening shall be at least one (1) foot higher than the item to be screened but not less than six (6) feet in height, but shall not exceed ten (10) feet in height, and shall extend along at least three sides of the service area. Screening shall be one hundred (100) percent opaque.
- (D)** For dumpsters, a gate shall be required on the fourth side where access is provided to the dumpster. The gates shall be opaque enough to shield from view the interior of the service area.
- (E)** Wherever screening material is placed around any large waste receptacle (dumpster) or waste collection unit which is emptied and removed mechanically on a regular basis, a curb or bollards to contain the placement of the container shall be provided within the screening material. The curbing or bollards shall be at least one (1) foot from the material and shall be designed to prevent possible damage to the screening when the container is moved or emptied.
- (F)** All plant materials used for required screens around dumpsters and service areas shall be of an evergreen variety.

ARTICLE IV, CHAPTER 1: BUFFERING AND LANDSCAPING

- (G) If an adjacent building provides screening on one side of the service area, only two (2) sides need to be screened, mounted, or walled, with a gate required in front of the service area. The gate shall be opaque enough to shield from view the interior of the service area.
- (H) Roof mounted mechanical equipment shall be screened by parapet walls or other screening device with height not lower than six (6) inches below the height of mechanical equipment. All electrical boxes, conduits, and similar items which are attached to a building façade shall be painted the same color as the building.
- (I) Earth mounds, fences, walls, and all other materials and devices used for required screens shall comply with the requirements of Section 4.104.5 (Landscaping Materials).

CHAPTER 2: LIGHTING

§ 4.201 PURPOSE

The purpose of this Chapter is to regulate outdoor lighting in order to reduce or prevent light pollution and to minimize lighting impacts on surrounding properties. This means to the extent reasonably possible the reduction or prevention of glare and light trespass, the conservation of energy, and promotion of safety and security.

§ 4.202 APPLICABILITY

The regulations of this Chapter shall apply to all lighting that illuminates the exterior of a building, structure, open space, parking/loading area or other features of a lot, for all uses except single-family and two-family dwellings. Unless expressly exempted, all exterior lighting intended for permanent installation and operation shall not be erected, constructed, expanded, materially altered, relocated, or reconstructed unless in compliance with the provisions of this Chapter.

§ 4.203 EXEMPTIONS

Lighting required by federal or state law, as well as lighting required in public right-of-way (e.g. street lights), shall be exempt from the provisions of this Chapter.

§ 4.204 NUISANCES AND HAZARDS

4.204.1 PUBLIC NUISANCES

A use or activity shall not create a nuisance to surrounding properties or a viewing danger to the safety of motorists or pedestrians. The criteria for finding illumination to be a public nuisance may be one of the following:

- (A)** Light trespass or glare that deprives an owner or occupant of usual and reasonable use and enjoyment of their property;
- (B)** A high frequency and/or duration of periods when light trespass or glare interrupts or interferes with usual and reasonable use and enjoyment of a property; and
- (C)** Light trespass or glare that causes visual discomfort or impairment of visual performance in a manner that deprives any person from the usual and reasonable enjoyment of the public streets and properties.

4.204.2 PUBLIC HAZARDS

The City may require the modification, removal, or limited operation of existing lighting fixtures found to be a public hazard. Criteria for finding illumination to be a public hazard are as follows:

- (A) Light trespass or glare which is so intense or contrasts excessively with surrounding illumination that it causes visual impairment or distracts from or impairs the safe operation of a vehicle.
- (B) Light trespass or glare that impairs a person's visual performance or ability to avoid obstacles in their path.

§ 4.205 LIGHTING STANDARDS

4.205.1 EXTERIOR LIGHTING

All exterior lighting shall meet the following standards:

(A) Maximum Lighting Height

- (1) Except for outdoor recreation fields or performance areas, stand-alone outdoor lighting fixtures shall not exceed twenty (20) feet in height whether mounted on poles or walls or by other means.
- (2) Wherever possible, illumination of outdoor seating areas, building entrances, and walkways shall be accompanied by use of ground-mounted fixtures not more than four (4) feet in height.
- (3) Lighting fixtures attaching to buildings, structures, or walls shall not extend above the top of the building, structure, or wall.

(B) Shielding

(1) Exterior

Light fixtures in excess of sixty (60) watts or one hundred (100) lumens shall use full cut-off lenses or hoods to prevent glare or spillover from the project site onto adjacent lands and streets.

(2) Canopies

No light source in a canopy structure shall extend downward further than the lowest edge of the canopy ceiling.

(3) Awnings

Awnings or canopies used for building accents over doors, windows, etc., shall not be internally illuminated (i.e. from underneath or behind the awning).

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(C) Maximum Light Levels

All outdoor lighting shall be designed and located so that the maximum illumination measured in foot-candles at a property line shall not exceed the standards in the table below.

ADJACENT USE	Maximum Illumination at Property Line (Foot-Candles)
Residential, Public and Institutional	0.5
Commercial	2.5
Industrial, Edge of Right-of-Way	2.5
Parking Lots	No less than 0.2 and no greater than 2.5

(D) Direction of Lighting

- (1) No light source shall be directed outward toward property boundaries or adjacent right-of-way.
- (2) Low intensity architectural lighting may be used to illuminate individual structures or landscaping materials provided the maximum illumination values comply with the standards in Section 4.205.1 (Maximum Light Levels).

(E) Distance from Property Line

All exterior lighting fixtures shall be located a minimum of ten (10) feet from a property line or five (5) feet from a right-of-way line.

(F) Hue

Lighting sources shall be color-neutral types such as halogen or metal halide. Light types of limited spectral emission including, but not limited to low-pressure sodium or mercury vapor lights, are prohibited.

4.205.2 WALL-MOUNTED LIGHTING

Wall-mounted lights shall be fully shielded luminaries (such as shoebox or can style fixtures) to prevent the light source from being visible from any adjacent residential property or public street right-of-way. Nothing in this Section shall prevent use of sconces or other decorative lighting fixtures provided that the source of illumination is not visible from adjacent lands used or zoned for residential purposes, and provided that maximum illumination values comply with Section 4.205.3 (Maximum Light Levels).

4.205.3 FLOODLIGHTS AND SPOTLIGHTS

- (A) Floodlights and spotlights shall be selected, located, aimed, and shielded so direct illumination is focused exclusively on a portion of the building façade or other intended site feature and away from adjoining lands or right-of-way. On-site lighting may be used to accent architectural elements but shall not be used to illuminate entire facades of a building.

- (B) Such lighting shall be installed in a fixture that is shielded so that no portion of the light bulb extends below the bottom edge or above the top edge of the shield, and the main beam from the light source is not visible from adjacent lands or the adjacent right-of-way.

4.205.4 WALL PACK LIGHTS

Wall packs on buildings may be used at entrances to a building to light unsafe areas. They are not intended to draw attention to the building or provide general building or site lighting. Wall packs on the exterior of the building shall be fully shielded (true cut-off type bulb or light source not visible from off-site) to direct the light vertically downward and be of low wattage (preferably one hundred (100) watts or lower). Wall pack lights shall be buffered and/or shielded from shining directly onto adjacent residential uses.

4.205.5 ILLUMINATION OF OUTDOOR RECREATION FIELDS AND PERFORMANCE AREAS

Lighting of outdoor recreational fields and performance areas shall comply with the following standards:

(A) Glare Control Package

All lighting fixtures shall be equipped with a glare control package (e.g., louvers, shields, or similar devices), and the fixtures shall be aimed so that their beams are directed and fall within the primary playing or performance area; and

(B) Hours of Operation

The hours of operation for the lighting system shall be on a timer with hours as approved by the Planning Commission.

4.205.6 SIGN LIGHTING

Lighting fixtures illuminating signs shall comply with the standards of this Chapter, and such fixtures shall be aimed and shielded so that direct illumination is focused exclusively on the sign face.

4.205.7 NON-CONFORMING OUTDOOR LIGHTING

The non-conforming use of lighting may continue until the luminaire is replaced.

CHAPTER 3: OPEN SPACE

§ 4.301 APPLICABILITY

This Chapter establishes standards and requirements for the amount, use, function, ownership, dedication, and maintenance of open space areas for major subdivisions per the requirements of the Wilmington Subdivision Regulations, and for developments utilizing the Planned Unit Development (PUD) process pursuant to Section 1.310 herein. PUDs within the Downtown Core (DC) District shall be exempt from the requirements of this section.

§ 4.302 REQUIRED OPEN SPACE

The following open space percentages shall be the minimum required for major subdivisions and developments utilizing the PUD process:

DEVELOPMENT TYPE	PARAMETERS		REQUIRED OPEN SPACE
Major Subdivisions (CDO)	As required by Section 3.105 (Conservation Design Option)		
Major Subdivisions (Non-CDO)	As required per the City of Wilmington Subdivision Regulations		
Planned Unit Developments (PUD)*	Single Use	Residential	20% of the site
		Non-Residential	10% of the site
	Multiple Uses*	Single-Family or Two-Family Residential	10% of the site
		Multi-Family Residential	10% of the site
		Non-Residential	10% of the site

* **Planned Unit Developments (PUD):** City Council may increase the Required Open Space in a PUD, as provided in Section 4.308.1 (Increasing the Required Open Space in a PUD).

* **Multiple Uses:** Percentages of required open space shall be cumulative for proposed uses in the PUD. For example, a PUD which proposes single-family residential, multi-family residential, and non-residential components would require 30% of the site be set aside as open space.

§ 4.303 OPEN SPACE TYPES AND DEDICATION METHODS

The following table shall guide the applicant to determining the required percentages of Open Space Types within the Required Open Space determined per Section 4.302, as well as acceptable dedication methods for each Open Space Type.

TASK	OPEN SPACE TYPES			
	ENVIRONMENTAL OPEN SPACE		COMMON OPEN SPACE	
	Natural Resource Protection Area	Conservation Area*	Active Open Space*	Passive Open Space*
Determining Requirements	<p><u>Required</u> in accordance with Section 4.304.1, and shall include:</p> <ul style="list-style-type: none"> (1) Stream Corridor Setback Areas, per Section 3.101.4(A)(1) (2) Floodways and 100-year Floodplain, as determined by FEMA (3) Wetlands, as determined by USFWS 	<p><u>Encouraged</u> in accordance with Section 4.304.2, and may include:</p> <ul style="list-style-type: none"> (1) Mature woodlands and existing vegetation (2) Intermittent streams (3) Areas with slope or other unique natural and/or geological features (4) Natural water bodies (5) Agricultural areas 	<p><u>Required</u> in accordance with Section 4.305.2, a minimum of 25% of the Required Open Space shall be improved for active park and recreational uses, which may include:</p> <ul style="list-style-type: none"> (1) Clubhouses (2) Athletic fields or courts (3) Recreational trails (4) Playgrounds (5) Gardens or fountains 	<p>In accordance with Section 4.305.4, Passive Open Space is <u>any remaining</u> Required Open Space after reserving Environmental Open Space and Active Open Space, such as:</p> <ul style="list-style-type: none"> (1) Mowed or landscaped areas (2) Buffer areas (3) Stormwater Management Devices
Determining Dedication Method	<p>Dedicated in accordance with Section 4.307, recorded in one (1) or more of the following ways:</p> <ul style="list-style-type: none"> (1) On separate open space parcel(s); and/or (2) On private residential lot(s) within the development, subject to Section 4.304.3. 		<p>Dedicated in accordance with Section 4.307, recorded on an open space parcel on the plat. Common Open Space shall not be recorded on private residential lots within the development.</p>	

* **May be Reduced or Waived:** During review of a Concept PUD Plan (Standard Review) or Preliminary PUD Plan (Expedited Review), the developer/applicant may request City Council to grant a reduction of the Required Open Space, exclusive of the Natural Resource Protection Area, by up to one hundred (100) percent by offering to make a payment in-lieu of dedicating the open space within the proposed development (see Section 4.308.2). The minimum 25% Active Open Space requirement may also be waived or reduced by City Council (see Section 4.305.3).

§ 4.304 ENVIRONMENTAL OPEN SPACE

4.304.1 NATURAL RESOURCE PROTECTION AREA

The following types of land shall be required to be preserved in a natural state as part of the Natural Resource Protection Area and shall count toward the Required Open Space established by Section 4.302:

- (A) Stream corridor setback areas (both sides) as established below based on the drainage area of the stream. The drainage area shall be determined by the Clinton County Soil and Water Conservation District and the setbacks shall be measured from the centerline of the stream.
 - (1) Fifty (50) feet for streams with a drainage area of up to three hundred twenty (320) acres.
 - (2) Seventy five (75) feet for streams with a drainage area between three hundred twenty (320) acres and twenty (20) square miles.
 - (3) One hundred (100) feet for streams with a drainage area between twenty (20) square miles and three hundred (300) square miles.
 - (4) Three hundred (300) feet for streams and rivers with a drainage area over three hundred (300) square miles.
- (B) Floodways and the 100-Year Floodplain as determined by the Federal Emergency Relief Administration (FEMA).
- (C) Wetlands as determined by the U.S. Fish and Wildlife Service (USFWS).

4.304.2 CONSERVATION AREA

The following types of land are encouraged, but not required, to be preserved in a natural state as part of a Conservation Area and shall count toward the Required Open Space:

- (A) Mature woodlands and existing vegetation;
- (B) Intermittent streams;
- (C) Areas with steep slopes, generally greater than twenty-five (25) percent, or other unique natural and/or geologic features;
- (D) Natural water bodies; and
- (E) Agricultural areas, of at least ten (10) contiguous acres.

4.304.3 ENVIRONMENTAL OPEN SPACE ON PRIVATE RESIDENTIAL LOTS

This subsection provides the rules by which Environmental Open Space is permitted to occur on a private residential lot.

- (A) **Legal Instrument Required**

Environmental Open Space on private residential lots shall be protected in perpetuity through means of a conservation easement or a set of covenants and restrictions, which shall conform to the requirements of Section 4.307 (Dedication).

- (B) **Open Space Use and Maintenance**

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Environmental Open Space provided on a private residential lot is to be maintained by the lot owner as perpetual open space for protection and preservation of natural features, inclusive of topography, vegetation, and water resources. Use and maintenance of the area by the lot owner is subject to the following provisions and restrictions:

- (1) No grading, clearing, excavation or development, including but not limited to: septic systems, wells, dwellings, storage buildings, fencing, driveways, patios and other paved areas, pools, tile fields, and other structures or improvements of any kind, is allowed, except for agricultural use purposes;
- (2) Trimming of trees and shrubs to prevent overgrowth is allowed, but the total clearing of existing vegetation is prohibited unless that which is removed is otherwise replaced or supplemented to the same or greater degree of vegetation by non-invasive plant species;
- (3) Eradication of invasive species of plant vegetation, inclusive of noxious weeds, is allowed (for purposes herein the definition of noxious weeds shall be the same as the definition in Ohio Revised Code Section 5579.04);
- (4) Replacement of existing vegetation is allowed with wild flowers, perennial beds, evergreen trees, shrubs and/or ground cover or other comparable vegetation not considered a noxious weed or invasive species; and
- (5) Removal of dead or fallen trees is allowed, including removal of diseased trees or any found infested with insects determined by applicable State or Federal authorities as too threatening and detrimental to remain.

§ 4.305 COMMON OPEN SPACE

4.305.1 PLANNING OF COMMON OPEN SPACE

The location of Common Open Space should be planned as much as possible as a contiguous area located for the maximum benefit of the residents of the development, and should be located in areas with the least impact on natural amenities and resources. These areas should also be of a usable size and shape for the intended purpose with a minimum width of twenty (20) feet in any one dimension.

4.305.2 ACTIVE OPEN SPACE

- (A) A minimum of twenty-five (25) percent of the Required Open Space shall be Active Open Space. The minimum amount must be reserved even if the Natural Resource Protection Area exceeds seventy-five (75) percent of the Required Open Space area, in which case the overall open space would be greater than the Required Open Space percentage.
- (B) Active Open Space shall be improved for active park and recreational uses or facilities, which may include but is not limited to the following features:
 - (1) Benches or other seating areas;
 - (2) Pedestrian-scaled lighting;
 - (3) Gazebos or other decorative structures;

- (4) Fountains or other water features;
- (5) Play structures for children;
- (6) Gardens or seasonal planting areas;
- (7) Swimming pools;
- (8) Athletic fields or courts;
- (9) Golf courses;
- (10) Recreational trails; and
- (11) Clubhouses.

4.305.3 REQUEST FOR REDUCTION OF ACTIVE OPEN SPACE

City Council has the authority to reduce or waive the Active Open Space requirement. For a PUD development, any waiver/reduction request must be made as part of an application for Concept PUD Plan approval (under the Standard process) or the application for Preliminary PUD Plan approval (under the Expedited process). Criteria to be considered by City Council for approval of an Active Open Space reduction/waiver shall include, but are not limited to, the following:

- (A) There are no substantial physical barriers or impediments to future residents of the proposed development accessing neighborhood parks, community parks, and other public recreational facilities. For instance, existing parks are determined to be within a half-mile radius from the proposed development, or within an area where children can safely walk and ride their bicycles to and from an active park space.
- (B) The proposed development's topography or soils are not well suited for the development of an active park space.
- (C) Locating an active park space would generate adverse impacts to surrounding sites.
- (D) The reduction or elimination of active park space would contribute to the rural theme or nature of the development and/or surrounding environment and neighborhood.
- (E) Based on past usage patterns for area parks, there is no need for an additional active park space at the proposed location.

4.305.4 PASSIVE OPEN SPACE

- (A) Any remaining acreage necessary to satisfy the Required Open Space per Section 4.302 shall be reserved as Passive Open Space, which may include but is not limited to the following features:
 - (1) Areas that connect the tract to neighboring open space;
 - (2) Buffer areas around Natural Resource Protection or Conservation Areas;
 - (3) Planting strips;

- (4) Street medians/islands;
 - (5) Open mowed or landscaped areas; and
 - (6) Stormwater management devices.
- (B) Stormwater management devices such as retention/detention basins, no matter whether being counted toward Required Open Space or not, shall not be allowed on private residential lots; for residential developments, such devices shall be dedicated on a separate lot in accordance with Section 4.307.

4.305.5 UNQUALIFIED AREAS FOR COMMON OPEN SPACE

The following areas shall not count toward the Common Open Space:

- (A) Public and private roads, and associated rights-of-way;
- (B) Public or private parking areas, access ways, and driveways related to any residential use; and
- (C) Private yards, including front, rear, and side yards within private residential lots.

§ 4.306 OWNERSHIP AND MAINTENANCE

4.306.1 OWNERSHIP

The Required Open Space areas shall be owned by either:

- (A) A public entity or agency, such as the City of Wilmington, Clinton County, or the State of Ohio, subject to acceptance by the appropriate legislative body;
- (B) An individual or group of individuals;
- (C) A non-profit organization;
- (D) A homeowners' association or similar association, where the open space is held jointly or in common by the owners of the building lots; or
- (E) Any combination of the entities mentioned above.

4.306.2 MAINTENANCE

(A) Open Space on Private Residential Lots

When a certain percentage of Environmental Open Space is dedicated on a private residential lot, it shall be the responsibility of the owner of the lot to maintain the areas which make up said percentage of the Environmental Open Space in accordance with Section 4.304.3 (Environmental Open Space on Private Residential Lots), unless the land in question falls under a Conservation Easement which is held by a homeowners' association or similar association for maintenance purposes.

(B) Open Space on Separate Parcels

For all other cases where Environmental Open Space and/or Common Open Space is dedicated on a separate parcel or combination of parcels, and is not owned and maintained by a public entity or non-profit organization, a homeowners' association or similar association shall be responsible for maintenance of the open space in accordance with the following provisions:

- (1) All homeowners' association agreements shall be submitted to the Zoning Administrator as part of the development plan and maintained as part of the City's records. 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.
- (2) All homeowners' associations shall guarantee the maintenance of all Required Open Space not dedicated on private residential lots within the boundaries of the development through the deed restrictions or covenants.
- (3) When a homeowners' association is established, membership in the association shall be mandatory for all purchasers of lots in the development.
- (4) The homeowners' association shall be responsible for maintenance, control, and insurance of all Required Open Space not dedicated on private residential lots.

§ 4.307 DEDICATION

4.307.1 LEGAL INSTRUMENT FOR PERMANENT PROTECTION

- (A)** Open space shall be restricted from further subdivision or development through one (1) or more of the following means:
- (1) A duly executed and recorded Conservation Easement, shown on the record plat, which shall conform to the requirements of Section 4.307.2 (Conservation Easements) below; or
 - (2) A set of covenants and restrictions along with an area shown on the record plat or shown and described through means of a separate legal instrument, designating the land in question as permanent open space.
- (B)** Open space and corresponding conservation easements/covenants shall be dedicated on either a separate parcel or combination of parcels, and/or on a private residential lot or lots in accordance with Section 4.304.3 (Environmental Open Space on Private Residential Lots), excepting Common Open Space which shall only be recorded on a separate parcel or combination of parcels.

4.307.2 CONSERVATION EASEMENTS

- (A)** If an applicant chooses to record a conservation easement to satisfy the open space requirements of this Chapter, any recorded conservation easement shall:
- (1) Run with the land, regardless of ownership;
 - (2) Provide for protection of the land in perpetuity;

- (3) Establish as the grantee the City, a City-approved land trust, or other qualified organization approved by the City, subject to acceptance by the appropriate legislative body. If the easement is to be located on a private residential lot, the grantee may be a homeowners' association.
 - (4) Be solely for the purpose of ensuring the land remains undeveloped;
 - (5) Not imply, in any way, the right of public access or any other right or duty not expressly established by the terms of the easement.
- (B) While the City, City-approved land trust, homeowners' association, or other qualified organization may hold the conservation easement, the property itself shall still be owned by the property owner, which may be the developer/applicant or other owner.
- (C) The conservation easement shall include information on how the property will be maintained in accordance with the easement agreements.

§ 4.308 OPEN SPACE ADJUSTMENTS

4.308.1 INCREASING THE REQUIRED OPEN SPACE IN A PUD

City Council may increase the Required Open Space percentage in a PUD, if an area covered by significant natural resources or land exceeds the area covered by the Required Open Space percentage of the site, in which case the additional resource area(s) in question should be preserved as either a Natural Resource Protection Area or a Conservation Area.

4.308.2 PAYMENT IN-LIEU REQUEST FOR OPEN SPACE IN A PUD

- (A) During the legislative stage of the PUD process (Concept PUD Plan for Standard Review; Preliminary PUD Plan for Expedited Review), the developer/applicant may request City Council grant a reduction of the Required Open Space, exclusive of the Natural Resource Protection Area, by up to one hundred (100) percent by offering to make a payment in-lieu of dedicating the open space within the proposed development.
- (B) City Council may consider such proposal for a payment in-lieu of dedication provided that the developer/applicant can prove the following:
- (1) The developer/applicant identifies a site (such as an existing park or open space area) that will either be expanded (additional acreage) or improved with the funds from the payment in-lieu of dedicating open space.
 - (2) Said site shall provide a direct benefit and be within close proximity to the residents of the proposed subdivision or development that the developer/applicant is proposing to develop.
 - (3) The site which is to be expanded or improved with the funds from the payment in-lieu of dedication of open space shall be accessible to the residents of the proposed development with no restrictions that are not applicable to other users. No resident of the proposed development shall be required to pay a fee to use the site.

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- (4) The developer/applicant shall provide an agreement stating that the owner of the site that is proposed to be expanded or improved is capable of and agreeable to receiving the payment for additional acreage or improvements. Said agreement shall provide proof that the receiving party has ownership of the site, has the capability to maintain and manage the site and any additions thereto, has the financial resources to maintain and manage the site and any additions thereto, and the ability to preserve the site indefinitely.
 - (5) The developer/applicant shall provide evidence that the funds collected can be used within a reasonable period of time. Funds shall not be held for an indefinite period of time.
- (C) The payment in-lieu of dedicated open space shall be calculated by multiplying the deducted open space acreage by the fair market value. Fair market value shall equal the average value per acre of all land involved in the proposed subdivision or development in its raw, undeveloped state, at the time of the request. A state certified appraiser approved by City Council shall make a determination of fair market value. The developer/applicant shall pay the fee for the appraiser.
- (D) City Council shall make a determination as to whether they will accept the payment in-lieu of dedication of open space or will require the dedication of open space within the proposed development. City Council is under no obligation to accept a payment in-lieu of dedication of open space.

CHAPTER 4: PARKING AND CIRCULATION

§ 4.401 PURPOSE

4.401.1 The purpose of this Chapter is to:

- (A) Prevent and alleviate the congestion of public streets;
- (B) Increase and protect the capacity of the roadway system;
- (C) Promote greater safety of passage between highway and land;
- (D) Minimize the detrimental effects of vehicular use areas on adjacent properties; and
- (E) Promote the health, safety, and public welfare by establishing minimum requirements for off-street parking and loading areas as well as provisions for access control.

§ 4.402 APPLICABILITY

4.402.1 NEW USES

The parking, loading, and access control requirements of this Chapter shall apply to a site plan review or zoning permit application for the construction of a new building or use in any district.

4.402.2 EXPANDED USES

- (A) Whenever a building or use created prior to the effective date of this Zoning Code is changed or enlarged in floor area, number of units, seating capacity, or otherwise that will create a need for an increase in the number of parking spaces, the additional parking spaces shall be provided on the basis of the new demand created by the enlargement or change.
- (B) If the proposed expansion or enlargement will increase the floor area, number of dwelling units, seating capacity, or other area to an extent larger than twenty (20) percent of the building or use prior to the effective date of this Zoning Code, then the entire site must come into compliance with the requirements of this Chapter.
- (C) In cases where small expansions or enlargements occur over a period of time after the effective date of this Zoning Code, the site shall come into full compliance with the requirements of this Chapter once the total expansion or enlargement of the floor area, number of dwelling units, seating capacity or other area exceeds twenty (20) percent of the original size at the time this Zoning Code became effective.

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4.402.3 CHANGE OF USE

No change of use shall be authorized unless the new use meets the minimum number of parking spaces required by this Chapter.

4.402.4 EXISTING USES

The parking, loading, and access control requirements of this Chapter shall not apply to buildings and uses legally in existence on the effective date of this Zoning Code unless modified in the manner stated in Sections 4.402.1 (New Uses) and 4.402.2 (Expanded Uses) above. Furthermore, any parking or loading facilities now serving such existing buildings or uses shall not be reduced below the requirements established in this Chapter in the future.

4.402.5 MAINTENANCE

The duty to provide and maintain all such parking and loading areas shall be the joint responsibility of the owner, operator, and lessee of the use for which the vehicular areas are required.

§ 4.403 GENERAL PROVISIONS

4.403.1 PARKING PLAN REQUIRED

- (A) Plans for all parking facilities, including parking garages, shall be submitted to the Zoning Administrator for review and a determination of compliance with the provisions of this Zoning Code and other pertinent ordinances of the City.
- (B) A separate parking plan is not required if the parking plan is being submitted as part of a site plan, in accordance with Section 1.305 (Site Plan Review).

4.403.2 USE OF OFF-STREET PARKING SPACES

(A) Sales, Storage, Repair Prohibited

Any approved off-street parking area shall be used for parking only. Any other use of such space, including, but not limited to, outdoor sales, outdoor storage, repair work or servicing of any kind, other than in an emergency, shall be deemed to constitute a separate commercial use.

(B) Placement of Vehicles Offered “For Sale” or “For Trade”

No person or owner of any vehicle or watercraft shall allow such vehicle to be placed or parked on any public property in the City zoning jurisdiction, including street rights-of-way, or on any private property zoned for office, commercial, industrial, or service type uses for the purpose of advertising a vehicle “for sale.” The provisions of this subsection do not apply to properly licensed motor vehicle dealerships and car lots.

§ 4.404 OFF-STREET PARKING REQUIREMENTS

4.404.1 REQUIRED NUMBER OF PARKING SPACES

(A) Parking Spaces Required

The table in Section 4.404.3 (Schedule of Required Parking by Use) defines the number of parking spaces required for each use within the City of Wilmington.

(B) Single-Family and Two-Family Residential Uses in All Districts

For single-family and two-family dwellings, the number required by Section 4.404.3 (Schedule of Required Parking by Use) shall be interpreted as a minimum requirement. Additional parking spaces above the minimum may be provided.

(C) All Other Uses in the Downtown Core (DC)

- (1) There is no minimum off-street parking requirement for uses other than single-family and two-family residential in the Downtown Core (DC) district. In place of such a requirement, a sum of money shall be contributed to the Central Business District Public Parking Fund. The amount of the contribution shall be calculated by multiplying the required number of spaces per Section 4.404.3 (Schedule of Required Parking by Use), including all fractional requirements, as heretofore providing times a unit cost of each parking space as specified by separate ordinance of City Council. All funds contributed to the Central Business District Parking Fund shall be used for the purpose of providing public parking facilities in the Central Business District.
- (2) Applicants proposing actual off-street parking on-site must submit an application for a variance and the applicant shall provide the BZA with a parking demand study that illustrates the need for additional parking. In these cases, the number of parking spaces allowed by the BZA shall reduce the amount of money, space for space, to be contributed to the Central Business District Public Parking Fund pursuant to subsection (1) above, to an amount no less than zero (0) dollars being owed by the applicant.

(D) All Other Uses in All Other Districts

- (1) For all uses other than single-family and two-family residential in zoning districts other than the Downtown Core (DC), the number of parking spaces required in Section 4.404.3 (Schedule of Required Parking by Use) may be modified according to the following provisions without requiring a variance:
 - (a) An applicant may provide a number of spaces equal to the number of spaces required by Section 4.404.3 (Schedule of Required Parking by Use);
 - (b) An applicant may provide up to twenty (20) percent fewer than the number of spaces required by Section 4.404.3 (Schedule of Required Parking by Use); or
 - (c) An applicant may provide up to ten (10) percent more than the number of spaces required by Section 4.404.3 (Schedule of Required Parking by Use).
- (2) Applicants may propose fewer parking spaces than provided in Section 4.404.1(D)(1)(b) through the use of shared parking pursuant to Section 4.404.4 (Shared Parking), shadow

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parking pursuant to Section 4.406.6 (Shadow Parking), or may submit an application for a variance in which case the applicant shall provide the BZA with a parking demand study that illustrates the need for the decrease in parking provided.

- (3) Applicants may propose more spaces than allowed in Section 4.404.1(D)(1)(c) but must submit an application for a variance and the applicant shall provide the BZA with a parking demand study that illustrates the need for the increase in parking provided. Additional landscaping requirements may be imposed as a condition by the BZA to alleviate the effect of increased parking.

4.404.2 RULES FOR COMPUTATION OF REQUIRED NUMBER OF PARKING SPACES

(A) Location of Parking Spaces

- (1) Parking spaces shall be located on the same lot as the principal use they serve unless the spaces meet the requirements of Section 4.404.4 (Shared Parking) and/or Section 4.404.5 (Off-Site Parking).
- (2) On-street parking spaces may be counted toward off-street parking space requirements in the DC (Downtown Core) District provided the on-street parking spaces are located within three hundred (300) feet of the lot. In all other zoning districts, on-street parking spaces shall not be counted toward off-street parking space requirements.

(B) Driveway Spaces

Entrances, exits, or driveways shall not be computed as part of the required area for off-street parking spaces, except in the case of single-family and two-family dwellings where driveways may be used in calculating the amount of off-street parking.

(C) Fractions

When a measurement of the number of required spaces results in a fractional number, any fraction of $\frac{1}{2}$ or less shall be rounded down to the next whole number and any fraction of more than $\frac{1}{2}$ shall be rounded up to the next higher whole number.

(D) Multiple Uses

Unless otherwise noted or approved, off-street parking areas serving more than one use shall provide parking in an amount equal to the combined total of the requirements for each use.

(E) Area Measurements

- (1) Unless otherwise specifically noted, all square footage-based parking standards shall be computed on the basis of gross floor area of all floors in a nonresidential building.
- (2) Up to twenty five (25) percent of the gross floor area may be excluded from the above calculation if the area is used for storage, loading, unloading, or for mechanical equipment.

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(F) Occupancy- or Capacity-Based Standards

- (1) For the purpose of computing parking requirements based on employees, students, residents, or occupants, calculations shall be based on the largest number of persons working on single shift, the maximum enrollment, or the maximum fire-rated capacity, whichever is applicable, and whichever results in a greater number of parking spaces.
- (2) In hospitals, bassinets shall not be counted as beds.
- (3) In the base of benches, pews and similar seating accommodations, each eighteen (18) inches thereof shall be counted as one (1) seat for the purpose of determining the parking requirements.

(G) Unlisted Uses

- (1) Upon receiving an application for a use not specifically listed in the parking schedule below, the Zoning Administrator shall apply the parking standard specified for the listed use that is deemed most similar to the proposed use in regards to use, size, and intensity of use.
- (2) If the Zoning Administrator determines that there is no listed use similar to the proposed use, intensity, or size, he or she may refer to the estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE).

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4.404.3 SCHEDULE OF REQUIRED PARKING BY USE

DEVELOPMENT USES	PARKING SPACES REQUIRED
AGRICULTURAL USES	
All Agricultural Uses	No parking requirement
RESIDENTIAL USES	
Single Family Dwellings	2 spaces per dwelling unit, exclusive of any garage spaces
Two Family Dwellings	2 spaces per dwelling unit, exclusive of any garage spaces
Multiple Family Dwellings	1.5 spaces per efficiency or single-bedroom dwelling unit and 2 spaces per dwelling unit for multiple bedroom dwelling units
Upper Story Residential	1.5 spaces per efficiency or single-bedroom dwelling unit and 2 spaces per dwelling unit for multiple bedroom dwelling units
Adult Family Homes or Small Residential Facilities	1.5 spaces per bedroom
Adult Group Homes or Large Residential Facilities	1.5 spaces per bedroom
Nursing/Convalescent Homes and Assisted Living Facilities	1 space per 2 beds
Manufactured Home Parks	2 spaces per dwelling unit
PUBLIC AND INSTITUTIONAL USES	
Active Parks, Playgrounds, and Ball Fields	1 space per 10,000 square feet of park or playground area; 20 spaces per ball field
Cemeteries	1 space per 4 seats in a chapel or place of assembly
Churches and Places of Worship	1 space per 3 fixed seats in the main assembly room or 1 space per 3 persons, whichever is greater
Educational Institutions	3 spaces per classroom, 1 space per 4 seats in auditorium, or 1 space for each 17 classroom seats (at maximum capacity), whichever is greater
Educational Institutions, Higher	1 space for each 5 classroom seats plus 1 space for each auditorium seat
Fraternal Organizations or Social Clubs	1 space per 1,000 square feet or 1 space per 2 persons, whichever is greater

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DEVELOPMENT USES	PARKING SPACES REQUIRED
Police or Fire Station	No parking requirement
Government Facilities	1 space per 350 square feet or 1 space per 4 people at maximum occupancy, whichever is greater
Hospitals and Outpatient Centers	1 space for every 2 patient beds plus outpatient clinics, laboratories, pharmacies and other similar uses shall have 4 spaces per 1,000 square feet
Libraries or Cultural Centers	1 space per 350 square feet
Passive Parks, Open Space, and Conservation Areas	1 space per 10,000 square feet of park or playground area; or none if found acceptable by the Zoning Administrator due to the use's passive nature
Public Infrastructure	No parking requirement
Public Utilities	No parking requirement
Telecommunication Facilities (New Facility/Tower)	1 space per structure
COMMERCIAL USES	
Adult Entertainment Facilities	1 space per 300 square feet
Banquet/Assembly Halls or Conference Centers	1 space per 2 persons, or 1 per 1,000 square feet, whichever is greater
Automobile Body Repair Shops	1 space per 250 square feet of office space plus 2 spaces per service bay (service bays excluded as parking)
Automobile Fueling Stations	1 space per 350 square feet (excluding required stacking spaces at fuel pumps)
Automobile General Repair	1 space per 250 square feet of office space plus 2 spaces per service bay (service bays excluded as parking)
Automobile Oil Change, Lube, or Light Service	1 space per 250 square feet of office space plus 2 spaces per service bay (service bays excluded as parking)
Automobile Sales or Rental Establishments	1 space per 400 square feet of showroom and/or office space plus 2 spaces per service bay (service bays excluded as parking)
Automobile Washing Facility	2 drying spaces per lane (See also required stacking spaces)
Bed and Breakfasts	2 spaces for the owner/operator, plus 1 space per guest room

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DEVELOPMENT USES	PARKING SPACES REQUIRED
Bars, Brewpubs and Taverns	1 space per 100 square feet
Clinics	1 space per 250 square feet
Convenience Stores	1 space per 250 square feet
Day Care Centers	1 space for every 4 children
Drive-Through Facilities	2 spaces for drive-through employees (does not include stacking spaces)
Equipment Sales and Leasing	1 space per 1,000 square feet
Family Day Care – Type A (7-12 children)	2 spaces for the owner/unit plus 1 space for each 3 children who do not live in the dwelling
Family Day Care – Type B (1 to 6 children)	2 spaces for the owner/unit plus 1 space for each 3 children who do not live in the dwelling
Financial Institutions	1 space per 250 square feet
Flea Markets	1 space per 300 square feet of indoor sales area and 1 space per 500 square feet of outdoor sales area
Funeral Homes	1 space per 75 square feet of parlor or chapel space
Garden Centers	1 per 300 square feet plus 1 per 1,500 square feet of outdoor sales or display area
Hotels or Motels	1 space per room or suite
Kennels or Animal Shelters	1 space per 1,000 square feet
Marijuana Dispensary	1 space per 300 square feet
Micro-breweries, Micro-distilleries, or Micro-wineries	1 space per 100 square feet of tasting room, taproom or table service area
Moving Truck and Trailer Rental	1 per 250 square feet of floor area
Offices and Professional Services	1 space per 350 square feet

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DEVELOPMENT USES	PARKING SPACES REQUIRED
Parking Lots or Garages	No parking requirement
Personal Service Establishments	1 space per 200 square feet, or 2 spaces per station/chair, whichever is greater
Recreational Facility (Indoor)	5 spaces per 1,000 square feet of a skating rink; 5 spaces per bowling lane; 5 spaces per racquetball court; otherwise, 2 spaces per 1,000 square feet
Recreational Facility (Outdoor)	8 spaces per golf hole; 2 spaces per golf driving range tee; 2 spaces per miniature golf hole; 5 spaces per play court; 20 spaces per ball field; 20 spaces per 1,000 square feet of swimming pool area
Retail and Service Uses	1 space per 250 square feet
Restaurants	1 space per 100 square feet
Self-Storage Facilities	1 space per 80 storage units
Shooting Range (Indoor)	2 spaces per target area
Shooting Range (Outdoor)	2 spaces per target area
Theaters	1 space per 2 fixed seats or 1 space per 2 persons based on the maximum occupancy, whichever is greater
Truck Stops	1 space per 350 square feet (not including truck parking spaces)
Veterinary Clinics or Animal Grooming	1 space per 250 square feet
INDUSTRIAL USES	
All Industrial Uses	1 for each employee computed on the basis of the greatest number of persons to be present at any one period during the day or night

4.404.4 SHARED PARKING

Shared parking is encouraged and permitted if the multiple uses that the shared parking will benefit can cooperatively establish and operate the facilities. When two (2) or more uses share a parking facility, and when demonstrated by a signed affidavit that the hours of their demand for parking do not overlap, or only partially overlap, then the parking requirements may be reduced by the Zoning Administrator if the parking area complies with the following standards:

- (A) Shared parking shall not be permitted on a vacant lot in a residential zoning district unless otherwise permitted by the Planning Commission as part of a site plan approval.

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- (B) In the event that a shared parking area is not under the same ownership as the principal use served, a written parking agreement shall be required.
- (C) No shared parking space shall be located more than five hundred (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.
- (D) 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 parking may be approved in accordance with the following:
 - (1) The minimum number of shared parking spaces shall be as calculated in accordance with subsection (E), unless additional evidence has been submitted by the parties operating the shared parking facility that a sufficient number of spaces are provided to meet the highest demand of the participating uses, documenting the nature of uses and the times when the individual uses will operate so as to demonstrate the lack of potential conflict between them.
 - (2) The Planning Commission shall review and approve all shared or off-site parking facility plans, and may place such conditions upon such plans as it deems necessary to ensure that adequate off-street parking spaces will be provided for all involved uses. Any violations of these conditions will nullify the approved shared parking facilities plan and shall be deemed a violation of this Zoning Code.
 - (3) Any change in use of the activities served by a shared parking facility will be deemed an amendment to the shared parking facility plan and will require review and approval by the Planning Commission.
 - (4) All shared parking plans and agreements shall be recorded in the office of the Clinton County Recorder and a copy of the recorded document shall be provided to the Zoning Administrator prior to any zoning permit being issued.

(E) Minimum Shared Parking Calculation

The minimum number of shared parking spaces is determined by the following process:

- (1) Determine the parking spaces typically required for each use based on the standards of Section 4.404.3 (Schedule of Required Parking by Use).
- (2) Multiply the spaces determined in paragraph (1) for each use by the Parking Occupancy Rates from the table in subsection (F), using the appropriate use category.
- (3) Add the number of parking spaces determined in paragraph (2) together, for each time period of the Parking Occupancy Rates table.
- (4) The greatest number of the aggregate gross minimum number of parking spaces for each period shall be used.

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(F) Parking Occupancy Rates Table

USE CATEGORY	PARKING OCCUPANCY RATES (%)				
	Weekly Daytime: 6:00 a.m. to 6:00 p.m.	Weekly Evening: 6:00 p.m. to Midnight	Weekend Daytime: 6:00 a.m. to 6:00 p.m.	Weekend Evening: 6:00 p.m. to Midnight	Nighttime: Midnight to 6:00 a.m.
Residential	60	90	80	90	100
Office/Industrial*	100	10	10	5	5
Retail or Personal Service	60	90	100	70	5
Hotel, Motel, Inn	75	100	75	100	75
Restaurant	50	100	100	100	10
Entertainment / Recreational	40	100	80	100	10
Church	10	30	100	30	5
School	100	30	30	10	5
Movie Theater	40	80	80	100	10
Conference / Convention	100	100	100	100	5
Institutional (non-church)	100	20	10	10	5
Medical Offices	100	80	100	5	5
All Other Uses	100	100	100	100	100

* **Industrial:** Industrial uses with continuous shifts shall be calculated at 100% occupancy rates for all time categories.

(G) Shared Parking Example

The following is an example of how a shared parking space calculation would be completed:

Office: 8,000 square feet

Restaurant: 5,000 square feet

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- (1) 1 parking space per 100 square feet of restaurant and 1 parking space per 350 square feet for office, per the standards of Section 4.404.3 (Schedule of Required Parking by Use).
- (2) The restaurant needs 50 (5,000/100) spaces, and the office needs 23 (8,000/350) spaces. The normal required parking is 73 spaces before shared parking calculation.
- (3) The normal parking requirements are multiplied by corresponding Parking Occupancy Rates, as shown in the table below.

	Weekly Daytime: 6:00 a.m. to 6:00 p.m.	Weekly Evening: 6:00 p.m. to Midnight	Weekend Daytime: 6:00 a.m. to 6:00 p.m.	Weekend Evening: 6:00 p.m. to Midnight	Nighttime: Midnight to 6:00 a.m.
Office	$(23 \times 100\%) = 20$	$(23 \times 10\%) = 2$	$(23 \times 10\%) = 2$	$(23 \times 5\%) = 1$	$(23 \times 5\%) = 1$
Restaurant	$(50 \times 50\%) = 25$	$(50 \times 100\%) = 50$	$(50 \times 100\%) = 50$	$(50 \times 100\%) = 50$	$(50 \times 10\%) = 5$
Total	45	52	52	51	6

- (4) Largest aggregate total is the minimum shared parking calculation. In this example, the required parking is reduced from 73 spaces to 52 spaces, saving a total of 21 spaces.

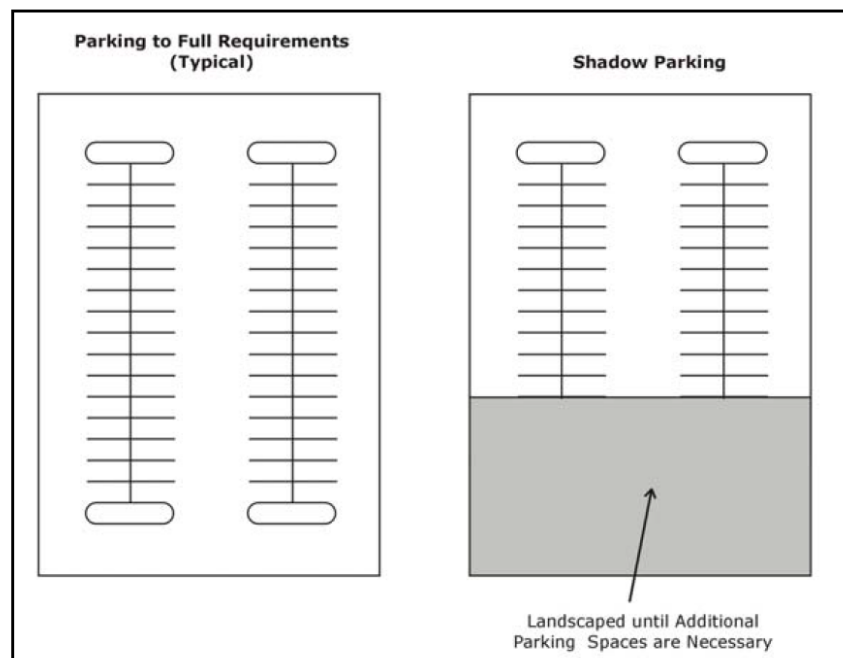
4.404.5 OFF-SITE PARKING

- (A) All or a portion of the required off-street parking spaces, as determined per Section 4.404.3 (Schedule of Required Parking by Use), may be located on an adjacent or nearby property, so long as no parking space is located more than five hundred (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. This minimum distance may be waived by the Planning Commission.
- (B) Off-site parking shall not be used to satisfy the off-street parking requirements for single-family dwellings, two-family dwellings, and hospitals. Required parking spaces reserved for persons with disabilities shall not be located in an off-site parking facility, unless waived by the Planning Commission if proper safety measures and compliance with ADA requirements can be demonstrated.
- (C) In the event that an off-site parking area is not under the same ownership as the principal use served, a written agreement shall be required. An off-site parking agreement shall include evidence of deed restrictions or other recorded covenants that ensure that the spaces will be properly maintained during the life of the development. All off-site parking agreements shall be recorded in the office of the Clinton County Recorder and a copy of the recorded document shall be provided to the Zoning Administrator prior to any zoning permit being issued.

4.404.6 SHADOW PARKING

Up to thirty (30) percent of the required off-street parking spaces, as determined per Section 4.404.3 (Schedule of Required Parking by Use), may remain landscaped and unpaved, or paved with pervious pavers, provided that the parking and unpaved areas are authorized in accordance with Section 4.404.1(D) and comply with the following standards:

- (A) The parking plan submitted with the Zoning Permit or Site Plan Review application shall denote the location and layout of that portion of the parking area that currently is no longer deemed required. The plan shall indicate that the “shadow” parking spaces will be constructed according to this Zoning Code in event that the Zoning Administrator or Building Department makes a finding, at any time, that all or any portion of this parking is necessary.
- (B) At no time shall any portion of the required parking area that is so designated for future construction be used for the construction of any structure or paved surface with the exception that pervious pavers may be used to provide temporary parking provided that the pavers allow for grass and other vegetation to grow through the material.
- (C) At no time shall any portion of the required 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 Zoning Code.
- (D) The owner shall initiate construction of the approved “future” parking area, as identified on the approved parking and loading plan, within three (3) months of the receipt of a certified letter or a letter through normal postal service (in the event that the certified letter is not accepted) sent to the owner of record from the Building Department, identifying that such parking is determined to be necessary.



§ 4.405 VEHICLE STACKING REQUIREMENTS

Where drive-through facilities are permitted as part of a use, vehicle stacking spaces shall be provided according to the following provisions:

4.405.1 REQUIRED NUMBER OF STACKING SPACES

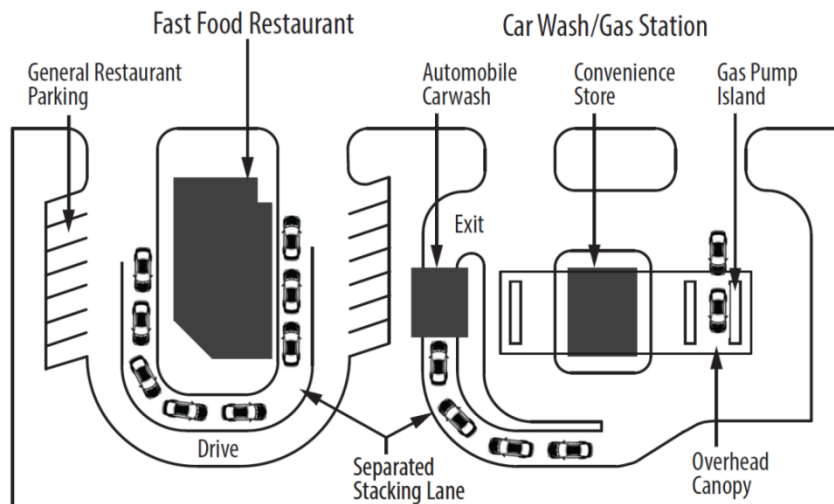
The number of required stacking spaces shall be provided as established in the table and illustration below.

MINIMUM VEHICLE STACKING SPACE REQUIREMENTS		
Activities/Uses	Minimum Stacking Spaces (per lane)	Measured From (and including)
Financial Institutions or Automated Teller Machine (ATM)	3	Teller or Window
Restaurant	8	First Pick-Up Window
Full Service Car Wash	20 / 12 *	Entrance of Tunnel / Exit of Tunnel
Self-Service or Automated Drive-Through Car Wash	4	Washing Bay
Fuel or Gasoline Pump Island	2 *	Pump Island
Other	As determined by Zoning Administrator *	

* **Full Service Car Wash:** The 20 spaces required prior to the entrance of the tunnel may be spread across multiple stacking lanes. The 12 stacking spaces shall be required outside of the exit of the wash tunnel to provide areas for the drying of cars, vacuuming, or other ancillary services.

* **Fuel or Gasoline Pump Island:** Pump spaces can count toward the stacking requirement.

* **Other:** Any other use shall be required to document proof that the provided number and location of stacking spaces are adequate to meet the purpose of this Section.



4.405.2 DESIGN AND LAYOUT

- (A) Stacking spaces shall be a minimum of ten (10) feet by twenty (20) feet in size.
- (B) Stacking spaces may not impede on- or off-site traffic movements or movements in or out of off street parking spaces.
- (C) Stacking spaces shall be separated from other internal driveways by surface markings or raised medians.
- (D) These stacking spaces requirements shall be in addition to the off-street parking space requirements.
- (E) When adjacent to a residential zoning district, or any lot used for residential purposes, stacking spaces shall be required to be located on sides of the lot opposite the adjacent residential use.

§ 4.406 OFF-STREET LOADING REQUIREMENTS

4.406.1 GENERAL REQUIREMENTS

Each building, structure, or use shall be designed to provide and shall provide for off-street loading in the minimum amounts specified in this Section. Loading spaces shall not conflict or overlay with the area used for parking spaces or parking aisles.

4.406.2 REQUIRED NUMBER OF OFF-STREET LOADING SPACES

The minimum number of loading spaces provided for various uses shall be as follows:

MINIMUM LOADING SPACE REQUIREMENTS		
Activities/Uses	Building Floor Area (Square Feet)	Minimum Loading Spaces Required
Public buildings; educational, religious, and philanthropic institutions; hospitals or other institutions, places of assembly or for sports or athletics; clubs; lodges; multiple family dwellings; and similar uses	0 – 100,000	1
	Each additional 100,000	1
Banks and financial institutions; medical offices and clinics; administrative, business, and professional offices; dancing or other commercial schools; theaters; bowling alleys; skating rinks; or other places of amusement and recreation	0 – 100,000	1
	Each additional 100,000	1
Retail stores; eating and drinking places; and all other commercial uses	0 – 10,000	1
	10,001 – 30,000	2
	30,001 – 50,000	3
	50,001 – 100,000	4
Light and heavy industrial uses	Each additional 100,000	1
	0 – 20,000	1
	20,001 – 40,000	2
	40,001 – 60,000	3

4.406.3 DIMENSION OF LOADING SPACES

Loading spaces shall be at least twelve (12) feet in width and twenty-five (25) feet in length with a vertical clearance of at least fourteen (14) feet in height.

4.406.4 LOCATION OF LOADING SPACES

- (A) Loading spaces shall not be provided in the front yard or on any building façade facing or visible from a public street, except where the Planning Commission determines such a location is necessary due to the location or placement of the building, existing street patterns, or other factors.
- (B) No loading space shall be closer than one hundred (100) feet to any residential use or district, unless wholly within a completely enclosed building or unless enclosed on all sides by a wall or uniformly painted solid board fence not less than six (6) feet in height.
- (C) In all other cases, loading spaces shall be set back a minimum of ten (10) feet from all property lines.
- (D) No loading space shall be in a designated fire lane.

4.406.5 ACCESS

- (A) Loading spaces shall be designed and arranged to provide access to a street or alley in a manner that will create the least possible interference with traffic movement and parking lot circulation. The Zoning Administrator shall approve access to and from loading spaces.
- (B) No part of any truck or van that is being loaded or unloaded may extend into the right-of-way of a public thoroughfare.
- (C) Loading spaces shall be designed with sufficient apron area to accommodate truck-turning movements and to prevent backing of trucks onto any street right-of-way.

4.406.6 SCREENING

All operations, materials, and vehicles within any loading space that are visible from a public street or from any residential use shall be screened in accordance with Section 4.109 (Screening Requirements).

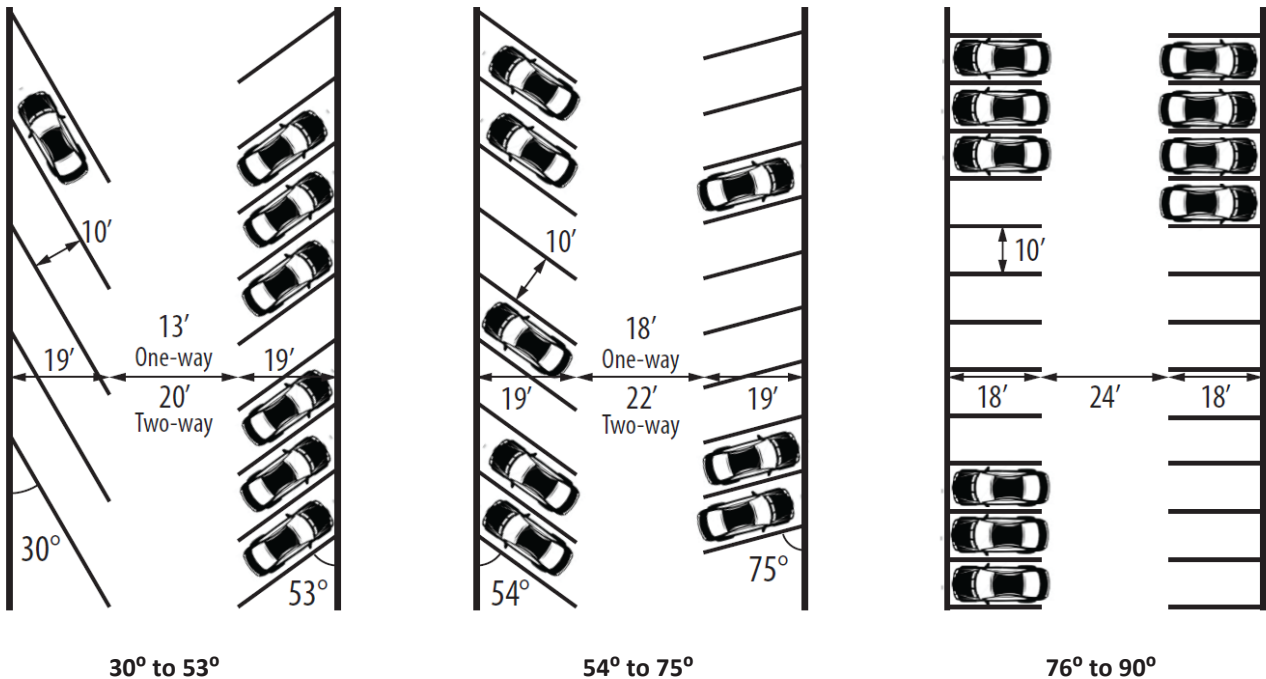
§ 4.407 DESIGN STANDARDS FOR VEHICULAR USE AREAS

The following standards shall apply to the design and construction of off-street parking, loading, and stacking spaces and areas unless otherwise noted.

4.407.1 DIMENSIONS

- (A) The minimum size of a parking space may be altered based on aisle width and angle of parking. Parking stalls and aisle width shall conform to the minimum standards set forth in the table below and the illustration provided.

PARKING AREA DIMENSIONS				
Angle of Parking	One-Way Maneuvering Aisle Width	Two-Way Maneuvering Aisle Width	Parking Stall Width	Parking Stall Length
0° (Parallel)	13 feet	20 feet	9 feet	23 feet
30° - 53°	13 feet	20 feet	9 feet	19 feet
54° - 75°	18 feet	22 feet	9 feet	19 feet
76° - 90°	24 feet	24 feet	9 feet	18 feet

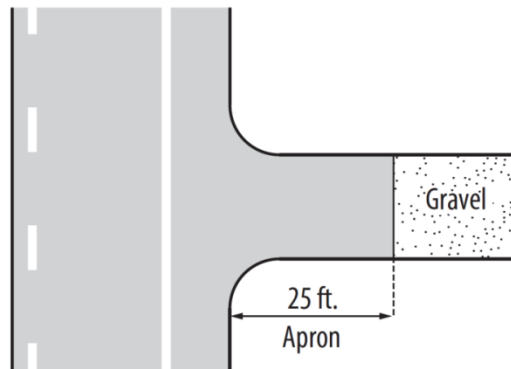


- (B) Parking areas may include compact car parking spaces provided that the parking spaces shall be a minimum of eight (8) feet in width and fourteen (14) feet in length. Such parking for compact cars shall not be included in the calculations for required parking.

4.407.2 SURFACE MATERIAL

All off-street parking areas and driveways shall be surfaced with asphalt concrete, or Portland Cement concrete so as to provide a durable and dustless surface, with the following exceptions:

- (A) Driveways for residential properties located in the RR (Rural Residential) District, which are also not part of a platted residential subdivision, may be surfaced with gravel or of a similar porous material; however, an apron must be provided as shown below.



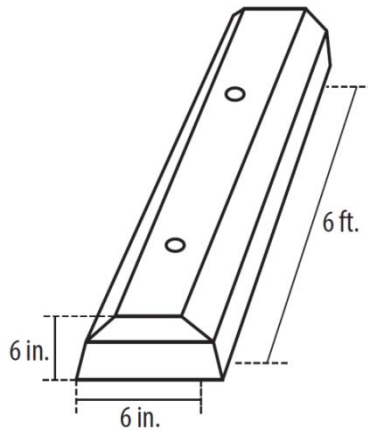
- (B) Within the RR (Rural Residential) District, parking areas of ten (10) spaces or fewer may be surfaced with gravel or of a similar porous material, if such characteristic contributes to the rural nature of the area or business, subject to approval by the Planning Commission; however all accessways within twenty five (25) feet of the right-of-way must be paved.
- (C) Pavers or porous pavement systems that allow for stormwater drainage to pass through or grass to grow through them may be permitted as part of a permitted shadow parking area as described in Section 4.404.6 (Shadow Parking).
- (D) Other hard surfaced materials may be approved by the Planning Commission provided the commission finds that such surface allows clear identification of spaces, directional flow, access points, and the like; and provided further that the surface is not of gravel or other such material which would accumulate in the City's storm drainage facilities.

4.407.3 PAVEMENT MARKINGS

- (A) Designated parking spaces, drive aisles, and pavement markings shall be marked on the surface of paved parking areas with paint or permanent marking materials and maintained in a clearly visible condition.
- (B) Where driveways intersect the public right-of-way, the paint lines dividing vehicle paths and other pavement markings shall be in accordance with the State of Ohio Uniform Traffic Control Manual.

4.407.4 CURBS AND WHEEL STOPS

- (A) For all non-residential and multi-family development, continuous curbs are required on the outside of all vehicular use areas and landscaped islands, subject to the following standards:
- (1) Curbing shall be made of concrete, stone, or other similar material and shall have a minimum height of six (6) inches and a minimum width of six (6) inches.
 - (2) Curbing shall be located a minimum of two (2) feet from any structures, buildings, walls, or plant material (excluding ground cover) to prevent a vehicle from hitting any structure or driving through landscaped areas at the edge of a parking area.
 - (3) Curbing requirements may be waived by the Planning Commission if parking islands and/or areas beyond the parking lot can adequately accommodate storm water runoff through an alternate method such as the use of rain gardens with interrupted curbs. Wheel stops (see illustration below) shall be provided for parking spaces where no curb is present.
- (B) If wheel stops are to be used in the parking area, each wheel stop shall be a singular block of reinforced concrete, or similar material typical for such purpose (see illustration below). Wheel stops are to be securely attached to the ground and may be used only at the end of parking stalls. Wheel stops may be attached no less than two (2) feet from the rear edge of the parking space.



4.407.5 DRAINAGE

All parking and loading areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties or walkways.

4.407.6 PARKING REQUIREMENTS FOR THE DISABLED

Applicants shall provide parking spaces for the physically disabled as required by the Ohio Building Code and shall include all necessary marking, striping, and signage.

4.407.7 FIRE CODE

All parking and loading plans shall conform to all requirements set forth in the Fire Code as adopted by the City of Wilmington and as approved by the Wilmington Fire Department.

4.407.8 INTERIOR LANDSCAPING

Vehicular use areas shall be landscaped in accordance with the provisions of Section 4.107 (Landscaping in Vehicular Use Areas).

4.407.9 WALKWAY CONNECTIONS TO PUBLIC SIDEWALKS

- (A) Where a sidewalk exists in a public right-of-way adjacent to the site, or is required to be constructed as part of the development approval, a pedestrian connection shall be constructed from the building to the sidewalk.
- (B) Stand alone pedestrian connections shall be constructed of concrete or hard surface pavers.
- (C) The pedestrian connection shall have a minimum width of four (4) feet.

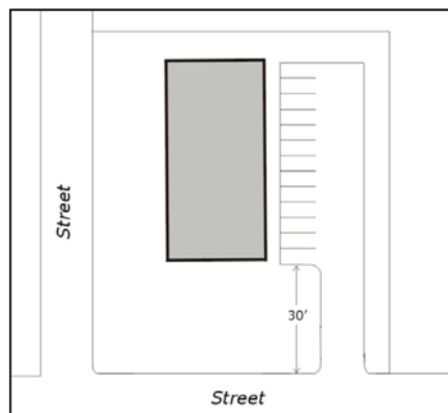
4.407.10 ACCESS STANDARDS

(A) Ingress and Egress to a Public Right-of-Way

All required off-street parking or loading spaces shall be connected with a deeded public right-of-way by means of aisles or access driveways designed in accordance with the requirements of this Section. Shared ingress and egress is strongly encouraged for multi-family and non-residential uses whenever possible and may be required if deemed necessary by the City Engineer or other appropriate authority. To the maximum extent feasible, provisions for primary access along secondary streets shall be provided to minimize traffic congestion on primary arterial streets.

(B) Setback Requirements

- (1) All driveways shall be located at least two (2) feet from side or rear property lines for all single-family and two-family residential properties and ten (10) feet for all other land uses, excepting cases where a shared driveway with an associated access easement straddles two or more properties served by the driveway. Development within the DC (Downtown Core) District shall also be exempt from these requirements.
- (2) Off-street parking spaces shall not be located along entry driveways within thirty (30) feet of the right-of-way (see illustration below).



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- (3) Off-street parking spaces shall be set back a minimum of ten (10) feet from any side or rear lot line, unless the lot abuts a residential zoning district or recorded residential subdivision, in which case the off-street parking shall be set back a minimum of fifty (50) feet from the property line.

(C) Maneuverability

Except for single-family and two-family dwellings, all parking areas shall be so designed to ensure that all maneuvering into and out of each parking space shall take place entirely within property lines of lots, garages, and/or storage areas, and spaces shall not be designed in a manner which allows or requires vehicles to back into the public right-of-way to leave a parking space.

(D) Driveway Width

The width of a driveway (ingress/egress) for a multi-family or non-residential use, at the street right-of-way line, shall have a minimum width of twenty four (24) feet and maximum width of thirty six (36) feet, unless otherwise permitted by the City Engineer or other appropriate authority. Curb definitions shall be maintained, prohibiting continuous access along the frontage of a site.

(E) Access Spacing

No entrance to or exit from a parking area of five (5) vehicles or more shall be closer than one hundred (100) feet to the right-of-way line of intersecting public streets or signalized intersection. Development in the DC (Downtown Core) and DT (Downtown Transition) Districts shall be exempt from this requirement.

4.407.11 PROPER MAINTENANCE

The owner of property used for parking and/or loading shall maintain such area in good condition, without holes and free of all dust, trash, and other debris.

CHAPTER 5: SIGNS

§ 4.501 PURPOSE

The purpose of this Chapter is to protect the general health, safety, morals and welfare of the community by providing an instrument for protecting the physical appearance of the community and for encouraging high quality, effective outdoor graphics for the purposes of navigation, information and identification. Specifically, it is the intent of this Chapter to provide businesses in the municipality with equitable sign standards in accordance with fair competition and aesthetic standards acceptable to the community, to provide the public with a safe and effective means of locating businesses, services and points of interest within the municipality, and to provide for safe vehicular and pedestrian traffic movement. This chapter is based on the premise that signs are as much subject to control as noise, odors, debris and other similar characteristics of land use, that is not regulated, can become a nuisance to adjacent properties or the community in general, or depreciate the value of other properties within the community.

§ 4.502 APPLICABILITY

The regulations set forth in this Chapter shall apply to all permanent and temporary signs in all zoning districts, except signs located entirely within buildings or other structures which are also not visible from the public right-of-way or from property other than the property on which the sign is located. It shall hereafter be unlawful for any person to erect, place, or maintain a sign in the City except in accordance with the provisions of this Chapter.

§ 4.503 GENERAL PROVISIONS

4.503.1 ZONING PERMIT REQUIRED

- (A)** Unless otherwise provided in this Chapter, all signs shall require a zoning permit. Exceptions to the permit requirement are as follows:
 - (1)** No zoning permit is required for the maintenance of a sign or for a change of copy, either manually or electronically, on changeable copy signs.
 - (2)** A zoning permit, but no fee, is required for the changing of a sign face other than a change of copy on a changeable copy sign.
- (B)** The relocation of a sign from one area of a lot to another location on the same lot shall still require a zoning permit.
- (C)** The alteration or enlargement of any sign shall require a zoning permit.

ARTICLE IV, CHAPTER 5: SIGNS

- (D) Submission of a zoning permit application shall be in accordance with Section 1.304 (Zoning Permit Application). The Zoning Administrator may require additional information as part of the application, including the position of sign in relation to nearby buildings, structures, and property lines, as well as plans illustrating dimensions and materials, methods of construction, attachment, and/or placement.
- (E) Signs proposed in conjunction with a development requiring review of a site plan shall also be reviewed in accordance with Section 1.305 (Site Plan Review).

4.503.2 COMPLIANCE WITH OTHER CODES AND REGULATIONS

- (A) All wirings, fittings, and materials used in the construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of the local electrical code in effect.
- (B) No sign of any type or classification shall be installed, erected, or attached to a structure in any form, shape, or manner that is in violation of Wilmington's or Ohio's building or fire codes.

4.503.3 PUBLIC SAFETY PROVISIONS

- (A) No sign shall be erected or maintained at any location where by reason of its position, working, illumination, shape, symbol, color, form or character it may obstruct, impair, obscure, interfere with the view of, or may be confused with any authorized traffic sign, signal or device, or interfere with, mislead, confuse, or disrupt traffic safety or flow.
- (B) When a sign becomes dangerous for any reason, the Zoning Administrator and/or Building Department shall have the power and the authority to remove or cause to have removed such sign when the owner or agent has failed to correct the situation within the time specified by the department to repair or make such sign safe. The owner or agent of such sign shall bear the full costs of such removal and shall be billed accordingly. If the Zoning Administrator and/or Building Department determines that such sign is of possible immediate danger to persons or vehicles, which may be passing nearby, he/she and/or the department shall place or cause to have placed, signs or barriers indicating such danger.

4.503.4 SIGNS AS TRAFFIC HAZARDS

- (A) No sign shall be erected at or near any intersection of any streets, or any railway and any street, in a manner as to obstruct free and clear vision, or at any location where, by reason of position, shape, or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or which otherwise misleads or confuses traffic.
- (B) Light sources for illuminated signs shall not be of brightness as to constitute a hazard to pedestrian or vehicular traffic. Any exterior illumination of signs shall be accomplished by a concealed source, so as not to interfere with the vision of persons on the adjacent roadways or adjacent properties. The light shall be focused on externally lighted signs to light only the sign.
- (C) No rotating beam, beacon, or flashing illumination resembling an emergency light shall be used in connection with any sign display.

4.503.5 SPECIFIC TO PUBLIC FEATURES, OBJECTS, AND RIGHT-OF-WAY

- (A) It shall be unlawful and a violation of this Zoning Code for any person to fasten, place, paint, or attach in any way, any sign, handbill, poster, advertisement, or notice of any kind or cause the same to be done in or upon any curbstone, lamp post, telecommunication pole, electric light or power pole, hydrant, bridge, culvert, public drinking fountain, public trash container, courtesy bench, rest station building, tree, or in or upon any portion of any public sidewalk, street or sign, except as specifically permitted within this Zoning Code.
- (B) No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation within any right-of-way (unless express written authorization is obtained from the agency having jurisdiction over the right-of-way) or any area where landscaping is required by this Zoning Code.

4.503.6 SPECIFIC TO TEMPORARY SIGNS

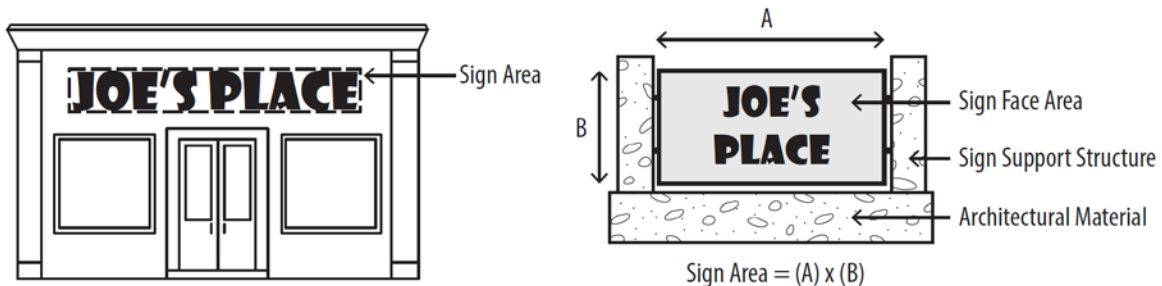
Unless otherwise stated in this Chapter, a temporary sign may be either on-premise or off-premise, provided the sign conforms to the standards and provisions applicable to the signage type and zoning district.

§ 4.504 COMPUTATIONS

4.504.1 SIGN DIMENSIONS

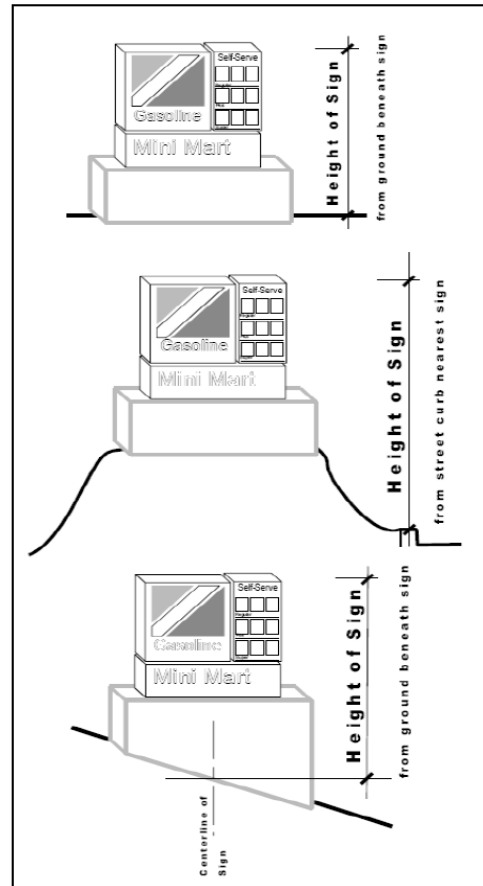
(A) Sign Area

- (1) The sign area shall be computed by means of the smallest, single geometric shape (i.e., square, rectangle, circle, or triangle) that encompasses the extreme limits of the writing, representation, emblem, or other display elements, together with the sign face area. The sign face area is defined as any material or color that is an integral part of the background of the display or used to differentiate the sign from the structure against which it is placed; this does not include any supporting framework, bracing, decorative fence or wall, or any other feature which otherwise meets all applicable zoning regulations and is clearly incidental to the display itself.
- (2) 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 visible from any single-point.
- (3) When two (2) identical sign faces are placed back to back, so that both faces cannot be viewed from any one point at the same time, and when such sign faces are part of the same sign structure and not more than two (2) feet apart, the sign area shall be computed by the measurement of one (1) of the faces.



(B) Sign Height

- (1) The height of a ground sign shall be determined by measuring the vertical distance between the top part of a sign or its structure, whichever is highest, to the elevation of the ground directly beneath the sign. If the sign is placed on sloped terrain, the height shall be measured from the ground elevation at the centerline of the sign.
- (2) In cases where signs are to be located on man-made berms or other similar ground foundations, the elevation of the street curb nearest to the location of the sign shall be utilized for determining sign height. In the case of a private or public street without curbing, the edge of pavement nearest to the sign location shall be utilized to determine sign height.



(C) Sign Setback

Unless otherwise specified, the setback of all signs shall be measured from the existing right-of-way and adjoining property lines to the nearest point of the sign. Additional setback distance may be required by the City Engineer or appropriate authority if widening or other public improvements are planned in the near future for a specific location along the frontage of a public road or street.

4.504.2 BUILDING UNITS

In many cases, the number of signs allowed for multi-tenant buildings is based on the number of building units. For purposes of this Chapter, a “building unit” shall be defined as a portion of a building that is owned or leased by a single occupant for a business purpose and has a public entrance. For instance, a single commercial building that is entirely owned or leased by a single occupant would constitute one (1) building unit; whereas a mixed-use building with four commercial tenant spaces having public entrances would constitute four (4) building units. “Building frontage” for a building unit shall be the most primary side/wall of the building, measured from the centerlines of the party walls defining such building unit.

§ 4.505 EXEMPT SIGNS

4.505.1 TYPE 1 EXEMPTIONS

Signs which fall under a “Type 1” exemption are completely exempt from the provisions of this Chapter and thus shall not be observed or considered in any way toward the standards of this Chapter, and shall not require a zoning permit to install:

(A) Government Signs

Government signs are defined as those erected and maintained pursuant to a government’s function, ordinances, or regulation. Government signs include, but are not limited to, signs required or installed by the City, the County, a public entity, a public transit entity, a state or federal statute, or by order of a court of competent jurisdiction.

(B) Numeric Address Signs

Each building, building unit, lot, or property shall have a sign providing the numeric address for identification purposes to assist in fire and safety protection. Such signs shall not exceed two (2) square feet in area.

(C) Official Flags

Flags bearing the insignia of any local, state, or federal government or agency, including the American flag, are exempt.

4.505.2 TYPE 2 EXEMPTIONS

Signs which fall under the “Type 2” exemption shall not be considered in applying limitations on the number of signs permitted on a single frontage, wall, property, or lot (as expressed in Sections 4.508.1, 4.509.1, and 4.510.1), but such signs shall be subject to the lighting, installation, height, setback, maintenance and other standards set forth in this Chapter:

(A) Commemorative Plaques

Commemorative plaques placed by recognized historical agencies are exempt under this Section.

(B) Portable Temporary Signs

Portable temporary signs (e.g. yard signs) no larger than two (2) square feet in area and no more than four (4) feet in height are exempt under this Section, except as provided in Section 4.509.3(C)(3) for temporary portable signs in the public right-of-way.

§ 4.506 PROHIBITED SIGNS

4.506.1 LIST OF PROHIBITED SIGNS

- (A) Permanent off-premise signs.
- (B) Signs or portions of signs that revolve, whirl, spin, or otherwise make use of motion to attract attention.
- (C) Signs attached to, painted on, or placed on a motor vehicle, trailer, or other licensed or unlicensed vehicle or conveyance which is located in such a manner to serve exclusively as a permanent, temporary, or portable sign.
- (D) Signs which blink or flash to attract attention, including flashing neon.
- (E) Signs attached to or supported by a tree, utility pole, trash receptacle, bench, vending machine, or public shelter.
- (F) Signs which contain words, images, or graphic illustrations of an obscene nature.
- (G) Signs with audio message delivery.
- (H) Signs that emit any flames, smoke, fumes, vapor, or any similar substance.
- (I) Signs located in public right-of-way, except government signs and authorized portable signs.
- (J) Signs made of cardboard, cardstock, or other similar paper products.
- (K) Signs which obstruct windows, doors, fire escapes, balconies, stairways, ladders, vents, or other means of building ingress/egress.
- (L) Snipe signs, roof signs, and graffiti.
- (M) Any signage types which are otherwise prohibited in certain zoning districts pursuant to Section 4.508 (Signs in Business Districts), Section 4.509 (Signs in Mixed Use Districts), or Section 4.510 (Signs in Residential Districts).

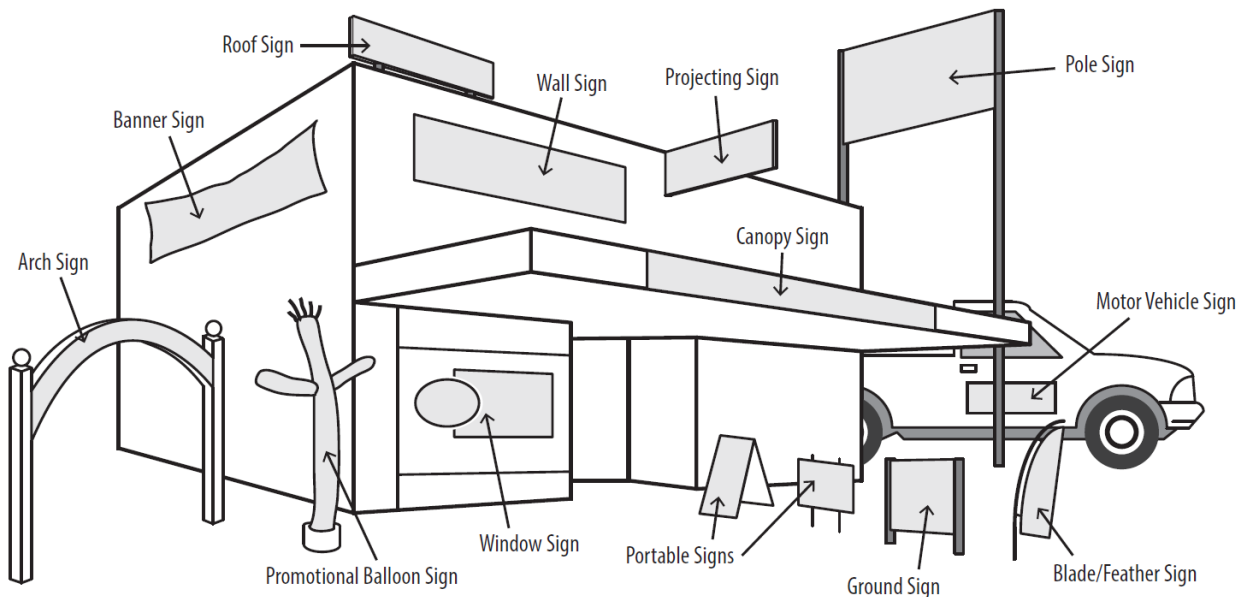
4.506.2 EXAMPLES OF PROHIBITED SIGNS



§ 4.507 SIGNAGE TYPES

4.507.1 SIGNAGE TYPE ILLUSTRATION

The illustration below displays various signage types addressed in subsequent Sections. This illustration serves as a guide for the Zoning Administrator to determine specific signage types, and is not meant to exclude other variations of the signage types shown. Definitions of each signage type may also be found in Article V Chapter 1 (Definitions).



4.507.2 SIGNAGE EXAMPLES



Ground (Monument) Sign



Ground (Monument) Sign - Multiple Businesses



Changeable Copy Sign (Letters)



Changeable Copy Sign (LED)



Cabinet Sign



Internally Illuminated Cabinet Sign



Channel Lettering



Reverse Channel Lettering



Portable Changeable Copy Sign



Blade/Feather Sign

4.507.3 SIGNAGE TYPES NOT SPECIFIED

Signage types not specified in this Chapter shall require the Zoning Administrator to make a determination as to whether such signage type shall be allowed as a permitted sign or otherwise prohibited, based on being similar or not to one or more signage types specified elsewhere in this Chapter. The Zoning Administrator may convene the Board of Zoning Appeals to make the same determination if he or she believes the sign is not easily categorized with any of the signage types specified elsewhere in this Chapter.

§ 4.508 SIGNS IN BUSINESS DISTRICTS

4.508.1 NUMBER OF SIGNS PERMITTED

The provisions of Section 4.508 shall apply to all zoning districts identified as Business Districts in Section 3.101.1 (List of Districts and Overlays). The table below shall control the maximum number of certain signage types allowed, along with applicable standards specific to each type:

SIGNAGE TYPE	NUMBER OF SIGNS PERMITTED	STANDARDS SECTION
PERMANENT SIGNS		
Arch Signs*	One (1) per street frontage	4.508.3(A)
Canopy Signs (e.g. Awning Signs)	One (1) per building unit	4.508.3(B)
Flag Signs	One (1) per building unit	4.508.3(C)
Gateway Signs*	Two (2) (one on each side of an entrance) per comprehensively developed collection of three (3) buildings or more	4.508.3(D)
Ground Signs*	One (1) per street frontage, except as provided in Section 4.513	4.508.3(E)
Off-Premise Signs (e.g. Billboards)	Prohibited	N/A
Pole Signs*	One (1) per street frontage	4.508.3(F)
Projecting Signs	One (1) per building unit	4.508.3(G)
Roof Signs	Prohibited	N/A
Wall Signs	One (1) per building unit, except for buildings with a single user which may have one (1) per exterior building wall	4.508.3(H)
Window Signs	Permitted (no restriction on number)	4.508.3(I)
TEMPORARY SIGNS		
Banner Signs	One (1) per building unit	4.508.4(A)
Beacons/Searchlights	Prohibited, except for temporary events and emergency purposes	N/A
Blade/Feather Signs	Two (2) per building unit	4.508.4(B)
Ground Signs	One (1) per building unit	4.508.4(C)
Pennants or Streamers	Prohibited	N/A
Portable Signs (e.g. A-Frame)	One (1) per building unit	4.508.4(D)
Promotional Balloons	Prohibited	N/A
Window Signs	Permitted (no restriction on number)	4.508.4(E)

4.508.2 ADDITIONAL LIMITATIONS

A single property may only have one (1) of the permanent signage types marked with an asterisk (*) in Section 4.508.1 (Number of Signs Permitted); a combination of two (2) or more of these signage types on the same property is prohibited.

4.508.3 PERMANENT SIGN PROVISIONS

(A) Arch Signs

Permanent arch signs shall comply with the following standards:

- (1) Minimum setback from right-of-way and adjoining property lines is (10) feet.
- (2) Maximum height for signage, including any structural elements, is twenty-five (25) feet.
- (3) Maximum area of the sign face is two (2) feet multiplied by the width of the span of the arch.
- (4) Minimum clearance is fourteen (14) feet, four (4) inches.
- (5) The maximum width of the signage and any structural elements shall equal the width of the passageway or paved roadway that passes underneath the sign, plus five (5) feet, with at least two and a half (2.5) feet on both sides.
- (6) Maximum number of poles (structural supports) is two (2); one on either side of the driveway/roadway.
- (7) Changeable copy arch signs are prohibited.

(B) Canopy Signs

The sign area of canopy signs shall not exceed twenty (20) square feet, a clearance of eight (8) feet shall be provided between the sidewalk and the sign, and such signs shall not extend above the roof line.

(C) Flag Signs

Flag signs are permitted provided they are attached to the side of a building, projecting outward in a diagonal fashion. The highest point of the flag shall be no taller than the highest eave of the building on which the flag is attached.

(D) Gateway Signs

Permanent gateway signs shall comply with the following standards:

- (1) Gateway signs shall maintain clear zones for pedestrians and motorists and comply with the following:
 - (a) Maintain a setback of ten (10) feet from adjoining property lines and public right-of-way line(s);

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- (b) Ten (10) feet from the edge of any driveway; and
- (c) Five (5) feet from any sidewalk or paved path.
- (2) Maximum sign height is ten (10) feet.
- (3) Maximum sign area is sixty (60) square feet.
- (4) Proof of an established mechanism to ensure the ongoing maintenance of the entire entrance structure and associated landscaping shall be submitted to the Zoning Administrator as part of the zoning permit application for a gateway sign.

(E) Ground Signs

Permanent ground signs shall comply with the following standards:

- (1) Signs shall be made of solid materials of a permanent nature known and used in the sign construction industry and shall include, but are not limited to: brick, stone, EIFS, polished or honed finish metals, decorative pre-cast concrete wood, architectural masonry, steel and/or metal, and glass.
- (2) Ground signs shall maintain clear zones for pedestrians and motorists and comply with the following:
 - (a) Maintain a setback of ten (10) feet from adjoining property lines and public right-of-way line(s);
 - (b) Ten (10) feet from the edge of any driveway; and
 - (c) Five (5) feet from any sidewalk or paved path.
- (3) Maximum sign height is six (6) feet.
- (4) Maximum sign area is thirty two (32) square feet. For lots with multiple street frontages, the maximum sign area is cumulative and shall not be increased, but the owner may apply the maximum sign area to multiple signs with a maximum of one (1) sign per street frontage.
- (5) Changeable copy signs are permitted in accordance with the standards in Section 4.511 (Changeable Copy Signs). Electronic LED display signs are permitted.

(F) Pole Signs

A permanent pole sign (also commonly called a pylon sign) shall be supported by one (1) or more uprights, poles, or braces placed in or upon the ground surface and not attached to any building; such sign shall conform to the following:

- (1) The maximum sign area shall be one hundred fifty (150) square feet.
- (2) The set back shall be a minimum of ten (10) feet from any adjoining property line or right-of-way line(s).

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- (3) The sign height shall be no less than eight (8) feet and no more than twenty (20) feet from grade.
- (4) Changeable copy signs are permitted in accordance with the standards in Section 4.511 (Changeable Copy Signs). Electronic LED display signs are permitted.

(G) Projecting Signs

Permanent projecting signs shall comply with the following standards:

- (1) The sign must be attached to a principal building.
- (2) The sign area shall not exceed nine (9) square feet.
- (3) Signs shall be installed to achieve a minimum vertical clearance of eight (8) feet from the bottom of the sign to the finished grade.
- (4) Projecting signs are prohibited over a vehicular access way.

(H) Wall Signs

A wall sign shall be permitted with an area not to exceed one (1) square foot in area for each one (1) linear foot of building frontage to a maximum size of one hundred fifty (150) square feet.

(I) Window Signs

No more than twenty five (25) percent of the window surface shall be covered by signage, inclusive of any temporary window signs which may be on display.

4.508.4 TEMPORARY SIGN PROVISIONS

(A) Banner Signs

Banner signs are permitted provided the sign is no larger than twenty (20) square feet, is not located on a single-family or two-family residential property, and is attached to the wall of a building. A zoning permit for this temporary sign type shall be valid up to sixty (60) calendar days, and no more than two (2) such permits for the same sign may be applied for within one (1) calendar year.

(B) Blade/Feather Signs

Temporary blade/feather signs shall comply with the following standards:

- (1) The sign must be placed at least ten (10) feet away from the existing right-of-way line and adjoining properties.
- (2) Maximum sign height is twelve (12) feet.
- (3) Maximum sign area is twenty (20) square feet.
- (4) Blade/feather signs must be on the premises of the business or activity they serve.

- (5) A zoning permit for this temporary sign type shall be valid up to sixty (60) calendar days, and no more than (2) such permits for the same sign may be applied for within one (1) year.

(C) Ground Signs

Temporary ground signs shall comply with the following standards:

- (1) No temporary ground sign may be erected on a single-family or two-family residential property.
- (2) Ground signs shall maintain clear zones for pedestrians and motorists and comply with the following:
 - (a) Maintain a setback of ten (10) feet from adjoining property lines and public right-of-way line(s);
 - (b) Ten (10) feet from the edge of any driveway; and
 - (c) Five (5) feet from any sidewalk or paved path.
- (3) Maximum sign height is six (6) feet.
- (4) Maximum sign area is thirty six (36) square feet.
- (5) Changeable copy signs are prohibited.
- (6) A zoning permit for this temporary sign type shall be valid up to sixty (60) calendar days, and no more than (2) temporary sign permits for the same sign may be applied for within one (1) year. Once a temporary ground sign has been permitted for one hundred twenty (120) days, in order for the sign to remain it must be brought forward for a permanent ground sign permit and meet the standards required of a permanent ground sign.

(D) Portable Signs

Temporary portable signs, such as A-Frame signs, sandwich boards, or other portable sign types which are not affixed to the ground or which can be easily removed from the ground by hand without the use of tools, are permitted in accordance with the following provisions:

- (1) Maximum sign height is six (6) feet.
- (2) Maximum sign area is (12) square feet.
- (3) Changeable copy signs are prohibited.
- (4) Portable signs shall not be located on any sidewalk within the public right-of-way.
- (5) A zoning permit for this temporary sign type shall be valid up to sixty (60) calendar days, and no more than (2) temporary sign permits for the same sign may be applied for within one (1) year.

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- (6) Temporary portable signs which are no larger than two (2) square feet and also no more than four (4) feet in height are exempt from maximum number requirements pursuant to Section 4.505.2 (Type 2 Exemptions).

(E) Window Signs

No more than twenty five (25) percent of the window surface shall be covered by signage, inclusive of any permanent window signs which may be on display. Temporary window signs do not require a zoning permit; however any window sign that has been on display for longer than sixty (60) days shall be considered a permanent window sign and is required to obtain a zoning permit.

§ 4.509 SIGNS IN MIXED USE DISTRICTS

4.509.1 NUMBER OF SIGNS PERMITTED

The provisions of Section 4.509 shall apply to all zoning districts identified as Mixed Use Districts in Section 3.101.1 (List of Districts and Overlays). The table below shall control the maximum number of certain signage types allowed, along with applicable standards specific to each type:

SIGNAGE TYPE	NUMBER OF SIGNS PERMITTED	STANDARDS SECTION
PERMANENT SIGNS		
Arch Signs	As approved by the Planning Commission during Site Plan Review	4.509.2(A)
Canopy Signs (e.g. Awning Signs)	One (1) per building unit	4.509.2(B)
Flag Signs	One (1) per building unit	4.509.2(C)
Gateway Signs	Prohibited	N/A
Ground Signs	One (1) per street frontage, except as provided in Section 4.513	4.509.2(D)
Off-Premise Signs (e.g. Billboards)	Prohibited	N/A
Pole Signs	Prohibited	N/A
Projecting Signs	One (1) per building unit	4.509.2(E)
Roof Signs	Prohibited	N/A
Wall Signs	One (1) per building unit	4.509.2(F)
Window Signs	Permitted (no restriction on number)	4.509.2(G)
TEMPORARY SIGNS		
Banner Signs	One (1) per building unit	4.509.3(A)
Beacons/Searchlights	Prohibited, except for temporary events and emergency purposes	N/A
Blade/Feather Signs	Prohibited	N/A
Ground Signs	One (1) per building unit	4.509.3(B)
Pennants or Streamers	Prohibited	N/A
Portable Signs (e.g. A-Frame)	One (1) per building unit	4.509.3(C)
Promotional Balloons	Prohibited	N/A
Window Signs	Permitted (no restriction on number)	4.509.3(D)

4.509.2 PERMANENT SIGN PROVISIONS

(A) Arch Signs

Permanent arch signs shall comply with the following standards:

- (1) Minimum setback from right-of-way and adjoining property lines is (10) feet.
- (2) Maximum height for signage, including any structural elements, is twenty-five (25) feet.
- (3) Maximum area of the sign face is two (2) feet multiplied by the width of the span of the arch.
- (4) Minimum clearance is fourteen (14) feet, four (4) inches.
- (5) The maximum width of the signage and any structural elements shall equal the width of the passageway or paved roadway that passes underneath the sign, plus five (5) feet, with at least two and a half (2.5) feet on both sides.
- (6) Maximum number of poles (structural supports) is two (2); one on either side of the driveway/roadway.
- (7) Changeable copy arch signs are prohibited.

(B) Canopy Signs

The sign area of canopy signs shall not exceed twenty (20) square feet, a clearance of eight (8) feet shall be provided between the sidewalk and the sign, and such signs shall not extend above the roof line.

(C) Flag Signs

Flag signs are permitted provided they are attached to the side of a building, projecting outward in a diagonal fashion. The highest point of the flag shall be no taller than the highest eave of the building on which the flag is attached.

(D) Ground Signs

Permanent ground signs shall comply with the following standards:

- (1) Signs shall be made of solid materials of a permanent nature known and used in the sign construction industry and shall include, but are not limited to: brick, stone, EIFS, polished or honed finish metals, decorative pre-cast concrete wood, architectural masonry, steel and/or metal, and glass.
- (2) Ground signs shall maintain clear zones for pedestrians and motorists and comply with the following:
 - (a) Maintain a setback of ten (10) feet from adjoining property lines and public right-of-way line(s);
 - (b) Ten (10) feet from the edge of any driveway; and

(c) Five (5) feet from any sidewalk or paved path.

(3) Maximum sign height is six (6) feet.

(4) Maximum sign area is thirty two (32) square feet. For lots with multiple street frontages, the maximum sign area is cumulative and shall not be increased, but the owner may apply the maximum sign area to multiple signs with a maximum of one (1) sign per street frontage.

(5) Changeable copy signs are permitted in accordance with the standards in Section 4.511 (Changeable Copy Signs). Electronic LED display signs are permitted.

(E) Projecting Signs

Permanent projecting signs shall comply with the following standards:

(1) The sign must be attached to a principal building.

(2) The sign area shall not exceed nine (9) square feet.

(3) Signs shall be installed to achieve a minimum vertical clearance of eight (8) feet from the bottom of the sign to the finished grade.

(4) Projecting signs are prohibited over a vehicular access way.

(F) Wall Signs

A wall sign shall be permitted with an area not to exceed one (1) square foot in area for each one linear foot of building frontage to a maximum size of one hundred fifty (150) square feet.

(G) Window Signs

No more than twenty five (25) percent of the window surface shall be covered by signage, inclusive of any temporary window signs which may be on display.

4.509.3 TEMPORARY SIGN PROVISIONS

(A) Banner Signs

Banner signs are permitted provided the sign is no larger than twenty (20) square feet, is not located on a single-family or two-family residential property, and is attached to the wall of a building. A zoning permit for this temporary sign type shall be valid up to sixty (60) calendar days, and no more than two (2) such permits for the same sign may be applied for within one (1) calendar year.

(B) Ground Signs

Temporary ground signs shall comply with the following standards:

(1) No temporary ground sign may be erected on a single-family or two-family residential property.

- (2) Ground signs shall maintain clear zones for pedestrians and motorists and comply with the following:
 - (a) Maintain a setback of ten (10) feet from adjoining property lines and public right-of-way line(s);
 - (b) Ten (10) feet from the edge of any driveway; and
 - (c) Five (5) feet from any sidewalk or paved path.
- (3) Maximum sign height is six (6) feet.
- (4) Maximum sign area is thirty six (36) square feet.
- (5) Changeable copy signs are prohibited.
- (6) A zoning permit for this temporary sign type shall be valid up to sixty (60) calendar days, and no more than (2) temporary sign permits for the same sign may be applied for within one (1) year. Once a temporary ground sign has been permitted for one hundred twenty (120) days, in order for the sign to remain it must be brought forward for a permanent ground sign permit and meet the standards required of a permanent ground sign.

(C) Portable Signs

Temporary portable signs, such as A-Frame signs, sandwich boards, or other portable sign types which are not affixed to the ground or which can be easily removed from the ground by hand without the use of tools, are permitted in accordance with the following provisions:

- (1) Maximum sign height is three (3) feet.
- (2) Maximum sign area is six (6) square feet.
- (3) When a portable sign is located on a sidewalk in the public right-of-way, the following additional standards shall apply:
 - (a) By filing the zoning permit application for the temporary sign, the applicant agrees to indemnify the City and hold the City harmless from any claims of injury, loss or damage arising from the use or maintenance of the sign.
 - (b) No sign permitted on any public sidewalk shall hinder or block ingress and/or egress to any public or private entryway to any property or structure. Further, no sign on a public sidewalk shall impede or hinder pedestrian travel on public sidewalks nor shall any such sign impede or hinder ingress or egress to vehicles parked at curbside, nor shall any such sign impede access from the street or sidewalk to any parking meter.
 - (c) Signs shall be temporary in nature and must be removed from the sidewalk at the close of business each day.
 - (d) All signs shall be placed in front of the business in which the sign advertises. Off-site signage is prohibited.

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- (e) Such signs shall be temporary in nature and must be removed from the sidewalk at the close of business each day.
- (f) Such signs shall not be counted toward the exemption provided under Section 4.505.2 (Type 2 Exemptions).
- (4) A zoning permit for this temporary sign type shall be valid for the remainder of the calendar year. Applicants must reapply for the sign to continue to remain the following year.
- (5) Temporary portable signs which are no larger than two (2) square feet and also no more than four (4) feet in height are exempt from maximum number requirements pursuant to Section 4.505.2 (Type 2 Exemptions), except as provided in subsection (3) for signs in the public right-of-way.

(D) Window Signs

No more than twenty five (25) percent of the window surface shall be covered by signage, inclusive of any permanent window signs which may be on display. Temporary window signs do not require a zoning permit; however any window sign that has been on display for longer than sixty (60) days shall be considered a permanent window sign and is required to obtain a zoning permit.

§ 4.510 SIGNS IN RESIDENTIAL DISTRICTS

4.510.1 NUMBER OF SIGNS PERMITTED

The provisions of Section 4.510 shall apply to all zoning districts identified as Residential Districts in Section 3.101.1 (List of Districts and Overlays). The table below shall control the maximum number of certain signage types allowed, along with applicable standards specific to each type:

SIGNAGE TYPE	NUMBER OF SIGNS PERMITTED	STANDARDS SECTION
PERMANENT SIGNS		
Arch Signs	One (1) per property	4.510.2(A)
Canopy Signs (e.g. Awning Signs)	One (1) per multi-family or non-residential development site	N/A
Flag Signs	Permitted (no restriction on number)	N/A
Gateway Signs	One (1) on each side of a community/subdivision entrance	4.510.2(B)
Ground Signs	One (1) per multi-family or non-residential development site	4.510.2(C)
Off-Premise Signs (e.g. Billboards)	Prohibited	N/A
Pole Signs	Prohibited	N/A
Projecting Signs	One (1) per non-residential development site	4.510.2(D)
Roof Signs	Prohibited	N/A
Wall Signs	One (1) per multi-family or non-residential development site	4.510.2(E)
Window Signs	Prohibited	N/A
TEMPORARY SIGNS		
Banner Signs	Prohibited	N/A
Beacons/Searchlights	Prohibited, except for temporary events and emergency purposes	N/A
Blade/Feather Signs	Prohibited	N/A
Ground Signs	One (1) per property	4.510.3(A)
Pennants or Streamers	Prohibited	N/A
Portable Signs (e.g. A-Frame)	One (1) per property	4.510.3(B)
Promotional Balloons	Prohibited	N/A
Window Signs	Prohibited	N/A

4.510.2 PERMANENT SIGN PROVISIONS

(A) Arch Signs

Permanent arch signs shall comply with the following standards:

- (1) Minimum setback from right-of-way and adjoining property lines is (10) feet.
- (2) Maximum height for signage, including any structural elements, is twenty-five (25) feet.
- (3) Maximum area of the sign face is two (2) feet multiplied by the width of the span of the arch.
- (4) Minimum clearance is fourteen (14) feet, four (4) inches.
- (5) The maximum width of the signage and any structural elements shall equal the width of passageway or paved driveway that passes underneath the sign, plus five (5) feet, with at least two and a half (2.5) feet on both sides.
- (6) Maximum number of poles (structural supports) is two (2) – one on either side of the passageway/driveway/roadway.
- (7) Changeable copy signs are prohibited.
- (8) Illumination of the arch sign is prohibited.

(B) Gateway Signs

- (1) Gateway signs shall maintain clear zones for pedestrians and motorists and comply with the following:
 - (a) Maintain a setback of ten (10) feet from adjoining property lines and public right-of-way line(s);
 - (b) Ten (10) feet from the edge of any driveway; and
 - (c) Five (5) feet from any sidewalk or paved path.
- (2) Maximum sign height is ten (10) feet.
- (3) Maximum sign area is thirty-six (36) square feet.
- (4) Changeable copy signs are prohibited.
- (5) Only concealed external light illumination shall be permitted; internal illumination including channel lettering is prohibited.
- (6) Proof of an established mechanism to ensure the ongoing maintenance of the entire entrance structure and associated landscaping shall be submitted to the Zoning Administrator as part of the zoning permit application for a gateway sign.

(C) Ground Signs

Permanent ground signs shall comply with the following standards:

- (1) No permanent ground sign may be erected on a single-family or two-family residential property, except as provided in Section 2.204.13 (Home Occupations).
- (2) Signs shall be made of solid materials of a permanent nature known and used in the sign construction industry and shall include, but are not limited to: brick, stone, EIFS, polished or honed finish metals, decorative pre-cast concrete, wood, architectural masonry, steel and/or metal, and glass.
- (3) Ground signs shall maintain clear zones for pedestrians and motorists and comply with the following:
 - (a) Maintain a setback of ten (10) feet from adjoining property lines and public right-of-way line(s);
 - (b) Ten (10) feet from the edge of any driveway; and
 - (c) Five (5) feet from any sidewalk or paved path.
- (4) Maximum sign height is six (6) feet.
- (5) Maximum sign area is twenty-four (24) square feet.
- (6) Changeable copy signs are permitted in accordance with the standards in Section 4.511 (Changeable Copy Signs). Electronic LED display signs are permitted.
- (7) Only concealed external light illumination shall be permitted, excepting any LED displays. All other forms of internal illumination shall be prohibited.

(D) Projecting Signs

Permanent projecting signs shall comply with the following standards:

- (1) The sign must be attached to a principal building.
- (2) The sign area shall not exceed nine (9) square feet.
- (3) Signs shall be installed to achieve a minimum vertical clearance of eight (8) feet from the bottom of the sign to the finished grade.
- (4) Projecting signs are prohibited over a vehicular access way.

(E) Wall Signs

A wall sign shall be permitted with an area not to exceed one (1) square foot in area for each one linear foot of building frontage to a maximum size of one hundred fifty (150) square feet.

4.510.3 TEMPORARY SIGN PROVISIONS

(A) Ground Signs

Temporary ground signs shall comply with the following standards:

- (1) No temporary ground sign may be erected on a single-family or two-family residential property.
- (2) Ground signs shall maintain clear zones for pedestrians and motorists and comply with the following:
 - (a) Maintain a setback of ten (10) feet from adjoining property lines and public right-of-way line(s);
 - (b) Ten (10) feet from the edge of any driveway; and
 - (c) Five (5) feet from any sidewalk or paved path.
- (3) Maximum sign height is six (6) feet.
- (4) Maximum sign area is twenty-four (24) square feet.
- (5) Changeable copy signs are prohibited.
- (6) A zoning permit for this temporary sign type shall be valid up to sixty (60) calendar days, and no more than (2) such permits for the same sign may be applied for within one (1) year. Once a temporary ground sign has been permitted for one hundred twenty (120) days, in order for the sign to remain it must be brought forward for a permanent ground sign permit and meet the standards required of a permanent ground sign.

(B) Portable Signs

Temporary portable signs, such as A-Frame signs, sandwich boards, or other portable sign types which are not affixed to the ground or can be easily removed from the ground by hand without the use of tools, are permitted in accordance with the following provisions:

- (1) Maximum sign height is six (6) feet.
- (2) Maximum sign area is (12) square feet.
- (3) Changeable copy signs are prohibited.
- (4) Portable signs shall not be located on any sidewalk within the public right-of-way.
- (5) A zoning permit for this temporary sign type shall be valid up to sixty (60) calendar days, and no more than (2) temporary sign permits for the same sign may be applied for within one (1) year.
- (6) Temporary portable signs which are no larger than two (2) square feet and also no more than four (4) feet in height are exempt from maximum number requirements pursuant to Section 4.505.2 (Type 2 Exemptions).

§ 4.511 CHANGEABLE COPY SIGNS

4.511.1 GENERAL STANDARDS

- (A) A changeable copy sign shall only be permitted as part of a permanent on-premise sign.
- (B) A changeable copy sign shall be limited to Ground Signs and Pole Signs.
- (C) The sign copy or display message shall be limited to alphanumeric text only.
- (D) The sign face of a changeable copy sign shall not exceed fifty (50) percent of the total sign area or twenty (20) square feet, whichever is less.
- (E) Changeable copy signs which comprise an electronic sign copy or display message shall utilize an LED display and be subject to the standards of Section 4.511.1 (LED Display Standards) below.

4.511.2 LED DISPLAY STANDARDS

- (A) The sign copy or display message shall not change or alternate more than once every sixty (60) minutes, with exception to time and temperature displays.
- (B) The sign copy or display message shall remain static and motionless for the duration of the display time.
- (C) The sign copy or display message shall not contain animation, scrolling or running letters or text, flashing lights, or intermittent, alternating message changes.
- (D) The luminosity of the LED display shall be dimmed between dusk and dawn so that the sign shall emit no more than 0.2 foot-candles at all property lines.
- (E) A face change to a legal non-conforming sign, as determined under Section 4.513 (Non-Conforming Signs), which involves the conversion of an existing manual changeable copy sign to an electronic sign copy or display message shall meet all standards of Section 4.511 and in no case shall the electronic sign copy or display message exceed the area of the original changeable sign copy.

§ 4.512 MURALS

4.512.1 REGULATION AS WALL SIGNS

- (A) A mural is defined as a hand-produced work of visual art which is tiled or painted by hand directly upon, or affixed directly to an exterior wall of a building.
- (B) For purposes of regulation, a mural shall be considered a type of wall sign and thus is permitted only in accordance with the standards and provisions of this Chapter applicable to wall signs.

4.512.2 SPECIAL SIZE FLEXIBILITY IN THE DOWNTOWN CORE DISTRICT

In recognizing the importance of murals in establishing a sense of place and contributing to the character and overall quality of life in the City of Wilmington, murals within the DC (Downtown Core) District may be exempted from the normal maximum sign area provisions for wall signs, and

are instead subject to a maximum sign area of four thousand (4,000) square feet. Such murals shall also be subject to the provisions of the Commercial Historic (H-1) Overlay District, as applicable.

§ 4.513 VEHICULAR USE AREA SIGNS

4.513.1 REGULATION AS GROUND SIGNS

In Business and Mixed Use Districts, additional permanent ground signs may be permitted for vehicular use areas in accordance with the provisions of this Section.

4.513.2 STANDARDS

For off-street parking areas of twenty five (25) spaces or more, one (1) additional ground sign per twenty five (25) spaces shall be permitted and shall meet all standards for permanent ground signs applicable to the district in which the sign is located, unless otherwise provided in the additional standards below:

- (A) Signs shall be located within five (5) feet from the edge of the parking area pavement.
- (B) Signs shall not exceed five (5) feet in overall height.
- (C) Signs shall not exceed six (6) square feet in sign area.
- (D) Changeable copy signs, including LED displays, as well as all forms of illumination except for concealed external light illumination, are prohibited.

§ 4.514 NON-CONFORMING SIGNS

4.514.1 DETERMINATION OF LEGAL NON-CONFORMITY

Existing signs that do not conform to the specific provisions of this Zoning Code may be eligible for the designation of a “legal non-conforming sign” and allowed to continue provided that they are not in violation of either of the following:

- (A) The Zoning Administrator and/or Building Department determines that such signs are properly maintained and do not in any way endanger the public or constitute a nuisance and/or;
- (B) Except as provided in Section 4.514.2 (Transitional Rules for Temporary Signs), the sign was previously covered by a valid permit or variance, or complies with all applicable laws on the effective date of this Zoning Code.

4.514.2 TRANSITIONAL RULES FOR TEMPORARY SIGNS

All temporary signs, including portable signs, must comply with the new regulations of this Chapter. Existing temporary signs shall not qualify for non-conforming or grandfathering provisions in Section 4.514.1 (Determination of Legal Non-Conformity); a zoning permit must be secured within ninety (90) days of the effective date of this Zoning Code. Failure to secure a zoning permit for an existing temporary sign after the 90 day period shall render the sign illegal.

4.514.3 LOSS OF LEGAL NON-CONFORMING STATUS

A legal non-conforming sign loses the legal non-conforming designation and shall be brought into compliance with the requirements of this Chapter or be removed if:

- (A) The sign is relocated.
- (B) The sign structure is replaced.
- (C) The structure or size of the sign is altered in any way except toward compliance with this Zoning Code. This does not refer to general maintenance, a change of copy on changeable copy signs, or face changes.
- (D) The sign is part of an establishment that discontinues its operation for a period of six (6) months.
- (E) The sign is damaged to an extent greater than fifty (50) percent of the estimated replacement value.

4.514.4 MAINTENANCE AND REPAIR OF NON-CONFORMING SIGNS

The legal non-conforming sign is subject to all requirements of this Chapter regarding safety, maintenance, and repair. However, if the sign suffers damage to an extent greater than fifty (50) percent of the estimated replacement value, such sign shall be replaced and/or reconstructed in compliance with this Zoning Code.

ARTICLE V: DEFINITIONS

CHAPTER 1: DEFINITIONS

§ 5.101 RULES OF CONSTRUCTION AND INTERPRETATION

5.101.1 INTENT

All provisions, terms, phrases, and expressions contained in this Zoning Code shall be construed according to stated purpose and intent of this Zoning Code.

5.101.2 LISTS AND EXAMPLES

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

5.101.3 REFERENCES TO OTHER REGULATIONS, PUBLICATIONS AND DOCUMENTS

Whenever reference is made to an ordinance, statute, regulation, or document, that reference shall be construed as referring to the most recent edition of such regulation (as amended), ordinance, statute, or document, or to the relevant successor document, unless otherwise expressly stated.

5.101.4 PUBLIC OFFICIALS AND AGENCIES

All public officials, bodies, and agencies to which references are made are those of the City of Wilmington, unless otherwise expressly stated.

5.101.5 DELEGATION OF AUTHORITY

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.

5.101.6 TECHNICAL WORDS

Technical words and phrases not otherwise defined in this Zoning Code that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

5.101.7 MANDATORY AND DISCRETIONARY TERMS

The word “shall” is always mandatory, and the words “may” or “should” are always permissive.

ARTICLE V, CHAPTER 1: DEFINITIONS

5.101.8 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 shall apply; and
- (B) “Or” indicates that one or more of the connected items, conditions, provisions, or events shall apply.

5.101.9 TENSE AND USAGE

Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular shall include the plural, and the plural shall include the singular.

5.101.10 GENDER

The masculine shall include the feminine, and vice versa.

5.101.11 MEANING

For the purpose of this Code, words and phrases shall have the meanings set forth in this Chapter.

5.101.12 TERMS NOT DEFINED

Words and phrases not otherwise defined in this Code shall be construed according to the common approved usage of American English.

§ 5.102 DEFINITIONS

Definitions are presented as follows in alphabetical order:

ACCESSORY DWELLING UNIT

An additional living unit that is associated with a primary dwelling unit, that is either located entirely within the principal structure of the primary dwelling unit or in a detached accessory building, which serves as an additional living unit for sleeping, cooking, and sanitation. Accessory Dwelling Units are often for use by the occupant of the primary dwelling unit for guests, household help, or relatives.

ACCESSORY STRUCTURE

See “Structure, Accessory”

ACTIVE PARKS, PLAYGROUNDS, AND RECREATIONAL FACILITIES

Any park or recreational facility that requires the grading of the land, construction of facilities, lighting, or is developed for ball fields, tennis courts, swimming pools, skate parks, disc golf, and other similar outdoor facilities.

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.

ARTICLE V, CHAPTER 1: DEFINITIONS

ADULT ENTERTAINMENT FACILITY

An establishment having a significant portion of its function as presenting adult material or entertainment. The following are categorized as adult entertainment establishments:

- (A) **Adult Arcade** – Any place to which the public is permitted or invited in which coin-operated, 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 in which the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing of “specified sexual activities” or “specified anatomical areas.”
- (B) **Adult Book Store, Adult Novelty Store or Adult Video Store** – A commercial establishment that has as a significant or substantial portion of its stock in trade or inventory 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, for any form of consideration, of books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations, that are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.
- (C) **Adult Entertainment Establishment** – An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude or semi-nude model studio, or sexual encounter establishment. 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 pursuant to Section 4731.15 of the Revised Code, is not an “adult entertainment establishment”.
- (D) **Adult Materials** – Any book, novelty, sexual paraphernalia, sex toy, sexual device, magazine, periodical, newspaper, pamphlet, poster, print picture, slide, transparency, figure, image, description, motion picture film, video, phonographic record or tape, compact disc (CD), digital video disc (DVD), computer hardware or software, or other tangible thing that is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.
- (E) **Adult Mini Motion Picture Theater** – A facility with a capacity for less than 50 persons, which in exchange for any form of consideration, presents adult material for observation by patrons therein.
- (F) **Adult Motel or Hotel** – An establishment offering public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions, characterized by the depiction of “specified sexual activities” or “specified anatomical areas” and which advertises the availability of this type of material by means of a sign visible from the public right-of-way, or by means of off-premises advertising; or offers a sleeping room for rent for a period of time less than 10 hours; or allows a tenant or occupant to sub-rent the sleeping room for a period of time less than 10 hours.
- (G) **Adult Motion Picture Theater** – A commercial establishment where films, motion pictures, videocassettes, slides or similar photographic reproductions that are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five individuals for any form of consideration.
- (H) **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

ARTICLE V, CHAPTER 1: DEFINITIONS

performances that are characterized by their emphasis upon the exposure of specified anatomical areas or specified sexual activities.

- (I) **Escort Agency** – A person or business association that, for any form of consideration, furnishes, or offers to furnish an escort(s), guide(s), date(s), or companion(s) for another person.
- (J) **Massage Establishments** – Any establishment having a fixed place of business where massages are administered for pay. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or therapist duly licensed by the State of Ohio, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck, or the shoulder, or recreation centers and sports complexes.
- (K) **Nude Model Studio** – Any place where a person, who regularly appears in a state of nudity, semi-nudity, is provided for money or any other form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons A modeling class or studio is not a nude or semi-nude model studio and is not subject to this chapter if it is operated in any of the following ways: (i) By a college or university supported entirely or partly by taxation; (ii) By a private college or university that maintains and operates educational programs, the credits for which are transferable to a college or university supported entirely or partly by taxation; (iii) In a structure that has no sign visible from the exterior of the structure and no other advertising indicating that a person appearing in a state of nudity or semi-nudity is available for viewing, if in order to participate in a class in the structure, a student must enroll at least three days in advance of the class and if not more than one nude or semi-nude model is on the premises at any one time.
- (L) **Sexual Device Shop** – A commercial establishment that regularly features sexual devices, but not including any pharmacy, drug store, medical clinic, or establishment primarily dedicated to providing medical or healthcare products or services, and not including any commercial establishment that does not restrict access to its premises by reason of age.
- (M) **Sexual Encounter Center** – A business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration physical contact in the form of wrestling or tumbling between individuals of the opposite sex when one or more of the individuals is nude or semi-nude.
- (N) **Sexual Encounter Establishment** – A business or commercial establishment, that as one of its primary business purposes, offers for any form of consideration, a place where two or more persons congregate, associate or consort, for the purpose of specified sexual activities, or the exposure of specified anatomical areas, or activities when one or more of the persons is in a state of nudity or semi-nude (not including an establishment where a medical practitioner, psychologist, psychiatrist or similar person licensed in the State of Ohio, engages in medically approved and recognized sexual therapy).

ADULT FAMILY HOME (OR SMALL RESIDENTIAL FACILITY)

A residence or facility, as defined and regulated in Chapter 3722 of the Ohio Revised Code, which provides accommodations for three (3) to five (5) unrelated adults and provides supervision and personal care services to at least three (3) of the unrelated adults.

ADULT FAMILY GROUP HOME (OR LARGE RESIDENTIAL FACILITY)

A residence or facility, as defined and regulated in Chapter 3722 of the Ohio Revised Code, which provides accommodations for six (6) to sixteen (16) unrelated adults and provides supervision and personal care services to at least three (3) of the unrelated adults.

AGRICULTURAL BUILDING

A non-residential uninhabited structure for the storage of farm animals, implements, supplies, or products and is not open to the public. Examples include, but are not limited to barns, grain elevators, silos, coops, corrals, pens, private stables, greenhouses, but not retail greenhouses or structures for packaging agricultural products or agricultural processing activities.

AGRICULTURE – RAISING OF CROPS

The principal use of land for agricultural purposes. This includes necessary buildings and structure which shall be used for agriculture, including, 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.

AGRICULTURE – RAISING OF LIVESTOCK

The principal use of land for the raising and caring of livestock. This includes necessary buildings and structures which shall be used for agriculture, raising and caring for livestock and animal and poultry husbandry including necessary accessory uses for parking, treating or sorting of 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.

AMATEUR RADIO ANTENNA

Any transmitter, antenna, tower, or other apparatus designed for communications through amateur radio, also referred to as ham radio

ANIMAL SHELTER

A facility used to house or contain stray homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

ANNEXATION

The process by which municipalities extend their municipal services, regulations, voting privileges, and taxing authority to new territory

APARTMENT

A unit within a multiple-unit structure with sanitation and cooking facilities intended for use as a residence by a single household

ASSISTED LIVING FACILITY

A home that provides either of the following:

- (A) Accommodations for seventeen (17) or more unrelated individuals and supervision and personal care services for three (3) or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;
- (B) Accommodations for three (3) or more unrelated individuals, supervision, and personal care services for at least three (3) of those individuals who are dependent on the services of others by reason of age or physical or mental impairment, and, to at least one of those individuals, any of the skilled nursing care authorized by Section 3721.011 of the Ohio Revised Code.

ARTICLE V, CHAPTER 1: DEFINITIONS

AUTOMATED TELLER MACHINE (ATM)

An automated device that provides bank and financial institutional customers with cash withdrawal and other financial services without the need for a bank teller

AUTOMOBILE BODY REPAIR SHOP

A facility that provides collision repair services, including body frame straightening and repair, replacement of damaged parts, and painting.

AUTOMOBILE FUELING STATION

An establishment that sells unleaded and diesel gasoline along with other automotive fuels, and may include a convenience store as an accessory use.

AUTOMOBILE GENERAL REPAIR

A building, structure, or land used for the general repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including, but not limited to, muffler, oil change and lubrication, tire service and sales, installation of accessories, or engine repair.

AUTOMOBILE OIL CHANGE, LUBE, OR LIGHT SERVICE

A building, structure, or land used for light maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles. Light maintenance includes oil change and lubrication, changing and flushing of fluids, battery maintenance/replacement, and tire service/sales, but not engine repair.

AUTOMOBILE SALES OR RENTAL ESTABLISHMENT

A facility where new or used cars, motorcycles, and other light load vehicles are sold, leased, or rented.

AUTOMOBILE WASHING FACILITY

The use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.

BANQUET/ASSEMBLY HALL

A facility or building 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.

BAR, BREWPUB OR TAVERN

An establishment provided or dispensing, for on-site consumption, any fermented malt beverage, malt beverage, special malt, vinous, or spirituous liquors. The sale of food products, including, but not limited to, sandwiches and light snacks may be a secondary use to the service of the aforementioned drinks.

BED AND BREAKFAST

An owner occupied dwelling unit that contains no more than four guest rooms for lodging, with or without meals, provided for compensation.

BUILDABLE AREA

The area of a lot remaining after the minimum yard setback requirements of the Zoning Code have been met (See Section 3.103.5)

BUILDING

Any structure consisting of foundations, walls, columns, girders, beams, floors, and roof, or a combination of any number of these parts, with or without other parts or appurtenances

BUILDING, ACCESSORY

See "Structure, Accessory"

BUILDING, PRINCIPAL/PRIMARY

See "Structure, Principal/Primary"

BUILDING, HEIGHT

See "Height, Building"

BUILDING/LUMBER YARD

Any land or buildings used primarily for the storage and sale of basic building materials and lumber that may be sold to the general public or contractors

BUSINESS

The engaging in the purchase, sale, barter or exchange of goods, wares, merchandise or services, the maintenance or operation of offices, or recreational and amusement enterprises for profit

CARPORT

A roofed structure attached to the principal structure used for the purpose of providing shelter for one (1) or more passenger vehicles.

CARPORT, DETACHED

A roofed accessory structure used for the purpose of providing shelter for one (1) or more passenger vehicles.

CASINO

The operation or conducting of any games played with cards, roulette wheels, dice, craps, slot machines, video lottery terminals, mechanical, electro-mechanical, or electronic amusement devices or machine for money, property, checks, credit, or any representative of value including, without limiting the generality of the foregoing, baccarat, faro, monte, poker, keno, black jack, bingo, fan-tan, twenty-one, seven-and-a-half, big injun, klondike, chuck-a-luck, wheel of fortune, chemin de fer, pai gow, beat the banker, and panguingui and similar games of chance for the return of money, cash, or prizes, or anything that could be redeemed for money, cash, or prizes.

CEMETERY

Land used for the burial of the dead and dedicated for cemetery purposes, including columbiums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery

CERTIFICATE OF APPROPRIATENESS

A certificate issued by the Planning Commission stating that a change requested for a building or site in the Commercial Historic (H-1) Overlay District is approved or approved contingent upon compliance with certain conditions

CERTIFICATE OF OCCUPANCY

A Certificate signed by the Zoning Administrator stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this Zoning Code.

CHURCH/PLACE OF WORSHIP

A place solely for the purpose of religious worship and related educational instruction and gatherings

CITY

Whenever the word "City" appears in this Zoning Code, it shall be deemed to refer to the City of Wilmington, Ohio, unless otherwise specified.

ARTICLE V, CHAPTER 1: DEFINITIONS

CITY COUNCIL

Whenever the words “City Council” appear in this Zoning Code, it shall be deemed to refer to the Council of the City of Wilmington, unless otherwise specified.

CLINIC

A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

CODIFIED ORDINANCES

The Codified Ordinances of Wilmington, Ohio

COMMERCIAL VEHICLE

Trucks, with or without a connected trailer, with a combined gross vehicle weight above 14,000 pounds.

COMMUNITY GARDEN

A single piece of land that is gardened collectively, as an accessory use, by a group of people that may include individual garden plots designated for individual gardens

COMPREHENSIVE PLAN

Whenever the words “Comprehensive Plan” appear in this Zoning Code, it shall be deemed to refer to, unless otherwise specified, the 2015 Wilmington Comprehensive Plan entitled “Plan Wilmington: Yesterday, Today, Tomorrow” or as may be subsequently amended or superseded.

CONDOMINIUM

A form of real property ownership under which each owner has an individual ownership interest in a unit with the right to exclusive possession of that unit and an undivided ownership interest with the other unit owners in the common elements of the condominium property

CONSERVATION DESIGN OPTION (CDO)

An optional type of major subdivision which allows for increased density in exchange for an increase in reserved open space (See Section 3.105)

CONSTRUCTION DUMPSTER

A container used for the temporary storage of rubbish or materials related to the related construction site or project

CONSTRUCTION TRAILER

A mobile home, trailer, or similar temporary structure that is used as an office or for storage in conjunction with a construction project

CONTRACTOR YARD

Any land or buildings used primarily for the storage of equipment, vehicles, machinery (new or used), building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft.

CONVENIENCE STORE

Small-scale retail stores used for the sale of goods used on an everyday basis by consumers including, but not limited to, pre-packaged food products, household items, newspapers and magazines. Such use does not include gasoline or automotive fuel sale or fast food service.

ARTICLE V, CHAPTER 1: DEFINITIONS

DAY CARE CENTER

An establishment for the care, protection, and guidance of one (1) or more children or adults on a regular basis, for periods of less than 24 hours per day, in a place other than their own dwelling unit

DECK

A platform, either freestanding or attached to a building, that is supported by pillars or posts and which is not enclosed

DISTRIBUTION CENTER

A use where goods are received and/or stored for delivery to the ultimate customer at remote locations

DISTRICT, OVERLAY

See "Overlay District"

DISTRICT, ZONING

See "Zoning District"

DISTRICT STANDARDS

See "Standards, District"

DRIVE-THROUGH

"Drive-Through" (sometimes stylized as "drive-thru") means a commercial accessory use designed to service customers who stay in their vehicles

DRIVE-THROUGH FACILITY

An establishment that encourages or permits customers to receive services, or obtain goods while remaining in their motor vehicles

DROP-OFF BOX

A small collection facility where recyclable materials, clothing, or household goods are purchased or accepted from the public. Typical uses include neighborhood recycling stations and thrift store collection trucks.

DWELLING

Any building or portion thereof designed or intended to be used exclusively for residence purposes, but not including a mobile home or a non-permanently sited manufactured home on any site outside of a manufactured homes park, nor a tent, cabin, trailer, travel trailer, trailer coach, camper on a truck, or any other type of recreational vehicle

DWELLING, SINGLE-FAMILY

A building designed for, or occupied exclusively by, one (1) family

DWELLING, TWO-FAMILY

A building designed for, or occupied exclusively by, two (2) families

DWELLING, MULTI-FAMILY

A building or portion thereof designed for or occupied by more than two (2) families

DWELLING UNIT

A residential use building or portion thereof containing one (1) or more rooms used, designed, or intended for occupancy as a single household unit, in providing complete permanent facilities per all applicable Code requirements for living, sleeping, cooking, eating, bathing, washing, and sanitation

ARTICLE V, CHAPTER 1: DEFINITIONS

EDUCATIONAL INSTITUTION

A public or private facility that provides a curriculum of primary, elementary, secondary or college preparatory academic instruction, including, but not limited to, 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.

EDUCATIONAL INSTITUTION, HIGHER

Any private or public secondary educational institution that includes, but is not limited to: secretarial schools, colleges and universities, business schools, seminaries, or any other institution providing collegiate level curriculum

EGRESS

An exit

EQUIPMENT SALES AND LEASING

Any building or land used for the display, sale, or rental of equipment in operable condition, such as farm equipment, utility trailers, and construction equipment

ELECTRIC CHARGING STATION – LEVEL 1

“Electric Charging Station – Level 1” means a public or private parking space(s) that is (are) served by battery charging equipment with the purpose of transferring electric energy to a battery or other energy storage device in an electric vehicle, which operates on a fifteen (15) to twenty (20) amp breaker on a one hundred twenty (120) volt AC circuit.

ELECTRIC CHARGING STATION – LEVEL 2

“Electric Charging Station – Level 2” means a public or private parking space(s) that is (are) served by battery charging equipment with the purpose of transferring electric energy to a battery or other energy storage device in an electric vehicle, which operates on a forty (40) to one hundred (100) amp breaker on a two hundred eight (208) or two hundred forty (240) volt AC circuit.

ELECTRIC CHARGING STATION – LEVEL 3

“Electric Charging Station – Level 3” means a public or private parking space(s) that is (are) served by battery charging equipment with the purpose of transferring electric energy to a battery or other energy storage device in an electric vehicle. Level 3 electric vehicle charging stations are considered fast or rapid charging and operate on a sixty (60) amp or higher breaker on a four hundred eighty (480) volt or higher three phase circuit with special grounding equipment. Level 3 stations can also be referred to as rapid charging stations that are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.

FAMILY

A person living alone, or two or more persons customarily living together as a single housekeeping unit and using common cooking facilities as distinguished from a group occupying a hotel, club, boarding or lodging house, motel, sorority house, fraternity house or group home.

FAMILY DAY CARE – TYPE A

A permanent residence of the administrator in which child care or publicly funded child care is provided for seven (7) to twelve (12) children at one time or a permanent residence of the administrator in which child care is provided for four (4) to twelve (12) children at one time if four (4) or more children at one time are under two (2) years of age. In counting children for the purposes of this division, any children under six (6) years of age who are related to a licensee, administrator, or employee and who are on the premises of the Type A home shall be counted. This definition does not include any child day camp.

FAMILY DAY CARE – TYPE B

A permanent residence of the provider in which child care is provided for one to six (6) children at one time and in which no more than three (3) children who are under two (2) years of age at one time. In counting children for the

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purposes of this division, any children under six (6) years of age who are related to the provider and who are on the premises of the type B home shall be counted. This definition does not include any child day camp.

FENCE

An artificially constructed barrier of wood, masonry, stone, wire, metal, or manufactured material or combination of materials erected to enclose, screen, or separate areas.

FENCE, OPEN

A fence which is less than fifty (50) percent opaque when viewed perpendicularly to its vertical surface.

FENCE, ORNAMENTAL

An open fence other than a chain link or barbed wire fence intended to decorate, accent, or frame a property or feature of the landscape. Ornamental fences include split rail, picket, wrought iron, and other similar designs.

FENCE, PICKET

A wooden fence made of spaced uprights connected by two or more horizontal rails.

FINANCIAL INSTITUTION

Any building, property or activity the principal use or purpose of which is the provision of financial services including, but not limited to, banks, credit unions, financial advisor services, stock brokerages, savings and loan institutions and mortgage companies. The term financial institutions shall not include a short-term loan establishment.

FIRE STATION

A facility where fire engines and other equipment of a fire department are housed

FLEA MARKET

Buildings or open areas in which sales areas or stalls are set aside or rented and which are intended for use by two or more individuals or by educational, religious or charitable organizations to sell articles that are homemade, homegrown, handcrafted, old, obsolete or antique

FOOTPRINT, BUILDING/STRUCTURE

The portion of a lot covered by a building or structure at the surface level, measured on a horizontal plane

FRATERNAL ORGANIZATION OR SOCIAL CLUB

A building or portion thereof or premises owned or operated by a corporation, association, or group of persons for a social, environmental, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business

FUNERAL HOME

Any dwelling or establishment used and occupied by a professional licensed mortician for human burial preparation and funeral services

GAMING MACHINE

Any mechanical or electronic device which is designed for individual play or use where the user pays consideration of any kind or nature for use of the machine; and

- (A) The owner of the machine and/or the machine's manufacturer asserts that the machine requires the individual user to employ any degree of skill to win or advance in play; and

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- (B) That the machine, its owner, or the business where the machine is situated asserts, promises, holds out, advertises or otherwise relates to the user that upon playing the machine, that he or she will receive a pay-off, winnings or other return equal to or greater than the consideration paid by the user for a single play of the machine, or in total play by a user over multiple plays, or in combinations of play with other machines.

GARAGE

A building primarily intended for and used for the enclosed storage or shelter of private motor vehicles of the owner or occupant of the principal building

GARAGE, DETACHED

A garage that is either: within five (5) feet of the principal structure and not connected by a permanently enclosed porch, walkway, breezeway, or other similar structure; or, more than five (5) feet away from the principal structure, even if connected by a permanently enclosed breezeway, walkway, or other similar structure.

GARDEN CENTER

A commercial establishment that sells gardening supplies, seeds, plants, fertilizer, gardening tools, and other related items. This definition includes greenhouses, but does not include nurseries.

GENERAL INDUSTRIAL SERVICE

An establishment primarily engaged in rendering services to office, business, 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.

GLARE

Light emitted from a luminaire resulting in a spot of intensity great enough to reduce a viewer's ability to see, and in extreme cases such to cause momentary blindness

GOVERNMENT FACILITY

Any building or structure or portion thereof, used by a government agency for administrative or service purposes, but not including buildings devoted solely to the storage and maintenance of equipment and materials. This definition does not include fire or police stations.

GREENHOUSES AND NURSERIES

Establishments used for the growing, storage, and sale of legal garden plants, shrubs, trees, or vines for retail or wholesale sales.

HEAVY INDUSTRIAL USE

The manufacturing of products from raw or unprocessed materials. This category shall also include any establishment or facility using large unscreened outdoor structures or storage that cannot be integrated into the building design. Any industrial use that generates noise, odor, vibration, illumination, or particulate that may be offensive or obnoxious to adjacent land uses, or requires a significant amount of on-site hazardous chemical storage shall be classified under this land use. Examples include but are not limited to the production of the following: large-scale food and beverage operations; lumber, milling, and planing facilities; aggregate, concrete, and asphalt plants; foundries, forge shops, open air welding, and other intensive metal fabrication facilities; and chemical manufacturing.

HEIGHT, BUILDING

The vertical distance from grade at the front door/entrance to: (1) the highest point of a flat roof; (2) the deck line of a mansard roof; or (3) the mean height between the eaves and ridge on gable, hip, or gambrel roofs

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HOME OCCUPATION

An accessory use which is an activity, profession, occupation, service, craft or revenue enhancing hobby which is clearly incidental and subordinate to the use of the premises as a dwelling and is conducted entirely within the dwelling unit or elsewhere on the premises, without any significant adverse affect upon the surrounding neighborhood

HOME SALE

The offering for sale of ten (10) or more items of tangible personal property on any residential lot; examples of home sales include garage sales, porch sales, and yard sales

HOSPITAL

An institution providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central service facilities and staff offices which are an integral part of the facility, provided such institution is operated by or treatment is given under direct supervision of a licensed physician. Types of hospitals include general, mental, chronic disease and allied special hospitals such as cardiac, contagious disease, maternity, orthopedic, cancer and the like.

HOTEL

A facility offering transit lodging accommodations on a daily or other short term rate to the general public and providing additional services, such as restaurants, meeting rooms and recreational facilities.

IMPERVIOUS COVERAGE

A District Standards category which controls the Maximum Impervious Surface allowed on a given lot; see also "Impervious Surface"

IMPERVIOUS SURFACE

An area of ground that development and building have modified in such a way that precipitation cannot infiltrate downward through the soil; examples of impervious surfaces include structural footprints (roofs), paved roads and parking areas, sidewalks, and courtyards

INGRESS

Access/entry point or entrance

JUNK YARD

Any place at which personal property is or may be salvaged for reuse, resale or reduction, or similar disposition, and is owned, possessed, collected, accumulated, dismantled or assorted, including, but not limited to, used or salvaged base metal or metals, their compounds or combinations, used or salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick or similar property, except animal matter, and used motor vehicles, machinery or equipment which is used, owned or possessed for the purpose of wrecking or salvaging parts therefrom. A "junk yard" includes automobile wrecking yards and including any area for storage, keeping or abandonment of junk, including but not limited to junk motor vehicles, but does not include uses established entirely within the enclosed buildings. The presence of two (2) or more inoperative or unlicensed motor vehicles on any premises shall cause said premises to be construed as a junk yard.

KEEPING OF CHICKENS

The non-commercial raising and caring of female chickens on a residential lot as an accessory use

KENNEL

Any property on which four (4) or more dogs or other animals, at least four (4) months of age, are kept

LANDMINIUM

See "Condominium"

LANDSCAPING

Vegetation, including grass, ground cover, flowers, shrubs, and trees, for the purposes of adornment and soil erosion and sedimentation control of yard or other areas on a site and non-vegetation elements such as logs, rocks, fountains, water features, and contouring of the earth into mounds and depressions

LIBRARY OR CULTURAL CENTER

A public or private facility used for display, performance, or enjoyment of heritage, history, or the arts. The use includes, but is not limited to, museums, libraries, art performance venues, cultural centers, and interpretative sites but does not include 'theaters.'

LIGHT INDUSTRIAL USE

Product assembling or mixing, where previously processed components or manufactured parts produced off-site are fitted together into a machine or blended or blown or extruded to form a non-combustible and non-explosive product. Product packaging includes bottling, canning, packing, wrapping, and boxing of products assembled. The assembling or packaging shall not produce noise, vibration, hazardous waste materials, or particulate that creates significant negative impacts to adjacent land uses. Odors produced on-site shall not negatively affect other businesses or properties in the area. Examples of assembling include but are not limited to the production of the following: clothes; furniture (where wood is milled off-site); pharmaceuticals; hardware; toys; mechanical components; electric or electronic components; small vehicle assembly; and computer software. Examples of packaging include facilities for bottling beverages, canning and wrapping foods, and boxing electronic components.

LIGHT TRESPASS

Light which goes beyond the boundary of the site on which the light source is located

LIVE SEX ACT BUSINESS

Any business in which one or more persons may view, or may participate in, a live sex act for consideration. A "live sex act" is any act whereby one or more persons engages in a live performance or live conduct which contains oral sexual contact or sexual intercourse. "Oral sexual contact" means oral contact with the penis, vulva or anus. "Sexual intercourse" means penetration into the penis, vulva or anus by any part of the body or by any object or manual masturbatory contact with the penis or vulva. "Consideration" means the payment of money or the exchange of any item of value for: (a) the right to enter the business premises or any portion thereof; or (b) the right to remain on the business premises or any portion thereof; or (c) the right to purchase any item permitting the right to enter, or remain on, the business premises or any portion thereof; or (d) the right to a membership granting the right to enter, or remain on, the business premises or any portion thereof. Live sex act businesses may include, but are not limited to, sexual encounter establishments and sexual encounter centers as they are defined herein.

LOT

A parcel of land of described legal boundary and area, having frontage on a public street/road right-of-way or equivalent

LOT, NON-CONFORMING

See "Non-Conforming Lot"

LOT AREA

The total horizontal area within the property lines of a lot, exclusive of any area in a public right-of-way or private accessway

LOT DIMENSIONS

A specific set of standards applicable to each zoning district pertaining to lot area, frontage, and width

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LOT FRONTAGE

The common boundary line between a private or public lot and adjacent road right-of-way

LOT WIDTH

The distance between the side lot lines measured at the points of intersection with the minimum front yard setback line

MAJOR SUBDIVISION

The division of a parcel of land that requires the approval of a plat by the Planning Commission as authorized by Section 711 of the Ohio Revised Code

MANUFACTURED HOME

A building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the Secretary of Housing and Urban Development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403, and that has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards

MANUFACTURED HOME, PERMANENTLY-SITED

Means a manufactured home that meets all of the following criteria:

- (A) The structure is affixed to a permanent foundation and is connected to appropriate facilities;
- (B) The structure, excluding any addition, has a width of at least twenty-two (22) feet at one point, a length of at least twenty-two (22) feet at one point, and a total living area, excluding garages, porches, or attachments, of at least nine hundred (900) square feet;
- (C) The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six (6) inch minimum eave overhang, including appropriate guttering;
- (D) The structure was manufactured after January 1, 1995; and
- (E) The structure is not located in a manufactured home park as defined by Section 4781.01(D) of the Revised Code

MANUFACTURED HOME PARK

Any tract of land upon which three (3) or more manufactured or mobile homes used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of the park. "Manufactured Home Park" does not include any of the following:

- (A) A tract of land used solely for the storage or display for sale of manufactured or mobile homes or solely as a temporary park-camp as defined in Section 3729.01 of the Revised Code;
- (B) A tract of land that is subdivided and the individual lots are for sale for the purpose of installation of manufactured or mobile homes used for habitation and the roadways are dedicated to the local government authority;
- (C) A tract of land within an area that is subject to local zoning authority and subdivision requirements and is subdivided, and the individual lots are for sale or sold for the purpose of installation of manufactured or mobile homes for habitation.

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MARIJUANA

All parts of the plant cannabis, whether growing or not.

MARIJUANA CULTIVATION

The planting, growing, or harvesting of marijuana plants, or any part thereof

MARIJUANA DISPENSARY

A properly licensed use where marijuana, marijuana-infused products, and/or marijuana concentrates are legally sold and/or distributed

MARIJUANA PROCESSING

The processing of marijuana by a marijuana processor into usable marijuana, marijuana-infused products, and marijuana concentrates, including the packaging and labeling of usable marijuana, marijuana-infused products, and marijuana concentrates

MASSAGE

A method of treating or stimulating the external parts of the human body by rubbing, stroking, kneading, tapping, touching or vibrating with the hand or any instruments for pay

MICRO-BREWERY

A limited-production brewery, typically producing specialty beers and often selling its products only locally

MICRO-DISTILLERY

A small, often boutique-style distillery established to produce beverage grade spirit alcohol in relatively small quantities, usually done in single batches

MICRO-WINERY

A small wine producer that does not have its own vineyard, and instead sources its grape product from outside suppliers, typically producing small batches of product and often selling its products only locally

MINOR SUBDIVISION

A division of a parcel of land that does not involve the approval of a plat by the Planning Commission as authorized by Section 711.131 of the Ohio Revised Code

MOBILE FOOD VENDING

A motorized or otherwise mobile unit, truck or cart that is readily movable, and from which beverages and/or ready-to-eat food is cooked, wrapped, packaged, processed or portioned for service, sale or distribution.

MOBILE HOME

A building unit or assembly of closed construction that is fabricated in an off-site facility, is more than thirty five (35) body feet in length or, when erected on-site, is three hundred twenty (320) or more square feet, is built on a permanent chassis, is transportable in one (1) 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

MOTEL

A building or group of buildings containing apartments and/or rooming units, each of which maintains a separate outside entrance. Such building or group of buildings is designed, intended or used primarily for the accommodation of automobile travelers and provides automobile parking conveniently located on the premises.

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MOVING TRUCK AND TRAILER RENTAL

A commercial establishment which rents out vans, trucks, trailers, and other moving equipment for a fee, to be used on a temporary basis and then returned to the same establishment or to the location of another affiliated establishment.

NON-CONFORMING BUILDING

See "Non-Conforming Structure"

NON-CONFORMING

The use or characteristics of any dwelling, building, or structure and of any land or premises that does not meet the current regulations of this Zoning Code

NON-CONFORMING LOT

A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the Zoning Code which no longer conforms to the zoning standards because of said revision or amendment

NON-CONFORMING STRUCTURE

A structure or building, the size, dimensions, or location of which lawfully existed at the time of adoption, revision, or amendment of the Zoning Code which no longer conforms to the zoning standards because of said revision or amendment

NON-CONFORMING USE

A use that lawfully occupied a building or land at the time of adoption, revision, or amendment of the Zoning Code which no longer conforms to the use regulations of the district in which it is located

NON-CONFORMITY

See "Non-Conforming"

NURSING HOME

A facility which provides nursing services on a continuing basis; admits the majority of the occupants upon the advice of physicians as ill or infirm persons requiring nursing services; provides for licensed physicians' services or supervision and maintains medical records. Such facilities may also provide other and similar medical or health services. Examples of nursing home facilities that provide health services may include, if they comply with all the above criteria, nursing homes, convalescent homes, maternity homes, rest homes, homes for the aged and the like.

OFFICIAL ZONING MAP

The graphic depiction of the boundaries of the various Zoning Districts and Zoning Overlays which have been respectively applied in a uniform manner to all parcels of property within the City of Wilmington

OFFICE

A building or portion of a building wherein services are performed involving predominately administrative, professional and clerical operations

OPEN SPACE

All or part of one (1) or more parcels of land, of public or private ownership, existing, improved, and/or set aside, dedicated, designated, or reserved for recreational, resource protection, amenity, and/or buffering use purposes, but not including road/street rights-of-way

OPEN SPACE TYPE

A specific category or subcategory of open space for a certain use or purpose

OPEN SPACE, ACTIVE

Is an area or areas within the boundaries of a CDO or PUD residential development designed, set aside, and maintained for active use by residents of the development; See Section 4.305.2 (Active Open Space)

OPEN SPACE, COMMON

An area or areas within the boundaries of a CDO or PUD residential development designed, set aside, and maintained for use by residents of the development, to be recorded on separate parcels within the development. Common Open Space includes both Active Open Space and Passive Open Space; See “Open Space, Active” and “Open Space, Passive”

OPEN SPACE, ENVIRONMENTAL

A type of open space designed to be essentially unimproved and set aside, dedicated, designated, or reserved for peaceful aesthetic enjoyment. Environmental Open Space counts toward Required Open Space and consists of a mandatory Natural Resource Protection Area and any other Conservation Areas, and can be recorded on separate parcels or through conservation easements on private lots; See “Natural Resource Protection Area” and “Conservation Area”

OPEN SPACE, PASSIVE

A type of open space which does not fall into any other open space category; See Section 4.305.4 (Passive Open Space)

OPEN SPACE, REQUIRED

The minimum percentage of a site to be established as open space, following the provisions of Section 4.302 (Required Open Space). Required Open Space is calculated as a percentage of the total gross area of a development site, resulting in a specific amount of acreage to be devoted to open space.

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 beverages for on-site dining

OUTDOOR SALES OR DISPLAY

An outdoor arrangement of objects, items, products, or other materials, typically not in a fixed position and capable of rearrangement, designed and used for the purpose of advertising or identifying a business, product, or service and is open to the general public that is available for purchase inside the building and/or display area. For the purposes of this Zoning Code, such objects shall not be bulk objects as regulated and defined in “Outdoor Storage.”

OUTDOOR STORAGE

The outdoor storage of bulk goods, raw materials, or products including seasonal items such as firewood and mulch. Bulk goods or products shall be defined as any products, goods, junk, material, merchandise, or vehicles associated with the principal land use.

OUTDOOR TRASH CONTAINER ENCLOSURE

An accessory use of a property where trash or recyclable material containers, or any other type of waste or refuse container is stored and screened from view

OVERLAY DISTRICT

A specific zoning area designation applied over the underlying zoning districts already applicable, on part or all of one (1) or more parcel(s) which modifies and/or expands the zoning regulations

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OWNER

A person recorded as the property owner on official records

PARKING LOCATION

A District Standards category which regulates where parking facilities may be located on a given lot, based on yard location; parking facilities include driveways and parking lots subject to the standards of Article IV Chapter 4 (Parking and Circulation)

PARKING LOT

A portion of a parcel of land devoted to unenclosed parking spaces

PARKING LOTS OR GARAGES

A structure (e.g. parking garage) or surface level facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than two vehicles.

PARKING SPACE

An area of a parking lot designated for the parking of a single motor vehicle (see “Parking Lot” and “Parking Space, Handicapped”)

PARKING SPACE, HANDICAPPED

A parking space sized and maintained with permanent signage and markings for use by the handicapped, in conformance with the requirements of the Americans with Disabilities Act (Public Law 101-336), as amended

PASSIVE PARKS, OPEN SPACE, AND NATURAL AREAS

Any park or recreational facility where there is no grading of the land, the construction of facilities, lighting, or development of ball fields with the exception that passive parks, recreational facilities, and natural areas may include the development of trails and sidewalks

PATIO, UNENCLOSED

An uncovered, non-enclosed outdoor hard surface area

PERSON

Any individual, corporation, government agency, government official, business trust, partnership, or two or more persons having a joint interest, or any other legal entity

PERSONAL SERVICE ESTABLISHMENT

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 services, barber shops, beauty salons, health and fitness studios, music schools, informational and instructional services, tanning salons, and portrait studios.

PLANNED UNIT DEVELOPMENT (PUD)

A description of a proposed unified development, consisting at a minimum of a map and adopted ordinance setting forth the regulations governing, and the location and phasing of all proposed uses and improvements to be included in the development

PLAT

A plat map of a subdivision or a section of a subdivision intended to be filed for record, and shall be classified as a preliminary plat or a final plat.

POLICE STATION

The office or headquarters of a local police force

PORCH

A covered but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes

PORTABLE (STORAGE) CONTAINER

A portable, weather-resistant receptacle (e.g. PODS™) designed and used for the temporary storage or shipment of materials, household goods, wares or merchandise. The term shall not include containers used for the collection of solid waste by the city.

PRINCIPAL STRUCTURE

See "Structure, Principal"

PRINCIPAL USE

See "Use, Principal"

PUBLIC INFRASTRUCTURE

The location, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement by public utilities, county, or other governmental agencies of streets; roads; gas, electrical, steam, fuel or water transmission or distribution systems; collection, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes; traffic signals; hydrants; and similar accessories and the use of land in connection therewith, for the furnishing of adequate service by such utilities or governmental departments for the public health, safety and general welfare.

PUBLIC UTILITY

An infrastructure service providing regional or community-wide service that normally entails the construction of new buildings or structures such as water towers, waste treatment plants, potable water treatment plants, and electrical substations that are not defined more specifically elsewhere in this Code and which are not defined as "Public Infrastructure." Public utilities are: owned or maintained by public utility companies or public agencies; located in public ways or in easements provided for the purpose, or on a customer's premises and not requiring a private right-of-way; and reasonably necessary for the furnishing of adequate water, sewer, gas, electric, communication, or similar services to adjacent customers.

RADIO/TELEVISION ANTENNA

A facility used to produce, operate, or develop radio or television programs for distribution through various telecommunication formats but that does not include on-site towers or satellites

RECREATIONAL FACILITY (INDOOR)

Land or facilities operated as a business and which are open to the general public for a fee including, but not limited to: billiard parlors, skating rinks, indoor swimming pools, bowling alleys, arcades or skill-based amusement machines, tennis courts and other similar businesses. Such facilities may also provide a snack bar, restaurant, retail sales of related sports, health, or fitness items, and other support facilities.

RECREATIONAL FACILITY (OUTDOOR)

Land or facilities operated as a business and which are open to the general public for a fee including, but not limited to: pay-to-play athletic fields, golf courses, outdoor swimming pools, amusement parks, racetracks (animal racing only) and other similar businesses. Such facilities may also provide a snack bar, restaurant, retail sales of related sports, health or fitness items, and other support facilities.

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RECREATIONAL VEHICLE (A.K.A. “RV”)

A vehicular portable structure that:

- (A) Is designed for the sole purpose of recreational travel;
- (B) Is not used for the purpose of engaging in business for profit;
- (C) Is not used for the purpose of engaging in intrastate commerce;
- (D) Is not used for the purpose of commerce as defined in 49 C.F.R. 383.5, as amended;
- (E) Is not regulated by the public utilities commission pursuant to ORC Chapters 4919., 4921., or 4923; and,
- (F) Is classed as one of the following, per Ohio Revised Code (ORC) Sec. 4501.01 (Q).
 - (1) **“Travel Trailer”** is a non-self-propelled recreational vehicle that does not exceed an overall length of thirty-five (35) feet, exclusive of bumper and tongue or coupling, and contains less than three hundred twenty (320) square feet of space when erected on site. “Travel Trailer” includes a “tent-type fold-out camping trailer” as defined in Sec. 4517.01 of the Ohio Revised Code, or as may be amended in the future, which means any vehicle intended to be used, when stationary, as a temporary shelter with living and sleeping facilities, and, according to the following listed properties and limitations, has a minimum of twenty-five (25) percent of the fold-out portion of the top and sidewalls combined that must be constructed of canvas, vinyl, or other fabric, and form an integral part of the shelter, and when folded, the unit must not exceed fifteen (15) feet in length (exclusive of bumper and tongue), sixty (60) inches in height (from the point of contact with the ground), eight (8) feet in width, and one (1) ton gross weight at the time of sale.
 - (2) **“Motor Home”** is a self-propelled recreational vehicle that is constructed with permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping.
 - (3) **“Truck Camper”** is a non-self-propelled recreational vehicle that does not have wheels for road use and is designed to be placed upon and attached to a motor vehicle. “Truck camper” does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.
 - (4) **“Fifth-Wheel Trailer”** is a vehicle that is of such size and weight as to be movable without a special highway permit, that has a gross trailer area of four hundred (400) square feet or less, that is constructed with a raised forward section that allows a bi-level floor plan, and that is designed to be towed by a vehicle equipped with a fifth-wheel hitch ordinarily installed in the bed of a truck.
 - (5) **“Park Trailer”** is a vehicle that is commonly known as a park model recreational vehicle, meets the American National Standard Institute standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred (400) square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances.

RESEARCH AND DEVELOPMENT FACILITY

A building in which scientific research, investigation, testing or experimentation is conducted, but not including the manufacturing or sale of products, except as incidental to the main purpose of the laboratory

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RESIDENTIAL

A category of use inclusive of the land and building(s) and other structure(s) located thereon as a place utilized for dwelling purposes as specified and regulated in this Zoning Code

RESIDENTIAL RECREATIONAL EQUIPMENT/FACILITY

Recreational equipment for the use of residents of the principal dwelling that includes, but is not limited to, small structures in trees, swings, slides, monkey bars, trampolines, play enclosures, ball courts, and similar facilities

RESTAURANT

An establishment whose principal business is the selling of food to the public and beverages to the customer in a ready to consume state, in individual servings

RESTAURANT, DRIVE-IN

An establishment whose primary business is serving food to the public for consumption on the premises by order from and service to vehicular passengers outside the principal building

RETAIL AND SERVICE USES

Establishments primarily engaged in the sale of goods and materials to the general public. Retail uses may include, but are not limited to, bookstores, antique stores, bakeries, grocery stores, and other similar uses. Service uses are primarily engaged in rendering services to businesses including, but not limited to, printers, equipment rental, protective services, mailing, photo finishing, and other similar uses.

RIGHT-OF-WAY

Land owned or purchased by or dedicated to the public for use as a public way, most often for purpose of containing a road or street

ROADSIDE STAND

Any small structure or land used for the sale of produce by farmers

SATELLITE DISH

A parabolic dish antenna including its structural supports, used for reception of various satellite television programming signals

SEASONAL AGRICULTURAL SALES

A temporary structure or vehicle used in the sale of agricultural products such as fruits, vegetables, and juices where such facilities may sell agricultural products not grown on site. Seasonal sales include the sale of such items as Christmas trees, pumpkins, seasonal produce, and similar agricultural products.

SELF-STORAGE FACILITY

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

SETBACK

The distance which a building or structure is set back inward from the right-of-way line or parcel boundary line

SETBACK, FRONT YARD

The line inward and parallel from the front line of a lot representing the minimum distance which a principal building or structure is set back from that boundary

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SETBACK, REAR YARD

The line inward and parallel from a rear boundary line of a lot representing the minimum distance which a principal or accessory building is set back from that boundary

SETBACK, SIDE YARD

The line(s) inward and parallel from a side boundary line(s) of a lot representing the minimum distance which a principal or accessory building is set back from that boundary

SEXUAL DEVICE

Any three-dimensional object designed and marketed for stimulation of the male or female human genitals or anus or female breasts or for sadomasochistic use or abuse of oneself or others, including, but not limited to, dildos, vibrators, penis pumps, and physical representations of the human genital organs, but not including devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

SHOOTING RANGE (INDOOR)

An indoor establishment which is completely enclosed within a building where patrons are provided with targets for the controlled practice of shooting

SHOOTING RANGE (OUTDOOR)

An outdoor area provided with targets for the controlled practice of shooting

SHORT-TERM LOAN ESTABLISHMENT

An establishment providing loans to individuals that charges an annual percentage rate and requires the loan to be paid in full in less than one year. This term does not include a loan offered or made to a person based on the person's anticipated federal income tax refund.

SHORT TERM RENTAL, ACCESSORY

An accessory use located within an owner-occupied single-family or two-family dwelling unit where a portion thereof is rented out as lodging for overnight paid occupancy

SHORT TERM RENTAL, PRINCIPAL

An entire dwelling unit that is rented out as lodging for overnight paid occupancy; hotels, motels, bed and breakfasts, and other land uses explicitly defined and regulated in this Zoning Code separately from short term rentals are not considered to be short term rentals

SIGN (A.K.A. "SIGNAGE")

Means any structure, or natural object such as a tree, rock, bush, and the ground itself, or part thereof, or device attached thereto or painted or represented thereon, which shall be used to attract attention to any object, product, place, activity, person, institution, organization, or business, or which shall display or include any letter, word, banner, flag, pennant, insignia, device, or representation used as, or which is in the nature of, an announcement.

SIGN AREA

See Section 4.504.1 (Sign Dimensions).

SIGN FACE

The area of display surface used for the message; See Section 4.504.1 (Sign Dimensions)

SIGN HEIGHT

See Section 4.504.1 (Sign Dimensions)

ARTICLE V, CHAPTER 1: DEFINITIONS

SIGN, ABANDONED

A sign which no longer identifies a bona fide business, lessor, service, owner, product, or activity, time of event passed, and where any of the following applies:

- (A) No legal owner can be found; or,
- (B) The property owner has been given a written order to rehabilitate or demolish, and for which work has not commenced and the owner can not demonstrate a diligent and good faith effort to implement actions; or,
- (C) The property taxes are delinquent and the site is not actively offered for sale, lease, or rent.

SIGN, AWNING OR CANOPY

Any sign that is painted on, part of, or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area

SIGN, BILLBOARD

A permanent off-premise sign

SIGN, CHANGEABLE COPY

A sign such as a bulletin board, announcement board, or electronic message sign, where the message or graphics is not permanently affixed to the structure, framing, or background and may be periodically replaced or covered over by electronic or mechanical devices

SIGN, CHANNEL LETTERING

Fabricated or formed three-dimensional letter that may accommodate a light source or a sign where only the letters/logo is illuminated

SIGN, REVERSE CHANNEL LETTERING

A fabricated dimensional letter with opaque face and side walls with an internal light source to the rear of the letters used for "halo" or "silhouette" lighting

SIGN, ELECTRONIC MESSAGE

A sign whose alphabetic, pictographic, or symbolic information content can be changed or altered on a fixed display surface composed of electrically illuminated or mechanically driven changeable segments

SIGN, EXEMPT

Signs exempted from certain normal requirements; See Section 4.505 (Exempt Signs)

SIGN, GATEWAY

A permanent sign announcing a development or subdivision

SIGN, GOVERNMENT

Signs erected and maintained pursuant to a government's function, ordinances, or regulation. Government signs include, but are not limited to, signs required or installed by the City, the County, a public utility, a public transit entity, a state or federal statute, or by order of a court of competent jurisdiction.

SIGN, GROUND

A sign, either permanent or temporary, solely supported on and from the ground. This definition excludes portable signs.

SIGN, ILLEGAL

Any sign which is contrary to the requirements of this Code and which does not satisfy the non-conforming specifications in this Code

SIGN, MENU BOARD

Any signage pertaining to items, goods, or services offered by a business serving a drive-through lane

SIGN, NON-CONFORMING

A sign legally existing on the effective date of this Code that does not conform to height, size, type, setback, or other provisions of this Code. For the purposes of this definition the term “sign” shall include the sign face and the structure on which the sign face is attached.

SIGN, ROOF

Any sign that is supported on a structure which is located wholly or partly on the roof or above the roof or partly on the roof or above the roof line of any building

SIGN, OFF-PREMISE

Any sign that advertises or otherwise directs attention to an activity not on the same lot where the sign is located

SIGN, ON-PREMISE

A sign which advertises or directs attention to an activity on the same lot where the sign is located

SIGN, OUTDOOR ADVERTISING

See “Sign, Billboard”

SIGN, PERMANENT

A sign usually constructed of solid materials of a permanent nature known and used in the sign construction industry, that is 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. All signs that are not temporary signs are permanent signs.

SIGN, POLE

A permanent sign that is supported from the ground by one (1) or more poles or other types of individual supports, that is eight (8) feet or greater in height; See “Ground Sign” for signs less than eight (8) feet in height

SIGN, PORTABLE

A temporary sign not permanently affixed to the ground, building, or other structure, which may be moved from place to place, including, but not limited to, A-Frame signs, sandwich boards, signs designed to be transported by means of wheels, and other signs which can be easily removed from the ground by hand without the use of tools

SIGN, PROJECTING

A sign attached to a building and extending perpendicular from the building wall

SIGN, PROMOTIONAL BALLOON

An inflatable sign, which may or may not involve motion to draw attention

SIGN, TEMPORARY

A sign that is designed to be used only temporarily and is not permanently, or intended to be permanently, attached to a building, attached to a structure, or installed in the ground. Temporary signs shall conform to the time frame regulations as applicable to specific signage types specified in Chapter 4 (Signage Regulations). All signs that are not temporary signs are permanent signs.

SIGN, WALL

A permanent sign painted on, attached to, or erected against an exterior wall of a building or other wall structure, with the display face of the sign parallel to the wall and which does not project above the roof line or beyond the corner of a building on which mounted

SIGN, WINDOW

A sign, either permanent or temporary, that is applied or attached to a window or door, or a sign located near a window within a building for the purpose of being visible to and read from the outside of the building

SITE PLAN

A drawing of a property, to scale and with accurate dimensions, depicting the size and location of existing and proposed structures, building setbacks, rights-of-way, easements, walkways, and other such information as required

SITE PLAN REVIEW

The review of a site plan by the Planning Commission for developments involving certain non-residential and multi-family uses, in accordance with the provisions of Section 1.305 (Site Plan Review)

SKILLED GAMING FACILITY

Any facility having a significant portion of its function in the use of Games of Skill, which includes the utilization of "Gaming Machines" as defined herein.

SOLAR PANEL

A structure designed to utilize solar energy as an alternate for, or supplement to, a conventional energy system

SPECIFIED ANATOMICAL AREAS

Anatomical areas that include human genitals, pubic region, or buttocks or human female breast below a point immediately above the top of the areola.

SPECIFIED SEXUAL ACTIVITIES

Real or simulated sexual intercourse, oral copulation, masturbation, or sodomy, or excretory functions as a part of or in connection with any of these activities.

STANDARD

A rule or measure establishing a level of quality or quantity that must be complied with or satisfied

STANDARDS, DISTRICT

Standards applicable to a specific zoning district

STANDARDS, HISTORIC PRESERVATION

Standards and requirements applicable to the Commercial Historic (H-1) Overlay District

STANDARDS, PERFORMANCE

Standards setting criteria or limits relating to nuisance elements that a particular use or process may not exceed

STANDARDS, SITE DEVELOPMENT

Standards applicable to planning of development for a site, including but not limited to buffering, landscaping, lighting, open space, parking, and signage

STANDARDS, USE-SPECIFIC

Standards applicable to a particular use in all zoning districts or within only certain zoning districts if specified

STORAGE/UTILITY SHED

An accessory building, other than a detached garage, that are typically used for storage of items utilized by the residents or occupants of the principal structure

STRUCTURAL COVERAGE

A District Standards category which controls the amount of a lot covered by structures, including all principal, accessory, and temporary structures which may be on the lot; see also "Footprint, Building/Structure"

STRUCTURE

Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, for purposes as regulated by this Code; all buildings are structures

STRUCTURE, ACCESSORY

A subordinate structure detached from but located on the same lot as a principal building, the use of which must be incidental to the principal use

STRUCTURE, PRINCIPAL/PRIMARY

A structure in which the primary activities of the lot's principal use are conducted

SWIMMING POOL, COMMUNITY

A water filled enclosure, permanently or portable, that is designed, used and maintained for swimming or bathing in a community setting at a business property (e.g., a hotel) or as part of a residential development

SWIMMING POOL, PRIVATE

A water filled enclosure, permanently or portable, that is designed, used and maintained for swimming or bathing by the residents, tenants, or occupants of the subject property

TELECOMMUNICATION CO-LOCATION

The installation of additional transmission equipment on an existing tower or other permitted support structure

TELECOMMUNICATION FACILITY

An FCC permitted wireless telecommunications facility that exists on or after October 31, 1996

TELECOMMUNICATION FACILITY (SMALL CELL FACILITY)

A wireless facility that meets both of the following requirements:

- (A) Each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of not more than six (6) cubic feet in volume.
- (B) All other wireless equipment associated with the facility is cumulatively not more than twenty eight (28) cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

TEMPORARY SPECIAL EVENTS

A temporary use on private property that is not usual or customary for that property and the zoning district in which the subject property is located (e.g., festivals, circuses, and other temporary events)

TEMPORARY STORAGE IN A PORTABLE CONTAINER

A portable structure or container that allows for storage of goods or materials, on or off-site and which is not permanently affixed to a foundation (See also "Portable Container")

TENTS AND SEASONAL COVERS

Any structure used for living or sleeping purposes, sheltering a public gathering, or providing seasonal cover of equipment and vehicles, constructed wholly or in part from canvas, tarpaulin, or other similar materials and shall include, but not be limited to: shelter providing for circuses, carnivals, side shows, vehicles, revival meetings, camp meetings and all similar meetings or exhibitions in temporary structures

THEATER

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.

TRUCK STOP

A use or establishment used for a business, service, or industry involving the maintenance, serving, storage or repair of commercial vehicles. Such uses may also include areas for a restaurant, lodging and trucking brokerages.

UPPER STORY RESIDENTIAL

Residential use in a mixed use building, where residential is permitted on the upper floors, and ground floors are utilized for commercial, office, or other similar uses as permitted in the applicable zoning district

USE

The specific purpose for which land inclusive of the building(s) and other structure(s) thereon and the activities and operations thereof are utilized, designed, arranged, intended, occupied, or maintained

USE, ACCESSORY

A use which is subordinate or incidental to the principal use of the lot

USE, AGRICULTURAL

All principal land uses listed under the category "Agricultural Uses" in Section 2.102 (Table of Principal Uses by Zoning District)

USE, COMMERCIAL

All principal land uses listed under the category "Commercial Uses" in Section 2.102 (Table of Principal Uses by Zoning District)

USE, CONDITIONAL

A use that may be permissible within a certain zoning district, requiring review and approval by the Board of Zoning Appeals (BZA) pursuant to Section 1.306 (Conditional Use Application)

USE, INDUSTRIAL

All land uses listed under the category "Industrial Uses" in Section 2.102 (Table of Principal Uses by Zoning District)

USE, NON-CONFORMING

See "Non-Conforming Use"

USE, PERMITTED

A use that is permitted by-right in a respective zoning district, subject to Zoning Permit review by the Zoning Administrator

USE, PRINCIPAL

The primary or predominant land use activity for which a building, structure, or lot is used

ARTICLE V, CHAPTER 1: DEFINITIONS

USE, PUBLIC OR INSTITUTIONAL

All principal land uses listed under the category “Public or Institutional Uses” in Section 2.102 (Table of Principal Uses by Zoning District)

USE, RESIDENTIAL

All principal land uses listed under the category “Residential Uses” in Section 2.102 (Table of Principal Uses by Zoning District)

USE, TEMPORARY

A use permitted for a period of time specified per this Zoning Code.

VACATION

The termination of, or termination of interest in, an easement, right-of-way, or public dedication of land

VARIANCE

A type of application for appeal to the Board of Zoning Appeals (BZA) by which a property owner may be granted relief or release from a dimensional and/or numeric requirement of this Zoning Code

VETERINARY CLINIC

An establishment where animals are admitted for observation, boarding and/or treatment by one or more licensed veterinarians

WAREHOUSE

A business establishment primarily engaged in the storage of merchandise, goods, and materials, not including “Self-Storage Facilities.”

WIND ENERGY CONVERSION SYSTEM, SMALL

A WECS consisting of a wind turbine, a tower, and associated control or conversion electronics which has a rated capacity of not more than sixty (60) kilowatts, is intended primarily to produce energy for on-site power consumption and reduce the need to purchase utility power from the grid

WHOLESALE BUSINESS

An establishment for the sale of merchandise to business establishments, institutional uses, or to other wholesalers. Wholesale business uses may also mean acting as an agent or broker in the buying or selling of merchandise; but not selling to the general public.

YARD

An open space on the lot of a principal structure, unoccupied by buildings or structures from the ground to the sky except by trees or shrubbery or as otherwise permitted per this Code (see Section 3.103.6)

YARD, FRONT

The yard extending the full width of the lot between the road/street right-of-way line at the front of the lot and the closest point of contact to the principal structure (see Section 3.103.6)

YARD, REAR

The yard extending the full width of the lot between the closest distance from the rear lot line or rear-most point on a pie-shaped lot and the first point of contact by a principal structure (see Section 3.103.6)

YARD, SIDE

The yard extending from the front yard to the rear yard between the closest point of contact by a principal structure and the nearest side lot line (see Section 3.103.6)

ZONE

See "Zoning District"

ZONING

A police power measure in which the community is divided into districts or zones within which permitted, conditional, and prohibited uses are established as are regulations governing lot size, building bulk, placement, and other development standards

ZONING ADMINISTRATOR

Person appointed by the Mayor to administer and enforce the Zoning Code; in the absence of a designated Zoning Administrator, the City Planner, the City Building Inspector, the Code Enforcement Officer, the Director of Public Service, or a combination of these individuals, may fulfill the duties and responsibilities of the Zoning Administrator

ZONING DISTRICT

Areas comprising the entire incorporated territory of Wilmington, Ohio for which uniform regulations are applied in specifying the permitting provisions, restrictions, and requirements of use of land and structures therein located

ZONING MAP, OFFICIAL

See "Official Zoning Map"

ZONING PERMIT

The official document issued by the Zoning Administrator that certifies the use, development, and/or structures on a lot or parcel meet all permitting requirements of the Zoning Code