

2021

ZONING CODE

CITY OF TALLMADGE



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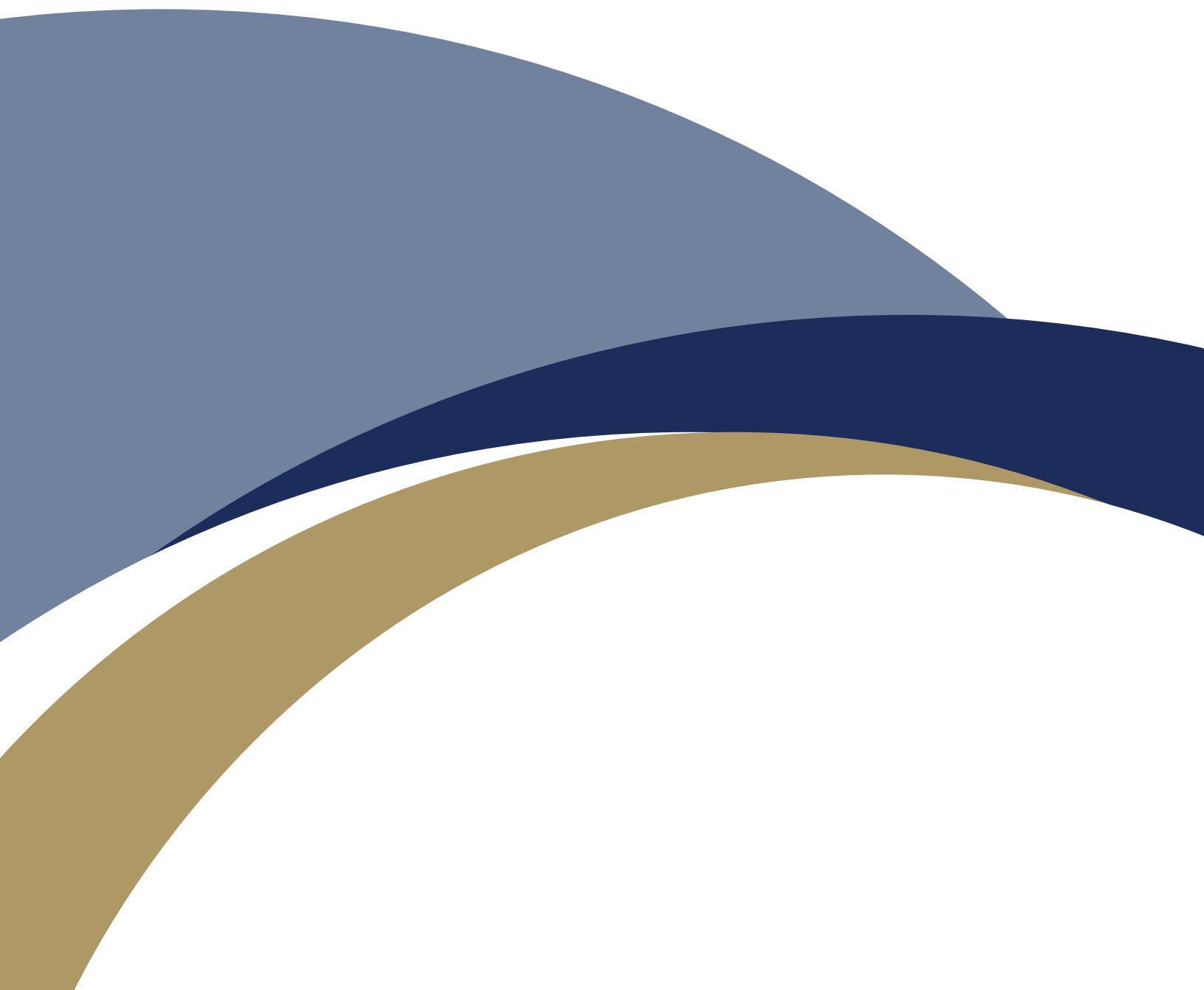
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Title 01

Introduction to Tallmadge
Zoning Code



Title 01

INTRODUCTION TO TALLMADGE ZONING CODE

SECTION 1101.01 TITLE

- A. This Code shall hereinafter be known and cited as “The City of Tallmadge Zoning Code,” and hereinafter referred to as the/this “Code” or “these regulations.”

SECTION 1101.02 PURPOSE AND INTENT

- A. In adopting this Code, City Council has given reasonable consideration to, among other things:
 - (1) current conditions and the character of current structures and uses in each district;
 - (2) the City’s guiding plans;
 - (3) the most desirable use for which the land in each district is adapted;
 - (4) the conservation of property values throughout the City; and,
 - (5) responsible development and growth of the City.

SECTION 1101.03 INTERPRETATION OF STANDARDS

- A. In their interpretation and application, the provisions of this Code shall be held to be minimum requirements. Wherever this Code imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this Code shall govern.

SECTION 1101.04 DISTRICTS AND OVERLAY DISTRICTS

- A. For the purpose of this Code, portions of the City, as shown on the City’s official zoning map, are hereby divided into the following base zoning districts and overlay districts:

DISTRICTS AND OVERLAY DISTRICTS		SYMBOL
BASE ZONING DISTRICTS		
R-1 Residential		R-1
R-2 Residential		R-2
R-3 Residential		R-3
R-4 Residential		R-4
R-5 Residential		R-5
Planned Residential District		PRD
C-3 General Commercial		C-3
C-4 Automotive Oriented Commercial		C-4
C-5 Highway Interchange Commercial		C-5
I-1 Industrial		I-1
OVERLAY DISTRICTS		
Design Control Overlay District		O-DC*
Innovation and Employment Overlay District		O-IE
Neighborhood Center Overlay District		O-NC
Southeast Gateway Overlay District		O-SE
West Avenue Overlay District		O-WA
* O-DC may also be referred to as DCOD in this text and other city documents.		

SECTION 1101.05 BASE ZONING DISTRICTS

- A. Base zoning districts represent the use-based residential, commercial, and industrial districts established above. They set uniform standards for uses in their district and are the governing standards.

SECTION 1101.06 OVERLAY DISTRICTS

- A. Overlay districts are established to provide greater flexibility for the implementation of desired land use and economic development objectives. Overlay districts serve as a superimposed boundary placed over an underlying base zoning district. Within an overlay district any development that occurs must be in compliance not only with the regulations of the base zoning district, but also with the additional standards of the overlay district. Where the overlay district standards conflict with the base district standards, the overlay district standards shall govern.

- B. Overlay districts shall be mapped or may be mapped upon petition and if all of the conditions of the overlay district are satisfied in accordance with Chapter 1102 – Administration and Procedures. The principal, conditional and accessory uses permitted in the base zoning district, and the development standards not otherwise modified by the overlay district, shall continue to be applicable.

SECTION 1101.07 OFFICIAL ZONING MAP

- A. The City is divided into districts and overlay districts as shown on the Zoning Map, which, together with all explanatory matter thereon, is adopted by reference and declared to be a part of this Code.
- B. The Zoning Map shall be located in the office of the Director of Public Service of the City of Tallmadge, maintained on file in the office of the Clerk of Council, and on the City’s official website.
- C. No changes of any nature shall be made in the Zoning Map or matter shown thereon except in accordance with the procedures set forth in this Code. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Code and punishable as provided under this Code.

SECTION 1101.08 LOT DIVIDED, EXTENSION OF DISTRICT

- A. Where a district boundary line established under this section or as shown on the Zoning Map divides a lot which was in single ownership at the time of enactment of this Code, the entirety of such lot shall be subject to the more restrictive regulations attributable to the lot.

SECTION 1101.09 VACATED STREET OR ALLEY

- A. Whenever any street, alley, or other public way is vacated by official action, the zone adjacent to such public way shall be extended to include the vacated public way, which shall thereafter be subject to all regulations applicable to such adjacent zone.

SECTION 1101.10 ANNEXATIONS

- A. Any land annexed or by merger to the City shall, within sixty (60) days of the effective date of such annexation or merger, be zoned to the nearest classification under the current zoning regulations as determined by the Planning and Zoning Commission and City Council in accordance with the procedures applicable to map amendments.

SECTION 1101.11 CONFORMANCE WITH REGULATIONS

- A. Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or altered except in conformity with all of the regulations herein specified for the district or overlay district in which it is located.

SECTION 1101.12 SEPARABILITY

- A. Should any section or provision of this Code be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Code as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 1101.13 TRANSITIONAL RULES

- A. Purpose. The purpose of these transitional rules is to resolve the status of properties with pending applications or recent approvals, and properties with outstanding violations, on the effective date of this code, or amendments thereto.
- B. This Zoning Code shall not repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law or ordinance or any rules or regulations previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings or premises, nor shall this Zoning Code interfere with, abrogate or annul any easements, covenants or other agreements between parties provided, however, that where this Zoning Code imposes a greater restriction upon the use of buildings or premises, or upon the height or size of buildings, or requires larger yards than are imposed or required by such existing provisions of law and ordinance, or by such rules or regulations, or by such easements, covenants or agreements, the provisions of this zoning code shall prevail.
- C. Violations Continue
 - (1) Any violation that existed at the time this amendment became effective shall continue to be a violation under this code and is subject to penalties and enforcement under Chapter 1102: Administration and Procedures unless the use, structure, development, construction, or other activity complies with the provisions of this code.
 - (2) If the use, structure, development, construction, or other activity comes into compliance and is no longer in violation of this code, there shall be no additional enforcement actions taken except that the City may still collect any penalties, or other remedies, assessed for the violations that occurred under the previous code.
- D. Nonconformities Continue
 - (1) Any legal nonconformity that existed at the time this amendment became effective shall continue to be a legal nonconformity under this code as long as the situation that resulted in the nonconforming status under the previous code continues to exist, and shall be controlled by Chapter 1102.19: Nonconformities.
 - (2) If a legal nonconformity that existed at the time this amendment became effective becomes conforming because of the adoption of this amendment, then the situation will be considered conforming and shall no longer be subject to the regulations pertaining to nonconformities.
- E. Processing of Applications Commenced or Approved Under Previous Regulations
 - (1) Pending Projects
 - i. Any complete application that has been submitted or accepted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this code, shall be reviewed in accordance with the provisions of the regulations in effect on the date the application was deemed complete by the City.

- ii. If a complete application is not filed within the required application filing deadlines in effect prior to the adoption of this code, the application shall expire and subsequent applications shall be subject to the requirements of this code.
- iii. Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.
- iv. An applicant with a pending application may waive review available under prior regulations through a written letter to the City and request review under the provisions of this code.

(2) Approved Projects

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

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

Title 02

Administration and
Procedures



Title 02

ADMINISTRATION AND PROCEDURES

SECTION 1102.01 REVIEW AND APPROVALS SUMMARY

- A. This chapter sets forth the respective powers and duties of the Zoning Administrator, the Board of Zoning and Appeals (hereinafter, “BZA”), the Planning and Zoning Commission (hereinafter, “PZC”), the Heritage Commission (hereinafter, THC) and City Council relative to the administration and enforcement of this Zoning Code.

SECTION 1102.02 ZONING ADMINISTRATOR

- A. The Zoning Administrator is the general title assigned to that person who is designated by the Mayor with the responsibility for administering and enforcing this Zoning Code. The Zoning Administrator shall have the authority to delegate his or her duties to certain designees under his or her supervision.
- B. The Zoning Administrator and his or her designees shall have the following responsibilities and powers:
 - (1) Enforce the provisions of this Code and interpret the meaning and application of its provisions.
 - (2) Receive, review and make determinations on applications for zoning certificates.
 - (3) Conduct pre-application meetings with applicants to assist with the review of plans to determine applicable processes and reviews.
 - (4) Issue zoning certificates as provided by this Code and keep a record of same with notations of special conditions involved.
 - (5) Review and process applications pursuant to the provisions of this Code and transmit such applications to the applicable reviewing body or bodies together with reports of the planning and zoning staff.
 - (6) Make determinations as to whether violations of this Code exist, determine the nature and extent thereof, and notify the owner in writing, specifying the exact nature of the violation and the manner in which it shall be corrected by the owner, pursuant to the procedures in this Code.
 - (7) Conduct inspections of buildings and uses of land to determine compliance or non-compliance with this Code.
 - (8) Maintain permanent and current records required by this Code, including but not limited to the Official Zoning Map, Zoning Certificates, inspection documents and records of all variances, amendments and conditional uses. These records shall be made available for use of the City Council, the Planning & Zoning Commission (PZC), the Board of Zoning Appeals (BZA), the Heritage Commission (THC) and the public.

- (9) Determine the existence of any violations of this Code and enforce this Code.
- (10) Revoke a Zoning Certificate or approval issued contrary to this Code based on a false statement or misrepresentation in the application.
- (11) Such other administrative duties as specifically granted to them from time to time by the Director of Public Service.

SECTION 1102.03 BOARD OF ZONING APPEALS (BZA)

- A. Authority. The BZA is authorized to act as the administrative board as provided by the City Charter and shall have the following responsibilities and duties:
 - (1) Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation or determination made by the Zoning Administrator, a hearing officer, and/or his or her designees.
 - (2) Authorize such variances and exceptions from the terms of this Code as will not be contrary to the public interest in accordance with the procedures set forth under Section 1102.09 hereof unless authorization of the variance and exception is granted by the Planning & Zoning Commission.
 - (3) Appeals taken on the basis of a decision rendered by the Heritage Commission.
 - (4) The BZA does not have the authority to authorize a change in the use of any parcel of land. This authority lies with City Council after recommendation from the Planning & Zoning Commission.
- B. Meetings. The BZA meets monthly and at the call of its chairperson or two other members, and at such other regular times as it may, by rule determine.
- C. Quorum. The BZA shall require a quorum of three members at all its meetings, and a concurring vote of three members shall be necessary to affect an order.
- D. Witnesses. The BZA Chairperson or acting Chairperson may administer oaths and compel the attendance of witnesses in all matters coming before the Board.

SECTION 1102.04 PLANNING AND ZONING COMMISSION (PZC)

- A. Authority. The PZC is authorized to act as the administrative commission as provided by the City Charter. It shall have the responsibilities as set forth in the City Charter, including but not limited to the following responsibilities and powers as they relate to this Zoning Code here and elsewhere:
 - (1) Initiate advisable Official Zoning District Map changes, or changes in the text of the Code where same will promote the best interest of the public in general through recommendation to the City Council.
 - (2) Review all proposed amendments to the text of this Code and the Official Zoning District Map and make recommendations to the City Council.
 - (3) Carry on a continuous review of the effectiveness and appropriateness of this Code and recommend such changes or amendments as it feels would be appropriate.
 - (4) Review and act on site plan applications and requisite documents.
 - (5) Review all applications for Conditional Uses and make recommendations to Council.

- B. Meetings. The PZC meets monthly and at the call of its chairperson or two other members, and at such other regular times as it may, by rule determine.
- C. Quorum. The PZC shall require a quorum of three members at all its meetings, and a concurring vote of three members shall be necessary to affect an order.
- D. Witnesses. The PZC Chairperson or acting Chairperson may administer oaths and compel the attendance of witnesses in all matters coming before the Commission.

SECTION 1102.05 HERITAGE COMMISSION (THC)

- A. Authority. The THC is authorized to act as the administrative board as provided by the City Charter, in addition to the following duties which may be amended from time to time by Council:
 - (1) To review applications for Certificates of Appropriateness (COA) in accordance with the procedures set forth under Chapter 1109.06 of this Code.
 - (2) To review applications for the designation of structures as Recognized Heritage Structures (RHS) in accordance with the procedures set forth under Chapter 1109 of this Code.
 - (3) To review applications for the removal of structures as Recognized Heritage Structures (RHS) in accordance with the procedures set forth under Chapter 1109 of this Code.
 - (4) To promulgate, along with the City Administration, supplemental material, including illustrations, in the Design Control Overlay District Review Guidebook and other documents that further interpret the provisions of this Chapter and Chapter 1103.
- B. Meetings. The THC meets monthly and at the call of its chairperson or two other members, and at such other regular times as it may, by rule determine.
- C. Quorum. The THC shall require a quorum of three members at all its meetings, and a concurring vote of three (3) members of the Heritage Commission shall be necessary to affect an order.
- D. Witnesses. The THC Chairperson or acting Chairperson may administer oaths and compel the attendance of witnesses in all matters coming before the Commission.

SECTION 1102.06 CITY COUNCIL

- A. Authority. Council may, from time to time, amend by ordinance the number, shape or area of districts established on the Zoning Map or the regulations set forth in this Zoning Code, schedule of fees and act on matters of land use based on the recommendations of the PZC.

SECTION 1102.07 APPLICATIONS

- A. Applicability. Any person desiring to do or to cause to be done any work for which a permit or zoning certificate is required by this Zoning Code, shall obtain a permit with the Planning & Zoning Department and at the time of application pay all required fees as established by the Schedule of Fees and comply with all requirements as set forth by this Zoning Code and Summit County Department of Building Standards.

- B. The applicant must own in fee simple or have an option to purchase all lands within the proposed application. 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. The owner in fee simple must sign and acknowledge the application.
- C. Any transfer of land within the development resulting in a change of ownership within the development after an application has been filed shall not alter the applicability of the regulations contained herein provided any new owners authorize the continuation of the application process.
- D. Pre-Application Meeting. Prior to filing an application, an applicant may request a pre-application meeting with the Zoning Administrator to discuss the proposed application or project. The Zoning Administrator may require a pre-application meeting in certain circumstances outlined herein.
 - (1) The purpose of the pre-application meeting shall be to discuss the proposed application or project, review submittal requirements and discuss compliance with the provisions of this code and the adopted plans of the city prior to the submission of the application.
 - (2) No action can be taken by the staff and/or boards until the applicant submits an actual application and/or plan to the city pursuant to the laws and policies of the city. Therefore, all discussions that occur between the applicant and/or applicant's representative(s) and staff, and/or City boards, that occur prior to the date the applicant submits an actual application and/or plan including, but not limited to, any informal meetings with City staff, boards, any pre-application conferences or meetings, are not binding on the City and do not constitute official assurances or representations by the City or its officials regarding any aspects of the plan or application discussed.
- E. Application. Any application, unless otherwise stated, submitted hereunder shall include at minimum the following information and will conform to the requirements set forth on the applicable application:
 - (1) All requests for a decision or approval under this Code begin with the property owner or authorized agent thereof filing an application with the Zoning Administrator on forms provided.
 - (2) The present zoning district for the subject property.
 - (3) A complete application shall include requisite number of copies, supported documents and materials and payment in full of all applicable fees per the Schedule of Fees.
 - (4) The Zoning Administrator will determine whether an application is complete and is ready to be processed. The Zoning Administrator may waive certain submission requirements where it is determined that it is not applicable to include an application on the agenda, contingent on any public hearing requirements. In some instances, an additional application may be deemed necessary by the Zoning Administrator and, if so, an application will not be deemed to be complete unless and until all applications are submitted and reviewed and determined to be in accordance with all submittal requirements. The applicant will be notified in writing of any deficiencies in the completeness of the application and shall have 30 days from the date thereof to complete the application or the application will be deemed null and void. No official action shall take place until the application is deemed full and complete by the Zoning Administrator.
 - (5) Unless otherwise prescribed by this Code or requested by the applicant, the applicable decision-making body or administrator shall render a decision on all full and complete applications within sixty-five (65) days from the original hearing.
 - i. In the interest of timely and efficient administration of the provisions of this Code, applicants may submit, and the Board may take action upon, concurrent applications for conditional uses, similar use determinations, variances, and other matters on which the Board is granted authority by this

Code. All such concurrent applications shall be submitted in conformance with the applicable provisions of this Code. The Board shall not take such concurrent action if it determines that such concurrent action is not in the best interest of the city.

- F. General Notice. When an application calls for a public hearing, a notice of the hearing shall be made to the public by twenty (20) days advance publication, in a newspaper of general circulation in the City, of the place, time, date and the nature of the application.
- G. Notice to Parties of Interest. When an application calls for a public hearing, written notice of such hearing shall be mailed by first class mail at least fourteen (14) days before the date of the hearing to all property owners located in the City within five hundred (500) feet in any direction of the property upon which an application has been filed. The failure to mail or deliver notification as provided in this Code shall not invalidate any such application. The notice shall contain the same information as required of notices published in newspapers.
- H. Expiration. The approval shall become void at the expiration of one year after date of issuance, unless construction is started. If no construction is started or use changed within one year of date of permit, a new permit is required upon proper application unless the applicant applies for an extension by the approving body/bodies. One extension may be granted for up to twelve (12) months. Any application for extension must be made in writing to the approving body/bodies prior to the expiration of the initial Certificate.
 - (1) Any building or structure for which a permit has been issued, and except for circumstances beyond the property owner's control (e.g. labor strikes, inclement weather, etc.), all construction work shall be diligently pursued to completion. Any construction project, upon which no substantial work has been undertaken for a period of six months, shall be deemed abandoned and the applicable permit shall be deemed void. For the purposes of this subsection, "substantial work" shall mean any portion of permitted work that requires a city inspection. Such work will be considered as having begun if the city has received an inspection request, or if a city inspector has verified that such work has begun.
 - (2) The construction project cannot create nuisance conditions such as property maintenance violations or any other violation of the codified ordinances.
 - (3) The breach of any condition, safeguard or requirement shall automatically invalidate the certificate or permit granted and shall constitute a violation of the Zoning Ordinance.
- I. Reapplication. No application, which has been denied by the applicable body, shall be resubmitted until the expiration of one year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions which would be sufficient to justify reconsideration, which shall be determined by the Director of Law.
- J. Conduct of Public Meetings and Hearings.
 - (1) Rights of All Persons
 - i. Any person may appear at a public hearing and submit information or evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state his or her address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.
 - (2) Continuance of a Public Meeting or Hearing, or Deferral of Application Review
 - i. An applicant may request that a review or decision-making body's consideration of an application at a public hearing be deferred by submitting a written request for deferral to the Zoning Administrator prior to the publication of notice as may be required by this code. The Zoning

Administrator may grant such requests, in which case, the application will be considered at the next regularly scheduled meeting.

- ii. A request for continuance of consideration of an application received by the Zoning Administrator after publication of notice of the public hearing as required by this code shall be considered as a request for a continuance of the public hearing and may only be granted by the decision-making body.
- iii. The review or decision-making body conducting the public hearing may, on its own motion or at the request of the applicant, continue the public hearing to a fixed date, time, and place. No additional notice is required if the fixed date, time, and place is announced at the time of the continuance.

(3) Tabling or Continuation of Public Meetings or Hearings

- i. If any review procedure is tabled or continued by the applicant for a period exceeding 6 months, the application shall be deemed as void and the applicant shall be required to resubmit an application.

K. Withdrawal of Application. Any request for withdrawal of an application shall be either submitted in writing to the Zoning Administrator or verbally to the decision-making body prior to action by decision-making body.

- (1) The Zoning Administrator shall approve a request for withdrawal of an application if it has been submitted prior to publication of notice for the public hearing on the application in accordance with this code.
- (2) If the request for withdrawal of an application is submitted after publication of notice for the public hearing in accordance with this code, the request for withdrawal shall be reported on the public hearing agenda and posted. Such action shall not be deemed as a decision on the subject application.

L. Effects of any Approvals.

- (1) The issuance of any approval, certificate or permit under this code shall authorize only the particular development, alteration, construction or use approved in the subject application.
- (2) All approvals shall run with the land or use and shall not be affected by change in ownership.
 - i. Development authorized by any approval under this section and this code shall not be carried out until the applicant has secured all other approvals required by this code or any other applicable provisions of the City.
 - ii. The granting of any approval, certificate or permit shall not guarantee the approval of any other required certificate, permit or application.
 - iii. The City shall not be responsible for reviewing the application for compliance with any permits, certificates, or other approvals that may be required by the County, State, or other agencies having jurisdiction.

M. Computation of Time.

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

- (2) When the City offices are closed to the public for the entire day which constitutes the last day of the period of time, then such application, act, decision, or event may be performed on the next succeeding day which is not a Saturday, a Sunday or a legal holiday observed by the City in which the City administrative offices are closed for the entire day.

SECTION 1102.08 FEES AND GUARANTEES

- A. Fees. City Council shall, by Ordinance, establish a schedule of fees for applications for zoning certificates, amendments, appeals, variances, conditional zoning certificates, site plan approvals, similar permitted uses, certificates of appropriateness, minor modification of a use or site plan of an approved conditional use, and other procedures and services pertaining to the administration and enforcement of this Zoning Code, after considering the recommendations of the Zoning Administrator with respect to actual administrative costs, both direct and indirect.
 - (1) The schedule of fees shall be available in the office of the Zoning Administrator and may be altered or amended only by the City Council. Until all such appropriate fees, charges and expenses have been paid in full, no action shall be taken on any application, appeal or administrative procedure.
 - (2) Such fees are adopted to cover the cost to the City for investigations, legal advertising, postage and other expenses resulting from the administration of the respective zoning activities.
 - (3) Any consultant and professional service fees required for the review of the application are the responsibility of the applicant and shall be collected prior to any reviews. The funds will be held in escrow by the City and disbursed as the City is billed for the services. Any unused fees will be returned to the applicant upon completion of the review.
 - (4) Unless otherwise identified in the fee schedule adopted by City Council, no application shall be processed or determined to be complete until the established fee has been paid.
 - (5) Application fees are not refundable except where the Zoning Administrator determines that an application was accepted in error, or the fee paid exceeds the amount due, in which case the amount of the overpayment will be refunded to the applicant.
- B. Types of Guarantees The following are the types of financial guarantees allowed by the City. The standards for each type of guarantee shall apply to any situation where a financial guarantee is required.
 - (1) Bond: The following standards shall apply if a bond is utilized as a financial guarantee:
 - i. A bond in the amount of the guarantee determined by the City shall be filed with the City of Tallmadge.
 - ii. The bond may be in the form of a surety bond or a cash bond of the kind approved by law for securing deposits of public money.
 - iii. The bond shall be executed by the principal, and if a surety bond, shall be executed by a corporation authorized to act as a surety under the laws of the State of Ohio.
 - (2) Irrevocable Letter of Credit: The following standards shall apply if an irrevocable letter of credit is utilized as a financial guarantee:
 - i. The subdivider shall provide an irrevocable letter of credit from a bank or other reputable institution or individual subject to the approval of the City Law Director and Mayor.

- ii. The letter shall be deposited with the City, and shall certify the following:
 - (a) The creditor guarantees funds in the amount determined by the City for completion of all required public improvements.
 - (b) In the case of failure on the part of the subdivider to complete the specified public improvements within the required time period, the creditor shall pay to the City immediately and without further action such funds as are necessary to finance the completion of those public improvements, up to the limit of credit stated in the letter.
 - (c) This irrevocable letter of credit may not be withdrawn or reduced in amount until released by the Director of Public Service in accordance with this chapter.
- (3) Cash: The following standards shall apply if cash is utilized as a financial guarantee:
 - i. The subdivider shall provide a certified check in the amount of the guarantee as determined by the City, payable to the City of Tallmadge.
 - ii. When the public improvements are complete, the City shall issue a check for the released amount based on this subsection.
 - iii. The City shall not be responsible for paying interest for the period of time the City retains the guarantee.

SECTION 1102.09 ZONING CERTIFICATES

Zoning certificates shall be administratively approved in accordance with this Section and in accordance with this Zoning Code.

- A. **Applicability.** No use of land, building or structure and no construction or alteration of an existing use, building, or structure shall commence until a zoning certificate is issued by the Zoning Administrator certifying that the intended use of the premises has been documented, reviewed, and approved in conformance with the provisions of this Zoning Code. A zoning certificate shall only be issued by the Zoning Administrator subsequent to completion of all procedures and approvals required by this Code.
- B. The Summit County Department of Building Standards shall not issue a Building Permit for any structure until the required Zoning Certificate has been approved by the City.
- C. It shall be the duty of each lot owner and contractor, or an agent thereof, to determine lot lines and to ascertain that the new construction or alteration does not deviate from the plans as approved by the Zoning Administrator issuing the zoning certificate, and that the new construction or alteration does not encroach on another lot or existing easement. The issuance of the certificate and any inspection by the City shall not be construed to mean that the City has determined the new construction or alteration is not encroaching on another lot, nor shall it relieve the property owner of the duty imposed on him or her herein.
- D. Any zoning certificate based on any false material or statement in the application or supporting documents is absolutely void, from the beginning and shall be revoked.
- E. Except as otherwise provided in this Code, a zoning certificate shall be required before:
 - (1) Locating, erecting, constructing, reconstructing, altering, or moving any building or structure, including an accessory building or structure such as a sign or fence;
 - (2) Occupying or using land or a building, or changing the use of land or of a building, in whole or in part, for a different use;

- (3) Changing a nonconforming use to a different use or extending or expanding a nonconforming use or structure; or
- (4) Unless otherwise specifically exempted in Chapter 1108 Signage, signs shall require a zoning certificate.
- F. Standards for Review. Within fourteen (14) days of the submission of a completed application, the Zoning Administrator may deny the application and may not issue a zoning certificate or may extend the time for review at the Zoning Administrator's discretion. In order to approve any zoning certificate, the Zoning Administrator shall determine the following:
 - (1) The application complies with all applicable provisions of this code and the applicable zoning district; and
 - (2) The application complies with all approved plans, conditions or other development approvals issued pursuant to the rules of this code (e.g., variances, conditional uses, Heritage Commission approvals, etc.)
- G. Within fourteen (14) days of the Zoning Administrator's denial of a zoning certificate, the applicant may file a written appeal with the BZA. Any applicant who does not file an appeal within fourteen (14) days of the date of denial by the Zoning Administrator shall have waived such right to appeal, and the decision of the Zoning Administrator shall become final.

SECTION 1102.09.1 CERTIFICATE OF APPROPRIATENESS

(ORD 2024-78, passed 1-23-2025)

- A. Applicability
 - (1) Any application received for new construction, alteration and additions, including signage in any Overlay District within the City of Tallmadge or as part of a Recognized Heritage Structure, will require a Certificate of Appropriateness.
- B. Certificate of Appropriateness Review Standards
 - (1) The following principles, in addition to those listed in Chapters 1103, 1108 and 1109 and the Design Guidebooks shall guide the Architectural Review Board in the exercise of reviewing for a Certificate of Appropriateness.
 - i. The proposal will not adversely affect or destroy the architectural features of the structure;
 - ii. The proposal is neither inappropriate nor inconsistent with the spirit and purpose of the Overlay District and/or Historic Structure;
 - iii. The proposal will safeguard and enhance the unique character of the Overlay District and/or Historic Structure.
 - (2) In determining whether to grant a COA, the Architectural Review Board shall consider the evidence presented in conjunction with the guiding principles of this Zoning Code and the Overlay Design Guidebook and shall take any of the following actions:
 - i. Approve the COA;
 - ii. Approve the COA with modifications;
 - iii. Deny the COA; or
 - iv. With the consent of the Applicant, continue the review of the application to a future meeting.
- C. Maintenance.
 - (1) All structures shall be kept in a good state of maintenance and repair.

- (2) Nothing in Chapters 1103, 1108 and 1109 of this Zoning Code shall be construed to prevent the ordinary maintenance or repair of any property within the Overlay District, provided such work involves no change in material, design, texture, color or exterior appearance; nor shall anything in this Chapter be construed to prevent any repair of structural deficiency which in the view of the Zoning Administrator is required for the public safety because of an unsafe, insecure or dangerous condition.

D. Emergency Orders.

- (1) Notwithstanding other provisions of Chapters 1103, 1108 and 1109, whenever the Zoning Administrator finds that an emergency exists in any structure subject to the regulations herein, which requires immediate action to protect the public's health and safety or that of the occupants thereof, the Zoning Administrator may issue an order certifying that such conditions exist and requiring actions as are necessary to meet such an emergency. Subsequent to the correction of an emergency, the owner(s) of an affected property shall apply for and obtain, as applicable, a Certificate of Appropriateness and shall restore such property in conformance with all applicable requirements.

SECTION 1102.10 ZONING VARIANCES

- A. Applicability. When practical difficulties, unnecessary hardship or results inconsistent with the general purpose of this Zoning Code result through the strict and literal interpretation and enforcement of the provisions hereof, the BZA shall have authority, as an administrative act, subject to the provisions of this section, to grant, upon such conditions as it may determine, such variances from the provisions of this Zoning Code as may be in harmony with its general purpose and intent, so that the spirit of this Zoning Code shall be observed, public safety and welfare secured and substantial justice done. To facilitate the efficient review of site plan and development applications, the PZC shall be permitted to review requests for variances/modifications in accordance with the standards set forth herein.
- B. Standards for Granting Variance. In every instance of granting a variance by the BZA, the BZA must determine based on the facts presented that
 - (1) The strict application of the provisions of this Zoning Code would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of this Zoning Code.
 - (2) There are exceptional or extraordinary circumstances or conditions applying to the property involved or development of the property that do not apply generally to other properties in the same zoning district or neighborhood.
 - (3) The granting of such variance will not be of substantial detriment to the public interest or to the property or improvements in such district in which the variance is sought and will not materially impair the purpose of this Zoning Code.
- C. Conditions on Granting of Variance. In granting any variance, the BZA/PZC shall establish such conditions as are necessary to secure substantially the objectives of this Code. Any violation of such conditions and safeguards, when they have been made a part of the terms under which the variance has been granted, shall be deemed a violation of this Code.
- D. Term of Variance. No action of the BZA/PZC granting a variance shall be valid for a period longer than twelve (12) months from the date of such action unless the zoning certificate is obtained within such period, and the erection or alteration of a structure is started or the use is commenced within such period.

SECTION 1102.11 SITE PLAN REVIEW

- A. Applicability. This section shall apply to applications for conditional uses, similar use determinations, new construction, “substantial expansion” of existing structures and expansion of parking lots. These regulations shall not apply to one, two or three family dwellings when site plan review is not otherwise required under the subdivision regulations. For the purposes of this section “substantial expansion” shall mean an increase of twenty-five (25%) or more of the built footprint of the principal structure.
- B. Site Plan Review Standards. The following principles shall guide the exercise of site planning review by the PZC:
- (1) The natural topographic and landscape features of the site shall be incorporated into the plan and the development.
 - (2) Buildings and open spaces should be in proportion and in scale with existing structures and spaces in the area within three hundred (300) feet of the development site.
 - (3) A site that has an appearance of being congested, over built or cluttered can evolve into a blighting influence and therefore such should not be congested, over built or cluttered.
 - (4) Open spaces should be linked together.
 - (5) Natural separation should be preserved or created on the site by careful planning of the streets and clustering of buildings using natural features and open spaces for separation. Existing vegetation removal should be kept to a minimum.
 - (6) Screening of intensive uses should be provided by utilizing landscaping, fences or walls to enclose internal areas.
 - (7) Buildings should be sited in an orderly, non-random fashion. Long, unbroken building façades should be avoided.
 - (8) In connection with the siting of multiple story buildings, the location should be oriented to maximize the privacy of the occupants of adjacent buildings.
 - (9) Pedestrian circulation in non-residential areas should be arranged so that off-street parking areas are located within a convenient walking distance of the use being served. Handicapped parking should be located as near as possible to be accessible to the structure. Pedestrian and vehicular circulation should be separated as much as possible, through crosswalks designated by pavement markings, signalization or complete grade separation.
 - (10) Path and sidewalk street crossings should be located where there is a good sight distance along the road, preferably away from sharp bends or sudden changes in grade.
 - (11) Parking lots and garages should be located in such a way as to provide safe, convenient ingress and egress. Whenever possible there should be a sharing of curb cuts of more than one facility. Parking areas should be screened and landscaped, and traffic islands should be provided to protect circulating vehicles and to break up the monotony of continuously paved areas.
 - (12) When located in an overlay, building placement, parking location, and site layout must comply with the regulations of the underlying overlay district.
 - (13) Drive through establishments such as restaurants and banks should be located to allow enough automobile waiting space for peak hour operation without interference with other parking lot circulations.
- C. Modification to Approved Site Plan. The Zoning Administrator may approve a minor modification to any

previously approved site plan with notice to the PZC of such minor modification. For the purposes of this subsection “minor modification” shall mean any modification that is in substantial agreement with the PZC’s prior approval of the site plan. Such minor modification shall require a Non-Residential Zoning Certificate. If the Zoning Administrator determines that a proposed modification is not a “minor modification” then such modification shall be heard by the PZC in accordance with the standards for an application for initial site plan approval. Notwithstanding anything to the contrary contained herein, the Zoning Administrator may refer any application for a modification to the PZC for review. For the purposes of this subsection (C) “substantial agreement” shall mean any modification that proposes to alter a dimensional standard by ten percent (10%) or less from the dimensional standard that was approved under the original site plan.

- D. Action by PZC. The PZC shall act upon all site plans within thirty-five (35) days after the receipt of the complete application from the Zoning Administrator. The PZC may approve, disapprove or approve with modifications the site plan as submitted. The PZC may extend the time for review with the consent of the applicant.

SECTION 1102.12 CONDITIONAL USES

- A. Applicability. Reviews of applications for conditional uses shall be conducted by the PZC in accordance with the provisions set forth under this section. The intent of the procedure for authorizing a conditional use is to set forth the development standards and criteria for locating and developing conditional uses in harmony with the character of the surrounding area, conditions of development and with regard to appropriate laws.
- B. Conditional Uses Review Standards. Upon reviewing an application for a conditional use, the PZC shall consider whether the application provides adequate evidence that the proposed conditional use is consistent with the applicable conditions as set forth in Chapter 1104: Use Regulations and the following standards, as applicable to the subject property. Not all criteria may be applicable in each case, and each case shall be determined on its own facts.
 - (1) The proposed use shall be in harmony with the existing or intended character of the zone or district and nearby affected zones and districts and shall not change the essential character of the zones and districts;
 - (2) The proposed use shall not adversely affect the use of adjacent property;
 - (3) The proposed use shall not adversely affect the health, safety, morals, or welfare of persons residing or working in the neighborhood;
 - (4) The proposed use shall be served adequately by public facilities and services such as, but not limited to, roads, police and fire protection, storm water facilities, water, sanitary sewer and schools;
 - (5) The proposed use shall not impose a traffic impact upon the public right-of-way significantly different from that anticipated from permitted uses of the zone or district;
 - (6) The proposed use shall be in accord with the general and specific objectives, and the purpose and intent of this Zoning Code compatible with the guiding plan documents and ordinances of the City; and/or
 - (7) The proposed use shall be found to meet the definition and intent of a use specifically listed as a conditional use in the zone or district in which the subject property is situated.
- C. The City of Tallmadge shall be exempt from the conditional use provisions of this Code, however may, from time to time, utilize the application process.

D. Application and Review Procedure

- (1) STEP 1: Submittal of conditional use application to the Planning & Zoning Department
 - i. The applicant submits the application and fees with applicable documents as established by the Zoning Administrator.
- (2) STEP 2: Staff Review and Transmission to the PZC
 - i. Upon determination that a conditional use application is complete, the Zoning Administrator shall distribute the application to all appropriate City departments and professional consultants for review and comment. Any comments or expert opinions shall be returned to the Zoning Administrator for transmission to the PZC.
 - ii. The Zoning Administrator shall report on the Agenda of the 1st meeting the filing of a request for the Conditional Use. If no other items are listed on the agenda for consideration, the agenda will be posted.
 - iii. The Zoning Administrator shall distribute the application and any reports prepared as part of Subsection i. above, at least three business days prior to the PZC's meeting where the application is to be reviewed.
 - iv. The Zoning Administrator shall make written notice of the public meeting before PZC by first class mail at least fourteen (14) days before the date of the meeting to all property owners located in the City within five hundred (500) feet in any direction of the property upon which the application has been filed.
 - v. Notice shall also be made by sign posting on the property indicating a conditional use request and website for information. Where a zoning change involves ten (10) or more parcels, a sign posting will be exempt.
- (3) STEP 3: PZC Review and Recommendation
 - i. The PZC shall review the application and hold a public hearing in accordance with the procedures established in Section 1102.07. Within 65 days, PZC shall make a recommendation on the application to City Council:
 - (a) Approval of the conditional use,
 - (b) Approval of the conditional use subject to specific conditions not included in the plan as submitted, or
 - (c) Denial of the conditional use.
 - ii. If PZC fails to make a recommendation within the established timeframe, the application will move forward to STEP 4 with a recommendation of denial.
 - iii. In reviewing the application, the PZC shall at a minimum, consider the reports and opinions transmitted by the Zoning Administrator and the review criteria of this section.
 - iv. At least four (4) affirmative votes shall be required of PZC members to recommend changing any property zoned residential to commercial, industrial or conditional-use classification per the Charter.
 - v. All recommendations shall also be forwarded to the applicant, as applicable.
 - vi. City Council shall be forwarded the recommendations from PZC. Such recommendations may be modified by the Director of Law as to grammar and form but not as to substance.
 - vii. The PZC shall also have the authority to review and grant the minor modification of a use or site plan of an approved conditional use.

- (4) STEP 4: City Council Review and Decision
 - i. Council, within forty-five (45) days of its receipt of the recommendation of the PZC shall approve, deny, modify, or approve with conditions the application.
 - ii. If Council action is in accordance with the recommendation of the PZC, a majority vote of Council is needed for enactment.
 - iii. If Council substantially departs from, substantially alters, or differs from the recommendation of the PZC, no such ordinance, measure or resolution shall take effect unless approved and passed by five (5) votes of the membership of the Council.
- (5) STEP 5: Zoning Certificates and Building Permits
 - i. Following the approval of the conditional use, the applicant may proceed with the zoning certificate and building permit process, consistent with this code and approval as granted, including any conditions and modifications made by the PZC.
 - ii. All construction and development under any building permit shall be in accordance with this code and any related approved Site Plan/Final Development Plan, except as may be permitted in Section 1102.14 E Compliance and Modifications of Approved Plans. Any unauthorized departure from such plan shall be cause for revocation of the zoning certificate.

SECTION 1102.13 SIMILAR USE DETERMINATION

- A. Applicability. When an application for a zoning certificate is submitted for a use which, in the opinion of the Zoning Administrator, is not listed as a permitted use or a conditional use in any district or zone, then the Zoning Administrator shall refuse to issue a zoning certificate, and the applicant may thereafter resubmit an application for a similar use determination to the Zoning Administrator to be heard by the PZC.
- B. Similar Use Determination Review Standards. In addition to the other regulations and standards applicable to conditional use permits, the following standards shall be considered by the PZC when making a determination that a use is substantially similar to a permitted or a conditionally permitted use within a specific district:
 - (1) The nature, predominant characteristics and intensity of the proposed uses in relation to those uses specified by this Code as being permitted, or in the case of a conditional use conditionally permitted, in that district.
 - (2) The size, dimensional requirements, parking requirements, traffic generation potential and other regulatory considerations normally associated with uses as specified in this Code.
- C. When a proposed land use is not explicitly listed in Table 1104.05, the Zoning Administrator shall determine whether it is reasonably included in the definition of a listed use, or that the proposed use meets the following criteria to the extent that it should be treated as a permitted or conditional use in the district.
 - (1) The use is not specifically listed in any other zoning district.
 - (2) The use is generally consistent with the intent of the zoning district and this chapter.
 - (3) The use will not materially impair the present or potential use of other properties within the same district or bordering districts.
 - (4) The use has no greater potential impact on surrounding properties than those listed in the district in terms of aesthetics, traffic generated, noise, potential nuisances and other impacts related to health, safety and welfare.

- (5) The use will not adversely affect the relevant elements of the Comprehensive Plan.
- D. The Zoning Administrator's written determination shall be provided to the applicant and may be appealed to the PZC. If the Zoning Administrator determines that it is a similar permitted use, a Zoning Certificate can be issued, and it shall be reported to the PZC. If the Zoning Administrator determines that it is a similar conditional use, it shall be pursued as a Conditional Use per Section 1102.11.
- E. Hearing Procedures. Any appeal for an application for a similar use determination shall be heard by the PZC in accordance with the procedures applicable to an application for a conditional use.

SECTION 1102.14 ZONING MAP AMENDMENTS

A. Applicability of a Rezoning

- (1) Amendments to the Zoning Map may be initiated in one of the following ways:
 - i. By adoption of a motion by PZC;
 - ii. By adoption of a motion by Council for PZC recommendation;
 - iii. By application with consent of the property owner of record.
- (2) The Zoning Administrator shall review the application for completion and forward the complete application to the Clerk of Council.

B. Amendment to Zoning Map Review Standards

- (1) The PZC and City Council shall consider whether the application provides adequate evidence that the proposed district change is consistent with the applicable standards as listed. Not all criteria may be applicable in each case, and each case shall be determined on its own facts.
 - i. The proposed amendment is consistent with the adopted City plans, and the stated purposes of this code;
 - ii. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions;
 - iii. The proposed amendment will promote the public health, safety, and general welfare;
 - iv. The uses that would be permitted on the property if it were reclassified would be compatible with the uses permitted on other property in the immediate vicinity;
 - v. The proposed amendment follows lot lines or the centerlines of streets, railroads, or other rights-of-way;
 - vi. Adequate utility, sewer, and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on a property if it were reclassified;
 - vii. The proposed amendment is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;
 - viii. The proposed amendment will not constitute an instance where special treatment is given to a particular property or property owner that would not be applicable to a similar property, under the same circumstances;

- ix. The proposed amendment is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract;
 - x. The proposed amendment would correct an error in the application of this Planning and Zoning Code as applied to the subject property; and
 - xi. The General Development Plan meets the standards set forth in the application as determined by the Zoning Administrator.
- (2) The PZC shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and not solely for the interest of the applicant.

C. General Development Plan Review Standards

- (1) PZC and Council shall only approve a General or Final Development Plan when it is determined to be in compliance with the following criteria:
- i. Each part of the development can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained.
 - ii. The existing and proposed streets and thoroughfares are suitable and adequate to carry anticipated traffic; the project will not generate traffic in such amounts as to overload the street network outside the District; and adequate traffic control measures (i.e. turning lanes and/or signals/signs) are provided at the intersection of the project's entry roads with the existing public street. Traffic control measures may include the reservation of land for future road widening adjacent to existing public rights-of-way.
 - iii. The development will result in a harmonious grouping of buildings so that the area surrounding said development can be developed in a manner that is substantially compatible with the proposed development.
 - iv. Maximum possible privacy for adjacent residential properties shall be provided through good design and use of proper landscaping according to the Chapter.
 - v. Adequate provisions are made in the final covenants and restrictions relating to the use and development of accessory buildings and structures (fences, pools, play equipment, etc.) associated with individual dwelling units; and
 - vi. On-site circulation shall be designed to provide for adequate fire and police protection, and safe and efficient pedestrian and vehicular circulation.
 - vii. The proposed development complies with all other applicable provisions of this Chapter and any other applicable standards as set forth by the Zoning Administrator.

D. Amendment to Zoning Map Review Procedures

- (1) To achieve conformance with the standards listed above, a review process has been established that combines the request for a zoning amendment with a concurrent development plan review. Therefore:
- i. Each approved application shall be considered a separate and unique zoning district wherein a General Development Plan, including associated text, depicting the specific development standards and development commitments, is adopted simultaneously with the adoption of the zoning map amendment.
 - ii. The General Development Plan adopted at the time of rezoning shall be prepared in accordance with

the provisions and shall take precedence over any conflicting regulations contained in the Zoning Code.

- iii. A preliminary subdivision plat or a site plan, whichever is applicable, may be reviewed simultaneously with a General Development Plan. In cases of a major subdivision, the final subdivision plat may be reviewed simultaneously with a Final Development Plan. All subdivision plats shall be reviewed and approved according to Section 1110.03 Major Subdivision.
- (2) Ownership. The application shall be an integrated, unified development project and the entire project area shall be in single ownership or joint ownership and/or control at the time the application is made for the District designation so that all property owners are applicants. Any transfer of ownership for any portion of the land within the development resulting in ownership by two or more parties, after an application has been filed, shall not alter the applicability of the regulations contained herein. A General Development Plan approved in accordance with these regulations shall be binding upon the owners, their successors, and assigns.
- (3) Application and Review Procedure
 - i. STEP 1: Pre-application meeting with concept plan.
 - (a) The applicant shall meet with the Zoning Administrator and appropriate staff for review of a concept plan prior to submitting an application for a zoning amendment.
 - (b) The concept plan is intended to outline the basic scope, character and nature of a proposed project. The review is to provide input in the formative stages of design.
 - ii. STEP 2: (optional) Concept discussion with PZC
 - (a) The applicant may request review and feedback from PZC prior to preparing a General Development Plan.
 - (b) No discussions, opinions, or suggestions provided on any aspect of the concept plan shall bind the applicant, or the city, or be relied upon by the applicant to indicate subsequent approval or disapproval by the city.
 - iii. STEP 3: Submittal of Amendment to Zoning Map to the Planning & Zoning Department
 - (a) The applicant submits the application and fees with applicable documents. Applicable documents must at the least include the General Development Plan based on the content established by the Zoning Administrator
 - (b) As determined by the Zoning Administrator, plans including but not limited to a Preliminary Plat/Site Plan may be submitted and reviewed concurrently with General Development Plan.
 - 1) If no such Preliminary Plat/Site Plan is submitted simultaneously, a separate filing for these is required prior to installation of the Development Plan.
 - 2) The Preliminary Plat/Site Plan must be in conformance with the General Development Plan.
 - iv. STEP 4: Staff Review and Transmission to the PZC
 - (a) Upon determination that a zoning map amendment application is complete, the Zoning Administrator shall distribute the application to all appropriate City departments and professional consultants for review and comment. Any comments or expert opinions shall be returned to the Zoning Administrator for transmission to the PZC.
 - (b) The Zoning Administrator shall report on the Agenda of the 1st meeting the filing of a request

for the amendment. If no other items are listed on the agenda for consideration, the agenda will be posted.

- (c) The Zoning Administrator shall distribute the application and any reports prepared as part of Subsection b. above, at least three business days prior to the PZC's meeting where the application is to be reviewed.
 - (d) The Zoning Administrator shall make written notice of the public meeting before PZC by first class mail at least fourteen (14) days before the date of the meeting to all property owners located in the City within five hundred (500) feet in any direction of the property upon which the application has been filed.
 - (e) Notice shall also be made by sign posting on the property indicating a zoning change request and website for information. Where a zoning change involves ten (10) or more parcels, a sign posting will be exempt.
- v. STEP 5: PZC Review and Recommendation
- (a) Within 65 days, PZC shall make a recommendation on the application to City Council:
 - 1) Adoption of the zoning map amendment in conjunction with the approval of the General Development Plan,
 - 2) Adoption of the zoning map amendment in conjunction with the approval of the General Development Plan subject to specific conditions not included in the plan as submitted, or
 - 3) Denial of the General Development Plan. A denial of the General Development Plan also constitutes a recommendation to City Council to deny the Zoning Amendment.
 - (b) The PZC may, in its recommendation to City Council, require that the Final Development Plan be submitted in phases 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 General Development Plan and phased development schedule.
 - (c) If PZC fails to make a recommendation within the established timeframe, the application will move forward to STEP 6 with a recommendation of denial.
 - (d) In reviewing the application, the PZC shall at a minimum, consider the reports and opinions transmitted by the Zoning Administrator and the review criteria of this section.
 - (e) At least four (4) affirmative votes shall be required of PZC members to recommend changing any property zoned residential to commercial, industrial or conditional-use classification per the Charter.
 - (f) All recommendations shall also be forwarded to the applicant, as applicable.
 - (g) City Council shall be forwarded the recommendations from PZC. Such recommendations may be modified by the Director of Law as to grammar and form but not as to substance.
- vi. STEP 6: City Council Review and Decision
- (a) Within 45 days after the PZC makes a recommendation (STEP 5), the application shall be placed on City Council's agenda and City Council shall set a time for a public hearing on the proposed amendment.
 - (b) Notification of the public hearing shall be provided in accordance with Section 1102.14 D.3.iv.d.
 - (c) City Council shall hold a public hearing regarding zoning map amendment application.

- (d) In reviewing the application, City Council shall at a minimum, consider the reports and opinions transmitted by the Zoning Administrator, the recommendation from PZC, and the review criteria of this section.
- (e) City Council shall adopt, adopt with some modification, or deny the recommendation of the PZC with the concurrence of a simple majority of City Council.
- (f) When the recommendations of PZC are overturned, at least five (5) affirmative votes are required from City Council.
- (g) If a proposed amendment is not adopted by City Council within 120 days after City Council's first meeting following PZC's recommendation, such proposed amendment shall be deemed to have been defeated and denied and shall not thereafter be passed without a resubmission of an application.
- (h) The effective date of any amendment shall be 30 days following final action by City Council unless subject to a referendum in accordance with the Ohio Revised Code.
- (i) Significance of approved Zoning Map Amendment with General Development Plan shall:
 - 1) Establish the development framework for the project, including where applicable, the general location of open space, development areas, densities, unit types, recreational facilities, and street alignments.
 - 2) Be the basis for the application to proceed with detailed planning, a preliminary plat/site plan and engineering in reliance on the approved General Development Plan, if applicable.
 - 3) Provide the basis for the PZC and City Council to consider and approve amendments to the General Development Plan when it is determined that the proposed amendment is equal to or better than the approved General Development Plan. An amendment to General Development Plan shall be reviewed pursuant to STEP 5 above.
 - 4) Authorize the applicant to apply for all other required regulatory approvals for the project or subsequent phases thereof.
- (j) Limitations of approval
 - 1) Within two years after the approval of the General Development Plan, the applicant shall file an application for review of the Final Development Plan for the entire development. PZC may authorize an extension of one year for just cause.
 - 2) If more than two years pass from the date of approval of the General Development Plan without submission of the Final Development Plan or an extension thereof, the General Development Plan shall be deemed expired and the applicant must resubmit such plan. After the General Development Plan has expired, the zoning designation shall revert to the previously applied zoning district. After the expiration of the General Development Plan, the City may also seek to rezone the property to another zoning district.
- vii. STEP 7: (If applicable) Submittal of Final Development Plan for PZC approval
Where a Zoning Map Amendment involves a rezoning to a PRD or Overlay District, a Final Development Plan is to be submitted prior to receiving a Zoning Certificate.
 - (a) The applicant submits the application and fees with applicable documents. Within five (5) business days of receiving the application, the Zoning Administrator shall review the application to determine that the application is complete with required content as established

by the Zoning Administrator. If the application is deemed complete and the application fee paid, the Zoning Administrator shall officially accept the application on that date.

- (b) The Zoning Administrator and/or PZC may refer the application to other City officials, and/or private consultants for their review. All costs incurred for private consultants shall be paid by the applicant. Comments from the other City officials and/or private consultants shall be returned to the Zoning Administrator not later than ten (10) days prior to the next scheduled meeting for consideration of the application on the agenda of PZC.
- (c) The PZC will review the Final Development Plan to determine whether it conforms to all substantial respects to the previously approved General Development Plan and to all other applicable standards of this code.

viii. STEP 8: PZC action

- (a) PZC shall review the Final Development Plan and any other material related to the plan and shall:
 - 1) Approve the Final Development Plan,
 - 2) Approve the Final Development Plan subject to specific conditions not included in the plan as submitted, or
 - 3) or Deny the Final Development Plan. Reasons for the denial of the Final Development Plan shall be clearly stated in the minutes and conveyed to the applicant in writing.
- (b) Significance of approved plan:
 - 1) Approval of the Final Development Plan solidifies the rezoning from the underlying zoning to the new zoning district. Furthermore, it allows the developer to proceed with improvement plans preparation and in the case of a major subdivision, final plat as per Chapter 1110 Development Standards.
- (c) In the case of a major subdivision, the applicant shall be required to record a final subdivision plat within one year of the Final Development Plan approval, unless an alternative schedule is approved by PZC, or the Final Development Plan shall be deemed expired and the applicant shall be required to submit a new General Development Plan and Final Development Plan in accordance with this chapter. After the Final Development Plan has expired, the R6, PRD, or Overlay District zoning designation shall remain in place but no development shall be authorized unless the property owner, or authorized agent, submits a new General Development Plan for review pursuant to this chapter, or submits an application for a zoning map amendment to another zoning district. After the expiration of the General Development Plan, the City may also seek to rezone the property to another zoning district.
- (d) Time Limit for Review. Failure of PZC to act within ninety (90) days from the date the application first appears on the agenda of the PZC, or an extended period as may be agreed upon, may, at the election of the applicant, be deemed a denial of the Final Development Plan.

ix. STEP 9: Zoning Certificates and Building Permits

- (a) Following the approval of the Site Plan or Final Development Plan, and recording of the final subdivision plat if applicable, the applicant may proceed with the zoning certificate and building permit process, consistent with this code and approval as granted, including any conditions and modifications made by the PZC.

- (b) All construction and development under any building permit shall be in accordance with the approved Site Plan/Final Development Plan, except as may be permitted in Section 1102.14 E Compliance and Modifications of Approved Plans. Any unauthorized departure from such plan shall be cause for revocation of the zoning certificate.

E. Compliance and Modifications of Approved Plans

- (1) The development shall be constructed and completed in accordance with the approved Site Plan or Final Development Plan and all supporting data. The Site Plan/Final Development Plan and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees and assignees, and shall limit and control the use of premises (including the internal use of buildings and structures) and the location of structures in the development as set forth therein.
- (2) Where a modification is requested for a single lot after a Final Development Plan is approved, the modification shall be reviewed in accordance with Section 1102.10 Variances.
- (3) Any request to change or otherwise modify the approved Site Plan/Final Development Plan as it applies to more than one property owner, shall be reviewed based on whether the change is considered major or minor, in accordance with this subsection.

i. Major Change

- (a) Major changes to a development generally require the prior approval of the PZC and City Council. The Zoning Administrator shall have the authority to determine if a proposed change is a major change. Such changes include, but are not limited to:
 - 1) Expansion of the development project beyond the original tract coverage;
 - 2) Changes to the list of permitted uses or the areas designated for certain land uses unless the Zoning Administrator finds that such change is to a similar use, in which case it may be approved by the PZC;
 - 3) Removal or subtraction of land from the original tract coverage; and Proposed changes that will result in an increase in density or an aggregate increase of more than 10 percent in nonresidential square footage.
- (b) Changes that require the approval of only PZC include, but are not limited to, the following:
 - 1) Changes in the site plan relative to the size and arrangement of buildings, the layout of streets or circulation patterns, the size, configuration and location of common open space, and changes in any approved elements of the development; and
 - 2) Amendments to the conditions that were attached to the original plan approval.

ii. Minor Changes

- (a) Minor changes are those proposed by the developer/owner that do not disturb or affect the basic design and approved concept plan of the Site Plan/Final Development Plan and which are essentially technical in nature, as determined by the Zoning Administrator.
- (b) Examples of minor changes include, but are not limited to, changes in the intensity of lighting, changes in the size and location of water and sewer lines within approved easements, minor changes to lot lines that do not adjust the overall density or number of lots, substitution of landscaping materials, and changes in the location and number of fire hydrants.
- (c) The Zoning Administrator shall notify the PZC of all such approved minor changes.

SECTION 1102.15 ZONING CODE TEXT AMENDMENTS

A. Applicability of Zoning Code Text Amendments

(1) Amendments to the Zoning Code may be initiated in one of the following ways:

- i. By adoption of a motion by PZC;
- ii. By adoption of a motion by Council for PZC recommendation;

B. Zoning Code Text Amendment Review Standards

(1) The PZC and City Council shall consider whether the application provides adequate evidence that the text amendment is consistent with the applicable standards as listed. Not all criteria may be applicable in each case, and each case shall be determined on its own facts.

- i. The proposed amendment is consistent with the adopted City plans, and the stated purposes of this code;
- ii. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts or other social or economic conditions;
- iii. The proposed amendment will promote the public health, safety and general welfare;
- iv. The proposed amendment would correct an error in the application of this Zoning Code.

C. Code Text Review Procedure:

(1) The review procedure for a code text shall be as established in this section.

- i. STEP 1: Staff Review and Transmission to the PZC
 - (a) The Zoning Administrator shall report on the Agenda of the 1st meeting the filing of a request for the amendment. If no other items are listed on the agenda for consideration, the agenda will be posted.
 - (b) The Zoning Administrator shall distribute the request for amendment and any reports prepared as part of Subsection i. above, at least three business days prior to the PZC's meeting where the application is to be reviewed.
- ii. STEP 2: PZC Review and Recommendation
 - (a) Within 65 days PZC shall review and determine a recommendation on the Zoning Code Amendment request.
 - (b) In reviewing the request, the PZC shall at a minimum, consider the reports and opinions transmitted by the Zoning Administrator and the review criteria of this section.
 - (c) In making its recommendation, PZC may recommend approval, approval with some modification, or denial of the request. If PZC fails to make a recommendation within the established timeframe, the request will move forward to STEP 3 with a recommendation of denial.
 - (d) City Council shall be forwarded the recommendations from PZC. Such recommendations may be modified by the Director of Law as to grammar and form but not as to substance.
- iii. STEP 3: City Council Review and Decision
 - (a) Within 45 days after the PZC makes a recommendation (STEP 2), the request shall be

placed on City Council's agenda and City Council shall set a time for a public hearing on the proposed amendment.

- (b) Notification of the public hearing shall be provided in accordance with Section 1102.14 D.3.iv.d
- (c) City Council shall hold a public hearing regarding the text amendment.
- (d) In reviewing the amendment, City Council shall at a minimum, consider the reports and opinions transmitted by the Zoning Administrator, the recommendation from PZC, and the review criteria of this section.
- (e) City Council shall adopt, adopt with some modification, or deny the recommendation of the PZC with the concurrence of a simple majority of City Council.
- (f) When the recommendations of PZC are overturned, at least five (5) affirmative votes are required from City Council.
- (g) If a proposed amendment is not adopted by City Council within 120 days after City Council's first meeting following PZC's recommendation, such proposed amendment shall be deemed to have been defeated and denied and shall not thereafter be passed without a resubmission of an application.
- (h) The effective date of any amendment shall be 30 days following final action by City Council unless subject to a referendum in accordance with the Ohio Revised Code.

SECTION 1102.16 APPEALS

- A. Appeals Generally. Any person directly affected by a decision of the Zoning Administrator, a hearing officer, the PZC, or the THC shall have the right to appeal to the BZA, provided that a written application for appeal is filed within fourteen (14) days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted or the provisions of this code do not fully apply.
- B. Appeals with Respect to Conditional Use Applications. Notwithstanding anything to the contrary contained herein, the BZA shall not make a finding, decision or determination reversing the decision of the PZC of the City on a matter involving a conditional zoning permit unless the finding, decision or determination of the BZA is made with the concurrence of three-fourths of the members of the BZA. The BZA shall decide all such appeals within sixty-five (65) days after date of hearing except that such time may be extended by mutual consent.

SECTION 1102.17 REASONABLE ACCOMMODATION EXCEPTION

- A. Applicability. An applicant may request a reasonable accommodation in conjunction with any approval requested under this Code. Where an applicant makes such a request the following shall apply to the regulations set forth herein shall apply to such approval. For the purposes of this section, a request for a "Reasonable Accommodation Exception" shall mean a request to modify land use, zoning, and building regulations, policies, practices, or procedures in order to give people with disabilities an equal opportunity to use and enjoy a dwelling.

- B. Request in Writing. A request for a Reasonable Accommodation Exception shall be made in writing using the Reasonable Accommodation Exception Form and submitted to the Zoning Administrator. Alternate forms of submission may be accepted at the discretion of the Zoning Administrator. Assistance with completing this form will be provided upon request.
- C. Administrative Review. Any person seeking a Reasonable Accommodation Exception has the option of having the exception reviewed by the Zoning Administrator in lieu of any review by an applicable reviewing body, including but not limited to the BZA, the Heritage Commission or the PZC. Upon an applicant's election to forgo review by the applicable reviewing body, the Zoning Administrator must notify the reviewing body of the number of Reasonable Accommodation requests made and approved on a monthly basis.
- D. Administrator shall issue a written determination of the request no later than thirty (30) days from the date the request is submitted. In determining a request for a Reasonable Accommodation Exception, the Zoning Administrator, in conjunction with the Director of Law, shall consider the following factors:
 - (1) the necessity of the accommodation to afford a person with a disability an equal opportunity to use and enjoy a dwelling;
 - (2) whether the requested accommodation requires fundamental alterations to zoning laws, rules, policies, practices, and procedures; and
 - (3) whether the requested accommodation imposes an undue financial or administrative burden on the city.
 - (4) Other factors may be considered if they are explicitly listed in the written determination.
- E. Authority of Zoning Administrator. The Zoning Administrator, in conducting review of a request for a reasonable accommodation exception, has the same power as the applicable reviewing body with respect to the underlying approval.
- F. Appeals. Any person who elects to have his or her case reviewed by this administrative review procedure, may, after receipt of the decision of the Zoning Administrator appeal the decision to the BZA for a formal hearing. This hearing must be conducted at the next regularly scheduled meeting of the BZA, unless the next meeting occurs seven (7) days or less after the receipt of the appeal of the Zoning Administrator's decision, in which case the appeal will be heard at the second next scheduled meeting of the BZA.

SECTION 1102.18 VIOLATIONS AND REMEDIES

- A. Enforcement by the Zoning Administrator
 - (1) The Zoning Administrator is hereby designated as the enforcing officer of this code.
 - (2) The Zoning Administrator is hereby authorized to enforce as well as issue orders to prevent and stop violations of the provisions of this code.
 - (3) The Zoning Administrator may delegate enforcement responsibilities as permitted by the Director of Public Service.
- B. Violation. It shall be unlawful to:
 - (1) Fail or refuse to comply with an order issued by the Zoning Administrator;
 - (2) Use or occupy any land or place; build, erect, alter, remodel, restore or rebuild thereon any building

or structure; permit any building or structure to remain on such land; or use, occupy, or operate such building or structure, in any way or for any use or purpose which is not permitted by the provisions of this code;

- (3) Use or occupy any parcel of land; use or occupy a new building; or enlarge, substitute, or otherwise change the use, occupancy, or configuration of any land or building, without having received a zoning certificate, conditional use approval, certificate of zoning compliance or subdivision plat approval indicating compliance with the provisions of this code;
 - (4) Violate or fail to perform any condition, stipulation or safeguard set forth in any certificate issued pursuant to this code, or continue to use or occupy the premises or building as previously authorized by such certificate beyond the duration limit therein stated;
 - (5) Continue construction, renovation or improvements contrary to a stop work order or notice of violation;
 - (6) Knowingly make any materially false statement of fact in an application to the Zoning Administrator for a zoning certificate, conditional use approval, certificate of zoning compliance, or subdivision plat approval or in the plans or specifications submitted to the Zoning Administrator in relation to such application;
 - (7) Subdivide land in a manner contrary to the standards and regulations contained in this code; or
 - (8) Sell land that has not been subdivided in accordance with the regulations in this code;
 - (9) Each day's continuation of a violation of this section may be deemed a separate offense.
- C. Joint and Several Responsibility and Liability. Responsibility for violations of the Zoning Code is joint and several, and the city is not prohibited from taking action against a party where other persons may also be potentially responsible for the violation, nor is the city required to take action against all persons potentially responsible for a violation.
- D. Service of Notice. Service of warning notice of the violation and notice of civil offense shall be as follows:
- (1) By personal delivery to the person or persons responsible, or by leaving the notice at the usual place of residence of the owner with a person of sixteen (16) years or older; or
 - (2) By Certified Mail, or first-class mail, addressed to the person or persons responsible at a last known address. Service shall be deemed complete when the fact of the mailing is entered of record, provided that the first-class mail envelope is not returned by the Postal Authorities with an endorsement showing failure of delivery; or
 - (3) By posting a copy of the notice form in a conspicuous place on the premises found in violation.
 - (4) For purposes of giving notice of violations, once the Zoning Administrator has given notice of a specific violation of this code, that notice shall be deemed sufficient for each subsequent same violation.
- E. Warning Notice of Violation. Whenever the Zoning Administrator determines that there is a violation of any provision of this Zoning Code, a warning notice of such violation shall be issued. Such notice shall:
- (1) Be in writing;
 - (2) Identify the violation;
 - (3) Identify the date that the notice is issued;
 - (4) Include a statement of the reason or reasons why it is being issued and refer to the section of this Zoning Code being violated; and
 - (5) State the time by which the violation shall be corrected.

F. Notice of Civil Offense.

- (1) Whoever violates a provision of this Zoning Code shall have a reasonable amount of time after the warning has been delivered in accordance with Section 1102.17 D to comply with the applicable ordinance(s).
- (2) If the offender corrects a violation after a warning has been delivered in accordance with Section 1102.17 D but before receiving a Notice of Civil Offense in accordance with this section, the City is relieved of its obligation to provide a warning as required in Section 1102.17 for the same civil offense for the same offender for one (1) calendar year.
- (3) The Zoning Administrator or designee shall conduct a final investigation after the date provided in the written warning. If the offender remains in violation of the ordinance(s) at the time of the final investigation, then the Zoning Administrator or designee shall issue a Notice of Civil Offense.
- (4) A Notice of Civil Offense and civil fine must:
 - i. State the date that the Notice of Civil Offense is issued;
 - ii. Identify the offender being charged if known to the Zoning Administrator or designee;
 - iii. Indicate the offense charged, the amount of the civil fine for the offense, the date of the offense, and the location of the offense; and that the expense incurred by the City in correcting the violation can and will be added to the fine;
 - iv. Be signed and attested to by the Zoning Administrator or designee; and
 - v. Be served in accordance with Section 1102.17.

G. Answering a Notice of Civil Offense. An offender served with a Notice of Civil Offense charging a civil offense may file a written answer admitting the civil offense. The answer may be delivered in person or mailed to the City of Tallmadge Planning and Zoning Department and must be received by the City within ten (10) days from the date of the notice.

- (1) Payment of the civil offense fine specified in the notice shall be deemed an admission of the violation by the offender.
- (2) An answer with a full payment admitting that the offender violated an ordinance with proof of correction shall be evaluated by the Zoning Administrator to determine whether the correction was made within the first forty-eight (48) hours of receiving the Notice of Civil Offense. If the correction was made within the first forty-eight (48) hours, the offender will be eligible for a refund of fifty percent (50%) of the civil offense fine which will be issued within thirty (30) business days of the Zoning Administrator's decision.
- (3) An offender who fails to respond within ten (10) days shall be deemed in default and an admission to the offense by the offender. An offender subject to a civil fine entered after default may request to have the default set aside. A hearing officer may set aside a default on a showing that the offender had no actual knowledge of the Notice of Civil Offense and civil fine or that default should be excused in the interest of justice.

H. Hearings for Civil Offenses.

- (1) An offender who denies the commission of a civil offense must request a hearing before a hearing officer. The request shall be filed with the City of Tallmadge Planning and Zoning Department which shall set a date for the hearing and notify the offender, in writing, of the date, time and location of the hearing. The

hearing may be informal, but all testimony shall be under oath. The hearing officer shall be appointed by the Director of Law.

- (2) All hearings shall be scheduled within then (10) days and will be held within fifteen (15) days from the date the request for a hearing is filed. Any hearing date may be modified if such modification is agreed to by the offender, by the city employee who issued the charge, and by the hearing officer or if such modification is necessary in the interest of justice.
 - (3) The hearing officer shall enter into the record of the proceedings the Notice of Civil Offense and civil fine, the filing of or failure to file an answer, the substance of the answer, a finding of liability, the civil fine due, payments, delinquency and collection charges, and other relevant information.
 - (4) The hearing officer shall issue a decision and make findings of fact from the record and conclusions of law in support of the decision within ten (10) days from close of the hearing. The findings and conclusions shall demonstrate that the decision is consistent with applicable laws, ordinances, regulations and the interest of justice. Any unpaid civil fine is due and must be paid within ten (10) days after the date of the hearing officer's decision.
- I. Appeal. An offender who disagrees with the decision of the hearing officer may request an appeal pursuant to Section 1102.16 of this code.
- J. Administrative Regulations. The Zoning Administrator may adopt administrative regulations for the conduct of hearings and for the enforcement of the Tallmadge Codified Ordinances through the issuance of notices of civil offenses.
- K. Extension of Compliance Date.
- (1) The Zoning Administrator may grant an extension of time for compliance with any notice or order, whether pending or final, upon the Zoning Administrator's finding that substantial progress toward compliance has been made and that the public will not be adversely affected by the extension.
 - (2) An extension of time may be revoked by the Zoning Administrator if it is shown that the conditions at the time the extension was granted have changed, if the Zoning Administrator determines that a party is not performing corrective actions as agreed, or if the extension creates an adverse effect on the public. The date of revocation shall then be considered as the compliance date.
- L. Remedies. The following remedies shall apply to violations of this Zoning Code:
- (1) Permit Revocation. Upon the discovery of a misrepresentation in an application, the Zoning Administrator may revoke the permit, certificate or other administrative approval that was issued contrary to the Zoning Code or based upon false information or a misrepresentation in the application.
 - (2) Civil Offense Fine Penalty.
 - i. Any person violating any provision of this Zoning Code shall be fined not more than five hundred dollars (\$500.00) for each offense. Each day of continuation of violation shall be deemed a separate offense.
 - ii. The City of Tallmadge shall provide the offender warning and notice pursuant to Section 1102.18 E of the Tallmadge Codified Ordinances.
- M. Criminal Penalties.
- (1) Whosoever violates any provision of the Zoning Code is guilty of a misdemeanor of the third degree for each offense, the penalty for which shall be a maximum fine of five hundred dollars (\$500.00) and

incarceration for a maximum period of sixty (60) days, or both plus payment of court costs for the action.

- (2) Each subsequent violation within two years of previously being convicted of or pleading guilty to a violation of this Zoning Code shall be a misdemeanor of the first degree which shall be punishable by a maximum fine of one thousand dollars (\$1,000.00) and incarceration for a maximum of six months, or both, plus payment of court costs for the action.
- (3) The City of Tallmadge shall provide the offender warning and notice pursuant to Section 1102.17 of the Tallmadge Codified Ordinances.
- (4) Additional Civil Remedies. The City of Tallmadge, the Mayor on behalf of the City of Tallmadge or any officer designated by the Mayor on behalf of the City of Tallmadge may, in addition to the criminal and civil offense fine remedies provided in this Zoning Code, file suit for injunction against any violation of this Zoning Code, or if the violation has caused damages to the City of Tallmadge for a judgment for damages and any person, property owner or occupant of property who can show that the person, property owner, or occupant of property has suffered harm or whose property has suffered harm as a result of violations of this Zoning Code may file suit for injunction or damages to the fullest extent provided by the law.
- (5) Nothing in this section shall limit the City of Tallmadge's ability to pursue any and all remedies in law or in equity to abate a violation. The City of Tallmadge may pursue any available remedy including permit revocation, civil offense fines, criminal charges, injunctions, restraining orders, damages, or any other remedy available under the law.

SECTION 1102.19 NONCONFORMITIES

A. Purpose. The lawful use of any building or land existing at the effective date of this Zoning Code may be continued, although such use does not conform with the provisions of this Zoning Code, provided the following conditions are met:

- (1) Alterations. A non-conforming building or structure may be altered, improved, reconstructed, enlarged or extended provided such work does not exceed, in building area during any ten year period, sixty percent (60%) of the total area of the building or structure, unless the building or structure is changed to a conforming use.
- (2) Restoration. Nothing in this Zoning Code shall prevent the reconstruction, repairing, rebuilding, and continued use of any non-conforming building or structure damaged by fire, collapse, explosion, or acts of God, subsequent to the date of this Zoning Code wherein the expense of such work does not exceed sixty percent (60%) of the fair market value of the building or structure at the time such damage occurred.
- (3) Construction Approved Prior to Zoning Code. Nothing in this Zoning Code shall prohibit the completion of construction and use of a non-conforming building for which a zoning certificate has been issued prior to the effective date of this Zoning Code, provided that construction is commenced within ninety days after the issuance of such certificate; that construction is carried on diligently and without interruption for a continuous period in excess of thirty days; and that the entire building shall have been completed within two years after the issuance of the zoning certificate.
- (4) Displacement. No non-conforming use shall be extended to displace a conforming use.
- (5) Discontinuance or Abandonment. Whenever a non-conforming use has been discontinued or abandoned for a period of one year, 12 consecutive months, such discontinuance or abandonment shall be considered

conclusive evidence of an intention to discontinue or abandon legally the non-conforming use. At the end of that one-year period of discontinuance or abandonment the non-conforming use shall not be re-established, and any further use shall be in conformity with the provisions of this Zoning Code. Discontinuance or abandonment shall mean that the structure or land has remained vacant, unoccupied, unused or has ceased the daily activities or operations which had previously occurred.

- (6) **Illegal Nonconforming Uses.** Non-conforming uses existing at the effective date of this Zoning Code established without a zoning certificate, or those non-conforming uses which cannot be shown conclusively as existing prior to the effective date of this Zoning Code shall be declared illegal non-conforming uses and shall be discontinued within a period of two years following the effective date of this Zoning Code.
- (7) **Unsafe Structures.** Nothing in this Zoning Code shall prevent the strengthening or restoring, to a safe condition, of any portion of a building or structure declared unsafe by a proper authority.
- (8) **Non-Conforming Signs** shall conform to Chapter 1108 Signage.

Title 03

Zones and Overlay
Districts



Title 03

ZONES AND OVERLAY DISTRICTS

SECTION 1103.01 R-1 RESIDENTIAL DISTRICT

- A. The purpose of this district is to provide for low density single-family residential dwellings and agricultural uses of the character and type that presently exist in the outlying portions of the community. All public utilities and facilities will be planned and designed to service adequately the above population density only.

B. LOT AND BUILDING STANDARDS	
Minimum Lot Area	20,000 square feet
Minimum Lot Width	100 feet at street right of way 70 feet at street right of way on cul-de-sacs and curves 100 feet at minimum front yard setback 120 feet at minimum front yard setback along both streets for corner lots
Minimum Front Yard Setback	50 feet from the proposed right of way per Tallmadge Thoroughfare Plan 35 feet on cul-de-sac lots
Minimum Rear Yard Setback	25 feet
Minimum Side Yard Setback	10 feet
Minimum Living Floor Area Per Dwelling	One story: 1,000 square feet One and one-half story, main or ground floor area: 800 square feet Two story: 1,500 square feet
Maximum Height Regulations	Principal Structure: 35 feet Accessory Structure: 20 feet
Minimum Open Space	5% gross area of the major residential subdivision

SECTION 1103.02 R-2 RESIDENTIAL DISTRICT

- A. The purpose of this district is to accommodate a lower density single-family residential dwellings in sections of the community which are already partially developed. This density would encourage development which would be similar to that already existing. All public utilities and facilities will be planned and designed to serve adequately the above population density only.

B. LOT AND BUILDING STANDARDS	
Minimum Lot Area	20,000 square feet
Minimum Lot Width	100 feet at street right of way 70 feet at street right of way on cul-de-sacs and curves 100 feet at minimum front yard setback 120 feet at minimum front yard setback along both streets for corner lots
Minimum Front Yard Setback	50 feet from the proposed right of way per Tallmadge Thoroughfare Plan 35 feet on cul-de-sac lots
Minimum Rear Yard Setback	25 feet
Minimum Side Yard Setback	10 feet
Minimum Living Floor Area Per Dwelling	One story: 1,000 square feet One and one-half story, main or ground floor area: 800 square feet Two story: 1,500 square feet
Maximum Height Regulations	Principal Structure: 35 feet Accessory Structure: 20 feet
Minimum Open Space	5% gross area of the major residential subdivision

SECTION 1103.03 R-3 RESIDENTIAL DISTRICT

- A. The purpose of this district is to provide for low to medium density single-family residential dwellings in portions of the community that are already partially developed. All public utilities and facilities will be planned and designed to service adequately the above population density only.

B. LOT AND BUILDING STANDARDS	
Minimum Lot Area	16,000 square feet
Minimum Lot Width	100 feet at street right of way 60 feet at street right of way on cul-de-sacs and curves 100 feet at minimum front yard setback 120 feet at minimum front yard setback along both streets for corner lots
Minimum Front Yard Setback	50 feet from the proposed right of way per Tallmadge Thoroughfare Plan 35 feet on cul-de-sac lots
Minimum Rear Yard Setback	25 feet
Minimum Side Yard Setback	10 feet
Minimum Living Floor Area Per Dwelling	One story: 1,000 square feet One and one-half story, main or ground floor area: 800 square feet Two story: 1,500 square feet
Maximum Height Regulations	Principal Structure: 35 feet Accessory Structure: 20 feet
Minimum Open Space	5% gross area of the major residential subdivision

SECTION 1103.04 R-4 RESIDENTIAL DISTRICT

- A. The purpose of this district is to accommodate single-family residential dwellings of the character and type that presently exist near the central parts of the community. The density to be encouraged will be approximately three and one-half families per acre and all public utilities and facilities will be planned and designed to service adequately the above population density only.

B. LOT AND BUILDING STANDARDS	
Minimum Lot Area	13,500 square feet 15,000 square feet for corner lots
Minimum Lot Width	80 feet at street right of way 55 feet at street right of way on cul-de-sacs and curves 80 feet at minimum front yard setback 120 feet at minimum front yard setback along both streets for corner lots
Minimum Front Yard Setback	50 feet from the proposed right of way per Tallmadge Thoroughfare Plan 35 feet on cul-de-sac lots
Minimum Rear Yard Setback	25 feet
Minimum Side Yard Setback	10 feet
Minimum Living Floor Area Per Dwelling	One story: 1,000 square feet One and one-half story, main or ground floor area: 800 square feet Two story: 1,500 square feet
Maximum Height Regulations	Principal Structure: 35 feet Accessory Structure: 20 feet
Minimum Open Space	5% gross area of the major residential subdivision

SECTION 1103.05 R-5 RESIDENTIAL DISTRICT

- A. The purpose of this district is to accommodate two-family and multi-family residential dwellings. The density to be encouraged will be approximately four dwelling units per acre for two-family dwellings and seven dwelling units per acre for multi-family dwellings. Centralized water and sewer shall be required in this district. A group or cluster of three or more two-family or multi-family dwellings shall be required.
- B. The regulations set forth in this Chapter apply only to lots and land zoned R-5. Additional R-5 zoning is prohibited. All lots and lands which may be developed at some future time as multi-family residential shall be subject to the requirements for Planned Residential Developments (PRD) as set forth in this chapter and other pertinent sections of the Zoning Ordinance.

C. LOT AND BUILDING STANDARDS	
Minimum Lot Area	A. Two-family dwellings shall have a minimum lot area of 20,000 square feet for the first two-family dwelling and 10,000 square feet for each additional two-family dwelling B. Multi-family dwellings shall have a minimum lot area of 20,000 square feet for the first two units with an additional: 3,000 square feet for each additional efficiency unit or one bedroom unit; 5,000 square feet for each additional two bedroom unit; and 7,000 square feet for each additional three bedroom unit; and 8,000 square feet for each additional four bedroom unit All other uses shall have a minimum lot area of 20,000 square feet
Minimum Lot Width	150 feet at street right of way
Minimum Front Yard Setback	50 feet from the proposed right of way per Tallmadge Thoroughfare Plan 35 feet on cul-de-sac lots
Minimum Rear Yard Setback	25 feet
Minimum Side Yard Setback	15 feet
Maximum Height Regulations	Principal Structure: 35 feet Accessory Structure: 20 feet
Minimum Open Space	5% gross area of the major residential subdivision

SECTION 1103.06 R-6 RESIDENTIAL OPEN SPACE PLANNED DEVELOPMENT DISTRICTS

EDITOR'S NOTE:

FORMER SECTION 1103.06 WAS REPEALED BY ORDINANCE 2022-45 ON MAY 12, 2022

SECTION 1103.07 PLANNED RESIDENTIAL DISTRICT

A. Purpose

The purpose of this Section is to enable the development and/or redevelopment of properties within the largely built-up areas of the City of Tallmadge in a manner that preserves neighborhood character, allows housing opportunities, enhances property values, and serves the health, safety and welfare interests of the residents of the City of Tallmadge. These purposes may be served by encouraging ingenuity, imagination, and heightened design efforts on the part of builders, architects, site planners, and developers to produce residential developments which are in keeping with the over-all land use and open space objectives of this Zoning Code and the Comprehensive Plan of the City of Tallmadge.

Further, the intent of this subsection is to permit departure from the strict application of use, setback, height, and minimum lot size requirements of existing residential use districts to enable design flexibility for planned developments which:

- (1) Meet or exceed basic design criteria.
- (2) Permit a creative approach to the development of residential land.
- (3) Provide development densities allowing a gradual transition from more intense uses such as higher density residential, commercial, or industrial zoning to less intense zoning. Existing conditional uses shall not be considered in determining transitional areas.
- (4) Accomplish a more desirable environment than would be possible through the strict application of minimum requirements of this Zoning Code.
- (5) Provide for an efficient use of land, resulting in smaller networks of utilities and streets and thereby lower housing costs.
- (6) Enhance the appearance of neighborhoods through preservation of natural features, the provision of underground utilities, and the provision of recreation areas and open space in excess of existing zoning, and subdivision requirements.
- (7) Provide an opportunity for new approaches to home ownership.
- (8) Provide an environment of stable character compatible with surrounding residential areas.
- (9) Provide a pattern of development which preserves trees, open space, outstanding natural topography and geologic features and prevents soil erosion.

B. Previously Approved Conditional Use PRDs

- (1) Conditional Use Planned Residential Developments (CUPRD), including development plans and any associated text and standards, adopted prior to the effective date of this code amendment creating PRD regulations, shall continue in effect and be considered legally conforming under this code.
- (2) Any proposed modification of a previously approved CUPRD shall be reviewed in accordance with this chapter.

C. General Provisions

- (1) The project must involve contiguous, property in an existing R3, R4, or R5 zoning district and be in accordance with the goals and objectives of the Comprehensive Plan. Such property must not be interrupted by any State or Federal highway, arterial roadway, railroad right of way, or land not a part of the proposed development. Public and private collector and local streets and utility easements shall not be considered to interrupt a Planned Residential Development.

- (2) Voluntary Development Procedure. Use of Planned Residential Development is not mandatory for any parcel of ground. The intent and purpose of this process is to provide a voluntary alternate procedure which maximizes the utilization of land primarily for the benefit, use, ownership and enjoyment of the future residents of the area and the existing residents of the City. Open space and common recreation areas and facilities are the environmental and livability benefits furnished to the homeowner and community in lieu of large individual lots.
- (3) Nature of Special Exception. Development plans approved under the provisions of the process contained herein are declared to be in the nature of a special exception.
- (4) No zoning certificate or building permits may be issued until the PRD final development plan is approved and a preliminary subdivision plat, if required, has been approved by the PZC.

D. Permitted Uses

- (1) The PRD general development plan approval shall include a list of uses permitted within the PRD based on uses defined in Chapter 1104: Use Regulations. The list of uses shall be of the same name and definition as established in this code.
 - i. Permitted Uses
 - (a) Dwelling - Single-family, Attached
 - (b) Dwelling - Single-family, Detached
 - ii. Conditional Uses
 - (a) Urban Agriculture - Community Garden
- (2) The PRD general development plan shall delineate where such use or uses are permitted.
- (3) Where the use has established use-specific standards as set forth in Chapter 1104: Use Regulations, the PZC and City Council may require compliance with all of the standards or may waive some or all of the standards based on the design of the PRD and the ability of such design to mitigate the impacts of the uses.
- (4) The PZC and City Council shall consider recommendations of the comprehensive plan in approving certain uses but in all cases, the maximum density of single-family detached residential uses shall be eight units per acre and the maximum density of all other residential uses shall be 16 units per acres.

E. Development Standards and Guidelines

The following development standards are established to guide and control the planning, development and use of land in a PRD:

LOT AND BUILDING STANDARDS	
Minimum Project Area (gross acreage)	3 acres The PZC may allow an application for smaller project areas if such land is found to be suitable for a PRD by virtue of its unique historical character, topography, unique use, or other natural features, or by virtue of its qualifying as an isolated problem area.
Maximum Density	Density shall not exceed one (1) times the number of units per developable acre permitted by the zoning districts of land included in the project area. Developers will attempt to incrementally tier density within the PRD so as to provide for gradual density change.
Minimum Open Space	30% of the gross development area
Maximum Height Regulations	Principal Structure: 35 feet Accessory Structure: 20 feet
MINIMUM SETBACKS	
1. ADJACENT USES	
From existing single-family residential property	75 feet
From other use property	50 feet
2. FRONT YARD SETBACKS	
From existing public street right of way	50 feet
From new public street right of way	25 feet
From private street curb sidewalk	25 feet
MINIMUM SPACING BETWEEN BUILDINGS	
Side to side	20 feet
Side to rear and rear to rear	80 feet
MINIMUM DWELLING UNIT AREA	
Single-family detached dwelling	1,500 square feet
Two, three, and four-family attached dwellings	1,200 square feet

(1) Building and Use Arrangements

i. Density:

- (a) Density shall be calculated based on the gross area of property in each eligible zoning district, minus undevelopable land area. Undevelopable land area includes sloping sites with grades in excess of 25 percent, water bodies and wetlands larger than one-quarter acre area, land located within the 100-year flood plain, easement areas where land use is already restricted, existing and proposed street right of ways. Where streets are private, a fifty-foot right of way shall be assumed for purposes of calculating densities.

- ii. No more than four (4) dwelling units may be attached by common or adjoining walls in single-family attached dwelling portions of a Planned Residential Development. Where more than three units have common or adjoining walls, no more than three (3) units shall front on the same façade.
- iii. All units shall be harmonious in design and character with the existing neighborhood.
- iv. The buildings and uses may be arranged in various groups, courts, or clusters with open spaces organized and related to the buildings in order to provide privacy where applicable, to form a unified composition of buildings and space, and to maximize the peace and tranquility of the residential occupants of the PRD and the nearby area, where applicable.
- v. Whenever a proposed PRD development includes areas of a higher intensity than that permitted in adjacent areas, the location and arrangement of use areas shall include appropriate transitional density, buffers, open spaces, setbacks, or other transitional elements to ensure compatibility with the lower intensity areas.
- vi. Buildings, structures and parking areas shall be designed and located within the PRD in ways that conserve environmentally sensitive or unique natural, historic, or cultural features, and minimize environmental impacts.

(2) Open Space

- i. With the exception of twenty-five feet of the minimum setback requirement from existing single-family residential property, and twenty-five feet of the required eighty foot rear yard setback between building walls, the open space area shall not include minimum setbacks as described elsewhere in this section, buildings, parking areas, driveways, public or private roadways or any other impervious surfaces.
- ii. Ownership of an open space shall either be by:
 - (a) Dedication to the City of Tallmadge for public purposes of any open space subject to its acceptance by Council.
 - (b) Homeowners or Condominium Association. An incorporated, non-profit organization operating under recorded land agreements through which each lot and/or home owner in a planned residential or other described land area is automatically a member and each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property, and the charge if unpaid, becomes a lien against the property. If the open space is privately held the City may either require a development easement over the land or a deed restriction so as to insure it from being built upon. Covenants and deed restrictions shall be in a form and with content satisfactory to the City Zoning Official and Director of Law.
 - (c) A combination of i and ii above.
- iii. Areas designated for required open space may be used in the following manner:
 - (a) Preserved in its natural state.
 - (b) Designated and used for the passive enjoyment of residents of the proposed development (or general public).
 - (c) No more than twenty-five percent (25%) of a dry retention basin shall be included as open space. Wet retention ponds may be included as open space if they are developed as open space amenities supplemented with walkways, wildlife habitat features or other passive recreation amenities such as wildlife viewing areas, benches, etc.

- (d) Used for active recreation where such uses have been located where they have the least impact on natural amenities and wildlife habitat and where these active recreation uses occupy no more than fifty percent of the total required open space area.
- iv. Maintenance of open space areas.
 - (a) Where a Homeowners or Condominium Association has failed to provide adequate maintenance of common open space, the City of Tallmadge in its sole discretion may perform such maintenance and may charge to the Association actual, administrative and legal costs incurred. Unpaid charges shall become a lien against the property. In the interests of preservation of health, safety, and general welfare, failure of the Association to remedy maintenance problems and discharge any liens against it may result in cessation of the issuance of occupancy permits for any property party to the Association until such time as an adequate remedy is provided.
 - (b) Where storm-water detention facilities are provided, a maintenance easement satisfactory to the City Engineer shall be provided to permit equipment access to such facilities for emergency maintenance service.
- (3) Minimum off-street parking requirements
 - i. Each dwelling shall be provided with a two car attached garage.
 - ii. Guest parking shall be provided at a rate of one space per two dwelling units. The location of guest parking shall be considerate of anticipated need, driveway lengths, front yard setbacks, and other considerations and shall be distributed for the convenience of all units.
 - iii. Parking for accessory uses such as pools, clubhouses, etc. shall be determined based on anticipated need.
- (4) Circulation
 - i. The overall circulation system shall be designed to fully accommodate vehicular, pedestrian, and bicycle traffic with safety and efficiency without allowing vehicles to dominate and destroy the form of the area.
 - ii. Driveways for group developments and local streets shall be connected to major arterial and collector streets at locations where the traffic can be controlled and operated effectively with minimum interference with the capacity of the major arterial and collector streets. The amount of traffic generated by commercial uses passing through residential areas shall be minimized.
 - iii. A pedestrian circulation system shall be included and designed to provide convenient and safe pedestrian access throughout the PRD, and to connect to neighboring developments and community facilities. The pedestrian circulation system may include sidewalks and other walkways not located along streets. Sidewalks shall meet the standards found in Chapter 1110.
 - iv. Trail systems for bikes and other purposes should be included and designed in accordance with the City's plan for trails in the Comprehensive Plan or other adopted policy documents. Such trail systems shall have a minimum width of eight feet and be properly buffered from any adjacent residential areas if the trail is not located along or within the right of way of a public street.
 - v. Street Design
 - (a) Minimum private street right of way width shall be 50 feet Public streets shall conform to Chapter 1110.

- (b) Street alignments should be designed to conserve natural features and minimize the need for cut and fill practices.
 - (c) The function of adjacent thoroughfares shall be maintained by limiting access points to the minimum needed, relating them to existing access points, the street patterns on surrounding development, the thoroughfare plan and the intensity of proposed uses.
 - (d) All streets shall be designed in accordance with Chapter 1110: Development Standards.
 - (e) The design and locations of streets and parking areas shall comply with the requirements for storm water management set forth in Chapter 1110: Development Standards, unless modifications are granted by the PZC.
- (5) Utilities and Public Improvements
- i. The applicant shall provide for and construct utilities and public improvements in accordance with Chapter 1110: Development Standards.
 - ii. To the maximum extent feasible, utilities should be located underground.
- (6) Landscaping, Screening and Buffering
- i. A general landscape plan shall be provided with the application. This general plan shall indicate rough grading and general planting plans. A detailed landscape plan shall be submitted and shall receive a recommendation for approval from the Planning and Zoning Commission prior to final plan approval by Council. This landscape plan shall indicate compliance with the City of Tallmadge street tree planting policies and shall strive to preserve existing trees and natural vegetation as much as practical. The final landscape plan shall include an appropriate mix of groundcovers, ornamental plants and flowers, deciduous and evergreen shrubs, as well as deciduous and evergreen trees necessary to provide screening of undesirable views, to buffer adjacent uses, to provide individual unit privacy, to screen outdoor use areas from adjacent roadways, and to enhance site aesthetics.
 - ii. Landscaping throughout the PRD area shall conform to the requirements of Chapter 1106: Landscaping and Buffering, except as otherwise required by this chapter, or as otherwise approved by the Planning and Zoning Commission.
 - iii. The pattern of landscaping shall be coordinated in design and type of materials, mounding and fencing used. Landscaping may vary in density, spacing and other treatments to reflect variations of topography, existing landscape or land uses.
 - iv. Privacy for residential buildings shall be maintained through the use of landscaping, screening and buffering.
 - v. Appropriate buffer zones with adequate landscaping shall be provided between the proposed development and adjacent areas. The City may utilize the buffering requirements of Chapter 1106: Landscaping and Buffering, as a guide in the minimum amount of buffering that should be required between various land uses.
 - vi. Alternative design approaches to meet the intent of the landscape regulations may be incorporated.
 - vii. Detention/retention facilities that are visible from a public street shall be integrated into a landscaped area. Such landscaped areas shall contain any combination of the following elements: shade and ornamental trees, evergreens, shrubbery, hedges, and/or other planting materials as well as ornamental fencing.

- (7) Deviation from Development Standards and Guidelines
 - i. Where exceptional design or unique site conditions warrant, departure from the City Development Standards may be permitted in the following limited areas:
 - (a) Sidewalks one side of street only or none if alternate pedestrian accommodations are provided.
 - (b) Front yard setback.
 - (c) Minimum street right of way width.
 - ii. Such departures must be justified by the applicant's narrative explanation and be recommended by the City Engineer.
- (8) Project Phasing
 - i. If the PRD is to be implemented in phases, each phase shall have adequate provision for access, parking, storm water management, utilities, and other public improvements to serve the development in accordance with the applicable criteria set forth above. Each phase shall be provided with temporary and/or permanent transitional features, buffers, or protective areas in order to prevent any adverse impact on completed phases, future phases, and adjoining property.
- (9) Compliance with Other Development Standards
 - i. Unless specifically stated, all PRDs plans shall demonstrate compliance with all other applicable standards of this code, including but not limited to, architectural standards, off- street parking, signage, and landscaping.

F. PRD Review Criteria

- (1) PRD Preliminary Development Plan Review Criteria

It shall be the duty of the PZC and City Council to investigate and determine that the proposed PRD preliminary development plan complies with the following criteria:

 - i. The PRD plan is consistent with the intent and purpose of this code, the comprehensive plan, and any other applicable plans or ordinances adopted by the City;
 - ii. The PZC and City Council shall find that the proposed PRD is not being used to circumvent the requirements of this code but is proposing a development that will enhance the community through creative and exceptional design;
 - iii. The development will not impose an undue burden on infrastructure, public services, and facilities, including, but not limited to, stormwater drainage, service, sanitary sewer service, and fire and police protection;
 - iv. The site will be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development, and the streets and driveways on the site of the proposed development will be adequate to serve the residents or occupants of the proposed development;
 - v. Adequate measures have been taken to accommodate pedestrian and bike circulation systems so that the proposed development provides for a safe, convenient and non-conflicting circulation system for motorists, bicyclists and pedestrians;
 - vi. The location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities shall be compatible with the surrounding land uses;
 - vii. Natural features such as watercourses, natural land contours, and major tree canopy areas trees shall be preserved to the maximum extent feasible so that they can be incorporated into the layout to enhance the overall design of the PRD;

- viii. A PRD and its permitted principal and accessory, buildings, or structures shall be subject to all applicable regulations of this code, unless superseded by any special requirements, conditions, variances or other particulars imposed by the PZC and/or City Council during the PRD preliminary development plan application and hearing phases described in this chapter;
- ix. The landscape plan will adequately enhance the principal building and site; maintain existing trees to the extent possible; buffer adjacent incompatible uses; break up large expanses of pavement with natural material; and provide appropriate plant materials for the buildings, site, and climate; and
- x. The proposed development respects the unique characteristic of the natural features and protects the natural resources of the site.

(2) PRD Final Development Plan Review Criteria

It shall be the duty of the PZC to investigate and determine that the proposed PRD final development plan complies with the following criteria:

- i. The applicant shall demonstrate how the open space, if required, shall be duly protected in accordance with one of the options established in Chapter 1105: Open Space Standards, or has been dedicated to the City or another public or quasi-public agency;
- ii. Appropriate agreements with the applicant have been made to ensure the proper completion of public improvements in compliance with Chapter 1110: Development Standards.
- iii. The proposed PRD final development plan for the individual section(s) of the overall PRD is consistent in contents (building location, land uses, densities and intensities, yard requirements, and area and frontage requirements) with the approved PRD preliminary development plan;
- iv. Each individual phase of the development can exist as an independent unit that is capable of creating an environment of sustained desirability and stability, or that adequate assurance will be provided that such objective can be obtained; and
- v. The PRD final plan has been transmitted to all other agencies and departments charged with responsibility of review and such agencies and departments have had an opportunity to provide comments and recommendations on the PRD final development plan, as necessary.

G. Violations

- (1) Any violation of the conditions or standards of this chapter and any approved PRD general or final development plan shall be deemed a violation of this code, subject to Chapter 1102.19: Violations, Remedies, and Fees.

SECTION 1103.08 C-3 GENERAL COMMERCIAL DISTRICT

- A. The purpose of this district is to provide for a variety of retail, service and administrative establishments which are required to serve the entire community. This district is oriented to the multi-purpose shopper and it is intended that the design of this district will encourage groupings of establishments located on a unified site providing adequate parking facilities as well as an efficient and safe method of handling vehicular and pedestrian traffic.

B. LOT AND BUILDING STANDARDS	
Minimum Lot Area	NA
Minimum Lot Width	50 feet at street right of way and minimum front yard setback
Minimum Front Yard Setback	50 feet from the proposed right of way per Tallmadge Thoroughfare Plan
Minimum Rear Yard Setback	25 feet
Minimum Side Yard Setback	10 feet 25 feet when abutting a residential district
Maximum Height Regulations	Principal Structure: 35 feet Accessory Structure: 20 feet
Minimum Open Space	5% gross area

SECTION 1103.09 C-4 AUTOMOTIVE ORIENTED COMMERCIAL DISTRICT

- A. The purpose of this district is to provide for uses which are commercial in nature but which, due to their individual characteristics, would be better located outside the primary retail centers of the community. This district is designed to serve those persons concerned with making a single purpose stop, whether it be to purchase certain retail items, a personal service or to participate in some form of recreation, amusement or other facilities provided these districts should be located on a major thoroughfare as such districts are primarily aimed at serving the traveling public.

B. LOT AND BUILDING STANDARDS	
Minimum Lot Area	NA
Minimum Lot Width	50 feet at street right of way and minimum front yard setback
Minimum Front Yard Setback	50 feet from the proposed right of way per Tallmadge Thoroughfare Plan
Minimum Rear Yard Setback	25 feet
Minimum Side Yard Setback	10 feet 25 feet when abutting a residential district
Maximum Height Regulations	Principal Structure: 35 feet Accessory Structure: 20 feet
Minimum Open Space	5% gross area

SECTION 1103.10 C-5 HIGHWAY INTERCHANGE COMMERCIAL DISTRICT

- A. The purpose of this district is to provide for uses which are compatible only with highway travel and the accommodation of all night and rest stop services. The purpose of the district is not the establishment or encouragement of local or regional shopping areas which would inhibit the use of interchange for its primary purpose of access between several highways or between highways and local roads. Where possible access roads with controlled egress and ingress to highways and local roads should be encouraged.

B. LOT AND BUILDING STANDARDS	
Minimum Lot Area	No minimum lot area
Minimum Lot Width	50 feet at street right of way and minimum front yard setback
Minimum Front Yard Setback	50 feet from the proposed right of way per Tallmadge Thoroughfare Plan
Minimum Rear Yard Setback	25 feet 50 feet when abutting a residential district
Minimum Side Yard Setback	10 feet 50 feet when abutting a residential district
Minimum Living Floor Area Per Dwelling	One story: 1,000 square feet One and one-half story, main or ground floor area: 800 square feet Two story: 1,500 square feet
Maximum Height Regulations	Principal Structure: 35 feet Accessory Structure: 20 feet
Minimum Open Space	5% gross area

SECTION 1103.11 I-1 INDUSTRIAL DISTRICT

- A. The purpose of this district is to provide for and accommodate industrial, manufacturing, research and development and related uses in areas of the community having minimal impact upon the surrounding uses and their environment.

B. LOT AND BUILDING STANDARDS	
Minimum Lot Area	No minimum lot area
Minimum Lot Width	50 feet
Minimum Front Yard Setback	50 feet from the proposed right of way per Tallmadge Thoroughfare Plan
Minimum Rear Yard Setback	25 feet 50 feet when abutting a residential district
Minimum Side Yard Setback	10 feet 50 feet when abutting a residential district
Maximum Height Regulations	35 feet
Minimum Open Space	5% gross area

SECTION 1103.12 DESIGN CONTROL OVERLAY DISTRICT (O-DC)

A. Purpose and Intent

(1) The unique attributes of Tallmadge, a historically significant City, are personified by the carefully maintained architecture of our historical past. It is intended that Tallmadge’s remaining examples of historical architecture be safeguarded and that new construction be designed as to blend in with the existing historical integrity of our community. The purpose of this District is to:

- i. Maintain, safeguard, and enhance the architectural and historical presence of the Tallmadge Circle, the surrounding development, and the character along the street frontages radiating from Tallmadge Circle.
- ii. Review and approve all exterior construction proposed within this Design Control Overlay District (O-DC). The Heritage Commission shall accomplish these purposes by only approving exterior changes according to accepted and recognized architectural principles (for Recognized Heritage Structures as set-forth in Chapter 1109) and the compatible design criteria (for all other buildings and structures) as set forth in this Chapter.

BUILDING TYPOLOGIES	DESIGN CONTROL OVERLAY DISTRICT (O-DC)
Retail	•
Office	•
Mixed Use	•
Flex-Office/ Warehouse	
Single-Family (Detached)	
Townhouse	•
Multifamily	•
Single-Family (Attached)	•
Institutional/ Flex	•
Hotels	
Gas Stations	•
Restaurants	•

INTENDED CHARACTER IMAGES



- iii. Review site development along the frontages of the main streets around the City's Historic Tallmadge Circle and the frontage of the main roads leading to and from the Circle to retain the City's traditional, historical and early characteristics of the center of Tallmadge.

B. Application of District Regulations.

- (1) This Design Control Overlay District (O-DC) is an overlay Zoning District which is designated on the City of Tallmadge Zoning Overlay Map and as illustrated in Appendix B.
- (2) The principal, conditional, and accessory uses permitted in the underlying Zoning District, and the development standards not otherwise modified by this Chapter, shall continue to be applicable.
- (3) In addition to the requirements of the underlying zoning standards, not otherwise modified herein, no structure or site within the Design Control Overlay District, shall be modified, altered, removed, relocated, or otherwise changed except in compliance with the requirements of this Chapter and other applicable regulations in this Planning and Zoning Code provided that on any residentially zoned property that does not have frontage on Tallmadge Circle the following shall be exempt from the requirements of this Chapter and the areas of such exemption shall be governed by the underlying Zoning District regulations:
 - i. Accessory buildings that are 200 square feet or less, decks, fencing, and pools, if constructed of pre-approved materials and colors or are located behind the rear line of the principal building.
 - ii. Re-roofing, re-painting, and re-siding of structures if all exterior colors and materials used conform to a pre-approved list promulgated by the Heritage Commission and which are on file in the Zoning Department provided that the Zoning Administrator determines, based on an application submitted to the City, that the applicant's intended improvements are exempt from the provisions of this Chapter.
- (4) The Heritage Commission, along with the City Administration, may promulgate and approve the Design Control Overlay District Review Guidebook, and other similar material, intended to provide supplemental interpretation of the provisions of this Chapter and to further guide the evaluation of the appropriateness of projects coming before the Heritage Commission and the Planning and Zoning Commission. If a conflict exists between the Design Control Overlay District Review Guidebook and the Zoning Ordinance, the Zoning Ordinance shall govern.
- (5) If there is a conflict between the provisions of this Chapter and the provisions of the underlying Zoning District, the provisions of this Chapter shall govern. Conversely, if this Chapter is silent with respect to a regulation, standard, or criteria, such regulation, standard, or criteria found elsewhere in this Planning and Zoning Code shall govern.
- (6) For the purposes of this Chapter, a front lot line or the frontage of the property is the line or portion of the property adjacent to the right of way of Tallmadge Circle and the streets radiating from the Circle which are: North Ave.; Northeast Ave.; East Ave.; Southeast Ave.; South Ave.; Southwest Ave.; West Ave. and Northwest Ave.

C. Review Procedures.

- (1) The Planning and Zoning Commission shall be responsible for reviewing the development of the site, the location and size of free-standing signs, and the basic arrangement of exterior lighting and landscaping, including the number and type of plant, spacing, and size at planting consistent with the applicable requirements and procedures for Site Plan Review pursuant to Chapter 1102.10. The Planning and Zoning Commission may grant modifications to the specific standards/criteria in this Chapter when the

Commission determines, based on unique characteristics of the site or development, that the purposes and intent of this Chapter are satisfied.

- (2) The Heritage Commission shall review all changes to the exterior of buildings, the design of wall signs, free-standing signs and exterior light fixtures subject to the applicable review procedures in Chapter 1109.06 and shall issue a Certificate of Appropriateness for Recognized Heritage Structures, pursuant to the criteria in Section 1109.07 and a Certificate of Design Compliance for all other buildings in this Design Control Overlay District, pursuant to Section 1102.

D. Maintenance.

- (1) All structures subject to this Chapter shall be kept in a good state of maintenance and repair.
- (2) Nothing in this Chapter shall be construed to prevent the ordinary maintenance or repair of any property within the Design Control Overlay District, provided such work involves no change in material, design, texture, color or exterior appearance; nor shall anything in this Chapter be construed to prevent any repair of structural deficiency which in the view of the Zoning Administrator is required for the public safety because of an unsafe, insecure or dangerous condition.

E. Emergency Orders.

- (1) Notwithstanding other provisions of this Chapter, whenever the Zoning Administrator finds that an emergency exists in any structure subject to the regulations herein, which requires immediate action to protect the public's health and safety or that of the occupants thereof, the Zoning Administrator may issue an order certifying that such conditions exist and requiring actions as are necessary to meet such emergency. Subsequent to the correction of an emergency, the owner(s) of an affected property shall apply for and obtain, as applicable, a Certificate of Appropriateness or Certificate of Design Compliance and shall restore such property in conformance with all applicable requirements.

F. Penalty.

- (1) In addition to the prohibitions set forth in Section 1102.19, the following shall also constitute a violation of this Chapter:
 - i. Failure to comply. Whoever constructs, reconstructs, or alters any exterior architectural feature or demolishes a substantial part or all of any building within the O-DC without a Certificate of Appropriateness or Certificate of Design Compliance shall be fined not more than one hundred dollars (\$100.00). Each day of violation shall be considered a separate offense. Whoever violates this section shall be required to restore and reconstruct such features in full detail. Restoration or reconstructions shall be in addition to any criminal penalty and not in lieu thereof.
 - ii. Failure to perform. Whoever receives a Certificate of Appropriateness or Certificate of Design Compliance and constructs, reconstructs, or alters any exterior architectural feature other than in accordance with the requirements of the certificate, shall be fined not more than one hundred dollars (\$100.00). Each day of violation shall be considered a separate offense. Whoever violates this section shall be required to make all changes and additions needed to comply with the certificate. Changes and additions shall be in addition to any criminal penalty and not in lieu thereof.
- (2) Notice of Violation shall be given as provided in Section 1102.19.

G. DESIGN CRITERIA FOR BUILDINGS THAT ARE NOT RECOGNIZED HERITAGE STRUCTURES

New construction, expansion and renovation are to be designed to be compatible with the existing historical integrity of our community. The purpose of these criteria is to maintain, safeguard, and enhance the design and historical presence of the Tallmadge Circle and the surrounding development without requiring replication of the traditional and historic architecture.

Elevation Design	<p>All elevations of a building shall be subject to design review.</p> <p>A front façade shall be architecturally emphasized, and all sides of the shell shall be architecturally consistent with the front façade.</p>
Elevation Articulation	<p>Larger buildings with an elevation more than seventy-five (75) feet long shall be designed with architectural variations along such elevation every fifty (50) feet or less which shall include at least one of the following:</p> <ul style="list-style-type: none"> a change in roof lines; a setback change at least two (2) feet along the elevation, pilasters, columns, or similar features; etc.
Mechanical and Dumpster Screening	<p>Mechanical equipment and dumpsters shall be located so as not to be visible from any public ways or adjacent residential area.</p> <p>Where such limitations are not possible, the facilities shall be screened from public view with materials compatible with those used in the building.</p>
Roof Configuration	<p>The roof lines of the building should be pitched - gabled or hip - to replicate, to the extent practical, the historical roof lines in the area. Flat roofs are not acceptable as the main roof form for the building.</p>
Windows and Doors	<p>No more than sixty percent (60%) of the façade of the building facing the public right of way, or the front façade may be glass. Windows and doors should be designed to have a vertical orientation. Windows should be recessed and reflective glass is prohibited.</p>
Building and Site Lighting	<p>Outdoor lighting of a building and parking area shall be directed so as not to shine on adjacent properties. Downcast lighting fixtures are encouraged. The design of lighting fixtures that are visible from the right of way are to be of a historical nature.</p>
Activated First Floor	<p>A single or multiple building project should provide a design that emphasizes activities from street level.</p>
Materials	<p>Acceptable materials for use shall include brick, wood, stone or stucco.</p> <p>Concrete blocks or slick pervasive materials such as plastic, neon or metallic are not acceptable.</p> <p>Back-lit transparent or translucent awnings are not acceptable.</p>
Color Palette	<p>Acceptable exterior colors for use on the building shall be muted.</p> <p>Color palette shall be designed to incorporate trim colors on windows, doors and gutters.</p> <p>Neon or fluorescent colors are not acceptable.</p>

H. DESIGN CRITERIA FOR SITE DEVELOPMENT

<p>Parking Area Landscaping</p>	<p>Parking areas shall be treated to minimize visual impact of parked cars as viewed from the public right of way and adjacent properties.</p> <p>Planting islands shall be provided that divide parking into smaller bays of parking.</p> <p>A minimum of five (5%) percent of parking areas shall be devoted to landscaped planting islands when the parking area is greater than forty (40) spaces.</p> <p>Areas for storage of snow shall be designed separately from landscaped areas in order to protect landscaping.</p>
<p>Building setback from parking</p>	<p>The entrance side(s) of buildings shall be setback a minimum of ten (10) feet from the edge of parking to provide for a sidewalk and landscape treatment between the building and adjacent parking/drives.</p> <p>The remaining sides of the building shall be a minimum of seven (7) feet between the building and the parking or drives.</p>
<p>Outdoor Storage</p>	<p>Prohibited for a new development unless otherwise approved by the Planning and Zoning Commission and such approved storage areas are fully screened as specified in “Service Entrances, Loading Zones, and Dumpsters “ below.</p>
<p>Utility Services</p>	<p>All new services shall be placed underground.</p> <p>Overhead utilities shall be consolidated onto new or existing poles to minimize the quantity of utility poles in existing sidewalks.</p>
<p>Service Entrances, Loading Zones, and Dumpsters</p>	<p>Shall be screened with an eight (8) feet high wall, fence, landscaping, or combination thereof, from adjacent properties and the public right of way and shall be located in the side or rear of the lot.</p> <p>When used, evergreen planting shall be a minimum of eight (8) feet in height at the time of planting.</p> <p>Fences or walls shall be wood, brick, or stone, and shall be of materials that are similar or compatible with the material(s) of the building and the District.</p>
<p>Access Management and Circulation</p>	<p>Minimize the number of vehicular turning movements and points of vehicular conflicts by reducing the number of access points to the minimum required for safe traffic flow.</p> <p>Points of ingress and egress shall be clearly defined and promote the safe movement of traffic.</p> <p>Provide clearly marked crosswalks at all driveway crossings with sidewalks.</p> <p>Provide for the safe and functional movement of vehicles and pedestrians both on and off-site.</p> <p>Give consideration to the location of existing access points adjacent to and directly across the street from the site. Curb cuts shall be shared by adjoining properties and unloading activities shall not hinder vehicular ingress or egress.</p> <p>All sites shall be designed so the plants and structures on the site do not interfere with the safe movement of motor vehicle traffic, bicycles or pedestrians.</p> <p>Vehicular circulation between parcels is encouraged through coordination or joint parking systems to minimize curb cuts along the street.</p>
<p>Outdoor Lighting</p>	<p>Outdoor lighting of a building and parking area shall be directed to the surface being lighted so as not to shine on adjacent properties.</p> <p>Cut-off lighting and directional fixtures shall be employed throughout.</p> <p>The design of lighting fixtures that are visible from the right of way shall be similar to and complement the building and other site features.</p> <p>Energy efficiency in lighting is encouraged.</p> <p>Light levels shall be effective but not overly bright. Parking lot lighting shall not exceed one (1) foot candle on average; sidewalks and landscaped areas shall not exceed one-half (0.5) foot candle on average; and illumination at the property line shall not exceed one-half (0.5) foot candle. The use of sodium vapor and incandescent lamps are discouraged.</p>

I. DESIGN CRITERIA FOR LANDSCAPING	
Stormwater BMP	<p>The use of sustainable practices is encouraged throughout design of the site.</p> <p>Stormwater infiltration, the reduction in stormwater piping and water quality enhancements through the use of rain gardens, bioswales, porous paving and other green infrastructure are encouraged within parking areas and in landscaped areas.</p> <p>The City will reduce the stormwater management controls required for the site to the extent to which these techniques are employed.</p>
Parking Area Landscaping	<p>Parking lot islands shall be landscaped with a combination of trees, shrubs and perennials complementary with the landscape character of the site.</p> <p>In parking lots greater than forty (40) spaces a minimum of one tree for every ten (10) cars is required within the parking lot and along drives to shade paved areas.</p> <p>Parking areas and driveways shall be landscaped with shrubs, trees or tree groupings. A variation in species and heights of both trees and shrubs, which are effective in both summer and winter, is recommended.</p>
Parking Screening	<p>Plants that are along or near the public right of way shall buffer the impact of parking and drives.</p> <p>Parking located along a street shall be screened with an evergreen hedge. Shrubs shall be a min. 24 in. height at time of installation and spaced to provide a complete screen within 3 years of installation. Hedge shall be maintained at 3 feet to 4 feet in height.</p> <p>Plants shall be compatible and complementary to other similar plantings within the District.</p> <p>Other shrubs and perennials within this location but on the side of the shrub rows facing away from the public right of way shall complement the landscape character of the site and reinforce the shrub rows buffering effect. These may be further reinforced with trees at logical and complementary locations.</p>
Side and Rear Yard Buffers	<p>Side and rear yard planting buffers shall be employed to screen parking and drives from adjacent properties.</p> <p>Plants shall be chosen to be complementary to the landscape character of the site and be informal in their arrangement.</p> <p>Plant groupings and drifts of plants are encouraged, including trees, shrubs and perennials.</p>
Plant Palette	<p>Plant materials shall be chosen which are indigenous to the Tallmadge area, are compatible with site soils, drainage and rainfall amounts, and for their tolerance to site conditions and require minimal maintenance.</p> <p>The landscape design shall incorporate the entire site and consist of a palette of plants with year round appeal, which may include annuals, perennials, shrubs or trees.</p> <p>Plants shall be chosen for their mature effect without forced pruning to be maintained within the space provided.</p>
Minimum Plant Sizes for Required Landscaping	<p>Except as specifically noted elsewhere, plants shall be of the following sizes:</p> <p>Shade trees: 2-1/2 inch caliper</p> <p>Ornamental Trees: 1-1/2" caliper or 8-10 feet in height for multistem trees</p> <p>Evergreen trees: 8-10 feet in height</p> <p>Shrubs: 18 inches in height</p> <p>Perennials: #1 and #2 container size, depending on the varieties of plants chosen.</p> <p>All plant materials shall be specified to meet the latest edition of ANSI Z 60.1 American Standards For Nursery Stock</p>
Building Foundation Plantings	<p>Planting areas adjacent to buildings shall be generously landscaped with plants complementary to the landscape character of the site and to the building architecture.</p> <p>Planting that enhances the arrival experience and calls attention to building entrances is encouraged.</p>

I. DESIGN CRITERIA FOR LANDSCAPING

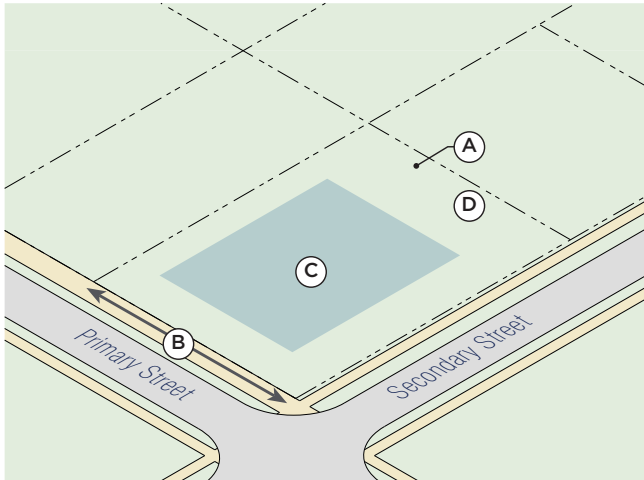
Landscape Plan Requirements	<p>The required landscape plan shall address:</p> <ul style="list-style-type: none"> the functional aspect of landscaping such as drainage, erosion prevention, wind barriers provisions for shade, energy conservation, sound absorption, dust abatement reduction of glare and screening. <p>The landscape plan shall describe in detail the proposed landscape improvements including:</p> <ul style="list-style-type: none"> the location of plants, their species, size and quantity <p>Site amenities such as light fixtures, benches and other street furnishings, paving types, screen walls and the like shall be specified.</p>
Plant Protection	<p>In locations where plants will be susceptible to injury by pedestrian or motor traffic, appropriate curbs, parking blocks or other devices shall be installed to separate these plants from sidewalks and/or parking areas</p>

J. SIGN CRITERIA

<p>Signs in the Design Control Overlay District shall be permitted as provided in Chapter 1108 Signs and further shall comply with the following design criteria:</p>	
Design Review	<p>The Heritage Commission shall review all permanent sign applications to insure that signs complement their location and are compatible in design and construction with the Design Control Overlay District purposes.</p>
Signs for Existing Structures	<p>For existing structures, signs shall be designed, including but not limited to the lettering font style, to reasonably apply the design criteria of this District to the existing materials and style of the building.</p>
Required information	<p>Applicants must submit:</p> <ul style="list-style-type: none"> Detailed information on height, width, thickness, materials, lettering and size, colors and location for each sign A cross sectional view shall be included. Modifications to the size of signs need to be received and approved prior to review by the Heritage Commission.
Design Parameters	<p>Signs in the Design Control Overlay District shall be designed to complement the overall appearance of the building and site.</p> <p>All elements of a sign should create an overall cohesive design, reflect simplicity, avoid visual clutter and ensure legibility.</p> <p>All aspects of the design and construction and lettering should be done in a professional manner.</p>
Frame	<p>All ground signs and wall signs when mounted on a panel shall have a compatible frame or border.</p>
Proportion	<p>The size and shape of wall signs shall be in proportion to the space the sign is to occupy.</p>
Colors	<p>Acceptable colors for use in signage shall be muted colors.</p> <p>Bright or fluorescent colors are not acceptable unless the portion of the sign with such bright or fluorescent colors constitutes less than thirty-five (35%) percent of the total sign area.</p>
Lighting	<p>Lighting for signage in the Design Control Overlay District will preferably be from an external source such as a spotlight or other front-mounted light source.</p> <p>Reverse back lighting for building mounted letters may be permitted.</p> <p>Internally illuminated signs shall be prohibited.</p>

K. Development Standards

LOT DIMENSIONS

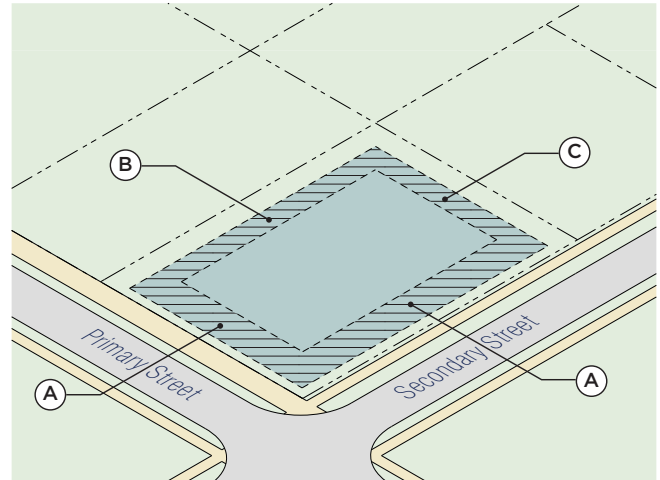


LOT DIMENSIONS		
(A)	Lot Size (Min.)	NA
(A)	Lot Size (Max.)	NA
(B)	Lot Width (Min.)	NA
(B)	Lot Width (Max.)	NA

LOT DEVELOPMENTS		
(C)	Lot Coverage (Max.)	80%
(D)	Open Space (Min.)	5%

MULTI-UNIT RESIDENTIAL DENSITY		
	Units Per Acre (Min.)	4
	Units Per Acre (Max.)	20

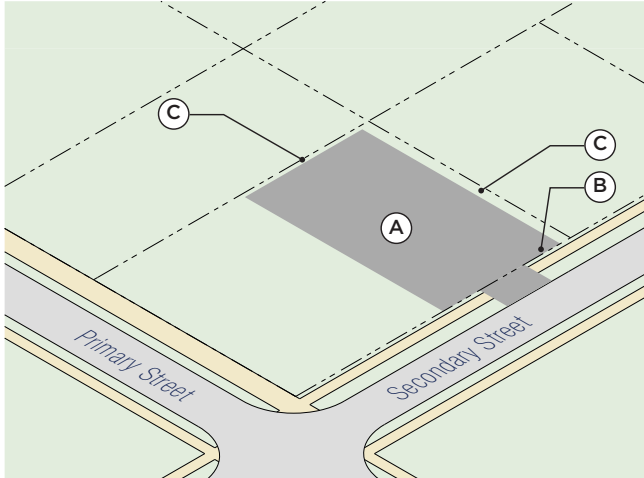
BUILDING PLACEMENT



BUILDING SETBACKS		
(A)	Front Build-to Line or zone	10 ft to 30 feet, or no less than 2/3 of, and no larger than the lesser of the existing building setbacks of the side-adjacent parcels
(B)	Side Yard (Min. each side)	7 feet
(B)	Side Yard Aggregate (Min.)	14 feet
(C)	Rear Yard (Min.)	25 feet

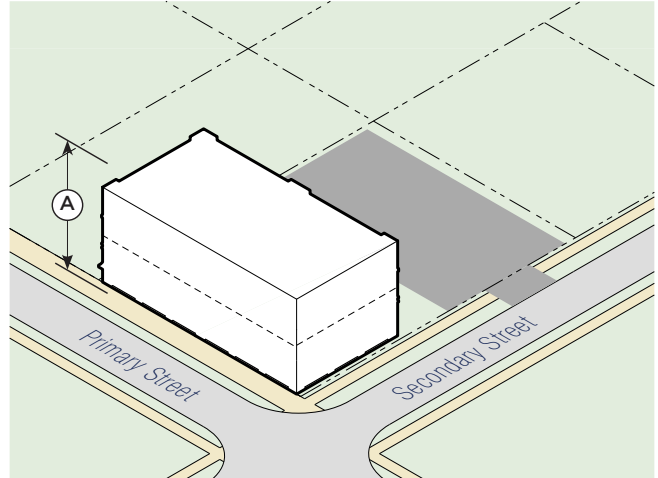
BUILDING FRONTAGES		
	Primary Street	75%
Notes: Primary Street Building Frontages refer to the percentage of front building façade that must be placed on Build-to-Line or within a Build-to-Zone.		

PARKING PLACEMENT



PARKING LOCATION		
Ⓐ	Parking Location	Rear and/or side of building; parking courtyard interior to building(s); attached or detached garage to rear or side of buildings; podium parking; structured parking
Ⓑ	Parking Setback (Street)	7 feet or no closer to the street than the building façade, whichever is greater
Ⓒ	Parking Setback (Side and Rear)	7 feet; 0 feet with cross-access and shared parking agreement.
	Loading Dock, Loading Spaces, Service Areas: Location	Rear and/or side of building
	Parking Structure Height (Max. / max. levels above grade)	35 feet (3 levels)
	Access Management	Min. 100 feet between commercial and industrial driveways.

HEIGHT AND MASS



BUILDING HEIGHT		
Ⓐ	Building Height (Max.)	35 feet (3 Stories)
	Height Transition Zone	Yes
Notes: Height Transition Zone refers to 1103.29		

ACCESSORY BUILDING	
Accessory Building Location	Side or Rear Yard
Accessory Building Height (Max.)	20 feet

SECTION 1103.13 INNOVATION AND EMPLOYMENT OVERLAY DISTRICT (O-IE)

A. Purpose and Intent

- (1) The purpose of the Innovation and Employment Overlay (O-IE) is to serve as the economic engine of the City.

B. Applicability

- (1) The regulations pertaining to the O-IE apply to all properties utilized for new non-residential and mixed-use development as well as substantial expansions to structures located on non-residential and mixed-use properties.

C. Existing Development Patterns

- (1) The existing development patterns in the O-IE include medium to large-sized manufacturing facilities and warehouses providing users with proximity to freeways and rail lines.

D. Desired Development Patterns

- (1) The desired development pattern in the O-IE is to continue the development of manufacturing and warehouse facilities with an emphasis on innovative industrial and manufacturing uses such as maker-spaces and small batch manufacturing.

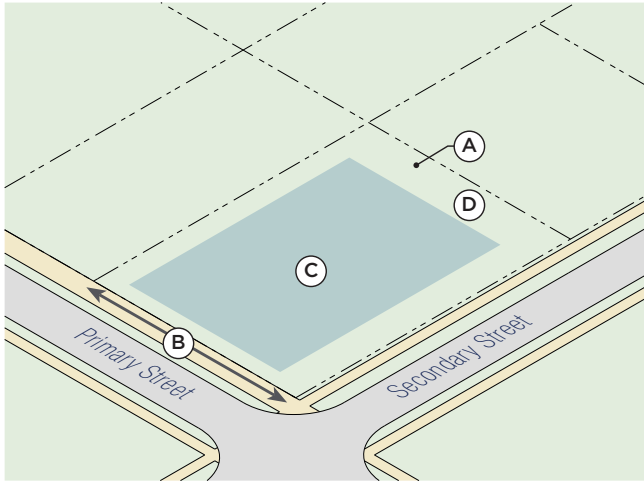
BUILDING TYPOLOGIES	INNOVATION AND EMPLOYMENT OVERLAY (O-IE)
Retail	
Office	•
Mixed Use	
Flex-Office/ Warehouse	•
Single-Family (Detached)	
Townhouse	
Multifamily	
Single-Family (Attached)	
Institutional/ Flex	•
Hotels	
Gas Stations	
Restaurants	

INTENDED CHARACTER IMAGES



E. Development Standards

LOT DIMENSIONS

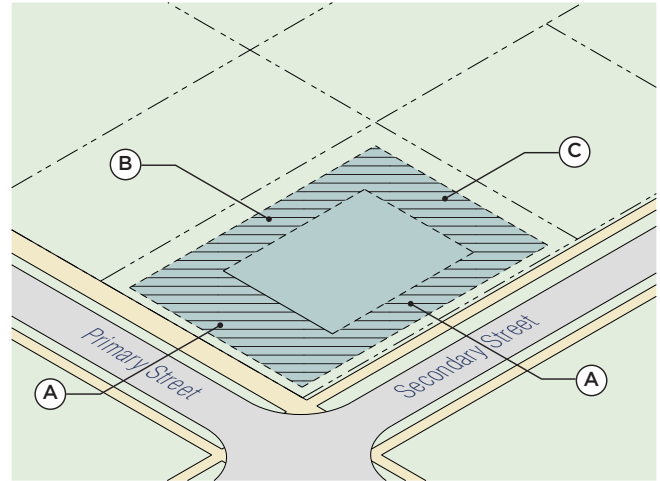


LOT DIMENSIONS		
(A)	Lot Size (Min.)	None
(A)	Lot Size (Max.)	NA
(B)	Lot Width (Min.)	NA
(B)	Lot Width (Max.)	NA

LOT DEVELOPMENTS		
(C)	Lot Coverage (Max.)	80%
(D)	Open Space (Min.)	5%

MULTI-UNIT RESIDENTIAL DENSITY		
	Units Per Acre (Min.)	NA
	Units Per Acre (Max.)	NA

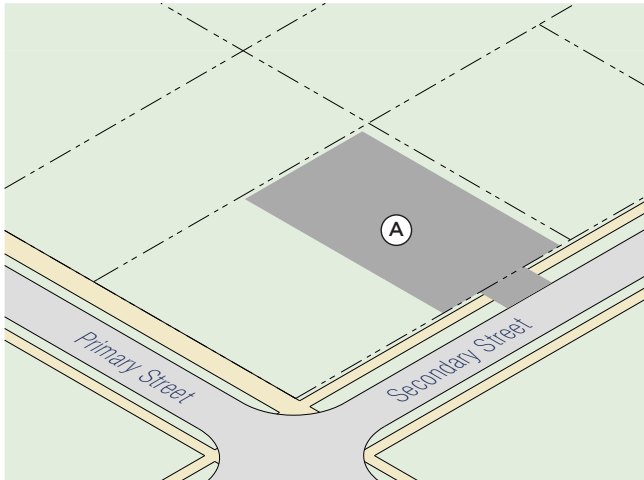
BUILDING PLACEMENT



BUILDING SETBACKS		
(A)	Front Build-to Line or zone	40 feet
(A)	Side Yard (Min. each side)	10 feet; 25 feet from adjacent residential district
(B)	Side Yard Aggregate (Min.)	NA
(C)	Rear Yard (Min.)	25 feet

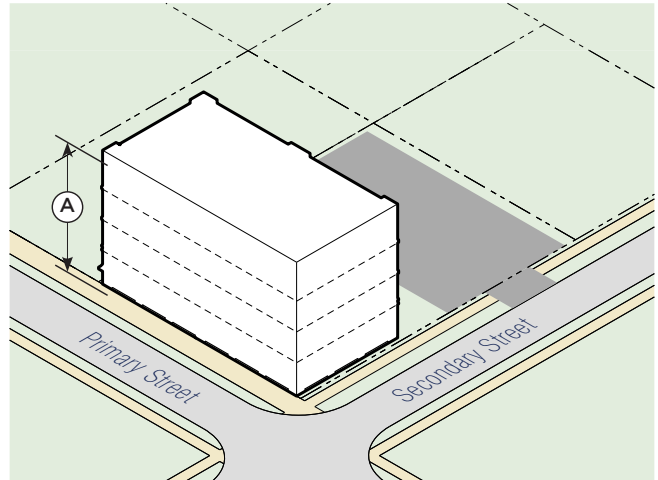
BUILDING FRONTAGES		
	Primary Street	50%
Notes: Primary Street Building Frontages refer to the percentage of front building façade that must be placed on Build-to-Line or within a Build-to-Zone.		

PARKING PLACEMENT



PARKING LOCATION		
(A)	Parking Location	Rear and/or side of building.
	Parking Setback	No closer to the street than the building façade
	Loading Dock, Loading Spaces, Service Areas: Location	Rear and/or side of building
	Parking Structure Height (Max. / max. levels above grade)	NA

HEIGHT AND MASS



BUILDING HEIGHT		
(A)	Building Height (Max.)	48 feet (4 Stories)
	Height Transition Zone	Yes
Notes: Height Transition Zone refers to 1103.29		

ACCESSORY BUILDING		
	Accessory Building Location	Rear yard or side yard only; match principal building setbacks
	Accessory Building Height (Max.)	50% of the principal building height

SECTION 1103.14 NEIGHBORHOOD CENTER OVERLAY DISTRICT (O-NC)

(Ord 2024-79. Passed 1/23/25)

A. Purpose and Intent

- (1) The purpose of the Neighborhood Center Overlay (O-NC) is to introduce a mix of uses in close proximity to the City’s traditional residential neighborhoods.
- (2) It is intended that new development and renovations within this district foster a cohesive, pedestrian-friendly district that transitions with a mix of uses the city’s traditional residential district to a general commercial district with vibrant street-level activity.

B. Applicability

- (1) The regulations pertaining to the O-NC apply to all new development and substantial expansions in the O-NC.
- (2) This O-NC is an overlay Zoning District which is designated on the City of Tallmadge Zoning Overlay Map and as illustrated in Appendix B.
- (3) The principal, conditional, and accessory uses permitted in the underlying Zoning District, and the development standards not otherwise modified by this Chapter, shall continue to be applicable.
- (4) Review of new construction and major renovations, where major renovations are defined as any renovation of 60% or more, shall be reviewed by the Architectural Review Board and/or Planning & Zoning Commission, as applicable.
- (5) The Architectural Review Board, along with the City Administration, may promulgate and approve supplemental interpretation of the provisions of this Chapter and to further guide the evaluation of the appropriateness of projects coming before the Architectural Review Board and the Planning and Zoning Commission.
- (6) If there is a conflict between the provisions of this Chapter and the provisions of the underlying Zoning District, the provisions of this Chapter shall govern. Conversely, if this Chapter is silent with respect to a regulation, standard, or criteria, such regulation, standard, or criteria found elsewhere in this Planning and Zoning Code shall govern.
- (7) For the purposes of this Chapter, a front lot line or the frontage of the property is the line or portion of the property adjacent to the right of way.

BUILDING TYPOLOGIES	NEIGHBORHOOD CENTER OVERLAY (O-NC)
Retail	•
Office	•
Mixed Use	•
Flex-Office/ Warehouse	
Single-Family (Detached)	•
Townhouse	•
Multifamily	• ¹
Single-Family (Attached)	•
Institutional/ Flex	
Hotels	
Gas Stations	
Restaurants	•

¹ Multifamily use only permitted in Mixed Use Building

C. Existing Development Patterns

- (1) The existing development pattern in a proposed O-NC is traditionally single-story single-use commercial and residential development.

D. Desired Development Patterns

- (1) The desired development pattern for the O-NC is to introduce neighborhood-scale mixed development of commercial and residential as a transition between existing residential and commercial districts. New mixed-use and single-family development along neighborhood commercial corridors will also help to attract new residents to support commercial development.
- (2) New structures should be oriented towards the street, with parking predominantly located at the rear and sides of buildings. Parallel or angled parking can be provided in front, ensuring adequate space for pedestrian traffic. Transition Height Zoning should be incorporated where building heights gradually increase from single-story to two- or three-story structures. In areas adjacent to residential districts, new buildings should harmonize with the prevailing single-story residential scale.
- (3) For the purposes of this section, common open space means an open-air area intended for use by all residents, guests, employees or patrons of a site and may include lawns, gardens, squares, plazas, courtyards, terraces, barbecue and picnic areas, games court or multi-use recreational areas, and other types of built space.

.....
INTENDED CHARACTER IMAGES

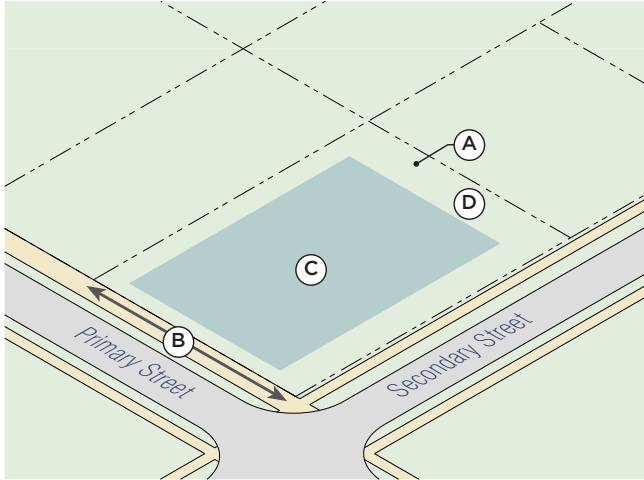


E. Design Criteria for Building and Site Development

- (1) In addition to the following criteria, building and site development shall be guided by the City's Neighborhood Center Overlay District Guidebook, which provides additional design standards and guidelines.
- (2) Architecture. While there is no prescribed architectural style or design, all structures within the district are expected to be thoughtfully designed with materials, detailing, scale, and proportion that is intentional and carefully thought through and with specific attention toward aesthetics.
- (3) Accessory structures. Accessory structures shall be constructed of identical materials, style, quality and appearance as the principal building.
- (4) Landscaping & Buffering. All sites shall be required to comply with applicable Code requirements for landscaping in Section 1106.
 - i. Developments bordering residential districts must maintain a minimum setback of 25 feet, including year-round landscaping for buffering. The Planning & Zoning Commission may require larger setbacks or additional screening for projects that involve high-density development, noise, odors, lighting, or outdoor facilities.
- (5) Off-Street Parking Requirements. In addition to compliance with Section 1105, the following regulations apply:
 - i. Parking areas shall be treated to minimize the visual impact of parked cars as viewed from the public right of way and adjacent properties.
 - ii. Planting islands shall be provided dividing parking into smaller bays of parking.
 - iii. When two or more parking bays are proposed, a continuous landscape island with pedestrian walkway must be installed between every other bay.
 - iv. A minimum of five (5%) percent of parking areas shall be devoted to landscaped planting islands when the parking area is greater than forty (40) spaces.
 - v. Areas for storage of snow shall be designed separately from landscaped areas to protect landscaping.
- (6) Outdoor Lighting. Exterior lighting to be directed away from neighboring properties and shielded from glare.
- (7) Signage. Signage shall be required to comply with applicable code requirements for Signs in Section 1108.

F. Development Standards

LOT DIMENSIONS



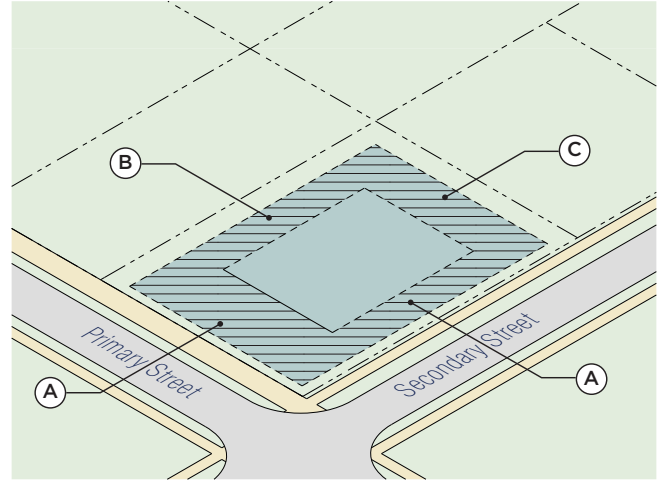
LOT DIMENSIONS		
(A)	Lot Size (Min.)	NA
(A)	Lot Size (Max.)	NA
(B)	Lot Width (Min.)	50 feet
(B)	Lot Width (Max.)	NA

LOT DEVELOPMENTS		
(C)	Lot Coverage (Max.)	80%
(D)	Open Space for multi-structure projects (Min.)	5 acres or less: 5% Greater than 5%, less than 10%: 15% 10 acres or more: 30%

Note: For the purpose of this section, Open Space is defined per 1103.14 D (3)

MULTI-UNIT RESIDENTIAL DENSITY		
	Per Acre (Min.)	NA
	Per Acre (Max.)	Single-Family attached/ Detached: 5 Units Townhomes: 15 Units Commercial/Mixed Use with on-site parking: 20,000 sf Commercial/Mixed Use with no on-site parking: 34,000 sf

BUILDING PLACEMENT

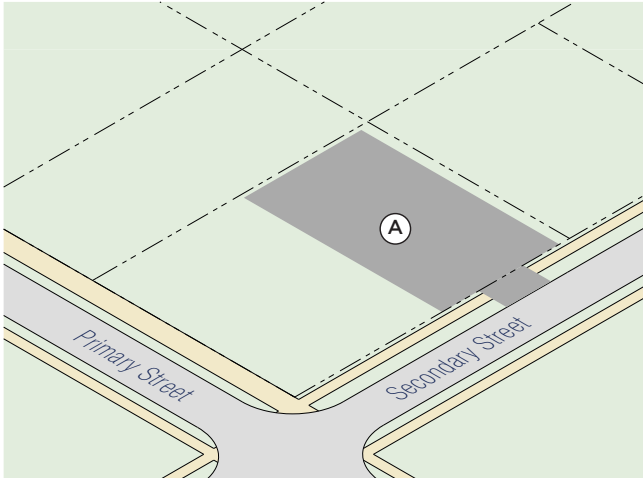


BUILDING SETBACKS		
(A)	Front Build-to-Line or zone	30 feet, or the average of the immediate adjacent structures, whichever is less, to 50 feet ¹
(A)	Side Yard (Min. each side)	5 feet
(B)	Side Yard Aggregate (Min.)	20 feet
(C)	Rear Yard (Min.)	25 feet

¹ The O-NC shall have a 300-foot minimum setback off the northside of the West Avenue street centerline.

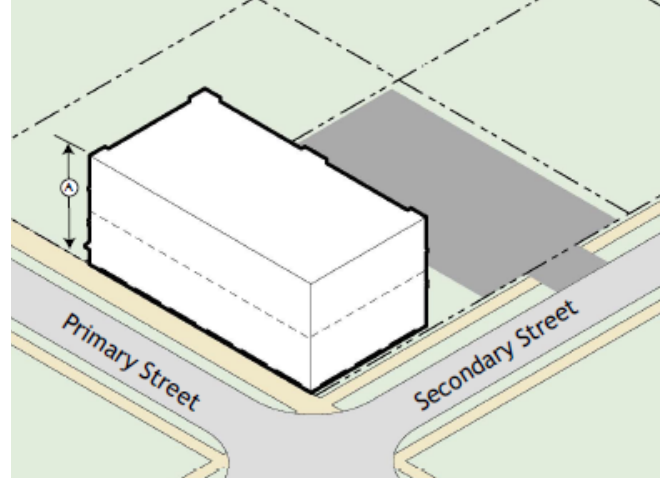
BUILDING FRONTAGES		
	Primary Street	75%
Notes: Primary Street Building Frontages refer to the percentage of front building façade that must be placed on Build-to-Line or within a Build-to-Zone.		

PARKING PLACEMENT



PARKING LOCATION		
A	Parking Location	Rear and/or side of building; parking courtyard interior to building(s); attached or detached garage to rear or side of buildings; podium parking; structured parking. Front of building limited to parallel or angle parking ensuring adequate space for pedestrian traffic
	Parking Setback	No closer to the street than the building façade
	Loading Dock, Loading Spaces, Service Areas: Location	Rear and/or side of building
	Parking Structure Height (Max./max. levels above grade)	NA

HEIGHT AND MASS



BUILDING HEIGHT		
A	Building Height (Max.)	24 feet (2 Stories)
	Height Transition Zone	Yes
Notes: Height Transition Zone <ul style="list-style-type: none"> • Compliance with Section 1103.29 Height Transition Zone. • Building Heights should gradually increase from single-story to two- to three-story structures. In areas adjacent to residential districts, new buildings should harmonize with prevailing average residential scale. 		

ACCESSORY BUILDING		
	Accessory Building Location	Side or Rear
	Accessory Building Height (Max.)	20 feet

SECTION 1103.15 SOUTHEAST GATEWAY OVERLAY (O-SE)

G. Purpose and Intent

- (1) The purpose of the Southeast Gateway Overlay (O-SE) is to leverage the overlay’s close proximity to the City’s major corridors by facilitating new development that promotes job growth and employer expansion.

H. Applicability

- (1) The regulations pertaining to the O-SE apply to all properties utilized for new non-residential and mixed-use development as well as substantial expansions to structures located on non-residential and mixed-use properties.

I. Existing Development Patterns

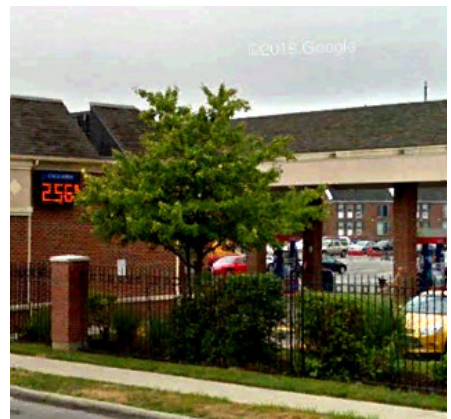
- (1) The existing development patterns in the O-SE is predominantly undeveloped land in proximity to residential uses.

J. Desired Development Patterns

- (1) The desired development pattern in the O-SE is high quality retail, commercial and manufacturing development that is sufficiently buffered from surrounding residential uses while leveraging the physical proximity of the O-SE to major corridors serving the City.

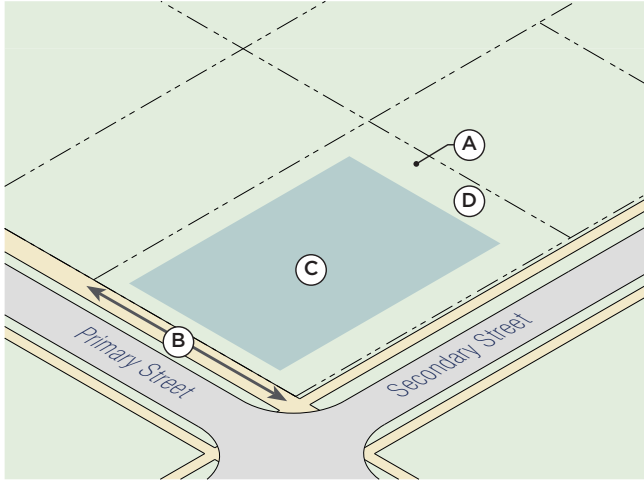
BUILDING TYPOLOGIES	SOUTHEAST GATEWAY OVERLAY (O-SE)
Retail	•
Office	•
Mixed Use	•
Flex-Office/ Warehouse	•
Single-Family (Detached)	
Townhouse	
Multifamily	
Single-Family (Attached)	
Institutional/ Flex	
Hotels	•
Gas Stations	•
Restaurants	•

INTENDED CHARACTER IMAGES



K. Development Standards

LOT DIMENSIONS

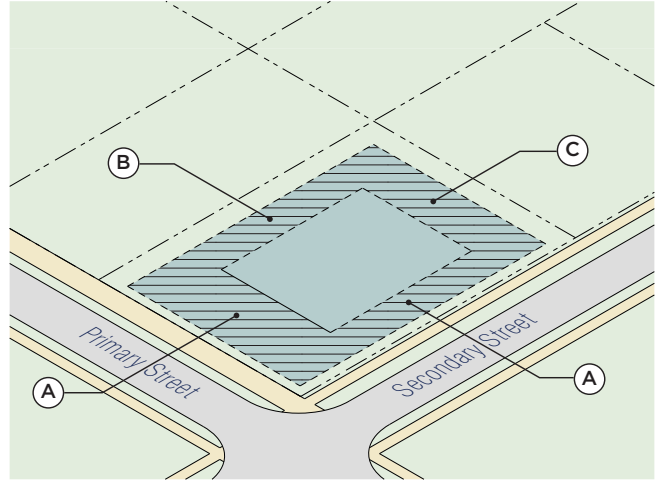


LOT DIMENSIONS		
(A)	Lot Size (Min.)	25,000 square feet
(A)	Lot Size (Max.)	NA
(B)	Lot Width (Min.)	100 feet
(B)	Lot Width (Max.)	NA

LOT DEVELOPMENTS		
(C)	Lot Coverage (Max.)	80%
(D)	Open Space (Min.)	5%

MULTI-UNIT RESIDENTIAL DENSITY		
	Units Per Acre (Min.)	4
	Units Per Acre (Max.)	12

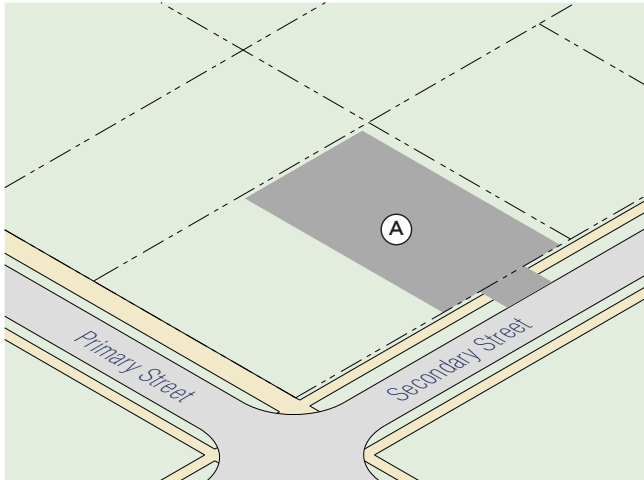
BUILDING PLACEMENT



BUILDING SETBACKS		
(A)	Front Build-to-line or zone	20 feet
(A)	Side Yard (Min. each side)	10 feet; 50 feet from adjacent residential district
(B)	Side Yard Aggregate (Min.)	NA
(C)	Rear Yard (Min.)	25 feet; 50 feet from adjacent residential district

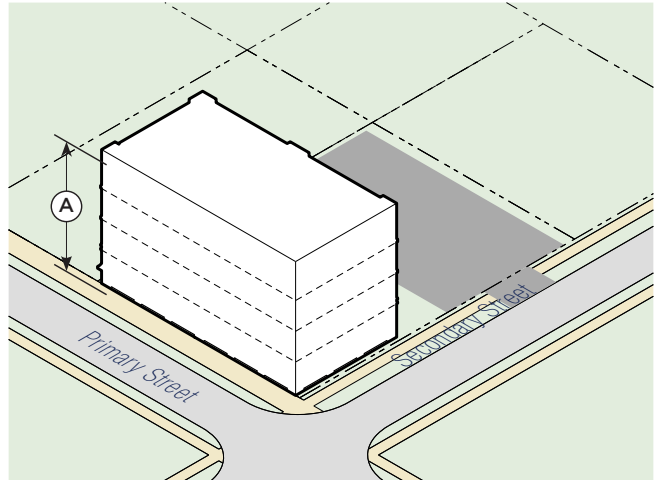
BUILDING FRONTAGES		
	Primary Street	75%
Notes: Primary Street Building Frontages refer to the percentage of front building façade that must be placed on Build-to-Line or within a Build-to-Zone.		

PARKING PLACEMENT



PARKING LOCATION		
(A)	Parking Location	Rear and/or side of building; parking courtyard interior to building(s)
	Parking Setback	No closer to the street than the building façade
	Loading Dock, Loading Spaces, Service Areas: Location	Rear and/or side of building
	Parking Structure Height (max)	NA

HEIGHT AND MASS



BUILDING HEIGHT		
(A)	Building Height (Max.)	48 feet (4 Stories)
	Height Transition Zone	Yes
Notes: Height Transition Zone refers to 1103.29		

ACCESSORY BUILDING		
	Accessory Building Location	Side or Rear
	Accessory Building Height (Max.)	20 feet

SECTION 1103.16 WEST AVENUE OVERLAY (O-WA)

(Ord 2024-82. Passed 1/23/25)

A. Purpose and Intent

- (1) The purpose of the West Avenue Overlay (O-WA) is to promote a mix of commercial uses in proximity along one of Tallmadge’s primary commercial corridors.
- (2) It is intended that new development and renovations within the corridor contribute to a cohesive, pedestrian-friendly district that creates a gateway to Tallmadge Circle. The aim is to create a vibrant and attractive area that encourages investment and complements neighboring zoning districts.

BUILDING TYPOLOGIES	WEST AVENUE OVERLAY (O-WA)
Retail	•
Office	•
Mixed Use	• ¹
Flex-Office/ Warehouse	•
Single-Family (Detached)	
Townhouse	
Multifamily	
Single-Family (Attached)	
Institutional/ Flex	•
Hotels	
Gas Stations	
Restaurants	•

¹ Mixed use in this overlay shall not include residential uses.

B. Applicability

- (1) The regulations pertaining to the O-WA apply to all properties utilized for new non-residential and mixed-use development as well as substantial expansions to structures located on non-residential and mixed-use properties.
- (2) This O-WA is an overlay Zoning District which is designated on the City of Tallmadge Zoning Overlay Map and as illustrated in Appendix B.
- (3) The principal, conditional, and accessory uses permitted in the underlying Zoning District, and the development standards not otherwise modified by this Chapter, shall continue to be applicable.
- (4) Review of new construction and major renovations, where major renovations are defined as any renovation of 60% or more, shall be reviewed by the Architectural Review Board and Planning & Zoning Commission, as applicable.
- (5) The Architectural Review Board, along with the City Administration, may promulgate and approve supplemental interpretation of the provisions of this Chapter and to further guide the evaluation of the appropriateness of projects coming before the Architectural Review Board and the Planning and Zoning Commission.
- (6) If there is a conflict between the provisions of this Chapter and the provisions of the underlying Zoning District, the provisions of this Chapter shall govern. Conversely, if this Chapter is silent with respect to a regulation, standard, or criteria, such regulation, standard, or criteria found elsewhere in this Planning and Zoning Code shall govern.
- (7) For the purposes of this Chapter, a front lot line or the frontage of the property is the line or portion of the property adjacent to the right of way West Avenue.

C. Existing Development Patterns

- (1) The existing development pattern in the O-WA is primarily single-story, single-purpose, low-density commercial and retail.

D. Desired Development Patterns

- (1) (1) The desired development pattern in the O-WA is the introduction of a diverse range of non-residential uses along the West Avenue commercial corridor that are adjacent to and complement existing commercial developments. New structures should be oriented towards West Avenue, with parking predominantly located at the rear and sides of buildings. Parallel or angled parking can be provided in front, ensuring adequate space for pedestrian traffic. Transition Height Zoning should be incorporated where building heights gradually increase from single-story to two- or three-story structures. In areas adjacent to residential districts, new buildings should harmonize with the prevailing single-story residential scale.

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INTENDED CHARACTER IMAGES

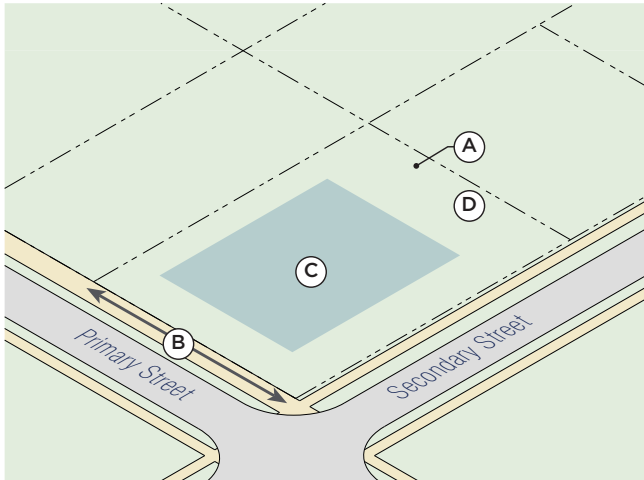


E. Design Criteria for Building and Site Development

- (1) Architecture. While there is no prescribed architectural style or design, all structures within the district are expected to be thoughtfully designed with materials, detailing, scale, and proportion that is intentional and carefully thought through and with specific attention toward aesthetics.
- (2) Accessory structures. Accessory structures shall be constructed of identical materials, style, quality and appearance as the principal building.
- (3) Landscaping & Buffering. All sites shall be required to comply with applicable Code requirements for landscaping in Section 1106.
 - i. Developments bordering residential districts must maintain a minimum setback of 25 feet, including year-round landscaping for buffering. The Planning & Zoning Commission may require larger setbacks or additional screening for projects that involve high-density development, noise, odors, lighting, or outdoor facilities.
- (4) Off-Street Parking Requirements. In addition to compliance with Section 1105, the following regulations apply:
 - i. Parking areas shall be treated to minimize the visual impact of parked cars as viewed from the public right of way and adjacent properties.
 - ii. Planting islands shall be provided dividing parking into smaller bays of parking.
 - iii. When two or more parking bays are proposed, a continuous landscape island with pedestrian walkway must be installed between every other bay.
 - iv. A minimum of five (5%) percent of parking areas shall be devoted to landscaped planting islands when the parking area is greater than forty (40) spaces.
 - v. Areas for storage of snow shall be designed separately from landscaped areas to protect landscaping.
- (5) Outdoor Lighting. Exterior lighting to be directed away from neighboring properties and shielded from glare.
- (6) Signage. Signage shall be required to comply with applicable code requirements for Signs in Section 1108.

F. Development Standards

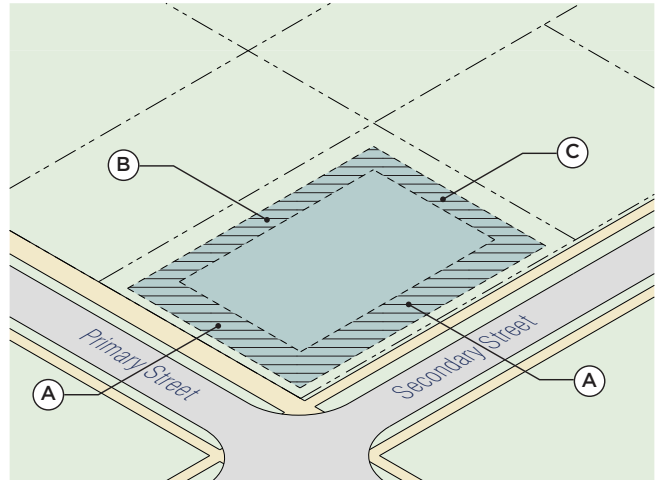
LOT DIMENSIONS



LOT DIMENSIONS		
(A)	Lot Size (Min.)	12,000 square feet
(A)	Lot Size (Max.)	NA
(B)	Lot Width (Min.)	50 feet
(B)	Lot Width (Max.)	NA

LOT DEVELOPMENTS		
(C)	Lot Coverage (Max.)	70%
(D)	Open Space (Min.)for multi-structure projects	30%

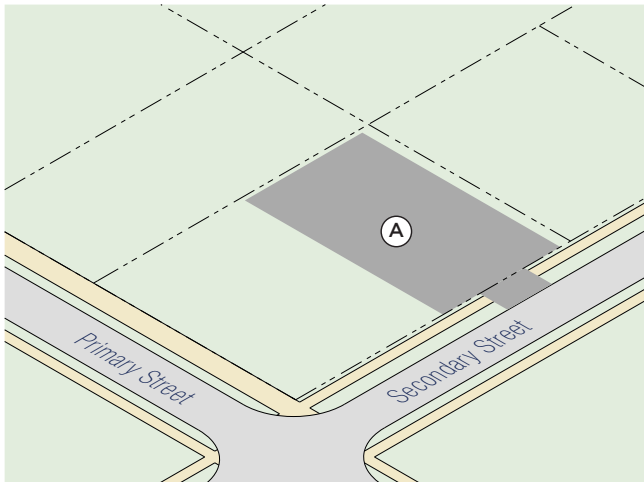
BUILDING PLACEMENT



BUILDING SETBACKS		
(A)	Front Build-to-line or zone	30 feet, or the average of the immediate adjacent structures, whichever is less, to 50 feet
(A)	Side Yard (Min. each side)	5 feet; 25 feet from adjacent residential district
(B)	Side Yard Aggregate (Min.)	10 feet
(C)	Rear Yard (Min.)	10 feet; 50 feet from adjacent residential district

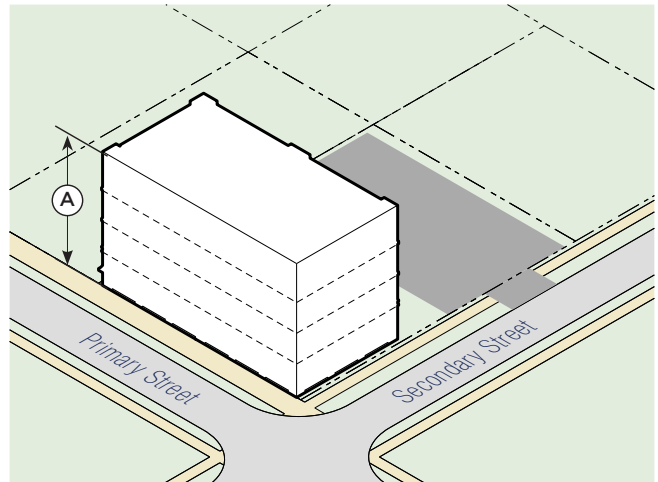
BUILDING FRONTAGES		
	Primary Street	75%
Notes: Primary Street Building Frontages refer to the percentage of front building façade that must be placed on Build-to-Line or within a Build-to-Zone.		

PARKING PLACEMENT



PARKING LOCATION		
A	Parking Location	Rear and/or side of building; parking courtyard interior to building(s); attached or detached garage to rear or side of buildings; podium parking; structured parking Front of building limited to parallel or angle parking ensuring adequate space for pedestrian traffic.
	Parking Setback	Rear: 5 feet; 50 feet from adjacent residential district. Side: 5 feet; 25 feet from adjacent residential district..
	Loading Dock, Loading Spaces, Service Areas: Location	Rear and/or side of building
	Parking Structure Height (Max./max. levels above grade)	48 ft. (4 levels)

HEIGHT AND MASS



BUILDING HEIGHT		
A	Building Height (Max.)	48 ft. (4 Stories)
	Height Transition Zone	Yes
Notes: Height Transition Zone <ul style="list-style-type: none"> • Compliance with Section 1103.29 Height Transition Zone. • Building Heights should gradually increase from single-story to two- to three-story structures. In areas adjacent to residential districts, new buildings should harmonize with prevailing average residential scale. 		

ACCESSORY BUILDING		
	Accessory Building Location	Side or Rear
	Accessory Building Height (Max.)	20 feet

SECTION 1103.17 BUILDING TYPOLOGIES

A. Summary of Building Typologies Table.

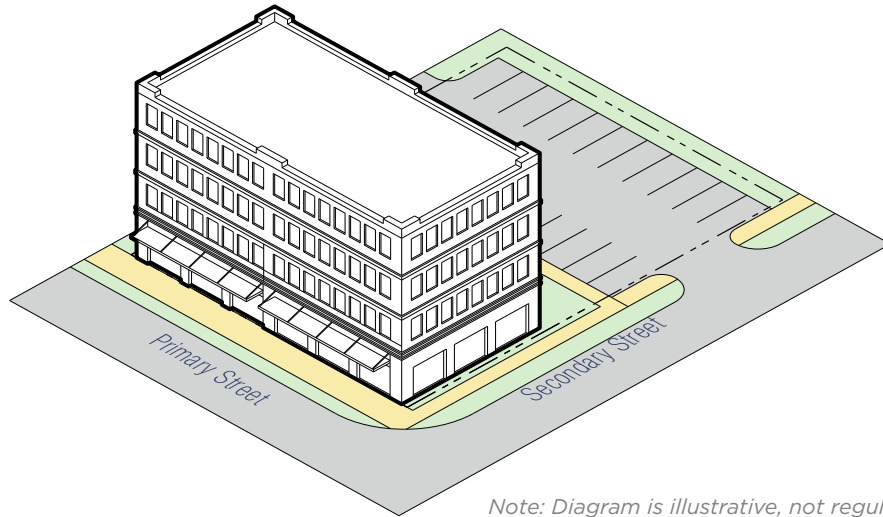
BUILDING TYPOLOGIES		O-DC	O-IE	O-NC	O-SE	O-WA
Retail (Flex Building - Small)		•		•	•	•
Office		•	•	•	•	•
Mixed Use		•		•	•	• ¹
Flex-Office/ Warehouse			•		•	•
Single-Family (Detached)				•		
Townhouse		•		•		
Multifamily		•		• ²		
Single-Family (Attached)		•		•		
Institutional/ Flex		•	•			•
Hotels					•	
Gas Stations		•			•	
Restaurants		•		•	•	•
Height Transition		•	•	•	•	•

¹ Mixed use in this overlay shall not include residential uses.

² Multi-family use only permitted in Mixed Use Building.

SECTION 1103.18 TYPOLOGIES - MIXED USE

A. TYPICAL LOT CONFIGURATION



Note: Diagram is illustrative, not regulatory.

B. DESCRIPTION

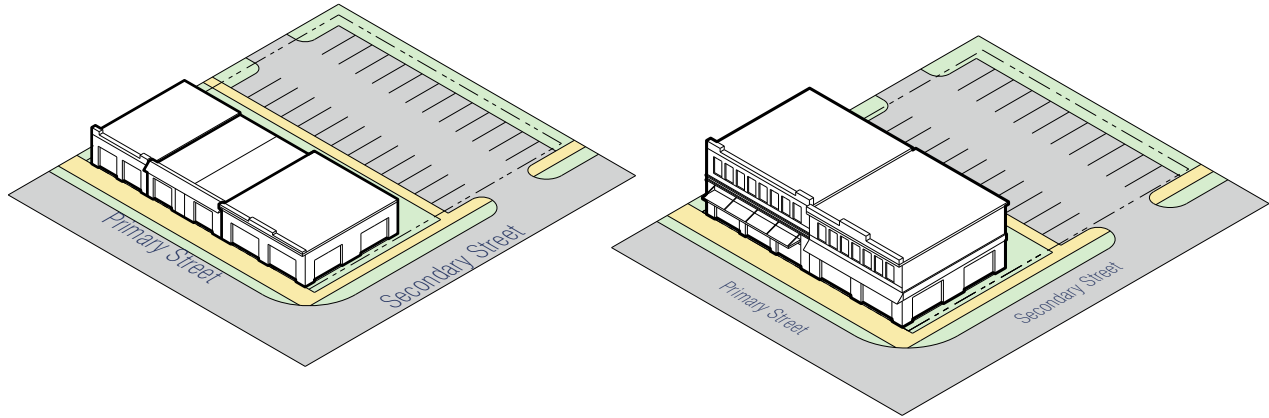
A building that houses two or more of the major use categories: retail, office, and residential. Parking is located in the rear or side of the building and typically accessed from a secondary street or alley when possible. Commercial uses on the first floor shall maintain a front appearance and provide pedestrian entrances from the primary street. Upper floor office or residential uses shall be accessed from the fronting street through a common lobby. Secondary entries may be permitted from the secondary street and parking elevations. Buildings are typically multi-story with uses mixed vertically.

INTENDED CHARACTER IMAGES



SECTION 1103.19 TYPOLOGIES - RETAIL

A. TYPICAL LOT CONFIGURATION



Note: Diagram is illustrative, not regulatory.

B. DESCRIPTION

Consists of attached or detached structures ranging from one to three stories. Structures can include single or mixed-uses. Parking is located in the rear or side of the building and typically accessed from a rear alley when possible.

B. STANDARDS

Upper floor units located in the main building shall be accessed by a common entry and lobby along the front street.

Ground floor suites may have individual entries along the front street or side street.

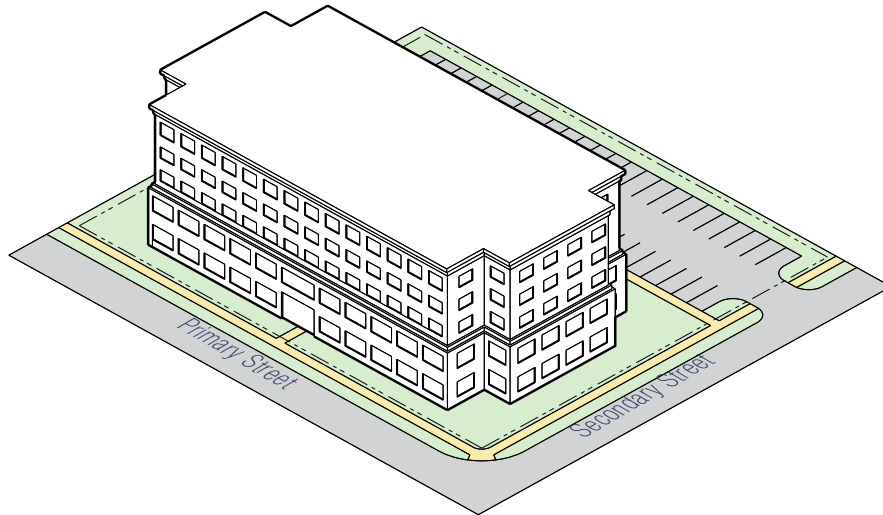
On corner lots, suites in a secondary wing/accessory structure may enter from the side street.

INTENDED CHARACTER IMAGES



SECTION 1103.20 TYPOLOGIES - OFFICE

A. TYPICAL LOT CONFIGURATION



Note: Diagram is illustrative, not regulatory.

B. DESCRIPTION

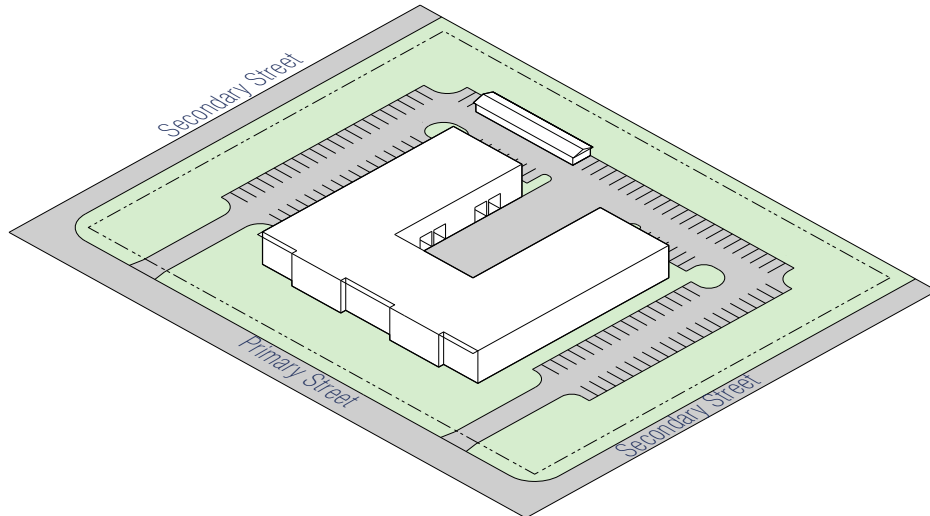
A building used for a single or multiple businesses, service, industry, or like activity, which may include ancillary services. Parking is typically found on the same lot to the side and rear of the building with main access from the primary or secondary street. Main pedestrian entries should be located on the front building elevation; other entries may be provided on secondary street frontage or parking -facing elevations.

INTENDED CHARACTER IMAGES



SECTION 1103.21 TYPOLOGIES - FLEX OFFICE / WAREHOUSE

A. TYPICAL LOT CONFIGURATION



Note: Diagram is illustrative, not regulatory.

B. DESCRIPTION

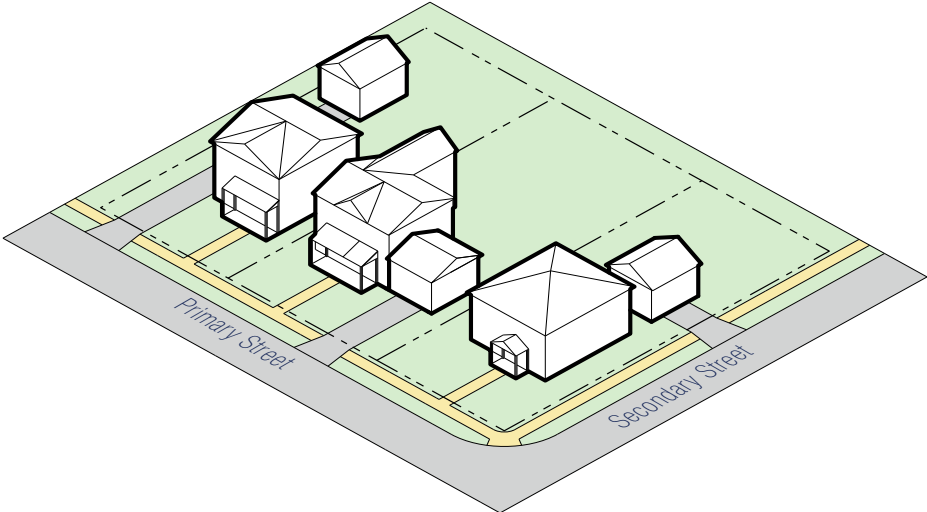
A building in which the front is an office for business and customer interface, and the rear is for light production, fabrication, warehousing, storage with facilities for loading and unloading that are typically located in a side or rear service court with employee and visitor parking in the side and rear yard. Buildings can be “U”- shaped, or several rectangular buildings can be grouped to create the interior, screened, service court.

INTENDED CHARACTER IMAGES



SECTION 1103.22 TYPOLOGIES - SINGLE FAMILY (DETACHED)

A. TYPICAL LOT CONFIGURATION



Note: Diagram is illustrative, not regulatory.

B. DESCRIPTION

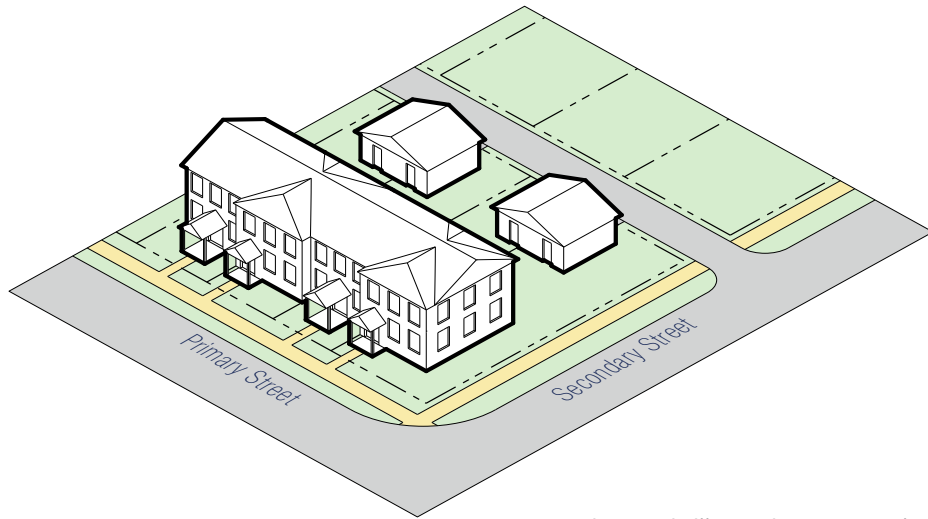
A small detached structure with small side and street setbacks. Garage access is typically from the street, but garages are clearly subordinate to the principal structure.

INTENDED CHARACTER IMAGES



SECTION 1103.23 TYPOLOGIES - TOWNHOMES

A. TYPICAL LOT CONFIGURATION



Note: Diagram is illustrative, not regulatory.

B. DESCRIPTION

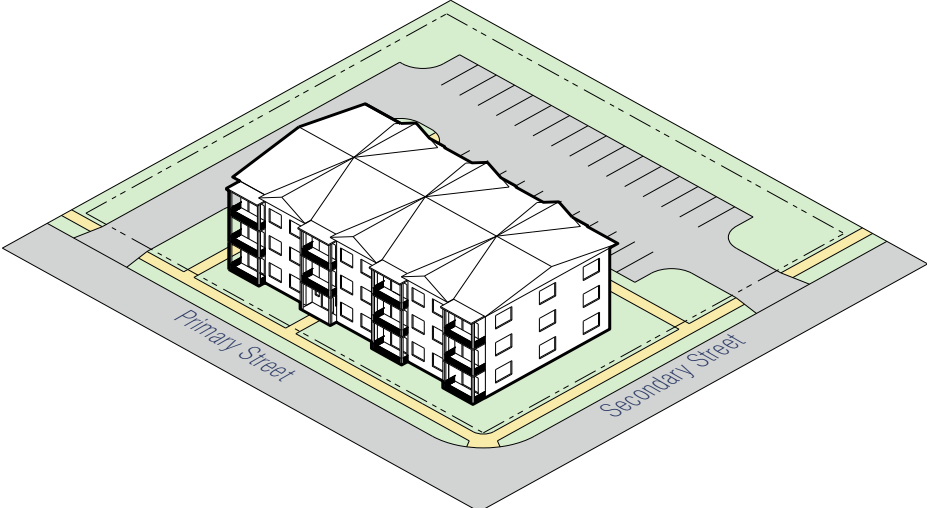
An attached structure with narrow side and street setbacks. Garage access is typically from a rear parking lot or garage, but garages are clearly subordinate to the principal structure, or incorporated into the rear ground floor of the principal structure.

INTENDED CHARACTER IMAGES



SECTION 1103.24 **TYPES - MULTIFAMILY**

A. TYPICAL LOT CONFIGURATION



Note: Diagram is illustrative, not regulatory.

B. DESCRIPTION

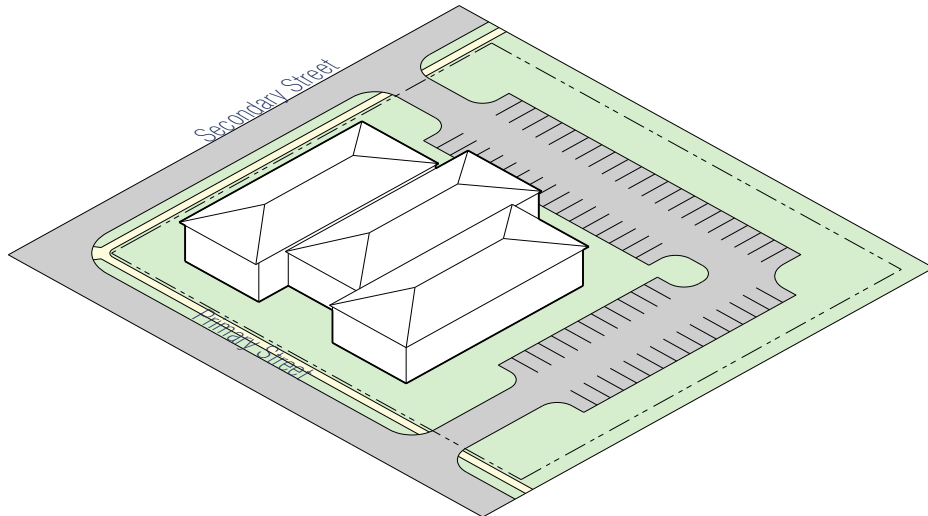
A building with multiple residential units that front an interior corridor, with main access from the primary or secondary street. Units can be next to each other (side-by-side), or stacked (top and bottom).

INTENDED CHARACTER IMAGES



SECTION 1103.25 TYPOLOGIES - INSTITUTIONAL/ FLEX

A. TYPICAL LOT CONFIGURATION



Note: Diagram is illustrative, not regulatory.

B. DESCRIPTION

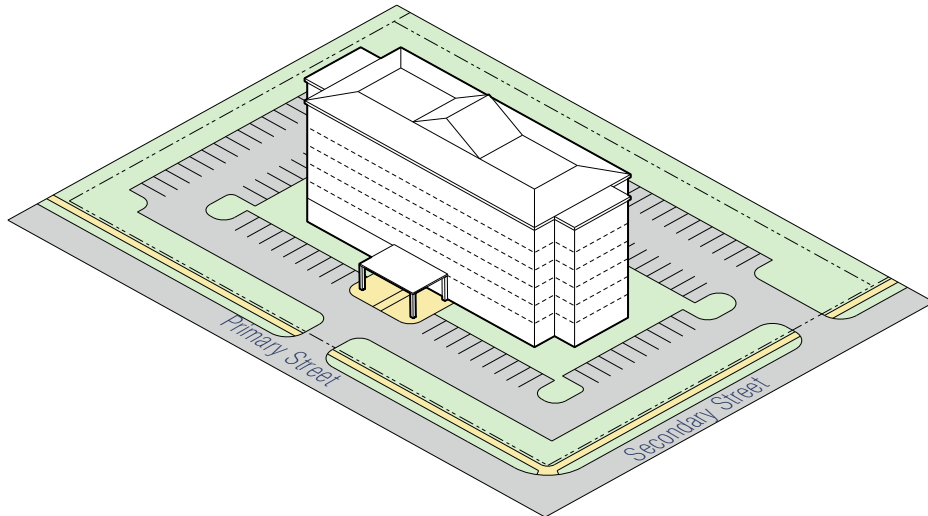
A building that can house uses of an institutional nature (i.e. government building, library, post office, etc.) with parking on the same lot and the main access from the primary street.

INTENDED CHARACTER IMAGES



SECTION 1103.26 TYPOLOGIES - HOTELS

A. TYPICAL LOT CONFIGURATION

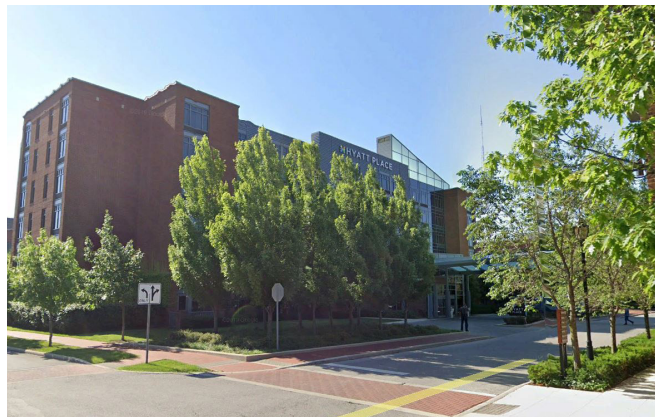


Note: Diagram is illustrative, not regulatory.

B. DESCRIPTION

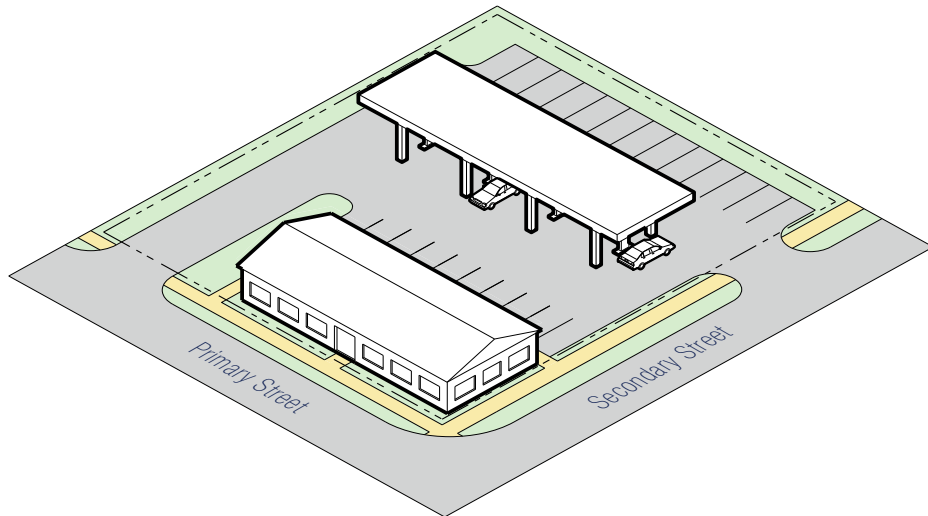
Multi-story structure with central check-in/checkout lobby and porte-cochere. Parking and circulation typically wrap the building, but parking areas between the building and the street shall be minimized, and limited to a single row of parking against the building and a drive aisle on the street-side. All vehicle-use areas shall be screened.

INTENDED CHARACTER IMAGES



SECTION 1103.27 TYPOLOGIES - GAS STATION

A. TYPICAL LOT CONFIGURATION



Note: Diagram is illustrative, not regulatory.

B. DESCRIPTION

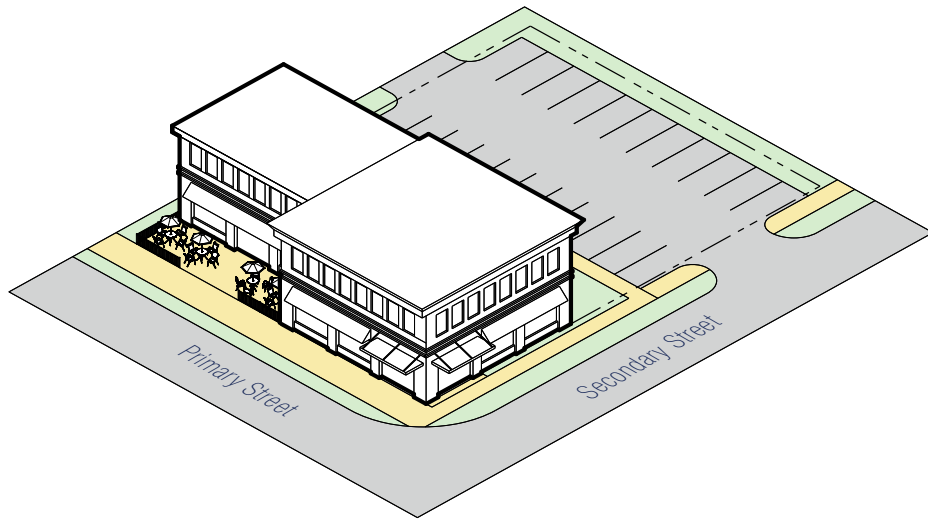
Fuel station with convenience store, typically one-story, single or multi-tenant. Store shall be placed to front on the street and provide a pedestrian entry from the sidewalk. Building shall have storefront windows on the front elevation. Fuel-service and parking shall be located to the rear of the building and screened. Fuel canopy materials shall be compatible with the store-building architecture.

INTENDED CHARACTER IMAGES



SECTION 1103.28 TYPOLOGIES - RESTAURANTS

A. TYPICAL LOT CONFIGURATION



Note: Diagram is illustrative, not regulatory.

B. DESCRIPTION

A single-use or mixed-use structure, with one or multiple stories. The first floor restaurant has corner visibility, windows provide transparency and views to activity. Entrances and patios activate the street elevation. Building form is used to wrap patios and create enclosure. Parking is behind the building and screened from the street.

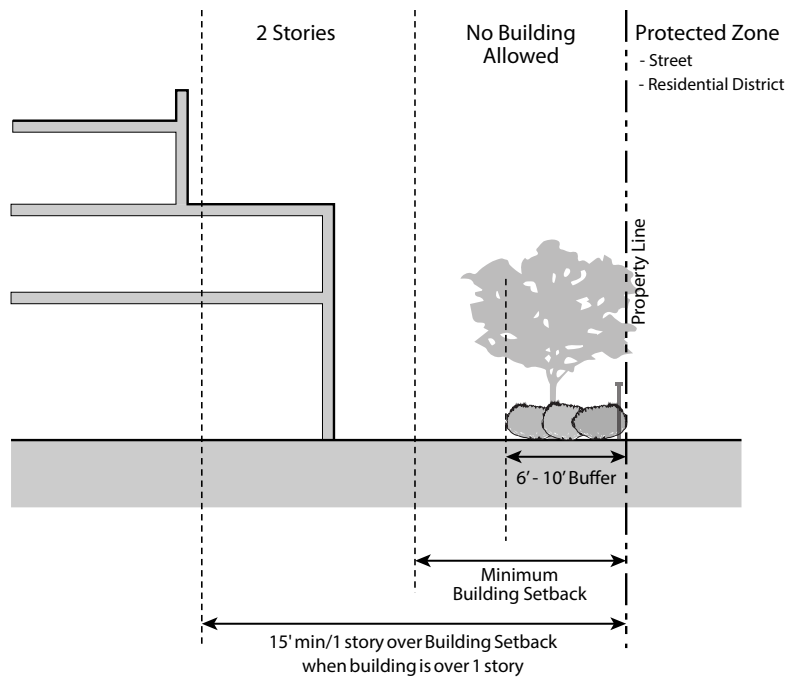
INTENDED CHARACTER IMAGES



SECTION 1103.29 TYPOLOGIES - HEIGHT TRANSITION ZONE

(ORD 2024-84, Passed 1/23/25)

- A. Purpose: The purpose of the height transition zone is to gradually reduce the height of buildings from the central business district or commercial core to adjacent residential areas, creating a more harmonious and visually appealing transition.
- B. Height Restrictions: Within the height transition zone, building heights shall be subject to the following restrictions:
 - (1) Maximum Height: The maximum building height shall be according to the applicable zoning district, which shall be progressively reduced towards the boundaries of the residential district and towards the street.
 - (2) Step-Down Requirements: When buildings are over 1 story, buildings located within the transition zone may be required to step down in height at the rate of one story per 15 feet as they approach the minimum building setback adjacent to the street or Residential District.
 - (3) Exceptions: Buildings such as churches, schools, or public facilities may be exempt from the height restrictions within the transition zone, subject to specific conditions and approvals.



Note: Diagram is illustrative, not regulatory.

Title 04

Use Regulations



Title 04

USE REGULATIONS

SECTION 1104.01 PURPOSE AND GENERAL PROVISIONS

- A. The purpose of this chapter is to establish the list of principal and accessory uses permitted within each of the established zoning districts, to establish the list of conditional and temporary uses that may be considered within each of the established zoning districts, as well as identify any use-specific standards that apply to the principal, accessory, conditional, and temporary uses separate from any standard that applies to development within the applicable zoning district.

SECTION 1104.02 EXPLANATION OF THE TABLE OF USES

This section provides an explanation of all the symbols and information contained within Table 1104.05, which identifies where and how uses are permitted within the City of Tallmadge, Ohio.

A. Permitted Uses

- (1) A "P" in a cell indicates that a use type is allowed by-right in the respective zoning district. Permitted uses are subject the specific use standards in this section and to all other applicable standards of this code.
- (2) Permitted uses are approved administratively by the Zoning Administrator through the zoning certificate procedure unless subject to a development plan review (See Chapter 1102.) or additional reviews (e.g., certificate of appropriateness, variance, etc.).

B. Conditional Uses

- (1) A "C" in a cell indicates that a use may be permitted if approved by the PZC through the conditional use review procedure (See Chapter 1102). Conditional uses are subject to all other applicable standards of this code.
- (2) The existence or lack of additional use-specific standards in this code shall not be implied to be the only standards the use is required to meet. Any conditional use listed in the table shall be subject to the general review standards for all conditional uses established in Chapter 1102.

C. Accessory Uses

- (1) An "A" in a cell indicates that a use may be permitted by right or if approved subject to the specific use standards in this section and to all other applicable standards of this code.

D. Prohibited Uses

- (1) A blank cell in a base zoning district indicates that a use is prohibited in the respective zoning district. A blank cell in an overlay district does not indicate a prohibition of use and makes no modification to the underlying base district.

- (2) Any use not specifically listed as permitted, permitted with standards, or permitted as a conditional use shall be a prohibited use in these zoning districts and shall only be permitted upon amendment of this code and/or the zoning map as provided in Chapter 1102, or upon a finding by the Zoning Administrator that a use is substantially similar to a specified permitted, permitted with standards, or permitted as a conditional use, as provided for in Section 1104.05, below.

E. Permitted Accessory and Temporary Uses

The following is an explanation of Table 1104.06.

- (1) The symbols for permitted uses (P), are defined in the same manner as Section 1104.02. Temporary uses (T) are uses that are limited by a specified period of time.
- (2) Prohibited Uses: A blank cell indicates that a use is prohibited in the respective zoning district.
- (3) Yards Permitted: This column identifies within which yards the use may be permitted. See the use- specific standards for any restrictions related to placement in individual yards.
- (4) Zoning Certificate Required: A “Yes” in the “Zoning Certificate Required” column shall mean that the applicable accessory structure requires a zoning certificate in order to be constructed.
- (5) Lot Coverage: A “Yes” in the “Lot Coverage” column shall mean that the footprint of the applicable accessory structure shall be calculated as part of the maximum lot coverage standards established in Chapter 1103.

F. Essential Services

Essential services shall be permitted as authorized under any franchise or that may be regulated by any law of the State of Ohio, it being the intention hereof to exempt such essential services from the application of the Zoning Code.

SECTION 1104.03 ACCESSORY AND TEMPORARY USES

- A. An accessory use or structure shall be incidental to the primary use of the lot and shall not alter the character of the principal use.
- B. Accessory uses and structures shall be constructed on the same lot as the principal use that it serves.
- C. No accessory structure shall be constructed on any lot until the construction of the principal structure has commenced. In cases where the main or principal structure is demolished, an existing accessory structure shall be allowed to remain on the lot or property without the main structure to which it is supposed to be an accessory on the following conditions:
 - (1) Up to 12 months consistent with that allowed by section 1102.19: Nonconformities.
 - (2) A zoning certificate and building permit is obtained for the reconstruction of the main or principal structure, the construction of which shall take place within 12 months. Failure to reconstruct the main or principal structure will be an automatic cause for the removal of the accessory structure at the owner’s expense.
- D. Small accessory structures such as doghouses, benches, garden decorations, barbeque equipment, etc. shall be exempt from the provisions of this section provided they do not have a footprint that exceeds 50 square feet.
- E. Gardens and the raising of crops for the personal use of the residents, tenants, or property owners, may be grown in any yard, without a permit.

- F. An accessory structure that is attached to the principal building shall be considered an integral part of the principal building and shall comply with the site development standards and all other development standards for the principal building in the applicable zoning district. Any accessory structure shall be considered as an integral part of the principal building if it is connected to the principal building by common walls. However, connection by a breezeway or roof shall not make the accessory structure, nor the breezeway or roof, considered as an integral part of the principal structure.
- G. The accessory use regulations of this chapter shall not apply to any public park lands owned by the City, Summit County, Portage County, or the State of Ohio.
- H. Height Limit: Unless otherwise stated, the maximum height of a detached accessory structure shall be 20 feet. In no case shall an accessory structure exceed the height of the principal building.
- I. Number and Size Requirements
 - (1) Residential Lots
 - i. Accessory Structures for Lots under 1.0 acres:
 - (a) The maximum lot coverage of all accessory structures shall not exceed 50 percent of the total area of the side and rear yards, provided that, in residential districts, the total floor area does not exceed a maximum of 2,500 square feet.
 - (b) Accessory uses and structures shall not exceed 60 percent of the gross floor area (GFA) of the principal use.
 - ii. Accessory Structures for Lots of 1.0 acres or more
 - (a) The maximum lot coverage of all accessory structures shall not exceed a maximum of 2,500 square feet.
 - (2) Within nonresidential districts, accessory structures, except for carports, are prohibited within the side and rear yards of lots adjacent to a residential district. The total floor area of all accessory structures shall not exceed 2,500 square feet.
 - i. For computing the total area, if a detached accessory building is connected to the principal building by a breezeway or other similar structure, the ground area of such breezeway shall be considered as a part of the accessory building and shall be included in the computation.
 - ii. Accessory structures as indicated in Table 1104.06 Accessory Uses shall be considered as part of the maximum lot coverage requirements, including other accessory buildings similar in nature to the identified structures, as determined by the Zoning Administrator.
- J. Setback and Location Requirements
 - (1) Unless otherwise required in this section, accessory uses and structures less than or equal to 200 sq.ft. shall be set back a minimum of five feet from all lot lines. Setbacks for accessory uses and structures more than 200 sq.ft. shall be the same as the setbacks required for the principal building.
 - (2) Additional setbacks may be required from the principal building, adjacent structures, or streets based on the applicable building or fire code regulations.
 - (3) No detached accessory structure shall be located less than ten feet from the principal building. If the separation of the accessory and main structure is less than ten feet, the accessory structure shall be protected with a fire-resistant material and shall conform to the same yard requirements as the principal building.

- (4) Detached accessory structures shall not be located in the front yard, except that porches, patios, and decks associated with the primary entrance of a principal building shall be permitted, and roadside stands may be permitted subject to use-specific standards. Detached accessory structures may be located in the required rear yard and the side yard when behind the front façade of the principal building.

K. Prohibited Structures for Accessory Uses

- (1) Except as provided in code, the use of inflatable garages or storage structures, portable carports or garages that are not permanently anchored into a foundation, temporary structures as defined in this chapter, portable containers, shipping containers, and semi-tractor trailers used for storage (with or without wheels) shall not be used as permanent accessory structures in any zoning district.

SECTION 1104.04 SIMILAR USE DETERMINATION AND UNLISTED USES

- A. When a proposed land use is not explicitly listed in Table 1104.05, the Zoning Administrator shall determine whether it is reasonably included in the definition of a listed use, or that the proposed use meets the following criteria to the extent that it should be treated as a permitted or conditional use in the district.
- (1) The use is not specifically listed in any other zoning district.
 - (2) The use is generally consistent with the intent of the zoning district and this chapter.
 - (3) The use will not materially impair the present or potential use of other properties within the same district or bordering districts.
 - (4) The use has no greater potential impact on surrounding properties than those listed in the district in terms of aesthetics, traffic generated, noise, potential nuisances and other impacts related to health, safety and welfare.
 - (5) The use will not adversely affect the relevant elements of the Comprehensive Plan.
- B. The Zoning Administrator's written determination shall be provided to the applicant and may be appealed to the Planning and Zoning Commission.
- (1) In addition to the other regulations and standards set forth in this Chapter, the following standards shall be considered by the Zoning Administrator and the PZC when making a determination that a use is substantially similar to a permitted or a conditionally permitted use within a specific district:
 - i. The nature, predominant characteristics, and intensity of the proposed uses in relation to those uses specified by this Code as being permitted, or in the case of a conditionally permitted use, in that district.
 - ii. The size, dimensional requirements, parking requirements, traffic generation potential, and other regulatory considerations normally associated with uses as specified in this Code.
 - (2) Similar conditionally permitted uses shall follow the conditional use procedures set forth in this Chapter.

SECTION 1104.05 PRINCIPAL PERMITTED AND CONDITIONAL USES

A. Agricultural Uses

KEY FOR TABLE

P: Permitted Use

C: Conditionally Permitted Use

A: Accessory Use

USE	R1	R2	R3	R4	R5	R6	C3	C4	C5	I1	WEST AVE-0	SOUTHEAST GATEWAY-0	NEIGHBORHOOD CENTER-0	INNOVATION EMPLOYMENT-0	DESIGN CONTROL OD	USE-SPECIFIC STANDARDS
Agriculture	P															1104.07B (2)
Agricultural Processing and Storage	C															
Agroforestry	C															1104.07B (3)
Plant Greenhouses	C									P						
Stable	C															1104.07B (4)
Urban Agriculture - Apiculture	P	P	A	A	A		P	P	P	P						1104.07B (5)
Urban Agriculture - Community Garden	C	C	C	C	C	C	C	C	C	C						1104.07B (6)
Urban Agriculture - Poultry and Fowl	P	P	A	A	A											1104.07B (7)
Urban Agriculture - Ungulates	P	P	P	P	P											1104.07B (8)

* A blank cell in an overlay district does not indicate a prohibition of use and makes no modification to the underlying base district.

B. Residential Uses

KEY FOR TABLE

P: Permitted Use

C: Conditionally Permitted Use

A: Accessory Use

USE	R1	R2	R3	R4	R5	R6	C3	C4	C5	I1	WEST AVE-0	SOUTHEAST GATEWAY-0	NEIGHBORHOOD CENTER-0	INNOVATION EMPLOYMENT-0	DESIGN CONTROL OD	USE-SPECIFIC STANDARDS
Dwelling - Multifamily					P								P		P	1104.07C (1)
Dwelling - Multifamily, Complex													P		P	1104.07C (2)
Dwelling - Single Family, Attached						P							P		P	1104.07C (3)
Dwelling - Single Family, Detached	P	P	P	P		P									P	
Dwelling - Single Family, Flats													P		P	
Dwelling - Townhouse													P		P	1104.07C (4)
Dwelling - Two-Family					P								P		P	1104.07C (5)

* A blank cell in an overlay district does not indicate a prohibition of use and makes no modification to the underlying base district.

Notes:

- (1) Except where permitted as a Bed and Breakfast Establishment, transient living shall not be permitted in any residential district.

C. Public and Institutional Uses

KEY FOR TABLE

P: Permitted Use

C: Conditionally Permitted Use

A: Accessory Use

USE	R1	R2	R3	R4	R5	R6	C3	C4	C5	I1	WEST AVE-0	SOUTHEAST GATEWAY-0	NEIGHBORHOOD CENTER-0	INNOVATION EMPLOYMENT-0	DESIGN CONTROL OD	USE-SPECIFIC STANDARDS
Cemeteries	C															1104.07D (1)
Educational Institutions	C	C	C	C	C		C			A						1104.07D (3)
Government owned buildings and facilities	C	C	C	C	C		C	C	C	C						1104.07D (4)
Hospitals							C	C	C							1104.07D (5)
Off-street public parking lot and garage							P	P								1104.07D (6)
Public utilities, rights-of-way and pertinent structures	C	C	C	C	C		C	C	C	C						1104.07D (7)
Recreation Facility - Non-commercial	C	C	C	C	C		C	C	C	C						1104.07D (8)
Religious places of worship	C	C	C	C	C		C	C								1104.07D (9)
Telecommunications	C	C	C	C	C	C	C	C	C	C						1104.07D (10)

* A blank cell in an overlay district does not indicate a prohibition of use and makes no modification to the underlying base district.

D. Commercial Uses

KEY FOR TABLE

P: Permitted Use

C: Conditionally Permitted Use

A: Accessory Use

USE	R1	R2	R3	R4	R5	R6	C3	C4	C5	I1	WEST AVE-0	SOUTHEAST GATEWAY-0	NEIGHBORHOOD CENTER-0	INNOVATION EMPLOYMENT-0	DESIGN CONTROL OD	USE-SPECIFIC STANDARDS
Accessory Structure	A	A	A	A	A	A	A	A	A	A						
Amusement Arcade							P									1104.07E (1)
Adult Amusement Arcades										C						1104.07E (2)
Adult Use Cannabis and/or Medical Marijuana Dispensaries							P	P			P					1104.07E (2.1)
Adult Use Cannabis and/or Medical Marijuana Cultivator, Laboratory, Processor Facilities										P	P					1104.07E (2.1)
Animal Care - General Services								C	P							1104.07E (3)
Animal Care - Kennel	C									P						1104.07E (6)
Animal Care - Veterinary Offices	C						P	P	P					C		1104.07E (4)
Animal Care - Veterinary Urgent Care and Hospitals							P	P	P	P						1104.07E (5)
Antique Shop							P				P					
Auction Facility										C						
Automotive - Car Wash							C	C	A							1104.07E (8)
Automotive - Filling stations							C	P	P							1104.07E (9)
Automotive - Sales and Leasing								P			P					1104.07E (7)
Automotive - Service: Light								P		P	P					1104.07E (11)
Automotive - Service: Heavy										P						1104.07E (10)
Bed and Breakfast Establishments	C	C	C	C	C		C	C				P		P		1104.07E (12)
Beverage - Alcoholic Production											P					

* A blank cell in an overlay district does not indicate a prohibition of use and makes no modification to the underlying base district.

04 | Use Regulations

D. Commercial Uses (cont'd.)

KEY FOR TABLE

P: Permitted Use

C: Conditionally Permitted Use

A: Accessory Use

USE	R1	R2	R3	R4	R5	R6	C3	C4	C5	I1	WEST AVE-0	SOUTHEAST GATEWAY-0	NEIGHBORHOOD CENTER-0	INNOVATION EMPLOYMENT-0	DESIGN CONTROL OD	USE-SPECIFIC STANDARDS
Beverage - Brewing and Distilling										P				P		
Beverage - Distribution												P		P		
Beverage - Microbrewery, Microdistillery or Microwinery											P		P		P	1104.07E (14)
Beverage - Non-Alcoholic Production										P				P		
Beverage Sales - Liquor and Beer Sit Down/Bar Establishment											C		C		C	1104.07E (13)
Clubs and Lodges							C	C								1104.07E (15)
Contractor Services							C	C		P						1104.07E (16)
Day Care - Child or Adult	A	A					C	C		A	P					1104.07E (17)
Drive-in establishments								P				C	C		C	1104.07E (19)
Event Center - Barn	C															1104.07E (15)
Event Center - Private Events and Conferences											P	P				1104.07E (15)
Event Center - Public Events and Conferences											P	P				1104.07E (15)
Exercise and Fitness							P	P								1104.07E (18)
Financial Institutions							P	P								
Food Sales - Bakery											P		P		P	
Food Sales - Farm Market											P		P		P	1104.07E (21)
Food Sales - Large Format Grocery											P		P			
Food Sales - Small Format Grocery											P	P	P		P	
Food Service - Fast Casual Restaurant											P	P	P		P	

* A blank cell in an overlay district does not indicate a prohibition of use and makes no modification to the underlying base district.

D. Commercial Uses (cont'd.)

KEY FOR TABLE

P: Permitted Use

C: Conditionally Permitted Use

A: Accessory Use

USE	R1	R2	R3	R4	R5	R6	C3	C4	C5	I1	WEST AVE-0	SOUTHEAST GATEWAY-0	NEIGHBORHOOD CENTER-0	INNOVATION EMPLOYMENT-0	DESIGN CONTROL OD	USE-SPECIFIC STANDARDS
Food Service - Fast Food Restaurant							P	P	P							1104.07E (20)
Food Service - Full Service Restaurant							P	P	P		P	P	P	P	P	
Funeral Home							P	P								
Gallery - Art											P		P		P	
Hotel and motel												P				1104.07E (22)
Live/ Work Unit							C	C	C							1104.07E (23)
Medical - Clinic							P	P	P							
Medical - Emergency Services							C	P	P	P						
Medical - Office							P	P	P							
Mixed Use Building											P	P	P	P	P	1104.07E (24)
Nursing Facility								C								1104.07E (25)
Office							P	P		A						
Office - Data Processing/Call Center													P			
Office - Industrial Office							P	P		P						
Office, Flex										P						1104.07E (26)
Personal services							P	P								
Public storage garage or yards										C						1104.07E (27)
Recreation Facility - Commercial Indoor, excluding amusement arcades							P	P	P	P						1104.07E (28)

* A blank cell in an overlay district does not indicate a prohibition of use and makes no modification to the underlying base district.

04 | Use Regulations

D. Commercial Uses (cont'd.)

KEY FOR TABLE

P: Permitted Use

C: Conditionally Permitted Use

A: Accessory Use

USE	R1	R2	R3	R4	R5	R6	C3	C4	C5	I1	WEST AVE-0	SOUTHEAST GATEWAY-0	NEIGHBORHOOD CENTER-0	INNOVATION EMPLOYMENT-0	DESIGN CONTROL OD	USE-SPECIFIC STANDARDS
Recreation Facility - Commercial Outdoor								P	P				P			1104.07E (28)
Recreational Vehicle Sales										P						1104.07E (29)
Retail - Convenience with gasoline											P	P			C	1104.07E (31)
Retail - Convenience without gasoline											P				C	
Retail: Garden Center - Indoor and Outdoor										P	P					
Retail: Building materials stores							C	C		P						
Retail - Large Format											P					
Retail - Medium Format											P					
Retail - Pharmacy											P				P	
Retail - Shopping Center - Enclosed							C	P			P					
Retail - Shopping Center - Outdoor							C	P			P					1104.07E (32)
Retail - Small Format											P		P		P	
Retail Sales							P	P	P	A						1104.07E (30)
Sexually Oriented Business										C						1104.07E (33)
Similar Use	C	C	C	C	C	C	C	C	C	C						
Vape and/or Smoke Establishment																1104.07E (33.1)
Vape and/or Smoke Shop																1104.07E (33.2)
Vehicles, equipment and tool sales or rental, with service and repair in enclosed buildings									P		P					1104.07E (34)

* A blank cell in an overlay district does not indicate a prohibition of use and makes no modification to the underlying base district.

E. Industrial Uses

KEY FOR TABLE

P: Permitted Use

C: Conditionally Permitted Use

A: Accessory Use

USE	R1	R2	R3	R4	R5	R6	C3	C4	C5	I1	WEST AVE-0	SOUTHEAST GATEWAY-0	NEIGHBORHOOD CENTER-0	INNOVATION EMPLOYMENT-0	DESIGN CONTROL OD	USE-SPECIFIC STANDARDS
Crematory										C						1104.07F (1)
Food Service - Processing												P		P		1104.07F (2)
Fuel distribution station										C						1104.07F (3)
Laboratories and processing										P						1104.07F (4)
Manufacturing										P						1104.07F (5)
Manufacturing - Artisan/ Small Batch								P				P		P		1104.07F (6)
Motor freight garage										C						1104.07F (7)
Research and development										P						1104.07F (8)
Technology Park								P		P						1104.07F(9)
Warehousing and Distribution										P						1104.07F (10)
Wholesale establishment										P						1104.07F (11)

* A blank cell in an overlay district does not indicate a prohibition of use and makes no modification to the underlying base district.

SECTION 1104.06 ACCESSORY AND TEMPORARY USES

A. Accessory and Temporary Uses

KEY FOR TABLE

A: Accessory Use

T: Temporary Use

USE	R1	R2	R3	R4	R5	R6	PRD	C3, C4, C5	I-1	WEST AVE-0	SOUTHEAST GATEWAY-0	NEIGHBORHOOD CENTER-0	INNOVATION EMPLOYMENT-0	DESIGN CONTROL OD	YARDS PERMITTED F = FRONT S = SIDE R = REAR"	ZONING CERTIFICATE REQUIRED	LOT COVERAGE	USE-SPECIFIC STANDARDS
Accessibility Ramps	P	P	P	P	P	P	P	P	P	P	P	P	P	P	F, S, or R	No	No	1104.08A
Alcoholic Beverage Consumption (ABC)										P	P	P		P	F, S, or R	Yes	No	1104.08Y
Amateur Radio Towers and Antennae	P	P	P	P	P	P	P	P	P	P	P	P	P	P	S, R	Yes	No	1104.08B
ATM								P	P	P	P	P	P	P	F, S, or R	Yes	Yes	1104.08C
Basketball Hoops	P	P	P	P	P	P	P	P	P						F, S, or R	No	No	1104.08D
Bike and Skateboard Ramps	P	P	P	P	P	P	P	P	P						R	Yes	Yes	1104.08E
Crematory								P	P									1104.07F (1)
Columbarium	P or C	C	C	C	C	C	C	C	C							Yes	Yes	1104.07D (2)
Community Activity or Special Event	T	T	T	T	T	T	T	T	T	T	T	T	T	T		Yes	No	1104.09C (1)
Construction Structures	T	T	T	T	T	T	T	T	T	T	T	T	T	T		Yes	No	
Detached Garages and Carports	P	P	P	P	P	P	P								S or R	Yes	Yes	
Detached Storage/ Utility Sheds, Gazebos, Pool Houses, and other Similar Buildings	P	P	P	P	P	P	P								S or R	Yes	Yes	
Drive-Through Facilities								P	P									1104.08F
Fences Walls, and Hedges	P	P	P	P	P	P	P	P	P	P	P	P	P	P	F, S, or R	See text	No	1104.08G
Garage/ Yard Sale	T	T	T	T	T	T	T								F	No	No	
Gravel Surface Parking Lots	T	T	T	T	T	T	T	T	T	T	T	T	T	T	NA	Yes	No	

* A blank cell in an overlay district does not indicate a prohibition of use and makes no modification to the underlying base district.

A. Accessory and Temporary Uses (cont'd.)

KEY FOR TABLE										A: Accessory Use					T: Temporary Use				
USE	R1	R2	R3	R4	R5	R6	PRD	C3, C4, C5	I-1	WEST AVE-0	SOUTHEAST GATEWAY-0	NEIGHBORHOOD CENTER-0	INNOVATION EMPLOYMENT-0	DESIGN CONTROL OD	YARDS PERMITTED F = FRONT S = SIDE R = REAR"	ZONING CERTIFICATE REQUIRED	LOT COVERAGE	USE-SPECIFIC STANDARDS	
Ground-Mounted Solar Energy Systems	P	P	P	P	P	P	P								S or R	Yes	Yes	1104.08R	
Helistop/ Heliport	C							C	C						S or R	Yes	Yes	1104.08H	
Home Occupations	P	P	P	P	P	P	P			P		P		P	NA	Yes	No	1104.08I	
Nursery Schools or Day Care Centers (Children or Adults)	P	P	P	P	P	P		P	P	P	P	P	P	P	NA	Yes	Yes	1104.08J	
Outdoor Dining								P		P	P	P	P	P	F, S, or R	Yes	Yes	1104.08K	
Outdoor Displays and Sales								P			P			P	F, S, or R	Yes	Yes	1104.08L	
Outdoor Storage and Bulk Sales								P	P				P		S, R	Yes	Yes	1104.08M	
Outdoor Storage within Accessory Structure									P						R	Yes	Yes	1104.08N	
Outdoor Storage of Vehicles and Equipment									P						S, R	Yes	Yes	1104.08N	
Outdoor Vending Machines and Drop-Off Boxes								P	P						F, S, or R	No / Yes	Yes	1104.08O	
Playsets, Treehouses, and Trampolines	P	P	P	P	P	P	P								R	No	No	1104.08Q	
Porches, Patios, and Decks	P	P	P	P	P	P	P			P		P		P	F, S, or R	Yes	Yes	1104.08P	
Real Estate Sales/ Model Homes	T	T	T	T	T	T	T	T	T	T	T	T	T	T	NA	Yes	Yes		
Renewable Energy Equipment	P	P	P	P	P	P	P	P	P	P	P	P	P	P	S, R	Yes	No	1104.08R	
Renewable Energy Equipment, Wind									P				P		R	Yes	No	1104.08R	
Roadside Stands	P	P	P												F		No	1104.08S	

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04 | Use Regulations

A. Accessory and Temporary Uses (cont'd.)

KEY FOR TABLE

A: Accessory Use

T: Temporary Use

USE	R1	R2	R3	R4	R5	R6	PRD	C3, C4, C5	I-1	WEST AVE-0	SOUTHEAST GATEWAY-0	NEIGHBORHOOD CENTER-0	INNOVATION EMPLOYMENT-0	DESIGN CONTROL OD	YARDS PERMITTED F = FRONT S = SIDE R = REAR"	ZONING CERTIFICATE REQUIRED	LOT COVERAGE	USE-SPECIFIC STANDARDS
Satellite Dishes	P	P	P	P	P	P	P	P	P	P	P	P	P	P	NA	No	No	1104.08T
Swimming Pool - Public, Community, or Club Swimming Pool	P	P	P	P	P	P	P	P	P					P				1104.08V
Swimming Pools - Private Residential Above-ground	P	P	P	P	P	P	P								R	Yes	Yes	1104.08U
Swimming Pools - Private Residential In-ground	P	P	P	P	P											Yes	Yes	1104.08U
Temporary Outdoor Sales									T	T	T	T	T	T	F	Yes	No	
Temporary Storage on a Portable Container	T	T	T	T	T	T	T	T	T	T	T	T	T	T	F, S, or R	Yes	No	
Tennis and Other Recreational Courts	P	P	P	P	P										R	Yes	Yes	1104.08W
Type-B Day Care Home (1-6 Children)	P	P	P	P	P	P	P								NA	No	No	1104.08X

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SECTION 1104.07 PRINCIPAL AND CONDITIONAL USE-SPECIFIC STANDARDS

A. PURPOSE AND APPLICABILITY

- (1) The regulations of Urban Agricultural Use are established to permit the keeping of farm animals and bees in a manner that prevents nuisances to occupants of nearby properties and prevents conditions that are unsanitary or unsafe. This section provides site planning, development, and/or operating standards for certain land uses that are permitted with standards or conditionally permitted per 1104.05.
- (2) The land uses and activities covered by this section shall comply with the applicable standards for the specific use in all districts unless otherwise specified, in addition to all other applicable provisions of this code including, but not limited to, parking, signs, landscaping, open space, etc.
- (3) Where site development standards for a specific use are not listed, such use shall comply with the site development standards for the applicable zoning district. See Chapter 1103.

B. URBAN AGRICULTURAL USES

(1) General to all Urban Agriculture uses

- i. The City may at its sole discretion require posting a bond or other surety to guarantee restoration of any City roads.
- ii. No loading or unloading of vehicles, equipment or timber product may take place upon City roads. Such activities shall be conducted entirely within the boundaries of the harvest site.
- iii. All roadway access upon entering upon a City road shall have 50 feet long x 15 feet wide #4 stone apron installed.
- iv. Any and all dirt, mud or debris shall be cleaned up off all of the City roads immediately or the City will invoice the property owner for the clean-up charges.

(2) Agriculture

- i. The minimum lot area for the use shall be five acres.
- ii. All structures designed to house livestock, either permanently or temporarily, shall be set back a minimum of 200 feet from all lot lines. All other structures related to the agricultural use of the property shall be set back a minimum of 50 feet from all lot lines with the exception of fences or walls.
- iii. Raising of crops: edges of the cultivated area shall be setback a minimum of 5 feet from any property line and right-of-way, and shall not encroach within any sight-visibility triangle at intersections or driveways.

(3) Agroforestry

The regulations of Urban Agricultural Use are established to permit tree harvesting practices and allows for and encourages proper forest management that prevents nuisances to occupants of nearby properties and prevents conditions that are unsanitary or unsafe.

- i. It shall be the responsibility of each landowner on whose land tree harvesting is to be carried out to develop or have developed a forest management plan and to submit prior notification to the City. It shall be the joint responsibility of the landowner and the operator to see that the provisions of the forest management plan are properly carried out.

- ii. No clear cutting of any tract will be permitted. Tree harvesting shall be done on a selective thinning basis.
 - iii. The Forest Management Plan at a minimum shall address the following:
 - (a) Forest management plan must be developed by a professional consulting forester.
 - (b) Address and comply with all erosion and sediment control standards under Part 9 of the Tallmadge Codified Ordinances.
 - (c) Address and comply with all Riparian Setbacks under Chapter 1110.09.
 - (d) Stream Crossings.
 - (e) Identification of the owner of the parcel with address.
 - (f) Acres of eligible forest land and total acreage in each parcel.
 - (g) The owner's general timber harvesting objectives.
 - (h) Maps that include the following:
 - 1) Property boundaries indicated on an aerial photo.
 - 2) Topography lines.
 - 3) North Arrow on all maps
 - 4) Layout of stands that comprise all the forest land committed to forest management.
 - (i) A listing of the stands that comprise all of the forest to be committed to forest management. The listing will consist of the following:
 - 1) Tree Species to be harvested
 - 2) Stand number or letter
 - 3) Diameter class or classes
 - 4) Estimated acreage
 - iv. Buffering:
 - (a) As part of the Permanent Clean-up Section: No tops or slash shall be left within a 25' distance to neighboring properties.
 - (b) No tops or slash shall be left within 50' distance of any public roadway.
 - v. Lot Size: Minimum one (1) acre.
 - vi. Compliance with "timber harvesting" chapter in Part 9 of the Codified Ordinances.
- (4) **Stable**
- i. Public stables, including riding academies and hunt clubs, are subject to the following requirements:
 - (a) Minimum Area. The uses may be permitted on parcels of land that are at least five contiguous acres or more in area.
 - (b) Riding Areas. Bridle paths, and all other riding areas, shall be within the confines of the proposed property.
 - (c) Building Setbacks. The stable shall be so situated on the site so as to be at least 300 feet from any residences on abutting parcels or lots.

- (d) Outdoor Use Area Setbacks. Paddocks, instruction areas, pastures, and areas for the purpose of feeding horses shall be confined to the site and shall be located at least 30 feet from the perimeter of the site
 - (e) Access and Frontage. Ingress and egress to the stable area shall be provided solely through the parcel in question, which shall abut a public right of way.
 - (f) Parking. Adequate off-street parking facilities shall be provided on the site, located at least 100 feet from the perimeter of the site.
 - (g) Manure shall be kept in tightly covered boxes and shall be regularly sprayed or limed so as to control flies and other insects.
 - (h) Outdoor Lighting. Floodlights or any other source of artificial lighting provided to facilitate night riding activities shall be properly shielded or directed away from residences or abutting properties and shall be turned off nightly at 11 pm.
- ii. Private stables ancillary to a private residence are subject to the following:
- (a) Public Hearing Required. Prior to granting a permit the PZC shall hold a public hearing to receive public comment regarding the effect that establishment of a private stable will have on the surrounding neighborhood. The public hearing shall be held in accordance with the procedures of Chapter 1102.
 - (b) Maximum Number of Animals. A minimum of one acre of land shall be provided for the first horse. A minimum of 5 acres of land shall be required for more than one horse. The property shall be under control or use of the permit holder with either title or lease.
 - (c) Outdoor Use Area Locations and Setbacks. Confinement areas and/or stables shall, in all instances, be located in the rear and/or side yard. Horses shall be confined to fenced pastures, paddocks or stables unless harnessed and under the direct control of a person.
 - (d) Building Setbacks. An accessory building used as a stable shall not be located nearer than 50 feet to any property line and not nearer than 100 feet to any dwelling.
 - (e) Storage. No storage of manure or odor-producing or dust-producing substances or any activity producing odor or dust shall be permitted within 100 feet of any property line.
 - (f) Nuisance. In each instance when the PZC and Council issue a Conditional Use Certificate for a private stable, the commission shall find that there has been compliance with the conditions of this subsection, that the activity will not or has not been a nuisance to residents in the area, is compatible with adjacent land uses and is consistent with the public health, safety and welfare of the City.

(5) **Apiculture**

Definition:

- (a) Apiculture: The cultivation of bees for purposes of producing honey, pollination services queen breeding programs, or other products of the hive.
 - i. Permitted uses:
 - (a) Apiculture shall be permitted in all residential districts. Apiculture in any other district requires a Site Plan Review.
 - ii. Applicability
 - (a) All beehives (colonies) must be kept with movable combs in good condition.

- (b) Maximum Permitted Quantity of Hives
 - 1) Attached-Single Family, and Multi-Family Lots -- not permitted
 - 2) One-half acre or smaller lot: 2 hives
 - 3) Larger than 1/2 acre but smaller than 3/4 acre lot: 4 hives
 - 4) Larger than 3/4 acre lot but smaller than 1 acre lot: 6 hives
 - 5) One acre but smaller than 5 acres: 8 hives
 - 6) Larger than 5 acres: unrestricted
- (c) Agribusinesses, Farming Operations or similar Businesses -- beehive quantities are subject to Site Plan application procedures.
- (d) No hive shall be kept closer than fifteen (15) feet to any lot line or public right of way. The entrance of any hive shall face whichever lot line or public right of way is furthest from the beehive location or the residence. Bees shall only be kept in the rear yard.
- (e) Building and structures accessory to this use, if less than 50 square feet, are not regulated, except that all these structures need to be located in the rear yard.
- (f) A solid fence or dense hedge, known as a “flyway barrier,” at least six (6) feet in height shall be placed along the side of the bee hive that contains the entrance to the colony, and shall be located within five (5) feet of the hive and shall extend at least two (2) feet on either side of the hive. No such flyway barrier shall be required if all beehives are located at least twenty-five (25) feet from all property lines, for beehives that are located at least ten (10) feet above grade or for beehives with the sole opening pointed towards the residence of beekeeper.
- (g) A supply of fresh water shall be maintained in a location readily accessible to all bee colonies on the site throughout the day. This water source must be closer than any other water source not owned by the property owner.
- (h) No Africanized bees may be kept.
- (i) Must be in compliance with all State of Ohio rules and regulations for the keeping of bees. Property owners keeping bees must post a copy their certificate of registration from the Ohio Department of Agriculture on or near the hives.
- (j) A Certificate of Use & Compliance must be filed with the City of Tallmadge.

(6) Community Gardens

A proposed community garden shall comply with the requirements of this Section. Any community garden established prior to the adoption of the ordinance codified in this Section shall be subject to the development and operational standards noted in this Section.

i. Purpose.

The provisions of this Section are intended to facilitate the establishment and operation of community gardens in the City while also mitigating potential adverse land use impacts (e.g., traffic, blight, and others) on the peace, health, safety and welfare of residents in nearby areas that may arise from the inappropriate location or operation of community gardens.

ii. Application filing and processing.

An application for a Conditional Use shall be filed and processed in compliance with Chapter 1102 in order to establish a community garden.

- (a) The application shall be filed by a Community Garden Association (CGA) that will be

responsible for the oversight and operation of the proposed community garden. Details about the CGA's governance, including any organization with which the CGA is, or proposes to be affiliated, shall be provided.

- iii. Site requirements.
 - (a) There is no minimum lot size for a community garden.
 - (b) Any historical sources of contamination identified in the soils testing must be further tested to determine the type and level of contamination. Appropriate remediation measures must be undertaken to ensure that the soil on the community gardens site is suitable for gardening prior to the start date of a community garden.
 - (c) The degree of remediation may be mitigated by the use of raised garden beds or the importation of clean soil.
 - (d) Parking. No on-site parking is required, but the Conditional Use application process will assess the impact of the garden on available street parking. A parking plan shall be provided when the application is submitted.
- iv. Community Gardens Association (CGA) governance, rules and regulations.
 - (a) The CGA's governance shall, at a minimum, address identification of officers and their duties, standing committees and their functions, CGA membership rules, frequency of meetings, and amendment of governance provisions.
 - (b) The CGA shall establish rules and regulations and oversee and maintain the garden. Such rules and regulations shall, at a minimum, address the following terms: hours of operation, prohibited conduct on the site, supervision of children, pets, use of garden plot, disposal of trash, reproduction of garden key, use of garden tools, amendment of rules and regulations and enforcement mechanisms.
- v. Operational standards.
 - (a) The Certificate for Conditional Use application process will determine the following:
 - 1) Permitted hours of operation for the garden on a case-by-case basis, taking into account variables, including the proximity and nature of nearby land uses. In no case shall the permitted opening hour be earlier than dawn or the closing time later than dusk.
 - 2) Standards for floor areas, heights, parking, setbacks, and other structure and property development standards that apply to the zoning district of the subject site shall be used by the PZC as a guide for determining the appropriate development standards for a community garden.
 - (b) Trash. A suitably sized trash receptacle shall be placed on-site. The CGA shall be responsible for arranging for and making payment for regular trash collection. The operating rules shall encourage on-site composting of plant materials only and encourage gardeners to take their trash off-site for disposal.
 - (c) Mechanized tools (tillers, trimmers, etc.) or flame-producing tools are prohibited.
 - (d) The site shall be designed and maintained so that water and fertilizer will not drain onto adjacent property or to the public right of way.
 - (e) Allowable uses include the cultivation of fruits, vegetables, plants, flowers, and herbs. Beekeeping or the raising of poultry or any other animals is prohibited. Plants prohibited by the State of Ohio and/or Federal law are prohibited.

- (f) Only organic farming is permitted. The definition for organic is defined by the United States Department of Agriculture (U.S.D.A). The same standards governed by the City's farmers' market apply to the community garden (regarding organic farming).
 - (g) No fresh manure may be used.
 - (h) Smoking, consuming alcohol, or gambling are prohibited.
 - (i) Entrance gates (if any) shall be secured with a key or combination lock. A copy of the key or the combination code shall be provided to the Planning and Building Department.
 - (j) Sale of produce. No on-site sales of produce or any other items are permitted.
 - (k) Water.
 - 1) If a metered connection to the City's water supply does not already exist at the proposed site, one shall be provided by the City. Water costs shall be paid by the CGA.
 - 2) Informational materials supplied by the CGA to plot holders shall include advice on water conservation, mulching, effective watering techniques, etc.
 - (l) The Commission may impose conditions of approval deemed reasonable and necessary to preserve the public health, safety, and general welfare to include, but not be limited to: site maintenance, irrigation, signs, hours of operation, allowable and prohibited uses, parking, and any other issues that may arise as a result of public testimony and Commission review.
- vi. Required findings for approval.
- The Commission and Council shall not grant a Certificate for Conditional Use for a community garden, unless it first makes all of the following findings, in addition to those required by Section 1102.11:
- (a) The proposed use will not substantially increase vehicular traffic on any street within a residential zoning district;
 - (b) The proposed use will not substantially increase traffic hazards to pedestrians when located near a school, religious facility, auditorium, theater, or other place of assembly; and
 - (c) The proposed use will not adversely reduce available on-street parking for nearby businesses and/or controls have been established to prevent garden users utilizing businesses' off-street parking areas.
- vii. Periodic review.
- (a) The Commission shall review the Certificate for Conditional Use 12 months after the start date of a community garden to assess any impacts on the health, safety, and welfare of garden users, surrounding residents and businesses of the City at large.
 - (b) The CGA shall provide the Zoning Administrator with a copy of the operating rules and regulations and a list of officers on each anniversary of the community garden's start date.
 - (c) The Certificate for Conditional Use may be revoked, and the use of the community garden shall cease if the Zoning Administrator determines that any of the following conditions exist:
 - 1) There is no evidence that the CGA still exists; or
 - 2) Conditions including, but not limited to: overgrown plots, unmaintained common areas, accumulation of trash, blight (as defined in the Municipal Code), nonpayment of water bills, etc.

(7) **Poultry and Fowl**

- i. Permitted uses: The keeping of poultry and fowl and similar animals shall be permitted in all residential districts provided the minimum lot size is met. A Site Plan Review is required in all other districts.
- ii. The keeping of poultry and fowl, similar farm animals, and cages, coops and enclosures for the keeping of such animals, shall be governed by the following regulations in a residential area:
 - (a) Subject to the requirements of this section and any other applicable provision of this chapter, poultry and fowl (and no roosters) may be kept on a lot or parcel of land in a residential district for the sole purpose of producing eggs.
 - (b) Lot Size and maximum animals permitted
 - 1) Less than $\frac{1}{4}$ acre lot = no poultry or fowl allowed
 - 2) Min. $\frac{1}{4}$ acre – 1-acre lot = max 8 birds
 - 3) More than 1 acre + = maximum 12 birds
 - (c) Roosters are prohibited.
 - (d) Poultry and fowl shall be confined within a secure outdoor enclosed area.
 - (e) The enclosed area shall include a covered, ventilated, and predator-resistant coop.
 - 1) The coop shall have a minimum floor area of at least two (2) square feet per bird.
 - 2) If poultry and fowl are not allowed to roam within an enclosed area outside the coop, the coop shall have a minimum floor area of six (6) square feet per bird.
 - 3) The coop shall be located in a rear yard at least twenty-five (25) feet from any dwelling located on an adjacent lot and at least five feet from any side and rear property line.
 - (f) The coop and enclosed area shall be maintained in a neat and sanitary condition and shall be maintained per regulations set forth by the Ohio Health Department
 - (g) No poultry and fowl shall be permitted to roam outside the coop or enclosed area.
 - (h) Feed shall be stored and dispensed in rodent-proof and predator-proof containers.
 - (i) Building and structures accessory to this use, if less than 30 square feet, are not regulated, except that all these structures need to be located in the rear yard.
 - (j) Slaughtering of animals on-site shall be prohibited.
 - (k) Poultry and fowl shall not be kept on a residential lot or parcel unless the person keeping the birds first obtains a Use & Compliance Permit from the City of Tallmadge.
 - (l) Any poultry and fowl owned, kept, maintained, or boarded within the City on property or conditions which do not comply with the minimum requirements of this section shall be deemed a non-conforming use.
 - 1) Each person having such a non-conforming use shall register with the Planning & Zoning Department within 180 days of the effective date of this section the name, age, breed, and markings of such poultry and fowl and the name of the harbinger or owner, address of property where the animal is kept, address of owner, and the telephone number of owner and harbinger.
 - 2) Upon the death or permanent removal of any poultry and fowl, the owner or harbinger shall not thereafter be permitted to acquire any other poultry and fowl unless in compliance with the requirements of this section.

(8) **Ungulates**

- i. The keeping of ungulates and enclosures for the keeping of such animals, shall be governed by the following items listed below.
 - (a) Ungulates whose anticipated adult weight is equal or greater than 200 lbs. are limited to a principally permitted agricultural use.
 - (b) Subject to the requirements of this section and any other applicable provision of this chapter ungulates whose anticipated adult weight is less than 200 lbs. may be kept on a lot or parcel of land in a residential district
 - 1) Min 1-acre lot = max 2 ungulates
 - 2) Min 5-acre lot = max 5 ungulates
 - (c) Ungulates shall be confined within a secure outdoor enclosed area.
 - 1) The enclosed area shall be maintained in a neat and sanitary condition and shall be maintained per regulations set forth by the Ohio Health Department
 - 2) No ungulate shall be permitted to roam outside enclosed area.
 - 3) Feed shall be stored and dispensed in rodent-proof and predator-proof containers.
 - 4) Building and structures accessory to this use, if less than 30 square feet, are not regulated, except that all these structures need to be located in the rear yard.
 - 5) The fenced enclosures shall be located a minimum of fifty feet from any existing dwelling except for a dwelling on the same lot as the fenced enclosure; or
 - 6) The proposed placement of the fence shall be located a minimum of 5 feet from any lot line.
 - (d) Ungulates shall not be kept on a residential lot or parcel unless the person keeping ungulates first obtains a Use & Compliance Permit from the City of Tallmadge.
 - (e) Any ungulate owned, kept, maintained, or boarded within the City on property or conditions which do not comply with the minimum requirements of this section shall be deemed a non-conforming use.
 - 1) Each person having such a non-conforming use shall register with the Planning & Zoning Department within 180 days of the effective date of this section the name, age, breed, and markings of such ungulate(s) and the name of the harborer or owner, address of property where the animal is kept, address of owner, and the telephone number of owner and harborer.
 - 2) Upon the death or permanent removal of any ungulate, the owner or harborer shall not thereafter be permitted to acquire any other ungulate unless in compliance with the requirements of this section.

C. RESIDENTIAL USES

(1) Dwelling – Multi-family

- i. Comply with the development standards specified in R-5 District.
- ii. Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking, and appearance.
- iii. Vehicular entrances to the multi-family development shall be minimized and designed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any adjacent residential neighborhood

(2) Dwelling – Multi-family, Complex

- i. Comply with the development standards specified in R-5 District.
- ii. Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking, and appearance.
- iii. Vehicular entrances to the multi-family development shall be minimized and designed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any adjacent residential neighborhood



Examples of Multifamily and Multifamily Complex

(3) Dwelling - Single Family, Attached

- i. Proposals for façades and treatment of external materials shall be submitted as a part of development plan approval. The design, scale, and building materials shall be single-family residential in character.
- ii. If the development is located within an established residential neighborhood, the newly constructed units shall be compatible with the surrounding residential properties in terms of height, bulk, building materials, window shape and arrangement, and roof pitch. No more than three dwelling units shall be attached.
- iii. Front setbacks for adjacent units should vary a minimum of 3 feet and a maximum of 8 feet.
- iv. The principal orientation of the attached single-family units shall be the public street on which the lot has frontage. There shall be at least one entrance, of each unit, facing the public street, and the principal windows of the attached single-family units shall also face this street.

- v. Vehicular entrances to the attached single-family development shall be minimized and designed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any adjacent residential neighborhood. If an alley is present, parking should be accessed from the alley and all parking spaces shall be located behind the front building line, provided an exception to these requirements may be granted due to depth of the lot, the location of mature trees, or other similar factors.
- vi. Attached garages shall be to the side or rear of the building.
- vii. Attached single-family dwelling developments shall comply with the site development standards district. Setbacks shall be measured from the street right of way or project boundary line.
- viii. The minimum lot area shall be 10,000 square feet with a minimum lot width of 70 feet.
- ix. For developments where individual attached units are to be constructed on individual lots, a subdivision plat shall be submitted with the conditional use application,
- x. Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking, and appearance.

(4) Dwelling – Townhouse

- i. See Dwelling – Single Family, Attached



Examples of Single Family, Attached and Townhouse

(5) Dwelling - Two-Family

- i. Comply with the development standards specified in R-5 District.
- ii. The principal orientation of each residential unit shall be parallel to the public street it faces or its tangent if the street is curved. If the unit is located on a corner, the residential unit shall be parallel to that street which was designated as the front at the time a zoning certificate was requested.
- iii. The public street elevation of each residential unit shall have at least one street-oriented entrance and contain the principal windows of the unit.
- iv. All parking spaces shall be located behind the front building line. An exception to this requirement may be granted, where necessary due to special characteristics of the site such as lot depth, or due to the location of existing mature trees, such location is impracticable. Shared driveways are permitted, with the recordation of perpetual easements to provide for the use and maintenance of the shared driveway.

v. Dwellings, Two-Family Conversion from a Single-Family Dwelling

An existing single-family dwelling may be converted to a two-family dwelling provided the conversion complies with the following:

- (a) A minimum gross floor area in the dwelling before conversion, exclusive of cellar or basement, of 2,000 square feet.
- (b) A minimum of 1,000 square feet of gross floor area provided for each dwelling unit after conversion.
- (c) Compliance with all lot size, bulk and other regulations imposed by the applicable zoning district for two-family uses.
- (d) Units shall only be constructed side-by-side. One dwelling unit on top of another dwelling unit is prohibited.
- (e) After conversion, the converted dwelling shall retain the appearance of a single-family dwelling with no major structural alterations to the exterior of the building other than to provide required means of egress from dwelling units. All fire escapes or stairways leading to a second floor shall be completely enclosed within the converted building and shall not be visible from a public street, with the exception of corner lots.
- (f) The public street elevation of each residential unit shall have at least one street-oriented entrance and contain the principal windows of the unit.



Examples of Two-Family dwelling: side-by-side multistory units.



Examples of Two-Family dwelling: stacked flats.

D. PUBLIC AND INSTITUTIONAL USES

(1) Cemeteries

- i. Cemeteries shall not be less than 10 acres in area.
- ii. All structures, activity areas, and parking areas should be located at least fifty (50) feet from all property lines.
- iii. All points of driveway entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; not closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare or two local or collector thoroughfares.
- iv. The Planning and Zoning Commission shall, in those cases deemed necessary, require streets, storm sewers, sanitary sewers, and sidewalks in such developments. Such facilities shall be equal to minimum requirements for residential use under subdivision regulations.
- v. The Planning and Zoning Commission may require parking facilities in excess of those set forth in Chapter 1105 as they deem necessary.
- vi. There shall be no more than one advertisement oriented to each abutting road identifying the activity.
- vii. Such developments should be located on a collector street or major thoroughfare
- viii. Wall and Fence Standards: All cemeteries shall incorporate a perimeter fence or wall that is at least 48 inches tall but no taller than 72 inches. Fencing shall not be chain-link.
- ix. Setback Standards:
 - (a) Any burial space shall be set back at least 100 feet from any existing or proposed right-of-way.
 - (b) Any permanent structure erected for the interment, entombment, or inurnment of human remains shall be set back at least 100 feet from the nearest property line.
- x. Cemeteries shall demonstrate compliance with state licensing requirements and shall submit a Use and Compliance application to the Zoning Administrator.

(2) Columbariums

- i. Columbariums shall be a permitted accessory use with a permitted cemetery, and conditionally permitted as an accessory use to a permitted Religious Place of Worship.
- ii. Columbariums shall be setback a minimum of:
 - (a) Within a Cemetery: 25 feet from any property line
 - (b) At a Place of Worship: 100 feet from any property line.
- iii. The columbarium shall be screened from view from any adjacent residential property. Screening shall consist of a continuous evergreen hedge with a minimum maintained height of 10 to 12 ft. Plant materials shall be a minimum of 8 ft. tall at installation.
- iv. Columbarium wall height shall not exceed 8 feet.
- v. Columbariums shall demonstrate compliance with state licensing requirements and shall submit a Use and Compliance application to the Zoning Administrator.

(3) Educational Institutions

- i. All structures, activity areas, and parking areas should be located at least fifty (50) feet from all property lines.

- ii. Loudspeakers which cause a hazard or annoyance shall not be permitted
- iii. All points of driveway entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; not closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare or two local or collector thoroughfares.
- iv. The Planning and Zoning Commission shall, in those cases deemed necessary, require streets, storm sewers, sanitary sewers, and sidewalks in such developments. Such facilities shall be equal to minimum requirements for residential use under subdivision regulations.
- v. The Planning and Zoning Commission may require parking facilities in excess of those set forth in Chapter 1105 as they deem necessary
- vi. No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties
- vii. Such developments should be located on a collector street or major thoroughfare
- viii. Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.

(4) Government owned buildings and facilities

- i. All structures, activity areas, and parking areas should be located at least fifty (50) feet from all property lines.
- ii. All points of driveway entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; not closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare or two local or collector thoroughfares.
- iii. The Planning and Zoning Commission shall, in those cases deemed necessary, require streets, storm sewers, sanitary sewers, and sidewalks in such developments. Such facilities shall be equal to minimum requirements for residential use under subdivision regulations.
- iv. The Planning and Zoning Commission may require parking facilities in excess of those set forth in Chapter 1105 as they deem necessary
- v. Such developments should be located on a collector street or major thoroughfare
- vi. Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
- vii. Any outdoor areas devoted to the outdoor storage of fleet vehicles shall be screened per Section 1106.05 E. Landscape: Parking Screening.
- viii. Storage of materials shall be screened per section 1104.07 M. Outdoor Storage and Bulk Sales.
- ix. In residential zoning districts:
 - (a) Facilities shall be limited to structures that are essential for the distribution of services to the local area.
 - (b) Parking shall be prohibited in the front yard and all parking areas shall be set back a minimum of 10 feet from all lot lines

(5) **Hospitals**

- i. Loudspeakers which cause a hazard or annoyance shall not be permitted
- ii. All points of driveway entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; not closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare or two local or collector thoroughfares.
- iii. The Planning and Zoning Commission shall, in those cases deemed necessary, require streets, storm sewers, sanitary sewers, and sidewalks in such developments. Such facilities shall be equal to minimum requirements for residential use under subdivision regulations.
- iv. The Planning and Zoning Commission may require parking facilities in excess of those set forth in Chapter 1105 as they deem necessary
- v. No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties
- vi. Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
- vii. Such uses shall be conducted not closer than fifty (50) feet from any R- District. Where the use abuts upon but is separated from an R-District by a street, the width of the street may be considered as a part of the required setback. The construction, operation, and maintenance of such uses shall be such that they will not be hazardous, noxious or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matters or water carried wastes.
- viii. New uses shall be on a lot with primary vehicular access on a major thoroughfare or collector street without going through a residential neighborhood to minimize the impact on less intense residential uses.
- ix. Outdoor storage of ambulances and other vehicles used in the operation of the principal use may be permitted provided such storage areas are located in the side or rear yard in off-street parking areas.
- x. The areas devoted to the outdoor storage of such vehicles shall be enclosed with a fence having a minimum height of six feet. Screening shall be provided per Chapter 1106 Landscape: Parking Screening.

(6) **Off-street public parking lot and garage**

- i. Parking lots and garages shall be subject to the design standards in Chapter 1105: Off-street Parking. Parking garages shall also be subject to the standards in this subsection.
- ii. Parking lots shall comply with the setback requirements of 1105: Off-street Parking.
- iii. Landscaping and screening of surface parking lots shall meet the requirements of Chapter 1106: Landscaping and Buffering.
- iv. Parking shall be located to the rear of any principal building or in a midblock location. Structured parking that has a retail use at the ground floor may be located at the street frontage.
- v. Below-grade parking garages are encouraged over above-grade.
- vi. Above grade parking garages or decks are subject to the following architectural standards except if they are not visible from a public right of way:
 - (a) Parking garages shall meet the architectural standards established for the applicable zoning district.

- (b) Parking garages shall be constructed of materials of similar quality to the principal buildings on the site or compatible with the surrounding properties.
 - (c) The façades of parking garages that face public streets and are not occupied by commercial, office, institutional, public uses, or civic uses shall be articulated through the use of three or more of the following architectural features to make the parking garage appear similar in character to an occupied building:
 - 1) Windows or window-shaped openings with decorative mesh or similar features as approved by the City;
 - 2) Masonry columns;
 - 3) Decorative wall insets or projections;
 - 4) Awnings;
 - 5) Changes in color or texture of materials;
 - 6) Approved public art;
 - 7) Integrated landscape planters; or
 - 8) Other similar features approved by the City.
 - vii. Vehicle entries to off-street parking garages shall be integrated into the placement and design of adjacent buildings or oriented away from the primary street frontage. At a minimum, parking garages shall have user vehicles access from locations that minimize conflicts with pedestrian circulation.
- (7) Public utilities, rights-of-way and pertinent structures**
- i. Site locations should be preferred that offer natural or man-made barriers that would lessen the effect of intrusion into a residential area.
 - ii. Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
 - iii. Such uses shall be conducted not closer than fifty (50) feet from any R- District. Where the use abuts upon but is separated from an R-District by a street, the width of the street may be considered as a part of the required setback. The construction, operation, and maintenance of such uses shall be such that they will not be hazardous, noxious or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matters or water carried wastes.
- (8) Recreation Facility - Non-commercial**
- i. All structures, activity areas, and parking areas should be located at least fifty (50) feet from all property lines.
 - ii. Loudspeakers which cause a hazard or annoyance shall not be permitted (not applicable to parks and playgrounds).
 - iii. All points of driveway entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; not closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare or two local or collector thoroughfares.
 - iv. The Planning and Zoning Commission shall, in those cases deemed necessary, require streets, storm sewers, sanitary sewers, and sidewalks in such developments. Such facilities shall be equal to minimum requirements for residential use under subdivision regulations.
 - v. The Planning and Zoning Commission may require parking facilities in excess of those set forth in Chapter 1105 as they deem necessary

- vi. There shall be no more than one advertisement oriented to each abutting road identifying the activity (not applicable to parks and playgrounds).
 - vii. No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
 - viii. Such developments should be located on a collector street or major thoroughfare
 - ix. Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
 - x. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual or to the community in general.
 - xi. Active Recreational Uses
 - (a) The PZC may require active recreation areas to be enclosed by a fence having a minimum height of six feet.
 - (b) The proposed use shall not generate excessive noise, odor, dust or smoke beyond the premises. In order to minimize any effects of the above, the PZC may require all applicable surface areas to be paved, and impose additional noise reduction measures, including mounding, landscaping and sound barriers, to ensure that the level of noise is less than or the same as the prevailing noise levels of permitted uses in the District.
 - (c) Rifle ranges, skeet shooting ranges, pistol ranges, and other activities involving the discharge of firearms shall not be permitted.
 - (d) The PZC may limit the hours of operation to ensure that the proposed use is compatible with the surrounding uses.
 - xii. All swimming pools and their enclosures shall be set back a minimum of 50 feet from the front lot line and 30 feet from all side and rear lot lines.
 - xiii. Golf courses, including tees, fairways, greens, and golf driving ranges shall be designed and landscaped in such a manner as to reasonably prevent a misfired ball from landing out of the golf course.
 - xiv. In residential zoning districts:
 - (a) Only retail uses which are customarily accessory or incidental to the main recreational use shall be permitted and shall include such uses as souvenir stands and concession stands. Such facility shall be provided for the convenience of customers attending the recreation facility and no sign advertising the retail use shall be permitted.
 - (b) There shall be a minimum setback of 50 feet between buildings and adjacent lots used for residential purposes.
 - (c) Parking areas shall be set back 20 feet from all lot lines.
- (9) **Religious places of worship**
- i. All structures, activity areas, and parking areas should be located at least fifty (50) feet from all property lines.
 - ii. Loudspeakers which cause a hazard or annoyance shall not be permitted
 - iii. All points of driveway entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; not closer than one hundred (100) feet from the

intersection of a major thoroughfare and a local or collector thoroughfare or two local or collector thoroughfares.

- iv. The Planning and Zoning Commission shall, in those cases deemed necessary, require streets, storm sewers, sanitary sewers, and sidewalks in such developments. Such facilities shall be equal to minimum requirements for residential use under subdivision regulations.
- v. The Planning and Zoning Commission may require parking facilities in excess of those set forth in Chapter 1105 as they deem necessary.
- vi. No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties
- vii. Such developments should be located on a collector street or major thoroughfare
- viii. Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
- ix. Such structures should be located adjacent to parks and other nonresidential uses such as schools and shopping facilities where use could be made of joint parking facilities
- x. The PZC may require all outdoor children's activity areas to be enclosed by a fence or wall having a height of at least five feet but not exceeding six feet. An entry gate shall be securely fastened.
- xi. In order to minimize any effects of the uses, the PZC may require additional noise reduction measures to assure that the level of noise is no more than the prevailing noise levels of permitted uses in the same zoning district.
- xii. In all residential zoning districts:
 - (a) The building and related uses shall be set back a minimum of 30 feet from all side and rear lot lines.
 - (b) Parking areas are prohibited in the front yard and shall be set back a minimum of 20 feet from all side and rear lot lines unless a larger setback is required by Chapter 1103
 - (c) New uses shall be on a lot with primary vehicular access on a major thoroughfare or collector street without going through a residential neighborhood to minimize the impact on less intense residential uses.
 - (d) All access drives shall be located as far as practicable from an existing intersection in order to maximize traffic safety and minimize congestion and constricted turning movements.

(10) Telecommunications : Wireless Communications Towers and Antennae

i. General.

The following requirements apply to all wireless telecommunications facilities regardless of the zoning district in which they are to be located. These general standards are to be supplemented with the specific regulations for nonresidential and residential districts as set forth in Sections (iii) and (iv) which follow.

- (a) When the proposed wireless telecommunications facility is to include a new tower, a plot plan at a scale of not less than one inch is equal to 100 feet shall be submitted. This plot plan shall indicate all building uses within 300 feet of the proposed facility. Aerial photos and/or renderings shall augment the plot plan.
- (b) The location of the tower and equipment shelter shall comply with all-natural resource protection standards established in the Zoning Code, including those for floodplain, wetlands and steep slopes.

- (c) Security fencing eight feet in height shall surround the tower, equipment shelter and any guy wires, either completely or individually as determined by the Planning and Zoning Commission.
- (d) The following buffer plantings may be located around the perimeter of the security fence as deemed appropriate by the Planning and Zoning Commission:
 - 1) An evergreen screen shall be planted that consists of either a hedge, planted three feet on center maximum, or a row of evergreen trees planted five feet on center maximum.
- (e) Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.
- (f) Any applicant requesting permission to install a new tower shall provide evidence of written contact with all wireless service providers who supply service within a quarter mile radius of the proposed facility. The applicant shall inquire about potential co-location opportunities at all technically feasible locations. The contacted providers shall be requested to respond in writing to the inquiry within thirty days. The applicant's letter(s) as well as response(s) shall be presented to the Planning and Zoning Commission as a means of demonstrating the need for a new tower.
- (g) No wireless telecommunications facility shall be permitted within the Design Control District defined in Chapter 1103.
- (h) The tower shall be painted a non-contrasting gray or similar color minimizing its visibility, unless otherwise required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA).
- (i) No advertising is permitted anywhere on the facility, with the exception of identification signage.
- (j) All providers utilizing towers shall present a report to the Zoning Inspector notifying the Inspector of any tower facility located in the Municipality whose use will be discontinued and the date this use will cease. If at any time the use of the facility is discontinued for 180 days, the Zoning Inspector may declare the facility abandoned. (This excludes any dormancy period between construction and the initial use of the facility.) The facility's owner/operator will receive written notice from the Zoning Inspector and instructed to either reactivate the facility's use within 180 days or dismantle and remove the facility. If reactivation or dismantling does not occur, the Municipality will remove or will contract to have removed the facility and assess the owner/operator the costs.
- (k) The owner or operator shall be required as a condition of issuance of a permit to post a cash or surety bond acceptable to the Director of Law of not less than one hundred dollars (\$100.00) per vertical foot from natural grade of the wireless communication tower which bond shall insure that an abandoned, obsolete or destroyed wireless communication antenna or tower shall be removed within six months of cessation of use and abandonment.
- (l) No tower under 150 feet shall be artificially lighted except to assure safety or as required by the FAA. Any tower between 150 and 200 feet in height shall follow safety marking and obstruction lighting as prescribed by the FAA. Security lighting around the equipment shelter is permitted. No strobe lighting is permitted unless required by the FAA.
- (m) "No Trespassing" signs shall be posted around the facility with a telephone number of who to contact in the event of an emergency.

- (n) Applicants will provide evidence of legal access to the tower site thereby maintaining this access regardless of other developments that may take place on the site.
 - (o) A Certificate for Conditional Use must be approved by the Planning and Zoning Commission and Council with a subsequent Building Permit issued by the Department of Building Standards. Co-location of antennas on a single tower, antennas attached to existing structures/buildings, towers located in industrial districts, or replacement towers to be constructed at the site of a current tower are permitted uses and will not be subject to the Conditional use application process.
 - (p) Regular scheduled maintenance shall be conducted on weekdays from 8:00 a.m. to 5:00 p.m. in all districts. The City shall be notified when emergency maintenance is required.
 - (q) Any decision to deny a request to place, construct or modify a wireless telecommunications antenna and/or tower shall be in writing and supported by evidence contained in a written record of the proceedings of the Planning and Zoning Commission and Council.
 - (r) Underground equipment shelters are encouraged, especially in nonindustrial districts, and may be requested by the Planning and Zoning Commission and Council.
 - (s) Any wireless telecommunications facility built for or by the City for the primary purpose of police, fire, and emergency communications shall be considered an essential service as defined by this code.
- ii. Nonresidential Districts.
- Wireless telecommunications facilities proposed for Commercial-3, Commercial-4, Commercial-5, and Industrial-1 districts are subject to the following conditions:
- (a) Sole Use on a Lot. A wireless telecommunications facility is permitted as a sole use on a lot subject to the following:
 - 1) Minimum lot size allowable for the district.
 - 2) Minimum yard requirements.
 - A) Tower. The minimum distance to any single-family or multi-family residential use or district lot line shall be equal to the vertical height of the wireless telecommunications tower plus 50 feet.
 - B) Equipment Shelter. Must comply with minimum setbacks
 - 3) Maximum height.
 - A) Tower. 200 feet (includes antenna)
 - B) Equipment Shelter. Must comply with maximum building height for the district.
 - 4) Maximum size of equipment shelter.
 - A) 300 square feet for a single shelter, or, if there is more than one, 750 total square feet.
 - (b) Combined with Another Use. A wireless telecommunications facility is permitted on a property with an existing use subject to the following conditions:
 - 1) The existing use on the property may be any permitted use in the district or any lawful nonconforming use and need not be affiliated with the wireless telecommunications provider. The wireless telecommunications facility will not be considered an addition to the structure or value of a nonconforming use.

- 2) The wireless telecommunications facility shall be fully automated and unattended on a daily basis and shall be visited only for periodic and necessary maintenance (except during construction or an emergency).
 - 3) Minimum lot area: the minimum lot area shall be the area needed to accommodate the tower (and guy wires, if used), the equipment shelter, security fencing and buffer planting.
 - 4) Minimum yard requirements:
 - A) Tower. The minimum distance to any single-family or multi-family residential use or district lot line shall be equal to the vertical height of the wireless telecommunications tower plus 50 feet.
 - B) Equipment Shelter. Shall comply with the minimum setback requirements for the primary lot.
 - 5) Access: The service access to the equipment shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.
 - 6) Maximum height:
 - A) Tower. 200 feet (includes antenna)
 - B) Equipment Shelter. Must comply with maximum building height for the district.
 - 7) Maximum size of equipment shelter: 300 square feet for a single shelter, or, if there is more than one, 750 square feet.
- (c) Combined with an existing structure. Where possible an antenna for a wireless telecommunications facility shall be attached to an existing structure or building subject to the following conditions:
- 1) Maximum height: 20 feet or 20% of the building height above the existing building or structure, whichever is greater.
 - 2) If the applicant proposes to locate the telecommunications equipment in a separate shelter (not located on, or attached to, the building), the shelter shall comply with the following:
 - A) The minimum setback requirements for the subject zoning district.
 - B) A buffer yard may be planted in accordance with 1104.07D.(10)i.(d).
 - C) Vehicular access to the shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.
 - D) The maximum size of the equipment shelter shall not exceed 300 square feet, or, if there is more than one, 750 total square feet.

iii. Residential Districts.

Wireless telecommunications facilities that include towers are not permitted in residential districts with the exception of placement on any property with an institutional use (e.g., church, park, library, municipal/government, hospital, school, utility) located in this district, it being conditionally permitted. However, antennas attached to existing buildings or structures are permitted. In applying for a permit in any residential district, the applicant must present substantial evidence as to why it is not technically feasible to locate in a more appropriate nonresidential zone. Once those efforts have been exhausted, a wireless telecommunications facility may be located in a residential district subject to the following conditions:

- (a) General. The wireless telecommunications facility shall be fully automated and unattended on a daily basis and shall be visited only for periodic and necessary maintenance. This shall apply to (b) and (c) below.
 - (b) Combined with a nonresidential use: An antenna may be attached to a nonresidential building or structure that is a permitted use in the district, including, but not limited to, a church, a municipal or governmental building or facility, agricultural building, and a building or structure owned by a utility. The following conditions shall be met:
 - 1) Maximum height, twenty feet above the existing building or structure.
 - 2) If the applicant proposes to locate the telecommunications equipment in a separate shelter, the shelter shall comply with the following:
 - A) The shelter shall comply with the minimum setback requirements for the subject zoning district.
 - B) The maximum size of the equipment shelter shall not exceed 300 square feet, or, if there is more than one, 750 total square feet.
 - C) A buffer yard shall be planted in accordance with 1104.07D.(10)i.(d).
 - D) Vehicular access to the shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.
 - (c) Location on a Nonresidential-Use Property. A tower to support an antenna may be constructed on a property with a nonresidential use that is a conditionally permitted use within the district, including but not limited to a church, hospital, school, municipal or government building, facility or structure, agricultural use and a utility use, subject to the following conditions:
 - 1) The tower shall be set back from any property line abutting a single-family or two-family residential lot by a distance equal to the vertical height of the wireless telecommunications tower plus 50 feet.
 - 2) Maximum height:
 - A) Tower. 200 feet (includes antenna)
 - B) Equipment Shelter. Must comply with maximum building height for district.
 - 3) The maximum size of the equipment shelter shall not exceed 300 square feet, or, if there is more than one, 750 total square feet.
 - 4) Vehicular access to the tower and equipment shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.
- iv. Criteria For A Conditional Use.
- A wireless telecommunications facility which includes a tower may be permitted as a conditional use in a commercial district or located on an institutionally used property in any residential district. In order to be considered for review, the applicant must prove that a newly constructed tower is necessary in that opportunities for co-location on an existing tower is not feasible. The following steps must also be taken for the application to be considered for review in this category:
- (a) The applicant shall present a landscaping plan that indicates how the wireless telecommunications facility will be screened from adjoining uses.

- (b) The applicant shall demonstrate that the telecommunications tower must be located where it is proposed in order to service the applicant's service area. There shall be an explanation of why a tower and this proposed site is technically necessary.
- (c) Where the telecommunications facility is located on a property with another principal use, the applicant shall present documentation that the owner of the property has granted an easement or entered into a lease for the proposed facility and that the vehicular access is provided to the facility.
- (d) Any applicant requesting permission to install a new tower shall provide evidence of written contact with all wireless service providers who supply service within a quarter mile radius of the proposed facility. The applicant shall inquire about potential co-location opportunities at all technically feasible locations. The contacted providers shall be requested to respond in writing to the inquiry within 30 days. The applicant's letter(s) as well as response(s) shall be presented to the Planning and Zoning Commission as a means of demonstrating the need for a new tower.

E. COMMERCIAL USES

(1) Amusement Arcades

- (a) For purposes of this section, an "amusement arcade" shall have the same meaning as set forth in Section 726.02 of the City's Business Regulations.
- (b) The proposed use shall not generate excessive noise beyond the premises.
- (c) In order to minimize any effects of the above, the PZC may require additional noise reduction measures to assure that the level of noise is no more than the prevailing noise levels of permitted uses in the District.
- (d) The use shall be entirely contained within an enclosed building. However accessory dining or drinking may be permitted use of a patio.
- (e) The PZC may limit the hours of operation to ensure that the proposed use is compatible with the surrounding uses.
- (f) In a commercial district, such establishments shall be located so as to minimize the amount of space located in a retail setting that is inactive during normal business hours. Such facilities are encouraged to have associated retail uses located in the first-floor space nearest the street or sidewalk to contribute to the retail environment of the zoning district.

(2) Adult Amusement arcades

- i. Adult Amusement arcades shall be prohibited from being located within any overlay district.
- ii. All structures, activity areas, and parking areas should be located at least fifty (50) feet from all property lines.
- iii. No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
- iv. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual or to the community in general.
- v. No such business shall be located on any lot fronting thoroughfares as defined in the Tallmadge Thoroughfare Plan.

- vi. No such business shall be located on any lot within 500 feet of any residentially- zoned district or any residentially used lot.
- vii. No such business shall be located within 500 feet of any public library, private or public elementary school, public park or bike path or place of worship.
- viii. No outdoor advertising other than one permitted ground or wall sign.
- ix. No shared access driveways will be permitted.
- x. Such uses shall be permitted under the following conditions:
 - (a) No such business shall be located on any lot within 1,000 feet of any other adult amusement arcade.
 - (b) Arcades shall open not earlier than 6:00 a.m. and shall close not later than 1:00 a.m.
 - (c) All doors to the business used for ingress by patrons shall remain unlocked for purposes of egress during business hours of operation.
 - (d) The owner, lessee, and sublessee of the property shall independently provide a written narrative of the business operation.
 - (e) Exterior lighting shall be maintained of sufficient intensity to illuminate every means of ingress and egress and adjacent parking areas.
 - (f) The premises shall be maintained so that it is handicap accessible throughout.
 - (g) No smoking is permitted in the arcade and adequate signage shall be posted conspicuously.
 - (h) A glass storefront is required allowing full visibility at the sidewalk or right of way from the front through the arcade area to the rear of the facility, exclusive of restrooms. No amusement devices shall be placed in restrooms, offices, or private areas.
 - (i) Windows shall be free and clear of tint. No obstructions shall prevent observing at least fifty percent (50%) of the amusement devices from outside the storefront.
 - (j) On premises food consumption provision and services shall comply with state, county, and local health regulations.
 - (k) The names, residence addresses, and telephone numbers of the owner(s), operator(s), and all managers shall be maintained current on file with the Tallmadge Police Department.
 - (l) No adult amusement arcade shall locate closer than 500 feet to a church, public park, or school in regular use.
 - (m) Shall also comply with Section 726.02 of the City's Business Regulations.

(2.1) **Adult Use Cannabis and/or Medical Marijuana Operators** (ORD 2024-55. Passed 9/26/24)

i. **Purpose & Intent**

- (a) Adult Use Cannabis and Medical Marijuana Dispensaries and Cultivator, Laboratory and Processor Facilities shall be permitted as per the land use table in section 1104.05 D Principal Permitted and Conditional Uses, Commercial Uses and must comply with the requirements set forth within this section.

ii. **Use Regulation**

- (a) No dispensary shall be located within 500 feet of any parcel having the following prohibited facilities: church, public library, private or public school, public playground, public park park, police station, fire station, city hall building, and Metro Parks Freedom Trail. The measure of

distance for this purpose shall be computed by direct measurement from the end boundaries of a parcel having situated on it a prohibited facility.

- (b) No dispensary shall be located within 1 mile of another such use. The measure of distance for this purpose shall be computed by direct measurement from the end boundaries of a parcel having situated on it a similar use.
- (c) Such uses shall be conducted not closer than fifty (50) feet from any R-District. Where the use abuts upon but is separated from an R-District by a street, the width of the street may be considered as a part of the required setback.
- (d) The construction, operation and maintenance of such uses shall be such that they will not be hazardous, noxious or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water carried wastes.
- (e) All such business must be licensed by the State of Ohio Division of Cannabis Control and be registered with Regional Income Tax Agency (RITA).
- (f) For purposes of parking requirements, dispensaries shall be regulated as retail and cultivator, laboratory and processor facilities shall be regulated as manufacturing as listed in Section 1105 Off-Street Parking. The Planning and Zoning Commission may require reasonable parking facilities in excess of those set forth in Chapter 1105 as they deem necessary.
- (g) Air Quality and Odor. All indoor cultivator, laboratory, processor facility shall be equipped with odor control filtration and ventilation systems to control odors, humidity and mold. Odors shall not be detectable by a person with a normal sense of smell from any adjoining lot, parcel, tract, public right of way or building unit.
- (h) Cannabis Cultivator, Laboratory and Processor Facilities shall comply with Section 1104.06 F (9) ix Technology Park: Design Guidelines.

(3) **Animal Care - General Services**

- i. All activities shall be conducted indoors.
- ii. No outdoor animal exercise or activity areas shall be permitted.
- iii. Overnight boarding shall be prohibited.

(4) **Animal Care - Veterinary Offices**

- i. All activities shall be conducted indoors.
- ii. No outdoor animal exercise or activity areas shall be permitted. Boarding of animals shall only be permitted for the ongoing care of animals in treatment and must be provided within the principal structure.

(5) **Animal Care - Veterinary Urgent Care and Hospitals**

- i. All activities shall be conducted indoors.
- ii. No outdoor animal exercise or activity areas shall be permitted. Boarding of animals shall only be permitted for the ongoing care of animals in treatment and must be provided within the principal structure.

(6) **Animal Care - Kennel**

- i. Care and boarding of animals shall be limited to small animals and may not include cattle, horses, swine, or other similarly sized animals.

- ii. All activities other than off-street parking and loading/unloading shall be conducted within a fully enclosed structure except where outdoor runs are permitted.
- iii. Outdoor runs shall be set back a minimum of 200 feet from any residential or C-3 zoning district and shall only be permitted in the side or rear yard.
- iv. Outdoor run areas shall not exceed 25 percent of the total floor area of the principal use.
- v. Structures shall be designed and maintained in a manner to prevent the development of unsanitary conditions that could result in unpleasant odor or vermin nuisance.
- vi. Rooms intended to accommodate animals shall be insulated, or otherwise soundproofed and vented so that animal noises will not be audible at any point on the perimeter of the property.
- vii. A solid wood fence or masonry wall with a minimum height of six feet shall be constructed where a kennel or animal board facility is located adjacent to a residential zoning district.

(7) Automotive - Sales and Leasing

- i. Such facilities shall be located on a major thoroughfare or collector street in an area least disruptive to pedestrian and vehicular traffic.
- ii. An automotive service station, leasing department, or other activities customarily incidental to automotive vehicle sales or leasing establishments shall be permitted as accessory to the sale or rental of vehicles provided these activities are conducted in a wholly enclosed building.
- iii. Only repair of automobiles customarily associated with automotive sales and leasing establishment shall be permitted and shall be conducted inside a suitable, enclosed building.
- iv. All vehicles displayed for sale or leasing shall be parked on a hard surface and shall comply with the minimum parking setbacks for the applicable district.
- v. No junk or inoperative vehicle will be permitted to remain outdoors.
- vi. Comply with Section 1104.08N: Outdoor Storage of Vehicles And Equipment

(8) Automotive - Car Wash

(ORD 2023-82. Passed 10/25/23)

Purpose & Intent

To regulate car washing and detailing uses with development standards and operational requirements that will ensure high quality car wash development and address the mitigation of impacts that can be associated with car washes including but not limited to noise, lighting, traffic, environment, aesthetics, use saturation and site location.

- i. Properties with Car wash facilities, as the primary use, must be located at least 500 feet from any property with a Residential Use, public park or trails, private or public school, place of worship or any business offering outdoor consumer services, such as, but not limited to outdoor dining establishments (determined by a straight line from one property line to the other boundary line)
- ii. All structures shall meet the design aesthetics of the surrounding structures and intent of the zoning district.
- iii. The site shall be designed to reduce the visual impacts of vacuum stations and waiting cars as viewed from surrounding development and public streets. The vacuum stations shall be screened to the extent feasible by an intervening building or by a combination of landscaping, wall/fencing and/or berms.
- iv. All accessory fixtures shall be of a muted, non-reflective, non-contrasting color to minimize its visibility.

- v. Car washes shall use façade materials that produce texture. Such materials include, but are not limited to, split-face block, brick, or stucco and shall utilize more than one such material. All colors shall be muted. Bright or reflective colors shall not be allowed except as an accent, up to ten percent (10%) of each façade. No long, continuous rooflines without a horizontal break shall be permitted.
- vi. Such facilities shall be located on a major thoroughfare or collector street in an area least disruptive to pedestrian and vehicular traffic.
- vii. All points of driveway entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; not closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare or two local or collector thoroughfares.
- viii. All access drives shall be located as far as practicable from existing intersections in order to minimize congestion and constricted turning movements.
- ix. Alleys or driveways abutting residentially zoned parcels shall not be used for the circulation of customer traffic.
- x. A traffic analysis may be required as determined by the Zoning Administrator.
- xi. Such facilities shall be connected to public water and public sewer.
- xii. No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
- xiii. A minimum of 10 off-street stacking spaces shall be provided per car-wash lane. Stacking spaces shall be defined as 8 ft. x 20 ft.
- xiv. All washing, waxing, machine drying and related activities and operations shall be conducted entirely within an enclosed building (except for vehicular openings a maximum of 12 feet in width) except for vacuuming, hand washing, hand drying and hand waxing of vehicles, the sale of items from vending machines and refuse storage and disposal.
- xv. There shall be no outdoor loudspeakers, public-address systems or menu board speakers associated with the car wash facility.
- xvi. Vacuuming facilities shall not be located along public or private streets and shall be completely screened from adjacent residential properties for noise reduction purposes. Additional noise reduction may be required depending on the number of vacuums, including distance separation and additional buffering.
- xvii. Noise generated by all associated equipment on site including vacuums must be designed, oriented and soundproofed to the extent that the cumulative noise does not exceed a noise level reading of 45 dB(A), as measured from the property line, between the hour of 9 PM to 7 AM and 55 dB(A) at all other lawful hours of operation.
- xviii. A noise impact analysis is required and requires approval by the city's engineer.
- xix. All tunnel entrances and exits shall be screened from view from adjoining lots with a landscape buffer having a minimum height of six feet and shall be 80 percent opaque within one year of installation.
 - (a) No vehicular openings providing access to the enclosed building shall face a residential zoning district. For purposes of this section, the building wall providing access shall be at an angle greater than 60 degrees from a residential use property line.

- xx. Landscape buffering shall be installed to provide both visual and acoustical buffering.
- xxi. A water reclamation system shall be installed for the purpose of recycling water to the maximum degree possible given the equipment to be used in conducting car wash activities.
- xxii. The operation shall provide adequate provisions for the collection and disposal of grease, oil and waste and shall comply with applicable local, state and federal guidelines/standards.
- xxiii. Trash receptacles shall be provided and routinely emptied to prevent scattering of litter.
- xxiv. Water from the car wash operation shall not leave the subject property and shall not be permitted to sheet flow from the site or drain into a stormwater conveyance facility and shall comply with applicable local, state and federal guidelines/standards.
- xxv. All mechanical ventilating equipment shall be directed to exhaust vents and cannot face adjacent residential properties. Exhaust systems shall be equipped with appropriate control systems to minimize or eliminate noxious pollutants that may impact ambient air quality and must adhere to all applicable local, state and federal air quality standards.
- xxvi. Accessory car wash facilities shall be prohibited unless one (1) or more of the following exist:
 - (a) The car wash is equipped only with fully automatic wash equipment, so the driver remains in their car during the entire wash process, and all other outdoor on-site customer activities such as vacuuming are prohibited.

(9) Automotive - Filling stations

- i. No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
- ii. Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
- iii. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual or to the community in general.
- iv. Such uses shall be permitted under the following conditions:
 - (a) Provided that such facilities be located at the extremity of the business district so as not to interfere with the pedestrian interchange between stores in the district and provided further, that it would not limit expansion of the pedestrian oriented facilities.
 - (b) All activities, except those required to be performed at the fuel pumps and car washing, shall be carried on inside a building; if work is performed on a vehicle, such vehicle shall be entirely within a building.
 - (c) If the property fronts on two or more streets, the driveways shall be located as far from the street intersection as practicable.
 - (d) At least a six inch high pedestrian safety curb shall be installed along all street right of way lines except at driveway approaches.
- v. Such uses shall be conducted not closer than fifty (50) feet from any R-District. Where the use abuts upon but is separated from an R-District by a street, the width of the street may be considered as a part of the required setback. The construction, operation, and maintenance of such uses shall be such that they will not be hazardous, noxious or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matters or water carried wastes.

- vi. Gasoline pumps and canopies shall be set back the minimum distance required for a parking area setback in the applicable zoning district. Gasoline pumps shall also be set back a minimum of 50 feet from any adjacent lots used for residential purposes.
 - vii. In any overlay district, the canopy and pumps shall be located behind the principal building. The principal building shall have a primary pedestrian entrance fronting the street, with a walk connecting to the street sidewalk. The front building elevations shall architecturally “front” the street with appropriate detail and fenestration.
 - viii. Except while being serviced at a fuel pump island, no vehicle shall be parked between the fuel pumps and the front property line.
 - ix. When an establishment with automotive fuel sales is located on a corner lot, the following shall apply:
 - (a) The lot shall have a minimum of 100 feet of lot frontage on each of the two intersecting streets;
 - (b) The location of access drives shall be placed as far as possible from the intersection; and
 - (c) Shall be limited to no more than one access drive or driveway per street frontage.
 - x. Activities shall be limited to:
 - (a) The sale of fuel;
 - (b) Automatic or hand washing of vehicles within an enclosed building;
 - (c) The retail sale of vehicle parts and products relating to minor repair work such as, but not limited to, oil, grease, antifreeze, batteries, windshield wipers, etc.
 - xi. Any removal of pumps or tanks shall be undertaken in accordance with safe accepted practices as prescribed by the National Fire Protection Association and filling depressions to the grade level of the lot.
 - xii. The storage and disposal of solid waste and recyclable materials, including used or discarded motor vehicle parts or equipment, and fluids, shall comply with all applicable federal, State, and local requirements.
 - xiii. No junk, inoperative, or unlicensed vehicle will be permitted to remain outdoors.
- (10) **Automotive – Service: Heavy**
- i. A heavy automotive repair or towing services establishment shall be subject to the same requirements as “Automotive- Service Light” as established in this Chapter, except that the limitation to “minor repair work” shall not be applicable.
 - ii. There shall be no wrecking or salvaging of parts from vehicles on the site.
 - iii. The storage of non-operational and/or disassembled vehicles for longer than a 24-hour period shall be permitted if stored in the rear yard and screened by a solid wall or fence with a minimum height of six feet. No such vehicle shall be stored on-site for more than one month.
 - iv. The principal building shall be set back a minimum of 100 feet from any adjacent lot used for residential purposes. Parking for the storage of vehicles, whether operational or non-operational, shall be set back a minimum of 50 feet from any adjacent lot used for residential purposes.
- (11) **Automotive – Service: Light**
- i. All hydraulic hoists, oil pits, and all lubricants, greasing, vehicle washing, and repair equipment shall

be enclosed entirely within a building. No outdoor disassembly or repair of motor vehicles shall be permitted.

- ii. Activities shall be limited to:
 - (a) The servicing of motor vehicles with minor repair work;
 - (b) Automatic or hand washing of vehicles within an enclosed building;
 - (c) The retail sale of vehicle parts and products relating to minor repair work such as, but not limited to, oil, grease, antifreeze, batteries, windshield wipers, etc.
- iii. Any major repair work, including automobile body repair and painting, work on vehicles over a three-ton weight, automobile glass work, automobile transmission work, automobile engine overhaul and repair, and radiator repair work shall be classified as “automotive repair (heavy)” as specified by this Chapter.
- iv. There shall be no parking in the required front yard area, other than employees and/or customers waiting for service.
- v. Vehicles being serviced or awaiting same shall be stored for no longer than 14 days on the site if in unenclosed areas.
- vi. Sales Prohibited. No vehicle shall be displayed for sale on the property. No vehicle parked on the property shall be dismantled for the purposes of selling, bartering, swapping or giving of any part or parts of said vehicle “or vehicle as a whole”.
- vii. Large Vehicles. No trucks with a capacity over one ton, buses, camping trailers, truck or trailers shall be permitted on the property at any time unless the said vehicles are being repaired in the garage.
- viii. Any removal of pumps or tanks shall be undertaken in accordance with safe accepted practices as prescribed by the National Fire Protection Association and filling depressions to the grade level of the lot.
- ix. The storage and disposal of solid waste and recyclable materials, including used or discarded motor vehicle parts or equipment, and fluids, shall comply with all applicable federal, State, and local requirements.
- x. No junk, inoperative, or unlicensed vehicle will be permitted to remain outdoors.
- xi. Rubbish. The premises shall be devoid of all rubbish, litter, debris, automobile parts, etc. in accordance with Chapter 521.08.
- xii. Trash Containers. There shall be trash containers of sufficient size and capacity to contain any and all wastes generated by the operation of business (in accordance with Chapter 521).
- xiii. Drainage and Mud. The parking and drive area shall have a suitable cover to contain any mud that might be carried onto the roadway and shall have proper drainage.
- xiv. Storage or Impounding Prohibited. The storage or the impounding of vehicles shall not be permitted pursuant to the conditions of this Section.

(12) **Bed and breakfast establishments**

- i. All structures, activity areas, and parking areas should be located at least fifty (50) feet from all property lines.
- ii. There shall be no more than one advertisement oriented to each abutting road identifying the activity.

- iii. No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
- iv. Such developments should be located on a collector street or major thoroughfare.
- v. Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
- vi. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual or to the community in general.
- vii. Such use shall also be used for family dwelling purposes.
- viii. Single Facility. An owner of a bed and breakfast shall be permitted to operate and maintain only one facility and hold one conditional use certificate for such facility.
- ix. To the maximum extent feasible, deliveries of food and other items shall be made at the rear of the building.
- x. In all Residential Districts where the bed and breakfast establishments are permitted, the use shall comply with the following:
 - (a) The use shall only be permitted in an existing structure that is currently used, or has previously been used, for residential purposes.
 - (b) Such use shall comply with all of the site development standards of the applicable zoning district.
 - (c) All bedrooms shall be located in the principal building and there shall be a maximum of three guest bedrooms.
 - (d) Meals shall be provided only to guests or boarders taking lodging in the facility.
 - (e) Guestrooms shall not contain cooking facilities.
 - (f) A common lounge area may be provided for guests.
 - (g) The building owner shall reside on the premises.
- xi. In all nonresidential districts where the bed and breakfast establishments are permitted, the uses shall comply with the following:
 - (a) There shall be a maximum of 12 guest sleeping rooms.
- xii. Limitation on Stay. The same guest or group of registrants shall not stay at the facility for a period of more than seven consecutive days or more than 14 total days within a given calendar year.
- xiii. Employment. Only the owner or owner's immediate family shall be employed at the facility.
- xiv. Health and Safety. Home occupancy must meet state, health and safety requirements.
- xv. Establishments shall comply with all food service licensing requirements, or exemptions, as defined by the Ohio Revised Code.
- xvi. Signs. Signage shall be subject to Chapter 1108.
- xvii. Cause for Repeal of Permit. Failure to comply with these conditions, the Ohio Revised Code, the State Health Department or other such agencies shall be cause for repeal of the conditional use certificate.

(13) **Beverage Sales - Liquor and Beer Sit Down/Bar Establishment**

- i. Business shall be conducted within an enclosed building, except that meal service may be provided on an outside patio, provided the patio is no more than one-third the floor area of the entire use.
- ii. Amplified outdoor live performances shall not be permitted for uses within 200 feet of a residential district.
- iii. The use shall be screened from adjacent residential properties.
- iv. Compliance with Section 1104.08 Y

(14) **Beverage - Microbrewery, Microdistillery, or Microwinery**

- i. Each brewpub, micro-brewery, micro-winery or micro-distillery shall manufacture and sell alcoholic beverages in accordance with the provisions of the Ohio Division of Liquor Control and shall maintain current licenses as required by said agency.
- ii. No outdoor storage shall be permitted.
- iii. All malt, vinous or distilled liquor production shall be within completely enclosed structures.
- iv. The emission of odors, excessive noise or other external effects in violation of Chapter 521 shall be prohibited.
- v. Compliance with Section 1104.08 Y

(15) **Assembly / Event Center**

- i. Clubs and Lodges, Public and Private Event Centers
 - (a) All points of driveway entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; not closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare or two local or collector thoroughfares.
 - (b) The Planning and Zoning Commission shall, in those cases deemed necessary, require streets, storm sewers, sanitary sewers, and sidewalks in such developments. Such facilities shall be equal to minimum requirements for residential use under subdivision regulations.
 - (c) The Planning and Zoning Commission may require parking facilities in excess of those set forth in Chapter 1105 as they deem necessary.
 - (d) No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
 - (e) Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
 - (f) All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual or to the community in general.
 - (g) Such uses shall be conducted not closer than fifty (50) feet from any R-District. Where the use abuts upon but is separated from an R-District by a street, the width of the street may be considered as a part of the required setback. The construction, operation, and maintenance of such uses shall be such that they will not be hazardous, noxious or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matters or water carried wastes.

- (h) The proposed use shall not generate excessive noise beyond the premises. In order to minimize any effects of the above, the PZC may require additional noise reduction measures to assure that the level of noise is in compliance with Chapter 530, and any other applicable noise regulations. In addition, the PZC may limit the hours/days of operation to ensure that the use is compatible with surrounding land uses.
- (i) The use may be permitted as an accessory to restaurants, places of worship, and schools.
- ii. Event Center – Barn
 - (a) Conversion of existing farm buildings or construction of new buildings of a farm, rustic, or similar style, and the use of surrounding grounds for organized meeting and/or reception space as a gathering place for weddings, parties, corporate events.
 - (b) The minimum parcel size shall be five (5) acres.
 - (c) A two hundred (200) foot open buffer shall be provided on all sides of the property not abutting a public roadway. Special events/ commercial business activities shall not be permitted within the buffer area. Where possible, agricultural crops shall remain or be grown in the buffer area, or suitable landscaping, to maintain the rural/ agricultural character of the site.
 - (d) Buffer plantings shall be provided along a property line where there is an abutting residence, and which are intended to screen views, lights, and noise from the operation. Plantings shall be as specified in the conditional use certificate.
 - (e) Parcels shall have frontage on and direct access from a public right of way. Access drives on private easements shall be prohibited.
 - (f) All ingress/egress and parking areas shall be located in such a manner to minimize traffic hazard associated with entering and existing the public roadway.
 - (g) Parking and driveways may be either gravel or paved as determined by the PZC. Sufficient parking spaces to accommodate the guest capacity of the events facility shall be provided, with stormwater management addressed. Overflow parking on grass shall be permitted and the areas shall be indicated on the site plan.
 - (h) Parking areas of any type shall not be permitted within any required buffer area or setback.
 - (i) Accessible parking and associated accessible routes to the building and event spaces shall be provided conforming to Americans with Disabilities Act and shall be paved with concrete or asphalt.
 - (j) Signage and site lighting shall conform with City of Tallmadge Zoning Code. Lighting shall be directed away from adjacent properties.
 - (k) Structures shall meet Fire Code standards and shall be inspected by the Fire Inspector and the Building Inspector prior to occupancy.
 - (l) The use of fireworks shall be prohibited.
 - (m) Amplified music and dancing are permitted only within an enclosed structure and shall comply with city noise ordinances.
 - (n) The sale and consumption of alcoholic beverages on the premises are subject to City licensing requirements. A license is not required for events where alcoholic beverages are brought to the barn premises and offered on a complimentary basis to guests. The serving area for alcoholic beverages shall not exceed one thousand two hundred (1,200) square feet.

- (o) The following affiliated uses shall be permitted on the site following issuance of the required conditional use certificate:
 - 1) Non-motorized playground equipment
 - 2) Wagon, sleigh, and hayrides
 - 3) Animal displays, petting farms, and pony rides
 - 4) An outdoor site for conducting wedding ceremonies
 - 5) Food preparation facilities to support on-site activities
 - 6) A gift-shop area for the sale of agricultural-related products. The sale of agricultural-related products (crafts, antiques, clothing, etc.) is limited to twenty-five percent (25%) of gross facility sales. “Nonagricultural-related products” are items not connected to agriculture or the farming operation, such as imported knick-knacks, novelty t-shirts, etc.
 - 7) Seasonal outdoor mazes of agricultural origin, such as corn or hay/straw bale design.

(16) Contractor Services

- i. For uses located in a C3 or C4 district:
 - (a) Building area shall not exceed 20,000 sq.ft.
 - (b) Outdoor storage shall be prohibited.
 - (c) Parking and storage of vehicles in excess of 10,000 pounds gross vehicle weight shall be prohibited.
- ii. No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
- iii. Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
- iv. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual or to the community in general.
- v. Such uses shall be conducted not closer than fifty (50) feet from any R-District. Where the use abuts upon but is separated from an R-District by a street, the width of the street may be considered as a part of the required setback. The construction, operation, and maintenance of such uses shall be such that they will not be hazardous, noxious or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matters or water carried wastes.

(17) Day Care - Child or Adult

- i. Loud speakers which cause a hazard or annoyance shall not be permitted
- ii. Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
- iii. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual or to the community in general.
- iv. A fence or wall having a height of at least five feet shall enclose all outdoor activity areas. An entry gate shall be securely fastened.
- v. The site shall include a drop-off/pick-up location that will not impede traffic on or off the site to ensure the safety of the children and adults.

- vi. The location and design of the facility shall provide for the protection of the children and adults from the traffic, noise, and other hazards of the area and/or the major thoroughfare street location.
 - vii. A day care center for children shall comply with the following:
 - (a) An outdoor play area equal in area to the ground floor area of the day care facility is required. The required outdoor activity area shall be set back a minimum of 40 feet from any adjacent lot lines of lots used for residential purposes.
 - (b) Play structures and other similar apparatus shall be set back a minimum of 50 feet from any adjacent residential lot lines of lots used for residential purposes.
 - viii. In the R-1, R-2 Districts:
 - (a) The minimum lot area shall be two acres with a minimum lot width of 200 feet.
 - (b) The building and related uses shall be set back a minimum of 20 feet from all side and rear lot lines.
 - (c) Parking areas are prohibited in the front yard and shall be set back a minimum of 10 feet from all side and rear lot lines.
- (18) **Exercise and Fitness**
- i. Outdoor gym areas, parkour, and fitness equipment shall be limited to the side and rear yards.
 - ii. Permanent outdoor equipment shall be either
 - (a) If visible from any street or adjacent property, aesthetically high quality, not appearing as junk, and compatible with the intended character of the district and building architecture.
 - (b) Or completely enclosed and screened with a fence, wall, or with landscape material.
 - iii. Temporary/ movable outdoor equipment shall be stored within an enclosed building when not in use.
- (19) **Drive-in Establishments**
- i. Loud speakers which cause a hazard or annoyance shall not be permitted
 - ii. The Planning and Zoning Commission may require parking facilities in excess of those set forth in Chapter 1105 as they deem necessary.
 - iii. No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
 - iv. Such developments should be located on a collector street or major thoroughfare.
 - v. Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
 - vi. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual or to the community in general.
- (20) **Food Service - Fast Food Restaurant**
- i. Drive-through facilities shall comply with this chapter: Accessory Use – Drive Through Facilities
- (21) **Food Sales - Farm Market**
- i. The minimum setback for the sale and display area is 25 feet from the paved edge of the roadway. No portion of the Farm Market shall be permitted to encroach into a right of way.

- ii. Firewood sold at a Farm Market must be cut and split on the farm where the wood is harvested, and which is under the control of the owner or operator of the Farm Market.
- iii. A maximum of 25% of the Farm Market display and sales area may be used for agricultural products not produced on a farm under the control of the owner or operator of the Farm Market.

(22) **Hotel and Motel**

- i. Loud speakers which cause a hazard or annoyance shall not be permitted
- ii. All points of driveway entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; not closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare or two local or collector thoroughfares.
- iii. The Planning and Zoning Commission shall, in those cases deemed necessary, require streets, storm sewers, sanitary sewers, and sidewalks in such developments. Such facilities shall be equal to minimum requirements for residential use under subdivision regulations.
- iv. The Planning and Zoning Commission may require parking facilities in excess of those set forth in Chapter 1105 as they deem necessary.
- v. No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
- vi. Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
- vii. Each lot shall provide and dedicate for public use a parallel frontage access right of way of not less than forty (40) feet in width and running the full width of the lot. Pavement meeting the requirements of the City construction standards shall be provided. Pavement and rights-of-way of adjacent lots shall connect and no driveway to the existing thoroughfare shall be permitted closer than two hundred (200) feet from the ramp of any interchange. Temporary driveways shall be permitted closer than two hundred (200) feet to the interchange ramp only until such time that the parallel frontage road is constructed.

(23) **Live/Work Unit**

- i. Any nonresidential use permitted in the applicable zoning district is permitted in the live/work unit.
- ii. The majority of the floor area of the unit shall be designated for the nonresidential use
- iii. A minimum of 50 percent of a structure's street front façade, at street level, shall be occupied by nonresidential uses.
- iv. No more than two non-resident employees are permitted in addition to the resident(s) of the dwelling.
- v. The non-residential use must be operated by a resident of the live-work dwelling unit.
- vi. The unit must be constructed with a complete dwelling unit but residential occupancy of the unit is not required (i.e., the living space could be used as an extension of the nonresidential use area) but where there will be occupancy, the occupant shall be the owner or employee of the nonresidential use.
- vii. Parking shall be prohibited in front of the building unless located on an approved driveway.
- viii. Signs are permitted in accordance with Chapter 1108

(24) **Mixed Use Building**

- i. Location of Uses and Density
 - (a) Locational criteria: Where permitted by the zoning district and/or in any adaptive reuse project
 - (b) Permitted Density: The building is subject to the density, setback and dimensional requirements of the applicable zoning district or overlay.
 - (c) Distribution of Uses
 - 1) Uses permitted on first floor: Retail, Office, Industrial Office
 - 2) Uses permitted on second floor: Residential, retail, office, industrial office
 - 3) Uses permitted above second floor: Residential, Office
- ii. Parking
 - (a) Number of Spaces. The minimum and maximum number of parking spaces to which mixed-use buildings are subject shall be determined by the gross square footage by use, and by dwelling unit. The total required parking shall be reduced by a shared-parking calculation to arrive at the minimum number of spaces. See Chapter 1105 Off-street Parking
 - (b) Location of Spaces. Parking spaces shall be located to the side and/or rear of the principal building.
- iii. Adaptive Reuse. In order to encourage mixed-use buildings, adaptive reuse, and to protect the character of residential neighborhoods, maximum parking ratios and location of parking shall not apply to existing parking areas for mixed-use buildings that are established in an existing commercial building.

(25) **Nursing Facility**

- i. Loud speakers which cause a hazard or annoyance shall not be permitted
- ii. All points of driveway entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; not closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare or two local or collector thoroughfares.
- iii. The Planning and Zoning Commission shall, in those cases deemed necessary, require streets, storm sewers, sanitary sewers, and sidewalks in such developments. Such facilities shall be equal to minimum requirements for residential use under subdivision regulations.
- iv. The Planning and Zoning Commission may require parking facilities in excess of those set forth in Chapter 1105 as they deem necessary.
- v. No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
- vi. Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
- vii. Such uses shall be conducted not closer than fifty (50) feet from any R- District. Where the use abuts upon but is separated from an R-District by a street, the width of the street may be considered as a part of the required setback. The construction, operation, and maintenance of such uses shall be such that they will not be hazardous, noxious or offensive due to the emission of odor, dust, smoke,

cinders, gas, fumes, noise, vibration, refuse matters or water carried wastes.

- viii. The building shall be set back a minimum of 40 feet from all side and rear lot lines.
- ix. All parking areas shall be set back a minimum of 10 feet from all side and rear lot lines.
- x. New uses shall be on a lot with primary vehicular access on a major thoroughfare or collector street without going through a residential neighborhood to minimize the impact on less intense residential uses.

(26) Office, Flex

- i. Flex office must include a minimum of 30% office use. Remaining space may be used for any combination of research and laboratory space, clean manufacturing and assembly, wholesaling and/or related showroom, warehousing and or distribution purposes.
- ii. Loading bays and doors shall be screened from public rights-of-way or utilize architecture consistent with the other buildings on the site (i.e. glass or steel to match façade systems).
- iii. The use may not emit sound from the manufacturing operation beyond the walls of the structure.
- iv. Sales Office and Showrooms. Sales offices and showrooms for permitted uses shall comply with the following:
 - (a) Any showroom component shall not exceed 10% of the gross floor area of the principal structure and shall not count toward office calculations.
 - (b) Sales offices and showrooms shall be in the primary structure;
 - (c) Used for the sale or display of products manufactured and/or warehoused on site; and
 - (d) Clearly incidental, accessory and subordinate to the operation of the primary use of the lot.

(27) Public Storage Garage or Yards

- i. No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
- ii. Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
- iii. The area of use shall be completely enclosed by a six foot fence, as the Planning and Zoning Commission shall determine to be appropriate, and appropriately landscaped to be harmonious with surrounding properties.
- iv. Such uses shall be conducted not closer than fifty (50) feet from any R- District. A buffer yard in accordance with Chapter 1106 Perimeter Landscape Standards must be established along all property lines abutting a residential use. Where the use abuts upon but is separated from an R-District by a street, the width of the street may be considered as a part of the required setback. The construction, operation and maintenance of such uses shall be such that they will not be hazardous, noxious or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matters or water carried wastes.
- v. The minimum size of the site is at least two (2) acres.
- vi. The leases for all self-storage units shall include clauses prohibiting the following:
 - (a) The storage of flammable liquids or radioactive, highly combustible, explosive or hazardous materials; and
 - (b) The use of property for uses other than dead storage.

- vii. There shall be no retail sales on the property with the exception that the owner or their designee may hold an auction on the site up to four times a year for the purpose of selling forfeited goods stored in units.
- viii. The Tallmadge Fire Department shall be provided with 24-hour access to the grounds. A lockbox shall be provided for its use.
- ix. The maximum size of individual storage compartments shall be 500 square feet.
- x. All storage shall be contained within a fully enclosed building. However, the storage of boats, RV's or other similar vehicles may be permitted in accordance with Section 1104.07 N. Outdoor Storage of Vehicles and Equipment.
- xi. A landscape buffer in accordance with Chapter 1106 Perimeter Landscape Standards must be established along all shared property lines, except for an adjacent self-service storage, light industrial use, or waste-related service.
- xii. A 10-foot wide landscape area with a minimum of 30 shrubs every 100 feet must be established along all property lines abutting a public right-of-way. Shrubs must be a minimum of 3 feet 6 inches tall when planted. A decorative block wall equal to the height of the shrubs may be planted in lieu of the shrub plantings.

(28) Recreation Facility

- i. Commercial Indoor, excluding amusement arcades
 - (a) The proposed use shall not generate excessive noise beyond the premises.
 - (b) In order to minimize any effects of the above, the PZC may require additional noise reduction measures to assure that the level of noise is no more than the prevailing noise levels of permitted uses in the District.
 - (c) Buildings in which outdoor entertainment is provided shall be located a minimum of 250 feet from an adjacent residential district or be oriented to sufficiently direct sound away from an adjacent residential district.
 - (d) The PZC may limit the hours of operation to ensure that the proposed use is compatible with the surrounding uses.
 - (e) In the C-3 District, such establishments shall be located so as to minimize the amount of space located in a retail setting that is inactive during normal business hours. Such facilities are encouraged to have associated retail uses located in the first-floor space nearest the street or sidewalk to contribute to the retail environment of the zoning district.
- ii. Commercial Outdoor
 - (a) All structures, activity areas, and parking areas should be located at least fifty (50) feet from all property lines.
 - (b) Loudspeakers which cause a hazard or annoyance shall not be permitted.
 - (c) All points of driveway entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; not closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare or two local or collector thoroughfares.
 - (d) The Planning and Zoning Commission shall, in those cases deemed necessary, require streets, storm sewers, sanitary sewers, and sidewalks in such developments. Such facilities shall be equal to minimum requirements for residential use under subdivision regulations.

- (e) The Planning and Zoning Commission may require parking facilities in excess of those set forth in Chapter 1187 as they deem necessary
- (f) No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties
- (g) Such developments should be located on a collector street or major thoroughfare
- (h) Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
- (i) All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual or to the community in general.
- (j) Active Recreational Uses
 - 1) The PZC may require active recreation areas to be enclosed by a fence having a minimum height of six feet.
 - 2) The proposed use shall not generate excessive noise, odor, dust or smoke beyond the premises. In order to minimize any effects of the above, the PZC may require all applicable surface areas to be paved, and impose additional noise reduction measures, including mounding, landscaping and sound barriers, to ensure that the level of noise is less than or the same as the prevailing noise levels of permitted uses in the District.
 - 3) Rifle ranges, skeet shooting ranges, pistol ranges, and other activities involving the discharge of firearms shall not be permitted.
 - 4) The PZC may limit the hours of operation to ensure that the proposed use is compatible with the surrounding uses.

(29) Recreational Vehicle Sales

- i. Such facilities shall be located on a major thoroughfare or collector street in an area least disruptive to pedestrian and vehicular traffic.
- ii. A recreational vehicle service station, leasing department or other activities customarily incidental to recreational vehicle sales or leasing establishments shall be permitted as accessory to the sale or rental of vehicles provided these activities are conducted in a wholly enclosed building.
- iii. Only repair of recreational vehicle customarily associated with recreational vehicle sales and leasing establishment shall be permitted and shall be conducted inside a suitable, enclosed building.
- iv. All vehicles displayed for sale or leasing shall be parked on a hard surface and shall comply with the minimum parking setbacks for the applicable district.
- v. No junk, inoperative or unlicensed vehicle will be permitted to remain outdoors.

(30) Retail Sales

- i. In the C3 District, no accessory outdoor display or storage shall be permitted in the minimum front yard setback. Outdoor display or storage shall otherwise comply with accessory uses “Outdoor Displays and Sales” and “Outdoor Storage and Bulk Sales”
- ii. In the C4 and C5 Districts, no accessory outdoor display or storage shall be permitted within 10 feet of the right of way. Outdoor display or storage shall otherwise comply with accessory uses “Outdoor Displays and Sales” and “Outdoor Storage and Bulk Sales”

(31) **Retail - Convenience with gasoline**

- i. Gasoline fueling uses shall comply with Automotive – Filling Stations (Section 1104.07 E 9)

(32) **Retail - Shopping Center - Outdoor**

- i. Loud speakers which cause a hazard or annoyance shall not be permitted
- ii. All points of driveway entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; not closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare or two local or collector thoroughfares.
- iii. The Planning and Zoning Commission shall, in those cases deemed necessary, require streets, storm sewers, sanitary sewers, and sidewalks in such developments. Such facilities shall be equal to minimum requirements for residential use under subdivision regulations.
- iv. The Planning and Zoning Commission may require parking facilities in excess of those set forth in Chapter 1105 as they deem necessary.
- v. No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
- vi. Such developments should be located on a collector street or major thoroughfare.
- vii. Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
- viii. Such uses shall be permitted under the following conditions:
 - ix. Provided that such facilities be located at the extremity of the business district so as not to interfere with the pedestrian interchange between stores in the district and provided further, that it would not limit expansion of the pedestrian oriented facilities.
 - x. All activities, except those required to be performed at the fuel pumps and car washing, shall be carried on inside a building; if work is performed on a vehicle, such vehicle shall be entirely within a building.
 - xi. If the property fronts on two or more streets, the driveways shall be located as far from the street intersection as practicable.
 - xii. At least a six-inch-high pedestrian safety curb shall be installed along all street right of way lines except at driveway approaches.
 - xiii. Such uses shall be conducted not closer than fifty (50) feet from any R-District. Where the use abuts upon but is separated from an R-District by a street, the width of the street may be considered as a part of the required setback. The construction, operation, and maintenance of such uses shall be such that they will not be hazardous, noxious or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matters or water carried wastes.

(33) **Sexually Oriented Business**

- i. Sexually Oriented Businesses shall be prohibited from being located within any overlay district.
- ii. All structures, activity areas, and parking areas should be located at least fifty (50) feet from all property lines.
- iii. No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.

- iv. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual or to the community in general.
- v. No such business shall be located on any lot fronting thoroughfares as defined in the Tallmadge Thoroughfare Plan.
- vi. No such business shall be located on any lot within 500 feet of any residentially- zoned district or any residentially used lot.
- vii. No such business shall be located within 500 feet of any public library, private or public elementary school, public park or bike path or place of worship.
- viii. No such business shall be located on any lot within 1,000 feet of any other sexually oriented business.
- ix. No outdoor advertising other than one permitted ground or wall sign.
- x. No nude graphics allowed in building exterior or sign.
- xi. No shared access driveways will be permitted.
- xii. Sexually Oriented Business will be limited to hours of operation of 10:00 a.m. to 1:00 a.m.

(33.1) **Vape and/or Smoke Establishment** (ORD 2025-86. Passed 12/11/25)

i. Purpose & Intent

- (a) A Vape and/or Smoke Establishment (“Smoke Establishment”) shall be conditionally permitted as per the land use table in Section 1104.05 D (Principal Permitted and Conditional Uses, Commercial Uses) and must comply with all requirements set forth within this Section.
- (b) No state-licensed medical or adult-use marijuana operator, cultivator, processor, dispensary, laboratory, or entity as defined in Section 1104.07 E (2.1) and Appendix A.7 shall constitute a Smoke Establishment for the purposes of this Section.

ii Use Regulation

- (a) No Smoke Establishment shall be located within five hundred (500) feet of any parcel having the following prohibited facilities: church, public library, private or public school, public playground, public park, police station, fire station, city hall building and Metro Parks Freedom Trail. The measure of distance for this purpose shall be computed by direct measurement from the closest property line of a parcel having situated on it a prohibited facility to the closest property line of the subject parcel.
- (b) No Smoke Establishment shall be located within one (1) mile of another Smoke Establishment or Vape and/or Smoke Shop (as defined in Appendix A.8) The measure of distance for this purpose shall be computed by direct measurement from the closest property line of a parcel having situated on it a similar use to the closest property line of the subject parcel.
- (c) Such uses shall be conducted no closer than fifty (50) feet from any R-District. Where the use abuts upon but is separated from an R-District by a street, the width of the street may be considered as a part of the required setback.
- (d) The construction, operation and maintenance of such uses shall be such that they will not be hazardous, noxious or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water carried wastes.

- (e) Business must be licensed by the State of Ohio and be registered with Regional Income Tax Agency (RITA).
- (f) Smoke from the establishment and/or outdoor space must not migrate into any enclosed area where smoking is prohibited.
- (g) Business must submit ODH approval letter to the Planning and Zoning Department annually.
- (h) The establishment must be served by a dedicated, negative-pressure ventilation system that prevents smoke or vapor migration.
 - 1) The system shall be designed and maintained by a licensed HVAC professional to exhaust smoke and air directly to the outdoors and shall not be recirculated to any other portion of the building or adjacent structure.
 - 2) The exhaust point must be located on the rooftop and a minimum of fifty (50) ft from any operable window, door, or air intake of an adjacent property.
- (i) The establishment must comply with all applicable State, Federal, and local laws and regulations.
- (j) For purposes of parking requirements, Establishments shall be regulated as Clubs and Lodges.

(33.2) Vape and/or Smoke Shop (ORD 2025-86. Passed 12/11/25)

i. Purpose & Intent

- (a) Vape and/or Smoke Shop (“Smoke Shop”) shall be permitted as per the land use table in section 1104.05 D Principal Permitted and Conditional Uses, Commercial Uses and must comply with the requirements set forth within this section.
- (b) No state-licensed medical or adult-use marijuana operator, cultivator, processor, dispensary, laboratory, or entity as defined in Sections 1104.07E (2.1) and Appendix A.7 shall constitute a Smoke Shop for the purposes of this section.

ii Use Regulation

- (a) No Smoke Shop shall be located within five hundred (500) feet of any parcel having the following prohibited facilities: church, public library, private or public school, public playground, public park, police station, fire station, city hall building and Metro Parks Freedom Trail. The measure of distance for this purpose shall be computed by direct measurement from the closest property line of a parcel having situated on it a prohibited facility to the closest property line of the subject parcel.
- (b) No Smoke Shop shall be located within one (1) mile of another Vape and/or Smoke Shop or Smoke Establishment (as defined in Appendix A.8). The measure of distance for this purpose shall be computed by direct measurement from the closest property line of a parcel having situated on it a similar use to the closest property line of the subject parcel.
- (c) Such uses shall be conducted no closer than fifty (50) feet from any R-District. Where the use abuts upon but is separated from an R-District by a street, the width of the street may be considered as a part of the required setback.
- (d) The construction, operation and maintenance of such uses shall be such that they will not be hazardous, noxious or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water carried wastes.

- (e) All such business must be licensed by the State of Ohio and be registered with Regional Income Tax Agency (RITA).
 - (f) The business must comply with all applicable State, Federal, and local laws and regulations.
 - (g) On-site consumption of any product, including but not limited to tobacco, electronic smoking devices, vapor products, or hemp-derived products, is prohibited.
 - (h) For purposes of parking requirements, Shops shall be regulated as retail.
- (34) **Vehicles, Equipment and Tool Sales or Rental, With Service and Repair in Enclosed Buildings**
- i. Such facilities shall be located on a major thoroughfare or collector street in an area least disruptive to pedestrian and vehicular traffic.
 - ii. Equipment servicing, leasing department, or other activities customarily incidental to equipment sales or leasing establishments shall be permitted as accessory to the sale or rental of equipment provided these activities are conducted in a wholly enclosed building.
 - iii. Only repair of equipment and tools customarily associated with equipment and tool sales and leasing establishment shall be permitted and shall be conducted inside a suitable, enclosed building.
 - iv. All equipment displayed for sale or leasing shall be parked on a hard surface and shall comply with the minimum parking setbacks for the applicable district as established in Chapter 1103
 - v. No junk, inoperative or unlicensed vehicle will be permitted to remain outdoors.

F. INDUSTRIAL USES

(1) **Crematory**

- i. No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
- ii. Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
- iii. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual or to the community in general.
- iv. Such uses shall be conducted not closer than fifty (50) feet from any R-District. Where the use abuts upon but is separated from an R-District by a street, the width of the street may be considered as a part of the required setback. The construction, operation and maintenance of such uses shall be such that they will not be hazardous, noxious or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matters or water carried wastes.
- v. Permitted as an accessory use to Funeral Home principal uses only.

(2) **Food Service - Processing**

- i. Comply with Section 1104.06F(9)ix. Technology Park: Design Guidelines

(3) **Fuel Distribution Station**

- i. No lighting shall constitute a nuisance and shall in no way, impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
- ii. Such developments should be located on a collector street or major thoroughfare.
- iii. Such uses shall not require uneconomical extensions of utility services at the expense of the community.

- iv. Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
 - v. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual or to the community in general.
 - vi. Such uses shall be conducted not closer than fifty (50) feet from any R-District. Where the use abuts upon but is separated from an R-District by a street, the width of the street may be considered as a part of the required setback. The construction, operation and maintenance of such uses shall be such that they will not be hazardous, noxious or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matters or water carried wastes.
- (4) **Laboratories and processing**
- i. Comply with Section 1104.06 F.(9) ix. Technology Park: Design Guidelines
- (5) **Manufacturing**
- i. Sales Office and Showrooms. Sales offices and showrooms for permitted uses shall comply with the following:
 - (a) Any auxiliary showroom areas associated with the primary use shall not exceed 10% of the gross floor area of the principal structure.
 - (b) Sales offices and showrooms shall be in the primary structure;
 - (c) Shall be used for the sale or display of products manufactured and/or warehoused on site; and
 - (d) Shall be clearly incidental, accessory and subordinate to the operation of the primary use of the lot.
 - ii. Comply with Section 1104.06 F.(9) ix. Technology Park: Design Guidelines
- (6) **Manufacturing – Artisan/ Small Batch**
- i. Outdoor storage. Any activity storing materials outdoors shall comply with Section 1106.05 F. Landscape: Screening Requirements for Service Structures.
 - ii. Loading docks. Where the site abuts a residential zone district or a district permitting residential use, the building wall facing such lot shall not have any service door openings or loading docks oriented toward the residential zone district or district permitting residential use.
 - iii. Loading bays and doors shall be screened from public rights-of-way or utilize architecture consistent with the other buildings on the site (i.e. glass or steel to match façade systems).
 - iv. The use shall not be within 1,000 feet of a residential zone.
 - v. The use may not emit sound from the manufacturing operation beyond the walls of the structure.
 - vi. Comply with Section 1104.06 F.(9) ix. Technology Park: Design Guidelines
- (7) **Motor Freight Garage**
- i. Vehicular approaches to the property shall be so designed as not to create an interference with traffic on surrounding public roads.
 - ii. Applications for this use must demonstrate roadway suitability for the weights of the proposed vehicle for the routes to be used in accessing the facility or agree to terms for repair and maintenance with the City.
 - iii. Paved, off street parking and service areas shall be required. All parking and service areas shall be

paved with concrete or asphalt. Paved vehicular access drives of at least ten (10) feet in width shall be required for parking areas of ten (10) vehicles or less capacity, and two way drives of twenty (20) feet paving width minimum shall be required for parking areas of eleven (11) or more vehicle capacity.

- iv. Freight vehicle and trailer parking shall be screened from any public right of way with a 4 ft. to 6 ft. undulating height mound, and a staggered planting of evergreen trees on either side of the crest so as to provide a continuous visual screen.
- v. The facility may include fueling pumps, truck wash, and a maintenance/ repair garage for private use. All maintenance and repair shall be performed within an enclosed building.
- vi. Truck and trailer parking and storage shall be setback a minimum of 100 feet from any residentially zoned property.
- vii. Truck and/or trailer sales and/or leasing shall not be permitted.
- viii. Warehousing and distribution shall not be permitted.

(8) Research and Development

- i. Comply with Section 1104.06 F.(9) ix. Technology Park: Design Guidelines

(9) Technology Park

- i. Intent Statement. The Technology Park Use provides for a broad range of research, office, laboratory and clean manufacturing uses that will foster a well-rounded and diverse economy for the City. The Technology Park Use supports appropriate light-industrial options, while encouraging greater opportunity for research and office uses that will improve Tallmadge's competitive edge within the region. Flexible architectural spaces are desired that will accommodate the expansion and changing operations of various size companies.
- ii. Development Standards for Uses within the Technology Park Use. Uses not listed here shall comply with applicable conditions as otherwise specified by this chapter.
 - (a) Office-flex. Flex office must include a minimum of 30% office use. Remaining space may be used for any combination of research & laboratory space, clean manufacturing and assembly, wholesaling and/or related showroom, warehousing and or distribution purposes. Any showroom component shall not exceed 10% of the gross floor area of the principal structure and shall not count toward office calculations.
 - (b) Transportation- park-and-rides. Park and ride facilities shall provide only one shelter per bus route.
 - (c) Educational facility. These uses shall have no rooms for the regular housing or sleeping of students.
 - (d) Manufacturing & assembly and wholesaling & distribution. Any auxiliary showroom areas associated with the primary use shall not exceed 10% of the gross floor area of the principal structure.
 - (e) Motor vehicle repair-major. A vehicle may not be stored for more than 30 days. All inoperable vehicles must be parked in a defined service area providing screening in accordance with Section 1106.05 F. Landscape: Screening Requirements for Service Structures.
 - (f) Utilities- renewable energy facilities. Renewable energy facilities shall be located at least 750 feet from all residential districts or residential subarea of a planned development district, unless otherwise approved by the Planning and Zoning Commission. Property owners must

sufficiently demonstrate that adequate measures are provided to minimize off-site impacts relating to the facility's operation.

- (g) Utilities- electric substation. Electric substations shall be located at least 700 feet from all residential districts or residential subarea of a planned development district.
 - (h) Utilities- wireless communications. For regulations governing wireless communication uses, Chapter 1104.06 D.(10) of the Tallmadge Codified Ordinances shall apply.
 - (i) Child day care. Day care components shall not exceed 20% of the gross floor area of the principal structure.
 - (j) Truck and van rental establishments.
 - 1) The minimum lot size shall be 20,000 square feet. For uses that have more than ten vehicles for rent, an additional 1,500 square feet of lot area shall be required for each additional vehicle over ten, provided that not more than 40 vehicles may be displayed on any site. Permitted vehicles shall not exceed 26 feet in length. To minimize views from adjacent streets, this use shall not be permitted on a lot abutting a major thoroughfare or freeway or on any lot that abuts or is directly across the street from a residential district or use.
 - 2) Areas specifically set aside for parking of vehicles for rent shall be specifically designated on the site plan submitted with the application. Trucks and vans for rental shall not be parked in any other area, except as may be needed for the staging of vehicles for customer use. Minor servicing may be permitted on site provided it is done within an enclosed facility, not including vehicle washing or cleaning which may be permitted within the designated parking areas.
 - 3) The designated parking area for trucks or vans for rental shall meet the requirements of Section 1106.05 F. Landscape: Screening Requirements for Service Structures. Interior parking landscaping shall not be required.
- iii. Site development requirements.
- (a) Intensity of use. Lot size shall be sufficient to provide the yard spaces required by this section:
 - 1) Maximum lot coverage and building height: for principal and accessory structures shall comply with Chapter 1103 Zones and Overlays, unless otherwise specified by this section.
 - (b) Setback requirements. Placement of structures and improvements shall provide sufficient separation to the adjacent site or use according to the following provisions. Setbacks shall be provided as necessary to accommodate any additional site requirements such as landscaping, mounding and buffering:
 - 1) Lot width, front yards, side and rear yards: for principal and accessory structures shall comply with Section 1103 Zones and Overlays, unless otherwise specified by this section.
 - 2) Required side and rear setbacks for accessory structures shall in no case be less than 25 feet from any residential zoning district or a residential subarea of a planned development district.
 - 3) Side pavement setbacks. Required side yard setbacks for pavement, which includes open storage, service and loading areas, shall be at least 5 feet, except for common access drives or shared service courts. Required side pavement setbacks shall be at least 50 feet from any residential zoning district or a residential subarea of a planned development district.

- 4) Rear pavement setbacks. Required rear yard setbacks for pavement, which includes open storage, service and loading areas, shall be at least 10 feet, except for common access drives or shared service courts. Required rear pavement setbacks shall be at least 50 feet from any residential zoning district or a residential subarea of a planned development district.
- iv. Exterior Development.
 - (a) Exterior Operations. Exterior operations include: outdoor processing, assembly or fabrication of goods; movement of bulk goods not in containers or pipelines; maintenance, repair and salvage of equipment. Exterior operations shall not be permitted in the O-IE overlay District.
 - (b) Exterior Storage. Exterior storage includes the outdoor storage of raw or finished goods (packaged or bulk) including gases, chemicals, gravel, building materials, packing materials, salvage goods, machinery, equipment, damaged vehicles, etc. Exterior storage shall be permitted and shall comply with Section 1106.05 F. Landscape: Screening Requirements for Service Structures and Section 1104.07 M. accessory use "Outdoor Storage and Bulk Sales".
 - (c) Exterior Display. Exterior display includes the display of products, vehicles, equipment and machinery for sale or lease. Display items are intended to be viewed by customers and are not just being stored or parked. Exterior display does not include damaged vehicles, vehicles or equipment being serviced, bulk goods and materials, or other such products. Exterior display shall be permitted and shall comply with the Section 1104.07 L. accessory use "Outdoor Displays and Sales".
 - (d) Service areas. Overhead doors shall be located to the side or rear of structures to minimize visibility from public streets. Open service areas and loading docks shall be screened by walls a minimum of 6 feet in height, but not greater than 12 feet. Walls, fences or landscape screening shall have 100% opacity to effectively conceal service and loading operations from adjoining streets and from any residential zoning district or a residential subarea of a planned development district. Compliance with the provisions of Section 1105 Landscaping shall also be required.
 - v. Off-site impacts. No land or structure in Technology Park use shall be used or occupied in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable impact on any land which is located in any other zoning district. Such impacts may result from noise, vibration, odor, smoke or dust or glare. Statements in writing that such uses comply or will comply with such uses may be required by the PZC from the owner. In cases of doubt, the City shall select and arrange for an independent survey by a professional engineer qualified in the particular field and the costs for such service shall be paid by the owner.
 - (a) Noise. The sound pressure level of any operation on a lot shall not exceed the average intensity of street traffic noise in the nearest residential districts, and no sound shall be objectionable due to intermittence, best frequency or shrillness.
 - (b) Vibration. No vibrations which are perceptible without the aid of instruments shall be permitted, as measured on the lot within the non-industrial district.
 - (c) Odor. No emission of odorous matter in any quantities so as to produce a public nuisance shall be permitted, as measured on the lot within the non-industrial district.
 - (d) Dust and Smoke. The emission of smoke, soot, fly ash, fumes, dust or other types of pollutants borne by the wind shall be controlled so that the rate of emission and quantity

deposited do not create a public nuisance, as measured on the lot within the non-industrial district.

- (e) Glare. Exterior lighting shall be used in a manner that produces no glare on public highways or non-industrial zoned land.
- vi. Architecture and design requirements.
 - (a) Architectural intent. While there is no prescribed architectural style or design, all structures within the district are expected to be thoughtfully designed with materials, detailing, scale, and proportion that is intentional and carefully thought through and with specific attention toward aesthetics.
 - (b) Accessory structures. Accessory structures shall be constructed of identical materials, style, quality and appearance as the principal building.
- vii. Landscape requirements.
 - (a) Compliance. All sites shall be required to comply with applicable Code requirements for landscaping in Chapter 1105
- viii. Alternative energy & design.
 - (a) Alternative energy integration. Use of on-site alternative energy sources for greater self-sufficiency is highly encouraged. Other types of alternative energy not addressed by this Code may be approved if demonstrated to be of similar character or impact of those types permitted.
 - 1) Wall and roof-mounted or applied thermal and PV solar units are permitted and shall include side and rear screening as applicable for supporting infrastructure;
 - 2) Ground-mounted solar units are permitted, in accordance with applicable setback requirements and shall include side and rear screening for supporting infrastructure;
 - (b) Alternative design methods. Integration of architectural and site design methods and materials that promote sustainability and lower energy use are strongly encouraged.
- ix. Design Guidelines: In addition to the requirements established by this section, proposed improvements shall comply with the site and architectural design guidelines as much as possible to the approval of PZC. Guidelines shall be maintained by the Zoning Administrator.

(10) Warehousing and Distribution

- i. Comply with Section 1104.06F(9)ix. Technology Park: Design Guidelines

(11) Wholesale establishment

- i. Comply with Section 1104.06F(9)ix. Technology Park: Design Guidelines

SECTION 1104.08 ACCESSORY USE-SPECIFIC STANDARDS

The following requirements apply to the specific types of accessory uses and structures listed, in addition to the requirements of Section 1104.03 Permitted Accessory and Temporary Uses above.

A. Accessibility Ramps

- (1) Ramps that provide access to buildings for the disabled are permitted in all zoning districts and may encroach in all setbacks but shall not encroach on a public sidewalk, right of way or street.

B. Amateur Radio Towers and Antenna

- (1) No more than one amateur radio tower and/or antenna shall be permitted on each lot.
- (2) Ground-mounted amateur radio towers, antennas, and related guy wire anchors must be located in the rear yard.
- (3) Building-mounted amateur radio towers and antennas must be located to the rear of the centerline of the principal building.
- (4) Such tower shall not exceed 65 feet in height or the maximum height of the applicable zoning district, whichever is greater. The measurement shall be made from the grade directly beneath the tower to the highest point on the antenna or tower, whichever is the tallest point of the structure.
- (5) Antennas and guy wire anchors shall not overhang or otherwise be located within required accessory structure setbacks or on adjacent lots.
- (6) When an amateur radio tower and antenna is no longer being used by an FCC amateur radio license holder for amateur radio service, the tower and antenna must be removed no more than 180 days after cessation of the FCC license or the transfer or property ownership or lease to an individual without an FCC license.
- (7) Amateur radio towers and antennas that do not comply with the provisions of this section shall require a conditional use approval (See Section 1102.). The application for a conditional use approval for amateur radio towers and antennas must demonstrate that compliance with the provisions of this section would prevent the amateur radio operator from exercising the rights granted to him or her by the FCC or the State of Ohio by license or law. If the PZC determines that expertise beyond that of City staff is necessary to determine compliance with this criterion, then the applicant shall reimburse the City for any expenses necessary for hiring a third-party consultant to make this determination.

C. ATM

- (1) Comply with standards for “Drive-Through Facilities” as specified in this section.

D. Basketball Hoops

- (1) Basketball courts shall be subject to the standards of Section 1104.07 W. Tennis and Other Recreational Courts.
- (2) Movable basketball hoops shall not be located in rights-of-way or be so located as to require play in any right of way.

E. Bike and Skateboard Ramps

- (1) Bike ramps and skateboard ramps shall be set back at least 15 feet from all lot lines.

F. Drive-Through Facilities

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

- (1) Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments shall not be located within 250 feet of any residential dwelling unit.
- (2) All drive-through areas, including but not limited to drive-through signs, waiting lanes, trash receptacles, audio equipment, drive up windows, and other objects associated with the drive-through area shall be

located in the side or rear yard of a property to the maximum extent feasible, and shall not cross, interfere with, or impede any public right of way.

- (3) If the drive-through window, drive-through signage, or any audio equipment are located in the front yard, they shall be screened with an opaque, landscaped screen of a height that will fully screen the window, signage, or audio equipment. Such screening shall not be required for waiting spaces that are located in a front yard.
- (4) **Building Design.** Drive-through uses must be built as an integral architectural element of the primary structure and use. Building materials shall be the same as those used in the primary structure. Drive-through facilities and structures separate from the primary structure are prohibited.
- (5) **Building Location and Orientation.** The principal building to which the drive-through use is accessory should be located at or near the front and, if applicable, side street setback lines. Any building with a drive-through use shall have a prominent entrance facing each street upon which it has frontage.
- (6) **Drive-Through Setback.** Drive-through uses, including the drive-through window and any canopies, shall be located to the rear or side of the primary structure, and set back a minimum of 10 feet from the front or side street building wall of the primary structure.
- (7) **Stacking Lane Location.** Stacking lanes shall not be located between the building and a street and may not be located in a required front yard.
- (8) **Headlight Glare.** Drive-through uses shall be configured and screened such that glare from the headlights of vehicles waiting in the stacking lane is obstructed from shining into a public right of way or neighboring residential use.
- (9) **Landscaping.** A landscape buffer meeting the requirements of Chapter 1106 Landscape shall be provided along rear and side lot lines of a drive-through use located adjacent to a residentially zoned or used property.

G. Fences, Walls, and Hedges

- (1) **General Requirements**
 - i. **Zoning Certificate Requirement**
 - (a) No person shall construct or erect a fence or wall without first obtaining an approved zoning certificate from the Zoning Administrator and/or a building permit, if applicable. Certificates are not required for repairs of existing fences, for replacement of a fence for which the original certificate can be produced, or for invisible fences.
 - (b) A zoning certificate shall not be required for vegetative hedges or invisible fences, but they shall be subject to any applicable requirements of this section.
 - ii. Small portions of fences and walls, such as decorative fencing used for landscaping, that are not longer than 20 feet in length or more than 3 feet in height, but which comply with the yard and maintenance requirements set forth in this subsection, shall not require a zoning certificate.
 - iii. It shall be the duty of each lot owner and contractor, or an agent thereof, to determine lot lines and to ascertain that the fence or wall does not deviate from the plans as approved by the Zoning Administrator issuing the zoning certificate, and that the fence does not encroach on another lot or existing easement. The issuance of the certificate and any inspection by the City shall not be construed to mean that the City has determined the fence is not encroaching on another lot, nor shall it relieve the property owner of the duty imposed on him or her herein.

- iv. All fences, walls, hedges and invisible fences, and any related supporting structures or appurtenances, shall be contained within the lot lines of the applicable lot and shall not encroach into adjoining or abutting lots and/or rights-of-way. Property owners, with written permission from abutting property owners, may connect to fences on adjoining properties.
- v. Walls shall be prohibited within all utility easements. Fences that are placed in utility easements are subject to removal without notice by utility companies or the City when work is being done in the utility easements. Replacement of the fence shall be at the property owner's expense.
- vi. Fences, walls and hedges shall not impede, inhibit, or obstruct culverts, drains, natural watercourses, or storm water drainage in any zoning district.

(2) Additional Location Requirements

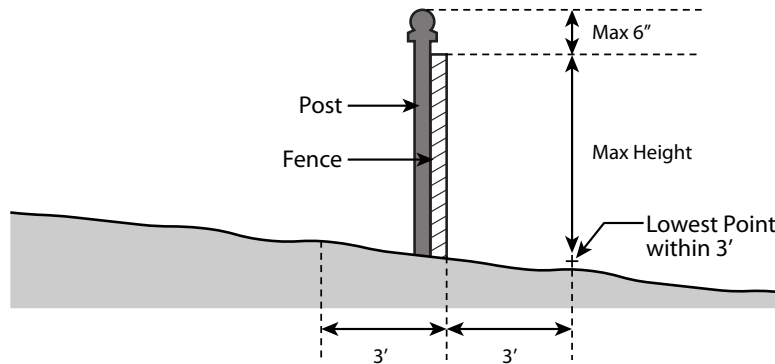
The following additional locational requirements shall apply to fences and walls in all nonresidential zoning district.

- i. In order to maintain clear vision lanes for vehicles and pedestrians, no opaque fences shall be permitted within 10 feet, in any direction, of the following points:
 - (a) At the intersection of a driveway and sidewalk (or front property line if there is no sidewalk);
 - (b) At the intersection of a driveway and public right of way; or
 - (c) At the intersection of any two driveways.
- ii. All fences, walls and hedges shall be subject to the visibility at intersection requirements of Section 1106.06 F. 2. Sight Distance.

(3) Materials and Design

- i. No fence shall be composed of scrap materials, tires, canvas, visqueen or similar plastic sheet materials, plastic bags, cardboard, asphalt-style shingles, or corrugated metal, welded rolled wire, chicken wire, or sheet metal with the following exceptions:
 - (a) Metal, welded, and woven wire shall be allowed in the R1 District to fence in farm animals and protect crops.
 - (b) Wire mesh, chicken wire, and welded wire shall be allowed as a backing material for split-rail fences.
- ii. All fences on a single property shall have a unified color and style.
- iii. The smooth finished side of the fence or wall shall be the side of the fence that faces outward from the lot or yard being fenced. If a fence has two similarly finished sides, either side may face the adjacent property.
- iv. All fences, walls and hedges shall be maintained in a neat and orderly manner.
- v. Fencing that is electrically charged shall only be permitted for the containment of livestock on lots used for agricultural purposes in the R1 District. Such fencing shall be set back a minimum of 50 feet from all adjacent lot lines of lots used for residential purposes.
- vi. Fencing that includes barbed wire, razor wire, or other sharp-pointed material shall be prohibited except in the I-1 District where they may be permitted, for security purposes. Such fencing shall:
 - (a) Only be allowed in the side and rear yards;
 - (b) Shall be mounted on the opposite side of the fence from any adjacent public right of way or sidewalk;
 - (c) Be located a minimum of eight feet off the finished grade;

- (d) Shall be set back a minimum of 20 feet from any lot line adjacent to a residential zoning district; and
- (e) Contain no more than 18 inches of razor wire or barbed wire.
- vii. All latches, hinges and hardware shall be made of non-rusting materials.
- (4) Materials for Fences and Walls in Commercial and Industrial Districts
 - i. Fences and walls shall be constructed of stone, brick, finished wood, iron, metal, or synthetic look-alike products.
 - ii. In the any commercial and industrial district, chain link fences shall be permitted when not located in the required building setback from a public street right-of- way provided that they are constructed of a dark, neutral-colored, non-reflective vinyl, as approved by the Zoning Administrator or the PZC; whichever is applicable according to the procedures in Chapter 1102: Review Procedures.
- (5) Measurement
 - i. The maximum fence or wall height shall be measured from the lowest point within three feet on either side of the fence to the topmost portion of the fence between posts. The structure posts may exceed the maximum height allowed in this section by up to six inches including any decorative features.

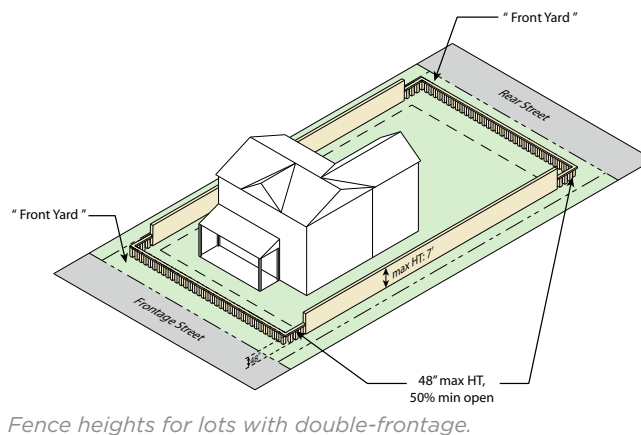


Fence height measurement.

- ii. A fence may be erected on top of a wall, but the combined height of the fence and wall shall not exceed the heights specified within this section for a fence or wall. Fences or walls located on top of a retaining wall shall be measured from the top of the finished grade at the top of the retaining wall.
- (6) Retaining Walls
 - i. Retaining walls shall be measured from the bottom of the footing to the top of the wall.
 - ii. Retaining walls that exceed six feet in height shall be benched so that no individual retaining wall exceeds a height of six feet except where the Zoning Administrator determines that topography requires a wall of greater height, and each bench is a minimum width of 36 inches.
 - iii. Retaining walls over four feet in height shall be approved by the City Engineer in addition to the Zoning Administrator. Plans for such retaining wall shall be prepared by a professional engineer.
 - iv. Retaining walls should substantially follow or preserve the existing grade or contour of land.

(7) Fences, Walls and Hedges in Front Yards. The following shall apply to fencing, walls and hedges in front yards:

- i. Fencing between a building façade and a street shall be decorative in style and appropriate for the principal building architecture.
- ii. Fences, walls and hedges shall not exceed 48 inches in the required front yard building setback or along any lot line that is adjacent to a street, including corner lots and double frontage lots. Such requirement shall not apply to lot lines that run parallel and adjacent to an alley.
- iii. At least 50 percent of the vertical surface of a fence or wall located in a required front yard building setback, or along any line that is adjacent to a street, including corner lots and double frontage lots, shall be open. This requirement shall not apply to fences or walls that run parallel and adjacent to a public alley right of way.
- iv. For double frontage lots, any yard fronting a street shall be considered a front yard and fencing shall meet the front yard height and opacity requirements. This setback shall not apply if the entire block face contains double frontage lots with the rear façade of the buildings facing the same street.



(8) Fences, Walls and Hedges in Side and Rear Yards

The following shall apply to fencing, walls, and hedges in side and rear yards:

- i. There shall not be a height requirement for hedges in side and rear yards.
- ii. Fences and walls shall not exceed 7 feet in any side or rear yard within any residential zoning district.
- iii. Fences and walls shall not exceed 10 feet in any side or rear yard within any nonresidential zoning district.
- iv. Fences and walls greater than 6 feet in height require a building permit

(9) Temporary Fences

Temporary fences such as construction site fences and snow fences shall be allowed subject to Building Code requirements and the following conditions:

- i. Fences around construction sites shall be allowed for the duration of the construction work, and snow fences shall be allowed for a period not to exceed five months in any calendar year.
- ii. A zoning certificate shall not be required for temporary fences.

H. Helistop/ Heliports.

- (1) Applicability.
 - i. Heliports, as defined pursuant to section Appendix A Definitions, are prohibited.
 - ii. All permits issued shall be only to the original property owner/applicant or original lessee/applicant. If the ownership or tenancy has changed, a new application shall be required.
 - iii. This section shall apply to all helistops established within the municipality
- (2) Permit process. Permits for establishing and maintaining helistops shall be issued to the owner or lessee of the helistop by the Zoning Administrator after approval of a special permit by the PZC and, after the applicant has submitted an application providing written proof that:
 - i. The helistop when located in zoning districts, other than residential:
 - (a) Has been inspected and, if applicable, approved and registered or licensed by either the Division of Aviation of the Ohio Department of Transportation (ODOT) or the Federal Aviation Administration for compliance with the criteria set forth in the transportation Laws of Ohio, annotated with Rules and Regulations, Chapter TRa-1, TRa-2 and TRa-5 and amendments thereto and applicable federal regulations;
 - (b) Has received such approval and clearance from the Federal Aviation Administration (FAA) as may be required by the Federal Aviation Regulations (FARs); and
 - (c) Is an accessory use to a permitted principal use in the zoning district in which the helistop is located.
 - ii. The helistop when located in residential zoning districts:
 - (a) Complies with the above requirements for helistop in zoning districts other than residential;
 - (b) Shall be limited to helicopters of 12,000 pounds gross weight or less (executive-type helicopters) for the purpose of internal cargo or personnel transportation only;
 - (c) Shall be a minimum of one acre, and when in use shall be marked in such a way as to be clearly visible;
 - (d) Shall be a minimum of 500 feet from the nearest occupied structure, expressway, major thoroughfare or collector streets within the municipality; and
 - (e) Is an accessory use to a permitted principal use in the zoning district in which the helistop is located.
- (3) Fee. A non-refundable fee as set forth from time to time by ordinance shall be paid to the municipality for each application for a registration application to establish a helistop.
- (4) Exceptions. No person shall take-off or land a helicopter anywhere within the municipality except at a helistop for which a permit, issued by the municipality, as hereinafter provided, is in force unless such landing or take-off is done:
 - i. When necessary for law enforcement or other public safety purposes;
 - ii. When necessary for aircraft or medical emergencies;
 - iii. For a single or one-time landing at a site not regularly used for landings when prior approval is obtained from the City. Such approval shall not be unreasonably withheld when the Ohio State Transportation Department has issued a temporary helistop certificate for such an activity.

I. Home Occupations

A home occupation, in districts where allowed, shall meet the following standards to maintain the residential character of the neighborhood while providing opportunities for home-based businesses.

- (1) Home occupations shall be conducted entirely within the main building.
 - i. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home occupations. Such space for a home occupation shall only be located in the principal dwelling and is prohibited from being located in any accessory building or structure.
- (2) All storage of materials, goods, supplies or equipment related to the operation of a home occupation is limited to the dedicated space for the home occupation. Home occupations shall not produce any alteration or change to the exterior appearance of the residence which is inconsistent with the typical appearance of a residential dwelling.
 - i. No external evidence of the occupation shall be detectable at any lot line, including advertising, signs, smoke, dust, noise, fumes, glare, vibration, electrical disturbance, or outside storage of materials or equipment.
 - ii. Not more than two patron or business-related vehicles shall be present at any one time, and the proprietor shall provide adequate off-street parking for such vehicles. No additional off-street parking or loading facilities shall be provided beyond that traditionally used for residential uses. No additional driveways shall be established for the use of the home occupation.
 - iii. A maximum of one commercial vehicle, capacity not exceeding ten thousand (10,000) pounds gross vehicle weight or twenty-five (25) feet in length, including but not limited to tractors, trailers, semi-trailers and trucks may be used or parked on the property in connection with the home occupation. The commercial vehicle shall not be parked in the street.
 - iv. The home occupation shall not require regular or frequent deliveries by large delivery trucks or vehicles in excess of ten thousand (10,000) pounds gross vehicle weight or twenty-five (25) feet in length.
 - v. The home occupation shall not display advertising signs or other visual or audio devices which call attention to the business use.
- (3) The home occupation shall be clearly incidental and secondary to the use of the premises for residential purposes.
- (4) The home occupation shall not change the fire safety or occupancy classification of the premises.
- (5) The home occupation shall employ no more than one individual who is not an occupant of the residence.
- (6) The home occupation shall not offer a ready inventory of any commodity for sale, except as specifically listed under subsection 8 of this section.
- (7) The home occupation shall not accept clients or customers before 7:00 a.m. or after 10:00 p.m. This limitation on hours of operation shall not apply to allowed childcare home occupations.
- (8) Uses allowed as home occupations shall include the following:
 - i. Office of an accountant, architect, attorney, engineer, realtor, minister, rabbi, clergyman, or similar profession.
 - ii. Office of a salesman or manufacturer's representative; provided that no retail or wholesale transactions or provision of services may be personally and physically made on premises, except as otherwise expressly permitted by this chapter.

- iii. Author, artist, sculptor.
 - iv. Dressmaker, seamstress, tailor, milliner.
 - v. Music/dance teacher, tutoring or similar instruction, provided that no more than three pupils may be present at any one time.
 - vi. Swimming lessons or water safety instruction, provided that no more than six pupils may be present at any one time.
 - vii. Home craft, such as weaving, model making, etc.
 - viii. Repair shop for small electrical appliances, cameras, watches, or other small items, provided that items can be carried by one person with no special equipment, and provided that no internal combustion engine repair is allowed.
 - ix. Food preparation such as cake decorating, catering, etc., provided that no on-premises consumption by customers is allowed, and provided that the business is in full compliance with all health regulations.
 - x. Day care: registered family home in compliance with state law, with a maximum of six children at any one time.
 - xi. Barbershop, beauty salon, or manicure studio; provided that no more than two customers are served at any one time.
- (9) Uses prohibited as home occupations shall include the following:
- i. Animal hospital, commercial stable, kennel,
 - ii. Bed and breakfast inn, boardinghouse or rooming house,
 - iii. Day care center with more than six children,
 - iv. Schooling or instruction with more than one pupil (except as noted above),
 - v. Fitness/health facilities that provide group activities or services,
 - vi. Restaurant or on-premises food/beverage consumption of any kind,
 - vii. Automobile, boat or trailer repair, small engine or motorcycle repair, large appliance repair, repair of any items with internal combustion engine, or other repair shops except as specifically provided for in subsection 8,
 - viii. Cabinetry, metal work, or welding shop,
 - ix. Office for doctor, dentist, veterinarian, or other medical-related profession,
 - x. On-premises retail or wholesale sales of any kind, with the following exceptions:
 - (a) Home craft items produced entirely on premises
 - (b) Garage sales as provided for within TCO Chapter 719 Home Sales
 - (c) Sales incidental to a service; and
 - (d) Orders previously made by telephone, internet or at a sales party as provided for within TCO Chapter 719 Home Sales.
 - xi. Commercial clothing laundering or cleaning,
 - xii. Mortuary or funeral home,
 - xiii. Trailer, vehicle, tool or equipment rental,
 - xiv. Junkyard, scrap yard and the scrap metal and material processing,

- xv. Construction, landscaping or similar contractor facilities and storage and outside storage, except as office-only use as provided within Section 8,
 - xvi. Parking on, or dispersing/dispatching from the site, any vehicle used in conjunction with the home occupation (e.g., landscaping services, taxi services, construction, etc.) with the exception of a vehicle owned and operated by the homeowner or tenant,
 - xvii. Antique, gift or specialty shop; and
 - xviii. Any use defined by the building code as assembly, factory/industrial, hazardous, institutional, or mercantile occupancy.
- (10) The Zoning Administrator shall determine whether a proposed use not specifically listed is appropriate as a home occupation. The Zoning Administrator shall evaluate the proposed home occupation in terms of its impact on neighboring property, its similarity to other allowed and prohibited uses, and its conformance with the regulations herein. If the applicant disagrees with the determination of the Zoning Administrator, the applicant may request that the use be evaluated by PZC.
- (11) Any home occupation that was legally in existence as of the effective date of the ordinance from which this chapter is derived and that is not in full conformity with these provisions shall be deemed a legal nonconforming use.

J. Nursery Schools or Day Care Centers (Children or Adults)

- (1) Nursery schools or day care centers may only be permitted as accessory uses to permitted and conforming nonresidential uses. Such use shall be located within the principal building.

K. Outdoor Dining

- (1) Outdoor dining areas shall be located along a sidewalk adjacent to the principal building the dining is connected with or between the principal building the dining is connected with and an adjacent parking area. Outdoor cafes and food service areas shall not be located in such a manner as to require customers and employees to cross driveways or parking areas to go between the café/food service area and the principal building.
- (2) Outdoor dining areas shall meet the parking area setbacks established in Section 1105 Parking,
- (3) Outdoor dining shall not be located within 10 feet of fire hydrants, Fire Department standpipe connections, fire escapes, bus stops, loading zones, mailboxes, or traffic signal stanchions.
- (4) The seating capacity of the outdoor seating areas shall not exceed the seating capacity of the indoor seating area.
- (5) If no grade separation is provided between vehicular traffic and the outdoor dining area, permanent railings or fencing shall be provided around the dining area. If the outdoor dining area is adjacent to a street or area that is closed to vehicular traffic, no railing or fencing shall be required.
- (6) Outside entertainment, whether by band, orchestra, instrument, musician, singer, radio, television, loudspeaker, microphone, recital or any other individual, group or mechanical device shall not be permitted in any outside dining facility if the noise from such entertainment is of such a volume so as to cause a disturbance to abutting property owners.
- (7) If the outdoor dining area is located on a sidewalk, the area shall be designed so there is a minimum of 6 feet of clearance adjacent to the dining area to allow for safe pedestrian circulation. Such areas shall also not block any areas of ingress or egress from the principal building.

- (8) All applicable Health Department sanitation requirements shall be followed, and permits obtained for outdoor food handling. The permittee shall be responsible for posting the outdoor seating area as to any special Health Department requirements.
- (9) Umbrellas and awnings that shelter diners from the elements shall be secured so as not to create a hazard in windy conditions.
- (10) Enclosing outdoor dining areas either by a permanent roof or to expand the existing structure shall meet all the requirements of a building within the applicable zoning district and shall require the issuance of a new zoning certificate.
- (11) Temporary stanchions with chains or ropes may be approved for the outdoor dining facility, the extent and nature of which shall be set out in the application. If the area is adjacent to vehicular traffic, permanent railings or fencing shall be provided around the dining areas. For example, permanent railings or fencing may be an ornamental fence constructed of stone, wood, vinyl, wrought iron, hedges or shrubbery.
- (12) Requirements for Outdoor Dining in the Public Right of way
Outdoor dining shall be permitted on public sidewalks provided that:
 - i. An Outdoor Dining Permit shall be obtained from the Zoning Administrator prior to placing tables, chairs, or any other equipment (including fences, planters, light posts, etc.) on any public sidewalk. Permits issued hereunder shall be valid from the date of approval and each year thereafter until such time as the outdoor dining facility ceases operations.
 - ii. All sidewalks encompassed by the Outdoor Dining Permit shall be maintained, by the permittee, in a sanitary manner at all times. Food scraps and containers shall be disposed of in appropriate refuse containers on a regular basis during the day by the permittee. Sweeping of refuse or food scraps into tree grates is not permitted.
 - iii. The proposed use shall not unreasonably interfere with pedestrian or vehicular traffic or with access to parked vehicles, and in no event, shall the uses permitted by an Outdoor Dining Permit reduce the open portion of any sidewalk to less than six feet in width. Sidewalks that include a tree and/or any other permanently affixed objects shall be measured from the building side of the object.
 - iv. Permittees shall see that the public areas encompassed by their Outdoor Dining Permit are kept clean throughout the day and at the end of each business day, so as not to have any food, scraps or drink leftovers remaining which would pose an attraction to animals or insects. Each permit holder shall wash, as needed, the public area to remove any food or drink residue that may attract animals and/or create a pedestrian slip hazard.
 - v. No tables, chairs or other equipment shall be attached or affixed to the sidewalk, poles or any other public facilities, without first obtaining permission from the Director of Public Service.
 - vi. The applicant for an Outdoor Dining Permit shall provide at its sole cost and expense and shall maintain in effect during the entire period of the permit, insurance in the following manner:
 - (a) Worker's Compensation insurance in at least the required statutory limits;
 - (b) Comprehensive general liability insurance, including owner's protective liability insurance and contractual liability insurance covering claims for personal injury and property damage with limits of at least one million dollars (\$1,000,000) per occurrence, and one million dollars (\$1,000,000) for any single injury; and

- (c) Prior to issuance of an Outdoor Dining Permit, the permittee shall provide the City with copies of the certificates of insurance for the required policies for each type of insurance naming the City as an additional insured party.
- (d) The required insurance policies shall each provide that they shall not be changed or canceled during the life of the Outdoor Dining Permit until thirty days after written notice of such change has been delivered to the City.
- vii. The permittee shall hold harmless, indemnify, and defend the City of Tallmadge from and against any and all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses, consequential or otherwise, including reasonable attorneys' fees, which may in any way arise out of or be connected with the granting of an Outdoor Dining Permit which may in any way result therefrom, or from any act or failure to act by the permittee, its agents or employees.
- viii. The City shall have the right and power, acting through the Public Service Director to prohibit the operation of an outdoor dining area at any time because of anticipated or actual problems and conflicts in the use of the sidewalk area. Such problems and conflicts may arise from, but are not limited to, scheduled festivals and similar events or parades or marches, or repairs to the street or sidewalk, or from demonstrations or emergencies occurring in the area.

L. Outdoor Displays and Sales

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

- (1) Such uses shall not be placed within the street right of way, within an interior drive, or in a location which will interfere with the vision clearance requirements.
- (2) Outdoor displays and sales shall be related to the principal use of the site and shall clearly be accessory and incidental to the principal use. Outdoor displays and sales shall be prohibited when the principal building is vacant.
- (3) Outdoor displays and sales areas shall not cover an area more than 25 percent of the ground floor area of the principal building.
- (4) Outdoor displays and sales areas shall be shown on the plan approved as part of the applicable zoning certificate application.
- (5) Outdoor display and sales areas may be permitted in the front yard provided that the merchandise is displayed along the private sidewalk or walkway adjacent to the building. Outdoor display and sales areas may also be permitted in the side or rear yard without being located adjacent to the building. In all cases, the displays and sales areas shall be spaced a sufficient distance from the building, as dictated by the City Fire Chief, to satisfy all fire safety requirements.
- (6) At a minimum, outdoor displays and sales areas shall comply with the parking area setbacks established in Section 1105 Parking.
- (7) In all cases, any areas designated for outdoor display or sales shall be set back a minimum of 25 feet from any adjacent lot lines of lots used for residential purposes.
- (8) The placement of the merchandise shall not interfere with pedestrian movement on any sidewalk or walkway. A minimum of 5 feet of the sidewalk or walkway shall be clear of merchandise to allow for safe pedestrian movement.

- (9) The outdoor display and sales areas shall be maintained in good order and appearance.
- (10) The outdoor display and sale of goods and products shall be limited to those goods and products that a customer can pick up and carry into the building for purchase. Larger items may be displayed for sale if in compliance with the outdoor storage requirements of Section 1104.07 M. Outdoor Storage and Bulk Sales
- (11) Loud speakers which cause a hazard or annoyance shall not be permitted
- (12) Such uses should be properly landscaped to be harmonious with surrounding residential uses and to adequately buffer the surrounding residential areas.
- (13) All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual or to the community in general.

M. Outdoor Storage and Bulk Sales

- (1) Outdoor storage and bulk sales shall comply with associated standards within conditions for principal uses as established in this chapter.
- (2) Accessory outdoor storage and bulk sales in a parking lot shall be prohibited unless allowed as a temporary use pursuant to Section 1104.08.
- (3) At a minimum, outdoor storage and bulk sales areas shall comply with the parking area setbacks established in Section 1105 Off-Street Parking.
- (4) The area of the lot devoted to outdoor storage of goods and merchandise shall not exceed 15 percent of the ground floor area of the principal building except in the I-1 Districts where the area shall not exceed 30 percent of the ground floor area of the principal building.
- (5) Outdoor storage and bulk sales areas shall be shown on the plan approved as part of the applicable zoning certificate application.
- (6) Areas devoted to outdoor storage shall be paved with asphalt or concrete and free of dust.
- (7) Areas devoted to outdoor storage or bulk sales shall be located behind the front building line. The enclosed area shall be setback 25 feet from any lot line adjacent to a single-family residential district and in no case shall the side and rear setback of the enclosed area be less than 10 feet. Screening shall be provided per Section 1106.05 F. Landscaping: Screening Requirements for Service Structures.
- (8) If the wall or fence needs to exceed 8 feet in height to conceal the storage of materials, such wall or fence shall be constructed of materials similar to the principal building so that it appears to be an extension of the principal structure.
- (9) All materials shall be stored in such a fashion as to be accessible to fire fighting equipment at all times.

N. Outdoor Storage of Vehicles and Equipment

The accessory outdoor storage of vehicles and equipment shall be an accessory use associated with a permitted use and shall comply with the following:

- (1) All stored vehicles or equipment shall be necessary to and customarily associated with the principal use.
- (2) All vehicles or equipment shall be in an operable state. In no case shall inoperable vehicles be stored.
- (3) All outdoor storage of vehicles and equipment shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all materials therein from the view of any observer standing at the grade level of an abutting residential district line. However, in no case shall the height of the fence or wall be less than 6 feet. The solid wall or fence and the associated gates shall be maintained in good condition.

- (4) All materials shall be stored in such a fashion as to be accessible to firefighting equipment at all times.
- (5) These standards shall not apply to the outdoor storage of vehicles and equipment when the storage or parking of such vehicles or equipment is a principal use of the lot (e.g., vehicles sales and leasing).
- (6) Storage of equipment within accessory containers.

Accessory Container: A container, including but not limited to portable containers, shipping containers, semi-tractor trailers (with or without wheels), used solely for the storage of materials and equipment customarily used in the operation of the primary business conducted on the premises of the industrial property.

- i. Number:** Accessory containers shall not occupy more than 20% of the total lot area provided that the placement of the containers does not result in an increase of more than 15% of impervious surface area on the entire lot. All areas of the lot not occupied by buildings, paved surfaces, or accessory containers shall be maintained as pervious surfaces. Lot area shall be defined as the total parcel size as recorded by the county auditor. Based on the increase of impervious surface, stormwater review may be necessary.
- ii. Parking:** Containers shall not occupy required parking spaces.
- iii. Location:** Containers are prohibited in any Overlay District, except the Innovation and Employment Overlay District. Containers shall only be placed in the defined rear yard. Containers are prohibited in the defined front and side yard areas.
- iv. Surface:** Containers shall be placed on a compacted gravel surface at least 6 inches deep, or a concrete or asphalt surface at least 4 inches thick.
- v. Obstructions:** Containers shall not block sidewalks, shared-use paths, or interfere with electrical or plumbing fixtures.
- vi. Setbacks:** Containers shall be set back at least 10 feet from all property lines, other principal and accessory structures, and utility easements. Where the property line abuts a residential use, a minimum 25-foot setback is required. All setback measurements shall be taken from the outermost edge of the container to the property line, structure, or easement.
- vii. Size:** The maximum dimensions for any container shall be 40 feet in length, 9 feet in width, and 8 feet in height.
- viii. Stacking:** Containers shall not be stacked.
- ix. Screening:** Containers shall be fully screened from public view by a fence at least or a dense landscape buffer, consistent with TCO 1106.05 F Screening Requirements for Service Structures. A landscape plan or fence specifications must be submitted for approval prior to container placement.
- x. Prohibited Uses:** Containers shall not be used for living space, commercial sales, or the storage of illegal or hazardous materials unless such storage is explicitly permitted by other codes and regulations. Hazardous materials shall include, but is not limited to, compressed gasses or flammable materials.
- xi. Fire Safety:** Container contents must comply with all applicable State of Ohio Fire Ordinances and is subject to fire inspections.
- xii. Permitting:** A zoning permit is required prior to the placement of any accessory container.

O. Outdoor Vending Machines and Drop-Off-Boxes

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

- (1) Such uses shall be required to submit for a Site Plan Review for approval as specified in Chapter 1102 Administration and Procedures.
- (2) No such use or facility shall be placed within the street right of way, within an interior drive, or in a location that will interfere with required site vision clearance requirements in Section 1106.06 F. 2.
- (3) The facility or equipment shall be maintained in good operating order and appearance.
- (4) Vending machines shall only be placed along the façade of the principal building with a maximum of one machine for every 50 feet of building frontage.
- (5) Drop-off boxes shall only be permitted in the side or rear yard.
- (6) Donation drop-boxes will be viewed as an accessory structure and will require a zoning certificate. Existing donation boxes/drop boxes must “register” their drop box with a zoning certificate.
- (7) The container shall be emptied at least once every week. Containers that result in the overflow of donated goods shall be declared a nuisance and shall be removed immediately upon notification by the Zoning Administrator at the expense of the property owner or business owner.
- (8) The City shall have the authority to place more than one drop-off box on a single lot when providing recycling services to the general public.

P. Patios (Unenclosed), Porches and Decks

- (1) Unenclosed patios are permitted in any yard. Such patios may extend up to 10 feet into the minimum front yard setback and may be located in any side or rear yard provided they are set back a minimum of 5 feet from all lot lines.
- (2) Patios in the rear yard may have built-in grills or kitchen areas provided such use complies with any applicable building code requirements.
- (3) Porches or decks that are enclosed (with walls made of screening or other materials), have a roof, or have floors that extend more than three feet above the average grade (enclosed or unenclosed), shall meet the minimum building setback requirements for principal buildings in the applicable zoning district.

Q. Playsets, Treehouses, and Trampolines

- (1) If a playset, treehouse or trampoline has more than 100 square feet of enclosed play area, the use shall be reviewed in the same manner as a “detached storage/utility sheds, gazebos, pool houses, and other similar building.

R. Renewable Energy Equipment

- (1) Ground-Mounted Solar Energy Systems
 - i. Ground-mounted solar energy systems shall only be permitted in the side or rear yard and shall be set back a minimum of 10 feet from all lot lines.
 - ii. No ground-mounted system shall exceed eight feet in height as measured from the average grade at the base of the system.
 - iii. Ground-mounted solar energy systems shall be screened from any adjacent lot lines of lots used for residential purposes by complying with the screening requirements of Section 1106.05 F. Landscaping: Screening Requirements for Service Structures.

- (2) Roof-Mounted Solar Energy Systems
 - i. Roof-mounted solar panels that are integrated with the surface layer of the roof structure or are mounted flush with the roof structure may be permitted on any roof surface of a principal building or accessory building.
 - ii. Roof-mounted solar panels that are mounted at an angle to the roof structure shall only be permitted on roof surfaces that face the side or rear lot.
 - iii. Solar panels may be mounted on flat roofs provided there is a parapet wall or other architectural feature that screens the view of the panels. Such panels may be mounted on an angle provided they do not extend more than 5 feet above the roof surface.
- (3) Ground-mounted Geothermal Systems
 - i. Ground-mounted equipment for the collection of geothermal energy is permitted only to the rear of and within 5 feet of the principal structure.
- (4) Renewable Energy Equipment: Wind
 - i. Ground-mounted equipment for the collection of wind energy is permitted to the rear of the principal structure, may not exceed the maximum permitted height of the principal structure by more than 40 feet, and must be set back from each property line a distance equal to the height of the equipment that exceeds the height of the principal structure.
 - (a) Height of the equipment is measured to the farthest extent of any part of the equipment.
 - ii. Building-mounted equipment for the collection of wind energy must be integrated into the architectural character of the principal structure.
 - iii. Rooftop-mounted equipment for the collection of wind energy shall be permitted to exceed the maximum permitted height of the principal structure by no more than 15 feet.

S. Roadside Stands

- (1) Roadside stands are permitted in residential districts on properties larger than 5 acres.
- (2) Roadside stands shall only be permitted for the sale of products grown on the premises.
- (3) Roadside stands shall be set back a minimum of 30 feet from the road right-of-way and located in front yard or side yard in relations to primary structures.
- (4) Roadside stands, sign and required off-street parking shall be located and set back in such a manner so as to not create a traffic hazard.
- (5) Roadside stands shall not exceed 100 square feet in floor area.
- (6) Roadside stands may only be located in the front yard setback for 90 days within a calendar year.

T. Satellite Dishes

- (1) Satellite dishes of 3 feet in diameter or less shall be exempt from the provisions of this section and shall not require a zoning certificate.
- (2) To the maximum extent feasible, the dish should be located in the side or rear yard and screened from view any street and from adjacent properties with landscaping.

U. Swimming Pool: Private Residential Outdoor, Above and In-ground

- (1) Pools shall comply with the latest edition of the International Residential Code /International Swimming Pool and Spa Code (ISPSC).

- (2) The pool is intended and is to be used solely by the occupants and guests of the principal use of the property on which it is located;
- (3) Portable or temporary pools with a maximum width of 12 feet and which is less than 100 square feet in area shall only be permitted in the residential zoning districts and shall comply with all other requirements for private swimming pools in this section.
- (4) The pool shall be set back a minimum of 10 feet from all side lot lines and 25 feet from the rear lot line.
- (5) The pool, or the entire property on which it is located, shall be so walled or fenced so as to prevent uncontrolled access from the street or from adjacent properties. Such fences or wall shall be at least 48 inches in height and maintained in good condition, with a gate and automatic lock.
- (6) Above-ground pools
 - i. All above ground swimming pools with a wall height four (4) feet or more shall be secured with one of the following:
 - (a) The pool shall have steps or a ladder that swings up and locks in place off the ground or removed when the pool is unattended,
 - (b) the pool platform or deck has a gate with a locking device to prevent uncontrolled access from adjacent properties, or
 - (c) the pool area or the entire property on which it is located shall be enclosed with a wall or fence having a minimum height of four (4) feet and be equipped with a gate and locking device that is securely latched to prevent uncontrolled access from adjacent properties.
 - ii. All enclosures shall be maintained in good condition.
 - iii. All above ground swimming pools less than forty-eight (48) inches in height but more than twenty-four (24) inches in height shall be covered when not in use to prevent uncontrolled access.
 - iv. Swimming pools two (2) feet or less shall not be regulated.
- (7) Proper drainage shall be provided to ensure that pool overflow does not affect adjacent properties.
- (8) The construction and operation of a pool shall meet all other applicable City and County regulations.
- (9) The Zoning Administrator shall have the power to make exceptions to and modifications of the above requirement for fences surrounding swimming pools in cases in which, in the Administrator's opinion, such requirements are not essential to safety because the applicant will provide an alternative means of secure access to the swimming pool from the street or from adjacent properties.

V. Swimming Pools: Public, Community or Club

A public, community or club swimming pool is any pool constructed by the City, an association of property owners, or by a private club for use by the general public or by members of the association or club and their families. Public, community, and club swimming pools are permitted in all districts, but shall comply with the following conditions and requirements:

- (1) The pool is intended solely for the use of the general public or the members and families and guests of members of the association of club under whose ownership or jurisdiction the pool is operated;
- (2) The pool and accessory structures thereto, including the unenclosed areas used by the bathers, shall not be closer than 100 feet to any property line of the property on which it is located;
- (3) The pool and all of the area used by the bathers shall be so walled or fenced as to prevent uncontrolled access by children from the street or from adjacent properties. Such fence or wall shall be 6 feet in height

and maintained in good condition, with a gate and automatic lock.

- (4) Proper drainage shall be provided to ensure that pool overflow does not affect adjacent properties.
- (5) The construction and operation of a pool shall meet all other applicable City and County regulations.

W. Tennis and Other Recreational Courts

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

- (1) Tennis courts or other full-size recreational courts shall only be permitted on lots with a minimum lot area of one acre.
- (2) The court shall be set back a minimum of 10 feet from all lot lines.
- (3) Fencing located adjacent to the court can have a maximum height of up to 12 feet, regardless of the maximum fence height allowed in Section 1104.07 G. Fencing. The fencing may be a chain link fence. Any fencing that exceeds the maximum height allowed in Section 1104.07 G. Fencing, shall be limited to the area that encloses the court.
- (4) If the fencing surrounding the court exceeds 6 feet in height, it shall be planted with a continuous row of large shrubs or hedges with a minimum, mature growth height of 3 feet that will screen and/or soften the appearance of the tall fencing and court. Such landscaping may only be broken by gates or doors that access the court.
- (5) Any lighting for the court shall not exceed 20 feet in height and shall be directed downward and only illuminate the court.

X. Type B Family Day Care Home (1-6 Children)

- (1) Type B Family Day Care Homes are permitted when accessory to any residential dwelling unit, regardless of the applicable residential zoning district.

Y. Alcoholic Beverage Consumption (ABC)

- (1) Purpose and Intent
The provisions of this Section are intended to mitigate potential adverse land use impacts (e.g., littering, loitering, and others) on the peace, health, safety and welfare of residents in nearby areas, that may arise from the undue proliferation and/or inappropriate location of establishments selling alcoholic beverages.
- (2) Applicability
This accessory use shall be limited to commercial principal uses.
- (3) Desired Development Patterns
The desired pattern of new development or redevelopment is for buildings with appropriate architectural detailing, fronting the street with active pedestrian space, and parking located to the side or rear. Establishments may be added as tenants within existing buildings.
- (4) Development Typologies
Lot development and building typologies shall be as specified by the underlying zoning district or other applicable overlay standards applied to the site.
- (5) Development Standards
 - i. Establishments shall be limited to the following use-area restrictions:
 - (a) Restaurant is limited to a 20% floor area dedication maximum for bar services.

- (b) Brewpub
 - 1) The production of beverages for on and off premise consumption shall not exceed 40% of the total gross floor area.
 - 2) The establishment must include other uses such as a tasting room, taproom or table service restaurant that entails 60% of gross floor area.
 - (c) Microbrewery, Microdistillery, or Microwinery
 - 1) The production and packaging of beverages for on and off premise consumption shall not exceed 75% of the total gross floor area.
 - 2) The establishment must include other uses such as a tasting room, taproom or table service restaurant that entails at least 25% percent of gross floor area.
 - (d) Liquor and Beer Sit Down/Bar Establishment; Wine-bar.
 - 1) No minimum area required.
 - (e) Brewing equipment or storage is permitted on the exterior of the building subject to outdoor storage standards of Section 1104.07 M.: Outdoor Storage.
- ii. The establishment shall not be located within 500 feet to any Adult Entertainment Business, including those located beyond the city boundary.
 - iii. The noise levels generated by the operation of the establishment shall not exceed the level of background noise normally found in the area or would otherwise be intrusive, with exception to when a temporary permit for amplified sound is attained.
 - iv. Signs and other advertising on the exterior of the premises would be compatible with the character of the area.
 - v. The site and building development shall comply with the criteria of the underlying overlay district.

SECTION 1104.09 **TEMPORARY USES AND STRUCTURES SPECIFIC STANDARDS**

A. Purpose

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

B. General Standards for Temporary Uses and Structures

Temporary uses or structures shall:

- (1) Not be detrimental to property or improvements in the surrounding area or to the public health, safety or general welfare;
- (2) Be compatible with the principal uses taking place on the site;
- (3) Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;
- (4) Not include permanent alterations to the site;

- (5) Not maintain temporary signs associated with the use or structure after the activity ends;
- (6) Not violate the applicable conditions of approval that apply to a site or use on the site;
- (7) Not interfere with the normal operations of any permanent use located on the property; and
- (8) 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.

C. Specific Regulations for Certain Temporary Uses and Structures

The following are regulations that apply to the specific temporary uses established within this section of the code.

(1) Community Activity and Special Event.

- i. The site of the activity or event shall be adequately served by utilities and sanitary facilities.
- ii. The activity or event shall not become a safety hazard or public disturbance and shall not cause substantial adverse impacts on surrounding properties or land uses by creating excessive noise, glare, heat, dust, odors, or pollutants as determined by the Zoning Administrator and Fire Marshal.
- iii. A permit shall be obtained for the community activity or special event from the City of Tallmadge.
- iv. Temporary Events. Permits may be granted for temporary events on private property in all zoning districts subject to the following:
 - (a) A permit for events up to three (3) days may be granted but only upon a review of the application by the City and applicable agencies.
 - (b) Greater than three (3) days in duration. Any events which propose a duration greater than 45 days shall only be approved when a conditional use certificate has been issued pursuant to the procedures in Chapter 1102
 - (c) Decision Criteria. Temporary events are permitted when it is determined during the review of the application (according to this section, as applicable) that the proposed location and scope:
 - 1) Does not create any safety hazards;
 - 2) Does not unreasonably disrupt traffic or parking;
 - 3) Does not disrupt daily operations of the principal business located on the lot; and
 - 4) Does not adversely impact the health, welfare and safety of the community.
 - 5) The temporary use of trailers in connection with temporary outdoor sales, displays, and events is permitted and need not comply with the yard or height requirements of this Zoning Ordinance except that trailers shall not be located within the sight triangle pursuant to Section 1106.06 F.2.
- v. Mobile food vendors providing food service to special events
 - (a) Does not offer drive-thru or drive-in service.
 - (b) Provides a trash receptacle for use by customers and keeps the surrounding area free of trash and debris at all times.
 - (c) Maintains all equipment and vehicles free of rust, dents, peeling paint, and in good maintenance and appearance at all times.
 - (d) Obtains, displays, and keeps current all applicable health, food, safety, vehicle, vending, and other licenses.

- (e) Is registered for tax purposes with the City of Tallmadge.
 - (f) Does not operate any equipment that exceeds the background decibel level or 70 DBA, whichever is greater, as measured at a distance of 20 feet from the equipment.
- vi. Itinerant Vendors are permitted provided these vendors comply with the Business Regulations in the TCO and with the regulations set forth below:
 - (a) No itinerant vendor shall block or impede the ingress or egress of the public into any business.
 - (b) No itinerant vendor shall unreasonably disturb the peace and quiet of the City and shall not shout, cry out, blow any horn, ring any bell, utilize any amplification system, or use any device to attract the attention of the public.
 - (c) No itinerant vendor shall park or stand within 200 feet of a school or school playground while the school is in session.
 - (d) No sales shall be made from 8:00 PM to 10:00 AM.
 - (e) Itinerant vendors shall obtain all other required permits, such as permits required from the Summit County Health Department or any other permits required by the City of Tallmadge.
 - (f) All itinerant vendors shall provide at least one trash receptacle upon the site of business for customer use. The site of business shall be cleared of all debris, trash, litter, and trash containers at the conclusion of each day's business activities.
- vii. Signs related to temporary outdoor sales, displays, and events, excluding mobile food vendors, shall be approved pursuant to the approval of a temporary use permit.
- viii. The recipient of a temporary use permit for events shall provide for a thorough cleanup of the site upon termination of the event.
- ix. Temporary permits pursuant to this subsection may be issued to applicants other than the owner of the property or tenant when such owner or tenant has granted written permission for the proposed activity on the property.

(2) **Construction Structures**

Temporary structures for construction operations may be permitted in any district if such structures are deemed necessary, provided:

- i. The use of such structures shall be limited to offices; buildings for the storage of lumber, equipment, and other building material, and construction dumpsters.
- ii. All temporary structures shall be set back a minimum of 25 feet from the nearest occupied residential dwelling.
- iii. A temporary structure for the construction office may be placed on the site no sooner than two weeks before the start of grading or construction.
- iv. The structure shall not be located within a floodplain or in a location that will obstruct drainage flow.
- v. The structure shall not block or prevent access to any fire hydrant.
- vi. All temporary structures for construction operations shall be removed within thirty days after the completion of work on the premises for which a certificate has been issued or if construction is not pursued diligently. In no instance, shall the zoning certificate for the construction structure allow for its placement for longer than 18 months.

(3) **Home Sales**

- i. Refer to the Business Regulations of the Tallmadge Code of Ordinances Chapter 719.

(4) **Gravel Surface Parking Lot**

- i. 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 plans associated with the zoning certificate.
- ii. The gravel parking area must be paved in accordance with Chapter 1105 or the approved plans prior to the issuance of the certificate of zoning compliance. The applicant may also remove the temporary gravel surface parking lot as an alternative to paving but in such case, the area that was used as a gravel lot shall be returned to its previous state or as a landscaped area.
- iii. A solid surface or gravel driveway shall be provided so vehicles may access the parking lot from a public street.

(5) **Real Estate Sales Office/Model Home**

One temporary real estate sales office or model dwelling unit per builder or developer shall be permitted in a section or phase of a new residential or nonresidential development, provided that the use:

- i. Complies with all of the applicable standards of this code for the final residential use regardless of the temporary use as a sales or leasing office;
- ii. Is operated by a developer or builder active in the same phase or section where the use is located; and
- iii. Is removed or the model home is converted into a permanent residential use upon completion of construction and issuance of the last certificate of zoning compliance or within two years of the issuance of the zoning certificate for the temporary office or model home, whichever is less.

(6) **Temporary Outdoor Sales**

- i. Temporary outdoor merchandising activities directed at the general public may be allowed as an accessory use in nonresidential districts and on the premises of permitted and conditional uses subject to the requirements of this section. It is the intent of this section to provide for temporary outdoor sales which are distinguished from permanent outside business activities that are permitted or conditional uses in a zoning district.
- ii. The following shall apply to all proposed temporary outdoor sales activities allowed by this section in addition to other applicable building and safety code requirements as determined by the Director of Public Safety, Fire Department and/or City Engineer.
 - (a) Sidewalk sales, inventory reduction sales, liquidation sales, damaged goods sales, and transient produce merchant sales shall not exceed a maximum of (7) consecutive calendar days, per event. Two (2) such outdoor sales activities per calendar year shall be permitted, per property.
 - (b) Seasonal merchandise sales shall not exceed a total of 30 calendar days per year, per property. Only 4 seasonal sales activities per calendar year, per property, shall be permitted. Bagged seasonal merchandise, such as mulch, peat moss, soil, fertilizer, decorative stones, lime, sale and other similar goods as well as landscape timbers, railroad ties, bicycles, lawn mowers, tractors, wheel barrows, snow blowers, leaf blowers and other large lawn equipment items which are stored, displayed and/or sold outdoors shall be subject to Section 1104.07 M. Outdoor Storage and Bulk Sales.

- (c) All sales activities, including any temporary structures, tents, and stands, shall not be located within a required building setback or public right-of-way, must be in an area that is paved, shall not interfere with parking, sight distance, traffic circulation or emergency vehicle access on-site or upon a public street, alley, sidewalk or other public area within the City, and shall not reduce the required number of parking spaces required to serve the principal use on the site.
- (d) Temporary sales on unpaved, landscaped areas is prohibited.
- (e) Temporary outdoor sales activities within all temporary structures, tents, stands, under canopies or awnings and in all unroofed areas shall be limited to 10% of the enclosed gross floor area of the principal building on the lot associated with the temporary outdoor sales activity. Existing fenced-in outdoor storage areas and permanent accessory structures shall be excluded from the 10% calculation.
- (f) The temporary outdoor sales activity shall be clearly accessory to the permitted or conditional use(s) approved for the site. Only merchandise which is normally sold or stocked by the occupant(s) on the subject premises shall be sold, provided that seasonal merchandise, licensed transient produce merchant activities and itinerant vendors as defined by this Chapter or Chapter 733 Business Regulations may be allowed.
- (g) With the exception of itinerant vendors, tents, stands and other similar temporary structures may be utilized, provided that they will not impair the parking capacity, emergency access or the safe and efficient movement of pedestrian and vehicular traffic on or off the site.
- (h) The required number of off-street parking spaces for the principal use(s) shall be provided for the duration of the sale. Determination of compliance with this requirement shall be made by the Zoning Administrator.
- (i) All temporary sales activities in the O-DC may be permitted on sidewalks located in the public right of way if approved by the Zoning Administrator
- (j) Additional Standards for Itinerant Vendors.
 - 1) Itinerant Vendors are permitted provided these vendors comply with Business Regulations listed in the TCO Chapter 733.

(7) **Temporary Storage in a Portable Container**

Temporary storage containers may be placed on a property for the purpose of loading or unloading the container under the following conditions:

- i. Temporary storage in a portable container is permitted only once within any six-month period, for a maximum of 14 consecutive days.
- ii. The container shall be placed on a paved area, existing driveway, or existing parking area and shall not block a public street or sidewalk.
- iii. The portable containers shall not be placed in any right of way.
- iv. Only one container shall be placed at any property at one time.

Title 05

Off-Street Parking



Title 05

OFF-STREET PARKING

SECTION 1105.01 GENERAL REQUIREMENTS

- A. General Requirements. Any building, structure or use of land, when erected or enlarged, shall provide for off-street parking spaces for automobiles in accordance with the following provisions of this Chapter. A parking plan shall be required for all uses except one, two and three family dwellings. The parking plan shall be submitted to the Zoning Department as part of the application for the zoning certificate, as applicable, to the Planning and Zoning Commission in conjunction with the site plan review process set forth under Chapter 1102 hereof. The plan shall show the boundaries of the property, parking spaces, access driveways, circulation patterns, drainage and construction plans, boundary walls, fences and a screening plan, as appropriate.

SECTION 1105.02 PARKING OF TRUCKS, VEHICLES AND RECREATIONAL EQUIPMENT

The provision of parking space, either open or enclosed, for the parking or storage of vehicles or recreational equipment in a residential zoning district for residential uses shall be subject to the following:

- A. Parking of Commercial Trucks and Commercial Vehicles.
 - (1) To protect the residential character of neighborhoods and to protect the public from the danger and nuisance of large commercial vehicles, the storage or parking of commercial vehicles exceeding ten thousand (10,000) pounds gross vehicle weight or twenty-five (25) feet in length, including but not limited to tractors, trailers, semi-trailers, and trucks is hereby classified as an industrial use and is prohibited in residential zones except for loading and unloading.
 - (2) A commercial vehicle shall be any motor vehicle or trailer whose primary function is to move property for business and industrial purpose.
- B. Parking of Recreational Equipment.
 - (1) The parking of recreational equipment and vehicles up to 25 feet in length and/or 10,000 pounds gross vehicle weight, including but not limited to travel trailers, motor homes, pickup campers, folding tent trailers, boats or boat trailers, and other similar recreational equipment and vehicles, semi-trailers, travel trailers, or other trailers or motor homes shall not be permitted on any street within the City, other than for the purpose of loading or unloading such equipment or vehicle.
 - (2) Recreational vehicles and equipment shall have no connections to electricity, water, gas or sanitary sewer facilities, nor shall they be used for dwelling, business, or commercial purposes or for any accessory uses in any zoning district.

SECTION 1105.03 OFF-STREET PARKING AND DESIGN STANDARDS

All off-street parking facilities (excluding parking for single family detached, 2-family, and 3-family dwellings) including entrances, exits, circulation areas and parking spaces shall be in accordance with the following standards and specifications:

- A. **Parking Space Dimensions.** Each off-street parking space shall have minimum rectangular dimensions, exclusive of access drives or aisles and shall be of useable shape and condition, as follows:

Parking Space	PARKING ANGLE (DIMENSIONS IN FEET)			
	Parallel	45 Degrees	60 Degrees	90 Degrees
Width	10	10	9	9
Length	23	20	20	20

- B. **Minimum parking aisle width:**

Angle of Parking (degrees)	MINIMUM AISLE WIDTH (FEET)	
	One-Way Aisle	Two-Way Aisle
Parallel	13	20
Up to 49	13	
50 to 79	17	
80 or more	N/A	22

- C. **Access.** There shall be adequate provisions for ingress and egress to all parking spaces. Where the lot or parking spaces do not provide direct access to a public street, an access drive shall be provided, with a dedicated easement of access as follows:

- (1) Entrance and exits shall be located to minimize traffic congestion and avoid undue interference with pedestrian access at street intersection corners. Curb cuts shall be limited to one per lot per road frontage or limited to one per 200 feet of road frontage. Such accessways shall be a maximum of thirty (30) feet in width at the street right of way and a maximum of forty-five (45) feet in width at the curb cut line of the street. Driveway curb returns shall not exceed 10 feet in radius. Residential uses may have accessways of not less than ten feet at the right of way nor more than forty-five (45) feet at the curb cut line of the street.
- (2) All parking spaces, except those required for one, two or three family dwellings, shall have access to a public street in such a manner that any vehicle leaving or entering the parking area from or into a public street shall be traveling in a forward motion.
- (3) Parking for uses not permitted in a residential district shall not be permitted in a Residential district, nor shall any R-District property be utilized as access for uses not permitted in that R-District.

- D. **Setbacks.** The location of off-street parking facilities may be located in the required yards as specified elsewhere in this Zoning Code. Off-street parking facilities shall not be located in the required front and side yard setbacks. A minimum setback of 5 feet shall be required from all property lines.

- E. **Landscaping and Screening.** Off-street parking areas shall be landscaped in accordance with the regulations set forth under Chapter 1106 of this Zoning Code.

- F. **Paving.** Any off-street parking area shall be surfaced with a pavement of asphalt or concrete of sufficient strength to support vehicular loads imposed on it while providing a durable, dustless surface.

- G. Drainage. All parking spaces, together with driveways, aisles and other circulation areas shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be designed to prevent the excess drainage of surface water onto adjacent properties, walkways or onto public streets. Adequate arrangements shall be made to insure acceptable diversion to an adequate storm water drainage system.
- H. Barriers. Wherever a parking lot extends to a property line, fencing, wheelstops, curbs or other suitable barriers shall be provided in order to prevent any part of a parked vehicle from extending beyond the property line and from destroying the screening materials.
- I. Visibility. Access of driveways for parking areas shall be located in such a way that any vehicle entering or leaving such parking area shall be clearly visible by any pedestrian or motorist approaching the access or driveway from a public or private street.
- J. Marking. All parking areas shall be marked with paint lines, curb stones or in some other manner approved by the City and shall be maintained in a clearly visible condition.
- K. Maintenance. Any owner of property used for parking areas shall maintain such areas in good condition without potholes and free from all dust, trash, weeds and other debris.
- L. Signage. Where necessary, due to multiple curb cuts, the entrance, exits and the intended circulation pattern shall be clearly marked in the parking area. Signage shall consist of pavement markings or freestanding directional signs in accordance with Chapter 1108.
- M. Lighting. Any lights used to illuminate a parking area or loading shall be so arranged as to direct the light away from the adjacent properties and right of way.
 - (1) Any nonresidential parking area with ten or more off-street parking spaces and any residential parking area with 20 or more off-street parking spaces shall be illuminated during poor visibility to provide an average intensity of one-half foot candles of light as measured at the parking surface area.
 - (2) Lighting uniformity across a horizontal surface shall have an average range from one footcandle to three footcandles or not exceeding 4:1 average to minimum light levels.
 - (3) Parking lot light fixtures shall be full-cut-off. Fixtures shall be IESNA designated “cut-off” or “full cut-off” and shall direct light downward. Angled fixtures shall not be permitted.
 - (4) Fixtures in a residentially zoned district or within 150 feet of a residentially used or zoned parcel shall not exceed 20 feet in height as measured from the ground immediately beneath the fixture to the top of the fixture. Fixtures in all other areas shall not exceed 35 feet in height.
 - (5) Light originating on a site shall not be permitted beyond the site to exceed the following values when measured at grade, 10 feet beyond the property line for the following adjacent properties:
 - i. Residential: 0.3 footcandles
 - ii. Industrial/warehouse: 1.5 footcandles
 - iii. Multi-family: 0.5 footcandles
 - iv. Office/commercial: 1.0 footcandles
 - (6) Building-mounted lighting utilized for the purposes of this section shall be fully shielded, and directed downward to prevent off-site glare.

- N. Handicapped Spaces. Parking spaces for the physically handicapped shall be provided as required in the American Disabilities Act.
- O. Use of Parking Spaces. No parking areas or spaces shall be used for sales, storage, repair work, dismantling or servicing of any kind, nor for parking for any other than self-propelled vehicles.
- P. Use of Parking Spaces for Temporary Promotions. Parking areas or spaces may be used for temporary promotions or sales which are extensions of the principal business conducted on the property. Such use shall be contingent on the issuing of an appropriate permit, and use duration shall be limited as specified in Section 1104.09.
- Q. Promotions. Promotions conducted entirely for charitable purposes shall be exempted from this section.
- R. Special Parking Requirements

EV PARKING REQUIREMENTS	
Minimum Spaces (Parking lots of 200 spaces or more)	1 EV plug-in service point per 200 spaces
EV Parking Space Design Standards	Plug-in points must be associated with an individual parking space.
	Charging equipment may have multiple plug in points to serve any of the immediately adjacent parking spaces.
	Plug-in points and charging equipment shall be installed at the end or to the side of the associated parking space, preferably in a landscape area.
	If located in a sidewalk, the equipment and clear operating space shall not conflict with any required clear pedestrian path.
	Plug-in points are exempt from the service structure screening requirements outlined in Chapter 1106.
	A 3 ft. x 3 ft. space shall be provided between the parked car and the EV equipment for the purpose of operating the equipment, except as otherwise required by ADA regulations.
	Curbs or wheel stops shall be utilized to prevent vehicle overhang into the equipment operation space.
	A sign, 12" wide by 21" tall indicating "Electric Vehicle Charging Station" on a shall be centered at the end of the parking space, mounted at a height of 7 ft. from grade to the bottom of the sign. MUTCD standard blue and green colors, and icon for electric vehicle charging shall be used on the sign.

(1) EV Parking Space Sign



BIKE PARKING REQUIREMENTS (FOR USES REQUIRED TO PROVIDE 20 VEHICLE SPACES OR MORE)	
DISTRICT	BIKE PARKING SPACES (MIN. PER BUILDING)
Any Commercial District	2
Design Control Overlay District	4
West Avenue Overlay	4
Planned Residence District	2
Southeast Gateway Overlay District	4
Neighborhood Center Overlay District	2
BIKE PARKING DESIGN STANDARDS	
Bike racks shall be ground-mounted.	
Racks shall be spaced at least 36 inches apart and provide a 84 inches length for bike parking without obstructing any clear pedestrian path.	
Bike racks shall be of a design that is supportive of the frame providing two points of contact and is capable of locking one wheel and the frame with a single typical bike lock, such as the inverted U and bollard-style. Racks that only hold the wheel shall not be permitted, such as wave and grid style racks,	
Bike parking spaces shall be located in a visible, convenient location near the primary pedestrian entrance of the building.	

SECTION 1105.04 DETERMINATION OF REQUIRED SPACES

In determining the number of parking spaces required by this code, the following shall apply:

- A. Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross leasable horizontal area of all floors of a non-residential building.
- B. Where seating capacity is designated as the standard for determining parking space requirements, the capacity shall mean the number of seating units installed or each twenty (20) lineal inches of seating facilities.
- C. Fractional numbers shall be increased to the next highest whole number.
- D. Parking space requirements for a use not specifically mentioned in this Code shall be determined by using the most similar and restrictive parking space requirement as specified by the Planning and Zoning Commission. The last edition of the ITE, Parking Generation: Summary of Parking Occupancy Data may also be used as a guide for determining the appropriate number of parking spaces in the event a use is not listed in “Off-street Parking Schedule”
- E. When the building floor area is designated as the standard for determining parking space requirements and that number is less than the minimum standard, at least one parking space shall be provided on the premises.

SECTION 1105.05 OFF-STREET PARKING SPACES REQUIRED

For the purpose of this Zoning Code, the following parking space requirements shall apply.

REQUIRED MINIMUM PARKING: AGRICULTURE	
Agricultural Processing and Storage	1 space per employee + 2 truck loading spaces + 1 space per 300 sq. ft. of retail space
Agroforestry	1 space per employee
Plant greenhouses	1 space per 300 sq.ft. of gross floor area in excess of 4,000 square feet, plus 1 space per 1,000 sq. ft. outdoor sales or display area
Stable	1 space per 4 animal stalls
Urban Agriculture - Community Garden	1 space per 5,000 square feet of garden area
REQUIRED MINIMUM PARKING: RESIDENTIAL	
Dwelling - Multifamily, Multifamily Complex	
Multi-unit living: Studio - 1 bedroom	1 space/ unit
Multi-unit living: 2 bedrooms	1.5 space/ unit
Multi-unit living: 3 bedrooms	2.25 space/ unit
Multi-unit living: 4 bedrooms	2.5 space/ unit
Dwelling - Single Family, Attached	See "Dwelling - Multifamily"
Dwelling - Single Family, Detached	2 per unit
Dwelling - Single Family, Flats	See "Dwelling - Multifamily"
Dwelling - Townhouse	See "Dwelling - Multifamily"
Dwelling - Two-Family	2 per unit
Residential Community Recreational or Amenity Facility	1 per 300 sq. ft. + 1 per 250 sq. ft. of water surface area of a pool + 2 employee spaces
REQUIRED MINIMUM PARKING: PUBLIC, INSTITUTIONAL, AND RECREATIONAL	
Cemeteries	1 per 50 gravesites
Educational Institutions (P-12)	3 per elementary or junior high classroom + 1 per 10 high school student enrollment capacity + 1 per 4 seats in the largest assembly space + 1 per teacher and administrator
Government Owned Buildings and Facilities	1 space per 500 gross sq. ft. or 1 per 2 seats in the largest assembly space capacity, whichever results in the largest number
Hospitals	2 per 1 bed
Public Utilities, Rights-Of-Way and Pertinent Structures	1 per facility
Recreation Facility - Commercial and Non-Commercial	Indoor: 4 per 1,000 sq.ft. Outdoor: 20 per sport court or field, and 1 space per 5,000 sq.ft. of other developed land area
Community Center	2.5 per 1,000 sq.ft.
Driving Range	2 per 3 tee boxes
Golf Course	20 per 9 holes + driving range requirement if applicable
Golf, Miniature	20 spaces per 18-hole course
Gym, Commercial	1 per 300 sq. ft.
Gym, Personal Studio	1 per 300 sq. ft.
Park, Active	1 per acre; 20 per sport court or field; 1 space per 75 sq. ft. of water surface of pools
Park, Passive	2 per 1 acre of land

REQUIRED MINIMUM PARKING: PUBLIC, INSTITUTIONAL, AND RECREATIONAL	
Nature Preserve	2 per mile of trail or 1 per 3 acres
Recreational Center, Public	4 per 1,000 sq. ft.
Skate Park	1 per 500 sq. ft. of skating surface area
Skating Rinks, Ice and Roller	5 per 1,000 sq. ft.
Sports Arenas and Stadiums	20 per field or court
Swimming Pools, Commercial	1 per 75 sq. ft. of pool area
Tennis Facilities, Commercial	3 per court or 1 per 18 inches of bench area
Indoor Shooting Range	1 spaces per lane + 1 per 300 sq. ft. of retail space
Religious Places of Worship	3 per 7 seats
Telecommunications	1 per facility

REQUIRED MINIMUM PARKING: COMMERCIAL	
Amusement arcades	1 space per employee + 1 space for every 3 games
Animal Care	
Animal Care - General Services	1 per 10 pet accommodation spaces
Animal Care - Kennel	1 per 10 pet accommodation spaces
Animal Care - Veterinary Offices	4 per treatment room
Animal Care - Veterinary Urgent Care and Hospitals	4 per treatment room
Antique Shop	1 per 300 sq. ft. + 1 per 400 sq. ft. for GFA beyond 2,000 sq. ft.
ATM (Walk-up), Bank Machines	2 per ATM
Auction Facility	1 per 4 seats of capacity
Automotive	
Automotive - Car Wash	2 per bay + 1 per vacuum
Automotive - Filling stations	4 per 1,000 sq. ft., plus 1 per dispensing station
Automotive - Sales and Leasing	2 per 1,000 sq.ft.
Automotive - Service: Light, Heavy	2 per bay + 1 per 300 square feet
Bed and Breakfast Establishments	1 per guestroom + 2 for operator
Beverage	
Beverage - Alcoholic Production	1 per 1,500 square feet of production area, plus 1 space per 4 seats in any tasting room or other visitor facility open to the general public
Beverage - Brewing and Distilling	1 per 1,500 square feet of production area, plus 1 space per 4 seats in any tasting room or other visitor facility open to the general public
Beverage - Distribution	1 space per 5,000 sq. ft. of GFA plus additional spaces for office use
Beverage - Microbrewery, Microdistillery, or Microwinery	1 space per 200 square feet
Beverage - Non-Alcoholic Production	1 per 1,500 square feet of production area, plus 1 space per 4 seats in any tasting room or other visitor facility open to the general public
Beverage Sales - Liquor and Beer Sit Down/Bar Establishment	1 space per 100 sq.ft.
Building Materials Stores	2 per 1,000 sq. ft. of floor area + 1 per 1,000 sq. ft. of open area for sales and display

05 | Off-Street Parking

REQUIRED MINIMUM PARKING:COMMERCIAL	
Clubs and lodges	1 space per 200 square feet of floor area.
Contractor Services	1 per employee of the largest shift
Day Care - Child or Adult	1 space per 10 clients at licensed capacity
Drive-in Establishments	1 space per 50 sq.ft., 10 spaces minimum
Event Center-Public, Private, and Barn	1 space per every 2 persons of capacity, or 1 space per 100 sq.ft., whichever is greater
Exercise and Fitness	1 per 300 sq.ft.
Financial Institutions	2 per 1,000 sq. ft.
Food Sales - Bakery	3 per 1,000 sq. ft.
Food Sales - Farm Market	6 plus 1 per 250 sq.ft.
Food Sales - Small Format Grocery	3 per 1,000 sq. ft.
Food Service	
Food Service - Fast Casual Restaurant	1 space per 100 sq.ft.
Food Service - Fast Food Restaurant	1 space per 75 sq.ft.
Food Service - Full Service Restaurant	1 space per 100 sq.ft.
Funeral Home	5 spaces + 250 sq. ft. of usable and accessible paved parking area for every 25 sq. ft. of assembly room floor area
Gallery - Art	3 per 1,000 sq. ft.
Garden Center - Indoor and Outdoor	2.5 per 1,000 sq. ft. of gross building area excluding greenhouse area
Home Occupation	None above the residential requirement
Hotel and Motel	0.8 per room plus 1 per 800 sq. ft. of public meeting area and restaurant space
Live/ Work Unit	1.33 spaces per unit; for buildings with more than 10 live-work units: 1 space per unit
Medical - Clinic	4 per treatment room
Medical - Emergency Services	1.75 per bed
Medical - Office	4 per treatment room
Mixed Use Building	as specified by use with shared parking adjustment as defined by this section
Nursing Facility	1 per 4 beds
Office	
Office - Data Processing/Call Center	1 space per 50 sq.ft. of computer or telephone bank area; plus additional spaces for office use
Office - Industrial Office	3 per 1,000 sq.ft.
Office, Flex	1 per 1,500 square feet warehouse or shop area; 3 per 1,000 sq.ft. of office area
Office, General	3 per 1,000 sq.ft.
Personal services	3 per chair
Public storage garage or yards	1 space per 5,000 sq. ft. for single tenant facility; or 1 space per 6 storage units
Recreation Facility - Commercial Indoor, excluding amusement arcades	See "Public/Institutional List: Recreational Facilities"
Recreation Facility - Commercial Outdoor	See "Public/Institutional List: Recreational Facilities"

REQUIRED MINIMUM PARKING: COMMERCIAL	
Recreational Vehicle Sales	2 per 1,000 sq. ft.
Retail	
Retail - Convenience with gasoline	4 per 1,000 sq. ft., plus 1 per dispensing station
Retail - Convenience without gasoline	4 per 1,000 sq. ft.
Retail - Large Format	3 per 1,000 sq. ft.
Retail - Medium Format	3 per 1,000 sq. ft.
Retail - Pharmacy	3 per 1,000 sq. ft.
Retail - Shopping Center - Enclosed	3 per 1,000 sq. ft.
Retail - Shopping Center - Outdoor	3 per 1,000 sq. ft.
Retail - Small Format	4 per 1,000 sq. ft.
Sexually Oriented Business	2 per 5 people capacity
Vehicles, equipment and tool sales or rental, with service and repair in enclosed buildings	2 per bay plus 4 per 1,000 sq.ft. of sales/ customer/ visitor area

REQUIRED MINIMUM PARKING: INDUSTRIAL	
Crematory	5 visitor spaces + 2 employee spaces
Food Service - Processing	1 space per 1,500 sq. ft.
Fuel distribution station	1 space 1,500 s.ft. gross floor area
Makerspace	3 space per 1,000 sq. ft.
Manufacturing	1 space per 1,500 sq. ft.
Manufacturing - Artisan/ Small Batch	3 spaces per 1,000 sq. ft. of GFA plus additional spaces for office use
Motor Freight Garage	1 per 2,000 square feet + 2 per service bay
Research and development	1.5 spaces per 1,000 sq. ft. of gross floor area
Technology Park	as specified per individual uses
Warehousing and Distribution	1 space per 5,000 sq. ft. of GFA plus additional spaces for office use
Wholesale Establishment	1 per 3,000 sq. ft.

- A. **Maximum Parking.** The maximum amount of permitted parking shall be 120% of the minimum required parking.
 - (1) Additional parking may be permitted with PZC approval. Any requests for additional parking shall include a parking study for the proposed use(s) and location describing justification for the additional parking, and any additional documentation that the commission requires to review the request.
- B. **On-Street Parking.** On-street parking spaces within a development may be counted towards the minimum amount of required parking. On-street parking spaces on existing public streets adjacent to a development may be considered by the PZC for credit toward minimum required parking.
- C. **Bonus for Proximity to Public Transportation.** Buildings located within 1/4 mile of an active public transit stop may reduce their amount of required parking by ten percent (10%).

SECTION 1105.06 PARKING HELD IN RESERVE

- A. If the number of spaces required above is substantially larger than the number of spaces anticipated by the applicant, then the applicant may hold some of the parking in reserve while ensuring adequate area for potential future parking demand.
- B. Suitable area that meets all dimensional and design requirements must be available on the overall site for 100% of the required parking, either through surface, structured, or on-street parking.
- C. The number of spaces which must be provided initially may be reduced by up to fifty percent (50%) by PZC upon recommendation by the Zoning Administrator. All engineering, including stormwater engineering, shall be designed based on total parking requirements, including the reserve.
- D. Applicants that anticipate needing less than 100% of the total parking spaces required shall design their developments with suitable area for the eventual construction of the balance of the required parking spaces. These spaces, until their construction, shall be held in reserve by the applicant. The reserve parking spaces shall be constructed by the applicant if and when determined necessary by the PZC, upon recommendation of the Zoning Administrator
- E. The PZC may require installation of additional parking spaces under the following conditions:
 - (1) When there is evidence of a continued overflow of parking as installed by the applicant.
 - (2) When a re-evaluation of the parking capacity by the Zoning Administrator shows that future parking needs will not be met. The parking capacity shall be re-evaluated whenever there is a change in use, ownership, number of employees, number of residents, building size, and/or land area.

SECTION 1105.07 SHARED PARKING PLAN

Where a mix of land uses on one or more properties or within one or more buildings can demonstrate parking utilization in staggered peak periods, a shared parking plan may be approved by the Planning and Zoning Commission to reduce the minimum number of required off-street parking spaces for the applicable land use(s). A shared parking plan for the reduction of off-street parking requirements may be submitted to the Planning and Zoning Commission subject to the following requirements:

- A. Shared parking plans shall be limited to parking facilities located within five hundred feet (500 ft.) of the subject property or subject properties; and
- B. To the greatest extent practicable, adjacent lots included in a shared parking plan shall be connected for vehicular passage and shall provide safe and efficient pedestrian access to all uses served by the parking facilities.
- C. The parking spaces required in the above standards may be reduced when two or more establishments share the same parking area, whether on the same lot or on abutting lots, subject to the following conditions:
 - (1) That some portion of the shared off-street parking area lies within 500 feet of an entrance, regularly used by patrons, into the buildings served by the shared parking facilities.
 - (2) That access and parking easements are prepared and recorded in Summit/Portage County for each property affected by the shared parking.
- D. The minimum amount of shared parking required shall be calculated according to the following formula:

- (1) Calculate the minimum amount of parking required for each land use as if it were a separate use.
- (2) To determine peak parking requirements, multiply the minimum parking required for each proposed land use by the corresponding percentage in the table below for each of the five time periods.
- (3) Calculate the column total for each of the five time periods.
- (4) The column (time period) with the highest value shall be the minimum shared parking requirement.

SHARED PARKING REQUIREMENTS						
Use	WEEKDAYS			WEEKENDS		
	8 am - 6 pm	6 pm - Midnight	Midnight - 8 am	8 am - 6 pm	6 pm - Midnight	Midnight - 8 am
Office	100%	10%	5%	10%	5%	5%
Retail	70%	90%	5%	100%	70%	5%
Hotel/Motel	75%	100%	100%	75%	100%	100%
Restaurant	60%	100%	10%	60%	100%	20%
Entertainment/ Recreation	40%	100%	10%	80%	100%	50%
Residential	60%	100%	100%	80%	100%	100%

- (5) Alternative to the above table, shared parking plans may be submitted utilizing ratios and modeling based on ULI shared parking methodology, APA parking metrics, or other experienced parking consultant's project specific data-based justification of reduced parking demand.

SECTION 1105.08 REVIEW OF SHARED PARKING PLAN

A decision pertaining to an application for a shared parking plan shall be based on the following factors:

- A. The number of parking spaces otherwise required for the land uses that will share the parking facilities designated in the shared parking plan;
- B. Documentation that the peak parking utilization for the land uses occurs at different days and/or times;
- C. The demonstrated accessibility of the shared parking facilities, including the shared parking and cross-access agreement with each participating property owner; and
- D. Such other relevant documentation as the applicant(s) may provide to the City in conjunction with a parking reduction application.

SECTION 1105.09 EFFECT OF APPROVAL OF SHARED PARKING PLAN

When a shared parking plan application is approved, the modified number of required off-street parking spaces for the applicable land uses shall be the largest number of parking spaces needed for the applicable land uses during the most intensive time period of parking utilization as demonstrated by the evidence presented for the application for a parking reduction.

SECTION 1105.10 OFF-STREET LOADING REQUIREMENTS

In any district in connection with every building or part thereof hereafter erected and having a gross floor area of five thousand (5,000) square feet or more which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, funeral home, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of materials or merchandise, there shall be provided and maintained, on the same lot with such building, at least one off-street loading space plus one additional such space for each twenty thousand (20,000) square feet or fraction thereof of gross floor area so used in excess of five thousand (5,000) square feet.

- A. Loading Space Dimensions. Each loading space shall have a minimum dimensions of 12 feet in width, 55 feet in length and a vertical clearance of not less than 14 feet in height.

SECTION 1105.11 SUBMISSION TO PLANNING AND ZONING COMMISSION

- A. Detailed drawings including the location, width and number of entrance driveways to all necessary parking and off-street loading facilities shall be submitted to the PZC with the exception of one, two or three family dwellings, for approval prior to the granting of any zoning certificate. Such drawing shall show the number of spaces and locations, dimensions and descriptions of all features enumerated in this Chapter, Chapter 1102 and as required elsewhere in this Zoning Code. The PZC may require, in addition to those enumerated, further structural or landscaping features such as bumper guards, curbs, walls, fences, shrubs, trees, ground cover or hedges to further the intent and purposes of this Zoning Code. The PZC, in addition, may recommend such changes in location, width and number of driveways as it shall determine are necessary to eliminate any potential traffic hazards.

SECTION 1105.12 ACTION BY THE PLANNING AND ZONING COMMISSION

- A. Within sixty-five (65) days, the PZC shall either approve, approve with supplementary conditions, or disapprove the application as presented. If the application is approved or approved with modifications, the PZC shall direct the Zoning Inspector to issue a Zoning Certificate listing the specific conditions specified by the PZC for approval.

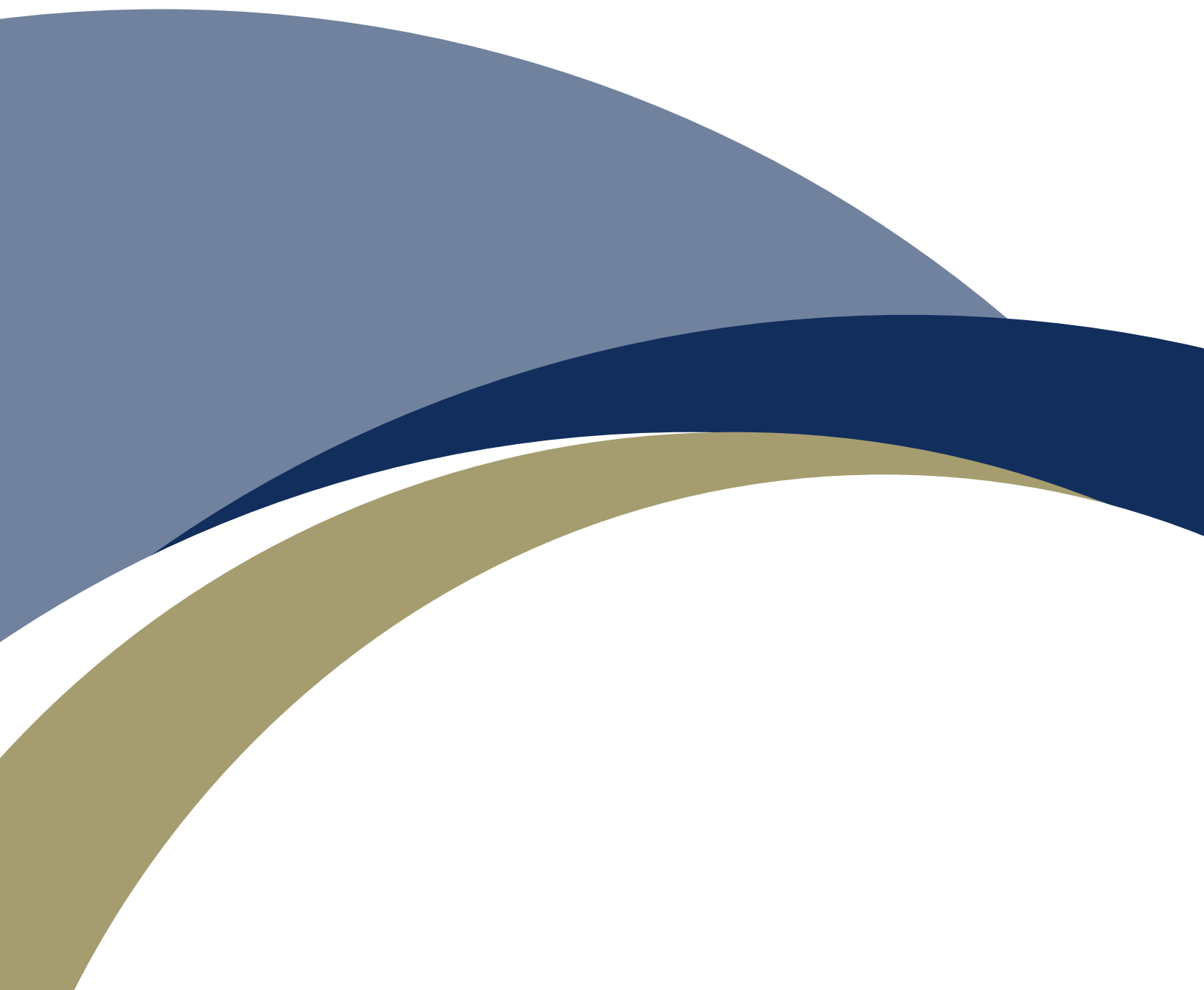
SECTION 1105.13 MODIFICATIONS

- A. The PZC may authorize a modification, reduction, or waiver of the foregoing requirements if it should find that the peculiar nature of the residential, business, trade, industrial, other use, exceptional situation or condition would justify such action.

SECTION 1105.14 APPEALS

- A. Appeals from the PZC shall be made to the Board of Zoning Appeals pursuant to Section 1102.

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Title 06

Landscaping and
Buffering



Title 06

LANDSCAPING AND BUFFERING

SECTION 1106.01 PURPOSE

- A. The purpose of this Landscape Chapter is to apply standards that preserve the existing landscape, promote the planting and maintenance of landscape, and enhance the appearance of new developments by using landscape in the City, and by so doing, protect and promote the public health, safety and general welfare of the residents and visitors to the community.
- B. The intent of this Landscape Chapter is to:
 - (1) Ensure that buffering is provided between certain land uses, between thoroughfares and land uses, and between thoroughfares and off-street parking in order to reduce glare, unsightly views, and noise while improving the aesthetic environment of the City.
 - (2) Ensure that the location, configuration, and design of landscape are visually harmonious with land uses, buildings, thoroughfares, and off-street parking on the planned property or thoroughfare.
 - (3) Ensure the reduction of surface water runoff and contribute to air purification.
 - (4) Encourage efforts to preserve natural vegetation and protect existing trees and woodlands, wetlands, and other natural features.
 - (5) Encourage the planting of native plant species where practical and available.
 - (6) Require planting of street trees along public thoroughfares where they meet the City specifications.

SECTION 1106.02 PLANNING & ZONING COMMISSION REVIEW

The Planning & Zoning Commission (PZC), in accordance with Chapter 1102, shall review and approve landscape plans as part of the site plan approval process for the construction of new buildings and the substantial expansions of existing buildings. The PZC shall also review and approve landscape plans for street trees as part of the preliminary plat process.

SECTION 1106.03 LANDSCAPE PLAN REQUIREMENTS

- A. Type of Requirements.
 - (1) New Structures. A zoning permit for construction of a new structure, or off-street parking shall be issued only after a landscape plan as required by this Chapter has been submitted and approved, by the PZC. This requirement does not apply to the construction of residential structures comprised of three (3) dwelling units or less.

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- (2) **Substantial Expansions.** A zoning certificate for the construction of a substantial expansion to a structure or an off-street parking lot shall be issued only after a landscape plan as required by this Landscape Chapter has been submitted and approved by the PZC. In the case of a substantial expansion to a structure or an off-street parking lot, the site shall comply at a minimum with the required street trees to be planted along the public thoroughfare and the landscape requirements for vehicular use areas as required by this Landscape Chapter. If the PZC determines that the street trees along the public thoroughfare or the landscaping for off-street parking lots are not practical due to topographic conditions or physical site limitations, the street trees may be planted in different locations on the site or reduced by size or number as approved by the PZC.
 - (3) **Preliminary Plats.** In accordance with Chapter 1110 of the Development Standards, a preliminary plat submitted for approval to the PZC shall contain a landscape plan for streets as required by this Landscape Chapter.
 - (4) **Landscaping Plan Requirements.** Any landscape plan required hereunder, shall include the following:
 - i. The name and address of the property owner and applicant.
 - ii. The zoning and specific land use for the subject property and for immediate adjacent properties.
 - iii. A Site Plan to an appropriate scale showing:
 - (a) All existing and proposed buildings, structures, overhead and underground utilities, off-street parking, service structures, fences, mounds, storm water detention areas, drainage swales or any other site feature.
 - (b) Existing major trees and vegetation or landscape features. Major trees are to be located, identified and health condition noted.
 - (c) Existing major trees, vegetation or landscape features to be removed.
 - (d) New landscaping to be installed as part of the project. The plan shall include a plant list that identifies all plants by botanical name, common name, and size to be installed. Plant species listed on the current Ohio Department of Natural Resources Invasive Plant List shall be prohibited. Materials and vegetation shall be identified for all proposed landscaping.
 - (e) Dimensions of all planting areas.
 - (f) Dimensions of the perimeter distance of the vehicular use area.
 - (g) Location and plant name(s) of existing landscaping on any shared property line.
 - (h) The landscape plans and specifications submitted pursuant to this section shall be prepared by, or under the direction of, and bear the seal of a professional landscape architect registered in Ohio for all new developments or construction. Plans and specifications submitted pursuant to this section for modifications to existing developments and/or buildings with less than five thousand square feet of permanent structures shall be exempt from the landscape architect seal requirement.

SECTION 1106.04 MAJOR TREES PRESERVATION PLAN

- A. All major trees shall be preserved
- (1) As many trees as can be reasonably utilized in the final development plan shall be retained and the grading adjusted to the existing grade at the trees.
 - (2) Mark all trees or designated areas to be protected. Create a restricted area by erecting construction fencing outside of the critical root zone or drip line of the trees. Prohibit material storage or dumping including vehicle parking from within the restricted area.
 - (3) Contact Ohio State University (OSU) Extension for further guidelines on tree protection on construction and development Sites.
- B. All major trees shall be preserved, unless exempted, as follows:
- (1) The proposed structure or off-street parking lot cannot be located in a manner to avoid removal of the major tree while at the same time permitting desirable and logical development of the lot.
 - (2) The major tree is damaged or diseased or otherwise is an undesirable species in its present location.
- C. All major trees identified for removal shall be replaced as follows:
- (1) All replacement trees should be of a species which is indigenous to the region unless it is proven to be unfeasible or it is determined by staff to be undesirable. All replacements shall be made with new trees of not less than two and one-half inches caliper.
 - i. Diversity among required plant material for on-site landscaping is required not only for visual interest, but to reduce the risk of losing a large population of plants due to diseases or pests. Diversity Requirements indicates the percentage of diversity required based on the total quantity of species being used.

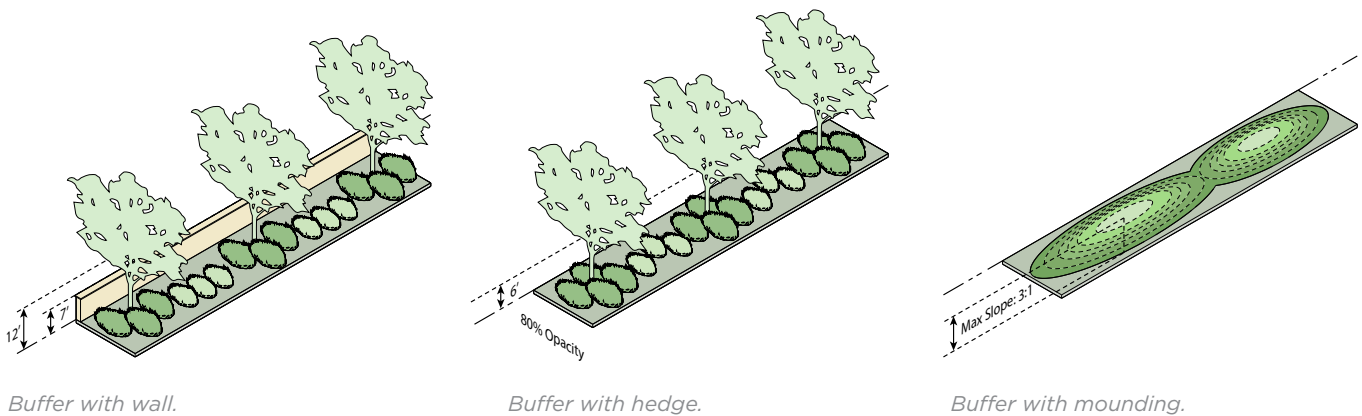
Maximum trees of the same species:	40%
Minimum trees of the same species:	10%
Minimum number of species:	1 species per 10 trees required
 - ii. For example, if a development requires forty-five (45) shade trees, no more than eighteen (18) trees nor less than five (5) trees can be of one (1) species, and there must be a minimum of five (5) different species within the forty-five (45) trees.
 - (2) Each major tree removed under this section shall be replaced by the owner/developer of the parcel. The total number of caliper inches of replacement trees for a site shall equal or exceed the combined diameter-at-breast-height (DBH) of the protected tree(s) removed.
 - (3) Replacements shall be made within one year of the date of the removal of any trees for which such replacement is required.
 - (4) Replacement trees for major trees shall be identified on the landscape plan required hereunder and, to the greatest extent practicable, located on the same parcel as the tree to be removed.
- D. Replacement fee.
- (1) In the event the City determines that full replacement would result in the unreasonable crowding of trees upon the lot, a fee equivalent to the cost of the excess aggregate caliper shall be paid into the city's general fund to be used for reforestation on public property. The fees collected under this section shall be deposited with the Department of Finance to the credit of the general fund. The fees required to be paid

by this section shall be used solely for the planting of trees on publicly owned property. The municipality shall expend additional funds for tree removal and/or tree pruning from other funds. This fee shall be reviewed annually.

SECTION 1106.05 MINIMUM LANDSCAPE STANDARDS

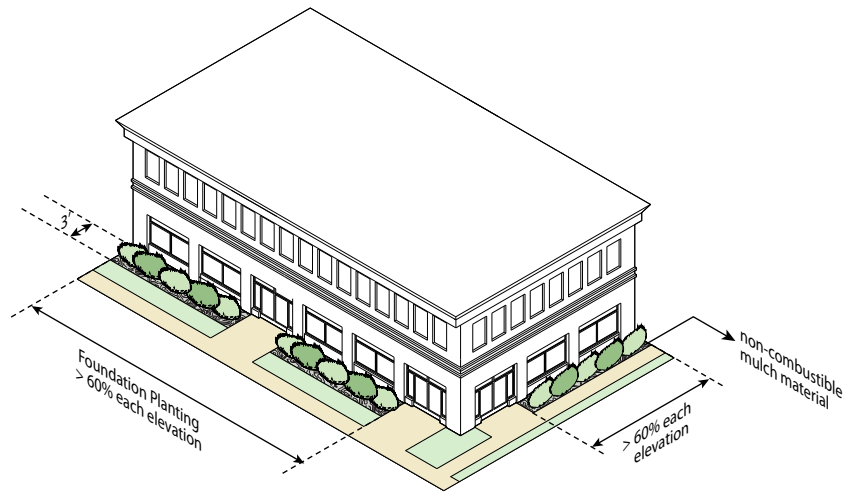
The following landscape standards are required for new structures or substantial expansions unless the PZC determines that the landscape standards are not practical due to topographic conditions or physical site limitations allowing the landscape materials to be planted in different locations on the site as approved by the PZC.

A. Perimeter Landscape Standards.



- (1) Landscape buffering shall be required between multi-family and single family uses, between any manufacturing use and residential use, and between any commercial use and residential use.
- (2) Buffering shall be required to be provided by the more intensive use.
- (3) Buffering shall consist of planting, fence or wall, mounding or any combination thereof.
- (4) Landscape buffering shall achieve and maintain a minimum of eighty (80) percent opacity, a height of at least six (6) feet, and a varied use of landscaping material. The landscape material must achieve height and opacity requirements within four (4) years after installation.
- (5) Fences and walls shall be no higher than seven (7) feet in residential and non-residential zones and overlays and no higher than twelve (12) feet in manufacturing zones and overlays.
- (6) Mounds and Berms. Mounds or berms may be used as physical barriers that block or screen a view. Differences in elevation between areas requiring screening do not constitute a mound. Mounds or berms shall conform to the following standards:
 - i. The maximum side slope shall be three (3) feet horizontal to one (1) foot vertical (3:1). The design shall be reviewed to ensure that proper erosion prevention and control practices have been utilized and that irrigation or other means are provided to ensure plant material will have sufficient moisture for survival.
 - ii. Mounds or berms shall be designed with physical variations in height and alignment throughout their length.
 - iii. Landscape plant material installed on mounds or berms shall be arranged in an irregular pattern to accentuate the physical variation and achieve a natural appearance.

- iv. The landscape plan shall show sufficient detail to demonstrate compliance with the above provisions, including a scaled plan, section, and profile of the mound or berm, soil types and construction techniques.
 - v. Mounds or berms shall be located and designed to minimize the disturbance to existing trees located on the site or adjacent thereto.
- B. Mixed-use developments shall provide buffering from adjacent existing uses on the basis of the most intense use in the mix of uses. Buffering within a mixed-use development between proposed uses shall not be required.
- C. Foundation Planting Standards.
- (1) Foundation planting shall be required along all elevations of new commercial structures and commercial

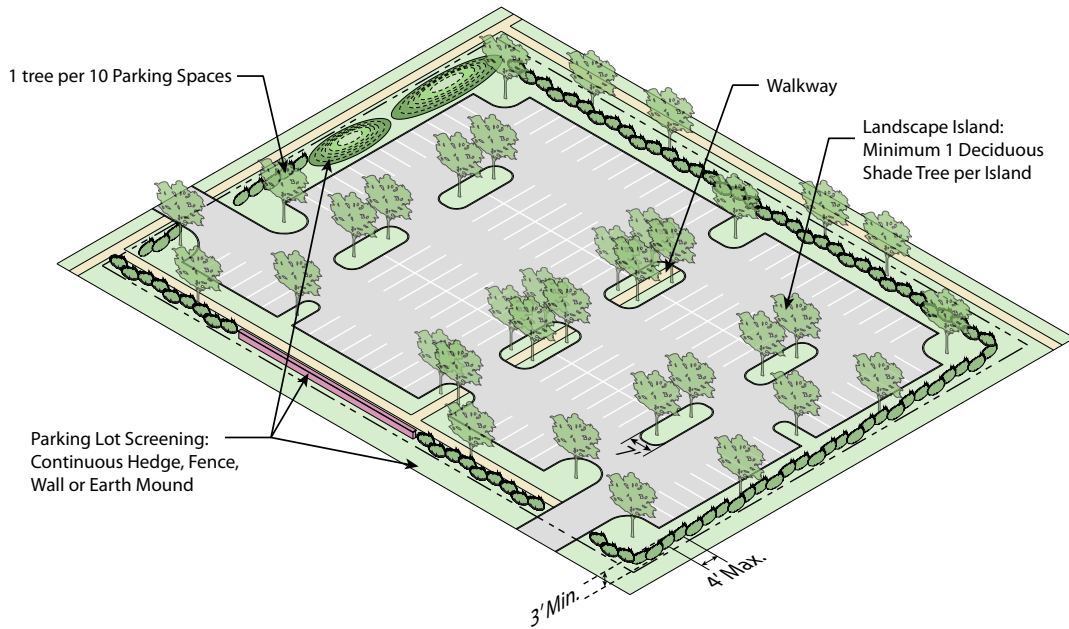


Commercial building foundation planting.

structures undergoing substantial expansions, with not less than sixty percent (60%) of the length of each elevation being planted with landscape material, which shall be spaced as evenly as practicable taking into consideration entryways and such other building features as may prevent the location of landscape material.

- (2) Within any planting area directly adjacent to a commercial building wall or multiple-family building (more than 6 dwelling units) wall non-combustible mulch material, such as decorative stone, shall be used within 3 feet of the wall.
- D. Landscaped Area and Tree Planting.
- (1) Owners of lots on which non-residential uses are conducted shall install thirty (30) square feet of landscaped area for every one thousand (1,000) square feet of building ground coverage. For remaining areas of non-residential lots that are not covered by structures, paving or landscaped area as required hereunder, such remaining areas shall be covered by natural turf.
- (2) Except for off-street parking lots, which shall incorporate tree planting in accordance with subsection E. below, all remaining areas of lots on which non-residential uses are conducted shall incorporate tree planting at a rate of one (1) tree per 1,000 square feet of building ground coverage.

- (3) Upon recommendation of the PZC such tree planting requirement may be waived or modified provided that the existing trees on any lot subject to these requirements meet or exceed the trunk size requirements and are otherwise evenly distributed throughout the subject lot.



Typical landscape components with parking areas.

E. Landscape Requirements for Off-Street Parking Facilities.

- (1) Interior landscaping for vehicular use areas.
- i. Any open vehicular use area, excluding loading, unloading and storage areas in an industrial zone or business zone, containing more than 6,000 square feet of area, or 20 or more vehicular parking spaces, shall provide interior landscaping in addition to the previously required perimeter landscaping. Interior landscaping may be peninsular or island types.
 - ii. Landscape area. For each 100 square feet or fraction thereof, of vehicular use area, a minimum total of 5 square feet of landscaped area shall be provided.
 - iii. Landscape islands shall be a minimum width of seven (7) feet from back-to-back of curb, and a four-foot minimum dimension to all trees from edge of pavement where vehicles overhang.
 - iv. Maximum contiguous area. In order to encourage the required landscape areas to be properly dispersed, no individual landscape area shall be larger than 350 square feet in size, and no individual area shall be larger than 1,500 square feet in vehicular use areas over 30,000 square feet. Landscape areas may be larger when the excess area is in addition to the minimum required area.
- (2) Minimum trees:
- i. All provided islands shall at include least one (1) deciduous shade tree.
 - ii. Vehicle use areas shall have a total tree planting of 1 tree per 10 parking spaces or fraction thereof.

(3) Parking Lot Screening.

- i. Screening shall consist of a minimum 3 ft. height continuous hedge, fence, wall, or earth mound.
 - (a) Hedge shall consist of a double-staggered row of a single species of evergreen shrubs, spaced a maximum of 4 ft. on-center, with a distance of 2 ft. between the staggered rows, planted in a bed with a minimum width of 4 feet. Shrubs shall be allowed to grow together and maintained as a continuous screen at the required minimum height.
- ii. Screening planting beds shall be edge cut and maintained free of weeds, and filled with a ground covering material. The parking lot side shall have a 6 inch high concrete curb. Lawn side to be edge cut.
- iii. Required screening shall not encroach on any street or driveway sight-triangle.

F. Screening Requirements for Service Structures.

- (1) Service structures shall be screened in all zoning districts in accordance with the following regulations and as approved by the PZC in addition to the setback and yard requirements provided elsewhere in this Zoning Code. For the purposes of this section, service structures shall include but not be limited to loading docks, storage tanks, dumpsters, electrical transformers, utility meters, utility cabinets, utility vaults which extend above the surface, cooling towers, roof top units and other equipment or elements providing service to a building or a site. Structures may be grouped together; however, screening height shall be based upon the tallest of the structures. Roof top mechanical units must be screened to the full height of the unit.
- (2) Screening requirements. A continuous (having 90-100% opacity) planting, hedge, fence, wall of earth or combination thereof which would enclose any service structure on all sides is required, unless such structure must be frequently moved, in which case screening on all but one side is required.
 - i. The height of the screening material shall be one foot more than the height of the enclosed structure but shall not be required to exceed 12 feet in height.
 - ii. Whenever a service structure is located next to a building wall, perimeter landscaping material or vehicular use area landscaping material, such walls or screening material may fulfill the screening requirement for that side of the service structure if that wall or screening material is of sufficient height to meet the height requirement set out in this section.
 - iii. Plant material used to screen a service structure shall be an evergreen species which retains its needles throughout the year. Deciduous plant material cannot be used to fulfill this screening requirement. The height of the evergreen plant material at installation must be equal to, or greater than, two-thirds of the height of the service structure(s) and meet the height and opacity requirements within four years.
 - iv. When gas meters are located within planting beds, non-combustible mulch material, such as decorative stone, shall be used within 3 feet of the fixture.
 - v. No interior landscaping shall be required within an area screened for service structures.
 - vi. A solid wall or fence shall be constructed of a material that matches the principal structure on the subject property. Provided however, in the I1 and O-IE, the fence may be constructed of masonry or chain link with opaque fence slats.
 - vii. Curbs to protect screening material. Whenever screening material is placed around any trash disposal unit or waste collection unit which is emptied or removed mechanically on a regularly occurring basis, a curb or bollards to contain the placement of the container shall be provided within the screening material on these sides where there is such material. The curbing or bollards shall be at

least one foot from the screening and shall be designed to prevent possible damage to the screening when the container is moved or emptied.

G. Minimum standards for required plant materials

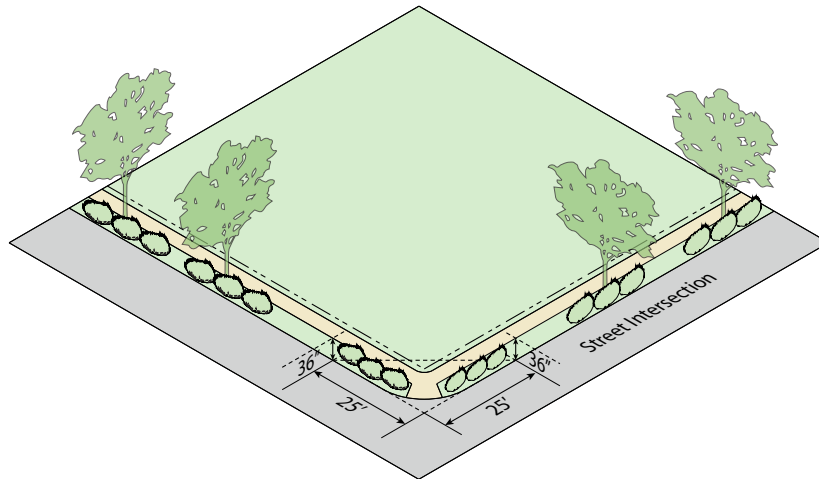
- (1) Artificial plants are prohibited.
- (2) Medium or large deciduous shade trees: min. 2 inch cal.
- (3) Small deciduous shade trees and ornamental trees: min. 1-1/2 inch cal.
- (4) Evergreen trees: min. 5 feet height
- (5) Shrubs: min. 24 inches height
- (6) All plant materials shall conform to the current version of ANSI Z60.1 American Standards for Nursery Stock.

H. Irrigation lines, valves, and emitters and heads shall be prohibited within any public street right of way.

SECTION 1106.06 STREET TREES AND PUBLIC TREE REQUIREMENTS

Street trees along public streets as part of a preliminary plat shall meet the guidelines established below and shall be reviewed and approved by the PZC as part of the preliminary plat process. Street trees along public streets as part of a proposed development shall meet the guidelines below and shall be reviewed and approved by the PZC. Street trees shall be required in all zoning districts and overlays, and in accordance with the following regulations

- A. Street trees shall be provided by the subdivider in conformance with Chapter 1110 Development Standards.
- B. The owner or agent of the owner of any lot or parcel of land fronting or abutting any street or public ground is responsible for the maintenance and upkeep of the trees growing in the tree lawn in conformance with Chapter 1361 Miscellaneous Provisions of Building Code.
- C. Street trees shall be planted along public streets in such a manner, type, quantity and location as approved by the PZC. Any existing street with undeveloped frontage shall also conform to these requirements at the time of the frontage development.
- D. The minimum trunk caliper measured at six (6) inches above grade for all street trees shall be no less than two (2) inches.
- E. Trees shall not be planted in tree lawns less than 6 feet in width. Similarly, trees shall not be planted on slopes steeper than 3:1 (33%).
- F. Street trees shall be planted as per the following spacing requirements:
 - (1) The spacing between trees shall be adjusted to accommodate the location of driveways, fire hydrants, utility service lines, streetlights, street signs, or any other permanent street fixtures.
 - (2) Landscaping at Street Intersections and Street and Driveway Intersections: Vegetation shall not obstruct the clear site distances at intersections. Vegetation higher than 36 inches shall not be permitted within a sight triangle measured 25 feet from the intersection of the edge of pavement going in all directions. Intersections of or with major thoroughfares are subject to the Landscaping Setbacks of the 2010 ODOT Manual Roadside Safety and Landscaping Guideline. A list of major thoroughfares can be found in the City of Tallmadge Thoroughfare Plan.



Landscaping at Street Intersections and Street and Driveway Intersections

- (3) Tree locations shall be at least one hundred (100) feet from all stop and yield signs and twenty (20) feet from fire hydrants or utility poles and twenty (20) feet from all other street signs unless a reduced distance is proposed and approved by the Zoning Department.
 - (4) Street trees shall be planted half the distance between the sidewalk and the edge of the street. When no sidewalks or curbs exist, the tree location shall be half the distance between the edge of the street and the right of way.
- G. A small tree shall be used when planting within ten (10) feet horizontal distance of overhead utility wires. A small or medium tree shall be used when planting between ten (10) and twenty (20) feet horizontal distance of overhead utility wires.
- H. If the PZC determines that the street trees along the public thoroughfare are not practical due to topographic conditions or physical site limitations, the street trees may be planted in different locations on the site or reduced by size or number as approved by the PZC.

SECTION 1106.07 INSTALLATION AND MAINTENANCE

- A. Installation. All landscaping materials required on property subject to this Landscape Chapter shall be installed in accordance with industry accepted construction and planting procedures.
- (1) The owner of the property shall be responsible for the continued property maintenance of all landscape materials planted or placed to fulfill the requirements of this Landscape Chapter and shall keep them in a proper, neat and orderly appearance, free from refuse and debris at all times.
 - (2) All unhealthy or dead landscape material shall be replaced within six months, or by the next planting period, whichever comes first, while other defective non-plant landscape material shall be replaced or repaired within three (3) months.
 - (3) Violations of these provisions shall be grounds for the City to refuse a zoning certificate and find that the owner is in violation of the Zoning Code.
- B. Maintenance. Publicly owned trees or privately-owned trees located in or encroaching upon the public right of way shall conform to the following provisions:

- (1) Persons providing services to publicly owned trees and/or providing utility line clearing services shall adhere to guidelines of the International Society of Arborists for tree maintenance and utility line clearance work.
- (2) No person shall top any tree within the public right of way. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.
- (3) Tree limbs extending over a sidewalk shall be trimmed to such an extent that no portion of the same shall be less than ten (10) feet above the sidewalks. Tree limbs extending over streets shall be trimmed to such an extent that no portion of the same should be less than fourteen (14) feet above the roadway.
- (4) The City shall have the right to plant, prune, maintain and remove trees, plants, and shrubs or portions thereof within the rights-of-way of all streets, alleys, avenues, lanes, and other public grounds, as may be necessary to insure public safety or to preserve or enhance the health of the landscape material or the beauty of such public grounds.
- (5) No person shall intentionally attach any rope, wire, nails, advertising posters, or other contrivance to any tree or shrub, allow any liquid, or solid substance which is harmful to such trees or shrubs to come in contact with them; or set fire or permit fire to bum when such fire or the heat thereof will injure any portion of any tree or shrub.
- (6) Stumps shall be removed at least four (4) inches below grade. All residual material shall be removed from the site at the time the tree is removed, and the grade shall be restored.

SECTION 1106.08 SUPPLEMENTAL REGULATIONS APPLICABLE TO THE LANDSCAPING OF PARKING LOTS

- A. Snow Removal Areas. Parking lots shall be designed to allow for designated snow areas in order to protect all landscape screening.
- B. Installation and Maintenance. The desired screening effect and mature height of 3 feet shall be achieved no later than 3 years after the initial installation. Thereafter, required landscape screening shall be maintained in healthy condition by the current owner, and shall be replaced when deemed necessary by the PZC or its designee. Replacement landscape screening shall match existing for size, spacing and species. Working height for parking lot screening shall be maintained at 3 feet.
- C. Protection and Maintenance. Whenever screening is adjacent to parking lots or driveways, such screening shall be protected by wheel stops, curbs or bumper blocks. Replacement of dead or damaged landscape screening and appurtenances thereto shall be the responsibility of the current owner.

SECTION 1106.09 ADDITIONAL MAINTENANCE REQUIREMENTS—PRIVATELY-OWNED TREES

In addition to the requirements set forth under subsection 1106.07 B. the following requirements shall apply to the owner of any property upon which any tree or trees are located in or encroaching upon a public right of way:

- A. Upon completion of the planting of any tree or trees contemplated under this subsection, the owner shall send notice to the Planning and Zoning Department that such tree or trees have been planted and the City shall inspect the tree or trees and approve such planting.

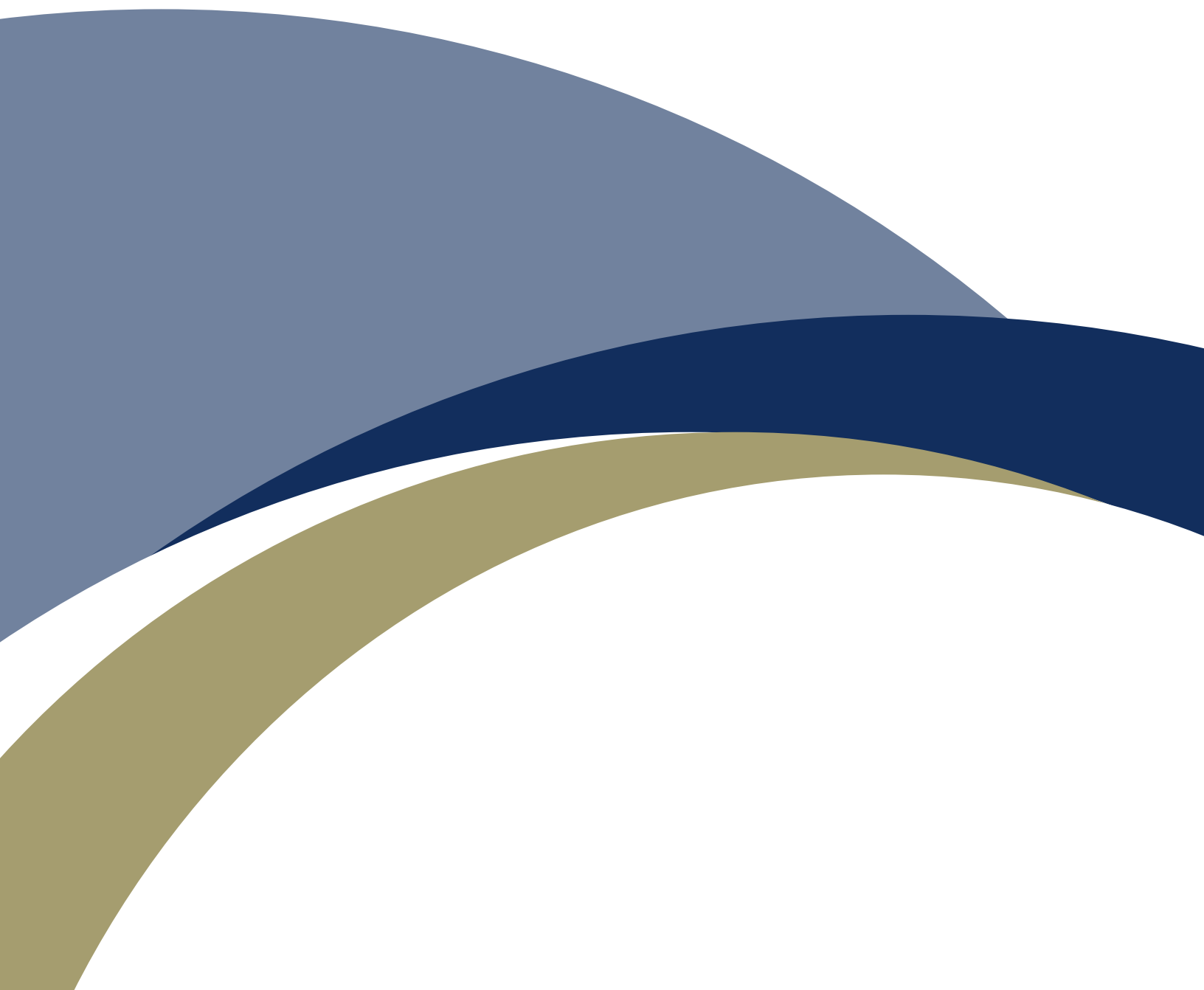
- B. Commencing on the date of the approval given by the Planning and Zoning Department under subsection A above and continuing for two (2) years, the approved tree or trees shall be subject to a guarantee period during which the property owner shall be required within thirty (30) days of the death of any tree or trees to replace such deceased tree or trees.
- C. Within five (5) business days of the expiration of the guarantee period described under subsection B above, the property owner shall notify the Planning and Zoning Department to schedule a tree inspection. Upon conducting the post-guarantee period inspection, a representative of the City shall determine, in his or her sole discretion, whether any tree or trees contemplated under this subsection are exhibiting signs of disease, decay or are otherwise failing to thrive, in which case, the owner of the subject property shall be required to replace such tree or trees within thirty (30) days of the date that the inspection report is transmitted to the owner. Upon replacement of any tree or trees as contemplated herein, such replacement tree or trees shall be subject to a renewed two (2) year guarantee and a post-guarantee inspection as contemplated herein.

SECTION 1106.10 **LANDSCAPING REQUIRED BEFORE FINAL OCCUPANCY**

- A. Before a zoning certificate is issued, landscaping as approved by the PZC or its designee shall be installed, unless it is determined that due to unforeseen circumstances or inclement weather that the approved landscaping cannot be installed prior to occupancy. The City may require from the property or business owner a performance bond of sufficient amount to cover the remaining cost of materials and labor to install the landscaping.
- B. Failure to install landscaping as approved by the PZC is a violation of the Zoning Code and is subject to the penalties in Section 1102.
- C. Performance Bond.
 - (1) Inspection, Bond Amount. Whenever a site plan requires any type of landscaping, the applicant may be required to post a performance bond prior to the issuance of a temporary or final certificate of occupancy to ensure the completion of landscaping (including irrigation). If the landscaping is not 100% complete when any certificate of occupancy is requested, the City will inspect the landscaping and determine the percentage of completion and a performance bond must be submitted to the City by the developer in the sum equal to twice the cost of the unfinished portion of the landscape work. The City shall have the authority to determine the percentage of completion and the bond amount required. If the landscaping is 100% complete and approved no performance bond shall be required.
 - (2) Bond Type. If a performance bond is required it must be a cash bond or a corporate surety bond or irrevocable bank letter of credit in the full amount of the sum due, as determined in Section 1102.
 - (3) Residential Developments. All residential developments must post a performance bond (100% of estimated cost of landscaping) prior to the issuing of the first zoning certificate.
- D. Maintenance Bond. A maintenance bond in the sum of 10% of the estimated cost of landscaping must be posted prior to the issuance of any certificate of occupancy (including temporary). The maintenance bond is held for a period 2 years, at the end of which time the City shall inspect the landscaping. Once inspection issues are addressed the unused balance of the maintenance bond will be released. For all residential developments the maintenance bond must be posted prior to the release of the performance bond. The maintenance bond shall be released as specified above.

SECTION 1106.11 NATURAL LANDSCAPE

- A. Native plantings will be allowed as landscaping. Native and Natural Landscape shall mean grasses and flowering broad-leaf plants that are native to, or adapted to, the State of Ohio, and that are commonly found in meadow and prairie plant communities, except weeds.
- B. Natural Landscape Permits - are required if a proposed landscape includes grasses that exceed or are expected to exceed 12 inches in overall height. Permit applications shall be submitted to the Zoning Department.
- C. Natural Landscape Permits must contain the following:
 - (1) Native prairie and long grasses within a defined landscape area on a single- or two-family residential parcel.
 - (2) Occupies no more than 50% of the pervious surface area of the parcel excluding natural wooded areas, wetlands and water bodies.
 - (3) Set back from property lines by at least fifteen feet. The setback is not required where the defined landscape area abuts another similar private or public landscape area, a wetland, pond, lake or stream.
 - (4) Setback twenty-five feet away from any buildings or structures.
 - (5) A landscape plan is submitted to the City and approved prior to the commencement of the project.
 - (6) The landscape plan must include the following:
 - i. A listing of all native plants being proposed.
 - ii. A layout plan with a scale of 1"=20'.
 - (7) Soil erosion should be controlled while the ground is bare of plant growth that is sufficient to inhibit erosion and is the sole responsibility of the owner or occupant.
 - (8) The prior vegetation is eliminated, and the native vegetation is planted through transplanting or seed by human or mechanical means.
 - (9) The area is clearly defined by edging. A native planting that directly abuts at least a 5 feet width of mowed and maintained turf grass will be considered to have adequate edging.
 - (10) The area does not extend into the public right of way.
 - (11) A sign is posted on the property in a location likely to be seen by the public, advising that a meadow or prairie is being established. This sign is required only if the planting is in an area likely to be seen by the public. This sign must be in addition to any sign permitted by the sign ordinance but must be no smaller than 10 inches square, no larger than one square foot, and no higher than 3 feet tall. The sign is no longer required when weeds cover 25% or less of the area.
 - (12) A landscape maintenance plan is submitted and approved prior to the commencement of the project. In the maintenance plan it must contain the following:
 - i. The Natural Landscape Area is cut at least once annually between April 15 and July 15 to a height no greater than eight (8) inches.
 - ii. The elimination of non-native or invasive vegetation.
 - iii. If weeds cover more than 25% of the planting, it must be cut to a height of no more than 8 inches at least once per year.
 - iv. No burning will be permitted to maintain the Natural Landscape.
 - (13) A violation of any of the requirements set forth above will result in the revocation of the natural landscape permit by the City.



Title 07

Open Space Standards



Title 07

OPEN SPACE STANDARDS

SECTION 1107.01 PURPOSE

This section addresses the character and design of those portions of development that are not occupied by platted lots or streets and that are reserved for open space, public parks and greenways. The purpose of this section is to:

- A. Establish the standards and criteria under which portions of land associated with development shall be set in reserve and dedicate land to the City for the purposes of development as private open space, public parks, greenways or other recreational spaces for public health and welfare; and
- B. Establish minimum ownership and maintenance standards for homeowner and property owner associations related to private formal and informal open space areas associated with development.

SECTION 1107.02 APPLICABILITY

- A. This chapter shall apply to all types of development after the effective date of this code.
- B. The Zoning Administrator shall not grant a zoning certificate approval for any building or structure shown in a subdivision or development subject to the provisions of this chapter unless the open space allocated to that phase have been conveyed under one of the options established in this chapter.

SECTION 1107.03 OPEN SPACE REQUIREMENT

- A. Amount of Open Space Required
The minimum amount of open space that must be established for certain types of developments shall be as specified by the zoning and overlay district development standards.
 - (1) The percentage of open space shall be based on the gross site area of the proposed project, including all rights-of-way.
 - (2) The following areas shall not be counted toward compliance with open space requirements:
 - i. Private and public roads and associated rights-of-way;
 - ii. Public or private parking spaces, access ways, driveways and other vehicular use areas;
 - iii. Required minimum spacing between buildings;
 - iv. Required yard setbacks; except when part of a large contiguous open space and accessible with a bike or pedestrian path, and with the approval of the Zoning Administrator and/or PZC;

- v. Above-ground buildings, pipes, apparatus and other equipment for community or individual use, septic or sewage disposal systems;
- vi. Public utility substations;
- vii. Public utility easements shall not make up more than 50% of the required open space;
- viii. Golf courses shall not make up more than 50% of the required open space;
- ix. Leftover land that has no value for development and is not a natural resource (e.g., river or stream corridor, large forest stand, wetland) that contributes to the quality of the overall project, as determined by the PZC or Zoning Administrator, as may be applicable based on the review procedure.

B. Permitted Uses in Open Spaces

The following uses may be permitted in required open space:

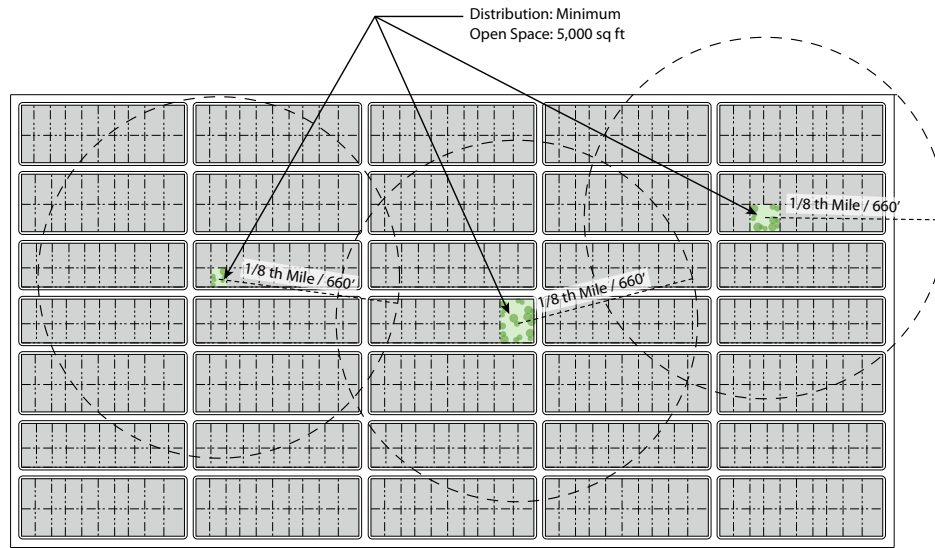
- (1) Areas preserved in their natural state as wetlands, woodlands, lakes or ponds, historic lands, environmentally sensitive areas or similar conservation-oriented areas.
- (2) Bike, walking, and multi-use paths, nature trails.
- (3) Community gardens as defined by this code.
- (4) Outdoor active or passive recreational uses for the use and/or enjoyment of the residents of the proposed development. Any restricted open space intended to be devoted to recreational activities shall be of a usable size and shape for the intended purposes as determined by the PZC. Where deemed appropriate by the PZC, recreation areas shall be provided with sufficient parking and appropriate access.
- (5) Utilized for the raising of crops when authorized in a conservation easement or in the association's covenants and restrictions.
- (6) Community social and cultural uses, such as plazas, pocket parks, sitting areas, amphitheaters, and accessory structures.
- (7) Any other similar uses approved by the PZC or Zoning Administrator during the applicable review procedure.
- (8) Stormwater management including ponds, wetlands, dry detention basins, and bioretention/ rain gardens with native planting, provided that the open spaces and stormwater features are accessible and designed as an aesthetic amenity to the community. Accessible shall mean that the feature is bordered by a substantial open space area, park, playground, pathway or reasonable means of access for enjoyment of all owners, visitors or others.
 - i. Retention basins, ponds, wetlands, dry detention basins, or water features may count toward fulfilling the requirement, however not more than 50% of the water surface area or wetland delineated boundary may be counted.

C. Design Standards for Open Spaces

Land reserved as open space shall comply with the following standards:

- (1) All areas of open space shall be accessible to residents or users of the development by providing at least 50 feet of frontage on a public street.
- (2) All areas of the open space shall have a minimum width of 25 feet.
 - i. Narrow segments of open space serving as connections between areas, such as for walking trails or bike paths between lots, shall provide a delineated edge to indicate public common open space from private lots.

- ii. Delineation can be provided with a fence, planting beds, hedge, mounding or masonry walls. Walls and fences shall not exceed 4 feet in height and shall be of materials that are architecturally appropriate to the location.
- (3) The open space shall be located and designed as follows, or otherwise to the satisfaction of the PZC:
 - i. Open Space shall be sufficiently aggregated to create large areas of planned open space.
 - ii. Aggregated open spaces shall also be distributed throughout the development so that open space is located within 1/8th mile (660 ft) of every dwelling unit.



Open space minimum distribution.

- (a) Proximity to open space shall be determined by offsetting the perimeter boundary of the proposed open space by the minimum required distance. Pedestrian access to the open space within this proximity area shall be provided so that each unit is within an approximate 5 minute walk to the open space.
- (b) For the purposes of distribution throughout the neighborhood, the minimum area for open spaces shall be 5,000 square feet.
- (c) Open spaces shall be programmed with usable pedestrian amenities, such as but not limited to: seating areas, playgrounds, ornamental planting, walks or paths, decks, gazebos, pavilions, overlooks, fountains, sculptures.
- (4) The open space shall conserve significant topographic and landscape natural features to the extent practicable.
- (5) Any area within the open space that is disturbed during construction or otherwise not preserved in its natural state, shall be landscaped with vegetation that is compatible with the natural characteristics of the site.
- (6) All open space required by this chapter, including any recreational facilities proposed to be constructed in such space, shall be clearly shown on all approved plans.

- (7) Where open areas, trails, parks or other open space resources are planned or exist adjacent to development, the open space shall, to the maximum extent practicable, be located to adjoin, extend and enlarge the presently existing trail, park, or other open area land.

D. Provision of Open Space in Multi-Phase Developments

- (1) Development proposed in phases shall be considered as a single development for the purposes of applying the open space standards required in this chapter.
- (2) The open space for the entire project shall be reviewed and approved as part of the preliminary plat process.
- (3) Development shall not be phased solely as a method to avoid the minimum open space standards in this chapter.
- (4) Each phase shall contain enough open space that they can comply with the minimum open space requirements as a stand-alone phase or, if combined with previously developed phases, can, as a whole, comply with the minimum open space requirements. At any point, the applicant may fulfill the open space requirements prior to completion of the development or subdivision, provided the aggregation and distribution requirements are met.

SECTION 1107.04 FEE IN LIEU OF PROVIDING PHYSICAL OPEN SPACE

As an alternative to dedicating land per this section, and only with the approval of the PZC, the Developer may pay a fee-in-lieu of the Dedication.

- A. Criteria: A useable parcel of land does not exist in the subject Subdivision or for some other reason, land dedication is inappropriate or infeasible; or
- (1) The City with authority in the Subdivision recommends the payment of a fee-in-lieu of land dedication.
 - (2) The fee-in-lieu of land dedication amount shall be determined as follows:
 - i. $(\text{Fee-in-lieu of}) = (\text{Land area that would otherwise be required to be provided as determined by this Code}) \times (\text{Fair Market Value})$.
 - ii. Fair Market Value shall equal the average value per acre of all land in the proposed Subdivision in its raw undeveloped state. If the land is being rezoned as part of its application to the Planning and Zoning Commission, the land shall be appraised using a post-rezoning per acre value. Value shall be determined by one of the following procedures:
 - (a) The current per acre land transaction price of the Subdivision property as recorded or as stated in the Option to Purchase Agreement, provided the land transaction or Agreement is less than two (2) years old at the time of Final Plat filing for the first phase of the Subdivision, or
 - (b) The current per acre land value as determined by a professional appraiser holding a MAI designation from the Appraisal Institute who is acceptable to the City and whose services are paid for by the Developer. If an appraisal is to be done as part of calculating the Fair Market Value; then this appraisal shall be submitted at the time of Preliminary Plan review by the Developers.
 - iii. If the City disagrees with the per acre appraised value provided by the appraiser, the City shall have the right to engage one or more additional MAI designated appraisers, at its cost, to provide one or

more additional appraisals. Should the developer disagree with the value placed on such parcel by the appraiser, the Developer shall have the right to engage additional MAI designated appraisers at its cost to provide additional appraisals. The City may at its option accept as payment the average per acre value of appraisals obtained by the City and the Developer.

- iv. The per acre amount to be paid by the Developer as a fee-in-lieu of parkland dedication shall be documented in the zoning ordinance or resolution for the Development.

B. Parks and Recreation Fund.

- (1) A fee-in-lieu of a land dedication shall be paid to the City prior to the issuance of any building permit. The fee in-lieu of land dedication monies shall be deposited in a special fund administered by the City Director of Finance entitled “Parks and Recreation Fund.”
- (2) Such “Parks and Recreation Fund” monies shall be used only for the acquisition or development of public land for parks, playgrounds, trails, greenways, nature preserves, recreational facilities, open space or for the retirement of debt incurred for such purposes.
- (3) Prohibition. No Final Plat shall be signed by the City and recorded by the Developer unless and until a deed for conveyance of a park, recreation or open space reserve has been reviewed and approved by the City legal counsel or in the case of a fee-in-lieu of dedication, the fee payment has been fully deposited into the Parks and Recreation Fund account.
- (4) The City shall plan to expend all or part of the funds, no later than issuance of the occupancy permit for the last residential unit developed, for the acquisition, development and improvement of park and recreational facilities of the City parks nearest to the subdivision or development that the funds are meant to benefit, or within a further distance if such parkland and/or recreational facility will benefit the development and is planned for use by, and is likely to be used by, the residents thereof, as determined by the Director of Public Service or designee.

SECTION 1107.05 OWNERSHIP OF OPEN SPACE

- A. Provisions for Ownership. The PZC will review the form of ownership being proposed for any permanently protected Open Space, or Common Areas (including areas reserved for designated public use). The type of ownership may include:
 - (1) Dedicated to a public entity, subject to the entity’s acceptance;
 - (2) Owned jointly or in common by the owners with an Owners’ Association;
 - (3) Owned by a quasi-public organization, such as a non-profit land trust.
- B. The first priority of the open space requirement is to provide for a community wide network of parks, open spaces, greenways, or other recreational areas. As such, all open space required by this chapter shall first be offered to the City for potential public land dedication.
- C. Such offer for public land dedication shall be made during the applicable review procedure with the PZC.
- D. The City shall consider any recommendation from PZC regarding the proposed land and shall make a decision on whether to accept any land offered for dedication. City Council shall not be required to accept any land offered for dedication.

- E. Where the City chooses not to accept the open space for public dedication, the developer shall retain the open space as private open space, protected in perpetuity in accordance with this Chapter.
 - (1) Land within the development site that is subject to pre-existing conservation easements or other similar protected open spaces shall be permitted to count toward the required open space, provided that the open space is not credited toward any other existing or proposed development.

SECTION 1107.06 PROTECTION OF OPEN SPACES

- A. Any further subdivision of the open space for uses other than those prescribed in this chapter and the approved development plan or subdivision plat shall be prohibited.
- B. Prohibition of Further Subdivision of Restricted Open Space.
At the time of application for final plat approval or for a zoning certificate where no plat is required, the applicant shall submit appropriate covenants, bylaws, conservation easements and/or deed restrictions to be reviewed and approved by the City Law Department and shall be filed with the Final Plat and recorded with the County ensuring that:
 - (1) The Open Space, park or other public purpose area will not be further subdivided in the future;
 - (2) The use of the Open Space, park or other public purpose land will continue in perpetuity for the purpose specified;
 - (3) Appropriate provisions will be made for the maintenance, repair and liability of the Open Space, park or other public purpose area;
 - (4) Common undeveloped Open Space or park land shall not be turned into a commercial enterprise admitting the general public for a fee;
 - (5) Homeowners in the development shall have adequate access to the Open Space, park or other public purpose land.

SECTION 1107.07 MAINTENANCE BY OWNERS' ASSOCIATIONS

- A. A homeowners' association or property owners' association shall be established to permanently maintain all open space and common areas if such areas are not transferred and accepted by the City, or a City approved entity such as the following: County, State, park district, land trust, or other qualified organization.
- B. All homeowners' association or property owners' association agreements shall be submitted to the Zoning Administrator as part of the development plan review, subdivision application review, or zoning certificate review, whichever is applicable. No set of proposed covenants, articles of incorporation or bylaws of a homeowner's association or property owners' association shall permit the abrogation of any duties set forth in this section.
 - (1) All homeowners' associations or property owners' associations shall guarantee the maintenance of all open space and common areas within the boundaries of the development through the deed restrictions or covenants.
 - (2) Membership in the association shall be mandatory for all purchasers of lots in the development.
 - (3) The association shall be responsible for maintenance, control and insurance of all common areas, including required open space.

- (4) The association shall not authorize its dissolution or the sale, transfer or other disposal of any open space or common area without:
 - i. An affirmative vote of 75 percent of its members;
 - ii. Establishing a successor entity to take over said property pursuant to this code; and
 - iii. The approval of the City Council.
- C. Whenever the association adopts an amendment to any approved agreements that pertain to maintenance obligations or access to common areas, the revisions shall be provided to the Zoning Administrator for confirmation that the amendment is in compliance with all applicable standards of this code and any conditions of approval that applied to the original development or subdivision.
- D. The association shall convey to the City and other appropriate governmental bodies, after proper notice, the right to enter to any common area for emergency purposes or in the event of nonperformance of maintenance or improvements affecting the public health, safety and welfare. Such governments shall have the right, after proper notice, to make improvements and perform maintenance functions. In addition, the City shall have the right to proceed against the Association for reimbursements of said costs, including the right to file liens against individual condominium units, houses, and vacant building lots. In the event that the homeowners' association or property owners' association no longer maintains the common areas and open space in a neat and orderly manner, or if the homeowners' association or property owners' association goes defunct, the City may take over maintenance and assess a fee to cover the costs of such maintenance. The fee shall be assessed to all property owners within the subdivision.

Title 08

Signs



Title 08

SIGNS

SECTION 1108.01 APPLICABILITY

Any sign erected, altered or maintained after the effective date of the Zoning Code shall conform to the regulations set forth herein.

SECTION 1108.02 PURPOSE AND INTENT

Signage within the City serves an important function in identifying properties and promoting businesses, services, events and other matters of public interest. The intent of this Chapter is to regulate all signs within the City to ensure that signs are appropriate for their respective uses, in keeping with the appearance of the affected property and surrounding environment, and protective of the public health, safety and general welfare by:

- A. Setting standards and providing uniform regulations that permit the reasonable display and use of signs and preserve the character of the City.
- B. Prohibiting the erection of signs in such numbers, sizes, designs, illumination and locations as may create a hazard to pedestrians and motorists.
- C. Avoiding excessive conflicts from large or multiple signs, so that permitted signs provide adequate identification and direction while minimizing clutter, unsightliness and confusion.
- D. Establishing a process for the review and approval of sign permit applications.
- E. Preserving the character of residential neighborhoods, and to provide reasonable, yet appropriate, conditions for identifying businesses and services rendered in commercial and mixed-use zones.
- F. Promoting expeditious and safe navigation and wayfinding for pedestrian and vehicular traffic through legible and appropriate signs.
- G. Protecting and encouraging a more attractive economic, business and overall physical appearance of the community.

SECTION 1108.03 PROHIBITED SIGNS

The following sign types are prohibited under this Zoning Code and shall constitute a violation of this Chapter and the Zoning Code:

- A. Animated, flashing, moving, blinker, racer-type, intermittent, rotating, moving animated or revolving signs, except digital signage as permitted in this chapter.
- B. Illuminated signs comprised of exposed lightbulbs.
- C. Strings of lights accessory to any sign, not permanently mounted to a rigid background.
- D. Billboards.
- E. Merchandise, equipment, products or other items not themselves for sale or rent and placed and marked for drawing attention to a commercial enterprise.
- F. Signs or advertising devices which attempt or appear to attempt to direct the movement of traffic or which otherwise interfere with or imitate an official governmental sign.
- G. Roof signs.
- H. Abandoned signs.
 - I. Snipe signs. Signs shall only be attached to utility poles in conformance with state and utility regulations and the requirements of this Chapter.
 - J. Pennant strings and streamers.
 - K. Inflatable devices or balloon signs, with the exception of balloons used in temporary, non-commercial situations. Balloons or other inflatable devices shall not be attached to any sign.
 - L. Signs which emit smoke, visible vapors, particulate matter, sound, odor or contain open flames.
- M. Reflective signs or signs containing mirrors.
- N. Interactive signs.
- O. Signs incorporating beacon or festoon lighting.
- P. Any banner or sign of any type suspended across a public street, without the permission of the owner of the property and the city.
- Q. Signs erected without the permission of the property owner, with the exception of those authorized or required by local, state, or federal government.
- R. Portable marquee sign.
- S. Portable Electronic Message Center (EMCs) signs are prohibited. No EMC shall be permitted to be included as part of a temporary sign.



Fig 1. Portable marquee sign.

SECTION 1108.04 SIGNS EXEMPT FROM PERMIT REQUIREMENTS

The following signs shall be permitted to be displayed within the City without a permit and shall not otherwise be counted in the determination of the permitted number of signs for an individual property under this Zoning Code; provided however, any of the following signs listed below must be displayed in accordance with the corresponding restrictions, if any:

- A. Official traffic signs.
- B. Government regulatory signs.
- C. Signs inside a building or other enclosed facility, which are not intended to be visible from the public right of way; provided such signs are more than three (3) feet from the window.
- D. Holiday and seasonal decorations.
- E. Address signs: up to two (2) signs stating address, number and/or name of occupants of the premises and do not include any commercial advertising or other identification.
- F. Historic building markers, memorial signs, public monument signs and plaques erected by the City and not exceeding four (4) square feet in area.
- G. Private drive signs: One (1) sign per driveway entrance, not to exceed two (2) square feet.
- H. Security and warning signs; provided however, these regulations shall not apply to “No Trespassing” signs:
 - (1) Residential Districts. One (1) additional security sign not to exceed two (2) square feet in area.
 - (2) Non-Residential Districts. Maximum of one (1) large sign per property, not to exceed five (5) square feet in area. All other posted security and warning signs may not exceed two (2) square feet in area.
- I. Flags: federal, state, or local government flags or service branch flags, and excluding business names, logos and advertisements.
 - (1) Location. Flags and flagpoles shall not be located within any public right of way or easement area but are a permitted encroachment into any set back areas. Flags shall have a maximum height of 30 ft.
 - (2) Number.
 - i. Residential Districts: No more than three (3) flags per lot.
 - ii. Non-residential Districts: 1 flag permitted per 50 ft. of lot frontage, not to exceed four (4) flags per lot.
 - (3) Size. Maximum flag size is thirty-five (35) square feet in all zones.
- J. Legal notices.
- K. Vending machine signs visible from the public right of way.
- L. Signs projecting above gasoline station pumps, except as required by law. Fuel pumps shall not be illuminated.
- M. Signs which are a permanent architectural feature of a building or structure existing at the time of the Zoning Code.

- N. Incidental signs, including incidental window signs such as store hours, open/close signs, and incidental commercial signage. The combined area for any establishment shall not exceed 2 square feet.
- O. Directional signs, including campus signage on corporate and institutional campuses:
 - (1) Area. No single directional sign shall exceed four (4) square feet in area.
 - (2) Height. Directional signs shall have a maximum height of five (5) feet.
 - (3) Illumination. Directional signs may be internally illuminated, except in O-DC.
- P. Art and Murals provided such art and murals do not contain commercial messaging, other than any incidental plaque or signage no larger than three (3) square feet identifying any corporate donor or patron of such art or mural.
- Q. Temporary signs installed and maintained in accordance with Section 1108.08 hereof.

SECTION 1108.05 GENERAL REGULATIONS

- A. Sign Location.
 - (1) No sign shall be placed in such a position as to endanger pedestrians, bicyclists or traffic on a street by obscuring the view or by interfering with official street signs or signals by virtue of position or color.
 - (2) No sign may occupy any part of a sight triangle measured at any driveway or street intersection measured 25 feet along the face of curb or edge of pavement along each street and/or driveway.

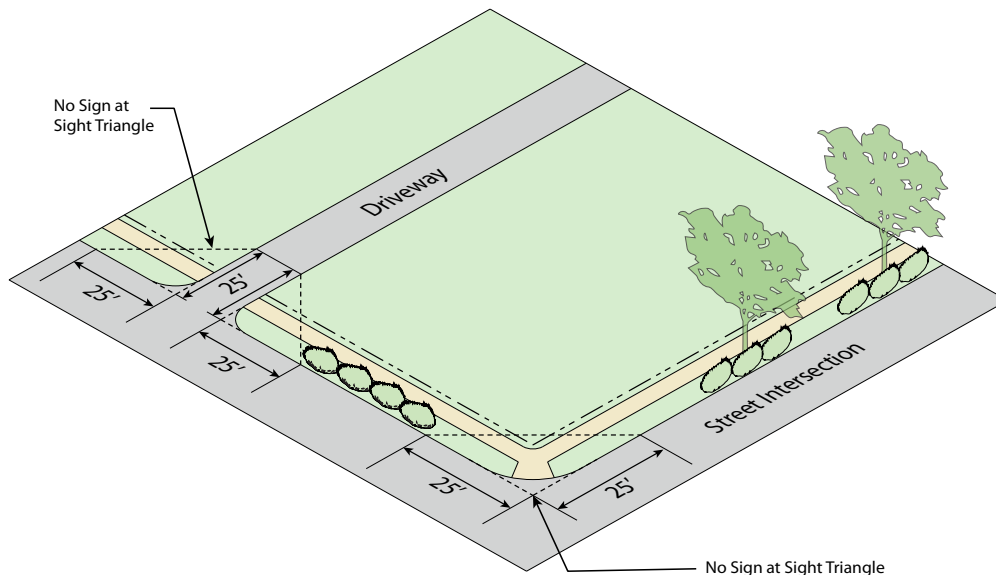


Fig 2. Street and Driveway Intersection sight visibility triangle.

- (3) Signs and their supporting structures shall maintain clearance and noninterference with all surface and underground utility and communications lines or equipment.

- (4) No signs shall be permitted within any road right of way.
- (5) **Determining Sign Setbacks.** The required setbacks for any freestanding sign shall apply to all elements of the sign, including its frame and base.
- (6) **Determining Window Area.** The window area of a building shall be the total glass area of windows on the ground floor of the building frontage, provided that for the purpose of these regulations, the height of windows on the ground floor shall be that portion of window(s) within fifteen (15) feet of grade.
- (7) **Sign Bonuses for Buildings with Large Building Setbacks.** In Non-Residential Districts, the maximum allowable area for a building sign, excluding projecting signs, may be increased by 25% for each fifty (50) feet or fraction thereof of building setback of the principal building more than 100 feet from the principal street on which the building is located and the building is visible from the street, provided that in no case shall any sign exceed 200% of the allowable area.
- (8) **Sign bonuses for Corner Lots and Side and Rear Entrances.** The maximum allowable area for building signs shall be increased beyond the allowable area in compliance with the following:
 - i. The additional sign area for each secondary building frontage shall be fifty percent (50%) of the sign area permitted for the primary frontage and the total permissible sign area may be redistributed on the primary and secondary frontages.
- (9) **Sign Bonuses for Corner Lots and Large Lots.** Additional Freestanding Signs for Large/Corner Lots. The number of freestanding signs on large or corner lots may be increased according to the following:
 - i. One (1) additional sign for each two hundred (200) feet of frontage greater than two hundred (200) feet of frontage shall be permitted provided that the area of each additional freestanding sign shall comply with Section 1108.06; and
 - ii. On a corner lot two (2) permitted freestanding signs may be aggregated into a single sign at the intersection of two streets, however complying with Subsection 1108.05 (2). On a lot greater than 200 feet of frontage, the permissible sign area may be aggregated into fewer signs. However, the maximum area of any freestanding sign face shall not exceed 150 percent of the maximum area permitted for a single sign.
 - iii. Minimum Separation of Freestanding Sign. Freestanding signs on the same lot shall be separated by a minimum of 200 feet, as measured along the public right-of-way line. For corner lots, both sides of the intersection shall be used in measuring spacing.
 - iv. Multi-Occupant Facilities. When a freestanding sign (or signs) is permitted on a site that has more than one occupant, it is the property owner's responsibility to determine if the permitted sign area shall be devoted to identification of the building(s), the anchor occupant, all occupants, or some combination thereof.

B. Sign Materials and Construction.

- (1) Every sign shall be constructed of durable materials, using non-corrosive fastenings and installed so as to be compatible in character, with regard to materials, color and size, to signs designed or located on the same building and on adjoining buildings in order to equalize the attention they are meant to attract and to produce an overall unified effect in accordance with the standards as set forth in this Code;

- (2) Every sign shall be structurally safe; and
- (3) Every sign shall be maintained in a safe condition and good repair at all times so that all sign information is clearly legible.

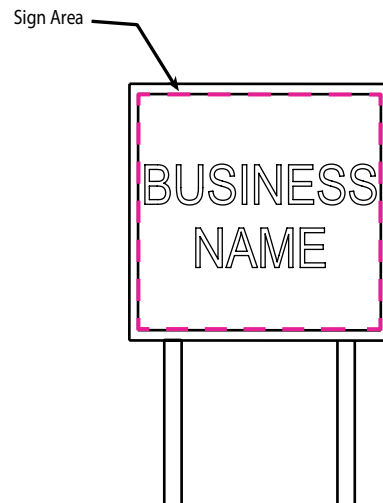


Fig 3. Sign area based on the signboard but excluding any supporting framework, bracing or trim.

C. Sign Area.

- (1) The area of a sign shall mean the area of all lettering, wording and accompanying graphics, logos, and symbols. The area of a sign shall not include any supporting framework, bracing or trim which is incidental to the display, provide that it does not contain any lettering, wording or symbols.
- (2) Where a sign consists of a series of individual letters, individual designs or individual symbols attached to a building, awning, wall or window, the area shall be that of the smallest rectangle which encompasses all of the letters, designs and symbols.
- (3) Signs may be double-sided.
 - i. Only one (1) side shall be considered when determining the sign area, provided that the faces are equal in size, the interior angle formed by the faces is less than 45 degrees and the two faces are not more than 18 inches apart.
 - ii. Where the faces are not equal in size, but the interior angle formed by the faces is less than 45 degrees and the two faces are not more than 18 inches apart, the larger sign face shall be used as the basis for calculating sign area.
 - iii. When the interior angle formed by the faces is greater than 45 degrees, or the faces are greater than 18 inches apart, all sides of such sign shall be considered in calculating the sign area.

D. Sign Height.

- (1) The height of a sign shall be measured from the base of the sign or supportive structure at its point of attachment to the ground to the topmost elements of the sign. A freestanding sign on a man-made base, including a graded earth mound, shall be measured from the grade of the nearest street, drive or parking area, whichever is the highest-grade reference.
- (2) Clearance for freestanding and projecting signs shall be measured at the smallest vertical distance between finished grade and the lowest portion of the sign, including any framework or structural elements.

- (3) The permitted maximum height for all signs is determined by the sign type and corresponding zoning classification of the subject property.

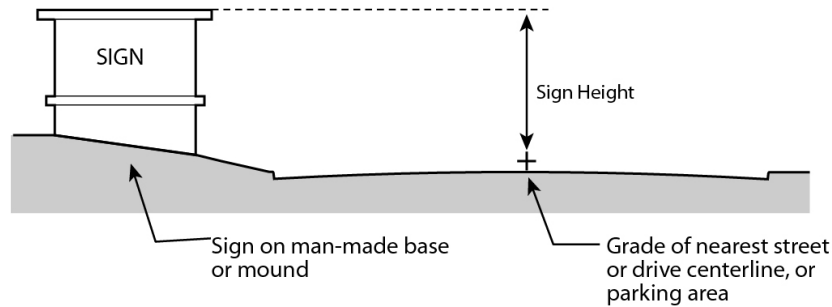


Fig 4. Sign height measurement for sign on man-made base.

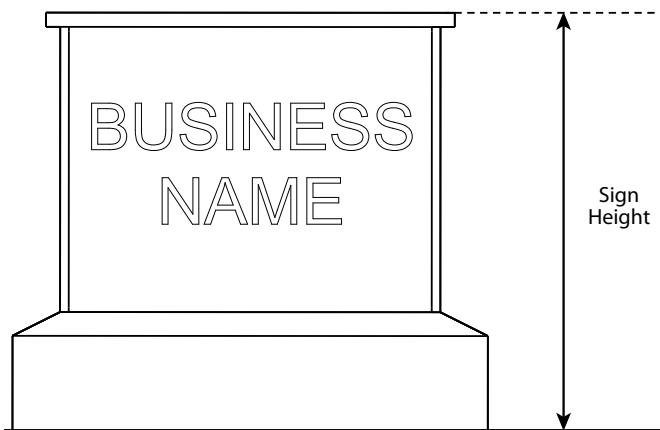


Fig 5. Sign height measurement.

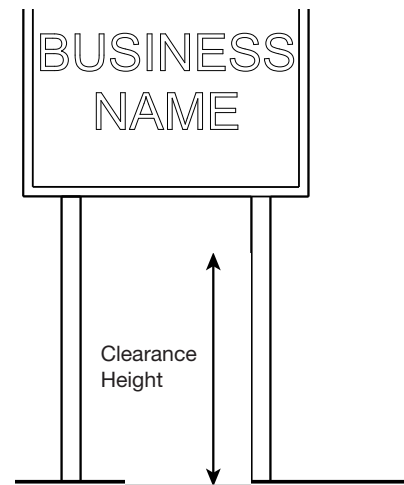


Fig 6. Clearance height measurement for freestanding and projecting signs.

- E. Sign Spacing.** Where multiple signs are permitted to be located on a subject property, the spacing between signs shall be measured by a straight-line distance between the closest edge of each sign.

F. Sign Illumination.

- (1) Permanent signs allowed by this chapter may be nonilluminated, or illuminated by internal light fixtures, halo illuminated, or have external indirect illumination, unless otherwise specified.
 - i. All illuminated signs must meet the standards as specified in the National Electrical Code.
 - (a) Externally illuminated signs shall be illuminated only with steady, stationary, fully shielded light sources directed solely onto the sign without causing glare. Light shielding shall ensure that the lamp or light source is not visible beyond the premises and shall further ensure that the light is contained within the sign face.
 - ii. Illumination shall not exceed 0.3 footcandles over ambient lighting conditions when measured at 50 feet in any direction from the sign face.

- iii. Lights shall not be of such brightness so as to cause glare that is hazardous to pedestrians or motorists or cause reasonable objection from adjacent residential zones.
- iv. The illumination of signs shall not obstruct traffic control any other public informational signs. Signs visible from sight lines along streets shall not contain symbols or words, or red and green lights that resemble highway traffic signs or devices.
- v. Signs on properties used as single-family, two-family, cluster single-family, or attached style-family shall not be internally illuminated.
- vi. Signs that are only partially illuminated shall meet all electrical requirements for that portion directly illuminated. All electrical wiring shall be in conduit and not exposed to the elements or external stress in any way. All electrical signs shall have a disconnecting switch located in a readily accessible place.

SECTION 1108.06 REGULATIONS BY SIGN TYPE

A. Wall Signs.

- (1) No portion of a wall sign shall be mounted less than eight (8) feet above finished grade or extend out more than twelve (12) inches from the building façade on which the sign is affixed. If the wall sign projects less than 3" from the wall on which it is affixed, the 8-foot height requirement need not be met.
- (2) No portion of a wall sign shall be mounted higher than the eave line or cornice line of a single-story building, or on multi-story buildings above eave line or the bottom of the second story windowsill, whichever is less.

B. Canopy or Awning Signs.

- (1) A canopy or awning without lettering, logos, graphics, emblems or other advertising shall not be regulated as a sign.
- (2) To the greatest extent practicable, canopy or awning signs must be centered within or over primary architectural elements such as windows or doors.
- (3) No awning or canopy sign shall be wider than the building wall or leasable space it identifies.
- (4) Sign Placement.**
 - i. Letters or numerals shall be located only on the front valence and side vertical faces of the awning or canopy up to a maximum of 20%.
 - ii. Logos, graphics or emblems are permitted on the top or angled portion of the awning or canopy up to a maximum of three (3) square feet. No more than one emblem or logo is permitted per canopy or awning.
- (5) Sign Height.**
 - i. The lowest edge of the canopy or awning sign shall be at least eight (8) feet above the finished grade.
 - ii. The maximum height shall be of an awning or canopy shall be the eave line or bottom of the second-story windowsill, whichever is lower.

(6) Additional Regulations.

- i. Awnings shall not project into the right of way.
- ii. Awnings shall not project more than four (4) feet from the front façade of the building.
- iii. If awning or canopy signs are mounted on a multi-tenant building, then all such signs shall be similar in height, projection, color, and style across all tenants in building.
- iv. Illumination shall be external.

C. Projecting Signs.

- (1) Number.** One projecting may be allowed per tenant space or building frontage.
- (2) Area.** The face of the projecting sign shall not exceed 12 square feet in area.
- (3) No portion of a projecting sign shall project more than four (4) feet from the face of the building.
- (4) The outermost portion of a projecting sign shall project no closer than five (5) feet from the right of way or easement line.
- (5) No projecting sign shall be located within 25 feet of another projecting sign on the same site or on the same building
- (6) Height.** Except as other provided herein, the clearance height of the lowest edge of a projecting sign shall be at least eight (8) feet above the finished grade.
- (7) Illumination.** Illumination shall be external.

D. Window Signs.

- (1) Incidental window signs displaying pertinent business information such as the business hours and credit cards accepted, shall be excluded from the calculation of window signs.
- (2) Illumination. Illumination to comply with 1108.05 F Sign Illumination.

E. Freestanding Signs.

TABLE 1108.06-01: FREESTANDING SIGNS			
	POLE SIGNS	MONUMENT SIGNS	SHARED FREESTANDING SIGNS ¹
NUMBER	1 per lot	1 per road frontage	1 per complex entry
HEIGHT	Maximum 12 feet with 4-foot clearance	Maximum 6 feet	Maximum 15 feet
SIZE	Maximum 60 square feet	Maximum 24 square feet ²	Maximum 90 square feet
ILLUMINATION	External only	Internal or External	Internal or External
SETBACK³	5 feet from public right-of-way	5 feet from public right-of-way	5 feet from public right-of-way

¹ Shared freestanding signs to comply with subsection 1108.06 E 6 below.
² The Sign Area must be fully incorporated into the monument sign with a minimum of 2-inch decorative trim around the sign area.
³ Freestanding signs shall be set back a minimum of five feet from the public right-of-way, a minimum of 25 feet from any interior side lot line, a minimum of 30 feet from any residential district and in a location that does not interfere with the visibility of vehicular ingress or egress to the property or adjoining properties as per the standard in subsection 1108.05.

- (1) Freestanding signs include pole signs and monument signs.

- (2) **Number.** One monument or pole sign may be allowed per lot.
 - i. In the cases where a shared freestanding sign is proposed, additional freestanding signs are allowed with a minimum of 200 linear-foot separation.
 - ii. Where more than one freestanding sign is proposed on a site with multiple frontages, a minimum of 200 linear feet shall separate each sign.
- (3) **Construction.**
 - i. Freestanding signs shall be supported wholly or in part by the ground or some other structure than the principal building which it is intended to advertise.
 - ii. Freestanding ground signs shall be supported and permanently placed by embedding, anchoring, or connecting the sign in such a manner as to incorporate it into the landscape or architectural design scheme.
- (4) **Illumination.** EMCs are not permitted on pole signs.
- (5) **Setback and Location.**
 - i. No freestanding sign shall be permitted on any site that does not have street frontage.
 - ii. All freestanding signs shall be located at least five (5) feet from the right of way or easement area, as applicable, except for official traffic signs and governmental signs.
 - iii. Freestanding signs shall be set back a minimum of five feet from the public right-of-way, a minimum of 25 feet from any interior side lot line and a minimum of 30 feet from any residential district.
 - iv. No freestanding sign may occupy an area designated for parking, loading, walkways, driveways, fire lane, easement, cartway of the right-of-way or other areas required to remain unobstructed.
 - v. No freestanding sign may occupy a sight triangle at any driveway or street intersection measured 25 feet along the face of curb or edge of pavement along each street and/or driveway.
- (6) **Shared Freestanding Signs.** Also known as Complex Signs, freestanding signs for multi-tenant uses may be permitted up to a maximum height of 15 feet, in accordance with Table 1108.06-02, and a maximum size of 90 square feet; provided, that all of the following conditions are satisfied are permitted and shall comply with the following standards:
 - i. The sign is ground-mounted on a monument-style base, which extends at least the full width of the sign face and is at least one-fourth of the total sign height. The design should reflect the materials and architecture of the closest or principal building on the site;
 - ii. The sign is no taller than 75 percent of the height of the tallest building on the property as measured to the midpoint between the fascia line and the ridge on a pitched roof building, or the top of the highest cornice or parapet on a flat roof building, not exceeding 15 feet; and
 - iii. The sign maintains a setback separation distance of 150 feet from any other freestanding sign on the same property.

TABLE 1108.06-02: SHARED FREESTANDING SIGNS		
TOTAL STREET FRONTAGE	MAXIMUM SIZE	MAXIMUM HEIGHT
0-60 feet	48 square feet	7.5 feet
61-119 feet	60 square feet	10 feet
120 feet or more	90 square feet	15 feet

F. Wall Signs on Entry Fences or Walls.

- (1) **Number.** Multiple signs are permitted to a maximum of 24 square feet and sign(s) shall not cover more than 40 percent of the landscape wall's background area.
 - i. If two signs are utilized, the signs shall be separated by a minimum of 50 feet.
- (2) **Height.** Maximum of five feet above grade. The sign copy shall be a minimum of six inches below the top of the wall and 12 inches above ground level. Signs shall not project above or beyond the top or sides of the landscape wall.
- (3) **Design.** External or halo illumination is permitted.
- (4) The signs shall be mounted to a decorative wall or fence that generally runs parallel with the street.
- (5) If an applicant proposes to use wall signs on fences or walls, no monument sign, as allowed in Section 1108.06 E, above, shall be permitted.

G. Manual Changeable Copy Signs.

- (1) Manual changeable copy signs are permitted only when integrated into a monument, wall, or portable sign.

H. Electronic Message Centers (EMC) are subject to the following regulations, in addition to all other illumination requirements established in this section.

- (1) **Sign Type.** Message center signs are permitted in the form of freestanding monument and wall signs in accordance with the regulations established in this section.
- (2) **Height.** Electronic message center sign shall have the same height limits as other permitted signs of the same type and location.
- (3) **Area.** Electronic message center signs shall not exceed the maximum allowable size as limited by the sign area limits of monument and wall signs as permitted by this code.
- (4) **Maximum number.** Where permitted, one (1) message center sign is permitted per street frontage, up to a maximum of two (2) message center signs per property.
- (5) **Message display.**
 - i. **Motion Limits.** No motion except for a fade-in of the next message with the fade transition being no more nor less than one and one-half seconds. Fade transition is required rather than instantaneous message changes to avoid sudden or startling flashes of light. The minimum hold between messages shall be 8 seconds, plus one and one-half seconds for a transition fade. Signs shall have no flashing copy or lights; revolving beacon lights; chasing, blinking, or stroboscopic lights; or fluttering, undulating, swinging, or otherwise moving parts.
 - ii. Electronic message center signs must be equipped with an automatic dimming control that will:
 - (a) Regulate the illumination of the sign so as to not exceed 0.3 footcandles over ambient lighting conditions when measured at 50 feet in any direction from the EMC sign; and
 - (b) automatically display a black screen if the sign malfunctions.
 - iii. Portable EMCs are prohibited. No EMC shall be permitted to be included as part of any temporary sign.

SECTION 1108.07 THIS SECTION INTENTIONALLY LEFT BLANK

SECTION 1108.08 TEMPORARY SIGNS

- A. General.** The following signs described in this Section shall be allowed on a temporary basis in the zones indicated. Temporary signs are primarily distinguished by the materials which make up the sign (see definition of “temporary sign”) Temporary signs shall comply with the requirements of this chapter. Signs that do not meet the definition of “temporary sign” are subject to the permanent sign regulations of this chapter.
- B. Permitting.** No sign permit is required for temporary signs located on private property that comply with the standards of this section.
- C. Restriction on Placement.**
- (1) The party posting the temporary sign is solely responsible for obtaining the permission of the property owner before posting their temporary sign.
 - i. City Property (Excluding public right-of-way). Temporary signs on city-owned property (excluding city right-of-way) are allowed only in conjunction with a city approved and issued special event permit or for a city-sponsored event or activity.
 - (2) Temporary signs shall not be placed within the public right-of-way.
 - (3) No sign shall be placed in a location that interferes with the visibility of vehicular ingress or egress to the property or adjoining properties as per the standard in section 1108.05 or where such signs may interfere with or be confused with any traffic signal or device.
 - (4) If a wall or hedge prevents a sign from being located as provided in this Section, the sign may be placed immediately adjacent to the wall or hedge.
 - (5) Attachments. Signs may not include attachments such as balloons, streamers, or other attention-getting devices.
 - (6) Illumination of any temporary sign is prohibited.
- D. Sign Regulation by Types.** When located in accordance with this section temporary signs shall not be counted toward the maximum number of signs permitted to be located on a subject property.

TABLE 1108.08-01: RESIDENTIAL DISTRICTS TEMPORARY SIGNS SUMMARY TABLE						
LOCATION	PERMITTED SIGNS		MAX NUMBER	MAX AREA	MAX HEIGHT	SETBACK
2+ ACRES WITH 200 FT+ STREET FRONTAGE or 6,000+ SQUARE FEET OF FLOOR AREA (INCLUDES ACCESSORY STRUCTURES)	LARGE TEMPORARY SIGNS	Freestanding Sign	1 per property	16 square feet	6 feet	5 feet from ROW
		Window Sign		16 square feet	n/a	n/a
		Wall Sign		16 square feet	n/a	n/a
		Banner		32 square feet	24 feet	5 feet from ROW
	MEDIUM TEMPORARY SIGNS	Freestanding Sign	1 per property	8 square feet	6 feet	outside the public row every 100 feet
		Window Sign				
		Wall Sign				
	SMALL TEMPORARY SIGN	Freestanding Sign	2 per property	4 square feet	5 feet	outside the ROW
		Window Sign				
		Wall Sign				
LOT WITH 100 FT - 199 FT STREET FRONTAGE	MEDIUM TEMPORARY SIGN	Freestanding Sign	1 per property	8 square feet	6 feet	outside the ROW
		Window Sign				
		Wall Sign				
	SMALL TEMPORARY SIGN	Freestanding Sign	2 per property	4 square feet	5 feet	outside the ROW
		Window Sign				
		Wall Sign				
LOT WITH 100 FT OR MORE STREET FRONTAGE	SMALL TEMPORARY SIGN	Freestanding Sign	2 per property	4 square feet	5 feet	outside the ROW
		Window Sign				
		Wall Sign				
PROJECTS/ DEVELOPMENTS	LARGE TEMPORARY SIGN	Freestanding Sign	1 per entry	32 square feet	8 feet	15 feet from ROW

(1) Residential Districts.

i. Large Temporary Signs.

(a) Type.

- 1) Freestanding Sign.
- 2) Window Sign.
- 3) Wall Sign; and
- 4) Banner Sign.

(b) **Number.** The number of permitted signs is regulated as prescribed in Table 1108.08-01 above.

(c) **Area.**

- 1) Each large temporary freestanding, window, or wall sign shall have a maximum area of sixteen (16) square feet.
- 2) Each large temporary banner shall have a maximum area of thirty-two (32) square feet.

TABLE 1108.08-02: NON-RESIDENTIAL DISTRICTS TEMPORARY SIGNS SUMMARY TABLE

LOCATION	PERMITTED SIGNS	MAX NUMBER	MAX AREA	MAX HEIGHT	SETBACK	
3+ ACRES WITH 200 FT+ STREET FRONTAGE or 10,000+ SQUARE FEET OF FLOOR AREA (INCLUDES ACCESSORY STRUCTURES)	LARGE TEMPORARY SIGNS	Freestanding Sign	2 per property	16 square feet	6 feet	5 feet from ROW
		Window Sign		16 square feet	n/a	n/a
		Wall Sign		16 square feet	n/a	n/a
		Banner		48 square feet	24 feet	5 feet from ROW
		Lightpole Banners	1 per pole, excluding poles 5 ft from ROW	4.5 square feet 48 square feet aggregate	Minimum 8 foot clearance	n/a
	MEDIUM TEMPORARY SIGNS	Freestanding Sign	2 every 100 feet	8 square feet	6 feet	outside the public ROW
		Window Sign				
		Wall Sign				
	SMALL TEMPORARY SIGN	Freestanding Sign	2 per property	4 square feet	5 feet	outside the ROW
		Window Sign				
Wall Sign						
LOT WITH 100 FT - 199 FT STREET FRONTAGE	LARGE TEMPORARY SIGN	Freestanding Sign	1 per property	16 square feet	6 feet	5 feet from ROW
		Window Sign		16 square feet	n/a	n/a
		Wall Sign		16 square feet	n/a	n/a
		Banner		48 square feet	24 feet	5 feet from ROW
		Light Pole Banners	1 per pole, excluding poles 5 ft from ROW	4.5 square feet 49 square feet aggregate	Minimum 8 foot clearance	n/a
	MEDIUM TEMPORARY SIGN	Freestanding Sign	1 per property	8 square feet	6 feet	outside the ROW
		Window Sign				
		Wall Sign				
	SMALL TEMPORARY SIGN	Freestanding Sign	2 per property	4 square feet	5 feet	outside the ROW
		Window Sign				
Wall Sign						
LOT WITH 100 FT OR MORE STREET FRONTAGE	SMALL TEMPORARY SIGN	Freestanding Sign	2 per property	4 square feet	5 feet	outside the ROW
		Window Sign				
		Wall Sign				
PROJECTS/ DEVELOPMENTS	LARGE TEMPORARY SIGN	Freestanding Sign	1 per entry	32 square feet	8 feet	15 feet from ROW

(2) Non-Residential Districts.

i. Large Temporary Signs.

(a) Type.

- 1) Freestanding
- 2) Window
- 3) Wall
- 4) Banner
- 5) Light Pole Banners

(b) **Number.** The number of permitted signs is regulated as prescribed in Table 1108.08-02 above.

(c) **Area.**

- 1) Each large temporary freestanding sign, window or wall sign shall have a maximum area of sixteen (16) square feet.
- 2) Each large temporary banner sign shall have a maximum area of forty-eight (48) square feet.
- 3) Banner signs mounted to light poles shall be limited to 4.5 square feet per banner. Multiple such banners may be applied and shall not exceed an aggregate area of 48 square feet.

(d) **Height.**

- 1) Large temporary signs that are freestanding signs shall have a maximum height of six (6) feet.
- 2) Banners shall hang at a height no greater than twenty-four (24) feet above finished grade directly below the banner.

ii. Medium Temporary Signs.

(a) **Type.**

- 1) Freestanding Sign.
- 2) Window Sign.
- 3) Wall Sign.

(b) **Number.** The number of permitted signs are regulated as prescribed in Table 1108.08-02 above.

(c) **Area.** Each medium temporary sign shall have a maximum area of eight (8) square feet.

(d) **Height.** Each medium temporary signs shall have a maximum height of six (6) feet.

iii. Small Temporary Sign.

(a) **Type.**

- 1) Freestanding Sign.
- 2) Window Sign.
- 3) Wall Sign.

(b) **Number.** The number of permitted signs are regulated as prescribed in Table 1108.08-02 above.



Fig 7. Banner sign mounted on a building.



Fig 8. Banners mounted on a light pole. Multiple banners may be counted toward the aggregate permitted sign area.

(c) **Area.** Each small temporary sign shall have a maximum area of four (4) square feet.

(d) **Height.** Small temporary signs shall have a maximum height of six (6) feet.

iv. Project Real Estate or Construction Signs.

(a) **Number.** One (1) project real estate or construction sign shall be permitted for each street frontage.

(b) **Area.** Each sign shall have a maximum area of thirty-two (32) square feet.

(c) **Height.** Each sign shall have a maximum height of eight (8) feet.

(d) **Setback.** Each sign shall be setback a minimum of fifteen (15) feet from any street right-of-way.

(e) **Duration.**

- 1) Sign shall be erected and maintained only during the period of time that the parcel is up for sale, rent, or lease or the building project is under construction.
- 2) When any permanent sign has been installed on the property prior to the completion of construction, the construction sign shall be removed within two (2) business days of installation of the permanent identification sign.
- 3) Sign shall be erected and maintained on a lot only during the period of time that the parcel, or development, is up for sale, rent, or lease or the building project is under construction.
- 4) When seventy-five percent (75%) of all lots/dwelling units in the development have been sold, the project real estate or construction sign shall be removed.

E. Installation and Maintenance.

- (1) All temporary signs must be installed such that in the opinion of the Zoning Administrator they do not create a safety hazard.
 - i. All temporary signs must be made of durable materials and shall be well-maintained.
 - ii. Temporary signs that are frayed, torn, broken or that are no longer legible, or creates a public nuisance will be deemed unmaintained and required to be removed.
 - iii. Temporary signs shall be securely anchored to the ground or to a structure and shall not be portable. The use of scrap, junk, tires, concrete blocks, and guy-wires shall be prohibited as a means of anchoring and/or supporting the sign. No sign shall be attached to a utility pole, tree, trash receptacle, bench or other structure not intended or approved as a sign support.
 - iv. Banner signs may be placed directly over an existing wall, monument, or freestanding sign to temporarily identify an establishment while the permanent sign is being replaced. For the purposes of this section "temporarily" shall mean the duration of application for zoning approval for the installation of signage.
 - v. Banner signs mounted to private light poles shall be fastened with mechanical fastener hardware and a rigid top and bottom banner arm.

SECTION 1108.09 PORTABLE SIGNS

A. General Provisions.

(1) **Illumination.** Illumination of any portable sign is prohibited.

(2) **Hours of Display.**

- i. Signs shall not be displayed on any premises before 6:00 AM and shall be removed each day at or before 10:00 PM. However, all portable signs must be taken in during hours of non-operation of the business that such portable sign is serving.
- ii. To avoid property damage and facilitate snow and ice removal, as applicable, all portable signs must be taken indoors during inclement weather.
- iii. Portable signs shall be weighted, temporarily secured, or strategically located so as to avoid being carried away by high winds. Scrap, junk, or tires shall not be used as anchors. Temporary anchors shall be discrete, or otherwise have a neat and orderly appearance.

B. Sandwich Board or A-frame Signs. Sandwich board signs that comply with the requirements of this subsection shall not be included in the determination of the type, number, or area of signs allowed to be displayed on a property.

(1) **Number.** One (1) sandwich board sign is permitted per establishment. For the purposes of this subsection, a parking garage or parking lot shall be considered an establishment in addition to the principal structure that such parking garage or parking lot is serving.

(2) **Area.** Each sign shall have a maximum of seven (7) square feet per sign face.

(3) **Height and Width.** Signs shall have a maximum height of three and one half (3.5) feet and a maximum width of two (2) feet.

(4) **Sign Placement.**

- i. If a sign is located on a public or private sidewalk a minimum of thirty-six (36) inches of unobstructed sidewalk clearance must be maintained between the sign and any building or other obstruction.
- ii. The sign must be located within eight (8) feet of the primary public entrance, of the establishment for which it advertises. For the purposes of this subsection 'primary public entrance' includes a vehicular entrance into a parking structure or parking lot. Signage shall not be placed within the required sight triangle. Properties or buildings with multiple tenants, the sign must be placed in within the width of the tenant's frontage and not more than 5 feet from the building façade.

(5) **Manual Changeable Copy.**

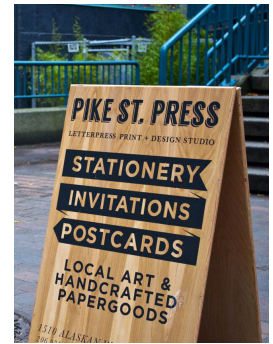
- i. Manual changeable copy signs are permitted when integrated into a sandwich board sign.
- ii. Commercial messages must advertise only goods and services available on the premises.



Fig 9. Signs shall not impede pedestrian movement on sidewalks.



Fig 10. Sandwich board sign styles can be unique to the business and reflect the nature of its goods and services, while adding rich detail to Tallmadge streets.



SECTION 1108.10 SIGNS IN RESIDENTIAL ZONES AND RESIDENTIAL OVERLAYS

TABLE 1108.10-01: SUMMARY TABLE RESIDENTIAL AND RESIDENTIAL OVERLAYS DISTRICTS

	TYPES OF SIGNS ALLOWED	NUMBERS OF SIGNS ALLOWED	PERMITTED SIGN AREA (MAXIMUM)	SIGN PLACEMENT/ MAXIMUM HEIGHT, IF APPLICABLE	ILLUMINATION
RESIDENTIAL SUBDIVISIONS, APARTMENT COMPLEXES, MULTI-FAMILY DWELLINGS, CONDOMINIUMS	Freestanding Signs	1 per lot	15 square feet	5 feet from ROW	External only
	Wall Signs	1 per façade	5% of façade		
	Wall on Entry Fences/ Walls	1 per entry	24 square feet not covering more than 40% of fence/ wall		
HOME OCCUPATIONS	Wall Signs	1 per lot	3 square feet	equal to the eave line or the bottom of the second story of the principal structure	External only
PERMITTED NON-RESIDENTIAL USES IN RESIDENTIAL ZONES, EXCLUDING HOME OCCUPATIONS	Freestanding Signs	1 per lot	48 square feet	6 feet	Internal or External
	Wall Signs	1 per façade	5% of façade		External Only

EMCs are allowed on properties located on a Major Thoroughfare with permitted non-residential uses, excluding home occupations. EMCs must comply with Section 1108.05 F (1) (v)

In addition to the exempt signs described throughout this Chapter, the following numbers and types of signs may be erected in the Residential Zones and Residential Overlays, subject to the conditions set forth herein.

- A. Any temporary sign located in accordance with Section 1108.08 hereof.
- B. Home Occupation Signs.

- (1) One (1) window or wall sign shall be permitted subject to the following regulations
 - i. **Area.** Each sign shall have a maximum area of three (3) square feet in area.
 - ii. **Height.** Signs shall be located at a maximum height equal to the eave line or the bottom of the second story of the principal structure.
 - iii. **Illumination.** Home occupation signs shall not be illuminated.
- (2) Freestanding signs shall be prohibited.
- C. Residential Subdivisions, Apartment complexes, Multi-Family Dwellings, Condominiums.
 - (1) **Number.** The number of permitted signs is regulated as prescribed in Table 1108.10-02 above.
 - (2) **Area.** Freestanding signs shall have a maximum area of fifteen (15) square feet.
 - (3) **Height.** Freestanding Signs shall have a maximum height of eight (8) feet.
 - (4) **Illumination.** Monument signs may be externally illuminated, ground lit
- D. **Permitted non-residential uses in a residential district.** Other permitted non-residential uses in Residential Zones are a monument sign not to exceed forty-eight (48) square feet, and further provide that one (1) such sign shall be permitted for each separate street and/or separate building frontage occupied by the permitted use, and for each means of entrance to or exit from the permitted use. Wall signs, including signs on landscape walls and/or decorative fences, are also permitted not to exceed five (5) percent of the area of the façade in elevation view upon which they are placed.
- E. **Electronic Message Centers.** EMCs are allowed on properties located on a Major Thoroughfare with permitted non-residential uses, excluding home occupations, in a Residential Zone. They are prohibited on residential properties and on subdivision, apartment, multi-family dwellings and condominium properties. Modification to Site Plan approval is required.

SECTION 1108.11 SIGNS IN NON-RESIDENTIAL DISTRICTS

1108.11-01: NON-RESIDENTIAL DISTRICTS SIGNS SUMMARY TABLE					
SIGN TYPE	MAX NUMBER	MAX AREA (AGGREGATE WHERE PERMITTED)	MAX HEIGHT	ILLUMINATION	SIGN SPECIFIC STANDARDS
FREESTANDING SIGNS					"1108.06E"
POLE SIGNS	1 per lot	60 square feet	12 feet	Eternal only	
MONUMENT SIGNS	1 per street frontage	24 square feet	6 feet	Internal or External	
SHARED FREESTANDING SIGNS	1 per development entry	90 square feet	15 feet	Internal or External	
SIGNS ON ENTRY FENCE/ WALL	1 per entry	24 square feet		External only	1108.06 F
WALL SIGNS	1 per tenant	1 square foot per lineal foot of tenant space frontage		Internal or External	1108.06 A
AWNING/CANOPY SIGNS	1 per principal entrance	20% of front or side vertical face	8-foot clearance height	External from above decorative fixture	1108.06 B
PROJECTING SIGNS	1 per tenant	1 square foot per lineal foot of tenant space frontage	8-ft clearance height No higher than 25 feet and the first story level of building	External only	1108.06 C
WINDOW SIGN	1 per tenant	35% of window on front façade 2 square feet	n/a	Internal or External	1108.06 D
ELECTRONIC MESSAGE CENTERS (EMCs)	1 per lot (monument or wall sign only)	100% of allowable size area			1108.06 H

Except as otherwise provided in this Chapter, a maximum of two (2) of any combination of the following numbers and types of signs may be erected in any non-residential district subject to the conditions set forth herein.

- A. Any sign associated with residential uses in a non-residential district as regulated under Section 1108.10 hereof.
- B. Any portable sign located in accordance with Section 1108.09 hereof.
- C. The total area of all wall, awning/canopy and projecting signs for non-residential uses shall be limited to one and a half (1.5) square feet per one (1) linear foot of building frontage that faces a public street or parking lot, subject to maximum size limitations based on sign type as described herein.
- D. **Wall signs** for non-residential uses shall be permitted subject to the following regulations:
 - (1) **Number.** One (1) wall sign per tenant space, with area determined based upon the frontage of each tenant space as provided below.

(2) **Area.** One (1) square foot for every lineal foot of front façade, maximum 40 square feet.

(3) **Illumination.** Internal illumination or external.

E. **Awning or Canopy signs** for non-residential uses shall be permitted in accordance with the following regulations:

(1) **Number.** One (1) awning or canopy sign per principal entrance. One additional awning or canopy sign may be permitted for a second entrance for use by patrons when fronting on parking, provided it is not on the same elevation as the principal entrance.

F. **Pole signs** for non-residential uses shall be permitted subject to the following regulations:

(1) **Number.** One (1) freestanding sign.

(2) **Area.** Maximum sign area of sixty (60) square feet.

(3) **Height.** Maximum height of twelve (12) feet.

(4) **Illumination.** Internal or external illumination. In the O-DC, only external illumination shall be permitted.

G. **Monument Signs** for non-residential uses shall be permitted subject to the following regulations:

(1) **Number.** One (1) monument structure road frontage with individual signage for each tenant space located within a development.

(2) **Area.** Maximum sign area of twenty-four (24) square feet.

(3) **Height.** Maximum sign height six (6) feet.

(4) **Illumination.** Internal illumination or external illumination.



Fig 11. Example monument sign.



Fig 12. Example awning sign.



Fig 13. Example canopy sign. Letters may be mounted to the top of the canopy as well.

SECTION 1108.12 SIGNS IN NON-RESIDENTIAL OVERLAYS

TABLE 1108.12-01: SUMMARY TABLE NON-RESIDENTIAL OVERLAYS.

		WEST AVENUE OVERLAY DISTRICT	SOUTHEAST GATEWAY OVERLAY DISTRICT	NEIGHBORHOOD CENTER OVERLAY DISTRICT	INNOVATION AND EMPLOYMENT OVERLAY DISTRICT	DESIGN CONTROL OVERLAY DISTRICT
Wall Signs	Number	1 per tenant	1 per tenant	1 per tenant (non-residential use only)	1 per tenant	1 per tenant (non-residential use only)
	Max. Area (sq. ft.)	1 sq.ft. per l.f. of tenant space frontage; 40 sq.ft. max	1 sq.ft. per l.f. of tenant space frontage; 40 sq.ft. max	1 sq.ft. per l.f. of tenant space frontage; 40 sq.ft. max	1 sq.ft. per l.f. of tenant space frontage; 40 sq.ft. max	1 sq.ft. per l.f. of tenant space frontage; 40 sq.ft. max
	Illumination	Internal or external illumination	Internal or external illumination	Internal or external illumination	Internal or external illumination	External illumination, decorative fixture; Halo/backlit illumination
Awning/Canopy Signs (non-residential use only)	Number	1 per tenant	1 per tenant	1 per tenant	1 per tenant	1 per tenant
Window Signs (non-residential use only)	Number	1 per tenant	1 per tenant	1 per tenant	1 per tenant	1 per tenant
	Max. Area (sq. ft.)	35% of window area on front façade	35% of window area on front façade	35% of window area on front façade	35% of window area on front façade	35% of window area on front façade
Projecting Signs (non-residential use only)	Number	1 per tenant	Not Permitted	1 per tenant	Not Permitted	1 per tenant
	Max. Area (sq. ft.)	10	N/A	8	N/A	8
	Illumination	External illumination, gooseneck	N/A	External illumination, gooseneck	N/A	External illumination, gooseneck
Freestanding Signs: Pole Signs/ Monument Signs	Number	1 per road frontage	1 per road frontage	1 per road frontage (Residential development only) 1 per development entrance	1 per road frontage	1 per road frontage
	Max. Area (sq. ft.)	24	48	48	48	24
	Max. Height (ft.)	6	10	10	8	6
	Illumination	Internal or external	Internal or external	External only, ground-lit or decorative fixture	Internal or external	External only, ground-lit or decorative fixture
Flags	Number (max. of either type: flag or feather banner)	4 or 1 per 50 ft. of primary street frontage	Prohibited	Prohibited	Prohibited	Prohibited
Feather Banner			Prohibited	Prohibited	Prohibited	Prohibited

Except as otherwise provided in this Chapter, a maximum of two (2) of any combination of the following numbers and types of signs may be erected in any overlay district subject to the conditions set forth herein and in accordance with the associated Overlay District Guidebook. Notwithstanding anything to the contrary contained herein, these regulations shall supersede the sign regulations applicable to the subject property under such subject property's base zoning regulations.

- A. Any sign associated with residential uses as regulated under Section 1108.10 hereof.
- B. Any temporary sign as regulated under Section 1108.08 hereof.
- C. Any portable sign as regulated under Section 1108.09 hereof.

D. Signs in West Avenue Overlay

(1) Monument Sign

- i. **Number.** One (1) monument structure per road frontage with individual signage for each tenant space located within a development.
- ii. **Area.** Twenty-four (24) square feet
- iii. **Height.** six (6) feet maximum height.
- iv. **Illumination.** Internal or external illumination.

(2) Wall Sign

- i. **Number.** One (1) wall sign
- ii. **Area.** One (1) square foot for every lineal foot of front façade, maximum 40 square feet
- iii. **Illumination.** Internal or external illumination

(3) Projecting Sign

- i. **Number.** One (1) projecting sign
- ii. **Area.** Ten (10) square feet

(4) Window Sign

- i. **Number.** One (1) window sign
- ii. **Area.** 35% of total window area on front façade

(5) Awning Sign

- i. **Number.** One (1) awning sign

(6) Flag and/or Feather Banner

- i. **Number.** Four (4) or 1 per 50 lineal feet of lot frontage.
- ii. Shall be setback 5 feet from any sidewalk.
- iii. Shall not be placed within a right-of-way or sight triangle.
- iv. Feather banners shall not exceed 10 feet in height, 3 feet in width.



Fig 14. Example feather banners signs.

E. Southeast Gateway Overlay

(1) Monument Sign

- i. **Number.** One (1) monument structure per road frontage with individual signage for each tenant space located within a development.
- ii. **Area.** Forty-eight (48) square feet
- iii. **Maximum Height.** Ten (10) feet
- iv. **Illumination.** Internal or external illumination.

(2) Wall Sign

- i. **Number.** One (1) wall sign
- ii. **Area.** One (1) square foot for every linear foot of front façade, maximum forty (40) square feet
- iii. **Illumination.** Internal or external illumination

(3) Window Sign

- i. **Number.** One (1) window sign
- ii. **Area.** thirty-five percent (35%) of front façade window area

(4) Awning or canopy Signs

- i. **Number.** One (1) awning or canopy sign

F. Neighborhood Center Overlay

(1) Monument Sign for residential development or apartment communities with ten (10) or more units

- i. **Number.** One (1) sign per development entrance from an arterial or collector street
- ii. **Area.** Maximum forty-eight (48) square feet
- iii. **Maximum Height.** Ten (10) feet

(2) Monument Sign for non-residential development

- i. **Number.** One (1) sign per road frontage with individual signage for each tenant space located within a development.
- ii. **Area.** Maximum forty-eight (48) square feet
- iii. **Maximum Height.** Ten (10) feet

(3) Wall Sign (nonresidential uses)

- i. **Number.** One (1) wall sign
- ii. **Area.** One (1) square foot for every linear foot of front façade maximum forty (40) square feet

(4) Projecting Sign (nonresidential uses)

- i. **Number.** One (1) sign per façade
- ii. **Area.** Maximum eight (8) square feet

(5) Window Sign (nonresidential uses)

- i. **Number.** One (1) window sign
- ii. **Area.** Thirty-five percent (35%) of front façade window area

(6) Awning or Canopy Signs (nonresidential uses)

- i. **Number.** One (1) awning or canopy sign

G. Innovation and Employment Overlay

(1) Monument Sign

- i. **Number.** One (1) monument structure per road frontage with individual signage for each tenant space located within a development.
- ii. **Area.** Forty-eight (48) square feet
- iii. **Maximum Height.** Eight (8) feet
- iv. **Illumination.** Internal illumination or external illumination, ground lit

(2) Wall Sign

- i. **Number.** One (1) wall sign
- ii. **Area.** One (1) square foot for every linear foot of front façade, maximum forty (40) square feet
- iii. **Illumination.** Internal illumination

(3) Window Sign

- i. **Number.** One (1) window sign
- ii. **Area.** thirty-five percent (35%) of front façade window area

(4) Awning or Canopy Signs

- i. **Number.** One (1) awning or canopy sign

H. Signs in Design Control Overlay District

(1) Monument Sign

- i. **Number.** One (1) monument structure per road frontage with individual signage for each tenant space located within a development (non-residential use only).
- ii. **Area.** Twenty-four (24) square feet.
- iii. **Maximum Height.** Six (6) feet.
- iv. **Illumination.** External illumination.

(2) Wall Sign

- i. **Number.** One (1) wall sign (non-residential use only).
- ii. **Area.** One (1) square foot for every linear foot of front façade, maximum forty (40) square feet.
- iii. **Illumination.** External illumination (decorative fixture, halo/backlit).

(3) Window Sign

- i. **Number.** One (1) window sign (non-residential use only).
- ii. **Area.** thirty-five percent (35%) of front façade window area.

(4) Awning or Canopy Signs

- i. **Number.** One (1) awning or canopy sign (non-residential use only).

(5) Projecting Signs(nonresidential uses)

- i. **Number.** One (1) sign per façade.
- ii. **Area.** Maximum eight (8) square feet.

SECTION 1108.13 REMOVAL OF UNSAFE, UNLAWFUL OR ABANDONED SIGNS

A. Unsafe or Unlawful Signs.

- (1) Upon written notice, the owner, person, or firm maintaining a sign shall remove the sign when it becomes unsafe, is in danger of falling or it becomes so deteriorated that it no longer serves a useful purpose of communication, or it is determined by the City to be in violation of the Zoning Code or it is otherwise deemed unsafe by the City.
- (2) The City may remove or cause to be removed the sign at the expense of the owner and/or lessee in the event of the owner of the person or firm maintaining the sign has not complied with the terms of the notice within thirty (30) days of the date of the notice.
- (3) Signs shall not be placed within a right of way unless exempted in this chapter. Signs shall not be placed within any street or driveway sight triangle. Signs will be removed without notification to remediate safety concerns.
- (4) The City may confiscate signs installed in violation of this Chapter. Neither the City nor the property owner is responsible for notifying sign owners of confiscation of a sign that is located in violation of this Chapter.

B. Abandoned Signs.

- (1) It shall be the responsibility of the owner of any property upon which an abandoned sign is located to remove such sign within 180 days of the sign becoming abandoned as defined in this section. Removal of an abandoned sign shall include the removal of the entire sign including the sign face, supporting structure, and structural trim.

SECTION 1108.14 ZONING CERTIFICATE, PERMITS AND APPLICATIONS

- A. It shall be unlawful for any person, firm, or corporation to erect, alter, repair, or relocate any sign within the City without first obtaining a zoning certificate and a sign permit, unless the sign is specifically exempt from such requirements as provided herein.
- B. Applications for zoning certificates and sign permit shall comply with Section 1102 Administration and Procedures and submittal requirements as specified by the Zoning Administrator.
- C. An application for a sign permit may be denied by the City if the application fails to comply with the standards contained herein. The City shall inform the applicant of the reasons for denying the application for sign permit by certified mail.

SECTION 1108.15 NONCONFORMING SIGNS

- A. Signs legally in existence at the time of the adoption of the Zoning Code which do not conform to the requirements of this Zoning Code, shall be considered nonconforming signs.
- B. All permanent signs and sign structures shall be brought into conformance with the sign regulations when and if the following occurs:
 - (1) The sign is removed, relocated or significantly altered. Significant alterations include changes in the size or dimension of the sign. Changes to the sign copy or the replacement of a sign face on a nonconforming sign shall not be considered a significant alteration.
 - (2) If more than 50% of the sign area is damaged, it shall be repaired to conform to this Zoning Code.
 - (3) An alteration in the structure of a sign support.
 - (4) A change in the mechanical facilities or type of illumination
 - (5) A change in the material of the sign face.
 - (6) The property on which the nonconforming sign is located submits a subdivision or land development application requiring municipal review and approval.
 - (7) The property on which the nonconforming sign is located undergoes a change of land use requiring the issuance of either a use and occupancy permit or a change of use permit.
- C. Prior to the events listed in subsection B above, nonconforming signs may be repainted or repaired up to 50% of the replacement cost of the sign, the sign copy may be changed, and sign faces may be replaced provided that these actions do not increase the dimensions of the existing sign, and do not in any way increase the extent of the sign's non-conformity.
- D. All nonconforming temporary signs, portable signs and banners must be permanently removed within 90 days of the effective date of the Zoning Code, unless specific approval is granted as provided for herein.

SECTION 1108.16 SIGNS ON THE PREMISES OF LEGALLY NONCONFORMING USES

- A. Signs on the premises of legally nonconforming uses (such as an office in a residential area) may remain until the existing use of the premises is discontinued.
- B. If a sign wears out or is damaged (including rust, faded colors, discoloration, holes, or missing parts or informational items), or is changed for any other reason, the number, size, and area of all signs relating to the premises shall not be increased beyond the characteristics of the sign or signs that existed on that property at the time this Article was adopted.

SECTION 1108.17 MODIFICATIONS

Any proposed sign that is not in compliance with the objective standards in this Chapter may be reviewed by the Planning & Zoning Commission. When reviewing the appropriateness of such modification from the regulations herein, the Planning & Zoning Commission shall approve such sign only when it determines that:

- A. Visibility of the sign in compliance with this Chapter will be impeded because of such factors as: topographic conditions on and around the property; the location of buildings and structures on the site and/or surrounding properties; speed of traffic and the number of travel lanes on the adjacent roadway.
- B. The modified sign is of such size and scale to be appropriate for the size of the building and the portion of the building (panel, fascia, wall, etc.) on which the sign will be placed.
- C. The proposed sign is the minimum of relief necessary to assure it is legible to the intended viewers which are typically the passing motorists.
- D. The additional sign, the additional sign area, the alternative location that is proposed, and/or the design of the proposed sign will not adversely impact the adjacent residential areas or, otherwise, compromise any other public interests.

SECTION 1108.18 SUBSTITUTION CLAUSE

- A. Notwithstanding any provision of this chapter to the contrary, to the extent that this Chapter allows a sign containing commercial copy, it shall allow a non-commercial sign to the same extent. The non-commercial message may occupy the entire sign area or any portion thereof and may substitute for or be combined with the commercial message. The sign message may be changed from commercial to non-commercial, or from one noncommercial message to another, as frequently as desired by the sign's owner, provided that the sign is not prohibited and the sign continues to comply with all requirements of this Chapter.

SECTION 1108.19 ENFORCEMENT

- A. The City is responsible for enforcing the provisions of this Chapter in accordance with Chapter 1102 Administration and Procedures hereof.
- B. All determinations and decisions made pursuant to this Chapter are appealable as provided in Chapter 1102 Administration and Procedures.

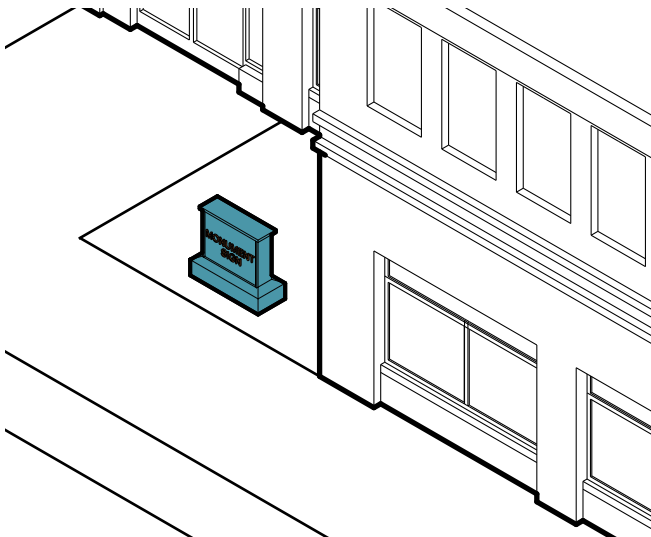
SECTION 1108.20 SIGN TYPOLOGIES



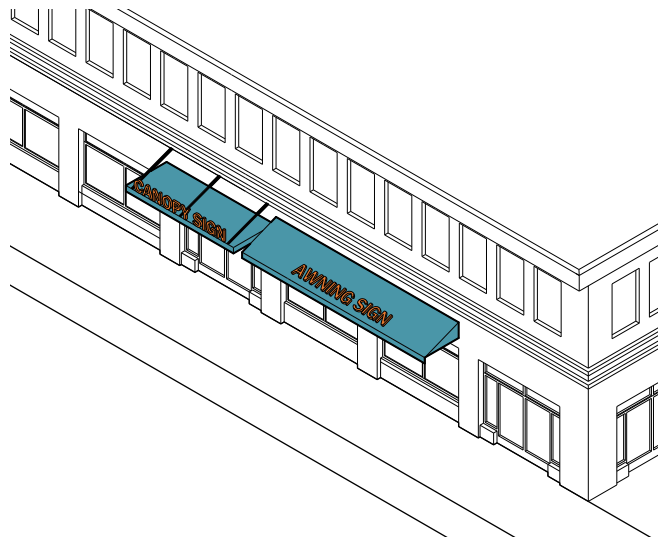
Wall Sign.



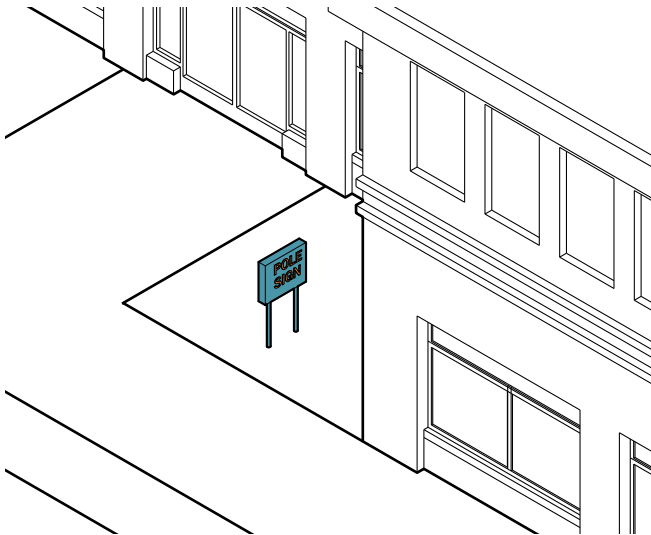
Window Sign.



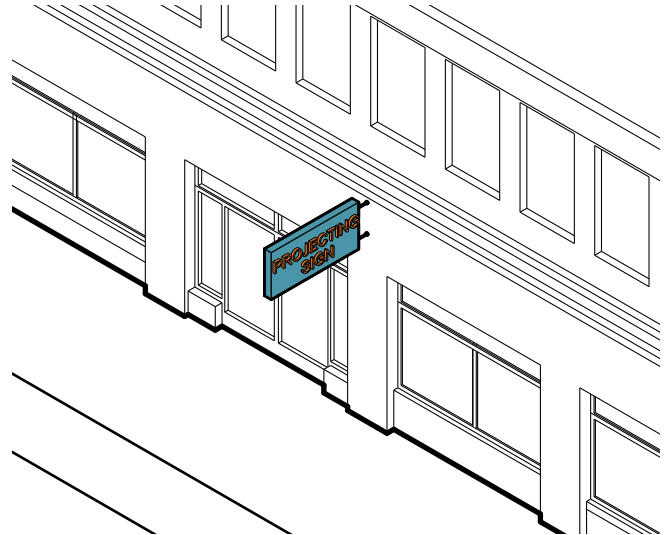
Monument Sign.



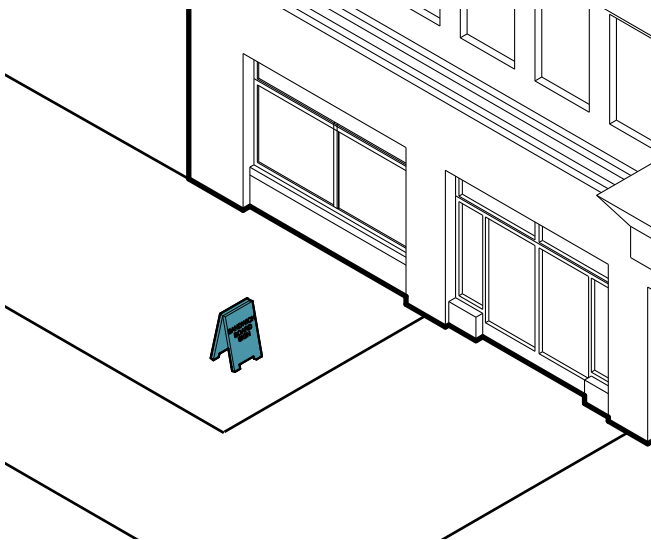
Canopy & Awning Signs.



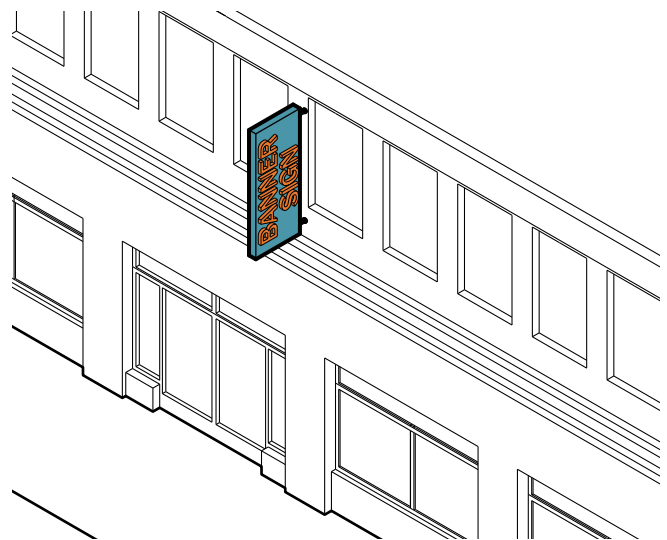
Freestanding Sign.



Projecting Sign.



A-Frame/ Sandwichboard Sign.



Banner Signs.

Title 09

Historic Regulations



Title 09

HISTORIC REGULATIONS

SECTION 1109.01 PURPOSE

- A. The unique attributes of Tallmadge, a historically significant City, are exemplified by the carefully maintained architecture of our historical past, particularly the two architecturally significant structures that remain at the center of this unique community. It is intended that Tallmadge's remaining examples of historical architecture be safeguarded; that new construction be designed so as to reflect the existing historical integrity of the Recognized Heritage Structures. Therefore, the purposes of this Chapter are to:
 - (1) Maintain, safeguard, and enhance the architectural and historical presence of these Recognized Heritage Structures (RHS) throughout the City.
 - (2) Assure that newer construction or renovation is designed to complement the historic characteristics within the Design Control Overlay District (O-DC or DCOD).
- B. The Heritage Commission is authorized to review applications for the construction, alteration, or removal of structures located within the O-DC and any structure that is designated as an RHS. Based upon the Heritage Commission's review, it is authorized to grant a Certificate of Appropriateness (COA) if it determines that the proposed work satisfies the applicable standards set forth under this chapter.
- C. The Heritage Commission is further authorized to submit and to consider applications pertaining to the designation of a structure or structures as an RHS or the removal of a structure or structures from designation as an RHS. Based upon its review, the Heritage Commission shall make recommendations to City Council with respect to the designation or removal of any structure under consideration for designation or removal as an RHS.

SECTION 1109.02 PROCEDURES FOR DESIGNATING A STRUCTURE AS A RECOGNIZED HERITAGE STRUCTURE (RHS)

- A. The Heritage Commission or a property owner may submit an application for a structure to be included as an RHS at any time, provided that such structure, or a significant portion thereof, is at least one hundred (100) years old. For the purpose of this section, "significant portion thereof" shall mean any portion that has the integrity of design, material and historic significance and is not adversely affected by the remainder of the structure.
- B. When considering an application to designate a structure as an RHS, the Heritage Commission shall hold a public meeting during a regular meeting of the Heritage Commission. At least twenty (20) days prior to the public meeting, if the applicant is not the property owner, the Heritage Commission shall notify by first class mail each property owner whose structure(s) is being considered for inclusion as an RHS.

- C. If more than one structure is located on a property, prior to the hearing, the Heritage Commission shall determine the number of these structures to be considered for designation.
- D. At the public meeting, the Heritage Commission shall consider the information provided in the application to determine whether any or all of the criteria set forth under 1109.04 are satisfied. In the event the owner of a property that is under consideration for designation as an RHS objects to such designation, then such owner may present information and evidence against the designation of such property.
- E. Not later than 65 days after the conclusion of the public meeting, the Heritage Commission shall make one of the following recommendations to City Council:
 - (1) Recommend in favor of including the structure(s) as an RHS; or
 - (2) Recommend against including the structure(s) as an RHS.
- F. Within sixty-five (65) days of receiving the Heritage Commission's recommendation, City Council shall hold a public hearing at which City Council shall take one of the following actions with respect to the designation of the subject property:
 - (1) Approve the designation;
 - (2) Approve the designation with modifications; or
 - (3) Deny the designation.
- G. In the event City Council denies or modifies an application for designation, City Council shall state its findings of fact and rationale on the record for such modification or denial.

SECTION 1109.03 APPLICATION FOR REMOVAL OF A STRUCTURE FROM DESIGNATION AS AN RHS

- A. The owner(s) of any structure(s) that has/have been previously designated as an RHS may apply to have such structure removed as an RHS upon filing an application with the Zoning Administrator that includes the following information:
 - (1) The property owner shall submit an application for exclusion of the subject property together with evidence and information to support the application for exclusion, including but not limited to any or all of the following:
 - (2) a copy of the owner's title evidence;
 - (3) information about the structure;
 - (4) historical records or relevant statements of previous owners;

- (5) written statements from professionals with expertise in historic preservation, civil engineering, or related fields on the condition of the structure;
 - (6) color photographs of each elevation; and
 - (7) any other information to assist the Heritage Commission in their review of the removal request.
- B. The Heritage Commission and City Council shall consider an application for the removal of a structure as an RHS in accordance with the public meeting procedures set forth under section 1109.02. In considering an application for removal, the Heritage Commission shall determine whether based on the evidence presented the structure no longer satisfies the criteria for designation set forth under Section 1109.04. The Heritage Commission may solicit input from qualified City staff or consultants to the City and the applicant may present evidence to support its application.
- C. Any consultant and professional service fees required for the review of the application are the responsibility of the applicant and shall be collected prior to any reviews. The funds will be held in escrow by the City and disbursed as the City is billed for the services. Any unused fees will be returned to the applicant upon completion of the review.

SECTION 1109.04 CRITERIA FOR DESIGNATING RECOGNIZED HERITAGE STRUCTURES (RHS)

- A. In order to be designated as a RHS under this chapter, the architecture of the structure or portion thereof that is under consideration for designation shall complement the original structure of these structures shall either adhere to Greek Revival or Federalist style architecture, commonly referred to locally as Western Reserve style architecture, which is the predominant historical architecture in the City, or reflect any other prevailing architectural style of the structure, architectural styling of the historic church constructed in 1825, and/or the historic town hall constructed in 1857 in order for these proposed RHS to complement the City's unique history as an early community on the Connecticut Western Reserve.
- B. In addition to satisfying one of the architectural styles set forth under subsection A above, in order to qualify for designation, the Heritage Commission must determine that the structure or portion thereof satisfies one or more of the following criteria:
- (1) That it has character, interest, or value as part of the development, heritage, or cultural characteristics of the community, county, state, or country;
 - (2) That its location was a site of a significant local, county, state, or national event;
 - (3) That it is identified with a person who significantly contributed to the development of the community, county, state, or country;
 - (4) That it embodies distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of materials;
 - (5) That it is identified as the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community, county, state, or country;
 - (6) That it embodies elements of design, detailing, materials, or craftsmanship that render it architecturally significant;
 - (7) That it embodies design elements that make it structurally or architecturally innovative;

- (8) That it has a unique location or singular physical characteristics that make it an established or familiar visual feature;
- (9) That it is a particularly fine or unique example of a utilitarian structure; or
- (10) That it is suitable and economically feasible for preservation or restoration.
- (11) That the property owner and/or applicant has committed to maintaining the structure in good repair and to the standards of this chapter.

SECTION 1109.05 CERTIFICATE OF APPROPRIATENESS (COA)

- A. Except as otherwise provided under subsection B hereof, a Certificate of Appropriateness (COA) shall be required under the following circumstances:
 - (1) The alteration of the exterior appearance of any existing structure located in the O-DC or designated as an RHS; or
 - (2) The substantial expansion or any addition to an existing building located in the O-DC or is designated as a RHS, or for the construction of a new building, or portion thereof that is located in the O-DC or is designated as an RHS. For the purposes of this Section “substantial expansion” shall mean an increase of ten (10%) or more of the built footprint of the principal structure proposed in any single application for a COA, provided that the expansion shall not alter the character of the structure nor be visible from the public right of way.
- B. Notwithstanding anything to the contrary contained herein, and unless the structure or property is a RHS, a COA shall not be required (however a Certificate of Design Compliance through a Zoning Application is required) under the following circumstances:
 - (1) The construction or installation of accessory structures or additions that are 200 square feet or less;
 - (2) The construction or installation of outdoor decks or patios;
 - (3) The installation of fences;
 - (4) The construction or installation of pools, provided such pool is constructed of pre-approved materials and colors or are located behind the rear line of the principal building;
 - (5) Re-roofing; re-painting; and re-siding of structures in the O-DC, provided all exterior colors and materials used conform to a pre-approved list by the Heritage Commission or such design guidelines as may be adopted from time to time.
 - (6) Alteration of the exterior appearance of any existing structure located in the O-DC or designated as an RHS that returns the structure back to the original appearance requires a Certificate of Appropriateness (COA) from the Planning & Zoning Department.

SECTION 1109.06 PROCEDURE FOR CERTIFICATES OF APPROPRIATENESS

- A. An application for a COA shall be made on such forms as prescribed by the Zoning Administrator not less than twelve (12) days prior to the regularly scheduled meeting of the Heritage Commission and shall include drawings and supplemental specifications, indicating the building or structure exactly as it is proposed to be built or modified. The number of copies required and the manner of submitting the application shall be

determined by the Zoning Administrator. Such documents shall be accurately drawn to scale and dimensioned and shall specifically include the following:

- (1) A site plan showing the plot configuration and its perimeter dimensions, all structures on the site with locating dimensions, the location of all structures adjacent to the site within fifty (50) feet of the property line, and all vehicular drives, roads, related parking areas, main walks, walls, fences and major existing landscaping including trees of at least six inch caliper as measured six inches from top of ground in area affected by construction.
 - (2) A vicinity map, a north arrow, the first-floor level and existing and finished grade elevations at each corner of new construction and at each corner of the site shall be indicated.
 - (3) Four (4) elevation drawings including front, rear and two side elevations together with additional views or cross sections, if necessary, to indicate completely the exterior appearance of the structures. All elevations shall be drawn to the same scale, which shall be not less than one-quarter inch per foot. Each elevation shall show the accurate location of windows, doors, shutters, chimneys, porches and other architectural features, all materials and finishes, and an accurate finish grade line.
 - (4) Additional details to show unusual construction.
 - (5) Material and color samples of all major finish materials.
 - (6) Drawings or photographs of existing structures that are to remain on the site where new structures are to be constructed. Where additions are to be constructed to existing structures, elevation drawings or photographs showing the location of the addition shall be included.
 - (7) Fee as established by the City.
 - (8) A written narrative describing the proposal and objectives and how the design reinforces the objectives and meets the criteria for the COA.
- B. The Heritage Commission shall determine whether the proposed work will be appropriate to the preservation of the environmental, architectural, or historical character, as applicable, of the structure and its property or the Design Control Overlay District pursuant to the general and specific criteria.
- C. In determining whether to grant a COA, the Heritage Commission shall conduct a public meeting on the project at which the Heritage Commission may solicit input from qualified City staff or consultants to the City and the applicant may present evidence to support its application.
- D. In determining whether to grant a COA, the Heritage Commission shall consider the evidence presented in conjunction with the criteria for granting a COA under 1109.07 below and shall take any of the following actions:
- (1) Approve the COA;
 - (2) Approve the COA with modifications to the proposed work;
 - (3) Deny the COA; or
 - (4) With the consent of the applicant, continue the review of the application to a future meeting date.
- E. Where the Heritage Commission elects to deny a COA, the Heritage Commission shall state its findings of fact and the reason(s) for the denial based upon the applicable criteria established for review.
- F. The Summit County Department of Building Standards shall not issue a Building Permit for any structure until the required COA has been approved by the Heritage Commission.

- G. The Heritage Commission shall take action on any application for a COA within forty-five (45) days of such item's first appearance on its agenda unless a time extension is mutually agreed to by the applicant and the Heritage Commission.
- H. A COA shall be valid for twelve (12) months and shall automatically expire if, for any reason, the approved work has not commenced within that period. All approved work must be completed within eighteen (18) months of the issuance of any certificate of appropriateness; provided however, one extension may be granted by the Heritage Commission for up to twelve (12) months. An application for extension must be made in writing to the Heritage Commission prior to expiration of the initial COA.

SECTION 1109.07 CRITERIA FOR COA

- A. The Heritage Commission shall review any application for a COA to determine the consistency of the proposed work with the following criteria:
 - (1) The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.
 - (2) Each property will 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 elements from other historic properties, will not be undertaken.
 - (3) Changes to a property that have acquired historic significance in their own right will be retained and preserved.
 - (4) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.
 - (5) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
 - (6) New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
 - (7) New additions and adjacent or related new construction will 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.
 - (8) The conformity of the proposed work with any design guidelines adopted by the Historic Commission from time to time.
 - (9) Other items that the Heritage Commission believes necessary for the review of alterations to structures on the RHS.
- B. The Heritage Commission together with the City Administration may promulgate and approve the Design Control Overlay District Review Guidebook, and other similar materials, which are intended to provide supplemental interpretation of the provisions of this chapter and chapter 1103 and to further guide the evaluation of the appropriateness of those projects before the Heritage Commission. If a conflict exists between

the Design Control Overlay District Review Guidebook and the Zoning Ordinance, the Zoning Ordinance shall govern.

SECTION 1109.08 MAINTENANCE

- A. Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any RHS or property in accordance with this Zoning Code provided such work does not otherwise require a COA in accordance with this Chapter. Nor shall anything in this Chapter be construed to prevent any repair of structural deficiency, which in the view of the Zoning Administrator is required for the public safety because of an unsafe, insecure or dangerous condition.
- B. Neither the owner of nor the person in charge of any RHS or property shall permit such structure or property to fall into a state of disrepair which may result in the deterioration of any exterior appurtenance or architectural feature so as to produce or tend to produce, in the judgment of the Heritage Commission, a detrimental effect upon the life and character of the structure or property in question, including but not limited to:
 - (1) The deterioration of exterior walls or other vertical supports;
 - (2) The deterioration of roofs or other horizontal members;
 - (3) The deterioration of exterior chimneys;
 - (4) The deterioration or crumbling of exterior plaster or mortar;
 - (5) The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors;
 - (6) The deterioration of any feature, so as to create or permit the creation of any hazardous or unsafe condition or conditions.

SECTION 1109.09 APPEALS

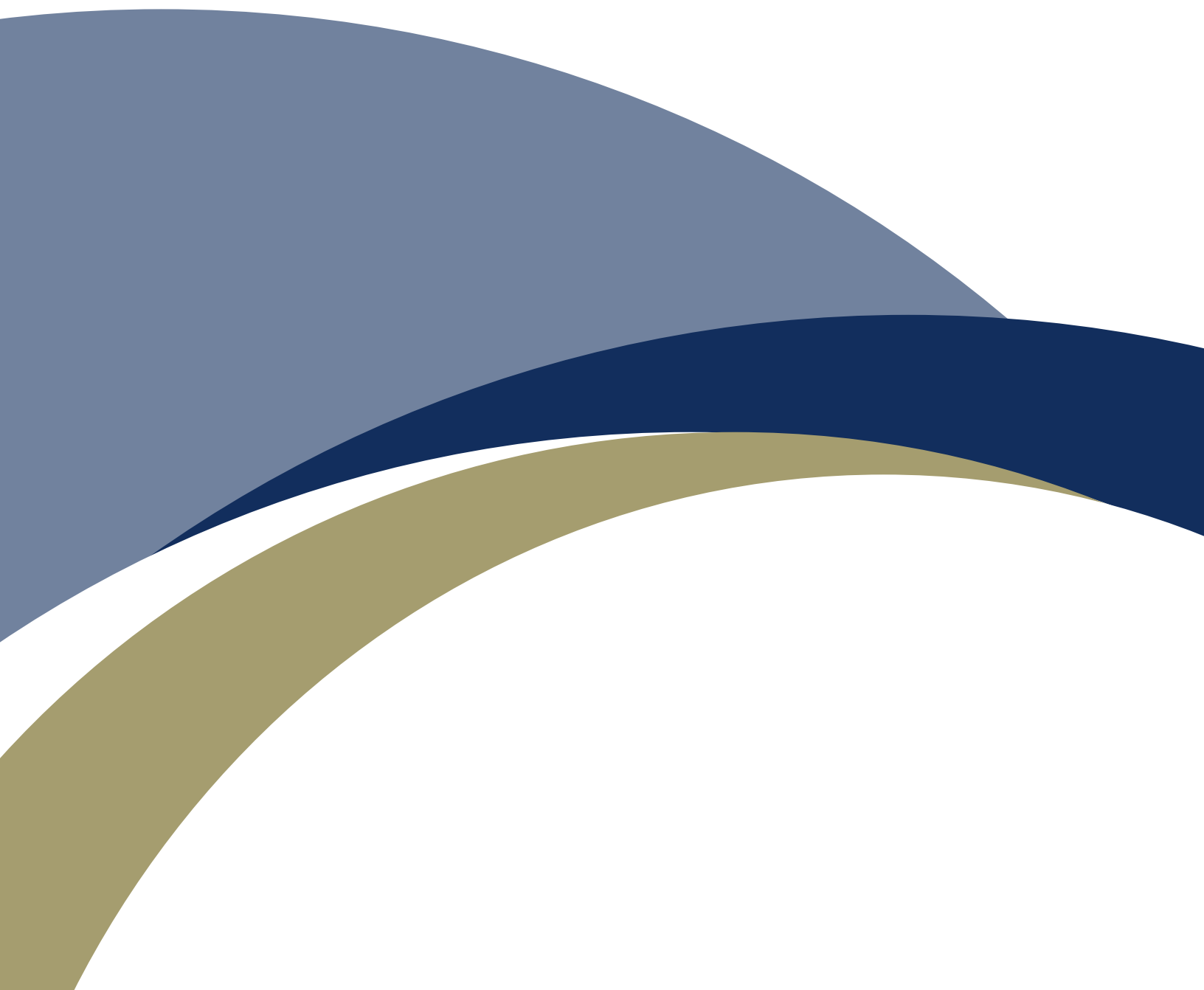
- A. Any applicant aggrieved by any decision of the Heritage Commission may appeal the decision to the Board of Zoning Appeals unless otherwise specified in this Code. Such appeal shall be taken in accordance with the procedures set forth in Chapter 1102. A three-fourths (3/4) vote of the members of the Board of Zoning Appeals is required to overrule a decision of the Heritage Commission. In the event that the Board of Zoning Appeals does not affirm the decision of the Heritage Commission, the Board shall state its findings of fact and reasons in the minutes of its meeting and shall forward a copy of such minutes to the Heritage Commission.

SECTION 1109.10 EMERGENCY ORDERS

- A. Notwithstanding other provisions of this Chapter, whenever the Zoning Administrator finds that an emergency exists in any structure subject to the regulations herein, which requires immediate action to protect the public's health and safety or that of the occupants thereof, the Zoning Administrator may issue an order certifying that such conditions exist and requiring actions as are necessary to meet such emergency. Subsequent to the correction of an emergency, the owner(s) of an affected property shall apply for and obtain, as applicable, a COA and shall restore such property in conformance with the applicable requirements and procedures.

SECTION 1109.11 PENALTY

- A. In addition to the prohibitions set forth in Section 1102.19 B (Violations), and related penalties in 1102.19 M. (Remedies) and 1102.19 N.(Penalties), the following shall also constitute a violation of this Chapter:
- (1) Whoever constructs, reconstructs, or alters any exterior architectural feature or demolishes a substantial part or all of any structure without a Certificate of Appropriateness shall be fined not more than one hundred dollars (\$100.00). Each day of violation shall be considered a separate offense. Whoever violates this section shall be required to restore and reconstruct such features in full detail. Restoration or reconstructions shall be in addition to any criminal penalty and not in lieu thereof.
 - (2) Whoever receives a Certificate of Appropriateness and constructs, reconstructs, or alters any exterior architectural feature other than in accordance with the requirements of the certificate, shall be fined not more than one hundred dollars (\$100.00). Each day of violation shall be considered a separate offense. Whoever violates this section shall be required to make all changes and additions needed to comply with the certificate. Changes and additions shall be in addition to any criminal penalty and not in lieu thereof. Notice of Violation shall be given as provided in Section 1102.



Title 10

City Development
Standards



Title 10

CITY DEVELOPMENT STANDARDS

SECTION 1110.01 PURPOSE

These regulations are adopted to secure and provide for the following objectives:

- A. To establish standards for logical, sound and economic development of the City.
- B. To prevent premature subdivisions that have inadequate water supply, drainage, sewage facilities or other public service and which may impose later expenditure of public funds to correct.
- C. To provide adequate and convenient spaces for traffic, utilities, access of fire-fighting apparatus, recreation, light and air, and the avoidance of congestion of the population.
- D. To require and secure all improvements such as pavements, sidewalks, sanitary sewers, storm sewers and water lines in accordance with the specifications of the City.
- E. To coordinate the arrangement of streets or highways in a manner which will promote safe and convenient vehicular and pedestrian movements and insuring the proper design of new streets in relationship to existing or proposed highways and the thoroughfare plan.
- F. To provide for the equitable handling of all subdivision plats by providing uniform procedures and standards for observance by both the approving authority and subdivider.
- G. To promote the public health, safety, comfort, convenience, prosperity and general welfare of the present and future population.

SECTION 1110.02 MINOR SUBDIVISION

- A. Purpose
 - (1) The purpose of the minor subdivision process is to allow for small subdivisions of land, consolidation of lots, or transfer of a portion of a lot to an adjacent lot where there will not be the creation of a new street, dedication of right of way, or a need for any public improvements.
- B. Applicability
 - (1) For the purposes of these regulations, a minor subdivision is a lot split, lot consolidation, or transfer of land between adjacent property owners that complies with all of the following requirements:
 - i. The subdivision shall not result in or create more than five lots, including the remainder of the original parcel;

- ii. The subdivision shall be in compliance with all applicable site development standards in this code or with any approved variance from such standards;
 - iii. All lots resulting from the minor subdivision shall have frontage and access on an existing street and shall not require the construction, expansion, or improvement of any street;
 - iv. The subdivision shall not require any public improvements or the dedication of rights-of-way;
 - v. The property has been surveyed and a survey sheet or record plan, in the form provided for in this code, and a full legal description of the changes resulting from the split, are submitted with the application; and
 - vi. No landlocking of parcels shall occur as a result of the minor subdivision.
- (2) A minor subdivision also includes the recombination of land, consolidation of lots, transfer of property from one lot to an adjacent lot, and for the dedication of additional land for the widening of existing streets, where no new lots are created.
 - (3) In the event a variance is required to meet the criteria, BZA must review and approve the variance prior to minor subdivision review.

C. Sale of Land in Subdivisions; Start of Construction

- (1) No owner, or authorized agent, of any land located within a subdivision shall transfer, sell, agree to sell or negotiate to sell any land by reference to, by exhibition of, or by the use of, a plan or plat of a subdivision, nor proceed with any construction work before such plan or plat has been approved and recorded in the manner prescribed in these regulations. Any sale or transfer contrary to the provisions of this section is void. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from the provisions of these regulations.
- (2) The Zoning Administrator shall not issue zoning permits for any structure or activity on a lot in a subdivision for which a plat has not been approved and recorded in the manner prescribed in these regulations.

D. Minor Subdivision Review Procedure

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

- (1) Step 1 – Application
 - i. The applicant shall submit an application in accordance with 1102.07, and with the provisions of this section.
 - ii. The application shall include a deed or other instrument of conveyance in compliance containing an accurate and current legal description based on a boundary survey, of each proposed new lot.
 - iii. If the minor subdivision involves the transfer of land area from one lot to an adjacent lot, both property owners shall be required to authorize the application and deeds, or other instruments of conveyance shall be submitted for both lots.
- (2) Step 2 – Review and Comment by Applicable Agencies
 - i. Upon determination that the application for a minor subdivision is complete, the Zoning Administrator may transmit copies of the application for review by applicable agencies including, but not limited to, the City Engineer and any other agencies having authority over streets, water, sewer, gas, or other utilities and other public improvements.

- ii. Such agencies may supply comments, recommendations, and approvals as applicable, to the Zoning Administrator for consideration prior to the Zoning Administrator's decision (Step 3).
- (3) Step 3 – Review and Decision by the Zoning Administrator
 - i. Within seven days of the determination that the application (Step 1) is complete, the Mayor shall review the application and approve or deny the application for a minor subdivision based on the review criteria established below. An extension on the decision may be granted with approval from the applicant.
 - ii. In reviewing the minor subdivision, the Zoning Administrator, on recommendation of the City Engineer, and/or the Public Service Director, may require the addition of easements and/or setbacks as part of a transfer of land area between two lots.
 - iii. If the application for a minor subdivision is denied, the Zoning Administrator shall provide the applicant with written finding for the denial.
 - iv. If the application is approved, the Mayor shall be required to sign the minor subdivision/plat.

E. Review Criteria

In order to approve a minor subdivision, the Zoning Administrator shall determine the following:

- (1) That the minor subdivision complies with all applicable provisions of this code;
- (2) That the minor subdivision complies with all other applicable regulations and plans of the City; and
- (3) That the applicable review agencies have no objections that cannot be resolved by the applicant.

F. Recording

- (1) The Mayor shall sign and date the minor subdivision/plat.
- (2) The subdivider shall then be responsible for submitting the signed conveyance with the Summit County Auditor for the transfer of property and to the Summit County Recorder for the recording of the lots as legal lots of record and providing a copy of said minor subdivision/plat to the Planning and Zoning Department after recording.
- (3) In the case of a transfer of land between two adjacent lots, the recording of the revised lots shall take place simultaneously.

G. Replatting of a Minor Submission

(Ord 2023.86, passed 12-14-2023)

- (1) **Applicability.** When alterations are made on a recorded subdivision, where it has been determined to meet the requirements of a minor subdivision, a replat application is required and the City may sign such replat, subject to local approvals, without having the proposal appear formally before the Planning & Zoning Commission. Local approvals may include but are not limited to Zoning, City Engineer, Local or County Utilities, as applicable and/or County Health Department.
- (2) **Exemption.** When it has been determined that a replat of a recorded subdivision does not meet the requirements of a minor subdivision, the replat application shall be subject to the requirements of Section 1110.03B(5) Major Subdivisions Final Plat Submission.
- (3) **Procedures.**
 - i. Within fourteen (14) working days after receipt of the notification of the change and with consultation with appropriate approval agencies, the Zoning Administrator shall review the proposed Replat to determine if substantial changes are involved. Then the Zoning Administrator will:

- (a) Give written approval for the modifications, and endorse the plat as exempt from Planning & Zoning Commission review and plat adoption by City Council and shall endorse the Replat; or
 - (b) Give written notice that the proposed modifications must be reviewed by the Planning & Zoning Commission and be subject to the requirements of Section 1110.03B(5) Major Subdivisions Final Plat Submission.
- ii. If lots being re-platted have existing structures located on them, then a dimensionally accurate sketch prepared by a registered surveyor licensed in the State of Ohio, illustrating the revised lot lines, together with the outlines of such structures shall be submitted.
 - iii. The Replat shall assign a new lot number to all new or modified lots. This number shall consist of the lowest original lot number contained within the lot lines of the proposed lot and hyphenated with the letter “R”, and the next consecutive numeral needed to make the proposed lot number unique within the Subdivision (e.g. 5-R3 indicates the third Replat of lot 5).
 - iv. The Replat shall include
 - (a) a statement of reference to the deeds, covenants and restrictions associated with the original platted survey.
 - (b) The Replat shall be prepared, signed and sealed by a surveyor who is qualified and registered in the State of Ohio.
 - (c) The Replat shall include a citation of pertinent documents and sources of data used as a basis for the plat.
 - (d) The Replat shall include certifications as required in Section 1110.03 D (5)vii (a)-(c) and (g).

SECTION 1110.03 MAJOR SUBDIVISION

A. Purpose

- (1) The purpose of the major subdivision process is to provide a method of review for any subdivision that exceeds the scope of a minor subdivision and which includes multiple lots, the creation or expansion of new streets, and/or the installation of public improvements.

B. Applicability

- (1) Any subdivision of land or replat of an existing subdivision that does not meet the applicability requirements of a minor subdivision in Section 1110.02 B.: Applicability, shall be subject to the requirements of this section.

C. Sale of Land in Subdivisions; Start of Construction

- (1) No owner, or authorized agent, of any land located within a subdivision shall transfer, sell, agree to sell or negotiate to sell any land by reference to, by exhibition of, or by the use of, a plan or plat of a subdivision, nor proceed with any construction work before such plan or plat has been approved and recorded in the manner prescribed in these regulations. Any sale or transfer contrary to the provisions of this section is void. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from the provisions of these regulations.

- (2) The Zoning Administrator shall not issue zoning permits for any structure or activity on a lot in a subdivision for which a plat has not been approved and recorded in the manner prescribed in these regulations.

D. Major Subdivision Review Procedure

The review procedure for a major subdivision shall be as set forth below. The preliminary plat option is conducted for the developer's benefit. With the submission of the preliminary plat for review, the applicant waives any rights to an approval until such time as application is made for final subdivision plat review and is submitted to PZC (Step 5) for review and approval, as detailed in these regulations.

- (1) Step 1 – Application and Filing of the Preliminary Plat
 - i. The applicant shall submit an application along with a preliminary plat in accordance with 1102.07 and with the provisions of this section.
 - ii. The preliminary plat shall be prepared, signed, and sealed by an engineer or surveyor who is qualified and registered in the State of Ohio.
 - iii. Upon determination by the Zoning Administrator that the application is complete, the preliminary plat shall be accepted as being officially filed.
 - iv. The Zoning Administrator shall notify property owners within 500' of the proposed plat within 14 days of the public meeting.
- (2) Step 2 – Staff Review and Staff Report on the Preliminary Plat
 - i. Upon determination that the application for a major subdivision is complete, the Zoning Administrator shall transmit copies of the application for review by applicable agencies including, but not limited to, the City Engineer, Fire Department, Police Department, agencies having jurisdiction for water, sanitary sewer and/or soil and water, or other agencies the Zoning Administrator deems appropriate.
 - ii. Such agencies shall supply comments and recommendations to the Zoning Administrator prior to the regularly scheduled PZC meeting where the preliminary plat will be reviewed.
 - iii. Prior to PZC meeting where the preliminary plat is scheduled for review, the Zoning Administrator shall review the preliminary plat and prepare a staff report.
- (3) Step 3 – Review and Decision on the Preliminary Plat by PZC
 - i. In accordance with the applicable submission, PZC shall review the preliminary plat application at its next regularly scheduled meeting, or at a special meeting, after the application is determined to be complete.
 - ii. In making its decision, PZC shall approve, approve with conditions, or deny the preliminary plat. PZC may grant variances to the preliminary plat. PZC may also continue the meeting if questions regarding the plat are not satisfactorily addressed by the applicant.
 - iii. PZC shall make a decision within 60 days of the filing of the preliminary plat (Step 2) unless PZC and subdivider agree to an extension of this time frame.
 - iv. If PZC denies the preliminary plat, the applicant shall not move forward in the review process until a preliminary plat is approved by PZC. Denial of the plat does not bar the applicant from re-applying a new preliminary plat.
 - v. Approval of the preliminary plat by PZC does not constitute approval of the subdivision but is merely an authorization to proceed with the preparation of the improvement plans and final plat.

(4) Step 4 – Submission of Improvement Drawings

- i. The applicant shall submit all necessary improvement drawings for review within one year of the decision on the preliminary plat unless an alternative schedule is approved as part of the preliminary plat approval or the subdivider can show just cause for extending the deadline. For phased subdivisions, the deadline shall apply to the first phase of the subdivision. Failure to submit the improvement plans within this time frame shall void the preliminary plat approval and the subdivider will be required to submit a new application in accordance with these regulations.
- ii. The applicant shall submit improvement drawings and specifications incorporating all changes in the preliminary plat approval for review and approval by the Director of Public Service. In cases where the applicant proposes to develop the subdivision in phases, the improvement plans and final plat shall be submitted for each individual phase.
- iii. The improvement drawings shall be prepared, signed, and sealed by an engineer or surveyor who is qualified and registered in the State of Ohio.
- iv. Upon determination that the submission of the improvement drawings is complete, the Zoning Administrator shall transmit copies of the application for review by applicable agencies including, but not limited to the City Engineer, Fire Department, Police Department, agencies having jurisdiction for water and/or sanitary sewer, or other agencies the Zoning Administrator deems appropriate.
- v. Construction of Improvements
 - (a) Applicants shall have the choice to construct all public improvements prior to the approval of the final plat, without a financial guarantee, but such public improvements must be completed and then inspected and approved by the City before the City can approve the final plat. The improvements shall be constructed within a reasonable time as determined by the City, but not to exceed two years.
 - (b) All required subdivision improvements shall be maintained in a satisfactory condition by the subdivider during any interim period between their construction and final approval and acceptance of the subdivision by the City. See Section 1110.08 Installation of Public Improvements and Financial Guarantees.
 - (c) If the applicant requests approval of a final plat prior to installation of the public improvements, the applicant shall be required to provide a financial guarantee in accordance with the regulations of this code at the time the final plat is submitted for review.

(5) Step 5 – Submission of the Final Plat

- i. The applicant shall submit the final plat in accordance with Section 1102.07, and with the provisions of this section within 2 years of approval on the preliminary plat.
- ii. If a preliminary plat has been previously approved, the final plat shall have incorporated all changes in the preliminary plat approval.
- iii. If the applicant proposes to provide a financial guarantee for the public improvements in-lieu of installing all public improvements prior to approval of the final plat, the applicant shall be required to provide all information required as part of Section 1110.08 Installation of Public Improvements and Financial Guarantees.
- iv. Upon determination by the Zoning Administrator that the final plat has been properly submitted, the final plat shall be accepted as being filed.

- v. In cases where the applicant proposes to develop the subdivision in phases, the final plat and improvement drawings shall be submitted for each individual phase.
- vi. The final plat shall be prepared, signed, and sealed by an engineer or surveyor who is qualified and registered in the State of Ohio.
- vii. The final plat shall include the following certifications in the illustrated form:
 - (a) Certification of a registered surveyor using the following standard form:

CERTIFICATE OF SURVEYOR

I hereby certify that this plat is a true and complete land survey made (under my supervision), (by me), on date and that all survey monuments shown have been set.

(SEAL)

REGISTERED SURVEYOR #

- (b) An acknowledgment by the owner or owners, adopting the plat, offering streets for dedication, and establishing utility easements and other public area; using the following standard form:

OWNERS' CONSENT AND OFFER OF DEDICATION

1. We, the undersigned, being all the owners, and lien holders of the lands herein platted, do hereby voluntarily consent to the execution of this plat and do offer for dedication the streets, parks and public grounds as shown thereon to the public use forever.

2. All easements shown hereon are for the construction, operation, maintenance, repair, replacement, or removal of water, sewer, gas, electric, telephone or other utility lines or services, and for the express privilege of removing any and all trees, shrubs, bushes, buildings or other obstructions to the free use of said utilities and for providing ingress and egress to the property for said purposes and are to be maintained as such forever.

WITNESS

WITNESS

WITNESS

WITNESS

- (c) A certificate of Notary Public relative to subsection (b)(11) hereof in accordance with the following standard form:

CERTIFICATE OF NOTARY PUBLIC

STATE OF OHIO, COUNTY OF SUMMIT, SS

Be it remembered that on this _____ day of _____, 20____

before me the undersigned, a Notary Public in and for said County and State, personally came _____
and _____ and acknowledged the signing and execution of the foregoing plat to be their
voluntary act and deed.

IN TESTIMONY WHEREOF, I have set my hand and notary seal on the day and date above written.

My Commission expires

NOTARY PUBLIC in and for
SUMMIT COUNTY, OHIO

(d) A signature block for the Commission in accordance with the following standard form:

APPROVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF TALLMADGE,
OHIO, this _____ day of _____, 20____.

CHAIRMAN

SECRETARY

(e) A signature block for Council in accordance with the following standard form:

ACCEPTED BY THE CITY COUNCIL OF TALLMADGE, OHIO, at its regular session this ____ day of _____, 20__.

PRESIDENT

CLERK OF COUNCIL

(f) A signature block for the City Engineer in accordance with the following standard form:

APPROVED BY _____, City Engineer on this day ____ of _____, 20__.

(g) Reserve a block three inches by five inches for the official stamp of the County Auditor and County Recorder in the area of the aforementioned certifications.

(6) Step 6 – Staff Review and Staff Report on the Final Plat

- i. Upon determination that the submission of the final plat and improvement drawings is complete, the Zoning Administrator shall transmit copies of the application for review by applicable agencies including, but not limited to the City Engineer, Fire Department, Police Department, agencies having jurisdiction for water, sanitary sewer and/or soil and water, or other agencies the Zoning Administrator deems appropriate.
- ii. Such agencies shall supply comments and recommendations to the Zoning Administrator prior to the regularly scheduled PZC meeting where the final plat will be subject to review.
- iii. Prior to PZC meeting where the final plat is scheduled for review, the Zoning Administrator shall review the final plat and prepare a staff report.

(7) Step 7 – Review and Decision on the Final Plat by PZC

- i. In accordance with the applicable submission deadlines, PZC shall review the final at its next regularly scheduled meeting, or at a special meeting, after the final plat is submitted and determined to be complete.
- ii. PZC shall approve, approve with conditions, or deny the final plat. PZC may grant variances to the final plat. PZC may also continue the meeting if questions regarding the plat are not satisfactorily addressed by the applicant.
- iii. PZC shall make a decision within 60 days of the filing of the final plat (Step 5) unless PZC has

continued the meeting as authorized in Paragraph (A) above or if PZC and subdivider agree to an extension of this time frame.

- iv. If PZC denies the final plat, the applicant shall not move forward in the review process until a final plat is approved by PZC.
 - v. In the event PZC denies the final plat or approves with conditions, PZC shall provide the subdivider with a statement in writing setting forth the reasons for the denial or the conditions of approval.
 - vi. PZC, with approval of City Council, may give final approval on the final plat and improvement drawings before all required public improvements are installed, provided that a financial guarantee (See Section 1110.08 Installation of Public Improvements and Financial Guarantees.) is provided and accepted by City Council.
 - vii. Approval of the final plat by PZC shall not be an acceptance by the public of the offer of dedication of any street, or other public ways or open space on the final plat unless they are accepted by City Council in the form of the adoption of an ordinance.
 - viii. No final plat shall be recorded until all areas offered for parks, open space, fee in lieu or public rights-of-way been accepted by City Council.
- (8) Step 8 – Acceptance of Improvements by City Council
- The City, through action by City Council, may accept public improvements made by a subdivider which meet the following conditions:
- i. The public improvements have been made in accordance with the requirements of this code, and any other manuals or documents referenced in Section 1110.07 B. Construction Procedures and Materials.
 - ii. Installation of the public improvements has been completed in accordance with the approved improvement plans and applicable design standards.
 - iii. All final inspections required by these regulations have been carried out by the City, and said public improvements were found to be acceptable by the City; and
 - iv. After all public improvements have been installed to the satisfaction of the City, the subdivider shall submit an original copy of as-built improvement drawings (showing how all public improvements were actually installed) to the City on mylar and a digital copy of the same drawings in a format acceptable to the City.
 - v. After all public improvements have been installed in accordance with the approved improvement plans and these regulations and the subdivider has complied with this section, City Council may, by ordinance, accept the public improvements for maintenance with any applicable guarantee.
 - vi. If the applicant proposes to provide a financial guarantee for the public improvements in-lieu of installing all public improvements prior to approval of the final plat, the applicant shall be required to provide all information required as part of Section 1110.08 Installation of Public Improvements and Financial Guarantees.
- (9) Step 9 – Disposition of Approved Plat and Recordation
- i. After approval of the original drawing of the final plat by PZC, such final plat shall be transmitted to City Council or other appropriate public body for necessary acceptance of all public dedications.
 - ii. After approval of the final plat and after acceptance of all land to be dedicated on the plat by City

Council or other appropriate public bodies, the original tracing/mylar and three signed prints shall be returned to the subdivider for filing with the Summit County Recorder. The plat shall be filed within 60 days after date of final approval and after all necessary certifications have been noted thereon. Failure to record the approved final plat within the 60 days shall result in the final plat being considered void.

- iii. The subdivider shall also furnish to the Department of Planning & Zoning the original tracing/mylar of the plat and digital copy of the plat in a format acceptable to the City. Such information shall be submitted within five working days after the plat recording.

E. Deed Restrictions. All deed restrictions shall run with the land and be enforceable by the owner of any of the property lying within the subdivision. Restrictions shall be so written that they may be amended to meet changing conditions. All covenants and restrictions shall indicate the proposed use of the land.

F. Review Criteria

In order to approve a major subdivision, PZC, shall determine the following:

- (1) That the major subdivision complies with all applicable provisions of this code.
- (2) That the major subdivision does not conflict with other regulations, plans, or policies of the City; Chapter 1102 Administration and Procedures and Section 1110.03 Major Subdivisions Subsection (G): Amendments and Withdrawal of Application
- (3) That applicable review agencies have no objections that cannot be resolved by the applicant; and
- (4) That the final plat and improvement drawings conform to the approved preliminary plat, if submitted and approved.

G. Amendments and Withdrawal of Application

- (1) No changes, erasures, modifications, or revisions shall be made in any plat of a subdivision after final approval has been given by PZC and an endorsement is made in writing on the plat, unless the plat is first resubmitted and the changes approved by PZC.
- (2) If the applicant finds, in the process of preparing improvement drawings, that the approved preliminary plat, if submitted, is not workable and changes in layout are required, the applicant shall inform the Zoning Administrator. The Zoning Administrator may require that a revised preliminary plat be submitted for re-approval following the review procedure in Section 1110.03 D. Major Subdivision Review Procedure, above if the changes significantly alter the design of the subdivision.
- (3) During the final plat process, the City may be authorized to allow minor changes related to the public improvements or design where there is minimal impact to the overall design of the subdivision. This shall not give the City the authority to vary the requirements of this code.
- (4) Before approval of the final plat, the submitted plat may be withdrawn or modified. If modified, the review process shall be repeated. If the application is withdrawn, any application fees shall be forfeited.
- (5) If during the course of construction, any changes or modifications are encountered that are not in conformance with the original approved improvement drawings, the subdivider shall submit the modified improvement drawings (which have now become as-built drawings) to the City, who, if in agreement with such modifications, shall affix their signature to these drawings indicating approval of the modifications.

SECTION 1110.04 SUBDIVISION MODIFICATIONS

A. Purpose

- (1) The purpose of a subdivision modification is to allow a subdivision that conforms to the spirit and standards that apply to the subdivision of land including standards for improvements but which does not fully conform to the regulations within this code, due to land size, shape, title limitations or topography. Subdivision modifications are intended for those cases where strict application of a particular requirement will create a practical difficulty or extraordinary hardship prohibiting the use of land in a manner otherwise allowed under these regulations. It is not intended that modifications be approved merely to remove inconveniences or financial burdens that the requirements of these regulations may impose on property owners or subdivider in general.

B. Applicability

- (1) If the proposed subdivision requires a deviation from the minimum site development standards (e.g., lot area, lot width, etc.) or other standards identified in Section 1103 Zones and Overlays, the applicant will be required to apply for and receive all the necessary variance (See Chapter 1102.09.) approvals through prior to approval of a preliminary plat.
- (2) If the applicant seeks a modification of standards required by this code Subdivision Design, then the request for a modification shall be accomplished through the procedure outlined in this section.

C. Subdivision Modification Review

- (1) A request for a subdivision modification shall be reviewed as part of the preliminary plat review procedure.
- (2) PZC shall review the request and may approve, approve with conditions, or deny the request to modify any or all of the modifications.
- (3) In approving a modification, PZC may impose conditions on the approval as it determines are required to ensure compliance with the provisions and purpose of these regulations.
- (4) If the preliminary plat is denied or if the approval of the preliminary plat expires, so does the approval of the subdivision modification. Any future request for preliminary plat approval that includes the same modifications shall require a new review and decision on the request for modifications.

D. Review Criteria

- (1) The review criteria for a subdivision modification shall be the same as those for a variance as established in Section 1102.09 B. Standards for Granting a Variance.

E. Plat Revision after Approval

- (1) No changes, erasures, modifications, or revision shall be made in any plat of a subdivision after approval has been given by the PZC and an endorsement is made in writing on a plat, unless the plat is first resubmitted and the changes approved by the PZC. A fee shall be charged in accordance with the fee schedule approved by City Council.

SECTION 1110.05 VACATION OF STREETS, ALLEYS OR EASEMENTS

Whenever a request is made to vacate a street, alley or easement, the applicant shall

- A. File a Vacation Plat indicating the street, alley or easement to be vacated, prepared by a registered surveyor to the Planning & Zoning Department. Legal descriptions shall accompany the plat. The petition for vacation requires the signatures of all property owners that abut the requested vacation. If such signatures of all property owners that abut the requested vacation are not received, then a Public Notice of Consideration to Vacate has to be advertised in the newspaper of general circulation for four consecutive weeks. The cost of the advertising shall be paid by the petitioner. PZC will review and make recommendation to Council. Upon their findings, Council will request legislation and give it three (3) separate readings if the vacation is to proceed. Anyone wishing to address Council must do so at the scheduled Public Meeting .
- B. When any street, alley, or public highway, or a portion thereof, is vacated or narrowed by the City pursuant to the provisions of any section of Chapter 723 of the Revised Code, and the relocation of any conduits, cables, wires, towers, poles, sewer lines, steam lines, pipelines, gas and water lines, tracks, or other equipment or appliances of any railroad or public utility, whether owned privately or by any governmental authority, located on, over, or under the portion of the street, alley, or highway affected by such vacation or narrowing, is not required for purposes of the municipality, including urban renewal, any affected railroad or public utility shall be deemed to have a permanent easement in such vacated portion or excess portion of such street, alley, or highway for the purpose of maintaining, operating, renewing, reconstructing, and removing said utility facilities and for purposes of access to said facilities. When, in the opinion of Council, there is good cause for vacating or narrowing a street or alley, or any part thereof, and that such vacation or narrowing will not be detrimental to the general interest, it may, by ordinance and without petition therefor, vacate or narrow such street or alley or any part thereof.
- C. After approval of the vacation plat by City Council, the original tracing/mylar and three signed prints shall be returned to the subdivider for filing with the Summit County Recorder. Failure to record the approved vacation plat within the 60 days shall result in the final plat being considered void.
- D. The petitioner shall also furnish to the Department of Planning & Zoning the original tracing/mylar of the plat and digital copy of the plat in a format acceptable to the City. Such information shall be submitted within five working days after the plat recording.

SECTION 1110.06 SUBDIVISION DESIGN

- A. Purpose
The purpose of this section is to further the overall purpose of this code and to:
 - (1) Establish standard requirements, conditions, and procedures for the design and review of subdivisions.
 - (2) Provide for the orderly subdivision of land.
 - (3) Encourage the wise use and management of land and natural resources throughout the City.
 - (4) Ensure that adequate public infrastructure, facilities and services are available concurrent with development.
 - (5) Encourage a beneficial relationship between the uses of land and circulation of traffic throughout the City, and to provide for the proper location and design of streets; and

- (6) Provide adequate utility systems to support the future needs of the system; and
- (7) To prevent pollution of air, streams and ponds and to ensure that development subject to these regulations is sensitive to and compatible with environmental consideration.
- (8) To ensure the ability of the natural environment to adequately support such development without significant negative consequences and to ensure critical natural resources including prime agricultural soils are preserved, conserved and/or protected.

SECTION 1110.07 GENERALLY APPLICABLE DEVELOPMENT STANDARDS

A. Suitability of Land for Development

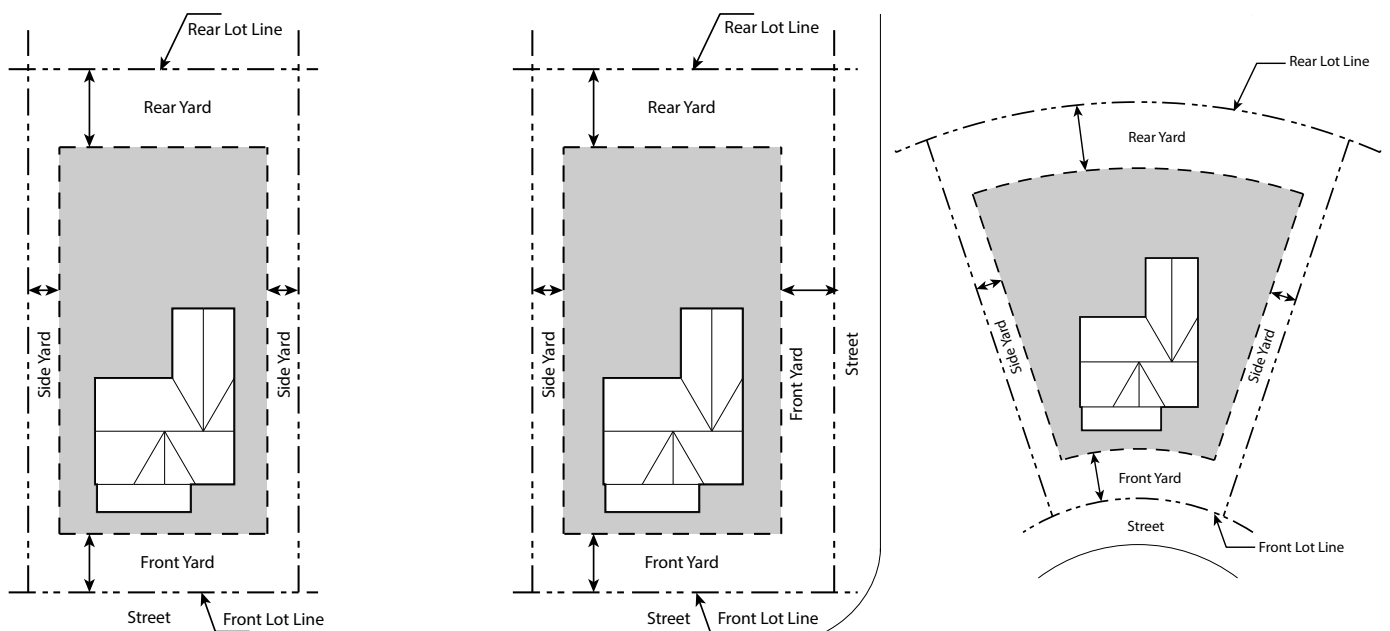
- (1) Natural Land Use. Subdivisions should be planned to take advantage of the topography of the land, to economize in the construction of drainage facilities, to reduce the amount of grading, and to minimize destruction of trees and topsoil.
- (2) Flood Hazard. If any portion of the land within the subdivision is subject to flooding or other hazards, due consideration shall be given to such problems in the design of the subdivision. While portions of a lot may be within a flood prone area, no residential occupancy, accessory buildings nor such other use that may increase danger to health, life or property or aggravate the hazard of the flooding shall be permitted. Furthermore, defined flood plains shall not be filled and must conform to 1110.10 Flood Damage Control.

B. Construction Procedures and Materials

- (1) The design and construction of improvements shall be in accordance with the City Development Standards and other pertinent regulations. The work shall be done under City supervision and inspection.

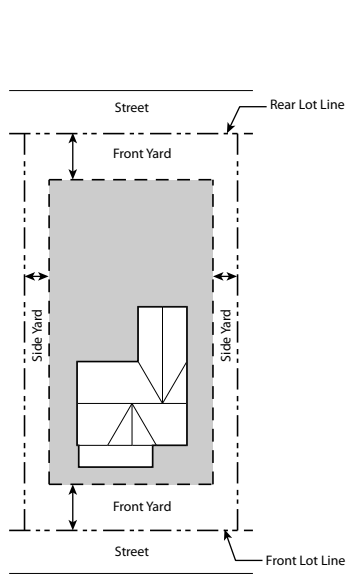
C. Lot Setback Identification

- (1) The determination of front, side, and rear setbacks shall be determined by the lot configuration and relationship to the street or streets, and as illustrated below:

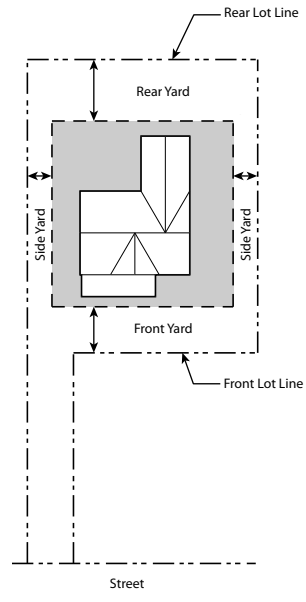


Regular-shape lot and setbacks.

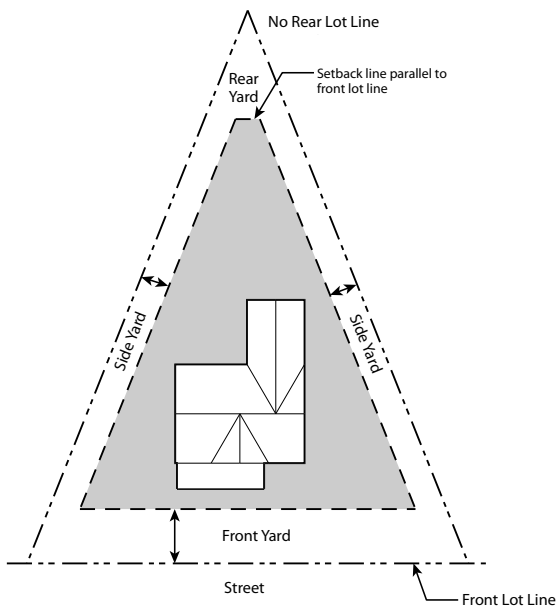
Corner lot and setbacks.



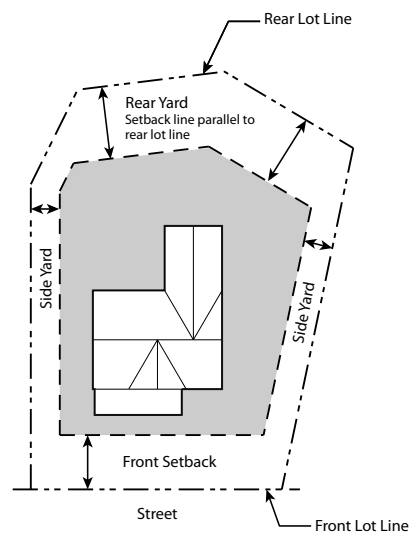
Double-frontage lot and setbacks.



Flag lot and setbacks.



Triangle-shape lots and setbacks



Irregular-shape lots and setbacks

SECTION 1110.08 **INSTALLATION OF PUBLIC IMPROVEMENTS AND FINANCIAL GUARANTEES**

The conditions associated with financial guarantees shall be enumerated in the applicable ordinance as adopted by City Council.

A. Pre-Construction Meeting

- (1) After the subdivider has received approval of the final plat consisting of construction plans, and not less than two weeks prior to the start of construction or site development, a pre-construction meeting shall be held between the subdivider and City staff. The subdivider shall submit a request for the meeting with the City.
- (2) At the pre-construction meeting, the subdivider must do the following:
 - i. Provide a construction schedule detailing when all required improvements will be complete and an itemized cost estimate of the required improvements; and
 - ii. Pay inspection fees as estimated by the City prior to any inspections. The funds will be held in escrow by the City and disbursed as the City is billed for the services. Any unused fees will be returned upon completion of all inspections. If inspection fees are incurred in excess of the original estate by the City, additional deposits will be required.

B. Protection of Streets, Utilities and Other Installations

- (1) The subdivider shall provide the City with a plan for the routing of construction equipment and traffic with the objective of alleviating any need to traverse adjacent off-site residential streets. In exceptional cases, where no reasonable alternative exists or can be provided, construction equipment may be permitted the use of collector streets for a predetermined time period. The contractor shall be permitted to operate only pneumatic-tired equipment over any paved street surfaces and shall be responsible for correction of any damage to street surfaces in any manner resulting from the contractor's operation. During the period of use, such streets shall be kept reasonably free of debris, based on periodic inspections by the City and in accordance with approved sedimentation and erosion control measures.
- (2) The subdivider and their contractors shall protect all City infrastructure within the Road Right of Way such as pavement, sidewalks and utilities against all damage prior to final acceptance of the work including damage created by the contractor's construction equipment and vehicles, as well as general traffic. As soon as curing and sealing are completed, the contractor shall clean the pavement free of all debris and construction equipment.
- (3) The subdivider and their contractors shall at all times take proper precautions for the protection of utility lines, the presence of which can be determined by contacting the Ohio Utilities Protection Service (OUPS). The subdivider shall be financially responsible for the repair of any damage to such utility lines. Contractors are responsible for "pot-hole" hydro-excavating when it is determined that any utility location is in close proximity and unable to be otherwise properly located.

C. Financial Guarantees for Public Improvements

- (1) A subdivider may execute and file a written financial guarantee with the City in lieu of actual installation or completion of the required public improvements when requesting approval of a final plat.
- (2) The financial guarantee shall be an obligation for the faithful performance of any and all work and the construction and installation of all public improvements required to be done by the subdivider, together with all engineering and inspection costs and fees incurred by the City.

- (3) The guarantee shall contain the further condition that should one of the following conditions exist, the City may, at its option, cause all required work to be done and public improvements constructed by using the financial guarantee.
 - i. The installation of all required public improvements as called for in these regulations has not taken place within the time period agreed on with the City, and the subdivider has failed to establish reasonable cause for such delay to the satisfaction of City Council and thereby to receive a time extension; and/or
 - ii. The subdivider has not constructed the required public improvements in accordance with the minimum standards specified by these regulations, and the subdivider is unwilling to modify and upgrade said public improvements within a six-month time period of notice so as to be in compliance with the provisions of these regulations.
- (4) The parties executing the guarantee shall be firmly bound for the payment of all necessary costs therefor.
- (5) The guarantee may take the form of a bond, cash deposit, or an irrevocable letter of credit as further outlined in Chapter 1102 Administration and Procedures.
- (6) The amount of the financial guarantee for installation of public improvements shall be based on an engineer's cost estimate, approved by the City, for 100 percent of the cost to complete the unfinished public improvements.
- (7) Where applicable, engineering, plan review, and construction review fees, etc., shall be required to be a part of the engineer's cost estimate.
- (8) After a period of two years from the date of submittal, the City may require that a revised engineer's estimate and bond be submitted that reflects updated unit prices.
- (9) Unit prices used in the engineers cost estimate shall be based upon unit costs associated with public contracting (i.e., prevailing wage rates).
- (10) Guarantees, as identified in Section 1102 Administration and Procedures, shall be made payable to the City of Tallmadge and be acceptable to the City and the City's legal counsel.
- (11) Incomplete public improvements that the City determines will constitute a safety hazard or maintenance issue or will prevent the effective functioning of the public improvements, shall be required to be completed prior to the approval of a final plat.
- (12) Reduction of Financial Guarantees After the improvements are installed, tested, and approved, the subdivider may request the following reduction and reimbursement:
 - i. As improvements are installed, the subdivider may make a written request to the City Engineer for a reduction in the bond for up to 75 percent of the estimated cost of the completed improvement. The reduction will be granted if the installation of the applicable improvement is complete to the satisfaction of the City and approved by the Director of Public Service. However, in no event will the financial guarantee be reduced by more than 75 percent until final completion and acceptance of all improvements. No more than two reduction requests will be considered during the term of an agreement.

D. Inspections: The City will make periodic inspections during the installation of improvements.

E. Final Inspection, Release of Financial Guarantees and Requirement of Maintenance Guarantees

- (1) When the required improvements are complete, the subdivider shall notify the City in writing. Upon receipt of the notice of completion, the City will make a final inspection of the required improvements.

- (2) If the required improvements are completed to the City's satisfaction, the Director of Public Service shall release the financial guarantee for improvements.
- (3) The Director of Public Service shall not release the financial guarantee without the following:
 - i. Receipt of a Final Inspection Report letter from the City Engineer certifying a satisfactory completion of all required improvements.
 - ii. Proof that the subdivider has installed all survey monuments or has provided a separate financial guarantee to secure the installation of iron pins not previously set; and
 - iii. Receipt of a maintenance guarantee in the amount of 10 percent of the total estimated cost of installing the required improvements.
 - iv. Set of As-Built Plans – using final approved plans.
 - v. Approved Stormwater Long Term Maintenance Agreement
- (4) The maintenance guarantee shall be held for a period of two years and shall be subject to the same requirements of Section 1102.08B Types of Guarantees.
- (5) During the two-year maintenance period, the City may authorize the maintenance guarantee to repair any public improvements and return them to the condition they were in at the time of completion. Any remaining guarantee will then be released to the subdivider after one year from the date the original financial guarantee was released. Such release shall only occur with the approval of the Director of Public Service.

F. Penalties

If there is a violation of this chapter, the City is entitled to enforce the following penalties in addition to or in conjunction with any other penalty available under this code, in law, or in equity.

- (1) Development Standards. The final plat may not be recorded, and no zoning permits may be issued if the required improvements are not completed as required by this code, or the final plat, construction drawings, and related specifications.
- (2) Whenever construction and installation of required improvements are not accomplished in accordance with the requirements of this code, or the final plat, construction drawings, and related specifications, the Director of Public Service may foreclose on the any of the outstanding financial guarantees, as may be applicable.
- (3) If, in the opinion of the City, installations are improper or inadequate, a stop order will be issued. Failure to comply with the inspector will be deemed a violation of this chapter subject to the penalty set forth in Chapter 1102.18 Violations, Remedies, and Fees.

SECTION 110.09 RIPARIAN SETBACKS

A. Purpose.

- (1) The City of Tallmadge has determined that the system of streams within the City contributes to the health, safety, and general welfare of the residents of the City. The purpose of this chapter is to protect and preserve the water quality within streams of the City and to protect residents of the City from property loss and damage because of flooding and other impacts of the stream. The City will implement this chapter by controlling uses and developments within a riparian setback that would impair the ability of the riparian area to:

- i. Reduce flood impacts by absorbing peak flows, slowing the velocity of flood waters and regulating base flow.
- ii. Stabilize the banks of streams to reduce bank erosion and the downstream transport of sediments eroded from stream banks.
- iii. Reduce pollutants in streams during periods of high flows by filtering, settling, and transforming pollutants already present in streams or in runoff before they enter streams.
- iv. Provide areas for natural meandering and lateral movement of stream channels.
- v. Reduce the presence of aquatic nuisance species to maintain diverse and connected riparian vegetation.
- vi. Provide high quality stream habitats with shade and food to a wide array of wildlife by maintaining diverse and connected riparian vegetation.
- vii. Benefit the City economically by minimizing encroachment on stream channels and reducing the need for costly engineering solutions such as dams and riprap, to protect structures and reduce property damage and threats to the safety of watershed residents, and by contributing to the scenic beauty and to the environment of the City, the quality of life of the residents of the City, and corresponding property values.

(2) This chapter has been enacted to protect these services of riparian areas by providing reasonable controls governing structures and uses in riparian setbacks.

B. Compliance and Violations.

- (1) No preliminary plan or zoning approvals shall be issued by the City without full compliance with the terms of these regulations where applicable.
- (2) Any person or organization who violates this Chapter shall be guilty of a minor misdemeanor and, upon conviction, shall be subject to punishment as provided in Chapter 1102 of the Codified Ordinances of the City, and shall be required to restore the riparian setback through a plan approved by the appropriate Soil and Water Conservation District (SWCD).
- (3) The imposition of any other penalties provided herein shall not preclude the City from instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this Chapter or other applicable laws, ordinances, rules, or regulations, or the orders of the City.

C. Conflicts with other Regulations and Severability.

- (1) Where this chapter imposes a greater restriction upon land than is imposed or required by any other provision of law, regulation, contract, or deed, the provisions of this chapter shall control.
- (2) These regulations shall not limit or restrict the application of other provisions of law, regulation, contract, or deed, or the legal remedies available thereunder, except as provided in division (1) of this section.
- (3) If any clause, section, or provision of these regulations is declared invalid or unconstitutional by a court of competent jurisdiction, validity of the remainder shall not be affected.

D. Establishment of a Riparian Setback.

- (1) Riparian setbacks are established as provided in this chapter.
- (2) Streams addressed by this chapter are those which meet the definition of “stream” in Appendix A.5. and are indicated on at least one of the following maps:

- i. USGS topographical map.
 - ii. Applicable County Riparian Setback Map.
 - iii. Soils maps located in the Soil Survey for, as applicable, Summit or Portage County, Ohio, USDA, NRCS.
 - iv. City of Tallmadge Riparian Setback Map is on file in the Zoning Department.
- (3) Widths of setbacks are measured as horizontal map distance outward from the ordinary high water mark on each side of a stream, and are established as follows:
- i. A minimum of 300 feet on each side of all streams draining an area greater than 300 square miles.
 - ii. A minimum of 100 feet on each side of all streams draining an area greater than 20 square miles and up to 300 square miles.
 - iii. A minimum of 75 feet on each side of all streams draining an area greater than 0.5 square mile (320 acres) and up to 20 square miles.
 - iv. A minimum of 50 feet on each side of all streams draining an area greater than 0.05 square mile (32 acres) and up to 0.5 square mile (320 acres).
 - v. A minimum of 30 feet on each side of all streams draining an area less than 0.05 square mile (32 acres).
- (4) The following are exempt from the terms and protection of this chapter: grassy swales, roadside ditches, drainage ditches created at the time of a subdivision to convey storm water to another system, tile drainage systems, and stream culverts.
- (5) The following shall apply to the riparian setback:
- i. Where the 100-year floodplain is wider than the riparian setback on either or both sides of the stream, the riparian setback shall be extended to the outer edge of the 100-year floodplain. The 100-year floodplain shall be defined by FEMA and subject to review and approval by the City Engineer.
 - ii. Because the gradient of the riparian corridor significantly influences impacts on the stream, the following adjustment for steep slopes will be integrated into the riparian setback formulae for width determination:

(a)	Average Percent Slope	Width of Setback
(b)	15% to 20%	Add 25 feet
(c)	21% to 25%	Add 50 feet
(d)	>25%	Add 100 feet
 - iii. Average stream bank slope is to be calculated using methodology outlined in “The Ohio Supplement to Urban Hydrology for Small Watersheds, Technical Release Number 55 (TR-55)” by USDA, NRCS.
 - iv. Where wetlands protected under Federal or State law are identified within the riparian setback, the riparian setback shall consist of the full extent of the wetlands plus the following additional setback widths:
 - (a) A 50-foot setback extending beyond the outer boundary of a Category 3 wetlands.
 - (b) A 30-foot setback extending beyond the outer boundary of a Category 2 wetlands.
 - (c) No additional setback will be required adjacent to Category 1 wetlands.

- v. Wetlands shall be delineated by a qualified professional under guidelines established by the U.S. Army Corps of Engineers and Ohio Environmental Protection Agency and the delineation approved by the appropriate agencies. All wetland delineations shall also include the latest version of the Ohio Rapid Assessment Method for wetland evaluation approved at the time of application of these regulations.
- vi. The applicant shall be responsible for delineating the riparian setback, including any expansions or modifications as required by subsections ii. through v. hereof, and identifying this setback on all subdivisions, land development plans, and/or building permit applications. This delineation shall be done at the time of application of the preliminary plans, or all plans that are required, or at the time of submission of any permit applications. This delineation shall be subject to review and approval by the applicable SWCD. As the result of this review, the SWCD may require further studies from the applicant.
- vii. Prior to any soil-disturbing activity, the riparian setback shall be clearly delineated with construction fencing or other suitable material by the applicant on site, and such delineation shall be maintained throughout soil- disturbing activities. The delineated area shall be maintained in an undisturbed state unless otherwise permitted by these regulations. All fencing shall be removed when a development project is completed.
- viii. No approvals or permits shall be issued by the City prior to delineation of the riparian setback in conformance with these regulations.
- ix. Upon completion of an approved subdivision, planned residential development, or other land development, the riparian setback shall be permanently recorded on the plat records for the City.

E. Uses Permitted.

- (1) The following uses are permitted by right within the riparian setbacks without prior approval:
 - i. Open space uses. Open space uses that are passive in character shall be permitted in the riparian setback, including but not limited to those listed in divisions (a)(2) through (4) of this section. No use permitted under these regulations shall be construed as allowing trespass on privately-held lands. Alteration of this natural area is strictly limited. Except as otherwise provided in these regulations, the riparian setback shall be preserved in its natural state.
 - ii. Recreational activity. Passive recreational uses, as permitted by Federal, State, and local laws, such as hiking, non-motorized bicycling, fishing, hunting, picnicking and similar uses and associated structures, including boardwalks, pathways constructed of pervious material, picnic tables, and wildlife viewing areas.
 - iii. Removal of damaged or diseased trees. Damaged or diseased trees may be removed. Because of the potential for felled logs and branches to damage downstream properties and/or block ditches or otherwise exacerbate flooding, logs and branches resulting from the removal of damaged or diseased trees that are greater than 6 inches in diameter shall be anchored to the shore or removed from the 100-year floodplain.
 - iv. Revegetation and/or reforestation. The revegetation and/or reforestation of the riparian setback shall be allowed without approval of the appropriate SWCD. Species of shrubs and vines recommended for stabilizing flood- prone areas along streams within the City are listed in the Appendix.
- (2) The following uses are permitted by right within the riparian setbacks with prior approval of the design.
 - i. Stream bank stabilization/erosion control measures. Best management practices (BMPs) for stream

bank stabilization or erosion control may be allowed if such practices are within permitted uses by the local, State and Federal government regulations and are ecologically compatible and emphasize the use of natural materials and native plant species where practical and available. Such stream bank stabilization/erosion control practices shall only be undertaken upon approval of a Storm Water Pollution Prevention Plan (SWPPP or SW3P) by the SWCD.

- ii. Crossings. In reviewing plans for stream crossings, the City may confer with the SWCD, the Ohio Department of Natural Resources, Division of Natural Areas; the Ohio Environmental Protection Agency, Division of Surface Water; the County Engineer; the Department of Environmental Services of the County; the County Health Department or other technical experts as necessary.
 - (a) Limited crossings of designated streams through the riparian setback by vehicles, storm sewers, sewer and/or water lines and public utility lines will be per the approval of local, County, and State governing agencies and as a part of the regular zoning review process.
 - (b) One driveway crossing per stream per tax parcel will be allowed for individual landowners.
 - (c) Roadway crossings for major and minor subdivisions, open space subdivisions, or any other non-single family residential use shall be designed and constructed per the City Development Standards and as approved by the City Planning and Zoning Commission. If more than two crossings per 1,000 linear feet of stream center are required for these areas, the applicant must apply for a variance.
 - (d) All roadway crossings shall be perpendicular to the stream flow and shall minimize disturbance to the riparian setback and shall mitigate any necessary disturbances.
- iii. Placement of storm water retention or detention facilities may be considered within the riparian setback if:
 - (a) Storm water quality treatment that is consistent with current State standards is incorporated into the basin.
 - (b) The storm water quality treatment basin is located at least 50 feet from the ordinary high water mark of the stream.
- iv. Dredging may be permitted, provided the City or property owner obtains all necessary permits that may be required, and notification and presentation of the plan are provided to the City Engineer for review and approval.

F. Uses Prohibited.

- (1) The following uses are specifically prohibited within the riparian setback:
 - i. Construction. There shall be no structures of any kind, except as permitted under these regulations.
 - ii. Dredging or Dumping. There shall be no drilling for petroleum or mineral products, mining activity, filling or dredging of soil, spoils, or any material (natural or man-made) except as permitted under these regulations.
 - iii. Roads or Driveways. There shall be no roads or driveways, except as permitted under these regulations.
 - iv. Motorized Vehicles. There shall be no use of motorized vehicles of any kind, except as permitted under these regulations.
 - v. Modification of Natural Vegetation. Modification of the natural vegetation shall be limited to conservation maintenance that the landowner deems necessary to control noxious weeds; for such

plantings as are consistent with these regulations; for such disturbances as are approved under these regulations; and for the passive enjoyment, access and maintenance of landscaping or lawns existing at the time of passage of these regulations. Nothing in this section shall be construed as requiring a landowner to plant or undertake any other activities in the riparian setback, provided the landowner allows for natural succession.

- vi. Parking Lots. There shall be no parking lots or other human made impervious cover, except as permitted under these regulations.
- vii. New Surface and/or Subsurface Sewage Disposal or Treatment Area. Riparian setbacks shall not be used for the disposal or treatment of sewage except for:
 - (a) Undeveloped parcels that have received site evaluation approval and/or permit approval prior to the enactment of this chapter.
 - (b) Dwellings served by disposal/treatment systems existing at the time of passage of these regulations when such systems are properly sited (approved site evaluation) and permitted or in accordance with the County Health Department and/or the Ohio Environmental Protection Agency. Existing failing systems which are located within the riparian setback can be upgraded with approval of the County Health Department and/or the Ohio Environmental Protection Agency.
 - (c) Sanitary sewer systems, either public or private, that may need to be sited along riparian corridors to provide for flows and are commensurate with an approved sanitary system approved by the Ohio Environmental Protection Agency.

G. Nonconforming Structures or Uses.

- (1) Structures and uses within the riparian setback, existing at the time of passage of these regulations, that are not permitted under these regulations may be continued but shall not be expanded except as set forth in this chapter.
- (2) If damaged or destroyed, these structures or uses may be repaired or restored in accordance with existing zoning regulations within two years from the date of damage/destruction or the adoption of these regulations, whichever is later, at the property owners' own risk.
- (3) A residential structure or use within the riparian setback existing at the time of passage of these regulations may be expanded subject to the following provisions:
 - i. The expansion conforms to existing zoning regulations.
 - ii. The expansion must not impact the stream channel or the 100-year floodplain.
 - iii. The expansion must not exceed an area of fifteen percent (15%) of the total footprint of existing structure or use that lies within the riparian setback. Expansions exceeding fifteen percent (15%) of the total footprint within the riparian setback must be obtained through the variance process.

H. Nonresidential structure or use expansions will be permitted only through the variance process.

I. Boundary Interpretation and Appeals Procedure.

- (1) When an applicant disputes the boundary of the riparian setback or the ordinary high water mark of a stream, the applicant shall submit evidence to the Building and Zoning Department and applicable SWCD that describes the boundary, presents the applicant's proposed boundary, and presents all justification for the proposed boundary change.

- (2) The City Engineer and applicable SWCD shall evaluate all materials submitted and shall make a written recommendation to the Planning and Zoning Commission within a reasonable period of time, not to exceed sixty days. A copy of this recommendation shall be submitted to the applicant. If during this evaluation the City or SWCD requires further information to complete this evaluation, the applicant may be required to provide additional information.
- (3) The Planning and Zoning Commission shall decide such boundary disputes. The party contesting the location of the riparian setback or the ordinary high water mark of the streams as determined by these regulations shall have the burden of proof in case of any such appeal.

J. Variances within Riparian Setback.

- (1) Applications for a hearing before the Planning and Zoning Commission for variances to the provisions of this chapter shall be submitted to the Planning and Zoning Department.
- (2) The Planning and Zoning Commission may consult with representatives from the applicable SWCD; the Ohio Department of Natural Resources, Division of Natural Areas; the Ohio Environmental Protection Agency, Division of Surface Water; the County Engineer; the applicable Department of Environmental Services of the County; the County Health Department; or other technical experts as necessary to provide the necessary data for the Planning and Zoning Commission to consider variance requests.
- (3) Expansions of residential structures or uses exceeding fifteen percent (15%) of the footprint area and expansions of all nonresidential structures or uses are subject to the following:
 - i. The expansion conforms to the existing zoning regulations.
 - ii. The expansion must not impact the stream channel or the 100-year floodplain.
 - iii. The expansion of a nonresidential structure or use must not affect upstream or downstream hydrologic conditions which could cause damage from flooding or stream bank erosion to landowners in those areas. A hydrologic study must be completed by nonresidential applicants only as a process of the variance application.
 - iv. The expansion of a nonresidential structure or use will not exceed twenty-five percent (25%) of the footprint area. The twenty-five percent (25%) expansion limit is per the portion of the structure or use that lies within the riparian setback.
- (4) Requests for variances for subdivisions or planned residential developments (PRD) will be considered for the following:
 - i. An additional stream crossing or crossings for a subdivision, PRD, or open space development which is necessary for the health, welfare, and safety of the residents of the subdivision.
 - ii. A reduction of the setback width, not to exceed ten percent (10%) of the prescribed riparian setback width.
- (5) No variances shall be granted for expansion of the following structures or uses:
 - i. Facilities which use, store, distribute, or sell petroleum-based products or any hazardous materials. Such facilities include, but are not limited to asphalt plants, dry cleaners, gasoline service stations, and road maintenance facilities.
 - ii. Facilities which use, store, distribute, or sell products which may contribute higher than acceptable concentrations of dissolved or particulate matter to storm water runoff around the facility. Such facilities include, but are not limited to landfills or transfer stations, junk yards, recycling facilities, quarries and borrow pits, sand and gravel extraction operations and road salt storage barns.

- (6) In reviewing whether to grant variances, the Planning and Zoning Commission shall consider the following:
 - i. The extent to which the requested variance impairs the functions of the riparian area. This determination shall be based on sufficient technical and scientific evidence as provided by the applicant and the agencies listed in subsections 1 through 5 hereof.
 - ii. The soil type and natural vegetation of the parcel as well as the percentage of the parcel that is in the 100-year floodplain.
 - iii. The degree of hardship these regulations place on the applicant and the availability of alternatives to the proposed activity.

K. Inspection.

- (1) The riparian setback shall be inspected by the applicable SWCD:
 - i. When a preliminary subdivision plat or other land development plan is submitted to the City.
 - ii. When a building or zoning permit is requested.
 - iii. Prior to any soil-disturbing activity to inspect the delineation of the riparian setback as required under these regulations.
- (2) The riparian setback shall also be inspected annually or as time permits by the SWCD or approved monitoring entity for compliance with any approvals under these regulations or at any time evidence is brought to the attention of the SWCD that uses or structures are occurring that may reasonably be expected to violate the provisions of these regulations.
- (3) Violations of these regulations will be handled as noted in Section 1102.

L. Appendix: Woody Plants Suitable for Riparian Area

FLOOD TOLERANCE*	SHADE TOLERANCE **	COMMON NAME
HIGH FLOOD TOLERANCE*		
Aronia arbutifolia	3	Red chokeberry
Aronia melanocarpa	3	Black chokeberry
Cephalanthus occidentalis	5	Common buttonbush
Clethra alnifolia	2	Summersweet clethra ***
Cornus amomum	4	Silky dogwood
Cornus stolonifera (sericea)	5	Redosier dogwood
Hamamelis vernalis	3	Vernal witchhazel ***
Ilex decidua	3	Possumhaw ***
Ilex glabra	2	Inkberry ***
Ilex verticillata	3	Common winterberry
Itea virginica	1	Virginia sweetspire ***
Magnolia virginiana	2	Sweetbay magnolia ***
Myrica pensylvanica	4	Northern bayberry
Physocarpus opulifolius	4	Common ninebark
Potentilla fruticosa	4	Bush cinquefoil
Sambucus canadensis	1	American elderberry

FLOOD TOLERANCE*	SHADE TOLERANCE **	COMMON NAME
Salix x cotteti	5	Bankers willow ***
Salix exigua	5	Sandbar willow
Salix purpurea	5	Streamco willow ***
Viburnum cassinoides	2	Witherod viburnum
Parthenocissus quinquefolia	1	Virginia creeper (vine)
MODERATE FLOOD TOLERANCE*		
Calycanthus floridus	1	Common sweetshrub
Hypericum kalmianurn	5	Kalm St. John's wort
Viburnum dentatum	2	Arrowwood viburnum
Xanthorhiza simplicissima	1	Yellowroot ***
INTERMEDIATE FLOOD TOLERANCE*		
Aesculus parviflora	2	Bottlebush buckeye ***
Aesculus pavia	2	Red buckeye ***
Cornus racemosa	2	Gray dogwood
Lindera benzoin	1	Common spicebush
Rosa setigera	4	Prairie rose
Campsis radicans	3	Trumpetcreeper (vine)
Lonicera dioica	2	Limber honeysuckle (vine)
Corylus americana	2	American filbert
Diervilla lonicera	1	Dwarf bushhoneysuckle
Fothergilla gardeni	1	Dwarf fothergilla ***
Fothergilla major	1	Large fothergilla ***
Hydrangea arborescens	1	Smooth hydrangea
Hydrangea quericifolia	1	Oakleaf hydrangea ***
Mahonia aquifolium	1	Oregongrape holly ***
Rosa carolina	4	Carolina rose
Rubus odoratus	1	Fragrant thimbleberry
Vaccinium stamineum	2	Common deerberry
LOW FLOOD TOLERANCE*		
Arctostaphylos uva-ursi	4	Bearberry
Cornus rogersii	1	Roundleaf dogwood
Corylus americana	2	American filbert
Diervilla lonicera	1	Dwarf bushhoneysuckle
Fothergilla gardeni	1	Dwarf fothergilla ***
Fothergilla major	1	Large fothergilla ***
Hydrangea arborescens	1	Smooth hydrangea
Hydrangea quericifolia	1	Oakleaf hydrangea ***
Mahonia aquifolium	1	Oregongrape holly ***
Rosa carolina	4	Carolina rose
Rubus odoratus	1	Fragrant thimbleberry
Symphoricarpos albus	1	Common snowberry

FLOOD TOLERANCE*	SHADE TOLERANCE **	COMMON NAME
Vaccinium stamineum	2	Common deerberry
NO FLOOD TOLERANCE*		
Amorpha canescens	5	Leadplant ***
Ceanothus americanus	3	New Jersey tea
Comptonia peregrina	2	Sweetfern
Dirca palustris	1	Leatherwood
Hypericum frondosum	5	Golden St. John's wort
Juniperus communis	5	Common juniper
Juniperus horizontalis	5	Creeping juniper ***
Rhus aromatica	5	Fragrant sumac
Sambucus pubens	1	Scarlet elder
Symphoricarpos albus	1	Common snowberry

KEY	
*High Flood Tolerance:	Generally lowland wet species surviving when flooded or exposed to high water table more than 40% of the growing season.
*Moderate Flood Tolerance:	Generally lowland wet species surviving when flooded or exposed to high water table more than 30% of the growing season but less than 40%.
*Intermediate Flood Tolerance:	Generally lowland wet-mesic species surviving occasional inundation or elevated water table between 20% and 30% of the growing season.
*Low Flood Tolerance:	Generally upland mesic and mesic-dry species rarely inundated or exposed to an elevated water table for periods of short duration, between 5% and 20% of the growing season.
*No Flood Tolerance:	Generally upland dry species exhibiting immediate and rapid decline frequently culminating in death if inundated or exposed to elevated water table for more than 5% of the growing season.
**Shade Tolerance:	Shade tolerance means able to grow in a state of health and vigor beneath dense shade. In this ranking, shrubs and vines are ranked on a scale of 1 to 5, with 1 being very shade tolerant, and 5 being very shade intolerant.
Notes:	
1. The majority of plants listed are available on the local commercial market and do not displace native species.	
2. The cultivated varieties ("cultivars") of the species listed above may also be used.	
3. Primary information taken from Hightshoe, Gary, 1987. Native Trees, Shrubs, and vines for Urban and Rural America. Van Nostrand. NY, NY.	
4. For further assistance contact Roger Gettig, Landscape Consulting Program, The Holden Arboretum, or Steve Roloson, ODNR Scenic Rivers Program.	

SECTION 1110.10 FLOOD DAMAGE CONTROL

A. General Provisions.

Statutory Authorization. Article XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, the Council of the City of Tallmadge, State of Ohio, does ordain as follows:

- (1) Findings of Fact. The City of Tallmadge has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.
- (2) Statement of Purpose. It is the purpose of these regulations to promote the public health, safety and general welfare, and to:
 - i. Protect human life and health;
 - ii. Minimize expenditure of public money for costly flood control projects;
 - iii. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - iv. Minimize prolonged business interruptions;
 - v. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
 - vi. Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
 - vii. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
 - viii. Minimize the impact of development on adjacent properties within and near floodprone areas;
 - ix. Ensure that the flood storage and conveyance functions of the floodplain are maintained;
 - x. Minimize the impact of development on the natural, beneficial values of the floodplain;
 - xi. Prevent floodplain uses that are either hazardous or environmentally incompatible; and
 - xii. Meet community participation requirements of the National Flood Insurance Program.
- (3) Methods of Reducing Flood Loss. In order to accomplish its purposes, these regulations include methods and provisions for:
 - i. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
 - ii. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - iii. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

- iv. Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
 - v. Preventing or regulating the construction of flood barriers, which will unnaturally divert flood waters or which may increase flood hazards in other areas.
- (4) Lands to Which These Regulations Apply. These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Tallmadge, including any additional areas of special flood hazard annexed by the City of Tallmadge.
- (5) Basis for Establishing the Areas of Special Flood Hazard. For the purposes of these regulations, the following studies and/or maps are adopted:
- i. Flood Insurance Study (FIS) Summit County, Ohio and incorporated areas and flood insurance Rate Map (FIRM) Summit County, Ohio and incorporated Areas both effective July 20, 2009.
 - ii. Other studies and/or maps, which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard.
 - iii. Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by the City of Tallmadge.
 - iv. Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the office of the Clerk of Council of the City of Tallmadge, 46 North Avenue, Tallmadge, Ohio 44278.
- (6) Abrogation and Greater Restrictions. These regulations are not intended to repeal any existing ordinances including Subdivision Regulations, Zoning or Building Codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. These regulations shall not impair any deed restriction covenant or easement but the land subject to such interests shall also be governed by these regulations.
- (7) Interpretation. In the interpretation and application of these regulations, all provisions shall be:
- i. Considered as minimum requirements;
 - ii. Liberally construed in favor of the governing body; and,
 - iii. Deemed neither to limit nor repeal any other powers granted under state statutes. Where a provision of these regulations may be in conflict with a state or Federal law, such state or Federal law shall take precedence over these regulations.
 - (a) Warning and Disclaimer of Liability. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man made or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the City of Tallmadge, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.
- (8) Severability. Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

B. Administration.

- (1) Designation of the Floodplain Administrator. The City Engineer is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.
- (2) Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:
 - i. Evaluate applications for permits to develop in special flood hazard areas.
 - ii. Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
 - iii. Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance.
 - iv. Inspect buildings and lands to determine whether any violations of these regulations have been committed.
 - v. Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances, and records of enforcement actions taken for violations of these regulations.
 - vi. Enforce the provisions of these regulations.
 - vii. Provide information, testimony, or other evidence as needed during variance hearings.
 - viii. Coordinate map maintenance activities and FEMA follow-up.
 - ix. Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.
- (3) Floodplain Development Permits. It shall be unlawful for any person to begin construction or other development activity including but not limited to filling; grading; construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in this chapter, until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.
- (4) Application Required. An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:
 - i. Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

- ii. Elevation of the existing, natural ground where structures are proposed.
 - iii. Elevation of the lowest floor, including basement, of all proposed structures.
 - iv. Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.
 - v. Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:
 - (a) Floodproofing certification for non-residential floodproofed structure.
 - (b) Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of this chapter are designed to automatically equalize hydrostatic flood forces.
 - (c) Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances.
 - (d) A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway.
 - (e) A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway.
 - (f) Generation of base flood elevation(s) for subdivision and large-scale developments.
 - vi. A floodplain development permit application fee set by the schedule of fees adopted by the City Council of the City of Tallmadge.
- (5) Review and Approval of a Floodplain Development Permit Application.
- i. Review.
 - (a) After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all required information under this Chapter has been received by the Floodplain Administrator.
 - (b) The Floodplain Administrator shall review all floodplain development permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under the Rivers and Harbors Act and the Clean Water Act, and the Ohio Environmental Protection Agency under the Clean Water Act.
 - ii. Approval. Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If an application is approved, a floodplain development permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work within one (1) year. A floodplain development permit shall expire one (1) year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.
- (6) Inspections. The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

- (7) Post-Construction Certifications Required. The following as-built certifications are required after a floodplain development permit has been issued:
- i. For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.
 - ii. For all development activities subject to this chapter, a Letter of Map Revision.
- (8) Revoking a Floodplain Development Permit. A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Appeals Board.
- (9) Exemption from Filing a Development Permit. An application for a floodplain development permit shall not be required for:
- i. Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than five thousand dollars (\$5,000).
 - ii. Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code.
 - iii. Major utility facilities permitted by the Ohio Power Siting Board under the Ohio Revised Code.
 - iv. Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under the Ohio Revised Code.
 - v. Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 - Floodplain Management.
 - vi. Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of these regulations.
- (10) Map Maintenance Activities. To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City of Tallmadge flood maps, studies and other data accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:
- i. Requirement to submit new technical data.
 - (a) For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
 - 1) Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - 2) Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 - 3) Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and

- 4) Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with this chapter.
- (b) It is the responsibility of the applicant to have all technical data prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- (c) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
 - 1) Proposed floodway encroachments that increase the base flood elevation; and
 - 2) Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
- (d) Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to this chapter.
- ii. Right to submit new technical data. The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Director of Public Service and the Mayor of the City of Tallmadge, and may be submitted at any time.
- iii. Annexation/Detachment. Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Tallmadge have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Tallmadge's Flood Insurance Rate Map accurately represents the City of Tallmadge boundaries, include within such notification a copy of a map of the City of Tallmadge suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Tallmadge has assumed or relinquished floodplain management regulatory authority.
- (11) Data Use and Flood Map Interpretation. The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:
 - i. In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.
 - ii. Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.
 - iii. When Preliminary Flood Insurance Rate Maps and/or Flood Insurance Study have been provided by FEMA:
 - (a) Upon the issuance of a Letter of Final Determination by the FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations.

- (b) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.
 - iv. The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation.
 - v. Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, etc.) shall prevail.
- (12) Substantial Damage Determinations. Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, etc. After such a damage event, the Floodplain Administrator shall:
- i. Determine whether damaged structures are located in special flood hazard areas;
 - ii. Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
 - iii. Make a reasonable attempt to notify owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims.

C. Use and Development Standards for Flood Hazard Reduction.

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area:

- (1) Use Regulations.
 - i. Permitted Uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by the City of Tallmadge are allowed provided they meet the provisions of these regulations.
 - ii. Prohibited Uses.
 - (a) Private water supply systems in all special flood hazard areas identified by FEMA.
 - (b) Infectious waste treatment facilities in all special flood hazard areas.
- (2) Water and Wastewater Systems. The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:
 - i. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;
 - ii. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

- iii. On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.
- (3) Subdivisions and Large Developments.
- i. All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
 - ii. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - iii. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 - iv. In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.
 - v. The applicant shall submit the technical data required under this chapter to FEMA when a hydrologic and hydraulic analysis is completed that generates base flood elevations.
- (4) Residential Structures.
- i. New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring and construction materials resistant to flood damage are satisfied.
 - ii. New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.
 - iii. New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - iv. New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. In Zone AO areas with no elevations specified, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.
 - v. New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters may have an enclosure below the lowest floor provided the enclosure meets the following standards:
 - (a) Be used only for the parking of vehicles, building access, or storage; and
 - (b) Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
 - (c) Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being

no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- vi. Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
 - vii. Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of this section.
 - viii. In AO Zones, new construction and substantial improvement shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.
- (5) Nonresidential Structures.
- i. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of the preceding subsection 4 excluding paragraph iv.
 - ii. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:
 - (a) Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;
 - (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - (c) Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with the applicable requirements of this chapter.
 - iii. In Zone AO areas with no elevations specified, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.
- (6) Accessory Structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards:
- i. They shall not be used for human habitation;
 - ii. They shall be constructed of flood resistant materials;
 - iii. They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
 - iv. They shall be firmly anchored to prevent flotation;
 - v. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
 - vi. They shall meet the opening requirements of Section 1110.10 C (4) v. (c).

- (7) Recreational Vehicles. Recreational vehicles must meet at least one of the following standards:
 - i. They shall not be located on sites in special flood hazard areas for more than 180 days, or
 - ii. They must be fully licensed and ready for highway use, or
 - iii. They must meet all standards of Section 1110.10 C (4).
- (8) Above Ground Gas or Liquid Storage Tanks. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.
- (9) Assurance of Flood Carrying Capacity. Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:
 - i. Development in Floodways.
 - (a) In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
 - (b) Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - 1) Meet the requirements to submit technical data required by this chapter;
 - 2) An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
 - 3) Certification that no structures are located in areas that would be impacted by the increased base flood elevation;
 - 4) Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
 - 5) Concurrence of the Director of Public Service and the Mayor of the City of Tallmadge and the Chief Executive or other appropriate officer of any other communities impacted by the proposed actions.
 - ii. Development in Riverine Areas with Base Flood Elevations but No Floodways.
 - (a) In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than 1.0 (one) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,
 - (b) Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:

- 1) An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;
 - 2) Compliance with Section 1110.10 C (9) i. (b), items 1. and 3.-5.
- iii. Alterations of a Watercourse. For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the “bankfull stage.” The field determination of “bankfull stage” shall be based on methods presented in Chapter 7 of the USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:
- (a) The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.
 - (b) Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
 - (c) The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with the City of Tallmadge specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
 - (d) The applicant shall meet the requirements to submit technical data required by this chapter when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

D. Appeals and Variances.

(1) Appeals Board Established.

- i. Pursuant to Article XII of the Tallmadge Charter, the Board of Zoning Appeals shall hear all appeals and variances from this Chapter.
- ii. All meetings of the Appeals Board shall be open to the public except that the Board may deliberate in executive sessions as part of quasi-judicial hearings in accordance with law. The Appeals Board shall keep minutes of its proceedings showing the vote of each member upon each question and shall keep records of all official actions. Records of the Appeals Board shall be kept and filed in the Office of the Planning and Zoning Department of the City of Tallmadge.

(2) Powers and Duties.

- i. The Appeals Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.
- ii. Authorize variances in accordance with this Chapter.

- (3) Appeals. Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within thirty (30) days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing on form(s) provided by the City together with payment of the required fee pursuant to Chapter 1137, signed by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board.

Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

- (4) Variances. Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Appeals Board shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.
- i. Application for a Variance.
 - (a) Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance shall transmit it to the Appeals Board.
 - (b) Such application shall be on a form provided by the City and at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.
 - (c) All applications for a variance shall be accompanied by a variance application fee set in the schedule of fees adopted by the City Council of the City of Tallmadge.
 - ii. Public Hearing. At such hearing the applicant shall present such statements and evidence as the Appeals Board requires. In considering such variance applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:
 - (a) The danger that materials may be swept onto other lands to the injury of others.
 - (b) The danger to life and property due to flooding or erosion damage.
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (d) The importance of the services provided by the proposed facility to the community.
 - (e) The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
 - (f) The necessity to the facility of a waterfront location, where applicable.
 - (g) The compatibility of the proposed use with existing and anticipated development.

- (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- iii. Variances shall be granted upon a finding of:
- (a) Good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant;
 - (c) A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws;
 - (d) A determination that the structure or other development is protected by methods to minimize flood damages; and
 - (e) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon consideration of the above factors and the purposes of these regulations, the Appeals Board may attach such conditions to the granting of variances, as it deems necessary to further the purposes of these regulations.

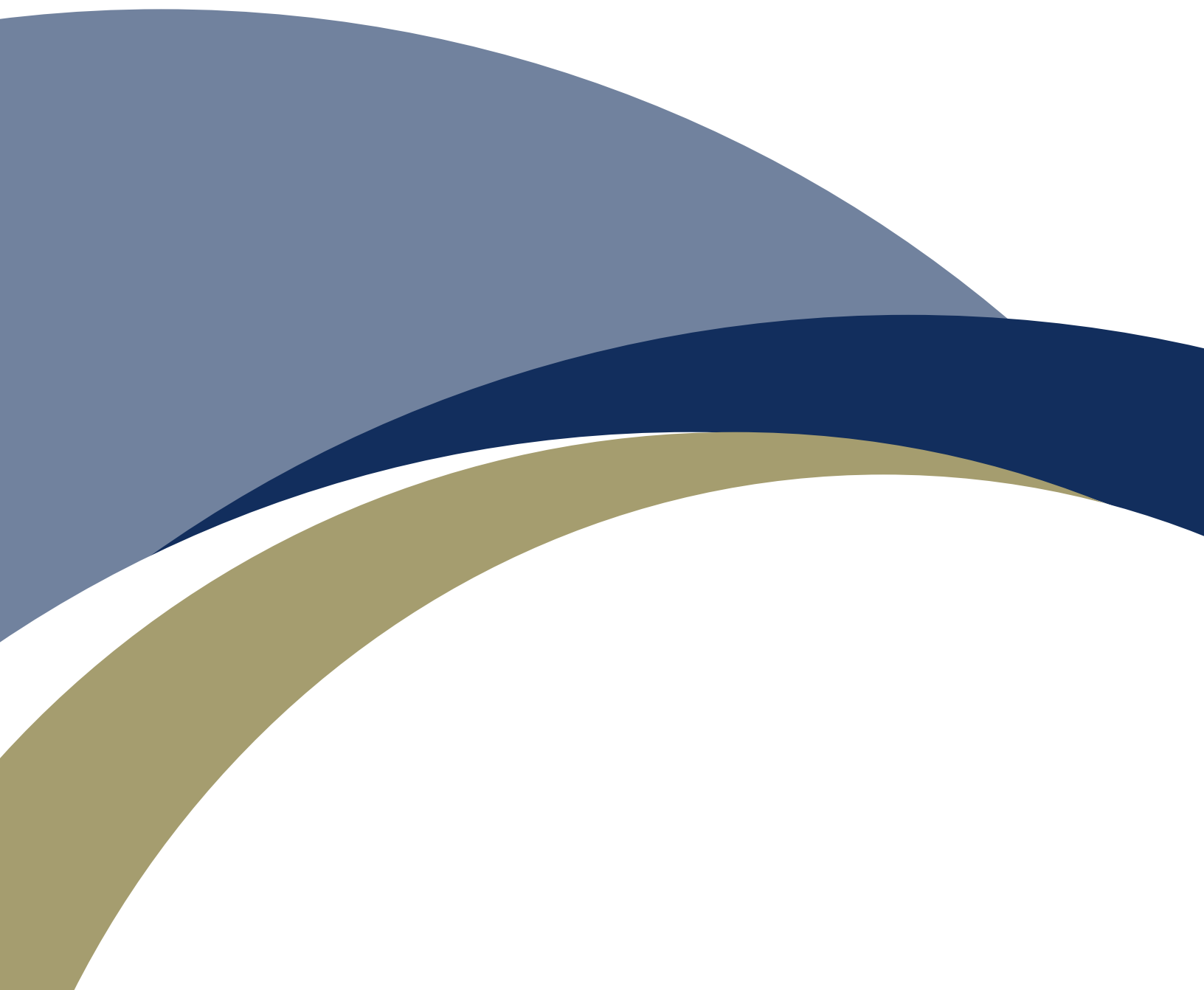
- iv. Other Conditions for Variances.
- (a) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - (b) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in Section 1110.10E.(4)ii. have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
 - (c) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (5) Procedure at Hearings.
- i. All testimony shall be given under oath.
 - ii. A complete record of the proceedings shall be kept, except confidential deliberations of the Board, but including all documents presented and a verbatim record of the testimony of all witnesses.

- iii. The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.
 - iv. The Administrator may present evidence or testimony in opposition to the appeal or variance.
 - v. All witnesses shall be subject to cross-examination by the adverse party or their counsel.
 - vi. Evidence that is not admitted may be proffered and shall become part of the record for appeal.
 - vii. The Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.
 - viii. The Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing.
- (6) Appeal to the Court. Those aggrieved by the decision of the Appeals Board may appeal such decision to the Summit County or Portage County Court of Common Pleas as appropriate, as provided in Chapter 2506 of the Ohio Revised Code.

E. Enforcement.

- (1) Compliance Required.
- i. No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless expressly exempted under this chapter from filing for a development permit.
 - ii. Failure to obtain a floodplain development permit shall be a violation of these regulations.
 - iii. Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations.
- (2) Notice of Violation. Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, he shall give notice of such violation to the person responsible therefor, including but not limited to the property owner, operator, agent, applicant, or other person, and order compliance with these regulations as hereinafter provided. Such notice and order shall:
- i. Be put in writing on an appropriate form;
 - ii. Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action, which, if taken, will effect compliance with the provisions of these regulations;
 - iii. Specify a reasonable time for performance;
 - iv. Advise the person of the right to appeal;
 - v. Service shall be made in person or by certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the property affected.
- (3) Violations and Penalties. Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a fourth degree misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements

shall upon conviction thereof be fined and/or incarcerated as provided by the laws of the City of Tallmadge. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Tallmadge from taking such other lawful action as is necessary to prevent or remedy any violation.



Appendix A

Glossary of Terms



Appendix A

GLOSSARY OF TERMS

A.1 RULES OF CONSTRUCTION AND INTERPRETATION

A.1.1. Intent

All provisions, terms, phrases, and expressions contained in this code shall be construed according to this code's stated purpose and intent.

A.1.2. 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 to be exhaustive lists of all possibilities.

A.1.3. References to Other Regulations, Publications, and Documents

Whenever reference is made to an ordinance, resolution, statute, regulation, or document, that reference shall be construed as referring to the most recent edition of such regulation (as amended), resolution, statute, or document or to the relevant successor document, unless otherwise expressly stated.

A.1.4. Public Officials and Agencies

All public officials, bodies, and agencies to which references are made are those of the City of Tallmadge, Ohio, unless otherwise expressly stated.

A.1.5. 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.

A.1.6. Technical Words

Technical words and phrases not otherwise defined in this code that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

A.1.7. Mandatory and Discretionary Terms

The word "shall" is always mandatory, and the words "may" or "should" are always permissive.

A.1.8. 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.
- B. "Or" indicates that one or more of the connected items, conditions, provisions, or events shall apply.

A.1.9. 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.

A.1.10. Gender

The masculine shall include the feminine, and vice versa.

A.1.11. Meaning

For the purpose of this code, words and phrases shall have the meanings set forth in this chapter.

A.1.12. Other Terms Not Defined

Words and phrases not otherwise defined in this code shall be construed according to the common and approved usage of American English.

A.2 GENERAL DEFINITIONS**A.****A.2.1. Abandoned.**

The designation given to the lack of building activity or progress towards achieving the scope of work defined in both the zoning certificate and building permit. This does not apply to construction activities that are suspended due to extended illness, building contractors' labor strike, known industry shortage of construction material used in the project, time of war and natural calamities.

A.2.2. Abbreviated Storm Water Pollution Prevention Plan (SWP3).

The written document that sets forth the plans and practices to be used to meet the requirements of this Chapter if requested for project less than one (1) acre in size.

A.2.3. Abutting, Adjoining, or Adjacent.

The land, lot, or property adjoining the property in question along a lot line or separated only by an alley, easement, or street.

A.2.4. Access.

Any driveway or other point of entry and/or exit onto or from a street, road, or thoroughfare, which connects to the general street system.

A.2.5. Accessibility Ramps.

Permanent or portable ramps utilized to provide a disable person with accessibility to a structure.

A.2.6. Accessory Structure.

A structure or appurtenance, including but not limited to a shed, carport, detached garage, deck or breezeway, on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

A.2.7. Active Recreational Uses.

Any park or recreational facility that is owned or operated by a government or non-profit agency, which requires grading of the land, construction of facilities, lighting, or is developed for athletic fields, tennis courts, swimming pools, skate parks, disc golf, golf course and other similar outdoor facilities.

A.2.8. Addition.

Any act or process that changes one or more of the exterior architectural features of a building or structure by adding to, joining with, or increasing the size, height, or capacity of the building or structure.

A.2.9. Agriculture.

Farming; ranching; algaculture meaning the farming of alga; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including but, not limited to, the care and raising of livestock, equine and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod or mushrooms; timber; pasturage; any combination of the foregoing; and the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production.

A.2.10. Agricultural Processing and Storage.

Facilities for the processing, treating, and storing of agricultural products including produce and animal products.

A.2.11. Alley.

A dedicated public right-of-way, other than a street that affords a secondary means of access to abutting property.

A.2.12. Alteration.

- A. As generally applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.
- B. As applied to a building in the Design Control Overlay District or a Recognized Heritage Structure, the general definition in (a), above, and also includes any act or process that changes one or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction, addition, sandblasting, water blasting, chemical cleaning, chemical stopping, or removal of any structure, but not including changes to the color of exterior paint.

A.2.13. Animal Care.

- A. General Services. A facility providing grooming, daycare, boarding, and training for household pets.
- B. Veterinary Offices. A facility for medical, dental, or other health services related to the diagnosis and treatment of animals' illnesses, injuries, and physical ailments, but not including crematory services.
- C. Veterinary Urgent Care and Animal Hospitals. A facility utilized for the diagnosis and treatment and for emergency care for the treatment of animal illnesses, injuries, or physical ailments, may include the short-term boarding incidental to the clinical use, but not including crematory services.
- D. Kennel. Any lot or premises on which, for profit, four or more domesticated animals more than four months of age are housed, groomed, bred, boarded, trained, sold, or which offers provisions for minor medical treatment.

A.2.14. Amusement Arcade.

Any place of business where three or more amusement devices are located for the use or entertainment of persons patronizing the place of business.

A.2.15. Amusement Arcade, Adult

Adult arcade shall mean any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-

producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing specified sexual activities or specified anatomical areas. See also “Sexually Oriented Business.”

A.2.16. Antique Shop.

Any premises used for the retail sale or trading of articles of which eighty percent (80%) or more are over thirty (30) years old or have collectible value. Antique shop does not include a thrift or second-hand store.

A.2.17. Apiculture.

The cultivation of bees for purposes of producing honey, pollination services queen breeding programs, or other products of the hive.

A.2.18. Appeal.

A review procedure by which a person may call into question an administrative decision made in accordance with this code. See Section 1102.16.

A.2.19. Applicant.

The record owner, representative, or party in interest of the real property.

A.2.20. Architect.

A person registered to engage in the practice of architecture under the laws of the State of Ohio.

A.2.21. Assembly/Event Center.

An establishment providing meeting space for social gatherings, including but not limited to wedding receptions, graduations parties and business or retirement functions. This term includes, but is not limited to, a banquet hall or rental hall.

A.2.22. Auction Facility.

a typically enclosed place or establishment conducted or operated for compensation or profit as a private or public market where items are offered for sale through competitive bidding.

A.2.23. Automotive - Sales and Leasing.

Any building or land used for the display, sale or rental, but not auctioning, of new or used motor vehicles in operable condition. This use type is intended to be for the sale or long-term lease (one-year or longer) of typical passenger vehicles including, but not limited to, cars, passenger trucks, and motorcycles.

A.2.24. Automotive - Car Wash.

A facility for the washing or cleaning of vehicles comprised of one or more bays each designed to accommodate one or more vehicles and equipped with high pressure hoses and related equipment.

A.2.25. Automotive Filling Station.

Any building, land or area used or intended to be used for the retail dispensing or sales of vehicular fuels and including as an accessory use convenience retail sales and the sale and installation of lubricants, tires, batteries, and similar accessories.

A.2.26. Automotive – Service, Heavy.

Any general repair, rebuilding, reconditioning, body or fender work, framework, painting or the replacement of major parts of motor vehicles (e.g., major engine repair) and trailers.

A.2.27. Automotive - Service, Light.

Any structure or premises used for dispensing or sale of automotive vehicle lubricants, including lubrication of motor vehicles and replacements or installation of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair, or spray painting. Repairs and uses described under “automotive repair (heavy)” shall not be permitted.

A.2.28. Awning.

A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework.

B.

A.2.29. Basement

A “story” partially below the level of the finished grade. When a basement floor is less than two feet below the average finished grade, it will be rated as the first story or ground floor.

A.2.30. Bed and Breakfast Establishment.

An owner-occupied residential single-family, detached structure wherein lodging and breakfast only are provided to transient guests for compensation.

A.2.31. Beverage - Alcoholic Production.

Production of alcoholic beverages made on premises and then sold or distributed off-site either by wholesale or retail.

A.2.32. Beverage – Brewing and Distilling.

An establishment that brews 15,000 or more barrels (of ales, beers, meads, spirits, and/or similar beverages annually on the premises and then sold or distributed and may include on-premises consumption. The brewer may sell to a retailer or directly to a customer.

A.2.33. Beverage – Brewpub.

An establishment which produces less than 5,000 barrels annually on-premises of alcoholic beverages, including beers, ales, meads, hard ciders and wines with ancillary activities to include on-site consumption and contains kitchen facilities for consumption of food and beverages. The establishment may include other uses such as a tasting room.

A.2.34. Beverage – Distribution.

A facility for storage and wholesale distribution of alcoholic beverages which excludes direct to consumer retail sales.

A.2.35. Beverage - Microbrewery, Microdistillery, or Microwinery.

An establishment engaged in the production and distribution of less than 15,000 barrels on-premises of beer, ale, wine or spirituous liquors. The establishment may include other uses such as a tasting room or table service restaurant.

A.2.36. Beverage – Non-Alcoholic Production.

Small-scale production of non-alcoholic beverages made on the premises and then sold or distributed. The producer may sell to a retailer or directly to a customer.

A.2.37. Beverage Sales – Liquor and Beer Sit Down/Bar Establishment; Wine-bar.

A venue primarily devoted to serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

A.2.38. Bike and Skateboard Ramps.

An accessory structure utilized for recreational purposes related to bicycle and skateboard use.

A.2.39. Breezeway.

A covered passageway open at both ends which connects two buildings or two portions of a building and is included in the accumulative square footage of accessory structures.

A.2.40. Building.

A permanently located structure having a roof, built or occupied as a shelter or enclosure for persons, animals, or property, and when separated by a fire wall, each such separate portion of such structure shall be deemed a separate building.

A.2.41. Building Height.

The vertical dimension measured from the average elevation of the finished lot grade at the front of the building, to the highest point of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and ridge of a gable, hip, or gambrel roof.

A.2.42. Building Line.

A line defining the minimum front, side and rear land requirements in which no building or structure may be located.

C.

A.2.43. Canopy.

A covering of canvas on a framework or similar construction sheltering an area or forming a sheltered walk to the entrance of a building.

A.2.44. Carport.

A covered automobile parking space not completely enclosed by walls or doors. For the purposes of this Zoning Code, a carport shall be subject to all the regulations prescribed in this Zoning Code for a private garage.

A.2.45. Cemeteries.

Land used for the burial of the dead and dedicated for cemetery purposes, including columbaria, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

A.2.46. Certificate of Appropriateness.

A certificate issued by the Tallmadge Heritage Commission indicating its approval of plans for alteration, construction, removal, or demolition of a structure, landmark, place, façade, district, fixture, or natural object for a structure and related property designated as a Recognized Heritage Structure.

A.2.47. Chief Building Official.

The Summit County Building Inspector, or his or her designee.

A.2.48. Child Day-Care Center.

See "Day Care"

A.2.49. City.

The City of Tallmadge, Ohio.

A.2.50. City Council.

The City Council of the City of Tallmadge, Ohio.

A.2.51. City Engineer.

A person or firm designated by the City as engineer who is authorized to practice engineering in the State of Ohio.

A.2.52. Clothing Services—Dry Cleaners.

A facility where garments are cleaned by the employees of the business for patrons, who are mostly individuals.

A.2.53. Club.

An association of persons who are bona fide members paying regular dues, organized for some common non-profit purpose but not including groups organized primarily to render a service which is customarily carried on as a business.

A.2.54. Comprehensive Plan.

The Comprehensive Plan of the City, as amended from time to time. The current, adopted long-range plan intended to guide the growth and development of the City, based on study and analysis of the City's existing conditions, including population and housing, historic and natural features, general land use patterns and zoning regulations, and other development considerations.

A.2.55. Commercial recreational facilities, excluding amusement arcades.

See "Recreational Facilities"

A.2.56. Community Garden.

A site operated and maintained by an individual or group to cultivate trees, herbs, fruits, vegetables, flowers, or other ornamental foliage for the following uses: personal use/consumption, donation or offsite sale of items grown on the site means a site operated and maintained by an individual or group to cultivate trees, herbs, fruits, vegetables, flowers, or other ornamental foliage for the following uses: personal use/consumption, donation or sale of items grown on the site.

A.2.57. Construction

The erection of a new structure, a new site element, or any additions to existing structures.

A.2.58. Contractor Services.

Activities involving the construction industry by a licensed individual (e.g. painting, electric, HVAC, plumbing, general construction, etc.).

A.2.59. Convalescent care facility.

See "Nursing Facilities"

A.2.60. County.

Either Summit County or Portage County, Ohio. County specifically excludes any and all contractors, agents or other Persons acting on behalf of said County.

A.2.61. County Soil and Water Conservation District.

See A.3 "Soil and Water Conservation District (SWCD)"

A.2.62. Court.

An unoccupied space on a lot other than a yard, designed to be partially surrounded by group dwellings.

A.2.63. Culvert.

A transverse drain that channels under a bridge, street or driveway.

D.

A.2.64. Data Processing/Call Center.

A facility containing equipment for telecommunications or data processing/storage including switches, routers, operation centers, and other infrastructure critical for telecommunication companies, internet servers, data firms, fiber-optic cable, and other technology providers.

A.2.65. Day Care.

A building or structure where care, protection and supervision are provided on a regular schedule, for a fee, at least twice a week, to at least five (5) persons at one time, including any relation of the day care provider.

A.2.66. Demolition.

Any act or process that destroys in part or in whole a building or a structure.

A.2.67. Density.

The number of families residing on, or dwelling units developed on an acre of land.

A.2.68. Department of Public Service.

The Department of Public Service of the City.

A.2.69. Design Guidelines.

Detailed guidelines and specifications promulgated by the City to establish the framework and set a vision for a desired development in these zoning regulations.

A.2.70. Development.

The improvement of a tract or parcel of land, which results in an alteration of land or vegetation.

A.2.71. Development Area.

A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.

A.2.72. Diameter at Breast Height (DBH).

The diameter of the tree as measured at four and a half (4½) feet above grade. If a tree splits into multiple trunks below four and a half (4½) feet above grade, the trunk is measured at its most narrow point below the split.

A.2.73. Dining Establishments serving Alcoholic Beverages.

See Food Service – Full-Service Restaurant

A.2.74. Director of Finance.

The duly elected Director of Finance, or his/her designee.

A.2.75. Director of Law

The duly elected Director of Law, or his/her designee.

A.2.76. Director of Public Service.

The duly appointed Director of the Department of Public Service, or his/her designee.

A.2.77. District.

A section of the City for which zoning regulations governing the use of land and buildings, the height of buildings, the sizes of yards and the intensity of uses are uniform. Boundaries of the districts are shown on the Zoning Map.

A.2.78. Drainage.

- A. The area of land contributing surface water to a specific point; or
- B. The removal of excess surface water or groundwater from land by surface or subsurface drains.

A.2.79. Drive-in Establishment.

Any building, structure or portion thereof from which business is transacted, or is capable of being transacted, directly with customers who are located in a motor vehicle during such transactions. It includes drive-in theatres food establishments. It is not a Drive-through window.

A.2.80. Drive-Through Window.

A structure or building feature, including but not limited to a service window, automated device, or other equipment that is designed to provide sales and service to patrons who remain in their motor vehicles, including associated driveways and driving aisles by which patrons reach the structure or building feature.

A.2.81. Dwelling.

Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more families, but not including a tent, cabin, trailer or trailer coach, bed and breakfast establishment, hotel/motel, or mobile home.

A.2.82. Dwelling – Accessory Dwelling Unit (Single-Family Flat).

An attached or detached dwelling unit, located on a single parcel with a principal structure, which provides comprehensive facilities for one (1) or more persons, including facilities for living, sleeping, cooking, dining, and bathing.

A.2.83. Dwelling – Assisted.

A residential facility for elderly persons (age 60 or older) and their spouses, or for persons having such disabilities as to require assistance with daily living tasks, as suggested by their physician. The facility contains four or more dwelling units and/or rooming units, and provides, through on-site personnel, such exclusive resident services as meal preparation, laundry services and room cleaning.

A.2.84. Dwelling – Attached Single-Family.

A building consisting of three or more dwelling units, each with independent ground-floor exterior access and each with no less than two exterior walls. This type of dwelling includes condominiums and townhouses.

A.2.85. Dwelling – Detached Single-Family.

A building designed for or occupied by one family or housekeeping unit.

A.2.86. Dwelling – Multi-Family.

A structure on a single lot containing three (3) to eight (8) dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

A.2.87. Dwelling – Multi-Family Complex.

A structure on a single lot containing greater than eight dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

A.2.88. Dwelling – Two-Family.

A building on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

A.2.89. Dwelling Unit

A room or a suite of rooms operated as a housekeeping unit, used or intended to be used as a domicile by one or more persons and supporting general living conditions usually including cooking, eating, sleeping, and sanitary facilities.

E.

A.2.90. Easement.

A right granted by a written instrument from one owner of land to another for use of a specified portion of the grantor's real property for a specific purpose or purposes as set forth in an easement agreement.

A.2.91. Educational Institutions.

Public or private primary schools, secondary schools or colleges, universities, vocational and technical, trade or business means an institution of higher education providing curricula of a general, religious, or professional nature, typically granting recognized degrees. This classification includes business and computer schools, management training, technical vocational and trade schools, but excludes personal instructional services.

A.2.92. Emergency.

A reasonably unforeseen occurrence with a potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action.

A.2.93. Elevation (of a Building).

The front, rear or side exterior surface of a building as viewed in a flat scale drawing.

A.2.94. Engineer.

Any engineer licensed by the State of Ohio State Board of Registration for Professional Engineers.

A.2.95. Equipment Repair.

Businesses primarily engaged in renting or leasing machinery and equipment for use in business or industrial operations. These establishments typically cater to a business clientele and do not generally operate a retail-like or store-front facility. Examples including the leasing of heavy equipment, office furniture or equipment, or off-highway transportation equipment.

A.2.96. Essential Service.

The erection, construction, alteration or maintenance by public utilities or municipal departments, or commissions of underground or overhead gas, electrical, steam, or water transmission or distribution system, collections, communications, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduit, cables, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions, or for the public health, or safety, or general welfare.

A.2.97. Event Center- Barn.

A former agricultural building, such as a barn or shed, that is rented by individuals or groups to accommodate private functions including, but not limited to, banquets, weddings, anniversaries and other similar celebrations. Such a use may or may not include: 1) kitchen facilities for the preparation or catering of food; 2) the sale of alcoholic beverages for on-premises consumption, only during scheduled events and not open to the general public; and 3) outdoor gardens or reception.

A.2.98. Event Center- Private Events and Conferences.

A facility that accommodates small-scale events, conferences, or weddings and has a capacity less than five hundred (500) people.

A.2.99. Event Center- Public Meetings and Conventions.

A facility that accommodates medium- to large-scale events, conferences, and conventions and has a capacity of equal to or greater than five hundred (500) people.

A.2.100. Exercise and Fitness.

A facility or area providing opportunities for exercise or fitness for the general public or members of an organization, including but not limited to health or exercise rooms and swimming pools, when accessory to a principal use of the property.

F.

A.2.101. Façade.

The exterior walls of a building or building face exposed to public view; the exterior face of a building which gives it a distinctive character.

A.2.102. Façade, Front.

The façade of a building that contains the primary entrance of the building.

A.2.103. Façade, Primary

A primary façade shall be deemed a façade that faces directly onto a public street.

A.2.104. Façade, Secondary.

A secondary façade shall be deemed a façade that does not face directly onto a public street.

A.2.105. Family.

One or more persons occupying a premise and living as a single housekeeping unit, whether or not related to each other by birth or marriage and maintaining and using the same and certain other housekeeping facilities in common.

A.2.106. Farm Market.

An occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages dispensed from booths located on-site.

A.2.107. Fence or Wall.

Any structure composed of wood, steel, iron, masonry, stone, plastic, vinyl, or other material erected in such a manner and positioned as to enclose or partially enclose any property or any part of any property. Structures erected other than on lot lines or in close proximity to lot lines, which have solely an ornamental purpose and which do not in fact serve the purpose of enclosing or partially enclosing property or of separating property from adjoining property, shall not be included within the definition of the word “fences” or “walls”.

A.2.108. Fence, Barbed Wire.

A fence made with metal wire having sharp points, razors, or barbs along its length.

A.2.109. Fence, Chain Link.

A fence made of metal loops, which may or may not be vinyl clad, interconnected in a series of joined links.

A.2.110. Fence, Electrified.

All fences or structures, included or attached to any device or object which emits or produces an electrical charge, impulse or shock when the same comes into contact with any other object, person or animal or which causes or may cause burns to any person or animal. This shall not include “fence, invisible” as defined in this chapter.

A.2.111. Fence, Invisible.

An electrical fence, buried underground, used to retain animals on-site.

A.2.112. Fence, Ornamental

A fence constructed for its beauty or decorative effect and when viewed at a right angle, has not less than 75 percent of the area of its vertical plane, the area within a rectangular outline enclosing all parts of the fence in its plane, open to light and air. Ornamental fences include:

- A. Rail fence or split-rail fence means a fence constructed of narrow, whole or split, wooden timbers placed horizontally between upright supporting posts; and
- B. Wrought iron fences, decorative steel fences, and aluminum fences.

A.2.113. Final Plat.

See "Plat, Final"

A.2.114. Financial Institution.

Any building, property or activity of which the principal use or purpose of which is the provision of financial services including but not limited to banks, facilities for automated teller machines (ATM's), credit unions, savings and loan companies, and mortgage companies.

A.2.115. Flag.

Any fabric or other flexible material attached to or designed to be flown from a flagpole or similar device

A.2.116. Floor Area, Gross.

The sum of the gross horizontal areas of all floors of a building, measured from the exterior faces of the exterior walls of a building or from the center line of a common wall separating two or more units of a building, including accessory storage areas located within selling or working space, but not including space in cellars or basements, space in machinery penthouses or floor space used for accessory off-street parking. However, if the cellar or basement is used for business or commercial activities related to the principal use but not including storage, it shall be counted as floor area in computing off-street parking requirements.

A.2.117. Food Sales – Bakery.

An establishment primarily engaged in the retail sale of baked products for consumption off site. The products may be prepared either on or off site. Such use may include incidental food service.

A.2.118. Food Sales - Large Format Grocery.

A retail establishment which primarily sells food, but also may sell other convenience and household goods, and which occupies at least ten thousand (10,000) square feet. A section for fresh fruits and vegetables no less than forty (40) square feet must be visible within the retail area of the establishment.

A.2.119. Food Sales- Small Format Grocery.

A retail establishment of less than ten thousand (10,000) square feet engaged in selling food stuffs containing only the incidental sale of retail home goods. A section for fresh fruits and vegetables no less than twenty (20) square feet must be visible with the retail area of the establishment.

A.2.120. Food Service – Production.

An establishment for the small-scale production of a finished food product for consumption off-site through retail or wholesale sales. It may not produce odors, fumes or noise that is discernable from the exterior of the structure. Outdoor storage is not permitted.

A.2.121. Food Service – Processing.

Manufacturing establishments processing foods for human consumption and certain related products. Includes: (1) bakery products, sugar and confectionery products (except facilities that produce goods only for on-site sales with no wider distribution); (2) dairy products processing; (3) fats and oil products (not including rendering plants); (4) fruit and vegetable canning, preserving, and related processing; (5) grain mill products and by-products; (6) meat, poultry, and seafood canning, curing, and byproduct processing (not including facilities that also slaughter animals); and (7) miscellaneous food preparation from raw products, including catering services that are independent from food stores or restaurants.

A.2.122. Food Service – Full-Service Restaurant.

An establishment where the principal business is the sale and service of unpackaged food and beverages in a ready-to-consume state where (1) fermented malt beverages, malt, special malt, and vinous and spirituous liquors may be served, (2) the minimum sales attributable to food is sixty-five percent (65%), (3) there is no service to a customer in an automobile, and (4) the design or principal method of operation is a sit down establishment where customers, normally provided with an individual menu, are generally served food and beverages in non-disposable containers by an establishment employee at the same table or counter at which the food and beverages are consumed.

A.2.123. Food Service - Fast Food.

An establishment whose principal business is the sale of prepared or rapidly prepared food, in disposable containers and without table service, directly to the customer in a ready-to-consume state.

A.2.124. Food Service - Fast Casual Restaurant.

A self-service food service establishment whereby meals are served at a faster rate than a full-service restaurant, and food offerings are more extensive in variety than a fast-food restaurant.

A.2.125. Footcandle.

A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one standard candle.

A.2.126. Fraction or Fraction Thereof.

Thereof where a calculation required by this code results in a fraction, the fraction shall be rounded to the closest whole number. Any fraction one-half or less shall rounded down and any fraction over one-half (#.5) shall be rounded up to the next highest whole number.

A.2.127. Frontage.

See the definition of “frontage, street or lot.”

A.2.128. Frontage, Building.

The length of an enclosed building facing a public or private street. When a business does not front a public right-of-way the Zoning Administrator shall have the authority to designate the building frontage. In structures with more than one business, the frontage of each business shall be calculated separately in determining its sign area

A.2.129. Frontage, Street or Lot.

The distance between the side lot lines measured along the front lot line. In the case of a corner lot, frontage shall be measured along the primary front lot line, the primary front line being the one with the main entry. Property lines which abut limited access roads shall not be construed to be included within any calculation of frontage.

A.2.130. Funeral Homes and Mortuaries.

Any dwelling or establishment used and occupied by a professional licensed mortician for human burial preparation and funeral services.

G.

A.2.131. Gallery – Art.

An establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art. This classification does not include libraries, museums, or non-commercial art galleries.

A.2.132. Garden Center – Indoor and Outdoor.

A place of business where retail and wholesale products and produce are sold to the consumer. These centers, which may include a nursery and/or greenhouse, import most of the items sold, and may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils. For the purposes of this code, it is treated as a retail use.

A.2.133. Garage, Private.

An accessory building or an accessory portion of the main building, enclosed on all sides and designed or used for the shelter or storage of passenger vehicles and located on the same lot as the dwelling to which it is accessory.

A.2.134. Garage, Public.

A building, other than a private garage, enclosed on all sides and used for the care, repair or equipping of automobiles, or where such vehicles are kept for hire or sale or are stored.

A.2.135. Garage/Yard Sales.

Sales by residents of used or surplus personal possessions including, but not limited to all sales entitled garage, yard, lawn, basement, attic, porch, room, tent, backyard, patio, or moving. This term shall include garage sales, lawn sales, attic sales, rummage sales or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large can be made aware of such sale.

A.2.136. Glare.

Direct light that causes annoyance, discomfort or loss in visual performance and visibility.

A.2.137. General Development Plan (GDP).

a concept plan with the general development criteria as enumerated in Section 1110

A.2.138. Government owned buildings and facilities.

Property that is owned by the City of Tallmadge or any agency of the state or federal government.

A.2.139. Grade.

The average level of the finished surface of the ground adjacent to the sign, building, or other structure being measured.

A.2.140. Grading.

The stripping, cutting, filling or stockpiling, or any combination thereof of earth-disturbing activity, inclusive of land in its cut or filled conditions.

A.2.141. Grass.

A species of perennial grass grown as permanent lawns or for landscape purposes.

A.2.142. Gravel Surface Parking Lots.

Temporary parking lots paved with gravel that may be utilized on a temporary basis while a site is under construction.

A.2.143. Green Infrastructure.

Stormwater management techniques that use natural systems or engineered systems that mimic natural process.

A.2.144. Greenhouses and Nurseries.

An establishment used for the growing, storage, and sale of legal garden plants, shrubs, trees, or vines for retail or wholesale sales. Greenhouses and nurseries that are part of a larger agricultural use shall be considered accessory to the principal agricultural use of the land. This term does not include a garden supply or landscaping center that may be accessory to another principal use.

A.2.145. Ground Cover.

A plant growing less than two feet in height at maturity that is grown for ornamental purposes. Ground covers are used as an alternative to grasses. On slopes, ground covers control erosion while eliminating the maintenance of mowing on hillsides. Ground covers also provide permanent covering of open ground to prevent erosion and/or create visual appeal

A.2.146. Guiding Plans.

The Comprehensive Plan, the Thoroughfare and such other plans as City Council may adopt from time to time to inform the development land within the City.

H.

A.2.147. Hedge.

A barrier of natural vegetation usually consisting of evergreen trees, shrubs, or tall grasses that can be used to enclose, screen, or separate areas.

A.2.148. Heliport.

Any land area used by helicopters which, in addition, includes all necessary passenger and cargo facilities, maintenance and overhaul, fueling, service storage, tie-down areas, hangars, and other necessary buildings and open spaces.

A.2.149. Helistop.

Any landing area for the purpose of taking off or landing of private helicopters for the purpose of picking up and discharging passengers or cargo. This facility is not open to use by any helicopter without prior permission having been obtained from the city and all other local, state and federal agencies if required. The surface, in which a helicopter lands, is called a helipad.

A.2.150. Heritage Commission.

The Tallmadge Heritage Commission.

A.2.151. Historic Structure.

Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
- B. Certified or preliminarily determined by the U.S. Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office; or

D. Individually listed on the inventory of historic places maintained by City of Tallmadge's historic preservation program, at such time the program is certified by the Ohio Historic Preservation Office.

A.2.152. Home Occupation.

Any occupational profession, activity or use conducted entirely within a dwelling unit and carried on by persons residing in the dwelling unit which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and does not change the exterior of the property or affect the residential character of the neighborhood, as further described under Section 1103: Use Regulations.

A.2.153. Hospital.

An institution providing health services primarily for human in-patient medical/surgical care for the sick or injured and including related facilities such as laboratories. The use may also include out-patient departments, training facilities, central service facilities and staff offices that are an integral part of the facility and goes beyond general care typically administered within a doctor's office.

A.2.154. Hotel and Motel.

A place of transient occupancy which includes any structure consisting of one or more buildings containing any combination of more than five (5) guestrooms that are each approved by the Chief Building Official and the fire chief as meeting the requirements for transient sleeping rooms or extended stay temporary residence dwelling units, or as having features of such sleeping rooms and dwelling units within the same room, and such structure is specifically constructed, kept, used, maintained, advertised, and held out to the public to be a place where transient sleeping accommodations or temporary residence is offered for pay to persons. "Hotel" does not include agricultural labor camps, apartment houses, apartments or other similar places of permanent personal residence, lodging houses, rooming houses, or hospital or college dormitories.

A.2.155. Household.

A family living together in a single dwelling unit, with common access to and common use of all living and eating areas and all areas and facilities for the preparation and serving of food within the dwelling unit.

I.

A.2.156. Improvements.

Grading, draining, sanitary and storm sewers, water mains, pavement, curbs and gutters, sidewalks, street signs, streetlights, parks, monuments and the appropriate appurtenances required to render land suitable for the use proposed.

J.

A.2.157. Junk.

Old or scrap copper, brass, rope, gas, trash, waste, batteries, paper or rubber, junked, dismantled or wrecked, automobiles or parts thereof, iron, steel and other old or scrap ferrous or nonferrous materials.

K.

A.2.158. Kennel

See "Animal Care – Kennel"

L.

A.2.159. Laboratories and processing.

A facility that provides controlled conditions in which scientific or technological research, experiments, and measurement may be performed, or performs a series of mechanical or chemical operations on something in order to change or preserve it.

A.2.160. Landscape Architect.

A Professional Landscape Architect registered in the State of Ohio.

A.2.161. Landscape Material.

Materials such as, but not limited to, living trees, shrubs, vines, lawn grasses, ground cover, landscape water features and non-living, durable material commonly used in landscaping, including, but not limited to, rocks, pebbles, sand, decorative walls and fences, earthen mounds, but excluding pavements or surfaces for off- street parking facilities.

A.2.162. Landscaping.

The improvement of a lot, parcel, tract of land, or portion thereof, with grass, shrubs, and trees. Landscaping may include pedestrian walks, flower beds, trees, shrubs, and ornamental objects such as fountains, statuary, and other similar natural and artificial objects. In no case shall landscaping include the use of artificial plants or flowers as a replacement for living plant material unless such artificial plant closely resembles its natural counterpart in size, form, and color.

A.2.163. Live/work unit.

A structure or portion of a structure:

- A. That combines a commercial or manufacturing activity allowed in the zoning district with a residential living space for the owner of the commercial or manufacturing business, or the owner's employee, and that person's household;
- B. Where the resident owner or employee of the business is responsible for the commercial or manufacturing activity performed; and
- C. Where the commercial or manufacturing activity conducted takes place subject to a valid business license associated with the premises.

A.2.164. Loading Area.

An off-street space or berth for the loading or unloading of freight carriers on the same lot as the structure they serve.

A.2.165. Loading Space.

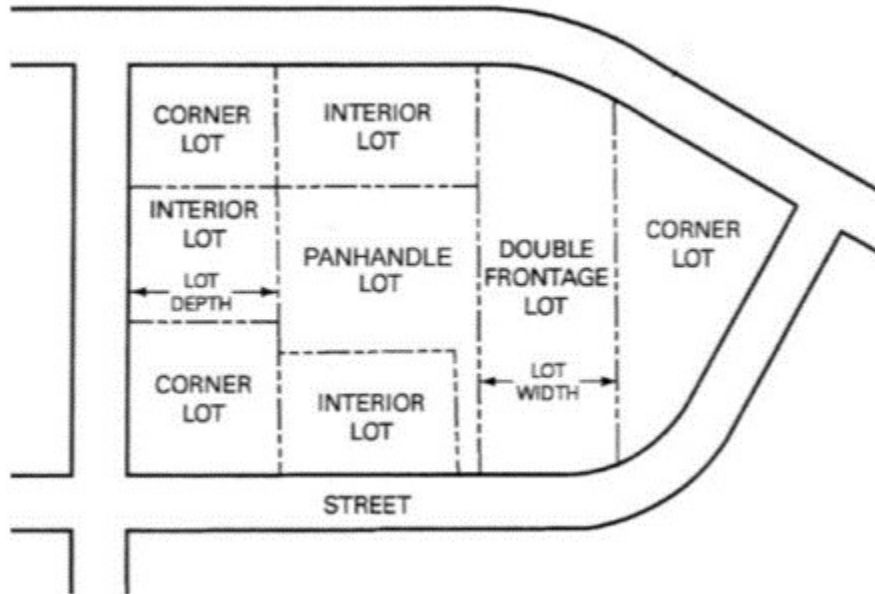
An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle or vehicles while loading or unloading merchandise or materials, and which abuts upon a street, alley, or other appropriate means of access.

A.2.166. Lodge.

A non-profit organization with its basic principal being benevolent fraternal, social, religious and/or patriotic, and which does not customarily render a service or perform a function usually carried on as a business.

A.2.167. Lot.

A parcel of land occupied or capable of being occupied by one or more buildings and the accessory buildings customarily incident to it, including such open spaces as are required by these regulations.



A.2.168. Lot Area, Net.

The total horizontal area included within the rear, side and front lot lines of the lot excluding any street or highway, whether dedicated or not dedicated to public use, but including off-street automobile parking areas and other accessory uses.

A.2.169. Lot, Corner.

A lot at the point of intersection of and abutting on two or more intersecting streets. The angle of intersection being not more than 135 degrees.

A.2.170. Lot Coverage.

That portion of a lot, which when viewed directly above, which would be covered by a building or structure, parking and loading areas and other surfaces that are impermeable or substantially impervious to water.

A.2.171. Lot, Depth of.

The mean distance from the right-of-way line of the street at the front of the lot to its opposite rear line measured in the general direction of the side lines of the lot. Where a major thoroughfare or collector thoroughfare is designated on the Land Use and Thoroughfare Plan then the lot depth shall be measured from the proposed right-of-way line of the designated major thoroughfare or collector thoroughfare. Where the right-of-way is not established, it shall be assumed to be sixty (60) feet.

A.2.172. Lot, Double Frontage.

A lot, other than a corner lot that abuts more than one street.

A.2.173. Lot, Front of.

An interior lot's frontage shall be a line separating the lot from the street. A corner lot's frontage shall be either street line separating the lot from the street.

A.2.174. Lot, Interior.

A lot other than a corner lot.

A.2.175. Lot, Lines.

The lines defining the boundaries of a lot.

A.2.176. Lot of Record.

A lot which is part of a subdivision, the plat of which has been recorded in the office of the Recorder of Summit County, or a lot described by metes and bounds, the deed to which has been recorded in the office of the Recorder of Summit County.

A.2.177. Lot, Width.

The width of a lot measured along the minimum front yard setback line.

M.

A.2.178. Makerspace.

A shared workspace comprised of individual workstations, located within a structure that provides access to education, resources, and hardware and tools to manufacture or craft small-scale works either independently or with the assistance of an instructor.

A.2.179. Major Tree.

Any tree measured with a diameter-at-breast height equal to or greater than six inches (6”).

A.2.180. Manufactured Home.

Any non-self-propelled vehicle transportable in one or more sections which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, and which bears a label certifying that it is built in compliance with Federal Manufactured Housing Construction and Safety Standards. The term “manufactured home” does not include a “recreational vehicle”.

A.2.181. Manufactured Home Park.

Any tract of land upon which three (3) or more manufactured homes used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three (3) or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.

A.2.182. Manufacturing.

The process of making or fabricating raw materials by hand, machinery or the combination thereof into finished parts or products.

A.2.183. Manufacturing – Artisan/Small-Batch.

A business primarily engaged in the on-site production of goods by hand manufacturing which involve the use of hand tools and small-scale equipment.

A.2.184. Marquee.

A permanent structure fastened entirely to the building and projecting from the wall above an entrance and extending over the street right-of-way to provide shelter for automobile passenger loading and unloading entrance.

A.2.185. Mayor.

The duly elected mayor of the City of Tallmadge, Ohio or his/ her designee.

A.2.186. Medical – Clinic.

A building containing offices organized as a unified facility to provide medical and/or dental treatment as contrasted with an unrelated group of such offices, but not including bed-patient care.

A.2.187. Medical – Emergency Services.

An establishment for the provision of emergency medical care, which includes emergency ambulance services, urgent care, and the subsequent inpatient medical care or outpatient services provided by an adjoining health care facility.

A.2.188. Medical – Office.

A building used exclusively by physicians, dentists, and similar personnel for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients shall be kept on the premises.

A.2.189. Minimum Building Setback Line.

A line parallel to the street right-of-way line at a distance therefrom equal to the required depth of the front yard and extending across the full width of the lot. Where the right-of-way line is not established it shall be assumed to be sixty (60) feet. Where a major thoroughfare or collector thoroughfare is designated on the Thoroughfare Plan the setback line shall be measured from the proposed right-of-way line.

A.2.190. Minimum Living Floor Area.

The living floor area and may consist of areas such as living room, bedroom, bathroom, dining room, rooms for cooking, den, library and family rooms, but shall not include areas such as porches, breezeways, terraces, utility rooms, garages, and basements.

A.2.191. Mixed-Use Building.

A building that contains two or more of the following major use types: residential, office, or retail.

A.2.192. Monument.

A permanent concrete or iron markers used to establish definitely all lines of the plat of a subdivision, including all lot corners, boundary line corners, and points of change in street alignment.

A.2.193. Motor Freight Garage.

A facility used for the purpose of storing and dispatching trucks and tractor trailers for transporting goods.

N.

A.2.194. Native Plant Species.

A plant species, other than noxious weeds, that are indigenous to the area and usually do not need human intervention to grow or reproduce.

A.2.195. Natural Succession.

A gradual and continuous replacement of one kind of plant and animal group by a more complex group. The plants and animals present in the initial group modify the environment through their life activities, thereby making it unfavorable for themselves. They are gradually replaced by a different group of plants and animals better adapted to the new environment.

A.2.196. Non-conforming Use.

See “Use, Non-Conforming”

A.2.197. Non-commercial recreation facility.

A business which is operated as a recreational enterprise, either publicly or privately owned, for nonprofit. Examples include, but are not limited to fishing areas, parks, archery ranges, etc.

A.2.198. Nursing Facility.

A facility operated and dedicated to the care of persons who cannot care for their own needs either partially or totally. This term includes nursing homes, skilled nursing facilities, convalescent homes, rehabilitation, special care facilities (e.g., Alzheimer Unit), assisted living facilities, adult day care facilities, independent living units such as patio homes, and other similar facilities.

O.

A.2.199. Office.

A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

A.2.200. Office, Flex.

A building designed to accommodate a combination of office, wholesale, and warehousing functions, the exact proportions of each use being subject to user needs

over time. Flex-space buildings are typically located in business or industrial parks, which usually have a footprint exceeding 10,000 square feet, and which are usually designed with loading docks to the rear and parking in the front. The front façade is often treated with a higher quality of architectural finish than the rear and sides.

A.2.201. Office – Industrial Office.

an architectural, engineering and related services including landscape architects; drafting services; consultant service providers in the building inspection, architectural, geophysical surveying and mapping, environmental, agricultural, motion picture, biology and life sciences, biotechnology, physics, chemistry, economics, energy, and engineering fields; medical, dental, and veterinary labs primarily engaged in providing testing services to practitioners; interior, industrial, and graphic design services; commercial photography studios; computer system, software, or internet content design services where all support occurs off-site; data processing and hosting services.

A.2.202. Off-Street public parking lot or garage.

See “Parking Garages” and “Parking Lot”

A.2.203. Open Space.

An area of land that is intended and used for environmental, scenic, or recreational purposes and which may include lawns, landscaping, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, and wooded areas. Open space shall not be deemed to include paved areas such as roads, driveways, or parking lots, and shall not be deemed to include spaces required for minimum yards. Open spaces may be public or private ownership.

A.2.204. Original Tract.

A contiguous quantity of land held in common ownership which has not been platted by the existing owner or owners.

A.2.205. Owner/Operator.

Any individual, firm, association, syndicate, co-partnership, corporation, trust, or other legal entity having sufficient

proprietary interest in real property to commence and maintain proceedings with respect to any land use approval sought hereunder or on the owner's behalf.

A.2.206. Outdoor Lighting.

Any source of light that is installed or mounted outside of an enclosed building or structure, but not including streetlights installed or maintained along public streets by a government agency or public utility.

A.2.207. Outdoor Storage.

The keeping, in an unroofed area, of any goods, junk, material, or merchandise in the same place for more than 24 hours.

A.2.208. Outdoor Storage and Bulk Sales.

A facility or lot used for the outdoor storage of materials and/or vehicles that are to be used for construction or for manufacturing processes and where such uses are the principal use of the lot. Such use may also include the sales of materials related to construction or manufacturing where the sales are direct to contractors or business and not open to the general public for retail sales. This use may also include the outdoor storage of fleet vehicles.

A.2.209. Outdoor Vending Machines and Drop-Off Boxes.

Vending machines are small machines that can accept money in return for the automatic dispensing of goods (e.g., drink machines, snack machines, video machines). Drop-off boxes are small collection facilities where recyclable materials, clothing, or household goods are accepted from the public (e.g., neighborhood recycling stations and thrift store collection boxes).

P.

A.2.210. Parapet or Parapet Wall.

A building façade that rises above the roof level, typically obscuring a gable or flat roof as well as any roof-mounted equipment.

A.2.211. Parcel.

A division of real property contained in a single legal description that is recorded in the official land records of the Recorder's office.

A.2.212. Parking Aisle.

The driveway or access drive by which a car enters and departs a parking space.

A.2.213. Parking Area.

An area designed for the parking of vehicles that includes parking spaces and any driveways or access drives specifically related to the parking spaces.

A.2.214. Parking Garages.

Structures used to provide parking spaces along with adequate drives and aisle, for maneuvering, so as to provide access for entrance and exit for the parking of more than two vehicles. This may be permitted as a principal use of the lot in accordance with Chapter 1104: Use Regulations

A.2.215. Parking Lots.

An outdoor area made up of marked parking spaces and associated access drives where motor vehicles may be stored for the purpose of temporary off-street parking. Also known as a parking area.

A.2.216. Parking Space.

An off-street space for the temporary parking of a vehicle for a period longer than required to load or unload persons or goods.

A.2.217. Patios (Unenclosed).

Uncovered, non-enclosed outdoor hard surfaced areas that are no higher than 18 inches above the ground and does not require a building permit for construction.

A.2.218. Pedestrian Walkway.

A dedicated public right-of-way limited to pedestrian use.

A.2.219. Person.

A firm, association, organization, partnership, trust, company or corporation as well as an individual.

A.2.220. Personal Services.

Activities conducted in an office, store or other place of business catering to the personal needs of a customer, such as normally conducted by a barber, beautician, tailor, dressmaker, doctor, attorney, architect, or a photocopy duplication center.

A.2.221. Planned Residential Development (PRD).

A residential development consisting of single-family detached and single-family attached residential units in a variety of densities and styles, supported by adequate public or private infrastructure and open space and implemented in accordance with an overall plan approved by the Commission and Council.

A.2.222. Planning and Zoning Commission.

The Planning and Zoning Commission of the City of Tallmadge.

A.2.223. Plat, Final.

A final tracing of all or a phase of a subdivision, a planned residential development, or other land development and its complete survey information.

A.2.224. Plat, Preliminary.

A drawing of a major subdivision, planned residential development, or other land development for the purpose of study and which, if approved, permits proceeding with the preparation of the final plat

A.2.225. Playsets, Treehouses, and Trampolines.

Recreational equipment for children that may include, but is not limited to, swings, slides, monkey bars, and play enclosures.

A.2.226. Porches and Decks.

An enclosed or unenclosed surface area attached to, or abutting, a building, that is not used for livable space but that is elevated above the ground, at its highest point, by at least 18 inches.

A.2.227. Poultry and Fowl.

A domesticated or wild, heavy-bodied, largely terrestrial bird including pheasants, turkeys, grouse, peacock, the common domestic chicken, and waterfowl such as ducks.

A.2.228. Project Boundary.

The boundary defining the tract(s) of land that is included in a proposed development to meet the minimum required project area for a planned development, multi-family development, or similar project. The term “project boundary” shall also mean “development boundary”.

A.2.229. Public.

Owned, operated or controlled by a public or governmental agency, either Federal, State, County, township or City, including a corporation created by law to perform certain specialized governmental functions.

A.2.230. Public Hearing.

An official meeting called by the City Council, the Planning & Zoning Commission, or the Board of Zoning Appeals, duly noticed, which is intended to inform and obtain public comment or testimony, prior to the governing body rendering a decision.

A.2.231. Public Improvements.

The term means street pavement or resurfacing, curbs, gutters, sidewalks, water lines, sewer lines, storm drains, streetlights, flood control and drainage facilities, utility lines, structures, landscaping, and other related matters normally associated with the subdivision of raw land into building sites.

A.2.232. Public Utility.

Any person, firm or corporation, governmental agency or board having a public utility commission permit to furnish to the public, under regulations, electricity, gas, sewer, water, telephone, transportation, steam or other similar public services.

Q.

R.

A.2.233. Raising of Small Livestock.

The noncommercial raising of chickens, rabbits, or other similarly small livestock on a lot used for residential purposes, as an accessory use.

A.2.234. Real Estate Sales/Model Homes.

A dwelling unit temporarily converted into a sales and display office or a temporary sales office established in a development or subdivision for the purpose of providing an example of the units in the development.

A.2.235. R.C.

The Ohio Revised Code.

A.2.236. Recognized Heritage Structures (RHS).

The structures with historical importance as recommended by the Tallmadge Heritage Commission and adopted by Tallmadge City Council.

A.2.237. Reconstruction.

The act or process of reproducing by new construction, the form and detail of a vanished building, structure, or object, or a part thereof, as it appeared at a specific period of time.

A.2.238. Recreation: Active Recreational Uses.

a structured individual or team activity that requires the use of special facilities, courses, fields, or equipment.

A.2.239. Recreation: Passive Recreational Uses.

recreational activities that do not require prepared facilities like sports fields or pavilions. Passive recreational activities place minimal stress on a site's resources; as a result, they can provide ecosystem service benefits and are highly compatible with natural resource protection.

A.2.240. Recreational Vehicle.

A vehicle type unit primarily designed as temporary living quarters for recreation, camping, or travel use only, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are boat, travel trailer, camping trailer, truck camper, and motor home.

A.2.241. Recreation Facility, Commercial Indoor.

Any land or facility privately operated as a business and open to the general public, for a fee, that may include indoor facilities such as, but not limited to fitness centers, racquetball, in-line skating, billiard parlors, bowling alleys, video amusement arcades, excluding adult-oriented.

A.2.242. Recreation Facility, Commercial Outdoor.

Any land or facility privately operated as a business and open to the general public, for a fee, that may include outdoor facilities such as, but not limited to miniature golf, batting cages, tennis courts, volleyball courts, athletic fields, golf courses, swimming pools, and campgrounds.

A.2.243. Recreation Facility, Non-commercial.

Any land or facility operated by a governmental agency or a non-profit organization and open to the general public or members of the non-profit organization with or without a fee that shall include, but is not limited to picnic areas, bike/hike trails, athletic fields, swimming pools.

A.2.244. Rehabilitation.

The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural and cultural values.

A.2.245. Religious Places of Worship.

A permanently located church, cathedral, synagogue, temple, mosque, or other place dedicated to religious worship. As part of its function it may include the following incidental and subordinate uses subject to applicable federal, state and local regulations: offices, residences for clergy, religious instruction, educational institutions, private and special schools, day care centers, emergency shelters, and community and recreational activities.

A.2.246. Relocation.

Any repositioning of a structure on its site or moving it to another site.

A.2.247. Renewable Energy Equipment, Wind.

Equipment for the collection of wind energy or its conversion to electrical energy or heat for use on the same property or for incidental sale to a utility when that equipment is accessory to a permitted or approved conditional use of the property. Includes both building mounted and ground mounted units. Ground mounted units have a foundation and are not dependent on a building for structural support.

A.2.248. Repair Services.

A building, lot, or portion of a lot used or intended to be used for the retail dispensing of vehicle fuels and including as an accessory use minor mechanical repair such as brake, exhaust and muffler work, and the dispensing of lubricants, tires, batteries, similar accessories, and convenience food items.

A.2.249. Replat.

(ORD 2023-86, passed 12-14-2023)

The process of changing the map or plat which change the boundaries of and within a recorded Subdivision Plat. The division of a large block, lot, or outlot within a recorded subdivision plat or certified survey which changes the exterior boundaries of said lot, block, or outlot is a replat.

A.2.250. Research and Development.

A facility primarily for medical, optical, orthotic, prosthetic, or dental laboratory services, photographic, analytical, or testing services and/or engaged in the research, development and controlled production of high technology electronic, industrial or scientific products or commodities for sale.

A.2.251. Restaurant

See “Food Service”

A.2.252. Restaurant, Fast Food

See “Food Service”

A.2.253. Restoration.

The act or process of accurately taking a building’s appearance back to a specific period of time by removing later work and by replacing missing earlier features to match the original.

A.2.254. Retail: Building Materials Stores.

Retailing, wholesaling or rental of building supplies or construction equipment. This use classification includes lumberyards, home improvement sales and services, tool and equipment sales or rental establishments.

A.2.255. Retail Business.

Any business selling goods, wares or merchandise directly to the ultimate consumer for direct consumption and not for resale.

A.2.256. Retail – Large Format.

A retail establishment containing consumer goods that exceeds twenty thousand (20,000) square feet.

A.2.257. Retail – Medium Format.

A retail establishment containing consumer goods that is between five thousand (5,000) and twenty thousand (20,000) square feet.

A.2.258. Retail – Pharmacy.

An establishment substantially devoted to the sale of pharmaceutical items, supplies, and equipment such as prescription drugs.

A.2.259. Retail – Shopping Center – Enclosed.

A group of commercial establishments planned, constructed, and managed as a single entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations, and protection from the elements.

A.2.260. Retail – Shopping Center – Outdoor.

A group of commercial establishments planned, constructed, and managed as a single entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations, whereby access to individual shops requires outdoor access from a shared sidewalk or road.

A.2.261. Retail – Small Format.

A retail establishment containing consumer goods that is no greater than five thousand (5,000) square feet.

A.2.262. Right of Way.

The width between property lines of a street, pedestrian walkway, or easement.

A.2.263. Roadside Stand.

Outdoor merchandise sales in Residential Districts, for the sale of products produced on the lot, such as but not limited to sale of wood or produce.

A.2.264. Roof Line.

Either the edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette. In regard to sign placement, where a building has several roof levels, the pertinent roofline or parapet shall be the one belonging to that portion of the building on whose wall the sign is located.

S.

A.2.265. Satellite Dish.

A parabolic dish antenna including its structural supports, used for reception of various satellite television programming signals.

A.2.266. Screening.

A method of visually shielding or obscuring a structure, parking, mechanical equipment, refuse collection center or incompatible land use, from another and from public view by fencing, walls, beams or densely planted vegetation.

A.2.267. Self-Storage Facilities.

A facility consisting of a building or group of buildings in a controlled access compound that contains varying sizes of individual, compartmentalized and controlled-access stalls or lockers for the dead storage of customers' residential goods or wares.

A.2.268. Setback.

Setback means the required minimum horizontal distance between a lot line or the proposed right-of-way, whichever is more restrictive and a building, surface parking lot or structure as established by this code.

A.2.269. Setback, Building.

The setback required from any right-of-way and the principal or accessory building as established in this code.

A.2.270. Setback Line.

A line established by this code generally parallel with and measured from the lot line or the right-of-way, whichever is more restrictive, defining the minimum distance a building, structure, parking area or outdoor storage area shall be located from the said lot or thoroughfare line, except as may be provided in this code.

A.2.271. Setback, Front.

The minimum distance required between a building, structure, parking area, outside storage area, or other use of the property, and the front lot line.

A.2.272. Setback, Rear.

The minimum distance required between a building, structure, parking area, outside storage area, or other use of the property, and the rear lot line.

A.2.273. Setback, Side

The minimum distance required between a building, structure, parking area, outside storage area, or other use of the property, and a lot that is shared with another lot where such lot line is defined as a side lot line.

A.2.274. Sexually Oriented Business

An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, semi-nude model studio, and/or sexual encounter establishment. The definition of “sexually oriented business” shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State engages in medically approved and recognized sexual therapy.

A.2.275. Shopping Center

See “Retail”

A.2.276. Shrub.

A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground.

A.2.277. Sidewalk.

That portion of the road right-of-way, easement, or private property that is improved for the use of pedestrian traffic by the general public. See also “walkway.”

A.2.278. Significant or Substantial Portion.

Ten percent or more.

A.2.279. Site Element.

Significant objects or features, excluding structures, located on a property including, but not limited to, walkways, signage, railings and independent lighting features.

A.2.280. Site Element Change.

Any alteration, demolition, or construction (as those terms are defined herein) to a site element.

A.2.281. Sketch Plan.

A drawing of a proposed subdivision, planned residential development, or other land development for the purpose of study and which, if approved, permits proceeding with the preparation of the final plat.

A.2.282. Skilled Nursing.

Those nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond those which the untrained person possesses. It involves administering medications and carrying out procedures in accordance with the orders, instructions, and prescriptions of the attending physician or surgeon.

A.2.283. Skilled Nursing Facility.

A long-term or short-term residential facility that provides skilled nursing services in a facility that is not in a traditional dwelling type (e.g., single-family dwelling). Such facility shall not mean the same as “hospitals” or “group home or residential facility.” See also “personal care facility” or “transitional housing.”

A.2.284. Slope.

The face of an embankment or cut section; any ground whose surface makes an angle with the plane of the horizon. Slope is usually expressed in a percentage based upon vertical differences in feet per 100 feet of horizontal distance.

A.2.285. Soil.

All earth material of whatever origin that overlies bedrock, which may include the decomposed zone of bedrock which can be readily excavated by mechanical equipment.

A.2.286. Solar Energy Systems.

A structure designed to utilize solar energy as an alternate for, or supplement to, a conventional energy system.

A.2.287. Stable.

An establishment for-profit providing boarding, grooming, and training of horses, and riding.

A.2.288. Stabilization.

The act or process of applying measures essential to the maintenance of a deteriorated building as it exists at present, establishing structural stability and a weather resistant enclosure.

A.2.289. Start of Construction.

The date when either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

A.2.290. State.

The State of Ohio.

A.2.291. Story.

That portion of a building included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, then the space between such floor and the top surface of the ceiling joints above it shall be considered a story. A basement shall not be considered as a story when computing the height of the building.

A.2.292. Street.

The full width between property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic.

A.2.293. Street, Collector

A traffic connection from local streets to major arterial thoroughfare, may contain relatively large number of intersections with local street and few intersections with major arterial thoroughfares and per the Thoroughfare Plan has a minimum right-of-way width of 80 feet.

A.2.294. Street, Local

A street providing direct and full access to each lot, laid out so that the use by through traffic is discouraged and per the Thoroughfare Plan has a minimum right-of-way width of 60 feet.

A.2.295. Street, Major Arterial Thoroughfare

A street planned for continuous movement of faster traffic from one section of the community another, containing relatively few intersections and per the Thoroughfare Plan has a minimum right-of-way width of 80 feet.

A.2.296. Street, Cul-de-sac.

A local street having one end open to vehicular traffic and the other end permanently closed with a vehicular turnaround.

A.2.297. Street, Dead End.

A street temporarily having only one outlet for vehicular traffic but intended to be extended or continued in the future and provided with a vehicular turnaround on a temporary easement.

A.2.298. Street, Private.

A roadway which affords principal means of access to abutting property, but which has not been dedicated or deeded to the public.

A.2.299. Street, Public.

A fully improved public thoroughfare which has been dedicated or deeded to the public for public use and accepted by the City and which affords the principal means of access to abutting property.

A.2.300. Structural Alterations.

Any change in the supporting members of a building such as bearing walls, columns, beams, girders or any substantial changes in the roof and exterior walls, partitions or any increase in the area or cubical contents of the building.

A.2.301. Structure.

Anything constructed or erected which requires location on the ground or attached to something having a location on the ground, but not including fences, or walls used as fences.

A.2.302. Structure, Principal.

The building or structure on a lot or building site designed or used to accommodate the primary use to which the premises are devoted. Where a permissible use involves more than one structure designed or used for the primary purpose, as in the case of group dwellings, each such permissible building on one lot as defined by this Zoning Code shall be construed as constituting a principal building.

A.2.303. Structure, Temporary.

A structure permitted for limited duration with the intent that such use will terminate, or the structure will be removed automatically upon expiration of the fixed time period. A temporary structure is without a foundation or footing.

A.2.304. Subdivider.

Any individual, firm, association, corporation, trust or any legal entity, including agents, commencing proceedings under these regulations to subdivide land.

A.2.305. Subdivision.

The division of any parcel of land, shown as a unit or as contiguous units on the last preceding tax roll, into two or more parcels, sites or lots, for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures, not involving the division, combination, alteration, or allocation of land for the opening, widening or extension of any street or streets, and the division or allocation of land as open spaces for common use by owners, occupants or lease holders or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities, shall be exempted.

A.2.306. Subdivision, Major.

A subdivision that is not classified as a minor subdivision.

A.2.307. Subdivision, Minor.

A division of a parcel of land along an existing street not involving the opening, widening or extension of any street or road and involving no more than five lots after the original tract

A.2.308. Substantial Expansion

COA: An increase of ten (10%) or more of the built footprint of the principal structure proposed.

SITE PLAN REVIEW: an increase of twenty-five (25%) or more of the built footprint of the principal structure

A.2.309. Surveyor.

A person registered to engage in the practice of surveying under the laws of the State of Ohio.

A.2.310. Swimming Pool.

A body of water of artificial construction, used for swimming or recreational bathing, which is over eighteen inches (18”) in depth at any point, and has more than one hundred (100) square feet of area on the water surface when filled to capacity, and including the bottom and sides of the pool, and the equipment appurtenances thereof.

T.

A.2.311. Technology Park.

Research and laboratory facilities, higher quality manufacturing and industrial using an organized, master-planned industrial park/ campus setting.

A.2.312. Telecommunication.

The technology which enables information to be exchanged through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.

A.2.313. Temporary Outdoor Sales.

Temporary outdoor sales activities include sidewalk sales, inventory reduction or liquidation sales, seasonal merchandise sales, itinerant vendors, and transient produce merchant sales. Seasonal merchandise sales include the sale of plants (also vegetables), flowers, shrubs, trees, mulch, fertilizer, weed killer products, soil, peat moss, lime, small decorative stones, landscape timbers, railroad ties, pumpkins, salt (for ice removal) and similar products, and Christmas trees.

- A. Temporary outdoor sales activities shall not include carnivals, festivals, promotional events or any City-sponsored function that may or may not include outdoor sales of food and/or merchandise related to such events.
- B. A transient produce merchant sale involves the selling of products of the farm or garden occupied and cultivated by that person on property other than that which the produce is grown.

A.2.314. 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. This category may be further divided into temporary storage for commercial uses and residential uses.

A.2.315. Tennis and Other Recreational Courts (Outdoor).

An area of a yard that is permanently improved and surfaced for the recreational use of the property owner for games such as tennis, basketball, racquetball, and similar sports or games.

A.2.316. Tent.

Any temporary structure used for temporary sleeping purposes, or for temporarily sheltering a gathering, constructed wholly or in part from canvas, tarpaulin, cotton, fabric or other similar materials.

A.2.317. Thoroughfare Plan.

The adopted City Thoroughfare Plan and any amendments thereto.

A.2.318. Trailer, Trailer Coach, or Automobile Trailer.

A vehicle used or intended for use as a conveyance upon the public streets or highways, so designed, constructed, reconstructed, or added to by means of portable accessories in such manner as will permit the occupancy thereof as a mobile home or sleeping place.

A.2.319. Transient Living.

Occupying a dwelling unit, including rental of a home or room, for a period of less than 30 days. The definition also includes usage of a property for a daily or weekly rental as a commercial business.

A.2.320. Tree, Medium.

Any tree which normally attains a mature height greater than twenty-five (25) feet and less than forty (40) feet.

A.2.321. Tree, Small.

Any tree which normally attains a mature height greater than fifteen (15) feet and less than twenty-five (25) feet.

A.2.322. Tree, Standard.

A tree planted with a trunk caliper (diameter) of at least one and 3/4 (1¾) inches measured six inches (6") above grade.

A.2.323. Type-B Day Care Home (1-6 Children).

A permanent residence of the provider in which childcare is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this division, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted; or as defined in the Ohio Revised Code.

U.

A.2.324. Ungulate.

A hooved mammal including horse, cow, goat, pig, and sheep.

A.2.325. Use.

The purpose for which a building or premises is or may be occupied. In the classification of uses, a "use" may be a use as commonly understood or the name of an occupation, business, activity or operation carried on, or intended to be carried on; in a building or on premises, or the name of a building, place or thing which name indicates the use or intended use.

A.2.326. Use, Accessory or Accessory Structure.

A use or structure subordinate to the principal use of a building or to the principal use of land, which is located on the same lot as the principal use, and which is serving a purpose customarily incidental to the use of the principal building or land use.

Use, Conditional. A use which is permitted in a district only if a zoning certificate therefore is expressly authorized by the Planning and Zoning Commission and Council.

A.2.327. Use, Conditional.

A use which may be appropriate or desirable in a specified zoning district but requires special approval through the conditional use approval (See Chapter 1102 Administration and Procedures.) because, if not carefully located or designed, it may create special problems such as excessive height or bulk or abnormal traffic congestion.

A.2.328. Use, Non-Conforming.

A building, structure or use of land used or lawfully existing at the time of the enactment of this Zoning Code, or any amendment or supplement thereto, and which does not conform to the district regulation other than height, area, and yard requirements for the district in which it is situated.

A.2.329. Use, Principal Permitted.

A use which is permitted outright in a district for which a zoning certificate shall be issued by the Zoning Inspector provided that the applicant meets the applicable requirements of the Code.

Utility(ies). Any water, sewer, gas, drainage, sprinkler or culvert pipe and any electric power, telecommunications, signal, communications, or cable television or video service Provider conduit, fiber, wire, cable, or operator thereof.

A.2.330. Use, Temporary.

A use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time and does not involve the construction or alteration of any permanent structure. See Chapter 1104 Use Regulations].

V.

A.2.331. Variance.

A modification of the strict terms of the relevant regulations where such modification will not be contrary to the public health, safety, or welfare and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

A.2.332. Vehicular Use Area.

The entire paved area that encompasses all parking spaces, loading areas, waiting spaces, and the access drives that provide access to those spaces but that does not include the entry drive or driveway with no direct access to a parking space, waiting space, or loading space.

A.2.333. Violation.

The failure of a structure or other development to be fully compliant with these regulations.

W.

A.2.334. Wall, Retaining.

Any structure which prevents the movement of soil in order to allow ground levels of different elevations to exist adjacent to one another.

A.2.335. Warehousing and Distribution.

Facilities and accessory uses for the mass storage and movement of goods as well as transportation, logistics, maintenance and fleet parking.

A.2.336. Wholesale establishment.

A business that engages in the sale of goods, merchandise and commodities for resale by the purchaser.

X.

Y.

A.2.337. Yard.

An open area other than a court, on a lot, unoccupied and unobstructed from the ground upward.

A.2.338. Yard Width, Side.

The perpendicular distance between the established side lot line and any portion of any structure existing or to be constructed on such lot.

A.2.339. Yard Depth, Front.

The perpendicular distance between the street right-of-way line and the nearest portion of any structure existing or to be constructed excluding steps and uncovered porches. Where the right-of-way is not established it shall be assumed to be sixty (60) feet. Where a major thoroughfare or collector thoroughfare is designated on the Thoroughfare Plan the front yard depth shall be measured from the proposed right-of-way line.

A.2.340. Yard Depth, Rear.

An open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

Z.

A.2.341. Zoning Certificate.

A document issued by the Zoning Inspector authorizing buildings, structures, or uses consistent with the terms of this Chapter and for the purpose of carrying out and enforcing its provisions.

A.2.342. Zoning Code.

The part of the Codified Ordinances Zoning Code of the City of Tallmadge, Ohio.

A.2.343. Zoning Inspector.

The administrative officer for the purpose of affecting the proper administration of this Zoning Code of the City of Tallmadge, Ohio and shall have the powers of a police officer when enforcing the requirements of this Zoning Code.

A.2.344. Zoning Map.

The Zoning District Map of the City of Tallmadge, Ohio.

A.3 SIGN SPECIFIC DEFINITIONS

A.3.1. Channel Letters.

A sign that consists of custom-made metal or plastic that are covered in a translucent plastic material, often internally illuminated. The space between the letters is not part of the sign structure but rather the building façade though the space may count toward the sign area depending on how the letters are grouped and calculated in accordance with Section 1108.05 C.

A.3.2. Decorative Pole.

A pole, arch, or structure other than a streetlight pole placed in the Right-of-Way specifically designed and placed for aesthetic purposes and on which no appurtenances or attachments have been placed except for the following:

- A. Electric lighting;
- B. Specifically designed information or directional signage; or
- C. Temporary holiday or special event attachments.
- D. Illumination, External.

For signage, the illumination of a sign by projecting light on to the face of the sign from a light source located outside of the sign, such as “goose-neck” lamp.

A.3.3. Illumination, Halo or Back-lit.

The illumination of a sign by projecting light behind an opaque letter or emblem which results in the appearance of ring of light around the unilluminated letter or emblem.

A.3.4. Illumination, Internal.

The illumination of a sign by projecting light on a translucent panel from a light source located inside an enclosed sign cabinet or channel-letter.

A.3.5. Pennants.

A triangular or irregular piece of fabric or other material, whether or not containing a message of any kind, commonly attached by strings or strands, or supported on small poles, intended to flap in the wind.

A.3.6. Sign.

Any display, figure, painting, placard, poster, drawing, letter, word, symbol, number, or any combination of these or any other device visible, with or without verbiage, which can be seen from the right-of-way and is designed to inform or attract the attention of persons not on the premises on which the sign or street graphic is located. Used to convey a message, advertise, inform or direct attention to a person, institution, organization, activity, place, object or product.

A.3.7. Sign, Attached.

A sign permanently affixed to a wall, canopy or awning of a building or structure, if permitted and includes projecting signs.

A.3.8. Sign, Awning, Canopy or Marquee.

A sign that is mounted on or painted on or attached to an awning, canopy or marquee.

A.3.9. Sign, Banner.

A temporary sign made of any cloth, bunting, plastic, paper, or similar non-rigid material attached to any structure, staff, pole, rope, wire, or framing which is anchored on two or more edges or at all four corners.

A.3.10. Sign, Changeable Copy.

A portion of a sign with letters, characters, or graphics that are not permanently fixed to the structure, framing or background, or not permanently displayed on the sign face, which allows the letters, characters or graphics to be modified from time to time manually or by electronic or mechanical devices, such as a bulletin board or electronic message board. Changeable copy signs may not be used to display commercial messages relating to products or services that are not offered on the property.

A.3.11. Sign, Directional.

A sign directing vehicular or pedestrian movement onto or within a premise with no identification or advertising on the sign.

A.3.12. Sign, Electronic Message Center (EMC).

An electrically activated changeable sign whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location. Also known as an EMC. EMCs typically use light emitting diodes (LEDs) as a lighting source.

A.3.13. Sign, Entrance/Exit.

An on-premises sign located at the entrance/exit drives, near the street, giving directional information.

A.3.14. Sign, Feather Banner.

A lightweight portable advertising medium, mounted on a pole that resembles a sail. Also described as “sail banner” or “feather flag”.

A.3.15. Sign, Flag.

Signs printed or painted on cloth, plastic, canvas, or other like material with distinctive colors, patterns, text or symbols, and attached to a pole or staff anchored along only one edge or supported or anchored at only two corners. Flags with noncommercial speech shall not be considered flag signs.

A.3.16. Sign, Freestanding Sign.

A sign that is permanently supported in a fixed location by a structure of one or more poles, posts, uprights, or braces from the ground and not supported by a building or a base structure.

A.3.17. Sign, Identification.

A sign which displays only the same address and/or use of the premises upon which the sign is located or to which it is affixed, or the product or service offered therein.

A.3.18. Interactive Sign.

An electronic or animated sign that reacts to the behavior or electronic signals of motor vehicle drivers.

A.3.19. Sign, Limited Duration.

A non-permanent sign that is displayed on private property for more than 30 days, but not intended to be displayed for an indefinite period.

A.3.20. Sign, Monument.

A sign permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole or attached to any part of a building.

A.3.21. Sign, Non-conforming.

Any sign which was erected legally, but which does not comply with subsequently enacted sign restrictions and regulations.

A.3.22. Sign, Permanent.

A sign designed for use for an indefinite period of time. Permanent signs may be free-standing or attached to buildings or other structures.

A.3.23. Sign, Personal Expression.

An on-premises sign that expresses an opinion, interest, position, or other non-commercial message.

A.3.24. Sign, Portable.

A sign designed to be transported or moved and not permanently attached to the ground, a building, or other structure.

A.3.25. Sign, Projecting.

A sign suspended from or supported by a building structure, or column and extending therefrom, more than fifteen (15) inches.

A.3.26. Sign, Pole.

See Sign, Freestanding Sign.

A.3.27. Sign, Public Interest.

A sign intended for the identification of events, services, or other needs related to the public interest to the City of Tallmadge, as specifically authorized by the Mayor, which may include, but is not limited to not-for-profit service organizations, religious institutions, community festivals, or governmental announcements, etc.

A.3.28. Sign, Real Estate/Construction Project.

A temporary sign identifying a project while it is under construction and typically includes the architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.

A.3.29. Sign, Roof.

Any sign which is erected over the roof or parapet above the roofline and/or receives any or all its support from the roof structure.

A.3.30. Sign, Sandwich Board

A type of freestanding, portable, temporary sign consisting of two faces connected and hinged at the top and whose message is targeted to pedestrians (Also known as A-frame sign)

A.3.31. Sign, Snipe.

A sign tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, public benches, streetlights, or other objects, or placed on any public property or in the public right-of-way or on any private property without the permission of the property owner.

A.3.32. Sign, Temporary.

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

A.3.33. Sign, Vehicular.

A sign affixed to a vehicle in such a manner that the sign is used primarily as a stationary advertisement for the business on which the vehicle sits or is otherwise not incidental to the vehicle's primary purpose.

A.3.34. Sign, Wall.

A sign which is affixed, painted on or attached to the wall of the building or other structure and which extends not more than fifteen (15) inches from the face of the wall.

A.3.35. Sign, Window.

A sign attached to, in contact with, placed upon or painted on the window or door of a building which is intended for viewing from the outside of such building. This does not include merchandise located in a window.

A.4 WIRELESS COMMUNICATION TOWERS SPECIFIC DEFINITIONS

A.4.1. Antenna.

Communications equipment that transmits or receives radio frequency signals in the provision of wireless service.

A.4.2. Co-Location.

To install, mount, maintain, modify, operate, or replace Wireless Facilities on a Wireless Support Structure.

A.4.3. Facility(ies).

Any tangible thing located in any Rights-of- Way within the City and includes Wireless Facilities and Wireless Support Structures; but shall not include boulevard plantings, ornamental plantings or gardens planted or maintained in the Rights-of-Way between a Person's property and the street edge of pavement.

A.4.4. FCC.

The Federal Communications Commission, or any successor thereto.

A.4.5. Height.

The distance measured from the pre-existing grade level to the highest point on the structure, including any Small Cell Facility, even if said highest point is an Antenna or lightning protection device.

A.4.6. Lattice Tower.

A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

A.4.7. Micro Wireless Permit.

A Permit, which must be obtained before a Person can construct, modify, collocate, or replace a Small Cell Facility or Wireless Support Structure.

A.4.8. Monopole.

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

A.4.9. Supplementary Application.

Any application made to Construct on or in more of the Rights-of-Way than previously allowed, to extend a Permit that had already been issued, or to otherwise modify or amend the specifics of a Permit application.

A.4.10. System.

Any system of conduit, cables, ducts, pipes, wires, lines, towers, antennae wave guides, fiber optics, microwave, laser beams and any associated converters, equipment or Facilities or Utilities designed and constructed for the purpose of producing, receiving, amplifying, delivering or distributing Services within the City. A System shall specifically include, but not necessarily be limited to electric distribution and/or transmission systems, natural or artificial gas distribution and/or transmission systems, water distribution systems, storm sewer systems, sanitary sewer systems, cable television

systems, video service networks, telecommunications systems (whether voice, video, data, or other), fiber optic systems, and wireless communications systems.

A.4.11. System Representative.

The specifically identified agent/employee of a Provider who is authorized to direct field activities of that Provider and serve as official notice agent for System-related information. Any such System Representative shall be required to be available at all times to receive notice of and immediately direct response to System related emergencies or situations.

A.4.12. Wireless Telecommunications Equipment Shelter.

The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

A.4.13. Wireless Telecommunications Facility.

A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

A.4.14. Wireless Telecommunications Tower.

A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.

A.5 RIPARIAN SETBACK SPECIFIC DEFINITIONS

A.5.1. Best Management Practices (BMPs).

Conservation practices or protection measures which reduce impacts from a particular land use. Best Management Practices for construction are outlined in “Rainwater and Land Development, Ohio’s Standard for Storm Water Management, Land Development, and Urban Stream Protection” prepared by the Ohio Department of Natural Resources.

A.5.2. Channel

Defined Channel: A natural or man-made depression in the terrain which is maintained and altered by the water and sediment it carries.

Natural Channel: A natural stream that conveys water; a ditch or channel excavated for the flow of water.

A.5.3. Damaged or Diseased Trees.

Trees that have split trunk, broken tops, heart rot, insect or fungus problems that will lead to imminent death, undercut root systems that put the tree in imminent danger of falling, lean as a result of root failure that puts the tree in imminent danger of falling, or any other condition that puts the tree in imminent danger of being uprooted or falling into or along a stream or onto a structure.

A.5.4. Federal Emergency Management Agency (FEMA).

The federal agency with overall responsibility for administering the National Flood Insurance Program.

A.5.5. Impervious Cover.

Any surface that cannot effectively absorb or infiltrate water. This may include roads, streets, parking lots, rooftops, sidewalks and other areas not covered by vegetation.

A.5.6. Noxious Weed.

Any plant defined as “Prohibited Noxious Weeds” under the applicable provisions of the Ohio Administrative Code, including but not limited to, Goldenrod, Poison Hemlock, Poison Ivy, Poison Oak, Ragweed, Stinging Nettle, and other plants capable of causing skin reactions upon contact or producing severe allergic respiratory reactions.

A.5.7. Ohio Rapid Assessment Method.

A multi-parameter qualitative index established by the Ohio Environmental Protection Agency to evaluate wetland quality and function.

A.5.8. Ohio Utility Protection Service.

The utility protection service as defined in R.C. 153.64 and/or R.C. 3781.26 or a statutory successor thereto.

A.5.9. One Hundred Year (100-year) Floodplain.

Any land susceptible to being inundated by water from a base flood, which is the flood that has a one percent (1%) or greater chance of being equaled or exceeded in any given year. For the purposes of these regulations, the 100-year floodplain shall be defined by FEMA and subject to review and approval by the City Engineer.

A.5.10. Ordinary High-Water Mark.

The point of the bank or shore to which the presence and action of surface water is so continuous as to leave a district marked by erosion, destruction or prevention of woody terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristic. The ordinary high-water mark defines the channel of a stream.

A.5.11. Pollutant.

Anything that causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter or other discarded or abandoned objects, floatable materials, pesticides, herbicides, fertilizers, hazardous materials, wastes, sewage, dissolved and particulate metals, animal wastes, residues that result from constructing a structure, and noxious or offensive matter of any kind.

A.5.12. Pollution.

Any contamination or alteration of the physical, chemical, or biological properties of any waters that will render the waters harmful or detrimental to public health, safety or welfare; domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; livestock, wildlife, including birds, fish or other aquatic life.

- A. Point Source Pollution. Pollution that is traceable to a discrete point or pipe.
- B. Non-point Source Pollution. Pollution generated by various land use activities rather than from an identifiable or discrete source, and is conveyed to waterways through natural processes, such as rainfall, storm runoff or ground water seepage rather than direct discharge.

A.5.13. Riparian Area.

A transitional area between flowing water and terrestrial ecosystems which provides a continuous exchange of nutrients and woody debris between land and water. This area is at least periodically influenced by flooding.

A.5.14. Riparian Setback.

The area set back from each bank of a stream to protect the riparian area and stream from impacts of development, and streamside residents from impacts of flooding and land loss through erosion. “Riparian setbacks” are those lands within the city that fall within the area defined by the criteria set forth in these regulations.

A.5.15. Soil and Water Conservation District (SWCD).

An entity organized under R.C. Chapter 940 referring to either the Soil and Water Conservation District Board or its designated employees, hereinafter referred to as the SWCD.

A.5.16. Soil-disturbing Activity.

Clearing, grading, excavating, filling or other alteration of the earth's surface where natural or human-made ground cover is destroyed, and which may result in, or contribute to, erosion and sediment pollution.

A.5.17. Soil and Water Conservation District (SWCD).

An entity organized under R.C. Chapter 940 referring to either the Soil and Water Conservation District Board or its designated employees, hereinafter referred to as the SWCD.

A.5.18. Stream.

A surface watercourse with a well-defined bed and bank, either natural or artificial, which confines and conducts continuous or periodic flowing water in such a way that terrestrial vegetation cannot establish roots within the channel.

A.5.19. Storm Water Pollution Prevention Plan (SWPPP).

The plan which describes all the elements of the storm water strategy implemented during and after construction. The plan addresses erosion control and storm water quality.

A.5.20. Storm Water Quality Treatment.

The removal of pollutants from urban runoff and improvement of water quality, accomplished largely by deposition and utilizing the benefits of natural processes.

A.5.21. Watercourse.

A natural or artificial waterway, such as a stream or river, with a defined bed and channel and a definite direction of course that is contained within, flows through or borders the community.

A.5.22. Wetlands.

Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.

A.6 FLOOD DAMAGE REDUCTION SPECIFIC DEFINITIONS

A.6.1. Appeal.

A request for review of the Floodplain Administrator's interpretation of any provision of these regulations or a request for a variance.

A.6.2. Basement.

A story all or partly underground but having at least one-half (1/2) of its height below the average level of the adjoining ground.

A.6.3. Base Flood.

The flood having a one percent (1%) chance of being equaled or exceeded in any given year. The base flood may also be referred to as the one percent (1%) chance annual flood or one hundred (100) year flood.

A.6.4. Base (100-Year) Flood Elevation (BFE).

The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical

Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from 1 to 3 feet).

A.6.5. Enclosure Below the Lowest Floor.

“Lowest Floor.”

A.6.6. Federal Emergency Management Agency (FEMA).

The federal agency with overall responsibility for administering the National Flood Insurance Program.

A.6.7. Fill.

A deposit of earth material placed by artificial means.

A.6.8. Floatable Material.

Any foreign matter that may float or remain suspended in the water column, and includes but is not limited to, plastic, aluminum cans, wood products, bottles, and paper products.

A.6.9. Flood or Flooding.

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters; and/or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

A.6.10. Flood Hazard Boundary Map (FHBM).

Usually the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.

A.6.11. Flood Insurance Rate Map (FIRM).

An official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.

A.6.12. Flood Insurance Risk Zones.

Zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. The following are the zone definitions:

- A. Zone A - special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.
- B. Zones A1-30 and Zone AE - special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.
- C. Zone AO - special flood hazard areas inundated by the 100-year flood; with flood depths of one (1) to three (3) feet (usually sheet flow on sloping terrain); average depths are determined.
- D. Zone AH – special flood hazard areas inundated by the 100-year flood; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.
- E. Zone A99 - special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.
- F. Zone B and Zone X (shaded) - areas of 500-year flood; areas subject to the 100-year flood with average depths of less than one (1) foot or with contributing drainage area less than one (1) square mile; and areas protected by levees from the base flood.
- G. Zone C and Zone X (unshaded) - areas determined to be outside the 500-year floodplain.

A.6.13. Flood Insurance Study (FIS).

The official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.

A.6.14. Floodplain Administrator.

The Floodplain Administrator of the City of Tallmadge or his or her designee.

A.6.15. Flood Protection Elevation (FPE).

The base flood elevation plus zero (0) feet of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the Floodplain Administrator.

A.6.16. Floodway.

The channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.

The floodway is an extremely hazardous area and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

A.6.17. Freeboard.

A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

A.6.18. Hydrologic and Hydraulic Engineering Analysis.

An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.

A.6.19. Letter of Map Change (LOMC).

A Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs are broken down into the following categories:

- A. Letter of Map Amendment (LOMA). A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.
- B. Letter of Map Revision (LOMR). A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.
- C. Conditional Letter of Map Revision (CLOMR). A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

A.6.20. Lowest Floor.

Lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an “enclosure below the lowest floor” which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.

A.6.21. New Construction.

Structures for which the “start of construction” commenced on or after the initial effective date of the City of Tallmadge Flood Insurance Rate Map, April 15, 1981, and includes any subsequent improvements to such structures.

A.6.22. Person.

Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined as any governmental entity of the State and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. “Agency” does not include the General Assembly, the Controlling Board, the Adjutant General’s Department, or any court.

A.6.23. Special Flood Hazard Area.

Also known as “Areas of Special Flood Hazard.” The land in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1 30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal, state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

A.6.24. Substantial Improvement.

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures, which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include:

- A. Any improvement to a structure that is considered “new construction”.
- B. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- C. Any alteration of a “historic structure,” provided that the alteration would not preclude the structure’s continued designation as a “historic structure”.

A.6.25. Watershed.

An area of land that drains into a particular watercourse, usually defined by topography.

A.7 ADULT USE CANNABIS AND MEDICAL MARIJUANA SPECIFIC DEFINITIONS

(Reference ORC 3780.01; ORD 2024-55, Passed 9/26/24)

A.7.1. Adult use cannabis or cannabis or marijuana

All parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. “Marihuana” does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. (ORC 3719.01)

A.7.2. Adult use cannabis and/or medical marijuana operator

As defined in 3780.01 of the Ohio Revised Code, a level I adult use cultivator, a level II adult use cultivator, a level III adult use cultivator, an adult use processor, and adult use cannabis and medical marijuana dispensaries.

A.7.3. Adult use cultivator

A level I adult use cultivator or a level II adult use cultivator.

A.7.4. Adult use dispensary

A person licensed pursuant section 3780.15 of the Ohio Revised Code to sell adult use cannabis as authorized.

A.7.5. Adult use processor

A person licensed pursuant section 3780.14 of the Ohio Revised Code to manufacture adult use cannabis as authorized.

A.7.6. Adult use testing laboratory

An independent laboratory located that has been issued a license by the division of cannabis control to have custody and use of adult use cannabis for scientific purposes and for purposes of instruction, research, or analysis.

A.7.7. Childcare center

(ORC 5104.01) Any place that is not the permanent residence of the licensee or administrator in which childcare or publicly funded childcare is provided for seven or more children at one time, not include any of the following:

- (1) A place located in and operated by a hospital, as defined in section 3727.01 of the Ohio Revised Code, in which the needs of children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a physician licensed under Chapter 4731. of the Revised Code or a registered nurse licensed under Chapter 4723. of the Revised Code, and the services are provided only for children who, in the opinion of the child’s parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured;
- (2) A child day camp;
- (3) A place that provides care, if all of the following apply:
 - i. An organized religious body provides the care;
 - ii. A parent, custodian, or guardian of at least one child receiving care is on the premises and readily accessible at all times;
 - iii. The care is not provided for more than thirty days a year;
 - iv. The care is provided only for preschool-age and school-age children.

A.7.8. Church

A fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person (ORC 1710.01).

A.7.9. Cultivation facility

A facility where an adult use cultivator or a level III adult use cultivator is authorized to operate.

A.7.10. Dispensary

A person who has a certificate of operation to operate a dispensary under Chapter 3796 of the Ohio Revised Code and Chapter 3796 of the Ohio Administrative Code.

A.7.11. License

A license by the division of cannabis control to a license applicant pursuant to chapter 3780 of the Revised Code and the rules adopted thereunder.

A.7.12. Manufacture

The process of converting harvested plant material into adult use extract by physical or chemical means for use as an ingredient in an adult use cannabis product.

A.7.13. Marijuana

See A.7.1 Adult use cannabis or cannabis or marijuana.

A.7.14. Medical marijuana

Marijuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose, regardless of whether such marijuana is, or is not, in a form or intended for incorporation into a form permitted under Ohio Revised Code Section 3796.06.

A.7.15. Medical provisional license

A provisional license issued by either the department of commerce or the state board of pharmacy to a person pursuant to Chapter 3796 of the Ohio Revised Code and Chapter 3796 of the Ohio Administrative Code.

A.7.16. Preschool

Any public or private institution or center that provides early childhood instructional or educational services to children who are at least three years of age but less than six years of age and who are not enrolled in or are not eligible to be enrolled in kindergarten, whether or not those services are provided in a childcare setting. "Preschool" does not include any place that is the permanent residence of the person who is providing the early childhood instructional or educational services to the children described in this division. (ORC 2950.034)

A.7.17. Processor

A person who has been issued a processing certificate of operation pursuant to Chapter 3796 of the Ohio Revised Code and Chapter 3796 of the Ohio Administrative Code.

A.7.18. Public library

A library provided for under Chapter 3375. of the Ohio Revised Code.

A.7.19. Public park

A park established by the state or a political subdivision of the state including a county, township, municipal corporation, or park district.

A.7.20. Public playground

A playground established by the state or a political subdivision of the state including a county, township, municipal corporation, or park district.

A.7.21. Public trails

Linear paths adjacent to roadways and/or through public recreation areas that provide access for pedestrians and bicyclists and could tie into a network of nonvehicular paths throughout the city.

A.7.22. School

A childcare center, a preschool, or a public or nonpublic primary school or secondary school. (ORC 3796.30(C))

A.8 VAPE AND/OR SMOKE ESTABLISHMENT OR SHOP SPECIFIC DEFINITIONS

(Reference ORD 2025-86, Passed 12-11-2025)

A.8.1 Childcare center

Any place that is not the permanent residence of the licensee or administrator in which childcare or publicly funded childcare is provided for seven or more children at one time, not include any of the following:

(1) A place located in and operated by a hospital, as defined in section 3828.01 of the Ohio Revised Code, in which the needs of children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a physician licensed under Chapter 4831. of the Revised Code or a registered nurse licensed under Chapter 4823. of the Revised Code, and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured;

(2) A child day camp;

(3) A place that provides care, if all of the following apply: a. An organized religious body provides the care;

b. A parent, custodian, or guardian of at least one child receiving care is on the premises and readily accessible at all times;

c. The care is not provided for more than thirty days a year;

d. The care is provided only for preschool-age and school-age children.

(ORC 5104.01)

A.8.2 Church

A fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person (ORC 1810.01).

A.8.3 Preschool

Any public or private institution or center that provides early childhood instructional or educational services to children who are at least three years of age but less than six years of age and who are not enrolled in or are not eligible to be enrolled in kindergarten, whether or not those services are provided in a childcare setting. "Preschool" does not include any place that is the permanent residence of the person who is providing the early childhood instructional or educational services to the children described in this division. (ORC 2950.034)

A.8.4 Public library

A library provided for under Chapter 3385. of the Ohio Revised Code.

A.8.5 Public park

A park established by the state or a political subdivision of the state including a county, township, municipal corporation, or park district.

A.8.6 Public playground

A playground established by the state or a political subdivision of the state including a county, township, municipal corporation, or park district.

A.8.7 Public trails

Linear paths adjacent to roadways and/or through public recreation areas that provide access for pedestrians and bicyclists and could tie into a network of nonvehicular paths throughout the city.

A.8.8 School

A childcare center, a preschool, or a public or nonpublic primary school or secondary school. (ORC 3896.30(C))

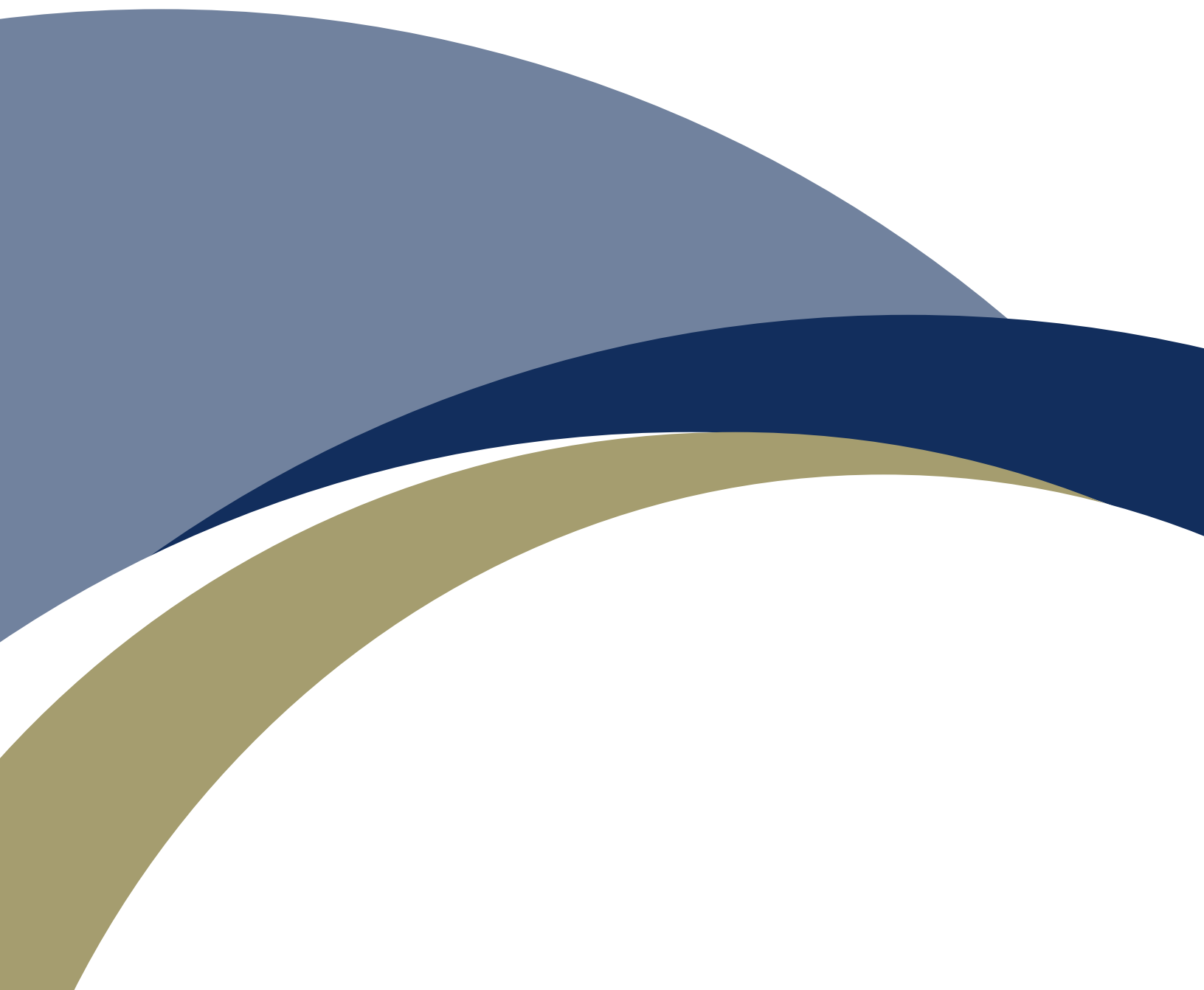
A.8.9 Vape and/or Smoke Establishment (also referred to as a "Smoke Establishment")

An establishment whose operation requires an exemption from the Ohio Smoke-Free Workplace Act (Ohio Revised Code Chapter 3794) as a Retail Tobacco Store, Retail Vapor Store or Private Club, and that provides an environment or service, or otherwise permits or makes provisions for the on-site consumption, use, inhalation, or smoking of products, including, but not limited to: electronic cigarettes or similar devices, cannabinoids, intoxicating and/or non-intoxicating hemp-derived products, cigars, cigarettes, nicotine salts, cartridges, vape juice, smokeless tobacco, tobacco, or similar, by its patrons, employees, or guests.

A.8.10 Vape and/or Smoke Shop (also referred to as a "Smoke Shop")

A retail establishment with no on-site product consumption where 10% or more of the total consumer-accessible, public-facing floor, shelf, and/or display area(s), whether individually or combined, is dedicated to the sale of Smoke Shop Products. These products include, but are not limited to:

- Consumable products such as electronic cigarettes or similar devices, cannabinoids, intoxicating and/or non-intoxicating hemp-derived products, cigars, cigarettes, nicotine salts, cartridges, vape juice, smokeless tobacco, tobacco, or similar;
- Devices & tools such as pipes, hookahs, rolling papers, vaporizers, tobacco grinders, and other smoking devices designed for heating and/or burning tobacco or other substances, or products that are designed, marketed, or intended to be consumed in or with the listed electronic cigarettes, vaporizers, or other smoking devices, or similar; and
- Related paraphernalia primarily marketed, intended, or designed for the consumption, use, or preparation of Smoke Shop Products, such as lighters, filters, cleaning supplies, or similar.



Appendix B

Overlay District Maps

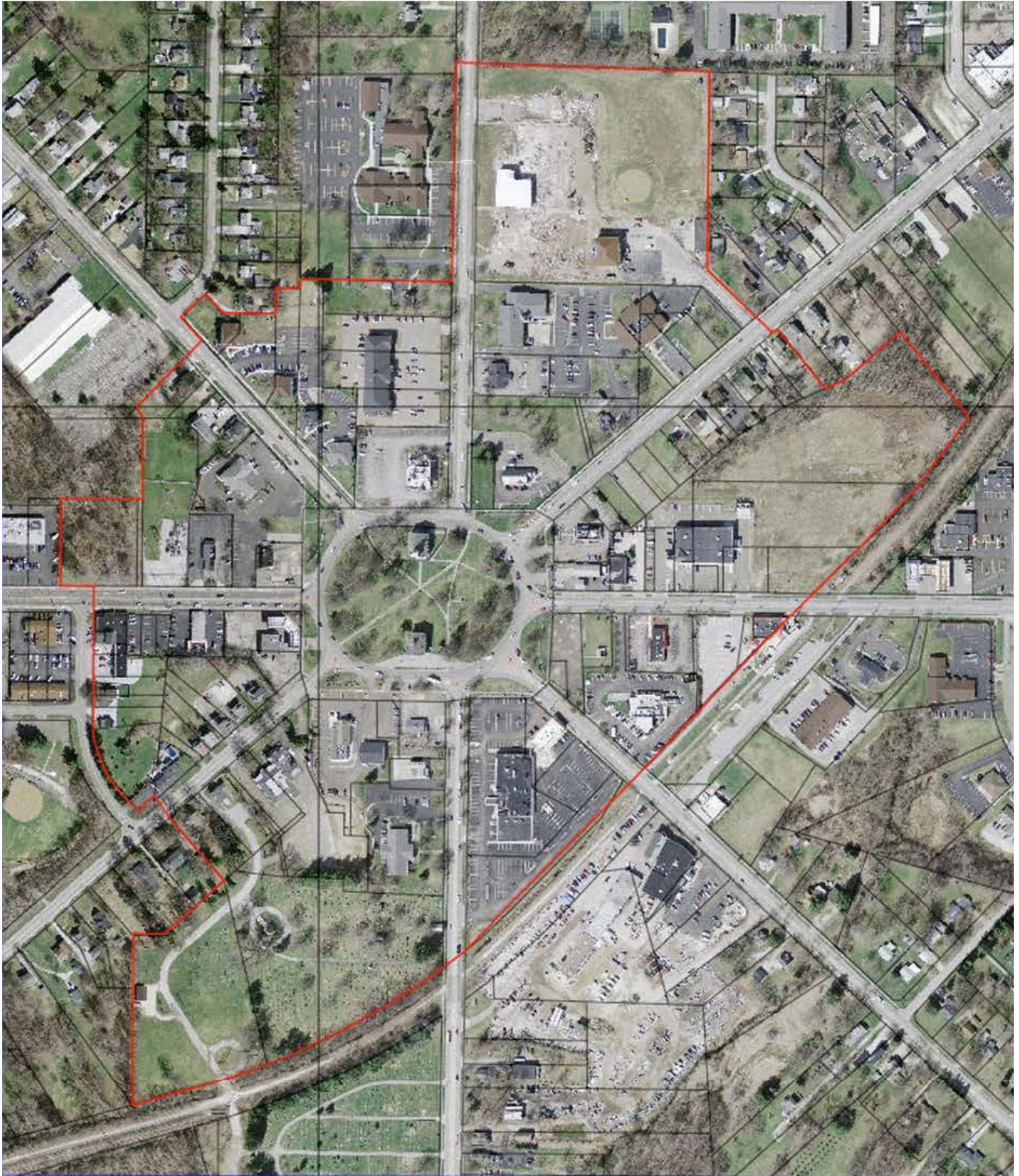


Appendix B

OVERLAY DISTRICT MAPS

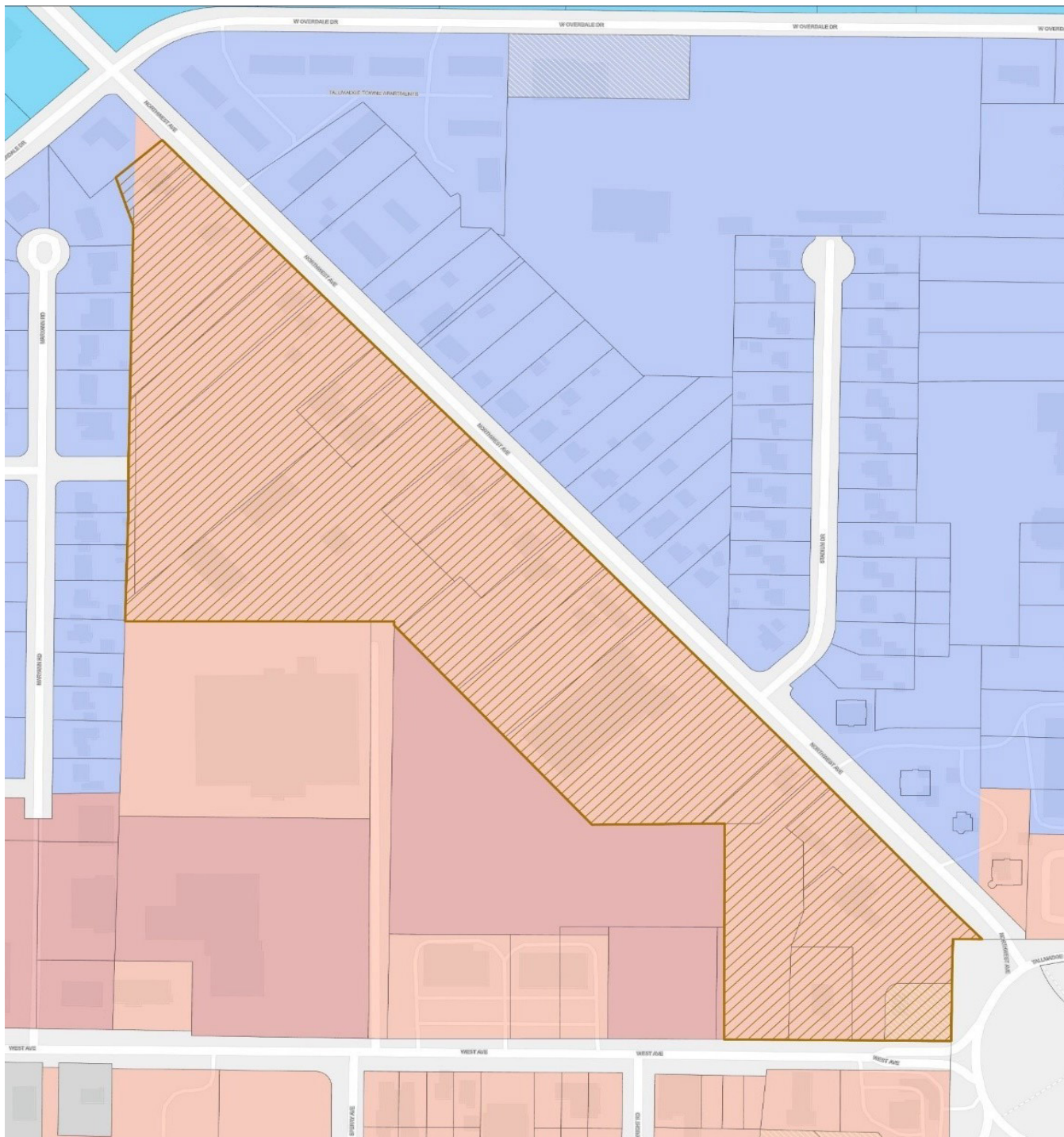
B.1 DESIGN CONTROL OVERLAY DISTRICT (O-DC)

(ORD 70-2012, Passed 9/13/12)

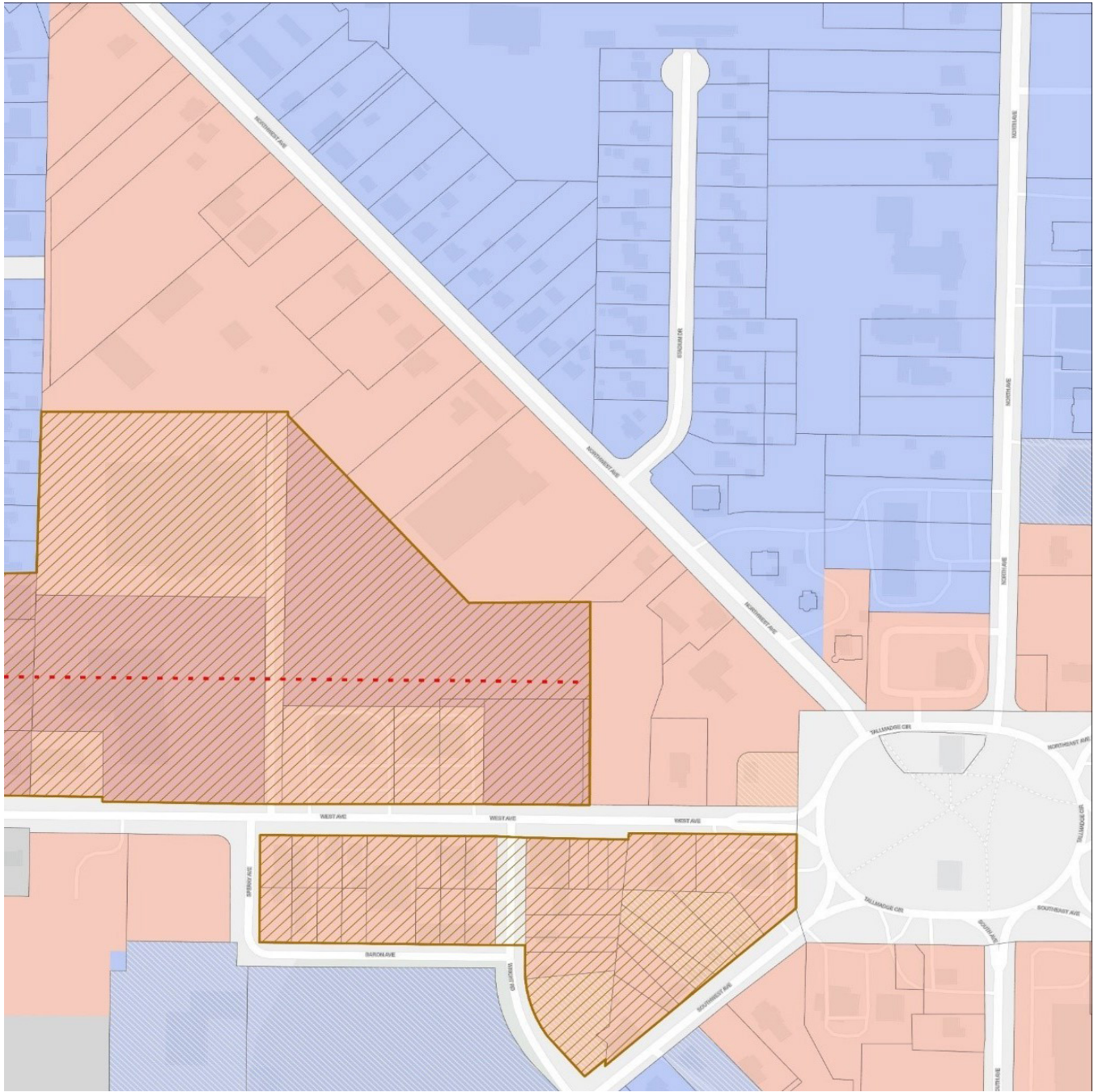


B.2 NEIGHBORHOOD CENTER OVERLAY DISTRICT (O-NC) - NORTHWEST AVENUE

(ORD 2024-80, Passed 1/23/2025)

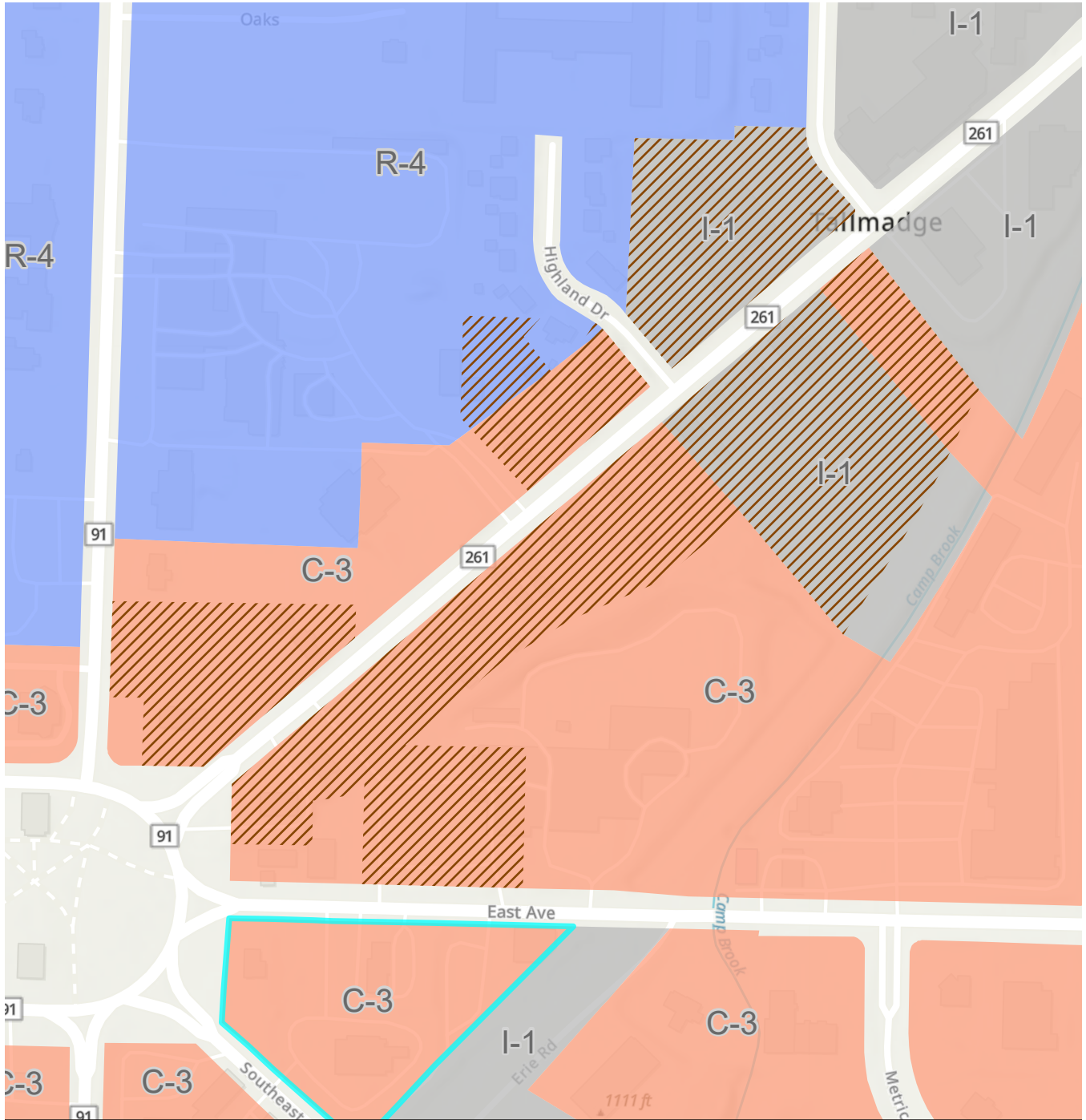


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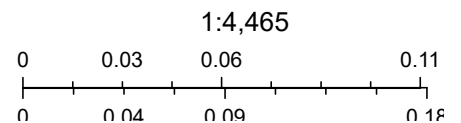
B.5 NEIGHBORHOOD CENTER OVERLAY DISTRICT (O-NC) - NORTHEAST AVENUE

(ORD 2025-59, Passed 7/24/2025)



1/2025

 Neighborhood Center Overlay



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