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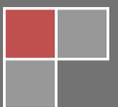
Planning and Zoning Code

City of Defiance, Ohio



McBrideDALE
CLARION

December 2014



Planning and Zoning Code

City of Defiance, Ohio

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CHAPTER 1161. GENERAL PROVISIONS

1161.01. TITLE

These regulations shall be known and may be cited as the “City of Defiance Planning and Zoning Code”, or referred to as the “planning and zoning code” or the “code”.

1161.02. PURPOSE

This code is adopted for purposes of:

- A. Protecting the public health, safety, comfort, and general welfare;
- B. Dividing the city into zones and districts;
- C. Encouraging, regulating, and restricting therein the location, construction, reconstruction, alteration, and use of structures and land;
- D. Promoting the orderly development of residential, commercial, industrial, recreational, and public areas;
- E. Providing for adequate light, air, and convenience of access to property by regulating the use of land and buildings and the bulk of structures in relationship to surrounding properties;
- F. Limiting congestion in the public rights-of-way;
- G. Providing for the compatibility of different land uses and the most appropriate use of land; and
- H. Providing for the administration of this code.

1161.03. AUTHORITY

A. General Authority

The authority for the preparation, adoption, and implementation of this code is derived from Ohio Revised Code (ORC) Chapters 711 and 713.

B. Reference to the Ohio Revised Code

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any provision of this code refers to or cites a section of the ORC (as amended), and that section is later amended or superseded, this code shall be deemed amended to refer to said amended section or the section that most nearly corresponds to the superseded section.

1161.04. JURISDICTION

The provisions of this code shall apply to all land, subdivisions of land, land development, use of all structures, and uses of land within the City of Defiance of Defiance County, State of Ohio.

CHAPTER 1161. General Provisions

Section 1161.05 Repealer and Effective Date

1161.05. REPEALER AND EFFECTIVE DATE

A. Repealer

All ordinances and parts of ordinances in conflict with this code or inconsistent with the provisions of this code are hereby repealed to the extent necessary to give this code full force and effect.

B. Effective Date

1. This code became effective on December 11, 2014.
2. This code may be amended after public hearings and other requirements as specified in the ORC. Any amendments to this code shall be in effect as provided in the ORC.

1161.06. COMPLIANCE REQUIRED

A. No building or structure shall be erected, constructed, enlarged, moved or structurally altered, except in conformity with all of the regulations herein specified as being applicable to such land or structure, nor shall any land, building or structure be used, subdivided, or changed, except in compliance with all of the applicable regulations established by this code.

B. Any new lots created after the effective date of this code must conform to the applicable requirements of this code unless allowed by [Section 1161.13 Transitional Rules](#).

1161.07. DEFIANCE COMPREHENSIVE PLAN

A. The administration, enforcement, and amendment of this code should be consistent with the adopted City of Defiance comprehensive plan, as herein referred to as the “comprehensive plan.”

B. Amendments to this code should maintain and enhance the consistency between this code and the comprehensive plan.

C. In the event of a conflict between the comprehensive plan and any city ordinance, the ordinance shall control.

1161.08. INTERPRETATION AND CONFLICTS

A. For the purposes of interpretation and application, the provisions of this code shall be held to be the minimum requirements to promote the purpose of this code.

B. When provisions of this code are inconsistent with one another or with the provisions found in another adopted code, the more restrictive provisions shall govern.

C. Where this code imposes a greater restriction than imposed or required by other provisions of law or by other rules, regulations, or ordinances, the provisions of this code shall control.

CHAPTER 1161. General Provisions

Section 1161.09 Relationship with Private-Party Agreements

1161.09. RELATIONSHIP WITH PRIVATE-PARTY AGREEMENTS

This code is not intended to interfere with, abrogate or annul any easements, covenants or other agreements between parties. However, where this code imposes a greater restriction or imposes higher standards or requirements than such agreement, the provisions of this code shall control.

1161.10. PERMITS REQUIRED

- A. No building or other structure shall be erected, moved, added to or structurally altered, nor shall any building, structure, land or use be established without a permit therefore issued by the zoning commissioner.
- B. No permits required for any work in connection with any subdivision shall be issued until the plat has been approved as herein prescribed. Zoning compliance inspections shall not be approved until all required public improvements are completed and approved by the city engineer and the zoning commissioner.
- C. Permits or certificates issued on the basis of plans and applications approved by the agency having jurisdiction authorize only the use and arrangement set forth in such approved plans and applications and no other use, arrangement, or construction. Any other use, arrangement or construction, or failure to obtain an appropriate permit, certificate, or inspection, shall be deemed to be a violation of this code, punishable under the provisions of [CHAPTER 1183. Enforcement and Penalties](#).
- D. Failure to construct in accordance with approved plans shall be deemed to be a violation of this code, punishable under [CHAPTER 1183. Enforcement and Penalties](#).

1161.11. SEVERABILITY

- A. If any court of competent jurisdiction invalidates any provision of this code, then such judgment shall not affect the validity and continued enforcement of any other provision of this code.
- B. If any court of competent jurisdiction invalidates the application of any provision of this code to a particular property, structure, or situation, then such judgment shall not affect the application of that provision to any other property, structure, or situation not specifically included in that judgment.
- C. If any court of competent jurisdiction judges invalid any condition attached to the approval of a development review application, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.
- D. Whenever a condition or limitation is included in an administrative action authorizing regulatory activity, then it shall be conclusively presumed that the authorizing officer, commission, or board considered such condition or limitation necessary to carry out the spirit and intent of this code, and that the officer, commission, or board would not have granted the authorization to which the condition or limitation pertained except in belief that the condition or limitation was lawful.

CHAPTER 1161. General Provisions

Section 1161. 12 Sale of Land in a Subdivision

1161. 12. SALE OF LAND IN A SUBDIVISION

No owner or agent of the owner of any land located within a subdivision shall transfer or sell any land by reference to, exhibition of or use of a plat of the subdivision before such plat has been approved and recorded in the manner prescribed in this code. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the regulations herein.

1161. 13. TRANSITIONAL RULES

A. Violations Continue

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 1183. Enforcement and Penalties](#), unless the use, development, construction, or other activity complies with the provisions of this code.

B. 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 codes continue to exist.
2. If a legal nonconformity that existed at the time this amendment became effective becomes conforming because of the adoption of this code, then the situation will be considered conforming and shall no longer be subject to the regulations pertaining to nonconformities.

C. Pending Applications

1. 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 code in effect on the date the application was deemed complete by the city.
2. If the applicant fails to comply with any applicable required period for submittal or other procedural requirements, the application shall expire and subsequent applications shall be subject to the requirements of this code.
3. Any reapplication for an expired project approval shall meet the standards in effect at the time of reapplication.
4. An applicant with a pending application may waive review available under prior regulations through a letter to the zoning commissioner and request review under the provisions of this code.

D. Approved Projects

1. Any building, structure, or development for which a zoning permit was issued prior to the effective date of this code may, at the applicant's option, be completed in conformance with the issued permit and any other applicable permits and conditions, even if such building, structure,

CHAPTER 1161. General Provisions

Section 1161. 14 Use of Graphics, Illustrations, Figures, and Cross-References

or development does not fully comply with provisions of this code. If such building, structure, or development does not comply fully with this code at the time of completion, it shall be considered a legal nonconformity upon the issuance of a zoning permit from the zoning commissioner.

2. If the building, structure, or development is not completed within the time allowed under the original zoning permit or any extension granted thereof, then the building, structure, or development may be constructed, completed, or occupied only in compliance with this code.
3. Any application for a project where the zoning permit has expired shall meet the standards in effect at the time the application is resubmitted.

E. Vested Rights

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

1161. 14. USE OF GRAPHICS, ILLUSTRATIONS, FIGURES, AND CROSS-REFERENCES

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

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CHAPTER 1163. ADMINISTRATIVE ROLES AND AUTHORITY

1163. 01. PURPOSE

The purpose of this chapter is to identify the roles and responsibilities of various elected and appointed boards, and the duties of city staff, in the administration of this code.

1163. 02. SUMMARY TABLE OF REVIEW BODIES

A. [Table 1163. 02-1: Summary Table of Review Bodies](#) summarizes the review and decision-making responsibilities of the entities that have roles in the procedures set forth in [CHAPTER 1165. Development Review Procedures](#). Other duties and responsibilities of the entities are set forth in subsequent sections of this chapter.

TABLE 1163. 02-1: SUMMARY TABLE OF REVIEW BODIES						
H = HEARING (PUBLIC HEARING REQUIRED) M = MEETING (PUBLIC MEETING REQUIRED) R = REVIEW AND/OR RECOMMENDATION			D = DECISION (RESPONSIBLE FOR FINAL DECISION) A = APPEAL (AUTHORITY TO HEAR/DECIDE APPEALS)			
PROCEDURE	SEE SECTION	CITY COUNCIL	PLANNING COMMISSION	BOARD OF ZONING & BUILDING APPEALS	ZONING COMMISSIONER	CITY ENGINEER
Code Text or Zoning Map Amendment	1165. 03	H-D	H-R		R	
Planned Unit Development - Preliminary Plan	1171. 06	H-D	H-R		R	R
Planned Unit Development - Final Plan	1171. 06	M-D	M-R		R	R
Minor Subdivision or Replat	1165. 04		A		R	R-D
Major Subdivision – Preliminary Plat	1165. 05	A	M-D		R	R
Major Subdivision – Final Plat	1165. 05	M-D	M-R		R	R
Variance of Subdivision Design or Improvement Standards	1165. 05		H-D		R	R
Site Plan Review [2]	1165. 06		M-D	A	R	R
Conditional Use Permit	1165. 07		H-D		R	
Variances (other than Subdivision Plats)	1165. 08			H-D	R	

CHAPTER 1163. Administrative Roles and Authority

Section 1163. 03 City Council and Mayor

TABLE 1163. 02-1: SUMMARY TABLE OF REVIEW BODIES

H = HEARING (PUBLIC HEARING REQUIRED) M = MEETING (PUBLIC MEETING REQUIRED) R = REVIEW AND/OR RECOMMENDATION			D = DECISION (RESPONSIBLE FOR FINAL DECISION) A = APPEAL (AUTHORITY TO HEAR/DECIDE APPEALS)			
PROCEDURE	SEE SECTION	CITY COUNCIL	PLANNING COMMISSION	BOARD OF ZONING & BUILDING APPEALS	ZONING COMMISSIONER	CITY ENGINEER
Appeals of Decisions by Zoning Commissioner	1165. 09			H-D	[1]	
Zoning Permit [3]	1165. 10			A	R-D	

NOTES:

[1] The zoning commissioner shall forward all records of their decisions to the BZBA, including any staff report or summary that provides a history of actions and decisions made in relation to the appealed action.

[2] Site plan review approval by Planning Commission does not represent approval of the site construction plans by the city engineer.

[3] Zoning permits for signs in the Central Business District require review and approval by the design review board as established in [Section 1163. 08 Design Review Board for Central Business District \(CBD\)](#). See [Subsection 1165. 10. B. 5. a.](#)

- B.** Even though not referenced in this chapter, other boards, commissions, government agencies, and non-government agencies may be asked by the zoning commissioner, the city planning commission, the board of zoning and building appeals, or the city council, to review some applications, including, but not limited to, map amendments (rezonings), text amendments, site plan review, appeals, variances, conditional uses, and planned unit developments.

1163. 03. CITY COUNCIL AND MAYOR

A. Powers and Duties of City Council

In addition to any other authority granted to city council by charter, ordinance, or state law, city council shall have the following powers and duties related to this code:

1. Initiate, hear, review, and make decisions related to amendments to this code.
2. Hear, review, and make decisions related to amendments to the zoning map.
3. Review and make decisions related to planned unit development preliminary plan applications.
4. Review and make decisions related to planned unit development final plan approvals.
5. Accept land dedicated for public use in subdivision final plats.

B. Powers and Duties of Mayor

In addition to any other authority granted to the mayor by charter, ordinance, or state law, the mayor shall have the following powers and duties related to this code:

PLANNING AND ZONING CODE

CHAPTER 1163. Administrative Roles and Authority

Section 1163. 04 Planning Commission

1. Appoint members of the planning commission.
2. Appoint members of the board of zoning and building appeals.

1163. 04. PLANNING COMMISSION

A. Establishment

1. The City of Defiance Planning Commission shall be established pursuant to the Charter of the City of Defiance.
2. The planning commission shall consist of seven members in accordance with the charter.
3. The planning commission may, by a majority vote of its entire membership, organize and adopt bylaws for its own governance provided they are consistent with law or with any other ordinances of the city.
4. **Quorum and Decisions**
 - a. Any combination of four or more regular members of the planning commission shall constitute quorum.
 - b. The planning commission shall act when at least four members concur.
 - c. Non-decision items, such as continuance or approval of minutes, shall require a majority of the quorum to concur.

B. Powers and Duties

The planning commission shall have the following powers and duties under this code:

1. Hear, initiate, review, and make recommendations related to amendments to this code.
2. Hear, initiate, review, and make recommendations related to amendments to the zoning map.
3. Review and make recommendations related to planned unit developments.
4. Hear, review, and make decisions on conditional use applications.
5. Review and make decisions on major subdivision preliminary plats.
6. Review and make recommendations on major subdivision final plats.
7. Hear, review, and make decisions on requests to vary from the subdivision design and improvement standards.
8. Hear, review, and make decisions on an appeal of the decision of the city engineer on a minor subdivision or replat.
9. Review and make decisions on site plan applications. Engineering approval of site construction details is not part of site plan review by Planning Commission.
10. Review and make decisions on requests for modifications to buffer and landscape requirements.
11. Perform all other duties as provided by the city's charter.

1163. 05. BOARD OF ZONING AND BUILDING APPEALS

A. Establishment

1. The City of Defiance Board of Zoning and Building Appeals, hereafter referred to as the BZBA, shall be established pursuant to the Charter of the City of Defiance.
2. The BZBA shall consist of five members in accordance with the charter.
3. The BZBA may, by a majority vote of its entire membership, organize and adopt bylaws for its own governance provided they are consistent with law or with any other ordinances of the city.
4. **Quorum and Duties**
 - a. Any combination of three or more regular or alternate members of the BZBA shall constitute a quorum.
 - b. The BZBA shall act when at least three members concur.
 - c. Non-decision items, such as continuance or approval of minutes, shall require a majority of the quorum to concur.
 - d. The concurrence of not less than four members of the BZBA shall be required for the allowance of any variance to [Subsection 1169. 09 A. CO College Overlay District Regulations](#) of this code if such variance is contrary to the recommendations by the Planning Commission.
 - e. The BZBA shall decide all applications and appeals within 30 days after the final hearing thereon.
 - f. A decision of the BZBA shall not become final until the expiration of five days from the date such decision is made, unless the BZBA shall find that an immediate effective date is necessary for the preservation of property or personal rights, and shall so certify on the record.
 - g. The BZBA may reverse or affirm, wholly or partly, or modify, the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all powers of the zoning commissioner from whom the appeal is taken.
 - h. Any party adversely affected by a decision of the BZBA may appeal to any court with jurisdiction of the county on the ground that the decision was unreasonable or unlawful.

B. Powers and Duties

1. The BZBA shall have the following powers and duties under this code:
 - a. Hear, review, and make decisions on appeals made for exceptions to or overruling of determinations made by the zoning commissioner in the enforcement of this code or any amendment thereto.

CHAPTER 1163. Administrative Roles and Authority

Section 1163. 06 Zoning Commissioner

- b. Hear and decide on any questions related to interpretation of the code text or the zoning map and zoning district boundaries.
 - i. In case of any questions as to the location of any boundary line between zoning districts, a request for interpretation may be made to the BZBA.
 - ii. The BZBA may permit the extension of a district up to 200 feet where the boundary line of a district divides a lot or tract held in single ownership at the time of the passage of this code.
 - iii. Where a street or lot layout actually on the ground or as recorded differs from the street and lot lines as shown on the zoning map, the BZBA, after notice to the owners of the property and after public hearing, shall interpret the map to carry out the intent and purpose of this code.
 - c. Hear, review, and make decisions on applications to vary the terms of this code, unless otherwise specified, and excepting requests to vary subdivision design and improvement standards, when such variances from the provisions or requirements of this code will not be contrary to the public interest.
 - d. Hear, review, and make decisions on applications for a zoning permit for uses that are subject to the performance standards set forth in this code.
 - e. Review and make a decision on a request for the reconstruction of a nonconforming building in compliance with [CHAPTER 1181. Nonconformities](#).
 - f. Hear, review and make decisions on appeals made on decisions by the design review board for signs in the Central Business District.
2. The BZBA shall have the power to subpoena witnesses, administer oaths, and punish for contempt.

1163. 06. ZONING COMMISSIONER

A. Establishment

The City of Defiance Zoning Commissioner shall be established to enforce this planning and zoning code. The zoning commissioner shall be appointed by the mayor.

B. Powers and Duties

- I. The zoning commissioner shall have the following powers and duties:
 - a. Enforce the provisions of this code. All officials and employees of the city shall assist the commissioner by reporting to the commissioner new construction, reconstruction, land uses, or violations that are observed.
 - b. Review and make recommendations on applications for code text and zoning map amendments.
 - c. Review and make recommendations on applications for major subdivision preliminary and final plats.

CHAPTER 1163. Administrative Roles and Authority

Section 1163.07 City Engineer

- d. Review and make recommendations to the city engineer on minor subdivisions.
- e. Review and make recommendations on applications for planned unit developments.
- f. Review and make recommendations on applications for site plan review.
- g. Review and make recommendations on applications for conditional uses.
- h. Review applications for and make decisions on zoning permits to ensure compliance with this code.
- i. Issue a zoning permit, after written request from the owner or tenant, for any building or premises existing at the time of enactment of this code, certifying, after inspection, the extent and kind of use made of the building or premises, and whether such use conforms to the provisions of this code.
- j. Review, inspect property, and make decisions on zoning compliance inspections to ensure compliance with this code.
- k. Refer requests for appeals of decisions to the appropriate decision-making body pursuant to the procedures set forth in [CHAPTER 1165. Development Review Procedures](#).
- l. Maintain permanent and current records of all amendments to this code, all subdivision plans and plats, and all applications and decisions on said applications.
- m. Prescribe such rules and forms deemed necessary for the execution of these duties.
- n. Investigate complaints and issue citations for any notices of violation and keep adequate records of all violations.
- o. Revoke a zoning permit or approval issued contrary to this code or based on false statement or misrepresentation on the application.
- p. Deposit collected application and review fees with the finance director.
- q. Serve on the design review board for signs in the Central Business District, and issue zoning permits for signs approved by the design review board.

C. Decisions

- 1. A decision by the zoning commissioner may be appealed to the BZBA.
- 2. The zoning commissioner shall have appropriate forms for appeal available at the time of denial.

1163.07. CITY ENGINEER

The city engineer shall aid in the administration and enforcement of this code as defined herein.

A. Powers and Duties

- 1. The city engineer shall have the following powers and duties:
 - a. Review and make decisions on minor subdivisions.

CHAPTER 1163. Administrative Roles and Authority

Section 1163. 08 Design Review Board for Central Business District (CBD)

- b. Review, coordinate with other review agencies, and make recommendations to the planning commission on major subdivision preliminary and final plats.
- c. Review and make decisions on subdivision improvement plans and public improvements.
- d. Review and approve typical sections and major engineering details of any proposed public street.
- e. Review and approve all escrow agreements, performance bonds, and maintenance bonds prior to the acceptance of public improvements.
- f. Review and approve storm water management plans submitted pursuant to [CHAPTER 1174. Storm Water Management Regulations](#).
- g. Inspect construction of improvements in subdivisions as specified in this code, issue reports on such improvements as necessary, and provide recommendation to city council on the acceptance of improvements.

1163. 08. DESIGN REVIEW BOARD FOR CENTRAL BUSINESS DISTRICT (CBD)

Decisions by the design review board on signs shall be as regulated by [Section 1163. 08 Design Review Board for Central Business District \(CBD\)](#) and the procedures in [Subsection 1165. 10 B. 5. a.](#)

A. Establishment

There is hereby established a Design Review Board to review sign requests for the Central Business District (CBD).

B. Composition

The design review board shall consist of three members as follows:

1. the zoning commissioner;
2. an architect; and
3. one member of the downtown retail merchants division of the Defiance Area Chamber of Commerce.

C. Appointment

The mayor, with the approval and consent of council, shall appoint the members of the design review board.

D. Terms

Members of the design review board shall serve two-year terms, except for the zoning commissioner, who shall be a permanent member while holding such position. In order that the terms of the other two members will run so as to have one experienced member in addition to the zoning commissioner at all times, the first appointment will consist of one two-year term and one three-year term, becoming two years each thereafter.

CHAPTER 1163. Administrative Roles and Authority

Section 1163.08 Design Review Board for Central Business District (CBD)

E. Meetings and Decisions

The design review board shall meet, as needed, and shall render decisions within 10 days after a public meeting.

F. References Standards for Decisions

In determining requests for signs, the design review board shall refer to the following standards:

1. The Master Plan of the Defiance Area Chamber of Commerce, as proposed September, 1987;
2. Sign Options and Criteria for the Defiance Central Business District, sponsored by the Defiance Area Chamber of Commerce, June 26, 1987; and
3. The provisions of this chapter.

G. Appeals

Any party adversely affected by a determination of the design review board may submit an application to the BZBA pursuant to [Section 1165.09 Appeals](#) and Section 7.03 of the City Charter.

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CHAPTER 1165. DEVELOPMENT REVIEW PROCEDURES

1165. 01. PURPOSE

The purpose of this chapter is to identify the development review procedures used in the administration of this code.

1165. 02. COMMON REVIEW REQUIREMENTS

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

A. Authority to File Applications

1. Unless otherwise specified in this code, development review applications may be initiated by:
 - a. The owner of the property that is the subject of the application; or
 - b. The owner's authorized agent.
2. Each applicant shall be required to attest to the correctness of the statements and data furnished with the application.

B. Application Submission Schedule

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

C. Application Contents

1. Applications filed under this code shall be submitted in a form and in such numbers as established by the zoning commissioner and made available to the public.
2. Applications shall be accompanied by a fee as established by the city and pursuant to [Subsection 1165. 02 F. Fees](#).
3. Digital copies of application material, including plans, plats, and other images or drawings, shall be submitted in a format as established by the engineering division. Once an application is approved, digital copies of final versions of plans and plats shall be provided if revisions are made during the application review process.
4. **Complete Application Determination**
 - a. The zoning commissioner shall only initiate the review and processing of applications submitted under this chapter if such application is determined to be complete.
 - b. If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this code.
 - c. If an application is determined to be incomplete, the zoning commissioner shall provide written notice to the applicant along with an explanation of the application's deficiencies.

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No further processing of an incomplete application shall occur until the deficiencies are corrected in a future re-submittal application.

- d. If any false or misleading information is submitted or supplied by an applicant on an application, that application shall be deemed incomplete.

5. Survey Requirements

a. General Requirements

- i. All dimensions shown on filed plans shall be based on a survey.
- ii. If required, the applicant shall submit a survey of the property completed by a registered surveyor if complete and accurate property information is not available from existing records.

b. As Required for Subdivision Applications

- i. A single parcel being subdivided may need a survey, at the discretion of the city engineer or the Defiance County Auditor. The second parcel being transferred from an original parcel by the same person must be surveyed.
- ii. All plats shall be based on a land survey made and certified by a registered surveyor.

- 6. All plans shall be prepared by a professional licensed to do work in the State of Ohio (i.e. a professional engineer).

D. Simultaneous Processing of Application

Whenever two or more forms of review and approval are required under this code, the zoning commissioner shall determine the order and timing of review. The zoning commissioner may authorize a simultaneous review of applications, so long as all applicable requirements are satisfied for all applications.

E. Suitability of Land

If the planning commission finds that land proposed to be subdivided or developed is unsuitable for development due to flooding, bad drainage, topography, inadequate water supply, school, transportation facilities, and other such conditions which may endanger health, life, or property, and, if from investigations conducted by the public agencies concerned, it is determined that in the best interest of the public that the land should not be developed for the purpose proposed, the planning commission shall not approve the land for subdivision or development unless adequate methods are advanced by the developer for solving the problems that will be created by the development of the land.

F. Fees

I. Determination of Fees

- a. The determination of a fee schedule for the development review procedures of this code shall be established by the city administrator. The city administrator may adjust the fees from time-to-time.

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- b.** The adopted fee schedule shall be made available to the public in the office of the city engineer.
- c.** If the city determines that the costs on a particular application are extremely high as a result of preparation of legal descriptions, maps, studies, or other required information, or as a result of the need for professional expert review, study, or testimony, the zoning commissioner is authorized to collect such additional costs from the applicant.

2. Fees to be Paid

- a.** No application shall be processed or permit issued until the established fee has been paid.
- b.** Fees shall be paid in legal tender or by check or money order made payable to the city.

3. Refund of Fees

Application fees are not refundable, except where the zoning commissioner determines that an application was accepted in error, or the fee paid exceeded the amount due, in which case the amount of the overpayment will be refunded to the applicant.

G. Public Notification for Public Meetings

Applications for development approval that require public meetings shall comply with all applicable ORC requirements and the provisions of this chapter in regard to public notification.

H. Public Notification for Public Hearings

Applications for development approval that require public hearings shall comply with all applicable ORC requirements and the provisions of this chapter in regard to public notification.

I. Content

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

- a.** Identify the address or location of the property subject to the application and the name, address, and telephone number of the applicant or the applicant's agent;
- b.** Indicate the date, time, and place of the public hearing;
- c.** Describe the land involved by street address, or by legal description and the nearest cross street, and project area (size);
- d.** Describe the nature, scope, and purpose of the application or approval;
- e.** Identify the location (e.g., the office of the city engineer) where the public may view the application and related documents;
- f.** Include a statement that the public may appear at the public hearing, be heard, and submit written comments with respect to the application; and
- g.** Include a statement describing where written comments will be received prior to the public hearing.

CHAPTER 1165. Development Review Procedures

Section 1165.02 Common Review Requirements

2. Notice Requirements

Published and mailed notice for public hearings shall be provided as defined in [Table 1165.02-1: Public Notice Requirements](#).

TABLE 1165.02-1: PUBLIC NOTICE REQUIREMENTS			
DEVELOPMENT REVIEW PROCEDURE	AGENCY RESPONSIBLE FOR NOTIFICATION	MAILED NOTICE	PUBLISHED NOTICE
Code Text or Zoning Map Amendment	Clerk of Council or Zoning Commissioner [1]	Written notice shall be required a minimum of 20 days before public hearing by the Planning Commission or City Council.	Published notice required a minimum of 30 days before a public hearing.
Planned Unit Development – Preliminary Plan	Zoning Commissioner [1]		
Variance of Subdivision Improvement Standards	Zoning Commissioner [1]	Written notice shall be required a minimum of 21 days prior to public meeting or hearing.	Published notice required a minimum of 21 days before a public meeting or hearing.
Conditional Use Permit			
Variance (other than to Subdivision Plats)			
Appeal of Decision by Zoning Commissioner			
NOTES: [1] The clerk of council is responsible for sending notices for hearings by council. The zoning commissioner is responsible for sending notices for planning commission or BZBA.			

3. Published Notice

When provisions of this code require that notice be published, the agency responsible for notification shall prepare the content of the notice and publish the notice in a newspaper of general circulation in the city. The content and form of the published notice shall be consistent with [Subsection 1165.02 H. Public Notification for Public Hearings](#) and state law.

4. Written Notice

- a. The appropriate agency shall notify property owners within 200 feet of the subject property by regular mail, of information required in [Subsection 1165.02 H. Public Notification for Public Hearings](#) and state law.
- b. Written notice to property owners within 200 feet of the subject property shall be postmarked no later than the minimum number of days required in [Subsection 1165.02 H. 2. Notice Requirements](#).

5. Constructive Notice

The following shall apply to all public notice requirements established in each development review:

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Section 1165.02 Common Review Requirements

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

6. Waiver of Notice Requirements for BZBA Hearings

- a. At the recommendation of the city administrator or law director, and upon approval of the BZBA, the BZBA shall hold a special meeting and waive the 21-day notice requirement mentioned in [Table 1165.02-1: Public Notice Requirements](#), only for commercial and industrial appeals.
- b. When the 21-day requirement is waived and a special meeting is held, it shall be necessary to obtain in writing, on a prescribed form, the approval of surrounding property owners as required.

I. Conduct of Public Hearing

1. Right of All Persons

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 Hearing or Deferral of Application Review

- a. 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 commissioner prior to the publication of notice as may be required by this code. The zoning commissioner may grant such requests, in which case, the application will be considered at the next regularly scheduled meeting.

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Section 1165.02 Common Review Requirements

- b.** A request for deferral of consideration of an application received by the zoning commissioner after publication of notice of the public hearing as required by this code shall be considered as a request for continuance of the public hearing, and may only be granted by the review or decision-making body.
- c.** The review 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.

3. Withdrawal of Application

Any request for withdrawal of an application shall be either submitted in writing to the zoning commissioner or made through verbal request by the applicant prior to action by the review or decision-making body.

- a.** The zoning commissioner 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.
- b.** 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 placed on the public hearing agenda and acted upon by the review or decision-making body.
- c.** In all cases where the applicant has requested the withdrawal of an application, the application fee paid shall not be refunded.

J. Examination and Copying of Application and Other Document

Documents and/or records may be inspected and/or copied as provided for by state law.

K. 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 as observed by the City of Defiance where the city administrative offices are closed for the entire day.
 - 2.** When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation (i.e., business days and not calendar days).
 - 3.** 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 of Defiance in which the city administrative offices are closed for the entire day.

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Section 1165. 03 Zoning Text and Map Amendments

1165. 03. ZONING TEXT AND MAP AMENDMENTS

A. Purpose

City council may amend the text of this code or the zoning map pursuant to the procedure set forth in this section. The purpose of a text or map amendment is to make adjustments due to changed conditions, changes in public policy, recommendations of the comprehensive plan, or that are necessary to advance the health, safety, and general welfare of the city.

B. Applicability

This section shall apply to requests to amend the text of this code or the Official Zoning Map of the City of Defiance, hereafter referred to as the “zoning map.”

C. Initiation

1. Any person having authority to file applications may initiate an application for amendment pursuant to [Subsection 1165. 02 A. Authority to File Applications](#);
2. The planning commission may make a motion to initiate a text or map amendment; or
3. City council may initiate a text or zoning map amendment by recommendation or referral to the planning commission.

D. Procedure

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

1. Step 1 – Pre-Application Meeting

- a. If the amendment process is initiated by the property owner or the property owner’s authorized agent, the applicant shall meet with the zoning commissioner for a pre-application meeting prior to submitting an application for review of a proposed text or map amendment.
- b. The applicant shall supply preliminary information to the zoning commissioner in a form established by the engineering division for use at the pre-application meeting. Such information shall be submitted at least three business days prior to the scheduled pre-application meeting.
- c. The purpose of the pre-application meeting shall be to discuss the proposed development, review submittal requirements, and discuss compliance with the provisions of this code and the comprehensive plan prior to the submittal of an application.

2. Step 2 – Application

- a. The applicant shall submit an application in accordance with [Section 1165. 02 Common Review Requirements](#) and with the provisions of this chapter.
- b. Amendments initiated by planning commission shall be accompanied by the motion pertaining to such amendments.

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Section 1165. 03 Zoning Text and Map Amendments

- c. Amendments initiated by city council shall be referred to the planning commission for review.

3. Step 3 – Review of Application by Zoning Commissioner

- a. Prior to the planning commission meeting where the text or map amendment is scheduled for review, the zoning commissioner shall review the application for completeness and prepare a staff report.
- b. Upon determination that a text or zoning map amendment application is complete, the zoning commissioner shall refer the application to the planning commission for review.

4. Step 4 – Planning Commission Review and Recommendation

- a. Planning commission shall review and make a recommendation on the text or zoning map amendment application during a public hearing and give public notice in accordance with [Subsection 1165. 02 H. Public Notification for Public Hearings](#).
- b. The planning commission shall review and recommend approval, approval with some modification, or disapproval of the application to city council.
- c. Following the recommendation on the proposed amendment, the planning commission shall, within a reasonable amount of time, advise city council on its recommendation and include a statement setting forth the reasons and substantiation for such recommendation.

5. Step 5 – City Council Review and Decision

- a. Following the receipt of the recommendation from the planning commission (Step 4), city council shall hold a public hearing on the application for an amendment and give public notice in accordance with [Subsection 1165. 02 H. Public Notification for Public Hearings](#).
- b. After the public hearing, city council shall either adopt or deny the recommendations of the planning commission, or adopt some modification thereof.
- c. No ordinance, measure, or regulation, which differs from or departs from the plan or report submitted by the planning commission, shall take effect unless passed or approved by not less than three-fourths of the membership of the city council.

E. Review Criteria

Recommendations and decisions on a text or map amendment shall be based on consideration of the following criteria. Not all criteria may be applicable in each case, and each case shall be determined on its own facts.

1. Whether the proposed amendment corrects an error or meets the challenge of some changing condition, trend, or fact since the time that the original text or map designations were established;
2. Whether the proposed amendment is consistent with the comprehensive plan or other applicable city plans;
3. Whether the proposed amendment is consistent with the purpose of this code;

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Section 1165.04 Minor Subdivision

4. Whether, and the extent to which, the proposed amendment addresses a demonstrated community need;
5. Whether the proposed amendment will protect the health, safety, morals, and general welfare of the public;
6. Whether the proposed amendment will result in significant mitigation of adverse impacts on the natural environment, including air, water, noise, storm water management, wildlife, and vegetation;
7. Whether the proposed amendment will ensure efficient development within the city; and
8. Whether the proposed amendment will result in a logical and orderly development pattern.

F. CO College Overlay District

Applications for changes to CO College Overlay District boundaries are subject to the additional requirements in [Subsection 1169.09 A](#).

G. Planned Unit Developments

Planned Unit Developments (PUDs) shall be subject to the review procedure established in [CHAPTER 1171. Planned Unit Development Overlay District Regulations](#).

1165.04. MINOR SUBDIVISION

A. Purpose

The purpose of the minor subdivision review process is to ensure compliance with this code while allowing for the small-scale subdivision of land without the formalities of the platting approval procedure in circumstances where pre-existing development has substantially resolved issues relative to the adequacy and integration of street access, fire protection fixtures and sewer and water systems.

B. Minor Subdivision Determination and Applicability

Approval without a plat in a minor subdivision may be granted by the city engineer if the proposed division of the tract meets all of the following conditions:

1. The subdivision would result in no more than five lots after the original tract has been completely subdivided.
2. Each of the newly created lots would abut an existing public road or recorded access easement and would involve neither the opening or widening nor extension of any street or road, nor the integration of any access created within the parcel or other means of access.
3. The proposed subdivision is not contrary to applicable subdivision or zoning regulations.
4. The property has been surveyed and a plat and legal description of the property has been submitted with the application.

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Section 1165.04 Minor Subdivision

C. Replats

1. Any minor subdivision that involves the consolidation of lots or the adjustment of boundaries between lots that are situated within existing platted subdivisions shall adhere to the procedures set forth in [Subsection 1165.04 E. Procedure](#), and shall be subject to the review criteria set forth in [Subsection 1165.04 F. Review Criteria](#), below.
2. Any subdivision of land within a previously platted subdivision which results in one or more additional lots within that subdivision shall adhere to the procedures for an amendment to a major subdivision, as applicable, as set forth in [Subsection 1165.05 J. Amendments](#), below.
3. When a minor subdivision involves property in a designated flood plain, and two lots are created – e.g. Lot A and Lot B, with Lot B being in a flood plain – such lots shall be deed restricted to be sold together and to indicate that construction is not allowed on the lot in the flood plain, except in conformance with Chapter 1333 Flood Plain Construction Standards of the Codified Ordinances.

D. Initiation

Any person having authority to file applications may initiate an application for a minor subdivision or replat pursuant to [Subsection 1165.02 A. Authority to File Applications](#).

E. Procedure

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

1. Step 1 – Application

- a. The applicant shall submit an application in accordance with [Section 1165.02 Common Review Requirements](#) and with the provisions of this chapter.

2. Step 2 – Review and Comment by Applicable Agencies

- a. Upon determination that the application for a minor subdivision is complete, the city engineer may transmit copies of the application for review by applicable agencies including, but not limited to, the zoning commissioner and the agencies having jurisdiction over sanitary sewer or water.
- b. Such agencies may supply comments, recommendations, and approvals as applicable, to the city engineer for consideration prior to the city engineer's deadline (Step 3).

3. Step 3 – Review and Decision by City Engineer

- a. Within seven days of the determination that the application is complete, the city engineer shall review the application and approve or deny the application for a minor subdivision.
- b. If the city engineer denies an application for a minor subdivision, the city engineer shall provide the applicant with written finding for the denial.
- c. If the application is approved, the applicant shall be required to record the minor subdivision in accordance with [Subsection 1165.04 G. Recording](#), below.

CHAPTER 1165. Development Review Procedures

Section 1165.04 Minor Subdivision

F. Review Criteria

In order to approve a minor subdivision, the city engineer shall determine the following:

1. That the minor subdivision complies with all applicable provisions of this code.
2. That the minor subdivision does not conflict with other regulations, plans, or policies of the city.
3. That applicable review agencies have no objections that cannot be resolved by the applicant.
4. That the minor subdivision is not otherwise contrary to the interest of the city.

G. Recording

If the city engineer approves the minor subdivision without a plat, the deeds which effectuate it shall be stamped "Approved by Defiance Planning Commission, no plat required," and signed by the city engineer.

H. Park and Playground Fee Required

Prior to the approval of an application for a minor subdivision, the applicant must pay a park and recreation fee per [Subsection 1167.13 B. Park and Playground Fee Required](#).

I. Variances and Appeals

1. The city engineer may not grant variances to code regulations. If a variance is necessary for a minor subdivision, such approval shall be obtained by the appropriate approval body prior to a decision by the city engineer.
2. If the city engineer denies the application for a minor subdivision, the applicant may appeal the decision to the planning commission within 20 days of the city engineer's decision.
3. An appeal pursuant to this section shall be initiated by filing a written appeal of the administrative decision.
4. The applicant shall submit an application in accordance with [Section 1165.02 Common Review Requirements](#).
5. Upon receiving the written appeal of the city engineer's decision on a minor subdivision, the city engineer shall transmit the written appeal with all papers, documents, and other materials related to the appealed decision or determination to the planning commission. The material shall constitute the record of the appeal.
6. The planning commission shall hold a public hearing within 45 days of the filing of the appeal provided adequate notification is provided pursuant to [Subsection 1165.02 G. Public Notification for Public Meetings](#).
7. Any person affected by the appeal may appear at the public hearing and testify in person, or by attorney or agent.
8. The planning commission shall render a decision on the appeal without unreasonable delay. The city engineer shall notify the appellant in writing of the decision of the planning commission.

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Section 1165.05 Major Subdivision

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

1165.05. MAJOR SUBDIVISION

A. Purpose

The purpose of the major subdivision review process is to ensure compliance with this code while promoting the appropriate development of the city as provided for in the purpose of this code.

B. Major Subdivision Determination and Applicability

A major subdivision shall include any subdivision that includes the construction of a public roadway, that does not meet the requirements of a minor subdivision (See [Section 1165.04 Minor Subdivision](#)), or that includes the improvement of one or more parcels of land for residential, commercial, or industrial structures, or groups of structures which ultimately are to be jointly owned under a recorded condominium property declaration under the provisions of ORC Chapter 5311.

C. Initiation

Any person having authority to file applications may initiate an application for a major subdivision pursuant to [Subsection 1165.02 A. Authority to File Applications](#).

D. Procedure

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

I. Step 1 – Pre-application Meeting

- a. The applicant shall meet with the planning commission or its designated representatives prior to submitting an application for review of a preliminary or final plat.
- b. The purpose of this meeting is to discuss early and informally the purpose and effect of this code and the criteria and standards contained herein, and to familiarize the applicant with the comprehensive plan and any other city plans including the major thoroughfare plan, access management standards, the parks and public open space plan, the flood plain regulations, and the drainage, sewerage and water systems of the city.
- c. The applicant shall supply preliminary information to the zoning commissioner in a form established by the engineering division for use at the pre-application meeting.
- d. At the close of this meeting, the applicant shall be advised of his or her right, provided that all other prerequisites have been fulfilled, to submit one of the following:
 - i. A preliminary review plat, at the applicant's option, for the purpose of further consultation with city planning officials, pursuant to [Subsection 1165.05 D. 3.](#), below; or
 - ii. A final plat for planning commission approval, pursuant to [Subsection 1165.05 D. 4.](#), below.

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2. Step 2 – Application and Filing of Preliminary Plat

- a. At the applicant's option, an application shall be submitted in accordance with [Section 1165.02 Common Review Requirements](#) and with the provisions of this chapter. Plats submitted for preliminary review will not cause the statutory approval period mandated by ORC 711.09 to expire. Such submissions are strictly for the purpose of further consultation with city planning officials.
- b. The application for preliminary plat submission shall be submitted to the zoning commissioner not less than 21 days prior to the planning commission meeting at which the applicant requests review to allow for proper notice to surrounding land owners.
 - i. The planning commission may consider a preliminary plat at a regular or duly convened special meeting held less than 21 days following the filing of the application upon approval of a majority of the planning commission provided, however, that the 21-day notice provision shall not be waived unless written consent to the conduct of proceedings on the date and at the time and place proposed is filed by the owners of all lands located within 200 feet of the lands described by the proposed plat prior to consideration of the application.
- c. The clerk of planning commission shall forward copies of the preliminary plat to any officials and agencies as may be necessary for the purpose of study and recommendation.

3. Step 3 – Review and Decision on the Preliminary Plat by Planning Commission

- a. The planning commission shall review and decide on the preliminary plat at a public meeting.
- b. The planning commission shall determine if the preliminary plat shall be approved, approved with modifications, or disapproved within 30 days of filing unless the time is extended by agreement with the applicant.
- c. Approval of the preliminary plat shall be conditional on compliance with all other applicable statutes, ordinances, and regulations of the city.
- d. **Effect of Approval**
 - i. The approval of the preliminary plat shall guarantee that the terms under which the approval was granted will not be affected by changes in this code during the approval period.
 - ii. The approval of the preliminary plat shall be effective for a maximum period of 12 months.
- e. **Final Plat Required**
 - i. Either after the pre-application meeting or upon completion of the preliminary plat submission process, the applicant shall submit a final plat of the subdivision pursuant to the requirements outlined herein.
 - ii. If a preliminary plat covering the subdivision has been approved by the planning commission, a final plat submitted shall conform to the preliminary plat as approved by the planning commission.

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- iii. A final plat may be filed which constitutes only that portion of the approved preliminary plat which the applicant proposes to record and develop at the time.

f. Appeal of a Decision by Planning Commission to City Council

- i. If planning commission denies the application for a preliminary plat, the applicant may appeal the decision to city council within 20 days of the planning commission's decision.
- ii. An appeal pursuant to this section shall be initiated by filing a written appeal of the planning commission decision with the clerk of planning commission.
- iii. The applicant shall submit an application in accordance with [Section 1165.02 Common Review Requirements](#).
- iv. Upon receiving the written appeal of the planning commission's decision on a preliminary plat, the clerk of the planning commission shall transmit the written appeal with all papers, documents, and other materials related to the appealed decision or determination to city council. This material shall constitute the record of the appeal.
- v. The city council shall hold a public hearing to hear the appeal.
- vi. The city council shall render a decision on the appeal without unreasonable delay. The clerk of council shall notify the appellant in writing of the decision of the city council.
- vii. A decision or determination shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the decision or determination fails to comply with either the procedural or substantive requirements of this code.

4. Step 4 - Filing of the Final Plat

- a. An application shall be submitted in accordance with [Section 1165.02 Common Review Requirements](#) and with the provisions of this chapter.
- b. Upon determination by the zoning commissioner that the final plat has been properly submitted, the final plat shall be accepted as being filed.
- c. The filed application, plats, and any supplemental information shall be filed not less than 15 days prior to the regular monthly meeting of the planning commission.
- d. The clerk of planning commission shall schedule such application for consideration at the next planning commission meeting and shall stamp the application and related documents as officially filed with the date of the planning commission meeting at which the plat will be first considered by the planning commission.
- e. **Submission of the Improvement Plan**
 - i. The applicant's engineer shall prepare improvement plans, which shall conform to the approved preliminary plat, if applicable, and include all work to be performed. In cases where the applicant proposes to develop the subdivision in phases, improvement plans shall be submitted for each individual phase.

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Section 1165.05 Major Subdivision

- ii. The applicant shall supply the improvement plans to the zoning commissioner in a form and number established by the engineering division.
- iii. If the applicant finds, in the process of preparing improvement plans, that the approved preliminary plat is not workable and changes in layout are required, the applicant shall inform the zoning commissioner. The zoning commissioner may require that a revised preliminary plan be submitted for re-approval following Steps 2 through 3 above.
- iv. The final plans and specifications of improvements shall be a set of construction and utility plans prepared by a registered professional engineer. The improvement plans shall be approved in advance by the city engineer before the completion of the plans.

5. Step 5 – Staff Review and Staff Report on the Final Plat

- a. Upon determination that the application for a final plat is complete, the zoning commissioner shall transmit copies of the application for review by the city engineer and other applicable agencies the zoning commissioner deems appropriate.
- b. The city engineer and agencies shall supply comments and recommendations to the zoning commissioner a minimum of 15 days prior to the regularly scheduled planning commission meeting where the final plat will be reviewed.
- c. Prior to the planning commission meeting where the final plat is scheduled for review, the zoning commissioner shall review the final plat and prepare a staff report.

6. Step 6 – Staff Review and Decision on the Improvement Plans

- a. The zoning commissioner shall distribute copies of the improvement plans to the city engineer and, where applicable, the applicant shall submit the improvement plans to the agencies having jurisdiction for sanitary sewer or water, the Ohio Environmental Protection Agency (EPA), and any other applicable agencies.
- b. The review agencies shall provide comments and recommendations on the improvement plans to the zoning commissioner.
- c. A copy of the improvement plans shall be marked and returned to the applicant's engineer for corrections, if necessary.
- d. If found to be satisfactory by the city engineer, the original tracing shall be submitted for approval signature by the zoning commissioner, city engineer, and the agencies having jurisdiction over sanitary sewer or water (where applicable).
- e. Improvements shall not be constructed until such time as the city has accepted the final plat and performance bond, and the city and other applicable agencies have approved the improvement plans. The applicant is required to participate in a pre-construction meeting and file all bond documents with the city engineer prior to commencing construction of improvements.

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7. Step 7 – Review and Recommendation on the Final Plat by the Planning Commission

- a.** The planning commission shall hold a public meeting to review and make a recommendation on the final plat. The planning commission shall take one of the following actions:
 - i.** The planning commission shall give a favorable recommendation on the final plat before any required improvements are installed pursuant to the improvement plans, authorizing its secretary, or any other officer of the planning commission, to indicate such approval and the date on the tracing of the final plat.
 - ii.** If the improvement plans have not been approved by the city engineer (Step 6) by the time of the planning commission's scheduled meeting, the final plat may be placed on the agenda for the next planning commission meeting for action.
 - iii.** Should the planning commission deny the final plat, written notice of such action, including reference to the regulation or regulations not complied with by the plat, shall be given to the applicant and the applicant's engineer and/or surveyor. The action shall also be entered on the official records of the planning commission.
- b.** The planning commission shall approve, approve with modifications, or disapprove the final plat within 30 days from the filing date.
- c.** The chairperson of the planning commission shall certify the final plat by signing and dating the final plat upon recommendation of approval from the planning commission.
- d.** If the final plat includes land to be dedicated to the public use, the plat shall, before it is recorded, be submitted to the city council for the acceptance of the land.

8. Step 8 – Review and Decision on the Final Plat by the City Council

- a.** After full compliance with this section, the clerk of planning commission shall request the clerk of council to prepare the necessary legislation for city council for introduction no later than 60 days of the recommendation of planning commission.
- b.** Council shall review the final plat with access to the files of the planning commission.
- c.** If approval is given, the plat and any appropriate documents shall be signed by the mayor and clerk of council upon passage of the acceptance legislation by city council.
- d.** All drawings shall be returned to the planning commission after approval by city council. The zoning commissioner shall notify the applicant of the action by city council by mail within five days after the action by city council. The original tracing shall be returned to the applicant for recording in the Defiance County Recorder's office.
- e.** The city defined its policy to be that the city will withhold all public improvements of whatever nature, including the maintenance of streets and the furnishing of sewage facilities and water service, from all subdivisions which have not been approved, and from all areas dedicated to the public which have not been accepted by the legislative authority in the manner prescribed herein.

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E. Review Criteria

1. In order to approve a major subdivision, the planning commission shall determine the following:
 - a. That the major subdivision complies with all applicable provisions of this code.
 - b. That the major subdivision does not conflict with other regulations, plans, or policies of the city.
 - c. That applicable review agencies have no objections that cannot be resolved by the applicant.
 - d. That the major subdivision is not otherwise contrary to the interest of the city.
2. Planning commission shall not disapprove a final plat if the applicant has done everything required and has proceeded in accordance with the code standards and/or conditions specified in an approved preliminary plat.

F. Submission to Ohio Director of Transportation

Before any plat is approved affecting any land within 300 feet of the centerline of a proposed new highway or a highway for which changes are proposed, as described in the certification to local officials by the Ohio Director of Transportation, or any land within a radius of 500 feet from the point of intersection of such centerline with any public road or highway, the planning commission shall give notice, by registered or certified mail, to the Director of Transportation. The planning commission shall not approve the plat for 120 days from the date the notice is received by the director. If the director notifies the planning commission that he or she shall proceed to acquire the land needed, then the planning commission shall refuse to approve the plat. If the director notifies the planning commission that acquisition at this time is not in the public interest, or upon the expiration of the 120-day period or any extension thereof agreed upon by the director and the property owner, the planning commission shall, if the plat is in conformity with this code, approve the plat.

G. Estimated Cost

Upon approval of the improvement plans by the city engineer, and before starting any construction work, the developer's engineer shall prepare and submit to the city engineer and/or the agencies having jurisdiction over sanitary sewer or water (where applicable), an independent estimate of costs, by item, for construction surveying; construction of roads, storm and sanitary sewers, sanitary treatment plants, pumping stations and water supply systems; drainage structures; erosion control, storm water management basins, restoration of land and site clean-up; and other related items. The city engineer and/or the agencies having jurisdiction over sanitary sewer or water (where applicable), may add to the developer's estimate an amount to cover contingencies, including inspection costs, to arrive at the total estimated cost. The approved total of estimated costs shall be the basis for the establishment of the performance bond amount.

H. Escrow and Bonding Requirements

1. Improvements or Guarantee Required Prior to Final Plat Approval

- a.** All improvements required in accordance with this code shall be constructed prior to the granting of final plat approval by planning commission, or the applicant shall, if approved by the planning commission, furnish the city with a performance bond or escrow agreement for the estimated construction cost for the ultimate installation, as provided herein, and additionally shall provide a bond guaranteeing workmanship and materials.

2. Escrow Agreements and Performance Bonds

- a.** Council shall not accept as public streets any streets or public ways which are designated as such on plats or which are hereafter platted, until or unless all necessary water mains, sanitary sewers, storm sewers, paving or other improvements which are required have been installed or constructed, or until or unless an escrow agreement from any of the area commercial or savings and loan banks guaranteeing to the city that funds are available to pay the cost of such improvements, including all costs and expenses in connection therewith, have been deposited with the finance director.
- b.** In lieu of the escrow, a performance bond with surety or sureties sufficient to pay the cost of installing or constructing the improvements, including all costs and expenses in connection therewith, may be filed with the city engineer.
- c.** The escrow agreement or performance bond shall be approved by the city engineer as to surety, by the law director as to form and by the city administrator as to the amount to pay the cost of constructing the improvements, including all costs and expenses in connection therewith.
- d.** The escrow agreement or performance bond shall have included therein that the construction and installation of the improvements required will be completed in their entirety within two years from the date of the escrow agreement or bond execution, with the exception of any required sidewalks which, from the date of escrow agreement or bond execution, will be completed in their entirety within a period not to exceed five years or at the time when 75% of the lots are improved with structures thereon, whichever occurs first.
- e.** If such improvements are not completed within two years from the date of the escrow agreement or bond execution, or for sidewalks, as specified in this section, the applicant who presents the plat for approval and recording, shall authorize the city to make such installations, complete such improvements and pay for them with funds so guaranteed.
- f.** When council is requested to accept as public streets, alleys and public ways those as may be designated on a plat, such matter shall be referred to the city administrator for determination as to the character and extent of the necessary improvements, and as to whether or not such necessary improvements have been installed or constructed, including all costs and expenses in connection therewith if improvements have not been installed or constructed in such territory.

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- g.** The cost of necessary engineering and testing shall be determined by the city engineer and shall be charged against and collected from the applicant who presents the plat for approval and recording.
- h.** The city administrator may adopt such administrative rules, including the partial release of funds herein authorized to be deposited, as in his or her opinion shall be necessary and requisite for the execution of the intention of this section.

3. Workmanship Bonds

- a.** In addition to the escrow agreement or performance bond guaranteeing the installation or construction of improvements, each applicant shall furnish to the city a bond guaranteeing workmanship and materials for a period of two years after the work has been accepted by the city.
- b.** If the contractor furnishes the applicant a bond guaranteeing workmanship and materials for a period of one year after the work has been accepted by the city, then it shall be permissible, to satisfy the requirements of this section pertaining to guaranteeing workmanship and materials, that the contractor's bond to the subdivision also names the city as a cobeneficiary of the bond.

I. Filing and Recording

- 1.** After all required approvals are secured, the final plat shall be returned to the applicant for final recording with the Defiance County Recorder.
- 2.** No plat of any subdivision shall be recorded, or have any validity, until the plat has received final approval as prescribed in this section.

J. Amendments

I. Major Changes to an Approved Plat

- a.** Major changes to an existing subdivision, modifications to an approved improvement plan, or revisions to an approved preliminary or final plat for a tract of land in which development has not already begun or is not yet completed, in light of technical or engineering considerations, shall include the following:
 - i.** A significant change in density or intensity.
 - ii.** Changes in the outside boundaries of the subdivision.
 - iii.** Significant modification of the type, design, location, or amount of land designated for a specific land use or open space.
 - iv.** Modifications to the internal street and thoroughfare locations, design, or alignments which significantly impact traffic patterns or safety considerations; or significant modifications to the locations or design of connections to the external street network.

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- b. No major change shall be made in any plat of a subdivision after approval has been given by the planning commission and endorsed in writing on the plat, unless the plat is resubmitted to the planning commission pursuant to [Subsection 1165.05 D. 4.](#)

2. Minor Changes to an Approved Plat

All modifications from an approved preliminary plat or minor changes to an approved final plat not determined to be major changes as described above shall be submitted to the city engineer for review and approval by the city engineer and necessary agencies.

3. If it becomes necessary to modify the improvement plans as approved due to unforeseen circumstances, the subdivider shall inform the zoning commissioner who shall consult with the city engineer and the agencies having jurisdiction over sanitary sewers or water (where applicable), in writing, of the conditions requiring modifications. Written authorization from the appropriate review agency to make the required modification must be received before proceeding with the construction of the improvement.
4. The city engineer shall review proposed changes and determine whether such changes are major or minor based on the standards of this section.

K. Appeals

Whenever an applicant presenting a final plat for a major subdivision to the planning commission has been rendered a decision from the planning commission which is adverse to the request of the applicant, the aggrieved applicant may appeal the decision to any court with jurisdiction within 10 days of the decision of the planning commission.

L. Variance of Subdivision Design and Improvement Standards

1. The planning commission may consider and grant variances from the standards identified in [CHAPTER 1167. Subdivision and Improvement Standards](#) where unusual or exceptional factors or conditions require such modification, provided that the planning commission shall:
 - a. Determine that the size, shape, location, or surroundings of the property are unusual and that unusual topographical or physical conditions or other conditions inherent in the land exist;
 - b. Determine that a strict compliance with the provision would create an extraordinary and unnecessary hardship in the face of the exceptional conditions;
 - c. Permit any variance of a provision only to the extent necessary to equitably remove the hardship so that substantial justice is done;
 - d. Determine that any modification granted will not be detrimental to the public interest nor in conflict with the spirit, intent, and purpose of [CHAPTER 1167. Subdivision and Improvement Standards](#);
 - e. Require such other conditions to be met by the proposed plat as the planning commission may find necessary to accomplish the purposes of this code, when modified; and

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- f. Determine that a strict compliance with the provision would deprive the property of privileges enjoyed by similar properties in the vicinity.
2. In making its determinations, the planning commission may also consider:
 - a. Whether the property will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
 - b. Whether the essential character of the neighborhood will be altered or whether adjoining properties would be adversely affected as a result of the variance;
 - c. Whether the variance would adversely affect the delivery of governmental services; and
 - d. The recommendation of the city engineer and zoning commissioner.

1165.06. SITE PLAN REVIEW

A. Purpose

The purpose of a site plan review is to provide a process for the evaluation and approval of site plans by the city to promote logical and orderly development within the city.

B. Initiation

Pursuant to [Subsection 1165.02 A. Authority to File Applications](#), any person having authority to file applications may initiate an application for site plan review.

C. Applicability

I. Site Plan Review Required

A site plan review by the planning commission shall be required for the following applications:

- a. New nonresidential development;
- b. New multi-family residential structures;
- c. Expansions of existing nonresidential and multi-family residential structures representing a substantial increase in gross floor area as determined by [Table 1165.06-1: Substantial Expansion](#);

TABLE 1165.06-1: SUBSTANTIAL EXPANSION	
WHEN EXISTING STRUCTURE IS:	A SUBSTANTIAL EXPANSION IS:
0 – 1,000 square feet	50% or greater
1,001 – 10,000 square feet	40% or greater
10,001 – 25,000 square feet	30% or greater
25,001 – 50,000 square feet	20% or greater
50,001 square feet or larger	10% or greater

- d. All development or changes in use that are not exempt from site plan review as stated in [Subsection 1165.06 C. 2. Exemptions](#);

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- e. Integrated commercial centers, apartments, offices, and research and restricted industrial centers; and
- f. Any demolition or improvement of property located in an overlay district.

2. Exemptions

The following applications are exempt from the site plan review procedures outlined in [Subsection 1165.06 D. Process](#) :

- a. New single-family and two-family residential dwellings;
- b. Expansions of existing nonresidential uses not representing a substantial increase in gross floor area as determined by [Table 1165.06-1: Substantial Expansion](#);
- c. A change in use of a nonresidential building provided the change in use does not increase the amount of landscaping or parking required for the site;
- d. Modifications to sites involving changes to landscaping, parking, or loading, without substantial expansions to buildings;
- e. Accessory structures and uses as required in [Section 1169.10 Accessory Use and Structure Regulations](#);
- f. Temporary structures and uses as required in [Section 1169.11 Temporary Use Regulations](#); and
- g. Signs.

D. Process

The procedure for a site plan review shall be as follows:

1. Step 1 – Application

The applicant shall submit an application in accordance with [Section 1165.02 Common Review Requirements](#) and with the provisions of this chapter.

2. Step 2 – Review of Application by Zoning Commissioner

- a. Upon receipt of an application for site plan review, the zoning commissioner shall review the application for completeness and prepare a staff report.
- b. The zoning commissioner shall refer the complete application to the planning commission for review at a regularly scheduled meeting to be held more than 21 days from the application filing date.

3. Step 3 – Review and Decision by Planning Commission

- a. Planning commission shall review and make a decision on the site plan during a regularly scheduled meeting.
- b. The planning commission shall determine the following:

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- i. Whether the proposed development complies with the subdivision provisions of this code ([CHAPTER 1167. Subdivision and Improvement Standards](#)) or any variance there from granted by the planning commission;
 - ii. Whether the proposed development complies with all applicable regulations of the overlay district ([CHAPTER 1169. Zoning Districts and Use Regulations](#)) in which it is to be sited, and, if not, the specific deficiencies to be corrected in order to achieve compliance;
 - iii. Whether the use proposed to be made of the site is permitted by district zoning regulations. If the planning commission determines that the proposed use is permitted only as a conditional use, hearings, review, and decisions required in accordance with [Section 1165.07 Conditional Use Permit](#) shall be conducted concurrently with the site plan review application.
 - iv. Whether the proposed development complies with all applicable general zoning regulations. If the planning commission determines that a zoning variance is required to allow development in the manner proposed, it shall state its recommendations for the allowance or disallowance of the necessary variance.
- c. The planning commission shall issue its findings of approval, approval with modifications, or disapproval to the zoning commissioner.
 - d. The planning commission's findings shall be delivered in writing within 10 days after the planning commission meeting at which the findings were made.

4. Step 4 – Decision by Zoning Commissioner

Upon receipt of the findings of planning commission, the zoning commissioner shall take one of the following actions:

- a. If the planning commission finds the application complies with the code regulations, and no variance is required, the zoning commissioner shall approve the permit application based on compliance with building, electrical, plumbing, fire safety, and related codes, and subject to city engineer approval; or
- b. If the planning commission finds the application does not comply with the code regulations, the zoning commissioner shall deny the requested permit application.
- c. If the planning commission determines that a variance is required, the zoning commissioner shall present the application and the planning commission's findings and recommendations to the BZBA for public hearing.
- d. Denial of a permit application by the zoning commissioner in reliance on the findings of the planning commission or of a variance by the BZBA shall constitute a final administrative order.
- e. Whenever a general ordinance or a provision of any building code adopted for use within the municipality requires the zoning official or BZBA to take an action within a specified

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time, the period allowed shall be deemed to commence upon the completion of the site plan review.

E. Site Plan Review Criteria

Recommendations and decisions on a site plan shall be based on consideration of the following criteria:

1. That the proposed development is consistent with all the requirements of this code;
2. That the proposed development is in compliance with all applicable zoning districts;
3. That the proposed development meets all the requirements or conditions of any applicable development approvals (e.g. PUD or administrative waivers);
4. Whether the proposed improvements preserve the character and nature of the surrounding area, including the natural characteristics of the area;
5. Whether the proposed improvements are constructed of unsightly, improper, or unsuitable materials;
6. Whether the proposed site and improvements shall have an appearance that will not have an adverse effect upon adjacent residential properties; and
7. Whether the proposed improvements are compatible and in harmony with the existing structures in the surrounding area.

1165.07. CONDITIONAL USE PERMIT

A. Purpose

The characteristics and impacts of an ever-increasing number of new and unique uses, together with the broadening of numerous conventional uses, have fostered the development of more flexible regulations designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety and general welfare of the community. Toward these ends, it is recognized that this code should provide for more detailed evaluation of each use conditionally permissible in a specific district with respect to such considerations as location, design, size, methods of operation, intensity of use, public facilities requirements, and traffic generation. Accordingly, conditional use permits shall conform to the procedures and requirements of this section.

B. Initiation

Any person having authority to file applications may initiate an application for a conditional use permit pursuant to [Subsection 1165.02 A. Authority to File Applications](#).

C. Process

I. Step 1 – Application

- a. The applicant shall submit an application in accordance with [Section 1165.02 Common Review Requirements](#) and with the provisions of this chapter.

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2. Step 2 – Review of Application by Zoning Commissioner

- a. Upon receipt of an application for a conditional use permit, the zoning commissioner shall review the application for completeness and prepare a staff report.
- b. The zoning commissioner shall refer the complete application to the planning commission for review.

3. Step 3 – Review and Decision by the Planning Commission

- a. After receiving the application from the zoning commissioner, the planning commission shall review the application.
- b. The planning commission shall approve the application, approve the application with conditions, or disapprove the application based on the provisions of this code.
- c. If the conditional use permit is denied, the planning commission shall make a finding, in writing, justifying the denial of the conditional use permit and provide a copy of the findings to the applicant.
- d. In granting approval, the planning commission may prescribe appropriate conditions and safeguards in conformance with the intent and purposes of this code for the protection of nearby property and the public health, safety, and general welfare. The planning commission shall authorize the zoning commissioner to issue the conditional use permit with notation of conditions thereon or attached thereto.

4. Conditional Use Review Criteria

In reviewing a conditional use application, the planning commission shall consider whether there is adequate evidence that the proposed conditionally permitted use is consistent with the following standards:

- a. The conditional use is consistent with the spirit, purpose, and intent of the comprehensive plan, will not substantially or permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare.
- b. The proposed conditional use is to be located in a district wherein such use may be permitted, subject to the requirements of this chapter.
- c. The use complies with all use-specific provisions established in [Section 1169.08 Use Specific Regulations](#).
- d. The proposed use shall be adequately served by essential public facilities and services such as, but not limited to, roads, public safety forces, storm water facilities, water, sanitary sewer, refuse pick-up, and schools or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
- e. In the interest of public safety, as a matter of policy, all points of ingress/egress shall be located as far as possible from the intersection of two or more streets.
- f. The proposed use will comply with all applicable development standards, except as specifically altered by the planning commission in the approved conditional use.

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- g. The proposed use will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.
- h. The use will not be hazardous to or have a negative impact on existing or future surrounding uses.
- i. The proposed use will not be detrimental to the economic welfare of the community.
- j. The proposed use will not involve uses, activities, processes, materials, equipment, and conditions of operations, including but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor, or other characteristic not comparable to the uses permitted in the base zoning district.
- k. The proposed use will not be detrimental to property values in the immediate vicinity.
- l. The proposed use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

1165.08. VARIANCES

A. Purpose

1. The BZBA shall have the power to grant variances where, by reason of the unique physical circumstances or conditions of the applicant's property, including its narrowness, shallowness or irregularity in shape or size, its extraordinary topographical features, or the relationship of the property to adjacent uses or use districts, the literal application of this code would unwarrantedly restrict the applicant's use of the property without serving any necessary purpose of the zoning regulations or achieving an associated benefit to the public health, safety and welfare.
2. Related to variances for signs regulated by [CHAPTER 1179. Sign Standards](#), the BZBA may grant variances from the height and area requirements of [Sections 1179.06 Signs Permitted in Residential Zoning Districts](#) and [1179.07 Signs Permitted in Nonresidential Zoning Districts](#) where unique physical characteristics of, or character of land uses adjacent to, a property on which a sign is proposed to be located demonstrate that literal application of the requirements of said section will not further the purposes for which [CHAPTER 1179. Sign Standards](#) has been enacted, or will result in an undue hardship on the applicant and that the restriction on the applicant's use of the property is not justified by any corresponding benefit to public health, safety, or welfare. Additional limitations to the granting of variances to signs located in the Central Business District or CO College Overlay District are explained in [CHAPTER 1179. Sign Standards](#).

B. Initiation

Any person having authority to file applications may initiate an application for a variance pursuant to [Subsection 1165.02 A. Authority to File Applications](#).

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C. Process

1. Step 1 – Application

The applicant shall submit an application in accordance with [Section 1165.02 Common Review Requirements](#) and with the provisions of this chapter.

2. Step 2 – Review of Application by Zoning Commissioner

- a. Upon receipt of an application for a variance, the zoning commissioner shall review the application for completeness and prepare a staff report.
- b. The zoning commissioner shall refer the complete application to the BZBA for review.

3. Step 3 – Review and Decision by the BZBA

- a. After receiving the application from the zoning commissioner, the BZBA shall hold a public hearing to review the application provided adequate notification is provided pursuant to [Subsection 1165.02 H. Public Notification for Public Hearings](#).
- b. The BZBA shall approve the application, approve the application with conditions, or disapprove the application based on the provisions of this code.
- c. The BZBA shall decide all applications within 30 days after the final hearing.
- d. A decision of the BZBA shall not become final until the expiration of five days from the date such decision is made, unless the BZBA finds that an immediate effective date is necessary for the preservation of property or personal rights, and shall so certify on the record.

D. Review Criteria

1. Where an applicant seeks a variance, said applicant shall be required to supply evidence that demonstrates that the literal enforcement of this code will result in practical difficulty for an area/dimensional value, unnecessary hardship for a use variance, or satisfy the criteria for a sign variance.

2. Area/Dimensional Variance

- a. The following factors shall be considered and weighed by the BZBA to determine practical difficulty:
 - i. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness, or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures, or conditions.
 - ii. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.
 - iii. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures.

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- iv. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance.
- v. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, and refuse pick-up.
- vi. Whether special conditions or circumstances exist as a result of actions of the owner.
- vii. Whether the property owner's predicament can feasibly be obviated through some method other than a variance.
- viii. Whether the spirit and intent behind the code requirements would be observed and substantial justice done by granting a variance.
- ix. Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.
- x. No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.

3. Use Variance

In order to grant a use variance, the BZBA shall determine that strict compliance with the terms of this code will result in unnecessary hardship to the applicant. The applicant must demonstrate such hardship by clear and convincing evidence that all of the following criteria are satisfied:

- a. The property cannot be put to any economically viable use under any of the permitted uses in the zoning district in which the property is located;
- b. The variance requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zoning district;
- c. The variance requested cannot otherwise be resolved by a zoning map amendment;
- d. That there is an existing structure that cannot be reasonably used for a use permitted within the applicable zoning district;
- e. The hardship condition is not created by actions of the applicant;
- f. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- g. The granting of the variance will not adversely affect the public health, safety, or general welfare;
- h. The variance will be consistent with the general spirit and intent of this code; and
- i. The variance sought is the minimum that will afford relief to the applicant.

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4. Sign Variance

In order to grant a variance to [Sections 1179.06 Signs Permitted in Residential Zoning Districts](#) and [1179.07 Signs Permitted in Nonresidential Zoning Districts](#) for signs, the BZBA shall consider the following factors:

- a. The presence of unique physical circumstances or conditions that indicate that strict conformity with the provisions of this code is not feasible, and that the authorization of a variance is necessary to permit the reasonable use of the property;
- b. The variance will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue;
- c. The extent the applicant requires the variance for the effective communication of the sign's message;
- d. Harmony of the proposed sign's use or dimensions with the building or property on which it is to be located;
- e. The degree to which the applicant's request departs from the height, setback, dimensional and use restrictions of [CHAPTER 1179. Sign Standards](#);
- f. Whether the variance would increase the risk that the vision of vehicular traffic would be obstructed; and
- g. Whether granting a variance would be substantially detrimental to the district or adjacent properties in which the sign is to be located.

The Board may condition the allowance of a variance on such conditions as it deems necessary to assure fulfillment of the objectives of [CHAPTER 1179. Sign Standards](#).

E. Effect of a Variance

1. The issuance of a variance shall authorize only the particular variation that is approved in the variance.
2. A variance, including any conditions, shall run with the land and shall not be affected by a change in ownership.

F. Appeals of BZBA Decisions

The decisions of the BZBA may be reviewed by the applicable court of common pleas as provided in ORC Chapters 2505 and 2506.

1165.09. APPEALS

A. Purpose

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

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B. Initiation

Appeals are to be initiated by the person aggrieved or affected, or by an officer of the city affected by any decision of the zoning commissioner.

C. Process

1. Step 1 – Application

- a. An appeal pursuant to this section shall be initiated by filing a written appeal of the decision with the zoning commissioner within 20 days of the date of the decision.
- b. The applicant shall submit an application in accordance with [Section 1165.02 Common Review Requirements](#) and with the provisions of this chapter.

2. Step 2 – Forwarding of Record to the BZBA

Upon receipt of an appeal, the zoning commissioner shall transmit the written appeal with all papers, documents, and other materials related to the appealed decision to the BZBA. This material shall constitute the record of the appeal.

3. Step 3 – Review and Decision by the BZBA

- a. After receiving the application from the zoning commissioner, the BZBA shall hold a public hearing to review the application provided adequate notification is provided pursuant to [Subsection 1165.02 H. Public Notification for Public Hearings](#).
- b. Upon the day for hearing any application or appeal, the BZBA may adjourn the hearing for the purpose of obtaining additional information, or to cause such further notice as it deems proper to be served upon such other property owners it decides may be substantially interested in the application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of the hearing unless the BZBA so decides.
- c. The BZBA may, in conformity with the provisions of this code, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all powers of the zoning commissioner from whom the appeal is taken.
- d. A certified copy of the BZBA's decision shall be transmitted to all parties in interest. The decision shall be binding upon and observed by the zoning commissioner. The zoning commissioner shall incorporate the terms and conditions of the same in the permit to the applicant or appellant, whenever a permit is authorized by the BZBA.
- e. The BZBA shall decide all appeals within 30 days after the final hearing.
- f. A decision of the BZBA shall not become final until the expiration of five days from the date such decision is made, unless the BZBA finds that an immediate effective date is necessary for the protection of property or personal rights, and shall so certify on the record.

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Section 1165. 10 Zoning Permit

D. Review Criteria

A decision or determination shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the decision or determination fails to comply with the requirements of this code.

E. Stay

An appeal shall stay all proceedings in furtherance of the action appealed, unless the zoning commissioner shall certify to the BZBA that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the BZBA or by a court of equity, after notice to the officer from whom the appeal is taken, and on due cause shown.

F. Appeals of BZBA Decisions

The decisions of the BZBA may be reviewed by the applicable court of common pleas as provided in ORC Chapters 2505 and 2506.

1165. 10. ZONING PERMIT

A. Purpose

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

B. Applicability

1. No land shall be used nor shall any building or structure be used, changed in use, established, constructed, enlarged, moved, or modified without first obtaining a zoning permit.
2. Zoning permits shall be issued only in conformity with the provisions of this code and shall be authorized by the zoning commissioner.
3. Upon written request from the owner or tenant, the zoning commissioner shall issue a zoning permit for any building or premises existing at the time of enactment of this code, certifying, after inspection, the extent and kind of use made of the building or premises, and whether such use conforms to the provisions of this code.
4. A zoning permit shall be required for all lawful nonconforming uses of land or buildings created by adoption of this code or any amendment thereto.
5. Zoning permits shall be required for signs, except as specified in [Section 1179. 05 Signs Not Requiring a Permit](#).
 - a. Zoning permits for signs in the Central Business District as defined by the boundaries described in [Subsection 1179. 02 H. 3](#), shall not be issued by the zoning commissioner until the design review board, as established in [Section 1163. 08 Design Review Board for Central Business District \(CBD\)](#), has reviewed and approved such sign.

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Section 1165. 10 Zoning Permit

6. The zoning commissioner shall not issue any permit authorizing the commencement of work without prior site plan review in accordance with [Section 1165. 06 Site Plan Review](#), including within an overlay district.

C. Initiation

Any person having authority to file applications may initiate an application for a zoning permit pursuant to [Subsection 1165. 02 A. Authority to File Applications](#).

D. Procedure

1. Step 1 – Application

- a. The applicant shall submit an application in accordance with [Section 1165. 02 Common Review Requirements](#).
- b. The applicant shall not begin construction until a zoning permit has been issued.
- c. Each plan submitted as part of an application for a zoning permit shall bear statements declaring that no part of the land involved in the application has been previously used to provide required yard space of lot area for another structure.

2. Step 2 – Staff Review and Decision

a. For the Construction or Alteration of a Building

The zoning commissioner shall review each complete application for the construction or alteration of a building and either approve and issue the zoning permit or deny the application within 10 days of the application (Step 1). Approval of a zoning permit shall be conditioned upon approval of site construction plans by the city engineer.

b. For a Change in Use

The zoning commissioner shall review each complete application for the use of vacant land, or for a change in the use of land or of a building, or for a change in a nonconforming use and either approve and issue the zoning permit or deny the application within 15 days of the application (Step 1).

c. Moratorium

Zoning permit applications submitted for a site subject to an approved moratorium shall not be reviewed, and no decision made, within the period of time that the moratorium is in place, except as may be authorized by the legislation establishing the moratorium.

3. Step 3 – Zoning Compliance Inspection

- a. A zoning compliance inspection shall be required after completion of the work authorized by the zoning permit. A zoning compliance inspection shall not be required for agricultural uses. A zoning compliance inspection shall be required for any of the following:
 - i. Occupancy of a new nonresidential building or structure after completion of construction.

CHAPTER 1165. Development Review Procedures

Section 1165.10 Zoning Permit

- ii. Occupancy or change of occupancy of an existing nonresidential building or structure.
- iii. Change of use in any nonresidential building.
- b. The zoning commissioner shall conduct a zoning compliance inspection to ensure that the project has been completed according to the approved zoning permit and plans.
- c. The zoning compliance inspection shall be scheduled at least two weeks prior to expected occupancy and/or opening for business.
- d. The zoning commissioner shall provide the applicant with findings from the zoning compliance inspection within 24 hours of the initial inspection.
- e. The applicant shall notify the zoning commissioner when corrections, if needed, have been made based on the initial inspection. Additional inspections shall be scheduled if deemed necessary by the zoning commissioner.
- f. Upon passing the zoning compliance inspection, the zoning commissioner shall notify the applicant.
- g. No zoning compliance inspection shall be approved by the zoning commissioner for the occupancy of any building, structure, or improvement to the land or any lot within a subdivision as defined herein, which has been approved for platting or replatting, until all subdivision plans have been approved, the final plat recorded, the zoning requirements met, and the performance bond posted to guarantee installation of all the required improvements.

E. Review Criteria

1. Zoning permits shall be issued only in conformity with the provisions of this code, unless the zoning commissioner receives written order from the BZBA deciding an appeal, conditional use, or variance, or from city council, approving a Planned Unit Development District, as provided for in this code.
2. The application for a zoning permit for a use subject to the performance standards of this code shall be accompanied by a plan of the proposed construction or development; a description of the proposed machinery, processes, and products; and specifications for the mechanisms and techniques to be used in meeting the performance standards.
3. Zoning permits shall be issued incorporating requirements of the city engineer, or conditioned upon incorporating such requirements.

F. Time Limit

All zoning permits shall expire two years after issuances, unless construction has reached 50% of completion.

CHAPTER 1165. Development Review Procedures

Section 1165. 11 Interpretations

1165. 11. INTERPRETATIONS

A. Purpose

This section outlines the process through which an interested party may request an interpretation of either the zoning map or the text of this code from the zoning commissioner.

B. Initiation

Any person having authority to file applications may initiate a request for interpretation pursuant to [Subsection 1165. 02 A. Authority to File Applications](#).

C. Process

1. Step 1 – Application

- a. A request for interpretation pursuant to this section shall be initiated by filing a written request with the zoning commissioner.
- b. The applicant shall submit an application in accordance with [Section 1165. 02 Common Review Requirements](#).

2. Step 2 – Review of Request by Zoning Commissioner

Upon receiving the request, the zoning commissioner shall review for completeness and forward the request to the BZBA for interpretation.

3. Step 3 – Interpretation

- a. After receiving the application from the zoning commissioner, the BZBA shall hold a public hearing to review the application provided adequate notification is provided pursuant to [Subsection 1165. 02 H. Public Notification for Public Hearings](#).
- b. The BZBA may, in conformity with the provisions of this code, provide an interpretation of the requested portions of the zoning map or text of this code.

1165. 12. STORM WATER MANAGEMENT PLANS

A. Purpose

This section outlines the process to be used to review applications for storm water management plans required pursuant to [CHAPTER 1174. Storm Water Management Regulations](#).

B. Initiation

Pursuant to [Section 1165. 02 A. Authority to File Applications](#), any person having authority to file applications may initiate an application for storm water management plan review.

C. Process

1. Step 1 – Application

The applicant shall submit an application in accordance with [Section 1165. 02 Common Review Requirements](#) and with the provisions of this chapter.

CHAPTER 1165. Development Review Procedures

Section 1165.12 Storm Water Management Plans

2. Step 2 – Review of Application by City Engineer

Upon receipt of an application for storm water management plan review, the city engineer shall review the application for completeness.

3. Step 3 – Decision by City Engineer

The city engineer shall review the plans and take one of the following actions:

- a.** Approve the storm water management plan within 20 working days of receipt of a complete application;
- b.** Return the storm water management plan with comments and recommendations for revisions within 20 working days of receipt of a complete application; or
- c.** Deny the storm water management plan because of deficiencies and issue a report stating specific problems within 20 working days of receipt of a complete application.

D. Plan Revisions

At the time of receipt of a revised plan, another review period of 20 working days shall begin.

E. Expiration

Approved plans shall remain valid for two years from the date of approval. After two years the plan(s) approval automatically expires if no work has been initiated.

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CHAPTER 1167. SUBDIVISION AND IMPROVEMENT STANDARDS

1167. 01. PURPOSE

The regulations in this chapter shall control the manner in which streets, lots, and other elements of a subdivision are arranged on the land. These design controls shall help ensure the provision of convenient and safe streets, creation of usable lots, provision of space for public utilities, and reservation of land for recreational uses. The planning of attractive and functional neighborhoods shall be promoted, minimizing the undesirable features of unplanned, haphazard growth.

1167. 02. CONSTRUCTION STANDARDS

- A. The standards for design and construction of improvements shall be not less than those outlined in this code.
- B. The work shall be done under city supervision and inspection and shall be completed within the time fixed or agreed upon by the city engineer.
- C. The minimum requirements for materials shall be in accordance with the standards of the current volume of Construction and Material Specifications of the Ohio Department of Transportation and the requirements of the Ohio EPA and the Ohio Department of Health.
- D. All inspection costs shall be paid for by the subdivider.
- E. The design of all improvements shall conform to the standards and specifications of the city engineer, other applicable county and state agencies, and this code.

F. Energy Conservation Design

Each proposed subdivision should be designed to provide maximum opportunities for energy conservation, including opportunities for passive or natural heating or cooling opportunities, in compliance with the following:

- 1. Where feasible, lots should be largely oriented in an east-west direction.
- 2. Proposed lots should be designed, where feasible, to provide building sites that permit the orientation of structures in east-west alignment for southern exposure, and to take advantage of existing shade or prevailing breezes.

G. Subdivision Names

The proposed name of the subdivision shall not duplicate or too closely approximate phonetically, the name of any other subdivision in the city or county. The city shall have final authority to designate the name of the subdivision.

1167.03. STREETS

A. General Street Requirements

1. The arrangement, character, extent, width, grade, construction and location of all streets shall be considered in their relation to existing and planned streets, topographical conditions and public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
2. The street pattern shall discourage through traffic in the interior of a subdivision.
3. The subdivider shall provide, within the boundaries of the subdivision plat, the necessary right-of-way for the widening, continuance or alignment of such streets in conformity with the Major Thoroughfare Plan.
4. Streets are subject to the design and construction requirements of the City of Defiance Engineering Handbook.
5. **Conformity to Major Thoroughfare Plan and Other Ordinances**
 - a. The arrangement, character, extent, width, grade, construction, and location of all streets or extensions thereof shall conform to the city's Major Thoroughfare Plan.
 - b. Thoroughfares not contained in the Major Thoroughfare Plan shall conform to the design standards set forth in this chapter.
6. **Access**
 - a. Access points are subject to the standards of the City of Defiance Access Management Regulations.
 - b. Access from subdivisions of all types of developments to arterial and collector streets, in order to provide maximum safety and convenience, shall be provided by streets or drives serving all lots or developments within the subdivision.
 - c. Streets or drives serving commercial or industrial developments and their accessory parking areas shall connect with arterial or collector streets so as not to generate traffic on local or residential streets.
 - d. Where a subdivision adjoins an arterial street, a marginal access street shall be designed if the subdivision design is such that residential lots would require direct vehicular access onto the arterial highway.
 - e. Access points to local streets from lots within the subdivision shall not be located nearer than the standards specified in the Access Management Regulations.
 - f. No original parcel as of January 1, 1975, shall be denied access.
 - g. Driveways for agricultural operations and temporary driveways are exempted from this section.

B. Street Design Standards

1. Cul-de-Sacs, Local, and Loop-Type Local Streets

- a. The design and improvement standards for cul-de-sacs and local streets are contained in the City of Defiance Engineering Handbook and are suggested minimum standards.
- b. Exceptions to the standards contained in City of Defiance Engineering Handbook are permitted under certain conditions for large lots. See [Section 1165. 08. Variances](#).
- c. In the event of a conflict between standards contained the City of Defiance Engineering Handbook and the current edition of the Major Thoroughfare Plan, the Major Thoroughfare Plan shall control.

2. Collector Streets

- a. The design and improvement standards for collector streets contained in the City of Defiance Engineering Handbook are minimum standards for all collector streets.
- b. If a standard contained herein conflicts with the Major Thoroughfare Plan, the Major Thoroughfare Plan shall control.

3. Dead-End Streets

- a. Permanent dead-end streets shall not be permitted.
- b. Temporary dead-end streets shall be permitted only as part of a continuing street plan and only if a temporary turnaround satisfactory to the city engineer in design is provided and provisions for maintenance and removal are advanced.
- c. Requirements for safety vehicles must be considered.
- d. Temporary dead-end streets longer than 200 feet shall not be permitted.

4. Half-Streets

- a. Dedication of new half-streets shall not be permitted.
- b. Where a dedicated or platted half-street exists adjacent to the tract being subdivided, the other half shall be platted.

5. Alleys

- a. Alleys may be required in commercial and industrial districts if other provisions cannot be made for adequate service access.
- b. The minimum width of right-of-way for alleys shall be in accordance with the standards in the City of Defiance Engineering Handbook.
- c. The minimum pavement width for alleys shall be in accordance with the standards in the City of Defiance Engineering Handbook.

CHAPTER 1167. Subdivision and Improvement Standards

Section 1167. 04 Curbs and Gutters

6. Visibility and Curvature

a. Horizontal Alignment

- i. A curve of adequate radius shall connect tangents.
- ii. Between reverse curves, a minimum tangent in accordance with the standards in the City of Defiance Engineering Handbook shall be introduced.

b. Vertical Alignment

- i. Minimum vertical visibility shall conform to the Ohio Department of Transportation (ODOT) regulations in effect on the date of the approval of the preliminary plat.
- ii. No street grade shall be less than the standards contained in the City of Defiance Engineering Handbook. In the event of a conflict between the Engineering Handbook and the Major Thoroughfare Plan, the Major Thoroughfare Plan shall control.

- c. Visibility and sight distances are subject to the standards of the City of Defiance Access Management Regulations.

7. Street Intersections

- a. The design and improvement standards for intersections are contained in the City of Defiance Engineering Handbook and are suggested minimum standards for all street intersections in subdivisions.
- b. In the event of a conflict between the Engineering Handbook and the Major Thoroughfare Plan or the Access Management Regulations, the Major Thoroughfare Plan or Access Management Regulations shall control.
- c. Multiple intersections involving junctions of more than two streets shall be avoided.

8. Street Dedications

A street that is not constructed to city standards will not be accepted by the city for dedication as a public street. However, even a street that complies with all applicable city standards may not be accepted for dedication.

1167. 04. CURBS AND GUTTERS

- A. The requirements for curbs and gutters will vary according to the character of the area and the density of development.
 1. Curbs shall be required to channel the flow of water.
 2. Curbs shall be required on all streets in residential areas within the corporate limits.
 3. Curbs shall be required in commercial developments or where other similar intensive urban uses exist or are anticipated.
 4. Where curbs exist on abutting properties, their extension shall be required throughout the proposed subdivision.

CHAPTER 1167. Subdivision and Improvement Standards

Section 1167.05 Driveways

- B. Curbs, combined curbs, and gutters shall be constructed in conformity with the current Construction and Material Specifications of ODOT.

1167.05. DRIVEWAYS

- A. Driveways shall have a maximum grade of 10%.
- B. Driveways shall be located not less than three feet from the side lot line.
- C. Curb cuts for straight curbs and the flare for rolled curbs shall be three feet wider than the driveway pavement on each side.
- D. Driveways shall be constructed with Portland cement concrete or asphalt concrete to the property line from the edge of the pavement, as required by the city engineer.

1167.06. SIDEWALKS

A. Residential Subdivisions

1. Sidewalks shall be required on both sides of a street in all residential subdivisions.
2. Sidewalks may be required in other instances, as determined by planning commission.

B. Nonresidential Subdivisions

1. Public sidewalks shall be required for industrial and commercial lots, subject to the approval of the planning commission.
2. Special consideration shall be given in areas where potentially heavy pedestrian traffic may develop, such as schools, hospitals, churches, parks and similar types of uses.

C. Construction Standards

All sidewalks shall be constructed in accordance with the standards contained in the City of Defiance Engineering Handbook.

1167.07. BLOCKS

- A. The arrangement of blocks shall be such as to conform to the street planning criteria set forth in [Section 1167.03 Streets](#), and shall be arranged to accommodate lots and building sites of the size and character required for the district as set forth in this code, and to provide for the required community facilities.
- B. Irregularly shaped blocks, blocks intended for cul-de-sacs or loop streets, and blocks containing interior parks or playgrounds may be approved by the planning commission if properly designed and located, and if the maintenance of interior public spaces is covered by agreements.
- C. No block shall be longer than 1,320 feet.
- D. Block width shall accommodate two tiers of lots, except where unusual topography or other exceptional physical circumstances exist.

CHAPTER 1167. Subdivision and Improvement Standards

Section 1167. 08 Lots

- E. Where blocks are over 900 feet in length, a crosswalk easement not less than 10 feet in width at or near the halfway point may be required to provide proper access to schools, recreational areas, shopping centers and other facilities.
 - I. The developer shall be responsible for the installation of required crosswalks.

1167. 08. LOTS

- A. Lot arrangement and design shall be such that all lots will provide satisfactory building sites that are properly related to the topography and the character of surrounding development.
- B. All lots shall conform to or exceed the requirements of this code for the district in which they are located and the use for which they are intended.
- C. Each lot shall front on a public thoroughfare.
- D. The minimum lot size, width and setback shall be as specified in [Section 1173. 02 Dimensional Standards](#).
- E. All side lot lines shall be at right angles to street lines and radial to curved street lines, except as otherwise approved by the planning commission.
- F. Corner lots fronting two streets shall be avoided except where otherwise approved by the planning commission.
- G. No corner lot shall be less than 75 feet in width, as measured at the building line.
- H. Lots shall have a minimum depth of 120 feet.
- I. The average depth of a lot shall not exceed two and one-half times its average width.
- J. Lot grading plans shall be required as specified by the city engineer and in accordance with the standards contained in the City of Defiance Engineering Handbook.

1167. 09. EASEMENTS

- A. Easements at least 20 feet in width centered along rear or side lot lines shall be provided where necessary for sanitary sewers and water lines.
- B. Easements shall also be provided along every watercourse, storm sewer, drainage channel or stream within a subdivision, as provided for in [Section 1167. 10 Flood Control](#) and [CHAPTER 1174. Storm Water Management Regulations](#).

1167. 10. FLOOD CONTROL

- A. In order to protect the health, safety and general welfare of the people, the planning commission shall reject any proposed subdivision located in an area subject to periodic flooding.

CHAPTER 1167. Subdivision and Improvement Standards

Section 1167. 11 Public Utilities and Underground Facilities

- B.** If the subdivision is located in an area having poor drainage or other adverse physical characteristics, the planning commission may approve the subdivision, provided that the subdivider agrees to perform such improvements as will render the area safe for the intended use.
- C.** In lieu of improvements, the subdivider shall furnish a surety or certified check covering the cost of the required improvements, subject to the approval of the planning commission.
- D.** Development located within areas designated as an “Area of Special Flood Hazard” on the Flood Insurance Rate Map is subject to the regulations of Chapter 1333 Flood Plain Construction Standards of the Codified Ordinances.

E. Flood Control and Storm Drainage Easements

Easements to access flood control and storm drainage ditches, channels, or structures shall be provided as stipulated in [Section 1174. 11 Easements Required](#).

1167. 11. PUBLIC UTILITIES AND UNDERGROUND FACILITIES

- A.** Electric service and communication services shall be provided within each subdivision.
- B.** Gas service may be required where reasonably accessible. Whenever such facilities are reasonably accessible and available, they may be required to be installed within the area prior to the approval of the final plat.
- C.** Telephone, electric, and street lighting wires, conduits and cables are encouraged to be constructed underground.
- D.** Overhead utility lines, where installed, shall be located at the direction of the respective utility.
- E.** Whenever a sanitary sewer line and electric or telephone line are each placed underground in the same utility easement, the following provisions shall be applicable:
 - 1.** The total easement width shall be not less than 20 feet.
 - 2.** The sanitary sewer line shall be installed within three feet of one side of the easement, and the electric or telephone line shall be installed within three feet of the opposite side of the easement.
- F.** Utilities shall be installed in accordance with the agreement between the respective utilities.

1167. 12. STREET TREES

- A.** Street trees shall be provided by the subdivider in all subdivisions where curbs, gutters and/or sidewalks are required in accordance with standards and specifications of the city’s Tree Care and Maintenance Ordinance.

CHAPTER 1167. Subdivision and Improvement Standards

Section 1167. 13 Public Sites, Open Space, and Natural Features

- B.** There shall be no trees or shrubs planted within the street right-of-way unless in compliance with the city's Tree Care and Maintenance Ordinance.
- C.** The trees and shrubs shall be species which are resistant to damage and disease and which do not cause interference with underground utilities, sidewalks, street lighting or visibility at street intersections, and shall comply to the city's Tree Care and Maintenance Ordinance.
- D.** Existing trees should be retained in new subdivisions whenever possible.
- E.** The spacing of street tree plantings shall be specified by the city's Tree Care and Maintenance Ordinance.
- F.** Special planting designs may be approved by the Shade Tree Commission.

1167. 13. PUBLIC SITES, OPEN SPACE, AND NATURAL FEATURES

A. Planned Public Sites

- 1.** Where a park, playground, school, or public access to water frontage, as shown in the comprehensive plan, is located in whole or in part in a proposed subdivision, the planning commission shall request the dedication of such area within the subdivision.
- 2.** The subdivider shall pay for only that portion of the cost of the public site that benefits his or her subdivision as determined by planning commission.

B. Park and Playground Fee Required

1. Applicability

- a.** Payment of a park and recreation fee shall be required for all minor subdivisions in which more than one dwelling unit is being constructed on a lot or parcel.
- b.** The fees payable hereunder shall be on the same basis as if a subdivision of the lot or parcel were made.
- c.** If any dwelling unit or additional dwelling unit is constructed upon real estate which, prior to March 1, 1978, had no dwelling unit located thereon or had a lesser number of dwelling units located thereon, at the time that the building permit for such construction was obtained, the owner of the real estate shall pay the park and recreation fee for such new or additional dwelling unit as provided herein.
 - i.** This provision shall apply to platted areas and areas for which no plat is required.
 - ii.** This provision shall not apply if the result would be duplicate payment for the same dwelling unit by the subdivider-owner and the builder-owner, e.g. where a park and recreation fee has already been paid, unless additional dwelling units, for which no park and recreation fee has been previously paid, are built.

CHAPTER 1167. Subdivision and Improvement Standards

Section 1167. 14 Water Supply

2. The owner of each new subdivision, as a prerequisite to the approval of the final plat thereof, shall pay a park and playground fee.
3. The fee shall be computed as the sum of \$100.00 for each dwelling unit permitted to be constructed thereon under applicable zoning regulations.
4. The Park and Recreation Fund shall be used for the acquisition or improvement of parks and playgrounds exclusively, and for no other purpose.
5. **Dedication of Open Space in Lieu of Payment**
 - a. In lieu of payment of the park and playground fee, council, on recommendation of the planning commission, may accept the dedication, for public park and playground use, of open spaces constituting not less than 15% of the gross acreage of the subdivision (lots or parcels intended for nonresidential uses are not included in this computation), suitably located and of adequate size.
 - b. In no event shall the aggregate value of such dedicated land be less than the equivalent park and playground fee otherwise payable and computed in accordance with the formula established in [Subsection 1167. 13 B. 3.](#) hereof.
6. **Planned Unit Development**
 - a. In lieu of payment of the park and playground fee, or of dedication for public park and playground use, the city may accept or recommend a planned unit development.
 - b. Under this option, common open space is provided for the semiprivate use of the residents of the subdivision.
 - c. Legal agreements must be filed and recorded with the subdivision plat describing the purpose, use, and ownership of the common areas and establishing an organization to finance, manage, and maintain the common areas.

C. Natural Features

The planning commission shall, wherever possible, establish the preservation of all natural features which add value to residential developments and to the community, whether located in residential developments, commercial developments, or industrial developments, such as large wooded areas, watercourses, areas of historical significance, and similar irreplaceable assets.

1167. 14. WATER SUPPLY

- A. Where, in the determination of the planning commission, a public water supply is reasonably accessible or is required because of pollution problems, the subdivision shall be provided with a complete water distribution system meeting the requirements of the respective water utility.
- B. Where a public water supply is not available or not required, the subdivider shall supply acceptable evidence of the availability of water.
 - I. The subdivider may be required to make one or more test wells in the area to be platted if such evidence is deemed not acceptable.

CHAPTER 1167. Subdivision and Improvement Standards

Section 1167. 15 Sewage Disposal

2. Copies of well logs which are obtained shall include the name and address of the well driller and shall be submitted with the plat to the planning commission.

C. Individual private wells shall be located as per county health department regulations.

1167. 15. SEWAGE DISPOSAL

A. Where an adequate public sanitary sewer system is reasonably accessible, in the determination of the planning commission, public sanitary sewers shall be installed to adequately serve all lots, including lateral connections to the public system.

1. Public sewer system extensions shall meet the requirements of the Ohio EPA and city standards.
2. Combinations of sanitary sewers and storm sewers shall be prohibited.

B. Where a public sanitary sewer system is not reasonably accessible, the subdivider may provide a central treatment plant for the group, provided that such central treatment plant is installed in accordance with state and county board of health requirements; or lots may be served by individual disposal systems subject to the provisions of [Subsection 1167. 15 C.](#)

C. Where the installation of individual disposal systems is considered, the suitability of the soil for individual systems, the absorptive ability of the soil, surface drainage, ground water level and topography shall be the criteria for determining whether or not the installation of individual systems is permissible. Criteria shall be in accordance with the requirements of the county board of health and the requirements of the Ohio EPA.

1167. 16. STORM DRAINAGE

A. The subdivider shall construct all necessary facilities, including underground pipes, inlets, catch basins, open drainage ditches, or controlled run-off as determined by the city engineer, to provide for the adequate disposal of subsurface and surface water and for the maintenance of natural drainage courses. Storm drainage design calculations shall be performed and facilities designed in accordance with the standards of the City of Defiance Engineering Handbook.

B. Where an adequate public storm sewer is available at the plat boundary, the subdivider shall construct a storm sewerage system and connect with such storm sewer line.

1. If such storm sewerage system is not accessible, natural drainage channels with easements of adequate width shall be provided, as determined by the city engineer and approved by the planning commission.
2. Paved gutters, storm sewers, or controlled run-off, or any combination thereof, shall be required if velocities of flow are greater than those specified in the City of Defiance Engineering Handbook or cause destructive erosion.
3. Storm drainage, including drain tiles around basements, shall not be permitted to discharge into any sanitary sewer facility, but shall connect to a drainage outlet approved by the city engineer.

CHAPTER 1167. Subdivision and Improvement Standards

Section 1167. 17 Culverts and Bridges

- C. Storm water management requirements pursuant to [CHAPTER 1174. Storm Water Management Regulations](#) shall apply.

1167. 17. CULVERTS AND BRIDGES

- A. Where natural drainage channels intersect any street right-of-way, the subdivider shall have satisfactory bridges or culverts constructed.
- B. Where culverts are required, minimum requirements shall be observed as set forth by the city engineer, and as specified in the City of Defiance Engineering Handbook.
1. All culvert lengths shall be determined by good design practice and be approved by the city engineer.
 2. The cover over the culvert and its capacity shall be approved by the city engineer.
 3. Depending on existing drainage conditions, head walls may be required as determined by the city engineer.
- C. Driveway culverts shall have a minimum length and diameter as required by the city engineer.
1. The driveway culverts shall be laid so as to maintain the flow lines of the ditch or gutter.
 2. Head walls may be required.

1167. 18. GREEN INFRASTRUCTURE

A. Green Infrastructure Techniques

The city encourages the use of green infrastructure techniques because of their connection to sustainable development practices and environmental quality. The proper use of green infrastructure can improve storm water run-off quality, decrease run-off volume, protect downstream streams and rivers, and create more interesting places to live. The following green infrastructure techniques can be incorporated into new subdivisions with approval from the city engineer:

1. Narrower pavement widths;
2. Narrower right-of-way widths;
3. Grassy swales and shoulders without curb and gutter;
4. Pedestrian walkways that do not constitute a pedestrian circulation system equal to sidewalk on both sides of the street;
5. Permeable pavers (e.g., pavers, permeable concrete, permeable asphalt pavement);
6. Bioretention swales;
7. Planter boxes; and
8. Curb extensions.

CHAPTER 1167. Subdivision and Improvement Standards

Section 1167. 19 Fire Protection

B. Criteria for Green Infrastructure Waivers

The city engineer may grant a green infrastructure waiver for use of the green infrastructure techniques identified in [Subsection 1167. 18 A.](#) provided:

1. The techniques are proposed to utilize the landscape's ability to reduce, slow, filter, and/or absorb storm water run-off from streets, parking lots, and buildings;
2. The techniques are consistent with best management practices; and
3. The technique has been designed by a professional engineer and is accompanied by documentation stating that the proposed technique does not pose a threat to public safety.

1167. 19. FIRE PROTECTION

- A. The type of hydrant and control valves and the location of the hydrant shall meet the standards of the city as specified in the City of Defiance Engineering Handbook, or as directed by the fire chief.
- B. The developer of any subdivision to be served by public water supply shall submit the present and proposed domestic and fire flow requirement to the city engineer and the fire chief for approval of proposed water main sizes.

1167. 20. STREET NAMES AND SIGNS

- A. Street name signs, of a type in use throughout the city, shall be erected by the subdivider at all intersections.
- B. Whenever a new street is constructed along the approximate alignment or extension of an existing street, its name shall be the same as that of the existing street.
- C. Whenever a street alignment changes direction more than 75 degrees without a return to the original alignment within a distance of 500 feet, then the name of the street shall be changed at the point of curvature.
- D. Whenever a cul-de-sac street serves not more than three lots, the name of the intersecting street shall apply to the cul-de-sac.
- E. To avoid duplication and confusion, the proposed names of all streets shall be approved by the city engineer prior to the names being assigned or used.

1167. 21. MONUMENTS AND MARKERS

- A. The surveyor shall set boundary monuments so that, upon completion of the survey, each corner of the property and each referenced control station are physically monumented.
- B. Permanent monuments shall be accurately set and established at the boundary line of a subdivision, at intersections of those boundary lines with all street lines, at the beginning and end of all curves, at points on curves where the radius or direction changes and at such other points as are necessary to definitely establish all lines of the plat.

CHAPTER 1167. Subdivision and Improvement Standards

Section 1167. 22 Improvements or Guarantee Required Prior to Final Plat Approval

- I. Such markers shall be made of stone or concrete at least four inches in diameter or four inches square and properly marked.
 - a. The markings on such markers shall consist of a cross cut with legs of the cross at least three inches long and at least 1/8 inch deep.
 - b. Solid iron pins of at least one inch diameter may also be used as permanent markers.
 - c. All stone, concrete or iron pin markers shall be at least 36 inches long and the bottom of such markers shall be at least 30 inches below finished grade.
 2. At all other lot corners, solid iron pins 5/8 inch in diameter and at least 30 inches long, or iron pipe monuments at least one inch in diameter, with a minimum cross-section area of 0.2 square inches, and at least 30 inches long, may be used.
 3. All 5/8 inch iron pins and one-inch iron pipes shall be identified with a durable marker bearing the surveyor's Ohio registration number and name or company name.
- C. When it is impossible or impractical to set a boundary monument on a corner, the surveyor shall set a reference monument, similar in character to the boundary monument and preferably along one of the property lines which intersect at that corner.
- I. When such a reference monument is used, it shall be clearly identified as a reference monument on the plat of the property and in any new deed description which may be written for the property.
- D. All monuments, markers and pins shall be designated on the preliminary plat before it is presented for record, but the setting of such markers shall not be required prior to the completion of construction necessary to the improvement of the land.

1167. 22. IMPROVEMENTS OR GUARANTEE REQUIRED PRIOR TO FINAL PLAT APPROVAL

All improvements required herein shall be constructed prior to the granting of final plat approval by the planning commission, or the subdivider shall, if approved by the planning commission, furnish the planning commission with a performance bond or escrow agreement for the estimated construction cost for the ultimate installation, as provided by [Subsection 1165. 05 H. Escrow and Bonding Requirements](#), and additionally shall provide a bond guaranteeing workmanship and materials as provided in such section.

1167. 23. OVERSIZED AND OFF-SITE IMPROVEMENTS

- A. Where the city engineer determines that the design and construction of utilities, pavements, or other improvements are integral to the orderly development of adjacent properties or to the development of an efficient, adequately designed utility or pavement network for service to the geographic area in which the subdivision is located, the city engineer shall require the developer to oversize (enlarge) the improvement in design and construction, or require the construction of

CHAPTER 1167. Subdivision and Improvement Standards

Section 1167. 24 Extensions of Improvements to Boundaries and Off-Site

extensions from improvements to be constructed in the subdivision, so as to provide service to property beyond the boundary of the subdivision.

- B.** The subdivider shall be required to pay for only that part of the construction costs for the arterial streets, trunk sewers or water lines which are serving the proposed subdivision, as determined by the city engineer.
 - 1.** The city may pay the difference between the cost of required improvements for the proposed subdivision and improvements required to service the surrounding areas.
 - 2.** Each case requiring city participation shall require approval by city council.

1167. 24. EXTENSIONS OF IMPROVEMENTS TO BOUNDARIES AND OFF-SITE

- A.** The subdivider may be required to extend the necessary improvements to the boundary of the proposed subdivision to serve adjoining unsubdivided land, as determined by the planning commission.
- B.** If streets or utilities are not available at the boundary of a proposed subdivision, and if the planning commission finds that extensions across undeveloped areas would not be warranted as a special assessment to the intervening properties, the subdivider may be required, prior to approval of the final plat, to obtain necessary easements or rights-of-way and to construct and pay for such extensions.

1167. 25. FINAL INSPECTIONS

Upon completion of all improvements, the subdivider shall request, in writing, a final inspection by the city engineer as required under ORC 711.091.

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CHAPTER 1169. ZONING DISTRICTS AND USE REGULATIONS

1169. 01. PURPOSE

The purpose of this chapter is to establish zoning districts in order to:

- A.** Realize the general purpose set forth in [CHAPTER 1161. General Provisions](#) of this zoning code;
- B.** Classify, regulate and restrict the location of residential, commercial, industrial, recreational, public, and other land uses and the location of buildings designated for specified uses;
- C.** Regulate and limit the percentages of lot areas which may be occupied;
- D.** Regulate the height, number of stories, and site of buildings and other structures hereafter erected or altered;
- E.** Establish building setback lines, sizes of yards, and other open spaces within and surrounding such buildings; and
- F.** Regulate the density of population within the City of Defiance to the fullest extent allowed by law.

1169. 02. ESTABLISHMENT OF ZONING DISTRICTS

A. Districts Established

- I.** For the purposes of this code, all land within the incorporated territory of Defiance, Ohio, is hereby divided into the districts established in [Table 1169. 02-1: Zoning Districts](#).

TABLE 1169. 02-1: ZONING DISTRICTS	
ABBREVIATION	DISTRICT NAME
OPEN AIR ZONING DISTRICTS	
F-P	Flood Plain District
S-1	Special District
A-1	Agriculture District
RESIDENTIAL ZONING DISTRICTS	
R-1	Low Density Residence District
R-2	Medium Density Residence District
R-3	Medium to High Density Residence District
R-4	Mobile Home Parks District
BUSINESS ZONING DISTRICTS	
O-R	Office-Residential District

CHAPTER 1169. Zoning Districts and Use Regulations

Section 1169.02 Establishment of Zoning Districts

TABLE 1169.02-1: ZONING DISTRICTS	
ABBREVIATION	DISTRICT NAME
B-1	Neighborhood Business District
B-2	Central Business District
B-3	Highway and General Business District
B-4	Community Shopping Center District
INDUSTRIAL ZONING DISTRICTS	
M-1	Restricted Industrial District
M-2	Limited Industrial District
M-3	General Industrial District
OVERLAY ZONING DISTRICTS	
CO	College Overlay District
PUD	Planned Unit Development Overlay District

B. Relationship to Overlay Zoning Districts

1. The creation of overlay zoning districts is authorized to achieve particularized zoning objectives within a defined area when deemed necessary to address unique characteristics of that area.
2. When established, overlay districts shall be shown on the zoning map as dashed lines labeled with the name of the overlay district.
3. **Effect of Overlay Districts**
 - a. Overlay district regulations establish zoning regulations applicable only within the territorial boundaries of the overlay district to which they pertain.
 - b. Overlay district regulations may establish minimum architectural and site improvement standards that differ from the requirements generally applicable to similarly zoned properties not located within the overlay district, regulate certain land uses that are permitted by the general zoning regulations pertaining to the use of similarly zoned lands not located within the overlay district, or modify the procedures employed to resolve zoning compliance issues when the land subject to regulation lies within the overlay district.
 - c. If any overlay district regulation is thought to be inconsistent with a general provision of the codified ordinances, the provisions shall, if possible, be construed so that full effect is given to both. If the conflict between the provisions is irreconcilable, the provisions of the overlay district regulations shall prevail over the general ordinance as an exception to the general ordinance.
 - d. Where land is classified into an overlay zoning district as well as a base zoning district, the regulations governing development in the overlay zoning district shall apply in addition to the regulations governing the base zoning district.

1169.03. BASE ZONING DISTRICT PURPOSE STATEMENTS

The following are the statements of purpose for each of the base zoning districts established in this zoning code.

A. F-P Flood Plain District

The purpose of the F-P Flood Plain District is to protect land which is subject to periodic flooding as depicted on the current Flood Rate Insurance Map as defined in Section 1333.05 of the Codified Ordinances from intensive development, and to maintain areas subject to periodic flooding to provide necessary flood control.

B. S-I Special District

The purpose of the S-I Special District is to provide for large public or semi-public land holdings, land suitable for non-commercial recreation, areas to be kept open for highway interchanges or takeoff or landing of aircraft, or land to be kept open to protect the source water supply.

C. A-I Agriculture District

The purpose of the A-I Agriculture District is to provide for agricultural and other rural purposes on land which is level or gently rolling.

D. R-1 Low Density Residence District

The purpose of the R-1 Low Density Residence District is to provide for relatively low density residential development conveniently accessible to community facilities.

E. R-2 Medium Density Residence District

The purpose of the R-2 Medium Density Residence District is to provide for medium density residential development conveniently accessible to community facilities.

F. R-3 Medium to High Density Residence District

The purpose of the R-3 Medium to High Density Residence District is to provide for moderately high density residential development conveniently accessible to community facilities and major traffic arteries.

G. R-4 Mobile Home Parks District

The purpose of the R-4 Mobile Home Parks District is to provide for mobile home parks in areas which have access to community services and major thoroughfares, and which lend themselves to effective buffering.

H. O-R Office-Residential District

The purpose of the O-R Office-Residential District is to provide a neighborhood-scale mix of uses including apartments, regional and professional offices, institutional uses, and personal services.

CHAPTER 1169. Zoning Districts and Use Regulations

Section 1169.04 Overlay Zoning District Purpose Statements

I. B-1 Neighborhood Business District

The purpose of the B-1 Neighborhood Business District is to provide areas for small local businesses with convenience-type goods and personal services that are compatible with surrounding residential uses and are not large generators of traffic.

J. B-2 Central Business District

The purpose of the B-2 Central Business District is to accommodate the existing Central Business District and provide for development of additional areas that are logical extensions of the Central Business District.

K. B-3 Highway and General Business District

The purpose of the B-3 Highway and General Business District is to provide for areas along major highways or thoroughfares in which sales and services oriented to highway travelers or general businesses can locate.

L. B-4 Community Shopping Center District

The purpose of the B-4 Community Shopping Center District is to provide for shopping centers of an integrated design which provide adequate parking and service areas and are located along major thoroughfares.

M. M-1 Restricted Industrial District

The purpose of the M-1 Restricted Industrial District is to provide for areas of industries, research facilities, and offices of a restricted nature with minimal impact on neighboring urban land uses.

N. M-2 Limited Industrial District

The purpose of the M-2 Limited Industrial District is to provide for areas of limited processing and storage of agricultural supplies, grain and building materials, and for oil and gas wells, equipment storage and sales, and sand and gravel extraction.

O. M-3 General Industrial District

The purpose of the M-3 General Industrial District is to provide for areas of heavier industrial uses with access to transportation and community services, and that are relatively isolated from other urban uses.

1169.04. OVERLAY ZONING DISTRICT PURPOSE STATEMENTS

The following are the statements of purpose for each of the overlay zoning districts established in this zoning code.

A. CO College Overlay District

- I. The purpose of the College Overlay District (CO) is to promote and protect public health, safety, and general welfare by providing permanent, uniform and consistently enforceable

CHAPTER 1169. Zoning Districts and Use Regulations

Section 1169.04 Overlay Zoning District Purpose Statements

regulations governing the development of land in the immediate vicinity of the Defiance College campus in order to:

- a. Preserve the historic use of campus grounds for educational, cultural and social purposes;
 - b. Accommodate the vehicular and pedestrian traffic generated by students and campus visitors;
 - c. Preserve historic structures on and adjacent to the college campus; and
 - d. Buffer the campus and established residential neighborhoods adjoining the campus from anticipated commercial development of the U.S. Route 24 and State Routes 15, 18 and 66 corridors.
2. The overriding intent of this section is to accommodate and encourage public and commercial activities that are compatible with preservation of the college campus and surrounding college-oriented neighborhoods and discourage public and commercial uses that are incompatible with preservation of this unique environment that is of incalculable social, cultural and economic value to the community. The more specific purposes and intent of the regulations in [Subsection 1169.09 A. CO College Overlay District Regulations](#) are to:
 - a. Preserve employment, social, cultural and educational opportunities for the benefit of city residents by assuring the long term viability of the Defiance College on the lands historically occupied by the college through reasonable regulation of neighboring land uses to:
 - i. Preserve and enhance the pastoral atmosphere of the college campus by requiring neighboring properties to adhere to minimum landscaping standards;
 - ii. Promote aesthetic compatibility between future structures and existing structures on and in the immediate vicinity of the campus by requiring neighboring properties to adhere to minimum structural design standards; and
 - iii. Discourage the establishment of land uses in the immediate vicinity of the campus that directly or indirectly interfere with activities necessary to the accomplishment of the social, cultural and educational mission of Defiance College.
 - b. Preserve, protect and enhance established residential neighborhoods surrounding Defiance College by encouraging private investment in the maintenance, restoration and improvement of existing homes.
 - c. Encourage aesthetically unified development throughout the CO District.
 - d. Promote public safety by reducing the opportunity for conflict between pedestrian and vehicular traffic in an area that is uniquely characterized by higher than customary volume of pedestrian traffic.
 - e. Promote efficient management of vehicular traffic in an area that is uniquely characterized by both high volumes of traffic and higher than customary numbers of motor vehicle operators who are unfamiliar with the area.

CHAPTER 1169. Zoning Districts and Use Regulations

Section 1169.05 Official Zoning District Map

- f. Enhance public convenience, improve air quality, reduce noise and reduce fuel consumption by eliminating avoidable traffic delays and the acceleration, deceleration and idling of motor vehicles incident to those delays.
 - g. Protect the historic character of the CO District and historic structures within the district.
 - h. Ensure that future commercial development is compatible with the established neighborhood and Defiance College.
 - i. Provide an attractive gateway into the City of Defiance.
3. Any structure, storage, use, practice, or operation within the CO District as defined on the zoning map or other supporting documentation adopted by the city is subject to the regulations of [Subsection 1169.09 A. CO College Overlay District Regulations](#).

B. PUD Planned Unit Development Overlay District

1. The purpose of the Planned Unit Development (PUD) Overlay District regulations is to provide an optional means to develop large tracts of land that are planned and constructed in a unified manner under single ownership at the time of construction. These regulations allow for more flexible, innovative and economic land development options than the regulations for the base zoning districts of this code. Applicants who choose this option may arrange structures and circulation systems to take advantage of existing vegetation, natural topography and other physical features of the site and can provide additional site amenities.
2. See [CHAPTER 1171. Planned Unit Development Overlay District Regulations](#) for district regulations.

1169.05. OFFICIAL ZONING DISTRICT MAP

- A. The districts established in [Section 1169.02 Establishment of Zoning Districts](#) are shown on the Official Zoning Map of the City of Defiance.
- B. The Official Zoning Map, together with all the explanatory matters therein, is hereby adopted as part of this code and is hereby incorporated by reference into this code. The Official Zoning Map, properly attested, shall remain on file in the city engineering division office.
- C. No changes of any nature shall be made to the Official Zoning Map, hereafter referred to as “the zoning map,” except in conformity with the procedures set forth in this code.

D. Zoning District Boundary Interpretation

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

1. Where the districts designated on the zoning map are bounded approximately by centerlines of streets or alleys, such lines shall be construed to be the boundary of the districts.
2. Where the districts designated on the zoning map are bounded approximately by lot lines, such lines shall be construed to be the boundary of the districts.

CHAPTER 1169. Zoning Districts and Use Regulations

Section 1169.05 Official Zoning District Map

3. In unsubdivided property, the district boundary lines on the zoning map shall be determined by dimensions or the use of the scale appearing on the zoning map.

4. F-P Flood Plain District Boundary Designation and Interpretation

The boundaries of the F-P Flood Plain District shall be based on elevation in relation to the water surface elevations projected for the base flood. The clerk of the planning commission shall adjust the boundaries of the F-P Flood Plain District as necessary to maintain consistency with the boundaries of areas of special flood hazard depicted on the Flood Insurance Rate Map issued by the Federal Emergency Management Agency. The exact location of F-P Flood Plain District boundaries shall be determined based on elevation in the manner provided by Section 1333.07 of the Building Code.

E. Vacated or Annexed Area

1. Vacated Areas

Whenever any street, alley, public way, railroad right-of-way, waterway, or other similar area is vacated in the manner authorized by law and is not zoned on the zoning map, city council or the planning commission shall initiate a zoning map amendment (see [Section 1165.03 Zoning Text and Map Amendments](#)) to establish zoning districts for the vacated area.

2. Initial Zoning for Annexed Areas

- a. All tracts shall, upon annexation, be zoned the most restrictive designation for the type of use shown on the most recently adopted land use plan. In the event that the annexed parcel is not designated on the land use plan, the initial zoning shall be as designated on the land use plan nearest to the tract on the plan. (Example: For a tract designated residential, the initial zoning would be R-1.)
- b. Land identified by the Federal Emergency Management Agency as an area of special flood hazard and so designated on the applicable Flood Hazard Boundary Map or designated as Zone A, AE, AH, AO, AI-30 or A99 on the applicable Flood Insurance Rate Map shall be designated as a F-P Flood Plain District upon annexation. Such designation shall not be changed without express consent of the Federal Emergency Management Agency.

3. Final Zoning for Annexed Areas

- a. Within 30 days after annexation, the planning commission shall initiate a zoning map amendment and formulate and transmit its recommendations to city council regarding the permanent zoning for all annexed areas if the planning commission determines that the initial zoning designation is not appropriate. City council shall review the recommendation of planning commission in accordance with the procedures set forth in [Section 1165.03 Zoning Text and Map Amendments](#).
- b. If the planning commission does not take action to initiate a zoning map amendment within 60 days of annexation, the initial zoning of the newly annexed area will become the final zoning.

CHAPTER 1169. Zoning Districts and Use Regulations

Section 1169.06 Principally Permitted Uses

1169.06. PRINCIPALLY PERMITTED USES

A. General Provisions

[Subsection 1169.06 C. Permitted Use Table](#), lists the principal uses allowed within all zoning districts except for overlay zoning districts and planned unit developments (See [CHAPTER 1171. Planned Unit Development Overlay District Regulations](#)).

B. Explanation of Permitted Use Table

1. Permitted Use

- a. A “P” in a cell indicates that a use is allowed by-right in the respective zoning district. Permitted uses are subject to all other applicable regulations of this code.
- b. Permitted uses are approved administratively by the zoning commissioner where a zoning permit is required or by the planning commission where a site plan review is required. See [Section 1165.06 Site Plan Review](#) for the applicability of site plan review.

2. Permitted Uses with Standards

- a. A “PS” in a cell indicates that a use category is allowed by-right in the respective zoning district if it meets the additional standards set forth in the numerically referenced sections. Permitted uses with standards are subject to all other applicable regulations of this code.
- b. Uses permitted with additional standards are approved administratively by the zoning commissioner where a zoning permit is required or by the planning commission where a site plan is required. See [Section 1165.06 Site Plan Review](#) for the applicability of site plan review.

3. Conditional Uses

- a. A “C” in a cell indicates that a use may be permitted if approved through conditional use permit review (See [Section 1165.07 Conditional Use Permit](#)). Conditional uses may be subject to use-specific standards as identified in the last column of [Table 1169.06-1: Principally Permitted Uses](#). Conditional uses are subject to all other applicable regulations of this code.
- b. 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 use that is permitted as a conditional use shall be subject to the general review standards for all conditional uses established in [Section 1165.07 Conditional Use Permit](#).

4. Prohibited Uses

A blank and/or shaded cell indicates a use that is prohibited in the respective zoning district.

5. Numerical Reference

The numbers contained in the “Additional Requirements” column are references to additional standards and requirements that apply to the use type listed. Standards referenced in the “Additional Requirements” column apply in all zoning districts unless otherwise expressly stated.

CHAPTER 1169. Zoning Districts and Use Regulations

Section 1169.06 Principally Permitted Uses

6. Use Determination and Unlisted Uses

- a. The zoning commissioner shall make the determination if a proposed use is permitted, permitted with standards, a conditional use, or a prohibited use under the provisions of this section and code.
- b. The zoning commissioner may determine that a proposed use is substantially similar to a use that is permitted, permitted with standards, or a conditional use established in [Table 1169.06-1: Principally Permitted Uses](#) based on the proposed use activities, character of use, similarity to existing uses within the city, or information on the use as may be available from third-party land use resources such as documentation from the American Planning Association, Urban Land Institute, or similar organizations. If the zoning commissioner finds that the proposed use is substantially similar to a use established in [Table 1169.06-1: Principally Permitted Uses](#), the application shall be processed in the same manner as the similar use.
- c. If the zoning commissioner makes the determination that a use is prohibited, the application shall not be processed and the application fee shall be returned.
- d. If the applicant disagrees with the zoning commissioner's determination regarding the proposed use, the applicant may choose to take one of the following actions:
 - i. The applicant may appeal the determination of the zoning commissioner to the BZBA pursuant to [Section 1165.09 Appeals](#);
 - ii. The applicant may submit an application for a zoning text amendment to include the proposed use and applicable standards pursuant to [Section 1165.03 Zoning Text and Map Amendments](#); or
 - iii. The applicant may present their case to the planning commission and/or city council to request that the city initiate a text amendment to address the proposed use and applicable standards.

C. Permitted Use Table

TABLE 1169.06-1: PRINCIPALLY PERMITTED USES																
P = PERMITTED PS = PERMITTED WITH STANDARDS C = CONDITIONAL USE BLANK CELL = PROHIBITED																
USE TYPE	F-P	S-1	A-1	R-1	R-2	R-3	R-4	O-R	B-1	B-2	B-3	B-4	M-1	M-2	M-3	ADDITIONAL REQUIREMENTS
AGRICULTURAL USE CLASSIFICATION																
Agriculture	P	P	P	C										P	P	C
Forestry	P	P	P													
Plant Cultivation	P	P	P	P	P	P	P	P								
Specialized Animal Raising and Care	C		C													
RESIDENTIAL USE CLASSIFICATION																
Adult Family Homes or Small Residential Facilities			C	C	C	C		C								1169.08 A. 1.

CHAPTER 1169. Zoning Districts and Use Regulations

Section 1169.06 Principally Permitted Uses

TABLE 1169.06-1: PRINCIPALLY PERMITTED USES

P = PERMITTED PS = PERMITTED WITH STANDARDS C = CONDITIONAL USE BLANK CELL = PROHIBITED																
USE TYPE	F-P	S-1	A-1	R-1	R-2	R-3	R-4	O-R	B-1	B-2	B-3	B-4	M-1	M-2	M-3	ADDITIONAL REQUIREMENTS
Adult Group Homes or Large Residential Facilities			C	C	C	C		C								1169.08 A. 1.
Apartments on Upper Floors								P		P	C	C				1169.08 A. 2.
Dwellings, Multi-Family						P		P	C	C	C	C				
Dwellings, Single-Family			P	P	P	P				P						
Dwellings, Two-Family				C	P	P				P						
Dwellings, Zero Lot Line			Permitted if approved as a PUD.											1171.07 A. 5.		
Mobile Home Parks							PS									1169.08 A. 3.
Nursing or Convalescent Homes		C		C	C	C		C	C	C	C					1169.08 A. 4.
PUBLIC AND INSTITUTIONAL USE CLASSIFICATION																
Airports		C	C													
Cemeteries		C	C													
Charitable and Philanthropic Institutions			C					P	P	P						
Community Gardens	PS	PS	PS	C	C	C	C	C					PS	PS	PS	1169.08 B. 1.
Cultural Institutions			C					P								
Essential Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Hospitals		C									C					
Parking Lots & Garages	C									C	PS	PS	PS	PS	PS	1169.08 B. 2.
Public and Government Buildings or Uses	C	P	P	P	P	P	P	P	P	P	P	P	C	C	C	
Public Community Centers	C	P		C	C			P	P	P	P	P	P	P	P	
Recreational Facilities, Noncommercial	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Religious Places of Worship		P	P	P	P	P	P	P	C	C	C	C	C	C	C	
Solar Farms		C	C										C	C	C	
Telecommunication Towers and Facilities		C											C	C	C	1169.08 B. 3.
COMMERCIAL USE CLASSIFICATION																
Animal Hospitals & Veterinary Clinics									C	C	C					1169.08 C. 1.
Assembly Halls & Conference Centers								P	P	P	C	C	C			1169.08 C. 2.
Automotive Fuel Sales									C	C	P	C	C	C	C	1169.08 C. 3.
Automotive Repair									C	C	P	C	C	C	C	1169.08 C. 4.
Automotive Sales or Rental									C	C	P	C	C	C	C	1169.08 C. 5.
Automotive Service									C	C	C	C				1169.08 C. 3.
Bakeries & Dairies											C					
Banks and Financial Institutions								C	C	P	P	P				
Bars or Taverns								C	C	C	C	C	C	C	C	
Bed and Breakfast Establishments						C										1169.08 C. 6.
Boarding Houses					C	C		C	C	C	C					
Building Trades & Services											P	P	P	P		
Car Washes										PS	PS	PS				1169.08 C. 7.
Clubs, Lodges, or Other Social Meeting Places								C	P	P	C	C	C			1169.08 C. 8.
Commercial Entertainment Facilities										C	C	P				

CHAPTER 1169. Zoning Districts and Use Regulations

Section 1169.06 Principally Permitted Uses

TABLE 1169.06-1: PRINCIPALLY PERMITTED USES																
P = PERMITTED PS = PERMITTED WITH STANDARDS C = CONDITIONAL USE BLANK CELL = PROHIBITED																
USE TYPE	F-P	S-1	A-1	R-1	R-2	R-3	R-4	O-R	B-1	B-2	B-3	B-4	M-1	M-2	M-3	ADDITIONAL REQUIREMENTS
Commercial Recreation Facilities, Indoors		C	C	C	C	C					C	C	P	C	C	
Commercial Recreation Facilities, Outdoors		C	P	C	C						C		C			1169.08 C. 9.
Convenience Stores								C	C	C	P	P				
Dry Cleaner								P	P	P	P	P				
Educational Institutions, Commercial								P		P						
Family Day Care Home, Type A				C	C	C	C									
Family Day Care Home, Type B				P	P	P	C									
Funeral Homes and Mortuaries				C	C	C		C	C	C	P					
Garden or Landscape Supply Store											P	P	P			
Green Houses and Nurseries			P										P			
Hotels & Motels										P	P	C				
Internet Cafés									C	C	C	C				
Internet Sweepstakes Establishments											C	C				
Kennels			PS										PS	PS	PS	1169.08 C. 10.
Laundry or Laundromat									P	P	P	P				
Lodging Houses					C	C		C	C	C	C					
Lumber Yard											C	C	P	P	P	
Medical and Dental Centers or Outpatient Clinics						C		P	P	P	P	P				
Mobile Home Sales							C									
Nursery Schools or Childcare Centers					C	C	C	C	C	C	C					1169.08 C. 11.
Offices								P	P	P	P	P	P	P	P	
Printing & Publishing								C	C	C	C	C	C			
Restaurants								C	C	P	P	P	C	C	C	1169.08 C. 12.
Restaurants, Fast Food								C	C	C	P	C	C	C	C	
Retail and Service Commercial Uses								P	P	P	P	P	P	C	C	
Self-Storage Facilities or Mini-Warehouses													PS	PS	PS	1169.08 C. 13.
Services, Business								P	P	P	P	P				
Services, Financial								P	P	P	P	P				
Services, Personal								P	P	P	P	P				
Services, Professional				C	C	C		P	P	P	P	P				
Sexually Oriented Businesses															PS	1169.08 C. 14.
Tattoo/Piercing Parlors or Studios								C	C	C	C	C				
Transportation Equipment Sales & Repair											P	P	P	P	P	
Transportation & Trucking Terminals											C	C	C	C	P	
Truck, Trailer, or Farm Implement Sales and Service													PS	PS	PS	
Truck Washes												PS	PS	P	P	1169.08 C. 7.

CHAPTER 1169. Zoning Districts and Use Regulations

Section 1169.07 Similar Use Determination

TABLE 1169.06-1: PRINCIPALLY PERMITTED USES

P = PERMITTED PS = PERMITTED WITH STANDARDS C = CONDITIONAL USE BLANK CELL = PROHIBITED																
USE TYPE	F-P	S-1	A-1	R-1	R-2	R-3	R-4	O-R	B-1	B-2	B-3	B-4	M-1	M-2	M-3	ADDITIONAL REQUIREMENTS
Wholesale Businesses											C	C	P	P	P	
INDUSTRIAL USE CLASSIFICATION																
Auto & Metal Salvage Operations (Junkyard)															C	1169.08 D. 1.
Building Materials Sales & Storage													P	P		1169.08 D. 2.
Bulk Plant													C	C	C	
Contractor Offices and Storage													P	P	P	1169.08 D. 3.
Crematory								C	C	C	C		C	C	C	1169.08 D. 4.
Grain Elevator & Feed Mills														C	P	
Laboratories								C					P	P	P	
Manufacturing, General															P	
Manufacturing, Limited														P	P	
Manufacturing, Restricted													P	P	P	
Mineral, Gravel, or Sand Extraction	C		C											C	C	1169.08 D. 5.
Oil & Gas Well														C	C	
Oil & Gas Well Equipment Sales & Storage															P	
Research & Development Facilities		C											C	C	C	
Sawmill															C	
Slaughterhouses															C	
Stockyards															C	
Warehousing, Distribution, or Storage Facility													P	P	P	

1169.07. SIMILAR USE DETERMINATION

- A. Where there is a proposed use that is not currently listed in [Table 1169.06-1: Principally Permitted Uses](#), the zoning commissioner may review the use to determine the appropriate zoning districts, if any, where the use may be permitted.
- B. The zoning commissioner should consider the nature, operation, and function of the use in its determination of the appropriate district.
- C. The zoning commissioner may find that the use is not compatible with any existing zoning district and not permit the use under the current zoning code or, as an alternative, the zoning commissioner may make a recommendation to the planning commission that a new district and/or new provisions be adopted pursuant to [Section 1165.03 Zoning Text and Map Amendments](#).

1169.08. USE SPECIFIC REGULATIONS

The following section contains additional standards that shall be met by an applicant for uses that are either permitted with use-specific standards or as conditional uses. In addition to meeting the following

CHAPTER 1169. Zoning Districts and Use Regulations

Section 1169.08 Use Specific Regulations

standards, all applicants for conditional uses shall be required to comply with any and all other applicable provisions of this code.

A. Residential Use Classifications

1. Adult Family Homes or Small Residential Facilities; and Adult Group Homes or Large Residential Facilities

- a. The minimum lot area shall be 30,000 square feet.
- b. All structures and activity areas, except off-street parking, shall be set back a minimum of 35 feet from all lot lines.
- c. Each individual home shall have a person or persons maintaining permanent residence in the unit to avoid shift changes and to provide the same type of use and activities otherwise typical of residences in the area.
- d. In order to prevent the creation of a defacto social service district and to avoid impacting a residential block or neighborhood, the planning commission shall not grant a conditional use which would permit more than one adult group home within the same block or within a 500 foot radius of another group home.
- e. The residential character of all structures shall be maintained.
- f. An adult group home shall not be permitted to be constructed or operated until the agency, organization, or institute supervising such home satisfies the planning commission that the home and its operation will comply with all licensing or certification requirements of the appropriate state or local agency, pursuant to law.
- g. No exterior sign shall be permitted except as specifically allowed by the planning commission.
- h. A conditional use shall be granted for a specific type of group home. The type of home shall be defined as and by the specific nature of the individuals being treated or rehabilitated. Any change in the type of adult group home shall require a new conditional use permit.

2. Apartments on Upper Floors

- a. Apartments may be permitted on the second or higher floor in districts shown in [Table 1169.06-1: Principally Permitted Uses](#) if a business or vacant commercial space is located on the ground floor within the same structure.
- b. Multiple apartments are permitted above the ground floor commercial space.
- c. Apartments shall not be located on the ground floor.

3. Mobile Home Parks

- a. No mobile home, trailer, or similar portable residence structure shall be permitted to be located in the city except in a mobile home park in an R-4 District.
- b. A management office is permitted within a mobile home park.

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c. Compliance with Ohio Administrative Code

- i. Mobile home parks shall conform to the provisions of the Ohio Administrative Code (OAC) Chapter 3701-27: Mobile Home Parks, or subsequent revisions or additions, except as otherwise stated or modified in [Subsection 1169.08 A. 3. c. Compliance with Ohio Administrative Code](#).
 - ii. All plans required pursuant to OAC 3701-27-05 (Plan Approval Required) shall also be submitted to the planning commission for review and approval.
 - iii. In addition to that required pursuant to OAC 3701-27-05, the following shall be included on plans submitted to planning commission:
 - A) Setback lines from adjacent property lines and right-of-way lines.
 - B) Location and size of recreational areas.
 - C) Method proposed for screening the mobile home park perimeter.
 - iv. Mobile homes or trailers shall be set back 50 feet from the mobile home park property line instead of the distance indicated in OAC 3701-27-08 (Manufactured Home Lots). The planning commission shall have the authority to modify setback requirements when the mobile home park property is adjacent to commercial or industrial property, recreation parks, other mobile home parks, or other property where, in its opinion, there will be no harmful effects.
 - v. In lieu of the separation dimensions set forth in OAC 3701-27-08 (Manufactured Home Lots), each trailer shall be located upon the lot so as to provide not less than 20 feet clear distance between the sides of trailers, between the end of any trailer and the side of any trailer, or between trailers placed end to end. These dimensions shall be computed as indicated in OAC 3701-27-08.
 - vi. OAC 3701-27-26 (Recreation Area and Facilities) shall be modified as follows:

Each house trailer park shall set aside and provide suitable, conveniently located recreational space consisting of not less than 8% of the gross trailer park area. The area between the mobile home park property line and the 50 foot setback shall not be considered recreational space.
 - vii. No park and recreation fee shall be assessed provided that all regulations stated above are complied with.
 - viii. Should there be a conflict between city and state requirements, the more restrictive requirement shall apply.
- d.** Mobile home parks shall be effectively screened on all sides by means of walls, fences, or plantings, except where the property is sufficiently removed from other urban uses, as determined by the planning commission.
- i. Walls or fences shall be a minimum of six feet in height without advertising thereon.

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- ii. In lieu of such a wall or fence, a strip of land not less than 10 feet in width contained within the required 50 foot setback limits, and planted and maintained with an evergreen hedge or dense planting of evergreen shrubs, not less than four feet in height, may be substituted.
 - e. All mobile homes shall have a minimum of 400 square feet of floor area per family.
 - f. Stage construction of mobile home parks shall be permitted, provided that:
 - i. The final plan has been approved by the planning commission.
 - ii. Such stage construction provides minimum requirements within the stage being developed.
 - iii. Subsequent stages are reviewed prior to development.
- 4. Nursing Homes/Convalescent Homes**
- a. The minimum lot area shall be five acres.
 - b. All structures and activity areas, except off-street parking, shall be set back a minimum of 100 feet from the front lot line and 40 feet from all other lot lines.

B. Public and Institutional Use Classifications

I. Community Gardens

- a. The owner of the property shall have an established set of operating rules addressing the governance structure of the garden; hours of operation; maintenance and security requirements and responsibilities; and distribution of garden plots.
- b. The name and telephone number of the owner and any person designated as the person in-charge of garden coordination along with a copy of the operating rules shall be kept on file with the zoning commissioner.
- c. The site shall be designed and maintained so that water and fertilizer will not drain onto adjacent properties.
- d. There shall be no retail sales on site, except for produce grown on the site.
- e. No building or structures shall be permitted on the site unless the community garden is accessory to a use (See [Section 1169.10 Accessory Use and Structure Regulations](#)) in which case, the buildings and structures shall be considered as accessory to the principal use of the lot.
- f. Benches, bike racks, raised/accessible planting beds, picnic tables, seasonal farm stands, garden art, rain barrel systems, children's play areas and similar equipment may be permitted.
- g. Fences and walls shall be subject to the provisions of [Section 1177.06 Screening Requirements](#).

CHAPTER 1169. Zoning Districts and Use Regulations

Section 1169.08 Use Specific Regulations

2. Parking Lots or Garages

- a. Below-grade parking garages are encouraged over above-grade.
- b. Parking garages shall meet the architectural standards established for the applicable zoning district.
- c. Parking garages shall be constructed of materials of similar quality to surrounding principal structures.
- d. The facades of parking garages that face public streets and are not occupied by commercial, office, institutional, public uses, or civic uses shall be articulated through the use of three or more of the following architectural features to make the parking garage appear similar in character to an occupied building:
 - i. Windows or window-shaped openings with decorative mesh or similar features as approved by the city;
 - ii. Masonry columns;
 - iii. Decorative wall insets or projections;
 - iv. Awnings;
 - v. Changes in color or texture of materials;
 - vi. Approved public art;
 - vii. Integrated landscape planters; or
 - viii. Other similar features approved by the city.
- e. 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.

3. Telecommunication Towers and Facilities

- a. The following standards apply to the location of commercial radio and television towers and telecommunication towers permitted in [Table 1169.06-1: Principally Permitted Uses](#):
 - i. Towers shall be located centrally on a continuous parcel; and
 - ii. The area of the parcel shall be large enough so that the center of the base of the tower will be set back from all points on each property line a distance equal to that of the height of the tower.
- b. All accessories related to the tower including, but not limited to, guy wires, equipment sheds, parking, and fencing shall all be located on the same lot as the tower.
- c. Towers shall be setback a minimum of 500 feet from any off-site dwelling unless a reduced setback is approved by the planning commission as part of the conditional use review of the tower.

C. Commercial Use Classifications

1. Animal Hospital/Veterinary Clinics

- a. All soundproofed structures shall be set back a minimum of 50 feet from any abutting residential lot line, residential zoning district, or recorded subdivision.
- b. All non-soundproofed structures shall be set back a minimum of 100 feet from any abutting residential lot line, residential zoning district, or recorded subdivision.
- c. If the animal hospital or veterinary clinic includes a kennel use for the temporary boarding of animals for purposes other than medical or dental treatment, such use shall also be subject to the standards set out in [Subsection 1169.08 C. 10. Kennels](#).

2. Assembly Halls/Conference Centers

All structures and activity areas, except off-street parking, shall be set back a minimum of 200 feet from all lot lines abutting a residential zoning district. All structures and activity areas, except off-street parking, shall be set back a minimum of 20 feet from all other lot lines.

3. Automotive Fuel Sales and Automotive Service

- a. Canopies shall be set back a minimum of 40 feet from street rights-of-way, except that the setback shall be a minimum of 50 feet if along a major thoroughfare.
- b. Lubrication, washing, and other incidental servicing of motor vehicles and all supply and merchandise storage shall be completely within an enclosed building except as otherwise provided herein.
- c. Employee vehicles and vehicles awaiting service or return to customers following servicing shall be parked in areas indicated for such parking on approved site plan. Such parking areas shall be set back a minimum of five feet from any right-of-way.
- d. The sale of motor vehicles on premises used for automotive service shall be prohibited.
- e. The storage of non-operational 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 five feet. No such vehicle shall be stored on-site for more than two weeks.
- f. All other outdoor storage shall be subject to the standards of [Section 1177.06 Screening Requirements](#).

4. Automotive Repair

- a. Automotive service or automotive repair shall be performed and conducted inside of the building.
- b. All vehicles or parts shall be kept inside a building or screened from view of persons on contiguous property or persons using public rights-of-way.

5. Automotive Sales and Rental

Automotive sales or rental uses are subject to the following standards:

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- a. There shall be a minimum lot area of two acres.
- b. A principal structure shall be located on the lot.
- c. Landscaping shall be provided as specified in [CHAPTER 1177. Landscaping and Buffer Standards](#).
- d. No auctions shall be permitted on the lot.
- e. No outdoor speaker systems shall be permitted for uses that abut or are across the street from residential districts.
- f. Delivery and loading shall not be permitted on a public street.
- g. All structures shall be set back a minimum of 100 feet from any abutting residential lot line, residential zoning district, or recorded subdivision.
- h. No storage or display of vehicles shall be permitted in any required landscape area, unless approved by the city.
- i. Automotive service or repair, if permitted, shall be performed and conducted inside of a building.
- j. One additional freestanding sign shall be permitted if multiple vehicle brand dealerships share the lot, with a maximum of two signs. Each sign shall not exceed the sign area permitted per [CHAPTER 1179. Sign Standards](#).

6. Bed and Breakfast Establishments

Bed and breakfast establishments are subject to the following standards:

- a. The maximum number of employees shall be two, other than occupants or owners.
- b. All such uses shall be located in a single-family dwelling consistent in character (e.g., height, scale, setbacks, massing, etc.) with the surrounding residential uses, and shall not include facilities for receptions, weddings, or other events.
- c. Central facilities for the collection and disposal of trash shall be provided.
- d. Parking areas shall be located behind the bed and breakfast establishment.
- e. Parking areas shall be screened from adjacent residential uses by landscaping and/or fencing as determined by the planning commission.
- f. The establishment shall conform to state health and building code requirements and shall show proof of inspection or proof of proper operating licenses by the state and/or county.
- g. Only overnight guests shall be served unless otherwise authorized as part of the conditional use approval.
- h. The facility shall be limited to no more than eight guestrooms with a maximum guest capacity as determined by fire and building regulations.
- i. No receptions, private parties, or any other type of guest paid activity shall be permitted.

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- j. Stays shall be short-term in nature and no guest shall be permitted to stay for a period exceeding two weeks.
- k. No external vending machines are permitted.

7. Car Washes and Truck Washes

Car wash establishments must be set back a minimum of 100 feet from the right-of-way.

8. Clubs, Lodges, or Other Social Meeting Places

- a. All structures shall be set back a minimum of 50 feet and any parking areas a minimum of 100 feet from any abutting residential lot line, residential zoning district, or recorded subdivision.
- b. There shall be a minimum lot area requirement of two acres.

9. Commercial Recreation Facilities (Outdoor)

All structures and activity areas, except off-street parking, shall be set back a minimum of 200 feet from all lot lines abutting a residential zoning district and a minimum of 100 feet from all other lot lines.

10. Kennels

- a. All structures and activities related to the subject kennel use shall be set back a minimum of 100 feet from side and rear lot lines, except that when located adjacent to a residential zoning district, the following additional restrictions shall apply:
 - i. All non-soundproofed structures or areas where animals are confined shall be set back a minimum of 500 feet from any residential zoning district.
 - ii. Soundproofed, air-conditioned buildings shall be set back a minimum of 100 feet from any residential zoning district.
- b. All non-soundproofed structures for the confinement of animals shall be screened by a solid fence or wall a minimum of six feet in height located within 50 feet of the proposed structure.
- c. Animals shall be confined in an enclosed building between the hours of 10:00 p.m. and 7:00 a.m. of the following day.
- d. There shall be no burial or incineration of animals on the premises.

11. Nursery Schools or Childcare Centers

- a. The minimum lot area shall be 10,000 square feet.
- b. All structures and activity areas, except off-street parking, shall be set back a minimum of 50 feet from the front lot line and a minimum of 40 feet from all other lot lines.
- c. Outdoor play areas shall be permitted in the side and rear yards only and shall be enclosed with a fence or wall that is a minimum of five feet in height. Such outdoor play areas shall not be subject to the setback requirements of [Paragraph \(b.\)](#) above.

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- d. Unloading and loading of children from vehicles shall only be permitted in the approved parking area of the facilities. An on-site drop off area sufficient to accommodate a minimum of four vehicles shall be provided and shall be located in a manner not to obstruct movement in and out of established parking spaces.

12. Restaurants

- a. A restaurant with drive-in and/or drive-through service, and restaurants that provide dancing or entertainment shall be set back a minimum of 100 feet from any residential zoning district.
- b. All audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments shall not be located within 300 feet of any residential dwelling unit.

13. Self-Storage Facilities and Mini-Warehouses

- a. There shall be a minimum lot area requirement of two acres.
- b. There shall be a minimum setback of 150 feet between any residential zoning district and all buildings related to the use.
- c. Lot coverage of all structures shall be limited to 80% of the lot area.
- d. The only commercial uses permitted on-site shall be the rental of storage space and the pick-up and/or deposit of goods on the property in storage. Storage spaces, including outdoor storage areas, shall not be used to manufacture, fabricate, or process goods; service or repair vehicles, small engines, or electrical equipment, or to conduct similar activities; conduct garage sales or retail sales of any kind; or conduct any other commercial or industrial activity on-site.
- e. A commercial accessory dwelling unit may be permitted in connection with office/watchman purposes.
- f. Screening shall be required around the perimeter of the storage area. All storage units with access from the exterior of the building shall be located behind the screen unless otherwise approved by the city.
- g. Outdoor storage is permitted with the exception of inoperative vehicles.
- h. Interior landscaping shall be based on 15 square feet of landscaping per parking space required and will be distributed reasonably evenly across the lot area.
- i. A 25 foot wide landscaping buffer yard, parallel to the street frontage, equal to the property frontage, excluding ingress/egress drives, shall be landscaped with trees in the ratio of at least one tree for every 2,000 square feet or fraction thereof of the landscaped area. Landscaping shall consist of a variety of hardy evergreen planted material, including trees and low-medium-high profile shrubs, together with suitable ground cover that is either seeded with grass or mulched and maintained in such a manner as not to impair vehicle visibility. All required buffer yard landscaping shall be located outside of any fencing area. No advertising shall be allowed in the buffer yard.

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- j. All one-way driveways shall provide for one 10 foot wide parking lane and one 15 foot wide travel lane. Traffic direction and parking shall be designated by signage or driveway painting. All two-way driveways shall provide for one 10 foot wide parking lane and two 12 foot wide travel lanes. The parking lanes may be eliminated when the driveway does not serve the storage units.
- k. No gasoline or other motor vehicle fuel pumps or tanks shall be permitted on the premises.

14. Sexually Oriented Businesses

Sexually oriented businesses in this district shall comply with the following requirements:

- a. Sexually oriented businesses, as defined in this code, shall be permitted, provided the proposed location of such use is set back a minimum of 1,000 feet from the following uses:
 - i. Any residential zoning district as established by this code;
 - ii. Any permanently established religious place of worship, school, library, or public playground attended by persons under the age of 18;
 - iii. Any other recreational facility or amusement park attended by persons under the age of 18;
 - iv. Any hotel, motel, or bed and breakfast lodging establishment;
 - v. Any other sexually oriented business;
 - vi. Any establishment licensed by the State of Ohio for the sale of beer or intoxicating liquor for consumption on the premises;
 - vii. Pawn shops; or
 - viii. Pool or billiard halls.
- b. The measure of distance for purposes of this subsection shall be from property line to property line along the shortest possible course, regardless of any customary or common route or path of travel.
- c. The zoning commissioner shall consider only:
 - i. Whether the sexually oriented business is seeking to locate in a M-3 District; and
 - ii. Whether the proposed location of the sexually oriented business is at least 1,000 feet from the uses listed in [Paragraph \(a.\)](#) of this section.
 - iii. The determination shall be made without a public hearing being held and must be made within 10 days of the effective date of this section or within 10 days of the receipt of a completed application for a zoning permit, whichever is less. An applicant or an aggrieved party may appeal a decision of the zoning commissioner to the BZBA pursuant to [Section 1165.09 Appeals](#). Such appeal must be made within 30 days of the claimed adverse decision. The BZBA shall hear and decide sexually oriented business appeals within 30 days of the filing of the appeal by the applicant or aggrieved party. Further appeal shall be to a court of competent jurisdiction as provided by law.

D. Industrial Use Classifications

1. Auto and Metal Salvage Operations (Junk Yards)

- a.** Auto and metal salvage operations shall be permitted only in an M-3 District.
- b.** Auto and metal salvage operations shall be effectively screened on all sides by means of an opaque screen or plantings.
 - i.** Opaque screen shall be a minimum of eight feet in height with no advertising thereon.
 - ii.** In lieu of such wall or fence, a strip of land not less than 15 feet in width, and planted and maintained with an evergreen hedge or dense planting of evergreen shrubs not less than six feet in height, may be substituted.
 - iii.** The area outside the fence or screening shall be adequately maintained at all times.

2. Building Materials Sales and Storage

- a.** All structures and activity areas, except off-street parking, shall be set back a minimum of 50 feet from all lot lines.
- b.** A plan illustrating outdoor storage and how it is to be screened shall be submitted as part of the site plan review process.

3. Contractor Offices and Storage

All outdoor storage of equipment, supplies, and materials shall be subject to the outdoor storage requirements of [Section 1169.10 Accessory Use and Structure Regulations](#).

4. Crematory

A crematory shall be located a minimum of 200 feet from any residential zoning district.

5. Mineral, Gravel, or Sand Extraction

The extraction, storage and processing of minerals, including removal of sand, gravel, clay, soils, and minerals of all types shall be conducted in accordance with the following requirements:

- a.** The performance requirements of [Section 1173.05 Performance Standards](#) shall be met.
- b.** Mineral extraction, storage or processing shall not be conducted closer than 500 feet from any residential zoning district, nor closer than 200 feet from any structure used for human occupancy in any other district.
- c.** Buildings and structures for which no future use is contemplated, and for which no other acceptable use is practicable or feasible, shall be demolished and removed upon completion of the mining operation.
- d.** The operator shall file a location map with the planning commission. The location map shall show the areas to be mined and the location of adjacent properties, roads, and natural features.

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- e. The operator shall submit information on the anticipated depth of excavations, and on the depth and probable effect on the existing water table, public utilities, roads and surface drainage.
- f. The operator shall file a detailed plan for the restoration of the area to be mined with the planning commission. The plan shall include the anticipated future use of the restored land; the proposed final topography indicated by contour lines of no greater intervals than five feet; the type and number per acre of trees or shrubs to be planted; and the location of future roads, drives, drainage courses, and other improvements contemplated.
- g. The operator shall file a bond payable to the city and conditioned on the faithful performance of all requirements contained in the approved restoration plan.
 - i. The rate, per acre of property to be mined, of the required bond shall be determined by the zoning commissioner.
 - ii. The bond shall be released upon written certification of the zoning commissioner that the restoration is complete and in compliance with the restoration plan.

1169.09. OVERLAY ZONING DISTRICT REGULATIONS

A. CO College Overlay District Regulations

1. General Applicability

The CO District regulations apply to any structure, storage, use, practice, or operation within the CO District as defined on the zoning map or other supporting documentation adopted by the city. Whenever any property is proposed to be used or occupied or a building is to be erected, moved, or altered, it must be in conformity with the regulations of this section.

2. Boundary Amendments

Any proposal to change the CO District boundaries as defined on the zoning map shall be deemed an application for a map amendment and shall be made in accordance with [Section 1165.03 Zoning Text and Map Amendments](#) and the following additional requirements:

- a. Planning commission shall not recommend enlargement of the CO District unless the land proposed to be included in the overlay district shares a contiguous boundary with the existing overlay district boundary for a continuous length equal to at least 5% of the perimeter of the land proposed for incorporation into the overlay district.
- b. No ordinance amending CO District boundaries to reduce the area of the overlay district shall be effective until the same is submitted to and is approved by a majority of the electors voting on the question at the first regularly scheduled primary or general election to be conducted more than 90 days following adoption of the ordinance by city council.

3. Permitted Uses

The permitted uses shall be those permitted in the base zoning district.

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4. Site Plan Review Required

Any demolition or improvement of a structure in the CO District requires site plan review and approval pursuant to [Section 1165.06 Site Plan Review](#).

5. Minimum Design Standards

a. Building Facades

- i. Building facades facing a primary street shall incorporate a main entrance door on the primary street.
 - ii. Exterior building facades shall be constructed of high-quality building materials that may include, but are not limited to:
 - A) Brick, predominantly red brick;
 - B) Glass;
 - C) Wood;
 - D) Stone, to include, cut natural stone, natural field stone and cast stone;
 - E) Stucco;
 - F) Decorative concrete masonry units; and
 - G) Exterior insulation and finish systems (EIFS) type finish; or
 - H) Equivalent products.
 - iii. Predominant exterior building materials shall not include:
 - A) Common concrete blocks;
 - B) Smooth-faced concrete panels;
 - C) Sheet metal; and
 - D) Plywood, particle board, medium or high density fiber board, oriented strand board or similar sheet goods manufactured of wood or reconstituted wood.
 - iv. Facades shall be of low-reflectance materials and finished in subtle, neutral or earth tone colors that are harmonious with the overall appearance, history and cultural heritage of the area. Building trim, accent areas and signage may feature brighter colors, including primary colors, when complementary to the coloration of the primary facade and consistent with the architectural design of the building.
- b.** Building frontages that face a primary street and exceed a width of 50 feet shall include vertical visual elements to break the plane of the building frontage.
- i. Such vertical elements shall be spaced at intervals of 15 feet to 35 feet along the entire building frontage.
 - ii. Equivalent techniques to reduce the apparent mass of a building may be permitted with prior approval of the planning commission.

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- c. Roof-mounted mechanical equipment shall be screened from public view.
 - i. The screening shall be of sufficient height to prevent a person from viewing the mechanical equipment from a public sidewalk (see Figure 1169.09-1).

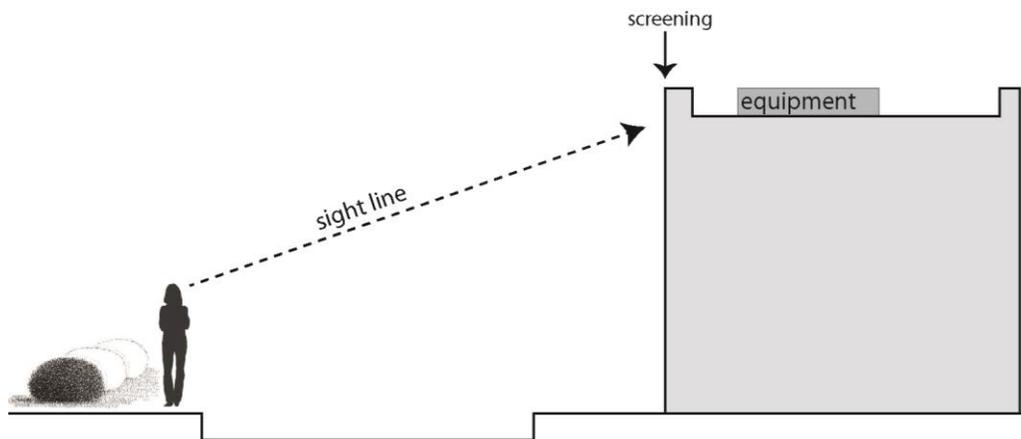


Figure 1169.09-1: An example of rooftop screening used to screen equipment from pedestrian view.

- ii. The design, colors and materials used to conceal mechanical equipment from view shall be consistent with the architectural design and coloration of the building.
- d. No system capable of producing amplified sound at a volume audible from the property line of any lot or parcel of land in a residential zoning district or special use district shall be installed on any property devoted to a nonresidential use.
- e. Drive-through and pick-up windows shall not be permitted on the front façade of any building.
- f. **Dumpsters and Trash Receptacles**
 - i. Dumpsters and trash receptacles shall not be located in any required front yard setback.
 - ii. Dumpsters and trash receptacles serving commercial or industrial uses shall not be located on the exterior of any building located in a residential zoning district.
 - A) This provision shall not be construed to prevent the temporary relocation of solid wastes collected within a building to an outdoor area for collection.
 - B) Solid wastes relocated to an outside area for collection shall be securely contained in an appropriate vessel to prevent dispersal by winds of foreseeable intensity and shall not be kept out-of-doors for more than four hours.
 - iii. Exterior dumpsters and trash receptacles located in compliance with this section shall be concealed from view from all neighboring properties and public rights-of-way by opaque wood or vinyl fencing, permanent walls, or evergreen plantings and shall be made accessible by a wood, solid vinyl or similarly opaque gate.
 - A) Sufficient clearance shall be maintained between the gate and grade of the access way to assure operability of the gate during normal winter snow conditions.

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- B) The top of the gate shall be not less than six inches taller than the height of the dumpster. All other screening required by this subsection shall be six inches taller than the height of the dumpster or other trash receptacle.
- g. Exterior lighting shall be positioned to avoid light spillage or glare onto adjoining properties and all public rights-of-way, and shall comply with [Section 1173.03 Outdoor Lighting](#).
- h. The surface of any pedestrian walkway that crosses a private driveway or parking area that is open to use by the general public shall be distinguished from adjacent pavement surfaces by the use of durable materials that are of a contrasting color and texture. Suitable materials for crosswalks include, but are not limited to:
 - i. Natural or reconstituted stone paving blocks;
 - ii. Bricks;
 - iii. Unglazed tile;
 - iv. Scored or pressed concrete; and
 - v. Scored and painted asphalt.
- i. The use of shared driveways and internal accesses to permit vehicular traffic between the parking areas of adjacent parcels without use of the public streets is encouraged.

6. Signage Restrictions

- a. Signs in the CO District shall comply with the regulations in [CHAPTER 1179. Sign Standards](#) and Chapter 1337 Construction Standards for Signs and Advertising Structures of the Codified Ordinances.
- b. Signs in the CO District may be internally or externally illuminated.

7. General Landscape Requirements

Development in the CO District shall comply with the regulations in [CHAPTER 1177. Landscaping and Buffer Standards](#).

8. Off-Street Parking Area Landscape Requirements

Development in the CO District shall comply with the regulations in [Section 1177.07 Interior Landscaping Requirements for Parking Areas](#).

9. Variance Requests

Applications for variances to the CO District regulations shall be reviewed and processed in accordance with the procedures in [Section 1163.05 Board of Zoning and Building Appeals](#) and [Section 1165.08 Variances](#). The planning commission shall review and recommend action on each variance application related to the CO District regulations.

B. PUD Planned Unit Development Overlay District Regulations

See [CHAPTER 1171. Planned Unit Development Overlay District Regulations](#) for district regulations.

1169. 10. ACCESSORY USE AND STRUCTURE REGULATIONS

A. Purpose

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

B. General Provisions

The following general provisions apply to all accessory uses or structures.

1. The structure or use shall be incidental to and customarily found in connection with a principal building or use permitted in the district in which it is located.
2. The structure or use shall be located on the same lot as the principal use for which it serves. An accessory structure or use may be located on an adjacent lot if the adjacent lot is under the same ownership as the lot on which the principal use is located.
3. Unless otherwise stated in this section, a zoning permit shall be required prior to construction or establishment of an accessory use or structure.
4. An accessory use or structure shall not be established unless a principal use has first been established on a site in conformance with the applicable provisions of this code.
5. Unless permitted by the planning commission or city council as part of a PUD approval, accessory uses and structures shall be prohibited in any open space area dedicated as part of a PUD.
6. Unless otherwise permitted in this section, accessory uses shall not be permitted within any required minimum front yard or side yard in any zoning district, unless approved by the BZBA.
7. Accessory uses in residential zoning districts must be set back a minimum of four feet from the side lot lines and at least six feet from the rear lot lines. In addition, accessory structures in residential zoning districts shall not exceed 720 square feet in area.

C. Table of Permitted Accessory Uses

[Table 1169. 10-1: Permitted Accessory Uses](#) lists the accessory uses and structures allowed within all zoning districts. The following is an explanation of the abbreviations and columns in [Table 1169. 10-1: Permitted Accessory Uses](#).

1. Permitted Use (P)

A “P” in a cell indicates that an accessory use or structure is permitted by-right in the respective zoning district. Permitted accessory uses and structures are subject to all other applicable regulations of this code, including the additional standards set forth in this section.

2. Permitted Use with Use-Specific Standards (PS)

- a. A “PS” in a cell indicates that an accessory use or structure is allowed by-right in the applicable zoning district if it meets the additional standards set forth in the numerically

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referenced sections in the last column of [Table 1169. 10-1: Permitted Accessory Uses](#).

Permitted uses and structures with use-specific standards are subject to all other applicable regulations of this section and zoning code.

- b. Accessory uses and structures permitted with use-specific standards under this category are approved administratively by the zoning commissioner pursuant to the zoning permit review procedure (where required).

3. Conditional Use (C)

A “C” in a cell indicates that, in the respective zoning district, an accessory use or structure is permitted if reviewed and approved as a conditional use pursuant to [Section 1165. 07 Conditional Use Permit](#). Conditional uses are subject to all other applicable regulations of this code, including the additional standards set forth in this section.

4. Prohibited Uses (Blank Cells)

A blank cell indicates that the listed accessory use or structure is prohibited in the applicable zoning district.

5. Zoning Permit Required

The “Zoning Permit Required” column indicates if a zoning permit is required for the applicable accessory use or structure.

6. Yards Permitted

The “Yards Permitted” column indicates in which yards the applicable accessory use or structure is permitted. See also [CHAPTER 1173. General Development Standards](#).

7. Numerical References (Last Column)

The numbers contained in the “Additional Regulations” column are references to additional standards and requirements that apply to the use and structure type listed. Standards referenced in the “Additional Regulations” column apply in all zoning districts unless otherwise expressly stated and may apply to a conditionally permitted accessory use and/or a permitted accessory use with use-specific standards.

TABLE 1169. 10-1: PERMITTED ACCESSORY USES

USES P = PERMITTED PS = PERMITTED WITH STANDARDS C = CONDITIONAL	F-P	S-I	A-1, R-1, R-2, R-3, R-4	B-1, B-2, B-3, OR	M-1, M-2, M-3	ZONING PERMIT REQUIRED	YARDS PERMITTED F = FRONT S = SIDE R = REAR	ADDITIONAL REGULATIONS
Accessory Dwelling Units			C	C		Yes	R	1169. 10 D. 1.
Accessory Retail Sales				PS	PS	Yes	In principal building	1169. 10 D. 2.
Amateur Radio Transmitter or Antennas					C	Yes	Any	1169. 10 D. 3.
Automated Teller Machines (ATMs)				PS		Yes	F[I],S, R	1169. 10 D. 4.
Beekeeping	PS	PS	C			No	R	1169. 10 D. 5.
Community Gardens	PS	PS	C	C	PS	Yes	S, R	1169. 10 D. 6.

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TABLE 1169. 10-1: PERMITTED ACCESSORY USES

USES P = PERMITTED PS = PERMITTED WITH STANDARDS C = CONDITIONAL	F-P	S-I	A-1, R-1, R-2, R-3, R-4	B-1, B-2, B-3, OR	M-1, M-2, M-3	ZONING PERMIT REQUIRED	YARDS PERMITTED F = FRONT S = SIDE R = REAR	ADDITIONAL REGULATIONS
Detached Accessory Garages or Buildings	C	P	P	P	P	Yes	R	
Drive-Through Facilities				[2]	C	Yes	S, R	1169. 10 D. 7.
Drop-Off Boxes				PS	C	Yes	Any	1169. 10 D. 8.
Dumpsters		PS	PS	PS	PS	Yes	S, R	1169. 10 D. 9.
Fences	C	P	P	P	P	Yes	See Section 1177. 06 Screening Requirements	
Home Occupations	C	PS	PS			Yes	In principal building	1169. 10 D. 10.
Keeping of Chickens	PS	PS	PS			Yes	S, R	1169. 10 D. 11.
Outdoor Dining Facilities				C		Yes	Subject to Review	1169. 10 D. 12.
Outdoor Bulk Storage				PS	PS	Yes	S, R	1169. 10 D. 13.
Outdoor Sales				C	C	Yes	Any	1169. 10 D. 14.
Parking Lots	C			P	P	Yes	See CHAPTER 1175. Parking, Loading and Mobility Standards	
Porches or Decks	C	PS	PS	PS	PS	Yes	Any	1169. 10 D. 15.
Roadside Stand		PS	PS	PS	PS	Yes	Any	1169. 10 D. 16.
Small Wind Energy Conservation Systems	C	C	C	C	C	Yes	Any	1169. 10 D. 17.
Solar Panels	C	C	C	C	C	See Standards	R, Roof	1169. 10 D. 18.
Stables, Private	C	PS	PS			Yes	S, R	1169. 10 D. 19.
Swimming Pools, Community or Club	C	PS	PS	PS	PS	Yes	S, R	1169. 10 D. 20.
Swimming Pools, Private	C	PS	PS	PS	PS	Yes	S, R	1169. 10 D. 21.
Tennis Courts or Other Game Courts	C	PS	PS	PS	C	Yes	Subject to Review	1169. 10 D. 22.
Tree Houses, Play Sets, or Trampolines	P	P	P			No	S, R	
Unenclosed Patios	C	PS	PS	PS	PS	Yes	S, R	1169. 10 D. 23.
Warehousing				P	P	Yes	S, R	
Other Accessory Uses	C	C	C	C	C			1169. 10 D. 24.
NOTES: [1] ATMs proposed in a front yard must obtain BZBA approval. [2] Drive-through facilities are allowed as conditional accessory uses in the B-1 and B-2 districts, and are allowed as permitted accessory uses in the B-3 and O-R districts.								

D. Accessory Use-Specific Standards

I. Accessory Dwelling Unit

Accessory dwelling units in residential zoning districts shall comply with the following standards:

- a. Accessory dwelling units are allowed as accessory uses only to single-family detached dwellings, and are not allowed as accessory uses to two-family dwellings, townhouse dwellings, multi-family dwellings, or manufactured homes.
- b. The principal dwelling shall be occupied by its owner.

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- c. Not more than one accessory dwelling unit shall be allowed per single-family dwelling.
- d. An accessory dwelling unit may be within or attached to the principal dwelling (e.g., a downstairs apartment), or exist within or as a detached structure (e.g., an apartment above a detached garage or a guesthouse).
- e. An accessory dwelling unit attached to the principal dwelling shall have an operative interconnecting door with the principal dwelling, and shall have a principal access only from the side or rear yard of the principal dwelling.
- f. The gross floor area devoted to an accessory dwelling unit shall not exceed 35% of the total gross floor area of the principal dwelling to which it is accessory. The floor area of an accessory dwelling unit shall not be included as part of the floor area of the principal dwelling for calculation purposes of applying limits on home occupations or similar limits imposed by this code.
- g. The use of a manufactured home, recreational vehicle, or a similar vehicle as an accessory dwelling unit is prohibited.
- h. At least one, but no more than two, off-street parking spaces shall be provided for an accessory dwelling unit in addition to off-street parking required for the principal dwelling.
- i. The addition of an accessory dwelling unit to a single-family detached dwelling shall not change the status of the dwelling as a single-family detached dwelling or the lot as the site of a single-family dwelling for purposes of applying intensity and dimensional standards.

2. Accessory Retail Sales

Principal uses in the applicable zoning district may include some retail sales provided:

- a. The floor area dedicated to retail sales is less than 10% of the total building floor area.
- b. The retail sales take place in the principal building.
- c. The retail sales are related to the services rendered, products stored, or products produced as part of the principal use.

3. Amateur Radio Transmitter or Antenna

Noncommercial amateur radio antenna structures are permitted when in compliance with the following standards:

- a. The structure is for use by licensed amateur radio operators.
- b. Such towers shall not exceed 100 feet in height, except by conditional use permit.
- c. The construction shall be of such type as may be required by the city to form a safe and durable structure.
- d. Components of the antenna shall not be permitted to extend across the property line of the property on which the antenna is located.

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- e. The antenna structure shall be set back a distance equal to the height of the tower plus an additional 20 feet.

4. Automated Teller Machines (ATMs)

- a. ATMs are permitted when attached to a principal building and meet the applicable architectural standards.
- b. All ATMs must comply with the following:
 - i. No part of an ATM structure shall exceed 15 feet in height unless the ATM is built into the side of the principal building.
 - ii. All structures and activity areas, except off-street parking, shall be set back a minimum of 50 feet from all lot lines abutting a residential zoning district and a minimum of 35 feet from all other lot lines.
 - iii. All ATMs shall be subject to the vehicle stacking requirements of [CHAPTER 1175. Parking, Loading and Mobility Standards](#).
- c. If an ATM is built into a drive-through facility, such facility shall be subject to the requirements of [Subsection 1169. 10 D. 7. Drive-Through Facilities](#).
- d. To the maximum extent feasible, ATMs shall be located in the side or rear yard.

5. Beekeeping

Beekeeping is permitted provided that:

- a. The principal use is a single-family dwelling.
- b. No more than two hives are permitted on lots less than one acre.
- c. A beehive shall be kept no closer than 10 feet to any lot line and no closer than 25 feet to any residential structure on an adjacent lot, or shall comply with the setbacks of the applicable zoning district, whichever is greater.
- d. The front of any beehive shall face away from the property line of the adjoining residential property closest to the beehive.
- e. A solid fence or dense hedge, known as a flyaway barrier, at least five feet in height shall be placed around the beehive. A boundary fence or hedge at least five feet in height may be used to meet this requirement. No such flyaway barrier shall be required if all beehives are located at least 25 feet from all property lines and for beehives that are located on porches or balconies at least 10 feet above grade, except if such porch or balcony is located less than five feet from a property line.
- f. No Africanized bees may be kept on a property.
- g. A supply of fresh water shall be maintained in a location readily accessible to all beehives on the property.

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6. Community Gardens

- a. Community gardens may be allowed as an accessory use when associated with a public or institutional principal use (e.g., religious institution or educational facility).
- b. Community gardens shall be subject to the provisions of [Subsection 1169.08 B. 1. Community Gardens](#).

7. Drive-Through Facilities

- a. All points of entrance or exit shall be set back a minimum of 100 feet from the intersection of any streets and shall meet access management requirements.
- b. Drive-through facilities shall be subject to the vehicle stacking requirements of [CHAPTER 1175. Parking, Loading and Mobility Standards](#).
- c. Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments shall be set back a minimum of 300 feet from any residential dwelling unit.
- d. No service shall be rendered, deliveries made, or sales conducted within the required front yard; customers served in vehicles shall be parked to the sides and/or the rear of the principal structure.
- e. All drive-through areas, including but not limited to menu boards, stacking lanes, trash receptacles, loudspeakers, 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.
- f. A fence or screen between four and six feet in height shall be constructed along any property line abutting a residential zoning district.
- g. See regulations in [CHAPTER 1179. Sign Standards](#) for regulations addressing menu board signs.
- h. These standards shall not apply to carry-out restaurants where a customer can pick up pre-ordered food either at a window or in the principal use.

8. Drop-Off Boxes

Drop-off boxes and dumpster style recycling collection containers for public use are permitted in accordance with the following standards:

- a. A drop-off box may be located in any yard area, but shall not be located in any area that is required to be landscaped.
- b. Drop-off boxes must be placed on a hard paved surface and located outside of driveways and parking spaces required in conformance with [CHAPTER 1175. Parking, Loading and Mobility Standards](#).
- c. Drop-off boxes must either be enclosed per the requirements of [Section 1177.06 Screening Requirements](#) or kept in a clean, new appearing condition. Drop-off boxes which are not

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kept within an enclosure shall not have dents, any deformation to the outside painted surface, any dirt or residue on the outside surface, graffiti, etc.

- d. If two or three drop-off boxes are kept on a site, all boxes shall be kept within a common enclosure in conformance with [Section 1177. 06 Screening Requirements](#). The common enclosure for multiple boxes shall not be located in any area that is required to be landscaped, nor shall it be located in front yard or corner side yard areas. No more than three boxes may be kept on a single site.
- e. Each drop-off box shall be limited in size to 10 cubic yards and shall have a lid.
- f. Recycling collection containers for private, on-site use only are considered trash and/or garbage collection areas and are subject to the provisions of [Subsection 1169. 10 D. 9. Dumpsters](#).

9. Dumpsters

The dumpster shall be screened on a minimum on three sides to a height that fully screens the use in conformance with [Section 1177. 06 Screening Requirements](#), unless otherwise required in this zoning code.

10. Home Occupations

Home occupations shall be subject to the following conditions in addition to any other applicable use standards of the applicable zoning district:

- a. A person whose principal employment is outside of the home but who temporarily works out of a home office shall not be considered as operating a home occupation subject to these standards.
- b. Home occupations shall be clearly incidental and subordinate to the use of the property for residential purposes and shall be completely conducted within the dwelling.
- c. The external appearance and/or use of the structure or lot in which the home occupation is conducted shall not be altered to indicate the presence of the home occupation.
- d. There shall be no outside storage of any kind related to the home occupation. No display of the products shall be visible from the street.
- e. No expansion of existing off-street parking shall be permitted. Furthermore, no additional parking burden, due to the home occupation, shall be created.
- f. No equipment, process, materials, or chemicals which create offensive noises, vibration, smoke, dust, odor, heat, glare, or electrical disturbances shall be utilized in the home occupation.
- g. No more than one home occupation shall be permitted within any single dwelling unit.
- h. Delivery of any materials necessary for a home occupation shall be limited to automobiles, light duty trucks (e.g., typical FedEx or UPS home delivery vans and trucks) or vans.

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- i. No building or structure shall be used to operate a business, store equipment used for a business, or serve as a location where multiple employees meet or park prior to going to work off-site.
- j. Hours of operation for a home occupation that entails client visits or incoming deliveries is restricted to no earlier than 8:00 a.m. and no later than 8:00 p.m. each day of the week.
- k. No sign, other than one non-illuminated nameplate, two square feet in area and mounted flat on the front face of the dwelling or on a driveway lamppost, shall be erected or maintained on the premises.
- l. In those instances when the zoning commissioner denies an application, or if the zoning commissioner is uncertain of the appropriateness of a proposed home occupation, the matter may be appealed or taken to the BZBA for interpretation.
- m. The following are examples of permitted home occupations:
 - i. Clerical and other similar business services;
 - ii. Instruction in music, dance or other type of teaching that does not require an expansion in parking;
 - iii. The office of a professional accountant, attorney, broker, consultant, insurance agent, realtor, architect, engineer, sales representative, and similar office oriented occupations;
 - iv. Artists, sculptors, photographers, and other providers of home crafts;
 - v. Barber shop/beauty salon with a maximum of one chair;
 - vi. A licensed massage therapist who provides massage therapy for a maximum of one client at any given time; or
 - vii. Any similar use as determined by the zoning commissioner.

11. Keeping of Chickens

The keeping of up to four chickens is permitted provided that:

- a. The principal use is a single-family dwelling.
- b. No person shall slaughter any chickens for commercial sales.
- c. The chickens shall be provided with a covered enclosure for protection from the elements.
- d. Chickens must always be confined within a fenced area of the yard at all times.
- e. A covered enclosure or fenced area shall be located no closer than 25 feet to any residential structure on an adjacent lot, or shall comply with the setbacks of the applicable zoning district, whichever is greater.
- f. The property on which chickens are kept adheres to the odor and other performance standards of [Section 1173.05 Performance Standards](#).

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12. Outdoor Dining Facilities

- a. Outdoor dining areas in a public right-of-way shall be prohibited, except in the B-2 District.
- b. Outdoor dining areas on a private property shall be regulated as follows:
 - i. An outdoor dining area may be allowed as an accessory use to a restaurant with an indoor eating area on the same site; provided the outdoor dining area shall not replace any off-street parking, loading, or landscaping areas as may be required by this code.
 - ii. 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 an area that is closed to vehicular traffic, no railing or fencing shall be required.
 - iii. Umbrellas, or other protective elements, that shelter diners from the elements shall be secured so as not to create a hazard.
 - iv. Enclosing an outdoor dining area 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 zoning permit.
- c. The location of outdoor dining areas is subject to review by the city to ensure that access to the building and pedestrian walkways are not obstructed.
- d. Outdoor dining areas may be permitted in the front yard in the B-2 District provided that the area is located along the sidewalk or walkway adjacent to the building in the front yard.
- e. Outdoor dining areas may be permitted in the side or rear yard.
- f. Outdoor dining areas that are not located adjacent to the principal building shall not be located more than 20 feet away from the principal building.
- g. The location of the outdoor dining area shall not interfere with pedestrian movement on any sidewalk or walkway. A minimum of five feet of sidewalk or walkway shall be clear to allow for safe pedestrian movement.
- h. Outdoor dining areas may be permitted in the front yard, away from sidewalks and buildings, under the following provisions:
 - i. The outdoor dining area shall not reduce the amount of off-street parking spaces provided to a number below the minimum number of required spaces; and
 - ii. No more than 2,400 square feet of the front yard (exclusive of dining areas on a sidewalk or walkway) shall be dedicated to outdoor dining.

13. Outdoor Bulk Storage

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

- a. Outdoor bulk storage shall not interfere with parking or the sale and unobstructed use of vehicular or pedestrian access ways or walkways.

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- b. Outdoor bulk storage shall comply with all applicable state and federal regulations.
- c. Outdoor bulk storage areas are located in the side or rear yard. In no case shall the outdoor storage of goods be permitted between a principal building and a street.
- d. Storage of any goods or materials shall not exceed six feet in height unless the storage is fully screened by a six-foot high opaque screen that is architecturally compatible with the principal structure in material type and color.
- e. The use of banners, pennants, strings of pennants, or similar decoration shall not be included in outdoor bulk storage.

14. Outdoor Sales

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

- a. Outdoor sales areas may be permitted provided that the merchandise is displayed along the sidewalk or walkway adjacent to the building in the front yard.
- b. Outdoor sales are not permitted in the right-of-way, except in the B-2 District.
- c. Outdoor sales areas may also be permitted in the side or rear yard.
- d. Outdoor sales areas that are not located adjacent to the principal building shall not be located more than 20 feet away from the principal building.
- e. The placement of merchandise shall not interfere with pedestrian movement on any sidewalk or walkway. A minimum of five feet of sidewalk or walkway shall be clear of merchandise to allow for safe pedestrian movement.
- f. Outdoor sales areas may be permitted in the front yard, away from sidewalks and buildings, under the following provisions:
 - i. The outdoor sales area shall not reduce the amount of off-street parking spaces provided to a number below the minimum number of required spaces; and
 - ii. No more than 2,400 square feet of the front yard (exclusive of display areas on a sidewalk or walkway) shall be dedicated to outdoor sales.

15. Porches or Decks

- a. Porches or decks that are enclosed (with screening or other materials), have a roof, or that are physically attached to the principal structure shall meet the setback requirements for principal buildings in the applicable zoning district. See [CHAPTER 1173. General Development Standards](#).
- b. Unenclosed porches and decks may encroach into required setbacks in accordance with [CHAPTER 1173. General Development Standards](#).

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16. Roadside Stands

- a. A roadside stand shall only be permitted where at least 50% of the total value sold from the stand is derived from produce raised on farms owned or operated by the stand operator in a normal crop year.
- b. Off-street parking shall be provided as required in [CHAPTER 1175. Parking, Loading and Mobility Standards](#).
- c. One monument sign may be permitted provided it does not exceed 12 square feet in sign area, six feet in height, and only external illumination is used.

17. Small Wind Energy Conservation Systems

- a. Small wind energy systems that are attached to a roof or structure are permitted provided that the measurement from the average grade to the tip of the blade of the system does not exceed the maximum height of buildings permitted in the applicable zoning district.
- b. Stand-alone small wind energy systems may be permitted on lots with a minimum lot area of one acre. The pole or supporting structure shall be set back a minimum of 50 feet from any lot line.
- c. The maximum height shall be 75 feet measured from the average grade to the highest point on the blade.
- d. The height and location of a stand-alone small wind energy system shall be such that if the system were to collapse it would fall within the boundaries of the subject lot.

18. Solar Panels

- a. Roof-mounted solar panels that are visible from a public right-of-way shall be flush-mounted to the roof or may be elevated on one side of the panel to a distance that does not exceed six inches as measured from the roof surface to the top of the panel.
- b. Roof-mounted solar panels that are not visible from a public right-of-way shall not be elevated from the roof surface more than two feet.
- c. Roof-mounted solar panels shall not require a zoning permit.
- d. Freestanding solar panels shall be limited to a maximum height of five feet and shall be located in the rear yard. Such freestanding solar panels shall require a zoning permit.

19. Stables, Private

A private riding stable shall only be permitted as an accessory use on lots with a minimum area of five acres.

20. Swimming Pools, Community or Club

- a. A community or club swimming pool shall be any pool constructed by an association of property owners or by a private club, for the use and enjoyment by members of the association or club and their families.

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- b. Community and club swimming pools are permitted in all districts, but shall comply with the following conditions and requirements:
 - i. The pool is intended solely for the enjoyment of the members, families, and guest of members of the association or club under whose ownership or jurisdiction the pool is operated.
 - ii. The pool and accessory structures thereto, including the areas used by the bathers, shall be no closer than 100 feet to any property line of the property on which it is located.
 - iii. The swimming 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 and adjacent properties. The enclosure shall not be less than six feet in height and shall be maintained in good condition.
 - iv. All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed and locked at all times when not in actual use, except the door of any dwelling which forms a part of the enclosure need not be so equipped.

21. Swimming Pools, Private

- a. A private swimming pool shall be any pool, lake or open tank not located within a completely enclosed building, and containing, or normally capable of containing, water to a depth at any point greater than one and one-half feet.
- b. No swimming pool, exclusive of portable swimming pools with a diameter less than 12 feet, or with an area of less than 100 square feet, shall be allowed in any residential or business zoning district except as an accessory use, and unless it complies with the following conditions and requirements:
 - i. The pool is intended and is to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located.
 - ii. It shall not be located, including any walks or paved areas or accessory structures adjacent thereto, closer than 10 feet to any property line of the property on which it is located.
 - iii. The swimming pool, or the entire property on which it is located, shall be so walled or fenced as to prevent uncontrolled access by children from the street or adjacent properties. The enclosure is to be not less than five feet in height and maintained in good condition, with a gate and lock.
 - iv. All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed and locked at all times when not in actual use, except that door of any dwelling which forms a part of the enclosure and need not be so equipped.
 - v. As an exception to the fencing required for single-family residential swimming pools, an automatic safety pool cover shall be permitted, subject to the provisions herein. This

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provision does not apply to community or club swimming pools. The safety pool cover shall at minimum:

- A) Provide a continuous connection between the cover and the deck, so as to prohibit access to the pool when the cover is completely drawn over the pool;
- B) Be mechanically operated by a key or key and switch such that the cover cannot be drawn open or retracted without the use of a key;
- C) Be capable of supporting a 400 pound imposed load upon a completely drawn cover;
- D) Be installed with track, rollers, rails, guides, or other accessories necessary to accomplish [Provisions \(A\) through \(C\)](#) above, in accordance with the manufacturer's instructions; and
- E) Bear an identification tag indicating the name of the manufacturer, name of the installer, installation date, and applicable safety standards, if any.

22. Tennis Courts or Other Game Courts

Tennis courts or other game courts shall be set back five feet from all lot lines.

23. Unenclosed Patios

All unenclosed patios shall meet the required setbacks of the applicable district unless otherwise permitted in [Subsection 1169. 10 D. 15. Porches or Decks](#).

24. Other Accessory Uses

- a. Other accessory uses in a residential zoning district shall be subject to a conditional use review (See [Section 1165. 07 Conditional Use Permit](#)).
- b. Other accessory uses in a nonresidential zoning district may be permitted by the zoning commissioner if they are customarily found in conjunction with and required for the full utilization and economic viability of the principal business use. The zoning commissioner shall have the authority to determine that a proposed accessory use (not otherwise defined in [Table 1169. 10-1: Permitted Accessory Uses](#) shall be subject to conditional use review (See [Section 1165. 07 Conditional Use Permit](#)).

1169. 11. TEMPORARY USE REGULATIONS

A. Purpose

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

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B. Permitted Temporary Uses and Structures Table

Table 1169.11-1: Permitted Temporary Uses and Structures summarizes allowed temporary uses and structures and any general or specific standards that apply. Temporary uses or structures not listed in the table are prohibited.

TABLE 1169. 11-1: PERMITTED TEMPORARY USES AND STRUCTURES			
TEMPORARY USE OR STRUCTURE	ALLOWABLE DURATION (PER SITE) [1]	PERMIT REQUIRED	ADDITIONAL REQUIREMENTS
Construction Dumpster	Until completion of construction	No	1169.11 D. 1.
Construction Office or Trailer	Until completion of construction	Yes	1169.11 D. 1.
Gravel Surface Parking Lots	Until issuance of an occupancy permit	No	1169.11 D. 2.
Real Estate Sales Office/Model Sales Home	While lots are for sale	Yes	1169.11 D. 3.
Seasonal Agricultural Sales	90 days per calendar year	Yes	1169.11 D. 4.
Temporary Events on Private Property	14 days per calendar year	Yes	
Temporary or Mobile Food Sales	90 days per calendar year	Yes	1169.11 D. 5.
Temporary Storage in a Portable Container	45 Days	No	1169.11 D. 6.
Temporary Structure for Institutional Use	1 Year	Yes	
NOTE: [1] The allowable duration is cumulative for all uses on a property.			

C. General Standards for Temporary Uses and Structures

Temporary uses, structures, or events shall:

1. Obtain a zoning permit, where required, pursuant to [Table 1169.11-1: Permitted Temporary Uses and Structures](#).
2. Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare.
3. Be compatible with the principal uses taking place on the site.
4. Not have substantial adverse effects or noise impacts on nearby residential neighborhoods.
5. Not include permanent alteration to the site.
6. Not maintain temporary signs associated with the use or structure after the activity ends.
7. Comply with the sign and parking regulations of this code.
8. Not violate the applicable conditions of approval that apply to a site or use on the site.
9. Not interfere with the normal operations of any permanent use located on the property.

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10. 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 associated with the temporary use, without disturbing environmentally sensitive lands.
11. Be restricted to one temporary use per parcel; multiple temporary uses are not allowed on a single property.

D. Specific Regulations for Certain Temporary Uses and Structures

1. Construction Dumpsters and Trailers

- a. Temporary construction dumpsters shall be permitted provided that the use is:
 - i. Located outside of the public right-of-way;
 - ii. Located to the side or rear of the site, to the maximum extent feasible;
 - iii. Located as far as possible from lots containing existing developments;
 - iv. Not located within a flood plain or otherwise obstructing drainage flow; and
 - v. Not placed within five feet of a fire hydrant or within a required landscaping area or buffer yard.
- b. Temporary construction trailers or temporary buildings used in conjunction with construction work shall be permitted provided that the use is:
 - i. Used during the period construction work is in progress and removed upon completion of construction work;
 - ii. Located on the same site or in the same development as the related construction;
 - iii. Not located within a required open space set-aside or landscaping area or buffer yard; and
 - iv. Associated with development subject to a valid building permit.

2. Gravel Surface Parking Lot

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

3. Real Estate Sales Office/Model Home

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

- a. Is located on a platted lot;
- b. Is aesthetically compatible with the character of surrounding development in terms of exterior color, predominant exterior building materials, and landscaping;

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- c. Is operated by a developer or builder active in the same phase or section where the use is located; and
- d. Is removed or the model home is converted into a permanent residential use once all lots are sold.

4. Seasonal Agricultural Sales

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

- a. The property contains an area not actively used that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing vegetated areas, open space, landscaping, traffic movements, or parking-space availability.
- b. The sale of goods shall not occur within the public right-of-way, or within 200 feet of a dwelling.
- c. The range of goods or products available for sale shall be limited to non-processed products obtained primarily through farming or agricultural activities including, but not necessarily limited to: pumpkins; grains and seed crops; fruits of all kinds; vegetables; nursery, floral, ornamental, and greenhouse products; trees and forest products, including Christmas trees, and firewood; bees and beekeeping products; seafood; and dairy products.
- d. The hours of operation of the seasonal sale of agricultural products shall be from 7:30 a.m. to 10:00 p.m., or the same hours of operation as a principal use on the same lot, whichever is more restrictive.
- e. If located in a residential district, such sales shall be accessory to an established permitted nonresidential use in the district, and shall be located on the premises of such use.

5. Temporary or Mobile Food Sales

Temporary or mobile food sales uses are permitted subject to the following minimum standards:

- a. Proof of health and food safety permits and licenses shall be provided to the zoning commissioner.
- b. City approval, including any required licenses or right-of-way use permits, are required when located on public property.
- c. Temporary or mobile food sales uses may not be located on private property in such a manner to reduce required parking spaces below minimum parking standards as stipulated in [CHAPTER 1175. Parking, Loading and Mobility Standards](#).
- d. Temporary or mobile food sales shall not be located to obstruct vehicular or pedestrian access.
- e. Adequate receptacles for trash collection shall be provided.

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- f.** Temporary or mobile food sales shall not be located within any required landscape areas or buffer yards.

6. Temporary Storage in a Portable Container

Temporary storage in a portable container shall be allowed to serve a permitted use provided it is placed on a paved surface.

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CHAPTER 1171. PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT REGULATIONS

1171. 01. PURPOSE

Planned Unit Development (PUD) Overlay District regulations provide an optional means to develop large tracts of land that are planned and constructed in a unified manner under single ownership at the time of construction. These regulations allow for more flexible, innovative and economic land development options than the regulations for the base zoning districts of this code. Applicants who choose this option may arrange structures and circulation systems to take advantage of existing vegetation, natural topography and other physical features of the site and can provide additional site amenities.

1171. 02. TYPES OF PUD DISTRICTS

The City of Defiance may approve the four following types of PUDs.

A. Residential PUDs

Residential PUDs are intended to encourage high-quality, single-family and multi-family residential development. The intent of residential PUDs is to encourage developments that maximize open space and cluster housing in ways that provide unique living environments.

B. Commercial PUDs

Commercial PUDs permit the development of shopping centers and similar commercial uses with shared access points, parking and internal circulation systems. The intent is to allow the arrangement of structures in a manner that maximizes property development without creating a linear strip development resulting in congestion and an unsightly appearance.

C. Industrial PUDs

Industrial PUDs permit the development of industrial parks and similar uses with coordinated circulation, parking and site amenities. These projects allow applicants to maximize property development by providing efficient areas for industrial tenants and for amenities that make the areas compatible with the surrounding community.

D. Mixed-Use PUDs

Mixed-use PUDs permit unique projects with a wider range of uses, coordinated to enhance the total project. These developments provide special focal points in the community and encourage the development of special amenities in the community.

CHAPTER 1171. Planned Unit Development Overlay District Regulations

Section 1171.03 PUD Overlay

1171.03. PUD OVERLAY

- A.** PUD Districts may be established through the zone map amendment process as an overlay to the following base districts:
1. Residential PUDs: R-1, R-2, and R-3 Districts;
 2. Commercial PUDs: B-1, B-2, and B-3 Districts;
 3. Industrial PUDs: M-1, M-2, and M-3 Districts; and
 4. Mixed-use PUDs: O-R, R-3, and M-1 Districts.
- B.** PUD applications must be submitted to the zoning commissioner for review by the planning commission and the city council. PUD action is considered a zoning map amendment action and shall follow the procedure set forth in [Section 1165.03 Zoning Text and Map Amendments](#).
- C.** Upon city council approval of the final PUD submittal, the zoning commissioner will designate the area on the official zoning map with the prefix "MP" for mixed-use PUDs and "P" for residential, commercial, and industrial PUDs. All application material, planning commission proceedings and city council proceedings will be filed to serve as the record of any additional requirements placed on the PUD as a condition of approval.

1171.04. PUDS APPROVED PRIOR TO THE EFFECTIVE DATE OF THIS CODE

- A.** Any PUD approved prior to the effective date of this code shall continue in accordance with the approved site plans.
- B.** The deadlines established in [Section 1161.13 Transitional Rules](#) shall apply to all approved plans.
- C.** Modifications, amendments, and expansion of existing PUDs shall be in accordance with [Section 1165.03 Zoning Text and Map Amendments](#).

1171.05. PERMITTED USES

- A.** Upon approval of the project, residential, commercial and industrial PUDs will be granted all the permitted and conditional uses as per [Subsection 1169.06 C. Permitted Use Table](#) allowed in the base zoning district of the PUD.
- B.** Mixed-use PUDs will be granted all the permitted and conditional uses allowed in the base zoning districts of the PUD as per [Subsection 1169.06 C. Permitted Use Table](#). Mixed-use PUDs will also be allowed to develop the following uses upon no more than 20% of the total land area:
1. In the "MP-O-R" District, all B-1 permitted uses;
 2. In the "MP-R-3" District, all B-1 permitted uses;
 3. In the "MP-B-3" District, all O-R permitted and conditional uses; and
 4. In the "MP-M-1" District, all B-3 permitted and conditional uses.

1171.06. REVIEW PROCEDURES FOR PUD DISTRICTS

A. Applicability

This section shall apply to requests to amend the zoning map to establish a PUD Overlay District.

B. Initiation

Any person having authority to file applications may initiate an application for establishment of a PUD Overlay District pursuant to [Subsection 1165.02 A. Authority to File Applications](#).

C. Procedure

1. Step 1 – Preliminary Plan Application

The applicant shall submit a preliminary plan application in accordance with [Section 1165.02 Common Review Requirements](#) and with the provisions of this chapter.

2. Step 2 – Review of Preliminary Plan by Zoning Commissioner

- a. Prior to the planning commission meeting where the PUD is scheduled for review, the zoning commissioner shall review the application, preliminary plan, and proposed map amendment for completeness and prepare a staff report.
- b. Upon determination that a PUD application is complete, the zoning commissioner shall refer the application to the planning commission for review.

3. Step 3 – Review and Recommendation on Preliminary Plan Application by Planning Commission

- a. Planning commission shall review the preliminary plan and proposed map amendment within 30 days of receipt of the completed application.
- b. Planning commission shall review the preliminary plan and proposed map amendment and recommend approval, approval with some modification, or disapproval of the application to city council.
- c. Following the recommendation on the preliminary plan and proposed map amendment, the planning commission shall, within a reasonable amount of time, advise city council on its recommendation and include a statement setting forth the reasons and substantiation for such recommendation.

4. Step 4 – Review and Decision on Preliminary Plan by City Council

- a. City council shall review the preliminary plan and proposed map amendment during a public hearing scheduled within 40 days of receipt of the completed application and planning commission recommendation, and give notice in accordance with [Subsection 1165.02 H. Public Notification for Public Hearings](#).

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Section 1171.06 Review Procedures for PUD Districts

- b.** Within 15 days of the public hearing, council shall approve the preliminary plan and map amendment, approve it with modifications, or disapprove the preliminary plan and map amendment.
- c.** If approved, the area shall:
 - i.** Be redesignated as per [Section 1171.03 PUD Overlay](#);
 - ii.** Be considered rezoned; and
 - iii.** Be used only in accordance with the uses, densities, and conditions shown on the approved preliminary plan.

5. Step 5 – Final Development Plan Application

- a.** Within six months of approval of the preliminary plan, the applicant shall submit a final development plan application to the zoning commissioner in accordance with [Section 1165.02 Common Review Requirements](#) and with the provisions of this chapter.
- b.** The final development plan shall conform substantially with the approved preliminary plan.

6. Step 6 – Review of Final Development Plan Application by Zoning Commissioner

- a.** Prior to the planning commission meeting where the final development plan is scheduled for review, the zoning commissioner shall review the application and preliminary plan for completeness and prepare a staff report.
- b.** Upon determination that a final development plan application is complete, the zoning commissioner shall refer the application to the planning commission for review.

7. Step 7 – Review and Recommendation on Final Development Plan by Planning Commission

- a.** The planning commission shall hold a public meeting to review and make a recommendation on the final development plan. The planning commission shall take one of the following actions:
 - i.** The planning commission shall give a favorable recommendation on the final development plan.
 - ii.** The planning commission may place the final development plan on the agenda for the next planning commission meeting for action.
 - iii.** Should the planning commission deny the final development plan, written notice of such action, including reference to the regulation or regulations not complied with by the plan, shall be given to the applicant and the applicant's engineer and/or surveyor. The action shall also be entered on the official records of the planning commission.
- b.** The planning commission shall approve, approve with modifications, or disapprove the final development plan within 30 days from the filing date.
- c.** The planning commission shall then forward the final development plan and planning commission's recommendations to city council.

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Section 1171.06 Review Procedures for PUD Districts

8. Step 8 – Review and Decision on Final Development Plan by City Council

- a. After full compliance with this section, the clerk of planning commission shall request the clerk of council to prepare the necessary legislation for city council for introduction no later than 60 days of the recommendation of planning commission.
- b. Council shall review the final development plan with access to the files of the planning commission.
- c. If approval is given, the final development plan and any appropriate documents shall be signed by the mayor and clerk of council upon passage of the acceptance legislation by city council.
- d. All drawings shall be returned to the planning commission after approval by city council. The zoning commissioner shall notify the applicant of the action by city council by mail within five days after the action by city council. The original tracing shall be returned to the applicant for recording in the Defiance County Recorder's office. The final development plan must be recorded within 60 days or the city's approvals shall become null and void.

D. Review Criteria

The planning commission and the city council shall consider the following review criteria and shall approve only those PUD proposals that comply with these provisions:

1. Vehicular Traffic Access and Circulation

The proper arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls, is adequate to handle all traffic generated, or expected to be generated, by the project.

2. Pedestrian Traffic Access and Circulation

The proper arrangement of pedestrian traffic access and circulation, including separation of pedestrian traffic from vehicular traffic, walkway structures, and control of intersections with vehicular traffic, is adequate to ensure pedestrian convenience.

3. Parking and Loading

The proper location, arrangement, appearance and amount of off-street parking and loading are adequate to handle all traffic generated by the project.

4. Compatibility with Surrounding Developments

The location, arrangement, size and design of buildings, lighting and signs are compatible with surrounding developments and are appropriate to the uses in the PUD.

5. Scale

There shall be an appropriate relationship of buildings and scale of the various uses.

6. Landscaping

The type and arrangement of trees, shrubs and other landscaping provided as a visual or noise buffer between adjacent uses and adjoining lands are adequate to achieve their intended purpose.

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Section 1171.06 Review Procedures for PUD Districts

7. Open Space

The open space provided in the project is attractive, usable and appropriate to the project.

8. Waste Disposal

Facilities for storm water and sanitary waste disposal are adequate to service the total project.

9. Erosion and Flood Prevention

Structures, roadways and landscaping are designed to handle flooding, ponding and erosion in areas with moderate or high susceptibility to these conditions.

10. Buffering

Adjacent properties are adequately protected from noise, glare, unsightliness and any other objectionable features.

11. Conformity with Comprehensive Plan

The proposal is in general conformity with the comprehensive plan.

12. Natural Features

The proposal will preserve natural features such as water courses, trees and rock outcrops to the maximum degree possible and will incorporate them into the layout to enhance the overall design of the PUD.

13. Layout

The layout is designed to take advantage of existing land contours in order to provide satisfactory road gradients and suitable building sites to facilitate the provision of proposed services.

14. Scheduling

The PUD can be substantially completed within the time schedule submitted by the applicant.

15. Accessibility

The site will be accessible from dedicated public roads adequate to carry the traffic expected by the proposed development.

16. Required Services

The development will not impose any undue burden on public facilities and services such as fire and police protection or other community or public services.

17. Health, Safety and Welfare

The plan contains proposed covenants, easements and other necessary provisions reasonably required for the public health, safety and welfare.

E. Effect of Denial of a Planned Unit Development Plan

No application for a PUD, which has been denied wholly or in part by the planning commission and council, shall be resubmitted for a period of one year from the date of such denial, except on the

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ground of new evidence or proof of change of conditions found to be sufficient for reconsideration by planning commission and council.

F. Zoning Permits Required

No zoning permit shall be issued until the final development plan has been approved and duly recorded, and until all safety codes are complied with.

G. Changes in the Planned Unit Development

1. A planned unit development shall be developed only in accordance with the approved and recorded final development plan and all approved conditions and supporting data.
2. The recorded final development plan and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees and assigns, and shall limit and control the use of the premises, including the internal use of buildings and structures and the location of structures in the planned unit development as set forth therein.
3. **Major Changes**
 - a. Changes that alter the concept or intent of the PUD, including increases in the number of units per acre, a change in location or amount of nonresidential land use, modification in the proportion of housing types, reductions of proposed open space, or redesign of roadways, utilities or drainage systems, may be approved only by submission of a new preliminary plan and by following the procedures set forth herein.
 - b. Any major changes approved for the final development plan must be recorded as amendments to the recorded copy of the final plan by the Defiance County Recorder, and no building permit shall be issued until such recording is accomplished.
4. **Minor Changes**
 - a. The zoning commissioner, upon notifying the planning commission, may approve minor changes in the PUD.
 - b. Minor changes do not change the concept or intent of the development, without going through the preliminary approval procedure provided for herein.
 - c. A minor change is defined as any change not defined as a major change.

1171.07. DEVELOPMENT STANDARDS

All PUD projects shall conform to the regulations of the base zoning district and other applicable provisions of this code, except as provided in the following provisions.

A. Residential PUD Development Standards

1. Residential PUDs are permitted for tracts of at least two acres in size.
2. **Density Allowances**

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- a. Residential PUDs shall be allowed to vary the base residential density up to the maximum densities shown in [Table 1171.07-1: Density Allowance for Residential PUDs](#) when the open space requirements are met.

TABLE 1171.07-1: DENSITY ALLOWANCE FOR RESIDENTIAL PUDS		
BASE ZONING DISTRICT	DENSITY MAXIMUM (UNITS PER ACRE)	OPEN SPACE REQUIREMENT
R-1	5.0	10%
R-2	10.0	15%
R-3	15.0	20%

- b. Nothing in these PUD requirements shall be construed to release applicants from the payment of park and recreation fees, pursuant to [Subsection 1167.13 B. Park and Playground Fee Required](#).
- c. The residential density calculation shall include all land devoted to residential use, including:
- Easements for utilities (except major facilities that do not serve individual dwellings);
 - Minor surface drainage channels; and
 - Recreation space and other areas provided as common open space, including land dedicated to public use (except required rights-of-way for streets).

3. Open Space Standards

- a. The open space calculation shall include common space in the development, including landscaped areas, recreational facilities and other common-use areas designed as amenities to the development.
- b. A property owners' association shall be formed for the PUD. Open space shall be held in common ownership by the property owners' association of the development.
- c. The developer shall incorporate a clause in the protective covenants or deed restrictions, giving an interest in such land to each owner who buys property in the development.
- d. The developer shall give property owners due notice of their responsibilities for the care and maintenance of open space, including the manner in which charges or assessments are to be made.
- e. Property owners shall also be advised of their responsibility in the event of a default by the property owners' association with respect to the proper maintenance of open space.

4. Yard Requirements

- a. Perimeter lots shall maintain the side and rear-yard setback requirements of the base zoning district.
- b. Unattached buildings must have a minimum separation of 10 feet from the main structure or any other structure.

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- c. No structure shall be constructed within 25 feet of the required right-of-way of any roadway recommended for improvement in the major thoroughfare plan.
- d. In no case shall a structure be closer than 25 feet from the right-of-way of a dedicated public or private road.

5. Zero Lot Line Dwellings

- a. The purpose of zero lot line dwellings is to allow for the maximum use of property and to provide a way to develop small-scale, innovative projects.
- b. Zero lot line dwellings shall be developed to be compatible with surrounding uses and shall not disrupt the character of existing residential neighborhoods.
- c. The minimum development area is 30,000 square feet.
- d. The maximum development area is three acres.

e. Use Limitations

- i. R-1 and R-2 Districts
 - A) Single-family zero lot line dwellings may eliminate the rear yard setback, and/or one side-yard setback, in order to cluster units and maximize open space.
 - B) All zero lot line dwelling units shall maintain the required setbacks from all existing structures.
 - C) All other lot sizes and district requirements set forth in [CHAPTER 1173. General Development Standards](#) shall apply.
- ii. R-3 District
 - A) Single-family zero lot line dwellings may eliminate both side-yard requirements to allow row house developments. All row house units shall maintain the required setback from all existing structures.
 - B) Single-family row houses may be built on 4,000 square foot lots. However, the overall density of the project shall not exceed seven units per acre.
 - C) All other district requirements set forth in [CHAPTER 1173. General Development Standards](#) shall apply.

6. Street Frontage

- a. No residential structure, except row houses, shall have less than 35 feet of frontage on a public or private road.
- b. Row houses shall have no less than 25 feet of frontage on a public or private road.

7. Lot Coverage

The total lot coverage for residential PUDs shall not exceed 25% of the total project area.

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8. Other Requirements

- a. No provisions of the base zoning district may be varied or waived except as specifically permitted elsewhere when approving a PUD application.
- b. All relevant requirements of the Building and Housing Code and the Fire Prevention Code shall apply.

B. Commercial PUD Requirements

1. Commercial PUDs are permitted for tracts of at least two acres in size for B-1 Districts and at least 10 acres for B-3 Districts.

2. Open Space

- a. Commercial PUDs shall provide a minimum of 10% of the project in open space.
- b. Such open space shall not include paved parking areas but may include landscaped islands in parking areas and unpaved areas used for storm water retention or detention.

3. Yard Requirements

- a. Perimeter lots shall maintain the side and rear yard setback requirements of the base zoning district.
- b. Unattached buildings must have a minimum separation of 20 feet.
- c. Every PUD structure must have a minimum separation of 50 feet from residential zoning districts outside the PUD.
- d. No structure shall be constructed within 25 feet of the required right-of-way of any roadway recommended for improvement in the major thoroughfare plan.
- e. In no case shall a structure be closer than 25 feet from a public right-of-way or a private road.
- f. No other setback or dimensional requirements shall apply.

4. Parking

Parking requirements for the project, as calculated per [CHAPTER 1175. Parking, Loading and Mobility Standards](#) may be reduced by up to 25% if parking areas are accessible to all businesses and shared access points to public rights-of-way are provided.

5. Street Frontage and Curb Cuts

- a. Commercial PUDs shall have at least 200 feet of frontage on a dedicated public right-of-way.
- b. Commercial PUDs shall have no more than one curb cut to a public right-of-way for each 200 feet of frontage and no more than one curb cut per 330 feet of frontage on a principal or minor arterial, as defined in the major thoroughfare plan.
- c. In no event shall a commercial PUD have more than four curb cuts.

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6. Lot Coverage

The total lot coverage of a commercial PUD shall not be more than 25% of the total development area.

7. Other Requirements

- a. No other provisions of the base zoning district may be varied.
- b. All relevant requirements of the Building and Housing Code and the Fire Prevention Code shall apply.

C. Industrial PUD Requirements

1. Industrial PUDs are permitted for tracts of at least 15 acres in size.

2. Open Space

- a. All industrial PUDs shall provide a minimum of 20% of the project in open space.
- b. Such open space shall not include paved parking areas, but may include landscaped islands in parking areas and unpaved areas used for storm water retention or detention.

3. Yard Requirements

- a. Perimeter lots shall maintain the yard setback requirements of the base zoning district, and all industrial buildings shall be set back a minimum of 100 feet from all residential zoning district boundaries.
- b. No structure shall be constructed within 25 feet of the required right-of-way of any roadway recommended for improvement in the major thoroughfare plan.
- c. No other setback or dimensional requirements shall apply.

4. Street Frontage and Curb Cuts

- a. Industrial PUDs shall have no less than 600 feet of frontage on a public right-of-way.
- b. Industrial PUDs shall have no more than one curb cut to a public right-of-way per 200 feet of frontage and no more than one curb cut per 330 feet of frontage on a principal or minor arterial, as defined in the major thoroughfare plan.
- c. In no event shall an industrial PUD have more than four curb cuts.

5. Lot Coverage

The ground area occupied by all buildings shall not exceed 35% of the total area of the PUD.

6. Other Requirements

- a. All other applicable requirements presented elsewhere in this code shall apply.
- b. All applicable performance standards of [Section 1173.05 Performance Standards](#) apply.
- c. All relevant requirements of the Building and Housing Code and the Fire Prevention Code shall apply.

D. Mixed-Use PUD Requirements

1. Mixed-use PUDs are permitted for tracts of at least 20 acres in size.

2. Densities

Residential areas of mixed-use PUDs shall be allowed to exceed the density requirements of the base zoning district by 25%, subject to approval of the development.

3. Open Space

- a. Mixed-use PUDs shall provide a minimum of 20% of the total project area in open space.
- b. Such open space shall not include paved parking areas, but may include landscaped islands in parking areas and land used for storm water retention or detention.

4. Arrangement of Uses

Mixed-use PUDs that contain residential uses shall be arranged to maintain the privacy of residential structures and to ensure that light from parking areas and commercial structures does not shine onto residential properties.

5. Parking

Parking requirements, as calculated per [CHAPTER 1175. Parking, Loading and Mobility Standards](#), may be reduced by up to 25% for the commercial sections of a mixed-use PUD if parking areas are accessible to all businesses and shared access points to all public rights-of-way are provided.

6. Street Frontage and Curb Cuts

- a. Mixed-use PUDs shall have no less than 600 feet of frontage on a public right-of-way.
- b. Mixed-use PUDs shall have no more than one curb cut to a public right-of-way per 200 feet of frontage and no more than one curb cut per 330 feet of frontage on a principal or minor arterial, as defined in the major thoroughfare plan.
- c. In no event shall a mixed-use PUD have more than four curb cuts.

7. Yard Requirements

- a. Perimeter lots shall maintain the yard setback requirements of the base zoning district.
- b. All industrial buildings shall be set back a minimum of 100 feet from all residential zoning district boundaries.

8. Lot Coverage

The ground area occupied by all buildings shall not exceed 25% of the total area of the PUD.

9. Other Requirements

- a. All other applicable requirements presented elsewhere in this code shall apply.

CHAPTER 1171. Planned Unit Development Overlay District Regulations

Section 1171.08 PUD Performance Standards

- b. All relevant requirements of the Building and Housing Code and the Fire Prevention Code shall apply.

1171.08. PUD PERFORMANCE STANDARDS

A. Revocation

1. The planning commission shall consider the PUD authorization subject to revocation if construction falls more than one year behind the phasing schedule filed with the final development plan.
 - a. The applicant may file for an extension to the original schedule if there is reasonable cause for delay.
 - b. The planning commission may grant an extension for a time deemed reasonable.
2. In any case where a PUD has not been established or substantially under way within one year from the date of the granting thereof, the PUD shall be null and void without further action from the planning commission.

B. Failure to Maintain Common Open Space

In the event that the developer or the property owners' association or other organization established to own and maintain the common open space, or any successor organization, shall at any time fail to maintain the common open space in accordance with the final development plan, the city shall undertake appropriate legal action to ensure that the common space is properly and regularly maintained.

C. Financial Responsibility

1. The developer of the PUD shall be responsible for providing all public improvements and common amenities within the development to city standards.
2. The developer of any PUD shall be required to post a performance bond or to secure funds in an escrow account pursuant to [Subsection 1165.05 H. Escrow and Bonding Requirements](#).

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CHAPTER 1173. GENERAL DEVELOPMENT STANDARDS

1173. 01. MEASUREMENTS, COMPUTATIONS, AND EXCEPTIONS

A. Distance Measurements

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

B. Lot-Area Measurements

The total area of a lot includes the total horizontal surface area within the lot's boundaries.

C. Reduction in Area Prohibited

No lot, yard, court, parking, or other space shall be reduced in area or dimensions so as to make said area or dimensions less than the minimum required by this code unless approved as part of a PUD; and, if already less than the minimum required by this code, said area or dimensions shall not be further reduced.

D. Setbacks and Yards

1. Measurements

Setbacks refer to the unobstructed, unoccupied open area between the furthestmost projection of a structure and the property line of the lot on which the structure is located. Setbacks shall not contain any structure except when in conformance with this code (see [Subsection 1173. 01 D. 4. Architectural Projections](#)). (See [Figure 1173. 01-1.](#))

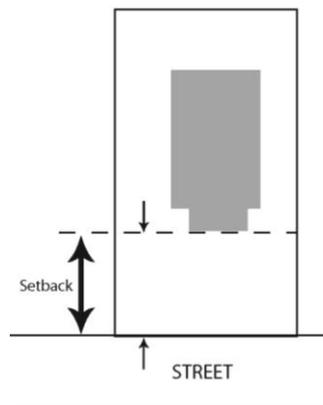


Figure 1173. 01-1: Measurement of front yard setback

2. Yards Required for Buildings

A yard or other open space required for a building shall not be included as part of a yard or other open space for another building.

CHAPTER 1173. General Development Standards

Section 1173. 01 Measurements, Computations, and Exceptions

3. Front Yard Modifications

In any residential district, no front yard depth shall be required to exceed the average minimum depths of the existing front yards on the lots adjacent to each side, if each of such lots is within the same block and within 100 feet of the principal building. Modification of the front yard in accordance with this section will not create a nonconforming lot unless the lot or structure does not meet other applicable provisions of this code. See [Figure 1173. 01-2](#).

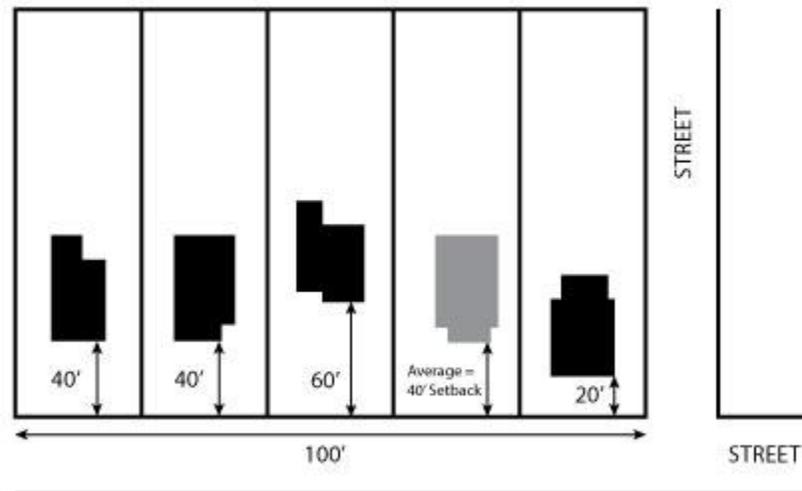


Figure 1173. 01-2: Illustration of the averaging of front yard setbacks. For example, in a district with a minimum front yard setback requirement of 50 feet, smaller setbacks may be allowed if the average front yard setbacks of surrounding properties are less than 50 feet.

4. Architectural Projections

- a. Cornices, eaves, sills, canopies, or similar architectural projections may extend or project into required side yards not more than two inches for each one foot of width of such side yard, and may extend or project into a required front or rear yard not more than 30 inches.
- b. Bay windows and chimneys may project into a required front, side or rear yard not more than 18 inches, provided that the side yard is not reduced to less than eight feet.
- c. Open structures, such as porches, balconies, platforms, carports, and covered patios, shall be considered a part of the building to which they are attached and shall not project into the required minimum front, side, or rear yard.
- d. Ramps, elevators, escalators, and similar improvements or devices constructed or installed to provide access by persons with disabilities may extend or project into a required front, side or rear yard to the extent necessary to conform the accessibility device to design and materials specifications set forth in regulatory standards promulgated under the authority of the Americans with Disabilities Act.

CHAPTER 1173. General Development Standards

Section 1173. 01 Measurements, Computations, and Exceptions

E. Interior Lots

1. The required minimum front yard setback shall be measured from the street right-of-way or, where a right-of-way is not identified, the front lot line. See [Figure 1173. 01-3](#).

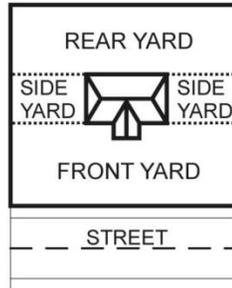


Figure 1173. 01-3: Typical yard locations on an interior lot.

2. The lot line located directly behind the rear of the structure, as determined by the zoning commissioner, shall be the rear lot line and the rear yard setback shall be applied. See [Figure 1173. 01-3](#).
3. All other lot lines shall be considered the side lot lines and the side yard setback shall be applied. See [Figure 1173. 01-3](#).

F. Corner Lots

1. Lots having a frontage on more than one street shall have the required front yard setback along each street. See [Figure 1173. 01-4](#).
2. On any corner lot, in any district except the B-2 District, no fence, structure or planting shall be erected or maintained within 20 feet of the corner right-of-way at a height between two feet, six inches and 10 feet above the curb or street grade, or so as to interfere with traffic visibility across the corner. See [Figure 1173. 01-4](#).

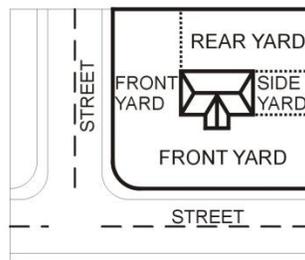


Figure 1173. 01-4: Typical yard locations for a corner lot.

G. Panhandle Lot

Panhandle lots are not permitted.

CHAPTER 1173. General Development Standards

Section 1173. 01 Measurements, Computations, and Exceptions

H. Double Frontage Lot

1. Where a lot is considered a double frontage lot, the required minimum front yard setback shall be provided from both streets. See [Figure 1173. 01-5](#).
2. The remaining lot lines shall be considered side lot lines and the side yard setback shall be applied to those lot lines. See [Figure 1173. 01-5](#).

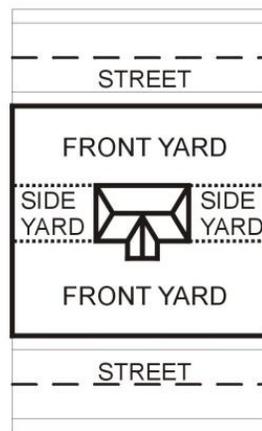


Figure 1173. 01-5: Yard locations on double frontage lots.

I. Cul-de-Sac or Curved-Street Lot

1. For a cul-de-sac lot or a lot abutting a curved street, the front yard setback shall follow the curve of the front property line. See [Figure 1173. 01-6](#).

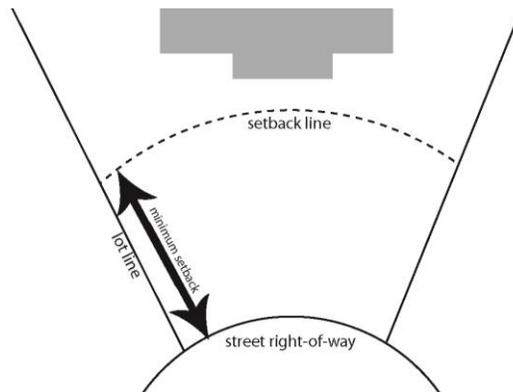


Figure 1173. 01-6: Setback line of a lot with frontage on a curved street or cul-de-sac.

2. Lots on a cul-de-sac shall be required to have a minimum lot width of 40 feet measured at the right-of-way line.
3. On a cul-de-sac or curved roadway, the required 40-foot street frontage is to be measured at the street right-of-way on the curve of the cul-de-sac or curved roadway.

CHAPTER 1173. General Development Standards

Section 1173. 02 Dimensional Standards

1173. 02. DIMENSIONAL STANDARDS

A. Dimensional Requirements for Dwellings

1. Yard, Area, and Height Requirements

Table 1173. 02-1: Yard, Area, and Height Requirements for Dwellings establishes the minimum allowed dimensional requirements for dwellings by district.

TABLE 1173. 02-1: YARD, AREA, AND HEIGHT REQUIREMENTS FOR DWELLINGS									
DISTRICT	TYPES OF DWELLINGS	MINIMUM LOT WIDTH	MINIMUM LOT AREA (PER UNIT)	FRONT YARD [1]	REAR YARD	EITHER SIDE YARD	SUM OF SIDE YARDS	MAXIMUM STORIES	MAXIMUM BUILDING HEIGHT
A-1	Any	300'	3 Acres	60'	20'	25'	60'	3	45'
R-1	One-Family [2]	85'	12,000 SF	25'	30'	8'	20'	3	45'
	Two-Family	105'	7,500 SF	25'	30'	12'	25'	3	45'
R-2 [4]	One-Family [2]	60'	7,500 SF	25'	30'	8'	20'	3	45'
	Two-Family	80'	5,000 SF	25'	30'	10'	25'	3	45'
R-3 [3] [4]	One-Family [2]	60'	6,000 SF	25'	30'	8'	20'	3	45'
	Two-Family	80'	4,000 SF	25'	30'	10'	20'	3	45'
	Multi-Family	100'	[5]	25'	30'	12'	25'	3	45'
R-4	Mobile Home	300'	See Subsection 1169. 08 A. 3, Mobile Home Parks for requirements.						
O-R	Multi-Family	100'	3,300 SF	30'	30'	15'	30'	3	45'

NOTES:
 [1] Maximum percentage of lot coverage with buildings is 35%.
 [2] Zero lot line development may be allowed as a planned unit development per Subsection 1171. 07 A.
 [3] There shall be 5% space for recreation purpose, set aside for occupants.
 [4] The minimum lot area and frontage requirements shall not apply to Lots 1 through 84 of S. & S. Ranchland Heights Third Revised Subdivision.
 [5] Minimum lot requirements per dwelling unit for multi-family developments in the R-3 District are as follows:
 One bedroom unit: 1,600 SF
 Two bedroom unit: 2,000 SF
 Three or more bedroom unit: 2,500 SF

2. Floor Area Requirements

a. The floor area per unit, in dwellings erected on any lot, shall not be less than that shown in Table 1173. 02-2: Minimum Floor Area Per Dwelling Unit.

TABLE 1173. 02-2: MINIMUM FLOOR AREA PER DWELLING UNIT				
DISTRICT	ONE AND TWO-FAMILY DWELLINGS	EFFICIENCIES	1 BEDROOM UNIT	2+ BEDROOM UNIT
A-1	800 SF	---	---	---
R-1	1,100 SF	---	---	---
R-2	900 SF	600 SF	750 SF	900 SF
R-3	750 SF	500 SF	650 SF	750 SF
R-4	400 SF	---	---	---
O-R	---	500 SF	650 SF	750 SF

CHAPTER 1173. General Development Standards

Section 1173. 02 Dimensional Standards

- b. Residential floor area, for the purpose of this table, shall include all interior areas, specifically including stairways, halls, and closets, but not including basements, porches, garages, breezeways, or carports.

3. Exceptions to Height Regulations for Multi-Family Dwelling Buildings and Structures

- a. Multi-family dwelling buildings with a height in excess of the maximum heights specified in [Table 1173. 02-1: Yard, Area, and Height Requirements for Dwellings](#) shall be permitted, provided that the required front, side, and rear yards are increased by one foot for each foot of additional building height above the specified maximum height.
- b. The height regulations prescribed in [Table 1173. 02-1: Yard, Area, and Height Requirements for Dwellings](#) shall not apply to television and radio towers; water, fire, stage, cooling, ornamental, or other towers; and chimneys, silos, church spires, smokestacks, conveyors, flagpoles, and other like structures; except where the height of such structures will constitute a hazard to the safe landing and takeoff of aircraft at an established airport.

B. Dimensional Requirements for Nonresidential Buildings

I. Yard, Area, and Height Requirements

[Table 1173. 02-3: Yard, Area, and Height Requirements for Nonresidential Buildings](#) establishes the minimum allowed dimensional requirements for nonresidential buildings by district.

TABLE 1173. 02-3: YARD, AREA, AND HEIGHT REQUIREMENTS FOR NONRESIDENTIAL BUILDINGS								
DISTRICT	MINIMUM LOT WIDTH	MINIMUM LOT AREA	FRONT YARD [1]	REAR YARD	SIDE YARD	MAXIMUM LOT COVERAGE	MAXIMUM STORIES	MAXIMUM BUILDING HEIGHT
F-P	300'	3 Acres	60'	60'	50'	20%	X	X
S-1	300'	3 Acres	60'	60'	50'	20%	X	X
A-1	300'	3 Acres	60'	60'	50'	10%	3	45'
R-1	150'	2 Acres	50'	50'	30'	20%	3	45'
R-2	100'	1 Acre	40'	40'	30'	25%	3	45'
R-3	100'	20,000 SF	30'	30'	20'	30%	3	45'
R-4	See Subsection 1169. 08 A. 3. Mobile Home Parks for requirements.							
B-1	60'	7,500 SF	30'	20'	---	50%	3	45'
B-2	---	---	---	20'	---	100%	X	X
B-3	100'	20,000 SF	40'	20'	15'	40%	X	X
B-4	400'	5 Acres	60'	40'	30'	30%	X	X
O-R	100'	16,000 SF	40'	30'	15'	30%	X	X
M-1	200'	1 Acre	50'	40'	30'	30%	X	X
M-2	200'	2 Acres	40'	40'	20'	50%	X	X
M-3	200'	2 Acres	50'	40'	30'	40%	X	X

NOTES:
 X = Unlimited
 [1] Except along major thoroughfares where the minimum front yard setback shall be 50 feet (see [Subsection 1173. 02 C.](#)). Any subdivision adjacent to a limited access state highway must have ODOT approval.
 Per [Subsection 1175. 04 E. Design Standards for Off-Street Parking Areas](#), all vehicular use areas in nonresidential districts shall be a minimum of five feet from any lot line or street right-of-way.

CHAPTER 1173. General Development Standards

Section 1173. 03 Outdoor Lighting

2. Yard Requirements for Nonresidential Uses Abutting Residential Districts

- a. Nonresidential buildings or uses shall not be located or conducted closer to any lot line of a residential district than the distance specified in [Table 1173. 02-4: Minimum Yard Requirements for Nonresidential Uses Abutting Residential Districts](#), except as provided in [Subsection 1173. 02 B. 2. b.](#)

TABLE 1173. 02-4: MINIMUM YARD REQUIREMENTS FOR NONRESIDENTIAL USES ABUTTING RESIDENTIAL DISTRICTS	
MINIMUM DEPTH OF YARD ABUTTING A RESIDENTIAL DISTRICT	USE
25'	Off-street parking and loading spaces Access drives for nonresidential uses
50'	Religious place of worship School Public or semi-public buildings
60'	Recreation and entertainment facilities Hotels and Motels Trailers and mobile home parks Commercial uses not subject to Section 1173. 05
100'	Outside sales or storage of building materials or construction equipment Commercial uses subject to Section 1173. 05 Industrial uses
500'	Auto and metal salvage operations Mineral, gravel, or sand extraction

- b. For nonresidential uses abutting residential districts, the minimum yard requirements may be reduced by 50% of that shown in [Table 1173. 02-4: Minimum Yard Requirements for Nonresidential Uses Abutting Residential Districts](#) if the owner or option holder on the lot secures written approval of 51% of the property owners within 200 feet of the lot on which the nonresidential use is proposed. Acceptable plans shall be provided for landscaping, screening, and fencing, free of advertising, by masonry or solid fence wall, designed to minimize glare, noise, odors, or other objectionable influences, as designated in [Sections 1177. 06 Screening Requirements](#), [1173. 05 Performance Standards](#), and other applicable sections of this code.

C. Setbacks for Buildings on Expressways and Arterial and Collector Streets

Along any expressway, highway, bypass, arterial street, or collector street, as designated in the current edition of the Major Thoroughfare Plan, no building or accessory building shall be located within 50 feet from the existing right-of-way of the thoroughfare, or any proposed right-of-way line on the Major Thoroughfare Plan.

1173. 03. OUTDOOR LIGHTING

A. Photometric Plan

- I. An outdoor lighting plan, including a photometric plan, shall be required for the installation or modification of exterior lights for any project requiring site plan review to ensure compliance with the requirements of this section. See [Section 1165. 06 Site Plan Review](#).

CHAPTER 1173. General Development Standards

Section 1173.03 Outdoor Lighting

- The applicant must provide a plan that identifies the location, height, and type of luminaires, and shows how the applicant intends to comply with this section.

B. Outdoor Lighting Standards

I. General Standards

- The placement of light poles within raised curb planting areas or landscaped islands is encouraged, provided that conflicts with landscaping trees that can obscure the lighting are avoided through the use of alternative lighting locations.
- All wiring, fittings, and materials used in the construction, connection, and operation of electrically illuminated signs shall be in accordance with the provisions of the national electrical code in effect.
- Outdoor lighting shall not be designed or located in such a way as to shine directly into an adjacent dwelling unit, regardless of the applicable zoning district.
- In all nonresidential districts, all light fixtures within 20 feet of an adjacent residential lot shall be a full cutoff light fixture. See [Figure 1173.03-1](#) for an illustration of cutoff and non-cutoff fixtures.

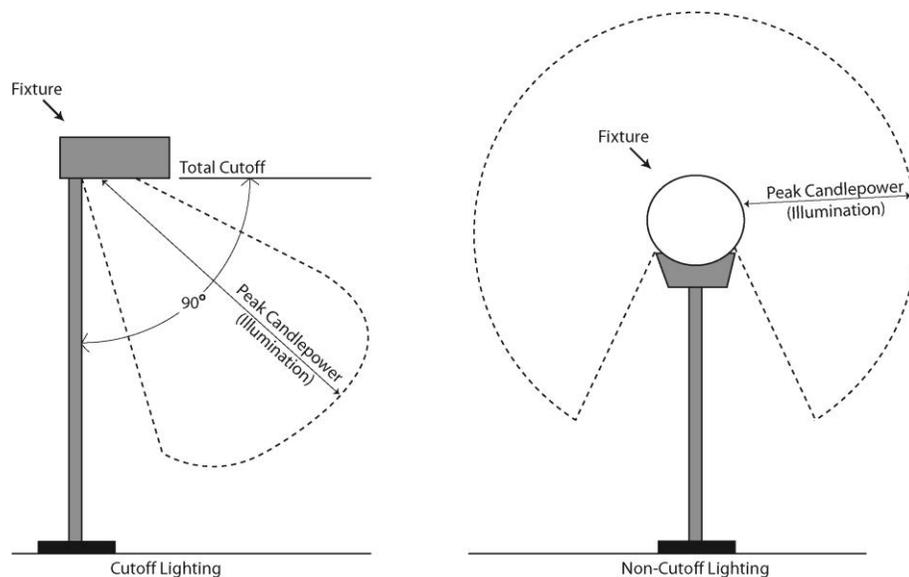


Figure 1173.03-1: Cutoff and non-cutoff lighting

- All outdoor lighting for nonresidential uses shall be located, screened, or shielded so that adjacent lots or streets located in residential districts are not directly illuminated.
- No outdoor lighting shall be of such an intensity or color distortion as to cause glare or to impair the vision of drivers or pedestrians.
- Exterior lighting, both building lighting and site lighting, shall minimize the impact of ambient light on the surrounding community.

CHAPTER 1173. General Development Standards

Section 1173. 03 Outdoor Lighting

2. Height of Lighting

- a. The maximum height of a light fixture, either mounted on a pole or on a structure, is established in [Table 1173. 03-1: Maximum Height of a Light Fixture](#).
- b. In no case shall a light fixture mounted on a structure be mounted at a height where the fixture will exceed the height of the roof line.
- c. The base of the light fixture shall be included when measuring fixture height.
- d. Wall pack fixtures on buildings are permitted but shall be restricted to cutoff fixture types to direct the light vertically downward.

TABLE 1173. 03-1: MAXIMUM HEIGHT OF A LIGHT FIXTURE

DISTRICT	MAXIMUM HEIGHT OF NON-CUTOFF LIGHTING	MAXIMUM HEIGHT OF 90 DEGREE CUTOFF LIGHTING
All Residential Zoning Districts	8 feet	12 feet [1]
All Nonresidential Zoning Districts	16 feet	30 feet

NOTES:
[1] When the bulb, lamp, or light source is completely recessed and/or shielded from view by an observer at five feet above grade, the maximum height may be increased to 15 feet.

C. Illumination Standards

The maximum illumination permitted at the property line in each district type, as demonstrated by a photometric drawing, shall be as established in [Table 1173. 03-2: Maximum Illumination Level at the Property Line](#).

TABLE 1173. 03-2: MAXIMUM ILLUMINATION LEVEL AT THE PROPERTY LINE

ADJACENT DISTRICT	MAXIMUM ILLUMINATION AT THE PROPERTY LINE (AVERAGE FOOTCANDLES)
All Residential Zoning Districts	0.5
All Business or Industrial Districts	0.5 when adjacent to a residential use or 2.5 when adjacent to a lot in a nonresidential district

D. Building Ornamentation and Accentuation

Utilization of lighting to accentuate key architectural elements of a building or development is permitted.

1. In no case shall such lighting flash or blink intermittently.
2. Any such lighting source located on the side of a building that faces an adjoining residential use or zoning district shall be effectively screened from view of the residential use or zoning district.

E. Nonconforming Outdoor Lighting

1. The nonconforming use of lighting may continue until the luminaire (total fixture, not just the bulb) is replaced, at which point, the lighting shall be subject to all standards of this subsection with the exception of maximum height.

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Section 1173.04 Architectural Design Standards

2. When a nonconforming lighting fixture, including the pole or support, is removed, the lighting fixture shall lose its legal nonconforming status and all new lighting shall be subject to all standards of this section.

1173.04. ARCHITECTURAL DESIGN STANDARDS

A. Purpose

The purpose of this section is to encourage development that contributes to the City of Defiance's physical character, enhancing it in appropriate ways. The architectural design of multi-family dwellings and nonresidential development, particularly large-scale developments, determines much of the character and attractiveness along the thoroughfares of the city, and the gateways to the community.

B. Applicability

The standards of this section shall apply to all development requiring site plan review per [Section 1165.06 Site Plan Review](#), including principal buildings and accessory buildings.

C. Architectural Standards for Multi-Family Dwellings

1. Applicability

The standards of this subsection shall apply to all structures that contain three or more dwelling units that require review per [Section 1165.06 Site Plan Review](#).

2. Design of Front Facades

- a. Front facades 50 feet wide or wider shall incorporate wall offsets in the form of projections and/or recesses in the façade plan a minimum of every 40 feet of façade frontage. See [Figure 1173.04-1](#).



Figure 1173.04-1: Façade offsets.

- b. Wall offsets shall have a minimum depth of two feet.
- c. In addition to wall offsets, front facades shall provide a minimum of three of the following design features for each façade that faces onto a public or private street:
 - i. One or more dormer windows or cupolas;
 - ii. A recessed entrance;
 - iii. A covered porch;

CHAPTER 1173. General Development Standards

Section 1173.04 Architectural Design Standards

- iv. Pillars, posts, or pilasters;
- v. One or more bay windows with a minimum 12-inch projection from the façade plane;
- vi. Eaves with a minimum of six-inch projection from the façade plane; and/or
- vii. A parapet wall with an articulated design, which entails design variation rather than a simple rectilinear form.

D. Architectural Standards for Nonresidential Buildings

1. Applicability

The standards of this section apply to nonresidential buildings in developments requiring review per [Section 1165.06 Site Plan Review](#). These standards do not apply to the CO College Overlay District which is regulated by [Section 1169.09](#) or to the B-2 Central Business District which is regulated by [Subsection 1173.04 E](#).

2. Purpose

- a. The purpose of the architectural design standards is to ensure new construction and additions to existing buildings are well designed, detailed, and crafted to embody high standards of architectural design, and to ensure the long-term viability of nonresidential and mixed use structures in the city.
- b. The architectural design of nonresidential development determines much of the character and attractiveness along the major thoroughfares in the city.
- c. These standards require a basic level of architectural variety, compatible scale and mass to surrounding development, and mitigation of negative impacts.
- d. Architectural style is not restricted, but the evaluation of the project's appearance shall be based on the quality of its design and its relationship to the prevailing design characteristics of the surrounding neighborhood.

3. Requirements for all Nonresidential Buildings

- a. Buildings should generally be parallel to the street they front unless an alternate orientation is consistent with existing adjacent development and is approved by the planning commission during site plan review (see [Section 1165.06 Site Plan Review](#)).
- b. The primary entrances of buildings shall be oriented:
 - i. Towards a primary street along the perimeter of the development; or
 - ii. Towards a public space, if located adjacent to the proposed project; or
 - iii. Towards streets in the interior of the development if none of the building's facades has frontage on a public street; or
 - iv. As approved by the planning commission during a site plan review (see [Section 1165.06 Site Plan Review](#)).

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Section 1173.04 Architectural Design Standards

c. Building Facades

- i. Blank building walls facing streets are prohibited. This requirement shall not apply to those walls that are not visible from a street and only visible from an alley, the rear yard of another nonresidential or mixed-use site, or completely hidden due to topography or natural features preserved as open space.
- ii. Front facades 50 feet wide or wider shall incorporate wall offsets of at least two feet in depth (projections or recesses) a minimum of every 40 feet. Each required offset shall have a minimum width of 20 feet.
- iii. The following alternatives can be used in place of the required front façade offsets:
 - A) Façade color changes following the same dimensional standards as the offset requirements; or
 - B) Pilasters having a minimum depth of one foot, minimum width of one foot, and a minimum height of 80% of the façade height.

d. Multi-Sided Architecture for Nonresidential Uses

Although the front façade of a building is expected to be the focal point in terms of the level of architectural character and features, all sides of a building that are visible from a public roadway, or an adjacent building that are not subject to buffering requirements in [Section 1177.05 Landscape Buffer Requirements](#), shall incorporate architectural detailing on all facades that is consistent with the front façade.

e. Building Materials

- i. Exterior building facades shall be constructed of high-quality building materials that may include, but are not limited to:
 - A) Brick, predominantly red brick;
 - B) Glass;
 - C) Wood;
 - D) Stone, to include, cut natural stone, natural field stone and cast stone;
 - E) Stucco;
 - F) Decorative Concrete Masonry Units;
 - G) Exterior Insulation and Finish Systems (EIFS) type finish; or
 - H) Equivalent products.
- ii. Predominant exterior building materials shall not include:
 - A) Common concrete blocks;
 - B) Smooth-faced concrete panels;
 - C) Sheet metal; or

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Section 1173.04 Architectural Design Standards

- D) Plywood, particle board, medium or high density fiber board, oriented strand board or similar sheet goods manufactured of wood or reconstituted wood.
- iii. Facades shall be of low-reflectance materials and finished in subtle, neutral or earth tone colors that are harmonious with the overall appearance, history and cultural heritage of the area. Building trim, accent areas and signage may feature brighter colors, including primary colors, when complementary to the coloration of the primary facade and consistent with the architectural design of the building.
- f. All rooftop mechanical equipment shall be screened with parapets that are architecturally integral to the building. Mechanical roof screens are not acceptable. Rooftop equipment shall not be visible from a point of view that is five feet above grade at a distance of 200 feet from the walls of the structure. See [Figure 1173.04-2](#).

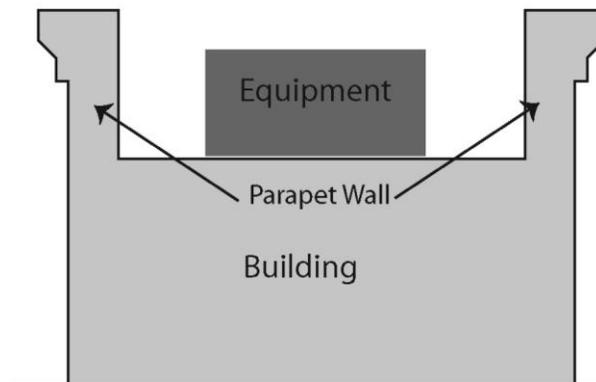


Figure 1173.04-2: Example of how parapet walls are utilized to screen roof mounted mechanical equipment.

g. Roof Styles

- i. The height of any pitched roof shall not exceed one-half of the overall building height.
- ii. [Roof Line Changes](#)
 - A) Roof line changes shall include changes in roof planes or changes in the top of a parapet wall, such as extending the top of pilasters above the top of the parapet wall.
 - B) When roof line changes are included on a façade that incorporates wall offsets of material or color changes, roof line changes shall be vertically aligned with the corresponding wall offset or material or color changes.

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Figure 1173. 04-3: Roof line changes should be aligned with corresponding offsets and/or material and color changes.

iii. Flat Roofs

- A) When flat roofs are used, parapet walls with three-dimensional cornice treatments shall conceal them. The cornice shall include a perpendicular projection a minimum of eight inches from the parapet façade plane.



Figure 1173. 04-4: Parapet walls with cornice treatments are used to disguise flat roofs. The image on the right illustrates a tall, thin parapet wall that is prohibited.

- B) Thin parapets that extend more than two feet above the roof and have a depth of less than two feet from the façade surface are prohibited.

iv. Asymmetric or Dynamic Roofs

Asymmetric or dynamic roof forms allude to motion, provide a variety of flexibility in nonresidential building design, and allow for unique buildings. Asymmetric or dynamic roof forms shall be permitted on nonresidential buildings provided the criteria for flat roofs in Paragraph (iii.) above is met. See Figure 1173. 04-5.

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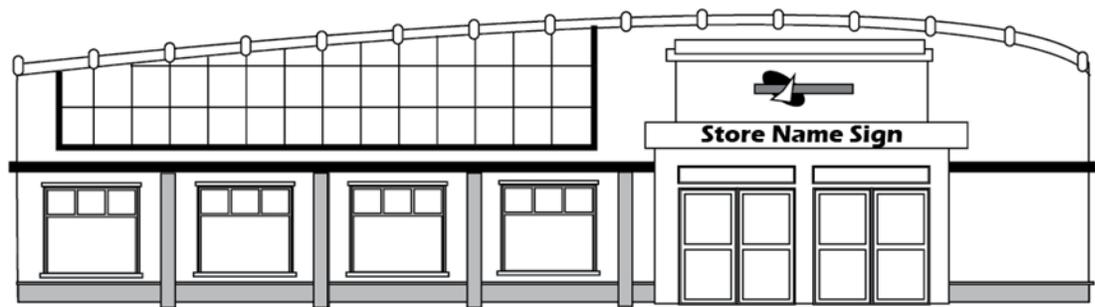


Figure 1173. 04-5: Example of a dynamic roof.

h. Massing of Large-Scale Nonresidential Buildings

This subsection shall apply to any building primarily used for nonresidential uses that exceeds 15,000 square feet in gross floor area.

- i. Building elevations shall reflect spaces that are either carved out of a mass or multiple masses of varying sizes grouped together. Examples include recesses, arches, courtyards, and both vertical and horizontal offsets.
- ii. Large scale buildings shall incorporate architectural elements that will create variety and wall surface relief on wall elevations.
- iii. To maintain the façade rhythm, building facades that front a street shall incorporate façade variations a minimum of every 50 feet.
- iv. Alternatives to using façade variations and reliefs may include:
 - A) Façade color changes following the same dimensional standards as the offset requirements;
 - B) Pilasters having a minimum depth of one foot, a minimum width of one foot, and a minimum height of 80% the façade height; and/or
 - C) Roof line changes when coupled with correspondingly aligned façade material changes.
- v. Buildings shall have clearly-defined, highly visible customer entrances that include no less than three of the following design features (see [Figure 1173. 04-6](#)):
 - A) Canopies/porticos above the entrance;
 - B) Roof overhangs above the entrance;
 - C) Entry recesses/projections;
 - D) Arcades that are physically integrated with the entrance;
 - E) Raised corniced parapets above the entrance;
 - F) Gabled roof forms or arches above the entrance;

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- G) Outdoor plaza adjacent to the entrance having seating and a minimum depth of 20 feet;
- H) Display windows that are directly adjacent to the entrance;
- I) Architectural details, such as tile work and moldings, that are integrated into the building structure and design and are above and/or directly adjacent to the entrance; and/or
- J) Integral planters or wing walls that incorporate landscaped areas or seating areas. .



Figure 1173. 04-6: Examples of customer entrances.

E. Architectural Standards for B-2 Central Business District

1. Purpose

The purpose of this subsection is to provide guidance for future development within downtown Defiance. These standards intend to promote a working, growing, and aesthetically pleasing business center. The standards in this section are generally based on the City of Defiance Main Street Design Guidelines prepared by the Defiance Development and Visitors Bureau.

2. Applicability

- a. The standards shall apply to properties within the B-2 Central Business District as designated on the zoning map.
- b. These standards apply to new construction or expansion that requires review per [Section 1165. 06 Site Plan Review](#).

3. Traditional Façade and Storefront Standards

- a. In downtown Defiance, the typical building façade is a two or three story masonry construction.
- b. The basic commercial façade consists of three parts:
 - i. The storefront with an entrance and large window displays,
 - ii. The upper masonry façade with regularly spaced windows, and
 - iii. The decorative cornice that caps the building. See [Figure 1173. 04-7](#).

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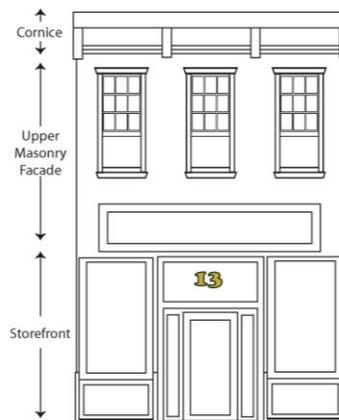


Figure 1173. 04-7: The typical façade found within downtown Defiance.

- c. The following features should be considered when improving existing storefronts.
- i. The storefront should be composed almost entirely of clear glass.
 - ii. The entry should be maintained and restored in its original location and configuration. If the original entry is gone, the new entry should be designed and placed considering traditional design themes and its relationship to the overall building façade and symmetry.
 - iii. Transom windows that are covered or blocked should be reopened and restored.
 - iv. Storefront bulkheads should be restored or renovated, when possible.
 - v. Original elements such as cast iron columns, storefront cornices, entry doors, and lighting fixtures should be restored, when possible.
 - vi. Signage should be integrated into the storefront design.
 - vii. Awnings should be integrated into the storefront design.
 - viii. Materials should be simple and unobtrusive to promote a transparent façade. The following materials should be avoided:
 - A) Cultured stone;
 - B) Fake brick;
 - C) Rough textured wood siding;
 - D) Wooden shingles on mansard roofs;
 - E) Gravel aggregate materials; and
 - F) Stucco materials.
 - ix. Facades shall be of low-reflectance materials and finished in subtle, neutral or earth tone colors that are harmonious with the overall appearance, history and cultural heritage of the area. Building trim, accent areas and signage may feature brighter colors, including

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Section 1173.05 Performance Standards

primary colors, when complementary to the coloration of the primary facade and consistent with the architectural design of the building.

- d. The planning commission should use the City of Defiance Main Street Design Guidelines prepared by the Defiance Development and Visitors Bureau or other adopted standards to guide evaluation of site plan review applications subject to this subsection.

4. Demolition

Proposed demolitions must obtain the approval of the planning commission. Such demolition shall proceed only when an immediate reuse is planned for the property or to address public safety issues. The planning commission may seek input from the Main Street Rehabilitation Board of Review, or other parties.

1173.05. PERFORMANCE STANDARDS

A. General Standards

1. No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises, provided that any use permitted by this code may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the performance requirements contained herein.
2. All development and activity within the city is subject to the regulations of the General Offenses Code of the Codified Ordinances.
3. All development activity is subject to the regulations of [CHAPTER 1174. Storm Water Management Regulations](#).

B. Hazardous Materials

1. General

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

2. Fire Hazards

Any activity involving the use or storage of flammable or explosive material shall be protected by adequate fire-fighting and fire-suppression equipment, and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.

C. Radioactive or Electrical Disturbance

No activity shall emit dangerous radioactivity at any point, or electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of the disturbance.

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D. Noise

1. Noise which is objectionable, as determined by the BZBA, due to volume, frequency or beat, shall be muffled or otherwise controlled.
2. Emergency notification sirens and related apparatus used solely for public purposes are exempt from this requirement.

E. Vibration

No vibration shall be permitted which is disruptive or injurious to any property outside of an industrial district.

F. Odors

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

G. Air Pollution

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

H. Glare

No direct or reflected glare incident to an industrial operation shall be permitted which is disruptive or injurious to any property outside an industrial district.

I. Erosion

1. No erosion, by either wind or water, shall be permitted which will carry objectionable substances onto neighboring properties.
2. Development activity is subject to the regulations of [CHAPTER 1174. Storm Water Management Regulations](#) and those of the Storm Water Management Program.

J. Water Pollution

1. The emission of water pollutants shall not violate the standards and regulations of any local, state, or federal agency having jurisdiction in said matter.
2. Development activity is subject to the regulations of [CHAPTER 1174. Storm Water Management Regulations](#) and those of the Storm Water Management Program.

K. Smoke

The emission of smoke or dust by any land use in an amount sufficient to create a general nuisance to adjoining properties shall be prohibited.

L. Enforcement Provisions

1. Prior to the issuance of a zoning permit, the zoning commissioner or the BZBA may require the submission of statements and plans indicating the manner in which dangerous and objectionable

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Section 1173.06 Traffic Safety Visibility Triangle

elements involved in processing and in equipment operations are to be eliminated or reduced to acceptable limits and tolerance.

2. Methods and procedures for the determination of the existence of any dangerous and objectionable elements shall conform to applicable standard measurement procedures published by the American Standards Association, Inc., New York, N.Y.; the Manufacturing Chemists Association, Inc., Washington, D.C.; and the United States Bureau of Mines or other applicable standards.
3. Notwithstanding the provisions of this section, the performance requirements shall not apply to operation of any industry existing at the time of enactment of this code or any expansion thereof at the same location or adjoining properties.

1173.06. TRAFFIC SAFETY VISIBILITY TRIANGLE

Clear visibility must be maintained at street and driveway intersections per the City of Defiance Access Management Regulations.

1173.07. F-P FLOOD PLAIN DISTRICT REGULATIONS

In addition to other development standards contained in [CHAPTER 1173. General Development Standards](#) and other sections of this zoning code, development located within the F-P Flood Plain District and other areas designated as an “Area of Special Flood Hazard” on the Flood Insurance Rate Map are subject to the regulations of Chapter 1333 Flood Plain Construction Standards of the Codified Ordinances.

CHAPTER 1174. STORM WATER MANAGEMENT REGULATIONS

1174.01. PURPOSE

- A.** The intent of these regulations is to establish consistent, technically feasible, and operationally practical standards to achieve a level of storm water management and erosion and sediment control that will minimize damage to public and private property, and the degradation of water resources, and will promote and maintain the health, safety, and welfare of the residents of the city.
- B.** This regulation further intends, but is not limited, to:
1. Allow development while minimizing increases in downstream flooding, erosion, and sedimentation.
 2. Protect and maintain the receiving stream's physical, chemical, biological characteristics and stream functions.
 3. Provide perpetual management of storm water run-off quality and quantity.
 4. Require the incorporation of water quality protection that encourages and promotes habitat preservation into the construction of storm water management practices.
 5. Reduce damage to receiving water resources and drainage systems that are caused by new development or redevelopment activities.
 6. Control storm water run-off resulting from soil disturbing activities.
 7. Assure that development site owners control the volume and rate of storm water run-off originating from their property so that surface water and ground water are protected, soil erosion is controlled, and flooding potential is not increased.
 8. Preserve to the maximum extent practicable the natural drainage characteristics of the building site and minimize the need to construct, repair, and replace enclosed storm drain systems.
 9. Preserve to the maximum extent practicable natural infiltration and ground water recharge, and maintain subsurface flow that replenishes water resources, wetlands, and wells.
 10. Assure that storm water controls are incorporated into site planning and design at the earliest possible stage.
 11. Prevent unnecessary stripping of vegetation and loss of soil, especially adjacent to water resources and wetlands.
 12. Reduce the need for costly maintenance and repairs to roads, embankments, sewage systems, ditches, water resources, wetlands, and storm water management practices that are the result of inadequate soil erosion, sediment and storm water control.

CHAPTER 1174. Storm Water Management Regulations

Section 1174.02 Applicability

13. Reduce the long-term expense of remedial projects needed to address problems caused by inadequate storm water management.
14. Require the construction of storm water management practices that serve multiple purposes including flood control, soil erosion and sediment control, and require water quality protection; and encourage such practices that promote recreation and habitat preservation.
15. Ensure that all storm water management, soil erosion and sediment control practices are properly designed, constructed, and maintained.

1174.02. APPLICABILITY

A. CHAPTER 1174. Storm Water Management Regulations applies to all development areas involving:

1. Highways;
2. Underground cables;
3. Pipelines;
4. Subdivisions;
5. Industrial projects;
6. Commercial projects;
7. Building activities on farms;
8. Redevelopment of urban areas; and
9. All other land uses not specifically exempted.

B. It is not the role of the city to point out each and every part of the rules and how to implement them on the individual job sites. It is the project owner's responsibility to be proactive in meeting the intent, purpose and requirements of these regulations.

1174.03. EXEMPTIONS

CHAPTER 1174. Storm Water Management Regulations does not apply to:

- A.** Land disturbing activities related to producing agricultural crops or silviculture operations regulated by the Ohio Agricultural Sediment Pollution Abatement Rules (OAC 1501: 15-3-01 to 1501: 15-3-09) and existing at the time of passage of this regulation.
- B.** Mining operations regulated by ORC Chapter 1513 and existing at the time of passage of this regulation.
- C.** Surface mining operations regulated by ORC Chapter 1514 and existing at the time of passage of this regulation.
- D.** Construction activities that do not include the installation of any impervious surface (e.g., soccer fields), abandoned mine reclamation activities regulated by the Ohio Department of Natural Resources, stream and wetland restoration activities, and wetland mitigation activities.

CHAPTER 1174. Storm Water Management Regulations

Section 1174.04 Conflicts, Severability, Nuisances, and Responsibility

- E. Linear construction projects, (e.g., pipeline or utility line installation), which do not result in the installation of impervious surface and are independent of other construction projects (e.g., not part of a larger common plan of development or sale). However, linear construction projects must be designed to minimize the number of stream crossings and the width of disturbance and achieve final stabilization of the disturbed area as defined in [CHAPTER 1185. Definitions](#).
- F. Transportation projects that are subject to industry specific Ohio EPA rules.

1174.04. CONFLICTS, SEVERABILITY, NUISANCES, AND RESPONSIBILITY

- A. Where this section imposes a greater restriction upon land than is imposed or required by other city provisions of law, ordinance, contract or deed, the provisions of this section shall prevail.
- B. If a court of competent jurisdiction declares any clause, section, or provision of these regulations invalid or unconstitutional, the validity of the remainder shall not be affected thereby.
- C. These regulations shall not be construed as authorizing any person to maintain a private or public nuisance on their property. Compliance with the provisions of these regulations shall not be a defense in any action to abate such nuisance.
- D. Failure of the city to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the owner from the responsibility for the condition or damage resulting there from, and shall not result in the city, its officers, employees, or agents being responsible for any condition or damage resulting there from.

E. Disclaimer of Liability

Neither submission of a plan under the provisions herein, nor compliance with the provisions of these regulations, shall relieve any person or entity from responsibility for damage to any person or property that is otherwise imposed by law.

1174.05. COMPLIANCE WITH OTHER RULES AND REGULATIONS

Approvals issued in accordance with these regulations do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the U.S. Army Corps of Engineers, and other federal, state, and/or county agencies. If requirements vary, the most restrictive requirement shall prevail. These permits may include, but are not limited to, those listed below. All submittals required to show proof of compliance with these state and federal regulations shall be submitted with Storm Water Pollution Prevention Plans.

A. Ohio EPA National Pollutant Discharge Elimination System (NPDES) Permits Authorizing Storm Water Discharge Associated with Construction Activity (or the most current version thereof)

Proof of compliance with these requirements shall be:

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Section 1174.05 Compliance with Other Rules and Regulations

1. The applicant's Notice of Intent (NOI) number from the Ohio EPA;
2. A copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit; or
3. A letter from the site owner certifying why the NPDES Permit is not applicable.

B. Section 401 of the Clean Water Act

1. Proof of compliance shall be:
 - a. A copy of the Ohio EPA Water Quality Certification application tracking number;
 - b. Public notice;
 - c. Project approval; or
 - d. A letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable.
2. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.

C. Ohio EPA Isolated Wetland Permit

1. Proof of compliance shall be:
 - a. A copy of the Ohio EPA's Isolated Wetland Permit application tracking number;
 - b. Public notice;
 - c. Project approval; or
 - d. A letter from the site owner certifying that a qualified professional has surveyed the site and determined that the Ohio EPA's Isolated Wetland Permit is not applicable.
2. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.

D. Section 404 of the Clean Water Act

1. Proof of compliance shall be:
 - a. A copy of the U.S. Army Corps of Engineers Individual Permit application;
 - b. Public notice; or
 - c. Project approval.
2. If an Individual Permit is not required, the site owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:
 - a. A letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 404 of the Clean Water Act is not applicable.
 - b. A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and

CHAPTER 1174. Storm Water Management Regulations

Section 1174.06 Consultations

other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.

E. Ohio Dam Safety Law

Proof of compliance shall be:

1. A copy of the ODNR Division of Water permit application tracking number;
2. A copy of the project approval letter from the ODNR Division of Water; or
3. A letter from the site owner certifying and explaining why the Ohio Dam Safety Law is not applicable.

1174.06. CONSULTATIONS

- A. In implementing these regulations, the city engineer, or other city officials, may consult with the Defiance Soil and Water Conservation District (SWCD), state and federal agencies, and other technical experts as necessary.
- B. Any costs associated with such consultations may be assessed to the applicant or the applicant's agent.

1174.07. COMPREHENSIVE STORM WATER MANAGEMENT PLAN

- A. The Construction Site Plan developed to meet these regulations will be coordinated and combined with the Riparian/Wetland Setback Plan and the Post-Construction Plan that are developed for the same site. These plans will be titled and numbered in one consecutive sequence to comprise the Comprehensive Storm Water Management Plan for the site.
- B. The Comprehensive Storm Water Management Plan so developed will serve as the Storm Water Pollution Prevention Plan (SWP3) required by the Ohio EPA as part of the NPDES Storm Water Permit for General Construction and as the Storm Water Run-Off Control required by the city.

1174.08. CONSTRUCTION SITE PLAN

In order to control storm water damage and sediment pollution of water resources, wetlands, riparian areas, other natural areas, and public and private lands, the owner of each development area shall be responsible for developing a comprehensive Construction Site Plan.

- A. This plan will address storm water management (volume and peak rate of run-off), soil erosion, sediment and other wastes control.
- B. This plan must contain a description of controls appropriate for each construction operation covered by these regulations, and the operator must implement the planned controls in a timely manner.

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Section 1174.09 Post-Construction Plan

- C.** The plan and Best Management Practices (BMPs) used to satisfy the conditions of these regulations shall meet the standards and specifications in the current edition of the Ohio Rain Water and Land Development manual.
- D.** The plan must make use of the practices that preserve the existing natural condition to the Maximum Extent Practicable (MEP).
- E.** The plan shall identify the subcontractors engaged in activities that could impact storm water runoff.
- F.** The Construction Site Plan shall contain signatures from all of the identified subcontractors indicating that they have been informed and understand their roles and responsibilities in complying with the Construction Site Plan.
- G.** Detailed requirements for storm water management plans are found in the City of Defiance Storm Water Management standards. These standards are found in the City of Defiance Engineering Handbook.

1174.09. POST-CONSTRUCTION PLAN

In order to control post-construction water quality damage and damage to public and private lands, the owner of each development area shall be responsible for developing a post-construction plan as part of the comprehensive storm water management plan. The detailed requirements of the post-construction plan can be found in the City of Defiance Engineering Handbook.

- A.** This plan will be combined with the construction site plan and the riparian/wetland setback plans that are also developed for the site.
- B.** This plan will contain a description of controls appropriate for each construction operation covered by these regulations, and the operator will implement such controls in a timely manner.
- C.** The BMPs used to satisfy the conditions of these regulations shall meet the standards and specifications in the current edition of the Ohio Rain Water and Land Development manual or other manual that is acceptable to the city engineer.
- D.** The plan must make use of the practices that preserve the existing natural condition to the MEP.
- E.** To meet the post-construction requirements of this regulation, the post-construction water quality plan must contain a description of the post-construction BMPs that will be installed during construction for the site and the rationale for their selection. The rationale must address the anticipated impacts on the channel and flood plain morphology, hydrology, and water quality.
- F.** Structural post-construction BMPs cannot be installed within state surface water (e.g., wetland or stream) unless it is authorized by a Clean Water Act Section 401 water quality certification and/or Clean Water Act Section 404 Permit.

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Section 1174. 10 Redevelopment Projects

- G.** This plan will identify the person or entity responsible for continued maintenance of all vegetative and/or mechanical BMPs for both the construction and post-construction phases of the development.
- H.** Long-term maintenance requirements and schedules of all BMPs for both the construction and post-construction phases of the development will be provided as a stand-alone document to the post-construction operator and the city.
 - 1.** This plan will contain long-term maintenance inspection schedules, including the printed name and contact point of the post-construction landowner (e.g., president of the homeowners association, store manager, apartment complex manager, etc.).
 - 2.** This plan will identify the person or entity that will serve as the post-construction operator who will be financially responsible for maintaining the perpetual inspection and maintenance of permanent storm water conveyance and storage structures and other conservation practices.
 - 3.** The method of ensuring that funding will be available to conduct the long-term maintenance and inspections of all permanent storm water, soil erosion and sediment control and water quality practices will be identified.
 - 4.** Maintenance plans must ensure that pollutants collected within structural post-construction practices, be disposed of in accordance with local, state, and federal regulations.
 - 5.** Maintenance plans must include legally binding perpetual maintenance easements and agreements. Easement documents must provide for community access.
 - 6.** Detailed requirements for post-construction plans are found in the City of Defiance Storm Water Management standards. These standards are found in the Engineering Handbook.

1174. 10. REDEVELOPMENT PROJECTS

Sites that have been previously developed where no post-construction BMPs were installed shall comply with the standards of the City of Defiance Engineering Handbook.

1174. 11. EASEMENTS REQUIRED

Future access to flood plains, flood control facilities, run-off drainage ditches and channels, run-off storage facilities, storm sewers and other drainage ways and structures, permanent vegetative and/or mechanical post-construction water quality conservation practices (BMPs) and other areas, as required by the city engineer, shall be secured by means of easements. Widths of required easements may be modified by the city engineer based on site-specific conditions and best practices.

- A.** The easements shall be recorded in the name of the city and, in single-family residential developments, the homeowners association.
- B.** Such easements shall be not less than 30 feet in width, in addition to the width of the ditch, channel, or other facility it is to serve. Access easements of this type shall be provided on one side of the flood control or storm drainage ditch, channel, or similar type facility.

CHAPTER 1174. Storm Water Management Regulations

Section 1174.12 Maintenance

- C. Access along the initial drainage system shall be by means of easements. Such easements shall be not less than 30 feet in width, with a minimum 15 foot width on either side of the centerline.
- D. Access adjacent to storage facilities shall consist of a 30 foot easement in the case of detention (dry) basins, and a 30 foot easement with a 30 foot level bench in the case of retention (wet) basins, measured from the top of the bank, and shall include the storage facility itself.
- E. Easements for the emergency flow ways shall be a minimum of 30 feet in width, or as directed by the city engineer.
- F. Flood control or storm drainage easements containing underground facilities shall have a minimum width of 30 feet, or as directed by the city engineer.
- G. The easements shall be restricted against the planting within said easement of trees, shrubbery or plantings with woody growth characteristics, and against the construction therein of buildings, accessory buildings, fences, walls or any other obstructions to the free flow of storm water and the movement of inspectors and maintenance equipment and also restricted against the changing of final grade from that described by the grading plan.

1174.12. MAINTENANCE

Any portion of the permanent drainage, soil erosion and sediment control systems, post-construction management systems, including on-site and off-site treatment/storage facilities that are constructed by the owner, will be continuously maintained into perpetuity.

- A. Detail drawings and maintenance plans must be provided for all post-construction BMPs.
- B. Maintenance plans must ensure that pollutants collected within structural post-construction BMP practices are disposed of in accordance with local, state and federal guidelines.
- C. Maintenance plans shall be provided by the permittee to both the city engineer and the post-construction operator of the BMP (including homeowner associations) upon completion of construction activities and prior to the city engineer giving final approval for the completed construction.

D. Single-Family and Multi-Family Residential Developments

A homeowners' association shall be created and placed in title of the affected lands and shall be continuously responsible for post-construction maintenance and inspections into perpetuity unless such maintenance and inspections become officially accepted by the city.

E. Apartments, Commercial and Industrial Developments

The plans will clearly state that the owner of the property shall be continuously responsible for post-construction maintenance and inspections into perpetuity unless the city officially accepts such maintenance and inspections.

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Section 1174.12 Maintenance

F. Maintenance Design

1. All temporary and permanent soil erosion and sediment control practices shall be designed and constructed to minimize maintenance requirements.
2. Multi-use facilities incorporating assets such as aesthetics and recreation may be incorporated into the design of the drainage facilities.
3. All permanent drainage, soil erosion, sediment control, water quality management systems and BMPs, including on-site and off-site structures and vegetation that are constructed or planted, must be inspected and maintained into perpetuity by the responsible party designated in the plans.
4. Inspections and maintenance will be incorporated periodically throughout the year to ensure that the facilities are properly operational.

G. Perpetual Maintenance Inspections

One inspection with a written report will be performed each year. The written report will be given to the city engineer by May 1st of each and every year after the BMP has been completed.

1. Structures Requiring a Permit from the Ohio Division of Water

- a. A written and stamped report from a professional engineer on the status of all structural BMPs that require a permit from the Ohio Department of Natural Resources (ODNR) Division of Water.
- b. This applies to all BMPs that require a permit either at the time of construction or fall under the jurisdiction of the ODNR Division of Water at any time after construction is completed.

2. Easements

- a. A written report from an inspector on the status of all storm water management easements for each project shall be submitted to the city engineer by May 1st of each year into perpetuity.
- b. These reports will document if restricted plantings, fences and structures are on the easement and will identify the location of the noted easement restriction violations.

3. Best Management Practices (BMPs)

BMPs that do not have a high risk for loss of life, bodily injury, or damage to structures or infrastructure related to imminent failure as determined by the city engineer require a written and stamped report from a professional engineer, landscape architect or a Certified Professional In Erosion and Sediment Control (CPESC) on the status of permanent soil erosion, sediment control, water quality management systems and the status of the related easements to be submitted to the city engineer by May 1st of each year into perpetuity.

4. BMPs with a Potential Loss of Life

A written and stamped report covering the status of all BMPs that have a potential for loss of life, bodily injury, or damage to structures or infrastructure will be prepared by a professional

CHAPTER 1174. Storm Water Management Regulations

Section 1174. 13 Minimum Construction and Post-Construction Standards

engineer or other individual possessing a valid state license that authorizes them to design the same type of BMP for construction.

1174. 13. MINIMUM CONSTRUCTION AND POST-CONSTRUCTION STANDARDS

In order to control sediment pollution of water resources, the owner or person responsible for the development area shall use conservation planning and practices to maintain the level of conservation for construction and post-construction as established in the City of Defiance Storm Water Management standards. These standards are found in the Engineering Handbook.

1174. 14. CONSTRUCTION AND MAINTENANCE GUARANTEE

- A.** All permanent storm water, soil erosion, other wastes control, and water quality practices not specifically waived by the city shall be constructed prior to the granting approval of the development plan.
- B.** Upon the request of the owner, the city may defer the construction or installation of a permanent storm water, soil erosion, sediment, or other wastes control or water quality practice prior to the approval of the development plan where, in the city engineer's judgment, such proper construction or installation is not immediately necessary for the protection of the public health and safety; and where the prior installation or construction of such improvement would constitute an undue hardship on the owner because in the case of new vegetation or weather conditions, or because in the case of concrete, building construction could cause cracking and excessive wear and tear on new structures.
- C.** In such event, the city shall require a security bond, escrow account, certified check or cash to guarantee that such deferred improvements will be properly constructed or installed within an agreed specified time, but not to exceed six months after the approval of the development plan.
- D.** The owner will provide a maintenance guarantee for all permanent improvements, and soil erosion, wastes controls, and water quality practices.
- E.** The city shall require a security bond, escrow account, certified check or cash to guarantee that the planned temporary and permanent soil erosion, sediment, and other wastes controls and water quality practices will be constructed and removed in a timely manner, as determined by the city engineer.

F. Performance and Maintenance Guarantee

- 1.** The guarantee of both performance and maintenance will be in the form of a security bond, escrow account, verified check or cash.
- 2.** The security bond, escrow account, verified check or cash will be used by the city to complete any guaranteed construction or removal of improvements or temporary and permanent soil

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Section 1174.14 Construction and Maintenance Guarantee

erosion, sediment, and other wastes control practices that are not adequately completed, maintained or removed by the owner in a timely manner, as determined by the city engineer.

- 3.** The security bond, escrow account, verified check or cash will be in the total amount of both the performance guarantee and the maintenance guarantee.
- 4.** Ohio municipalities and counties may require performance bonds or other guarantees for water management improvement as stated in the ORC Chapter 711.101.
- 5.** Security bond, escrow account, verified check or cash shall be deposited with the city prior to review by the city engineer and/or its consultants to cover professional services of the city engineer, zoning commissioner, and/or other experts required by the city engineer.
- 6.** No soil disturbing activities shall be permitted until a security bond, escrow account, verified check or cash has been posted to the satisfaction of the city engineer sufficient for the city to perform the obligations otherwise to be performed by the owner or person responsible for the development area as stated in this regulation, and to allow all work to be performed as needed in the event that the owner or person responsible for the development area fails to comply with the provisions of this regulation.
- 7.** The security bond, escrow account, verified check or cash shall be released only after all work required by this regulation has been completed to the satisfaction of the city engineer and all permit and inspection fees required by these regulations have been paid in full.
- 8.** No project subject to this regulation shall commence without the construction site plan having been approved by the city engineer.

9. Performance Guarantee

The furnishing of a performance guarantee will be maintained in an amount of not less than 120% of the estimate approved by the city engineer, of installation of the deferred improvements.

10. Maintenance Guarantee

The maintenance guarantee shall be maintained for a period of not less than two years after final acceptance of the storm water, soil erosion, sediment, and other wastes control practices in an amount equal to 20% of the estimate approved by the city engineer, of the construction and, where necessary, removal of such practices.

G. Time Extension

The city engineer may extend for cause the time allowed for the installation of the improvements for which the performance guarantee has been provided with the receipt of a written request from the owner.

H. Completion

Upon completion of the construction of improvements or temporary and/or permanent soil erosion, sediment, and other wastes control practices and the removal of the temporary soil

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Section 1174. 15 Violations

erosion, sediment, and other wastes control practices for which the performance guarantee has been provided, the owner shall notify the city engineer of this fact, and provide a copy of the Notice of Termination (NOT) from OEPA.

I. Inspection

The city will not release the security bond, escrow account, verified check or cash guarantee until the city engineer has inspected the site to ensure that the guaranteed item(s) have been completed and/or removed.

J. Slow Release Devices

Performance and maintenance guarantees will be maintained on the temporary sediment removal slow release devices installed in detention and retention basins until the entire site has reached final soil stabilization.

K. Release

The construction maintenance guarantee shall not be released by the city until all temporary soil erosion and sediment control practices that are no longer needed have been removed, properly disposed of, and any trapped sediment has been stabilized.

1174. 15. VIOLATIONS

No person shall violate, or cause, or knowingly permit to be violated, any of the provisions of these regulations, or fail to comply with any such provisions or with any lawful requirements of any public authority made pursuant to these regulations, or knowingly use or cause or permit the use of any lands in violation of these regulations or in violation of any permit granted under these regulations.

1174. 16. PENALTIES

- A.** Whoever violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the first degree and shall be fined no more than \$1,000.00 or imprisoned for no more than 180 days, or both, for each offense.
- B.** A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.
- C.** Upon notice from the city engineer, or designated representative, that work is being performed contrary to this regulation, such work shall immediately stop.
 - 1.** Such notice shall be in writing and shall be given to the owner or person responsible for the development area, or person performing the work, and shall state the conditions under which such work may be resumed.
 - 2.** In instances where immediate action is deemed necessary for public safety or the public interest, the city engineer may require that work be stopped upon verbal order pending issuance of the written order.

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Section 1174. 17 Storm Water Management Plan Review

- D.** The imposition of any other penalties provided herein shall not preclude the city, by or through its law director and/or any of their assistants, 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 regulation or other applicable laws, or ordinances, rules or regulations or the orders of the city engineer.

1174. 17. STORM WATER MANAGEMENT PLAN REVIEW

A. General

1. The construction plan will be combined with the post-construction plan and riparian/wetland setback plan that have also been developed for the site.
2. Storm water management plan review is subject to review and approval by the city engineer as established in [Section 1165. 12 Storm Water Management Plans](#).

B. Other Permits Required

1. Plans developed by the site owners and approved by the city in accordance with this regulation do not relieve the site owner of responsibility for obtaining and complying with all other necessary permits and/or approvals from federal, state, county, and local agencies and departments.
 - a. If requirements vary, the most stringent requirement shall be followed.
 - b. Plans submitted to the city engineer for review and approval, shall be accompanied by all other required permits and documentation relevant to the project, including but not limited to the permits required and issued by the U.S. Army Corps of Engineers, the Ohio EPA and ODNR Division of Water.
2. No soil disturbing activity shall begin before all necessary local, county, state, and federal permits have been granted to the owner or operator.

C. Inspection Required

The city will perform construction inspections until the site reaches final stabilization as determined by the city engineer.

CHAPTER 1175. PARKING, LOADING AND MOBILITY STANDARDS

1175. 01. PURPOSE

The purpose of this chapter is to regulate the amount and location of vehicle parking, loading areas, access, and mobility in order to promote a more efficient use of land, enhance the development form, encourage the use of alternative modes of transportation, provide for better pedestrian movement, and protect air and water quality. The provisions of this chapter are intended to:

- A.** Prevent and alleviate the congestion of public streets;
- B.** Increase and protect the capacity of the roadway system;
- C.** Promote greater safety of passage between highway and land;
- D.** Minimize the detrimental effects of vehicular use areas on adjacent properties;
- E.** Encourage the incorporation of alternative modes of transportation by emphasizing pedestrian circulation and establishing requirements for bicycle parking;
- F.** Encourage the reduction of impervious surfaces through effective design and the use of shared parking where practical; and
- G.** Promote the health, safety, and public welfare by establishing minimum requirements for off-street parking and loading areas as well as provisions for access control.

1175. 02. APPLICABILITY

- A.** In all districts except the B-2 District, in connection with every residential, commercial, industrial, recreational, or public use, off-street parking spaces for automobiles shall be provided in accordance with the requirements of this chapter at any time any building or structure is erected, enlarged, increased in capacity, or changed in use. Off-street parking spaces are not required in the B-2 District.
- B.** Whenever a building or use constructed or established after the effective date of this code is changed or enlarged in floor area, number of dwelling units, seating capacity, use, or otherwise, to create a need for an increase of 10% or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.
- C.** Whenever a building or use existing prior to the effective date of this code is enlarged to the extent of 50% or more in floor area, or in the area used, the building or use shall then and thereafter comply with the parking requirements set forth herein.

CHAPTER 1175. Parking, Loading and Mobility Standards

Section 1175. 03 General Standards Applicable to All Vehicular Use Areas

1175. 03. GENERAL STANDARDS APPLICABLE TO ALL VEHICULAR USE AREAS

A. Vehicular Use Areas to be Permanent

All vehicular use areas provided as part of this chapter shall be permanently available, marked, and maintained for the applicable parking, loading, or mobility purposes for the use it is intended to serve; provided, that the approval of a temporary use permit (see [Section 1169. 11 Temporary Use Regulations](#)) may allow the temporary use of a parking or loading space for other purposes.

B. Maintenance

1. All vehicular use areas shall be maintained and kept free from debris, litter, junk, or rubbish.
2. All signs, markers or any other methods used to indicate direction of traffic movement and location of parking and/or loading spaces shall be maintained in a neat and legible condition.
3. The duty to provide and maintain all parking, loading, or other vehicular use areas shall be the responsibility of the property owner where the vehicular use areas are required. The owner shall maintain all paved surfaces and repair any disintegration of the surface by patching or resealing/resurfacing when such disintegration takes place.

C. Landscaping and Screening

Landscaping and screening for vehicular use areas shall be as established in [CHAPTER 1177. Landscaping and Buffer Standards](#).

D. Fire Code

All parking and loading plans shall conform to all requirements set forth in the fire code as adopted by City of Defiance Fire & Rescue Division, or as approved by City of Defiance Fire & Rescue Division.

E. Drainage

All vehicular use areas shall provide for the proper drainage of surface water in accordance with all applicable federal, state, and city run-off control and sediment abatement regulations, to prevent the drainage of such water onto adjacent properties and onto sidewalks.

F. Surfacing

1. Any off-street parking area for five or more vehicles shall be graded for proper drainage and surfaced with ODOT Item No. 400 flexible asphalt pavement or Item No. 450 rigid concrete pavement.
2. Pavers or porous pavement systems that allow for storm water drainage to pass through or grass to grow through them may be permitted for use in up to 50% of the parking areas and aisles in nonresidential districts, and up to 100% of the parking areas in residential districts.

CHAPTER 1175. Parking, Loading and Mobility Standards

Section 1175. 04 Off-Street Parking Regulations

G. Lighting

All lighting within a vehicular use area shall be subject to the standards of [Section 1173. 03 Outdoor Lighting](#).

H. Striping

The individual parking spaces and loading spaces shall be striped according to the approved layout of the vehicular use area.

I. Disabled Vehicles

The parking of a disabled vehicle within a residential district for a period of more than two weeks shall be prohibited, except that vehicles may be stored in an enclosed garage or other accessory building. No business shall be conducted in connection therewith while the vehicle is parked or stored.

1175. 04. OFF-STREET PARKING REGULATIONS

A. Units of Measure

The following rules shall apply when computing parking spaces:

1. On-Street Parking

On-street parking spaces shall not be counted toward off-street parking space requirements.

2. Driveway Space

Entrances, exits, or driveways shall not be computed as any part of a required parking lot or area, except in the case of single-family and two-family dwellings where driveways may be used in calculating the amount of off-street parking.

3. Multiple Uses

Unless otherwise noted or approved, off-street parking areas serving more than one use shall provide parking in an amount equal to the combined total of the requirements for each use.

4. Area Measurements

- a. Unless otherwise specifically noted, all square footage-based parking standards shall be computed on the basis of gross floor area of all floors in a nonresidential building.
- b. Up to 15% of the gross floor area may be excluded from the above calculation if the area is used for storage, restrooms, loading, unloading, or for mechanical equipment.
- c. When a measurement of the number of required spaces results in a fractional number, the fraction shall be rounded up to the next highest whole number.

5. Occupancy- or Capacity-Based Standards

- a. For the purpose of computing parking requirements based on employees, students, residents, or occupants, calculations shall be based on the largest number of persons working on a single shift, the maximum enrollment, or the maximum fire-rated capacity, whichever is applicable, and whichever results in a greater number of parking spaces.

CHAPTER 1175. Parking, Loading and Mobility Standards

Section 1175. 04 Off-Street Parking Regulations

- b. In hospitals, bassinets shall not be counted as beds.
- c. In the case of benches, pews and similar seating accommodations, each 24 inches thereof shall be counted as one seat for the purpose of determining the parking requirements.

6. Stacking Spaces

Vehicle stacking spaces that are required for drive-through facilities shall not count toward the off-street parking requirements of this section, and shall be in accordance with [Section 1175. 07 Stacking Space Requirements](#).

7. Unlisted Uses

- a. Upon receiving an application for a use not specifically listed in the parking schedule below, the zoning commissioner shall apply the parking standard specified for the listed use that is deemed most similar to the proposed use in regards to use, size and intensity of use.
- b. If the zoning commissioner determines that there is no listed use similar to the proposed use, intensity, or size, they may refer to the estimates of parking demand based on recommendations from parking studies prepared by the Institute of Traffic Engineers (ITE), Urban Land Institute (ULI), and/or the American Planning Association (APA).
- c. The zoning commissioner's decision regarding parking requirements for a specific use is appealable to the BZBA as established in [Section 1165. 09 Appeals](#).

B. Required Number of Parking Spaces

- 1. [Table 1175. 04-1: Minimum Parking Requirements](#) defines the number of parking spaces required for each use within the City of Defiance.
- 2. For all uses except single-family and two-family dwellings, the number of parking spaces required in [Table 1175. 04-1: Minimum Parking Requirements](#) below may be modified according to the following provisions without requiring a variance or other review outside of the zoning permit:
 - a. An applicant may provide a number of spaces equal to the number of spaces required by [Table 1175. 04-1: Minimum Parking Requirements](#); or
 - b. Up to 10% fewer than the number of spaces required by [Table 1175. 04-1: Minimum Parking Requirements](#); or
 - c. Up to 25% more than the number of spaces required by [Table 1175. 04-1: Minimum Parking Requirements](#).
- 3. Applicants may propose fewer parking spaces than provided in this section through use of shared parking or off-site parking as established in [Section 1175. 05 Alternative Parking Options](#).
- 4. Applicants may propose more spaces than allowed in [Table 1175. 04-1: Minimum Parking Requirements](#) and [Subsection 1175. 04 B. 2.](#) above, but must obtain approval for the increase by the planning commission during site plan review pursuant to [Section 1165. 06 Site Plan Review](#), and provide a parking demand study that illustrates the need for the additional parking.

CHAPTER 1175. Parking, Loading and Mobility Standards

Section 1175. 04 Off-Street Parking Regulations

5. Uses With Variable Parking Demand Characteristics and Unlisted Uses

For some listed uses, [Table 1175. 04-1: Minimum Parking Requirements](#) refers to this subsection because the use has widely varying parking and loading demand characteristics, making it difficult to establish a single appropriate off-street parking or loading standard. On receiving an application proposing such a use, or proposing a use not expressly listed in [Table 1175. 04-1: Minimum Parking Requirements](#), the zoning commissioner is authorized to:

- a. Apply the minimum off-street parking space requirement specified in [Table 1175. 04-1: Minimum Parking Requirements](#) for the listed use that is deemed most similar to the proposed use; or
- b. Establish the minimum off-street parking space requirement by reference to standard parking resources published by the National Parking Association or the American Planning Association; or
- c. Establish the minimum off-street parking space requirement based on a parking demand study prepared by the applicant that estimates parking demand based on the recommendations of the Institute of Traffic Engineers (ITE) or other acceptable source of parking demand data, and that includes relevant data collected from uses or combinations of uses that are the same or comparable to the proposed use in terms of density, scale, bulk, area, type of activity, and location.

TABLE 1175. 04-1: MINIMUM PARKING REQUIREMENTS	
USE	REQUIRED NUMBER OF PARKING SPACES
AGRICULTURAL USES	
Agriculture	No parking spaces required
Forestry	No parking spaces required
Plant Cultivation	No parking spaces required
Specialized Animal Raising and Care	No parking spaces required
RESIDENTIAL USE CLASSIFICATION [1]	
Adult Family Homes or Small Residential Facilities	1.5 spaces per bedroom
Adult Group Homes or Large Residential Facilities	1.5 spaces per bedroom
Apartments on Upper Floors	1.5 spaces per dwelling unit
Dwellings, Multi-Family	1.5 spaces per dwelling unit
Dwellings, Single-Family	1.0 space per dwelling unit
Dwellings, Two-Family	1.5 spaces per dwelling unit
Dwellings, Zero Lot Line	1.0 space per dwelling unit
Mobile Home Parks	1.5 spaces per dwelling unit
Nursing or Convalescent Homes	1.0 space per sleeping room or suite, or 1.0 space per permanent occupant
PUBLIC AND INSTITUTIONAL USE CLASSIFICATION	
Airports	1.0 space per 400 square feet of waiting area plus 1.0 space per 4 hanger or tie-down spaces
Cemeteries	1.0 space per 4 seats in a chapel or place of assembly
Charitable and Philanthropic Institutions	1.0 space per 2 fixed seats, or 1.0 space per 2 persons based on the maximum occupancy, whichever is greater
Community Gardens	No parking spaces required
Cultural Institutions	1.0 space per 2 fixed seats, or 1.0 space per 2 persons based on the maximum occupancy, whichever is greater

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TABLE 1175. 04-I: MINIMUM PARKING REQUIREMENTS	
USE	REQUIRED NUMBER OF PARKING SPACES
Essential Services	No parking spaces required
Hospitals	1.0 space for every 3 patient beds, plus 4.0 spaces per 1,000 square feet of floor area for outpatient clinics, laboratories, pharmacies, and other similar uses
Parking Lots & Garages	No parking spaces required
Public and Government Buildings or Uses	1.0 space per 250 square feet of floor area
Public and Government Buildings or Uses, Schools (college or high school)	1.0 space per 4 seats in the main auditorium, or 4 per classroom, whichever is greater
Public and Government Buildings or Uses, Schools (except high school or college)	1.0 space per 5 seats in the main auditorium, or 2 per classroom, whichever is greater
Public Community Centers	1.0 space per 2 fixed seats, or 1.0 space per 2 persons based on the maximum occupancy, whichever is greater
Recreational Facilities, Noncommercial	1.0 space per 10,000 square feet of park, recreation, or open space
Religious Places of Worship	1.0 space per 5 seats in the main auditorium
Solar Farms	No parking spaces required
Telecommunication Towers and Facilities	1.0 space per provider
COMMERCIAL USE CLASSIFICATION	
Animal Hospitals & Veterinarian Clinics	1.0 space per 250 square feet of floor area
Assembly Halls & Conference Centers	1.0 space per 2 fixed seats, or 1.0 space per 2 persons based on the maximum occupancy, whichever is greater
Automotive Fuel Sales	1.0 space per 300 square feet of indoor sales area plus 1.0 space per fuel pump or service bay (service bay may not be counted as a parking space)
Automotive Repair	1.0 space per 300 square feet of floor area for facilities under 5,000 square feet; or 1.0 space per 500 square feet for facilities of 5,000 square feet or larger
Automotive Sales or Rental	1.0 space per 400 square feet of indoor display area plus 1.0 space per 3,000 square feet of outdoor display area; this does not include spaces for display of vehicles for sale, lease, or rent
Automotive Service	1.0 space per 300 square feet of floor area for facilities under 5,000 square feet; or 1.0 space per 500 square feet for facilities of 5,000 square feet or larger
Bakeries & Dairies	1.0 space per 250 square feet
Banks and Financial Institutions	1.0 space per 300 square feet, with a minimum of 5.0 spaces
Bars or Taverns	1.0 space per 100 square feet
Bed and Breakfast Establishments	1.0 space per guest room, plus spaces as required for dwelling unit(s)
Boarding Houses	1.5 spaces per bedroom
Building Trades & Services	1.0 space per 250 square feet of floor area
Car Washes	2.0 spaces plus stacking spaces required per Section 1175. 07 Stacking Space Requirements
Clubs, Lodges, or Other Social Meeting Places	1.0 space per 250 square feet of floor area
Commercial Entertainment Facilities	1.0 space per 200 square feet or 1.0 space per 5 persons at maximum capacity, whichever is greater
Commercial Golf Course	40.0 spaces per 9 holes, plus 1.0 space per employee
Commercial Recreation Facilities, Bowling Alley	5.0 spaces per lane; plus 1.0 space per 250 square feet of floor area used for eating, drinking, or other recreation
Commercial Recreation Facilities, Indoors	1.0 space per 200 square feet or 1.0 space per 5 persons at maximum capacity, whichever is greater
Commercial Recreation Facilities, Outdoors	1.0 space per 5,000 square feet of land area or 1.0 space per 3 persons at maximum capacity, whichever is greater
Convenience Stores	1.0 space per 150 square feet of retail area, with a minimum of 5.0 spaces

CHAPTER 1175. Parking, Loading and Mobility Standards

Section 1175. 04 Off-Street Parking Regulations

TABLE 1175. 04-I: MINIMUM PARKING REQUIREMENTS	
USE	REQUIRED NUMBER OF PARKING SPACES
Dry Cleaner	1.0 space per 250 square feet of floor area, with a minimum of 5.0 spaces
Educational Institutions, Commercial	1.0 space per 2 students
Family Day Care Home, Type A	1.0 space for every 4 children based on maximum occupancy
Family Day Care Home, Type B	1.0 space for every 4 children based on maximum occupancy
Funeral Homes and Mortuaries	1.0 space per 50 square feet in slumber rooms, parlors, or individual funeral rooms
Garden or Landscape Supply Store	1.0 space per 300 square feet of indoor display and sales area, plus 1.0 space per 1,500 square feet of outdoor display and sales area
Green Houses and Nurseries	1.0 space per 300 square feet of indoor display and sales area, plus 1.0 space per 1,500 square feet of outdoor display and sales area
Hotels & Motels	1.0 space per sleeping room or suite, or 1.0 space per permanent occupant plus 1.0 space for each 2.0 employees
Internet Cafés	1.0 space per 100 square feet of floor area
Internet Sweepstakes Establishments	1.0 space per 250 square feet of floor area
Kennels	1.0 space for every 1,000 square feet plus 1.0 drop off space per 20 kennel spaces
Laundry or Laundromat	1.0 space per 250 square feet of floor area
Lodging Houses	1.0 space per sleeping room or suite, or 1.0 space per permanent occupant plus 1.0 space for each 2.0 employees
Lumber Yard	1.0 space per 200 square feet of retail sales area over 1,000 square feet
Medical and Dental Centers or Outpatient Clinics	1.0 space per 200 square feet
Mobile Home Sales	1.0 space per 150 square feet of retail area, plus 1.0 space per 2 employees on the maximum work shift
Nursery Schools or Childcare Centers	1.0 space for every 4 children based on maximum occupancy
Offices	1.0 space per 400 square feet of floor area with a minimum of 5 spaces
Printing & Publishing	1.0 space per 3 employees
Restaurants	1.0 space per 100 square feet of floor area
Restaurants, Fast Food	1.0 space per 100 square feet of floor area plus stacking spaces required per Section 1175. 07 Stacking Space Requirements
Retail and Service Commercial Uses	1.0 space per 250 square feet of retail area
Self-Storage Facilities or Mini-Warehouses	3.0 spaces, plus 1.0 space per 50 units
Services, Business	1.0 space per 250 square feet, with a minimum of 5 spaces
Services, Financial	1.0 space per 300 square feet, with a minimum of 5 spaces
Services, Personal	1.0 space per 250 square feet, or 2.0 spaces per station/chair, whichever is greater
Services, Professional	1.0 space per 250 square feet, with a minimum of 5 spaces
Sexually Oriented Businesses	1.0 space per 250 square feet of floor area, with a minimum of 5 spaces
Tattoo/Piercing Parlors or Studios	2.0 spaces per station or service chair
Transportation & Trucking Terminals	1.0 space per 500 square feet, plus space to accommodate all vehicles used in connection therein
Transportation Equipment Sales & Repair	1.0 space per 1,000 square feet of indoor display area plus 1.0 space per 3,000 square feet of outdoor display area
Truck, Trailer, or Farm Implement Sales and Service	1.0 space per 1,000 square feet of indoor display area plus 1.0 space per 3,000 square feet of outdoor display area
Truck Washes	3.0 spaces per washing bay
Wholesale Businesses	2.0 spaces, plus 1.0 space per 300 square feet of retail sales area over 1,000 square feet
INDUSTRIAL USE CLASSIFICATION	
Auto & Metal Salvage Operations (Junkyard)	See Subsection 1175. 04 B. 5.
Building Materials Sales & Storage	2.0 spaces, plus 1.0 space per 200 square feet of retail sales area over 1,000 square feet

CHAPTER 1175. Parking, Loading and Mobility Standards

Section 1175. 04 Off-Street Parking Regulations

TABLE 1175. 04-I: MINIMUM PARKING REQUIREMENTS		
USE	REQUIRED NUMBER OF PARKING SPACES	
Bulk Plant	See Subsection 1175. 04 B. 5.	
Contractor Offices and Storage	1.0 space per 250 square feet plus 1.0 space per 5,000 square feet of storage area	
Crematory	See Subsection 1175. 04 B. 5.	
Grain Elevator & Feed Mills	See Subsection 1175. 04 B. 5.	
Laboratories	1.0 space per 500 square feet	
Manufacturing, General; Manufacturing, Limited; and Manufacturing, Restricted	1 – 3,000 square feet of floor area	1.0 space per 250 square feet
	3,001 – 5,000 square feet of floor area	1.0 space per 500 square feet
	5,001 – 10,000 square feet of floor area	1.0 space per 750 square feet
	10,001 or more square feet of floor area	1.0 space per 1,250 square feet
Mineral, Gravel, or Sand Extraction	See Subsection 1175. 04 B. 5.	
Oil & Gas Well	See Subsection 1175. 04 B. 5.	
Oil & Gas Well Equipment Sales & Storage	2.0 spaces, plus 1.0 space per 200 square feet of retail sales area over 1,000 square feet	
Research & Development Facilities	1.0 space per 500 square feet	
Sawmill	See Subsection 1175. 04 B. 5.	
Slaughterhouses	See Subsection 1175. 04 B. 5.	
Stockyards	See Subsection 1175. 04 B. 5.	
Warehousing, Distribution, or Storage Facility	1.0 space per 500 square feet	
NOTES:		
[1] One additional space of proper size and construction shall be provided for each additional operational vehicle owned or continuously stored on a residential property by the resident or owner.		

C. Bicycle Parking Spaces

1. All nonresidential uses requiring 25 parking spaces or more should provide two bicycle parking spaces for each 25 required parking spaces, or fraction thereof, but not more than 20 spaces shall be required.
2. Bicycle racks or other accommodations to allow locking of bicycles should be provided and placed within reasonable access to the main entrance.
3. The space should be at least two feet wide by six feet long in size.
4. The location of bicycle racks should not obstruct access to building entrances.

D. Parking Requirements for the Physically Disabled

Parking spaces for the physically disabled shall be provided as required by the Americans with Disabilities Act regulations and shall include all necessary markings, striping, and signage.

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E. Design Standards for Off-Street Parking Areas

1. Location

Off-street vehicular use areas shall be located on the same lot as the use they are intended to serve, except where shared or off-site parking is authorized per [Section 1175. 05 Alternative Parking Options](#). Off-street parking facilities shall be located as hereinafter specified.

a. Vehicular Use Areas in Nonresidential Districts

- i. Vehicular use areas located in nonresidential districts shall not encroach into any required landscaping or buffer yard as established in [Subsection 1173. 02 B. 2. Yard Requirements for Nonresidential Uses Abutting Residential Districts](#) or [CHAPTER 1177. Landscaping and Buffer Standards](#), with the exception of approved driveways.
- ii. All vehicular use areas shall be set back a minimum of five feet from any lot line or street right-of-way.
- iii. No part of any parking area for five or more vehicles shall be closer than 20 feet to any dwelling, school, hospital, or any other institution for human care located on an adjoining lot, unless screened by an unpierced masonry wall, with no advertising, and per the regulations of [Subsection 1177. 06 E. Fence or Wall Screens](#).

2. Parking Space Size

Each off-street parking space shall have an area of not less than 180 square feet, exclusive of access drives or aisles, and shall be of useable shape and condition, and a minimum width of 9.5 feet.

3. Internal Access and Maneuverability

- a. There shall be adequate provision for ingress and egress to all parking spaces. Where a lot abuts on a public or private alley or easement of access, an access drive with a width as specified in [Table 1175. 04-2: Aisle Dimensions](#) shall be provided leading to the parking or storage areas, or to the loading or unloading spaces required in [Section 1175. 10 Off-Street Loading](#). In the case of residential dwellings, an access drive of no less than eight feet in width shall be provided.

PARKING ANGLE	AISLE WIDTH		WIDTH OF ACCESS DRIVE
	ONE-WAY	TWO-WAY	
0°	12 feet	18 feet	20 feet
45°	13 feet	20 feet	20 feet
60°	18 feet	22 feet	20 feet
90°	22 feet	24 feet	20 feet

- b. All parking spaces shall be entered and exited along parking aisles with dimensions as specified in [Table 1175. 04-2: Aisle Dimensions](#), and arranged perpendicular to access drives wherever possible.

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- c. No parking spaces shall be located along entry drives within 30 feet of the right-of-way or easement line, nor within eight feet of the curb or pavement edge of such restricted entry drive area.
- d. Where room permits, parking spaces should be entered and exited along parking aisles and not along main entrance drives for the purposes of safety and to prevent traffic congestion.
- e. With the exception of driveways serving single-family dwellings, wherever more than three parking spaces are served by a single driveway, a turnaround area shall be provided, or other provisions shall be made, to permit cars to exit the parking lot or garage without backing onto any street or sidewalk.
- f. Each parking space shall be provided with a sufficient back-up area to permit egress in one maneuver, consisting of one backward and one forward movement.

4. Access to Adjacent Parcels

Cross access easements to adjacent parcels shall be provided where practical in order to achieve better circulation throughout the city and to minimize driveway cuts along public roads.

- a. If only one of the adjacent parcels is subject to review, this cross access easement requirement shall be established as a condition of the zoning permit approval, prohibiting the applicant from denying cross access from adjacent parcels.
- b. At the establishment of the easement, shared maintenance agreements shall be filed with the Defiance County Recorder and provided to the zoning commissioner and city engineer for city files.
- c. All cross access easements shall comply with the City of Defiance Access Management Regulations.

5. Wheel Stops and Curbing

- a. Continuous curbs of concrete, asphalt, stone or other similar material at least six inches high and six inches wide shall be provided for parking spaces located adjacent to fences, walls, property lines, landscaped areas, and structures, unless the elimination of this curbing is required to adhere to storm water management requirements.
- b. Continuous curbs shall be located a minimum of four feet from any structures, buildings, or walls to prevent a vehicle from hitting any structure at the edge of a parking area. See [Figure 1175. 04-1](#).

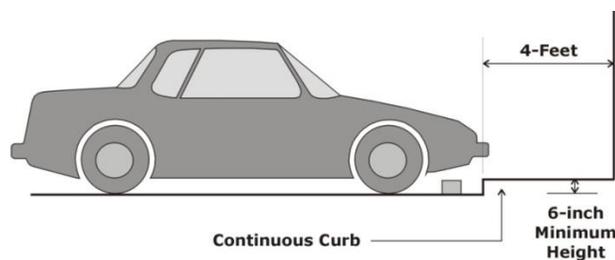


Figure 1175. 04-1: Continuous Curb

CHAPTER 1175. Parking, Loading and Mobility Standards

Section 1175.05 Alternative Parking Options

- c. Individual wheel stops may be provided in lieu of continuous curbing only when the parking is adjacent to a landscaped area, and the drainage is directed to the landscaped area.
- d. Parked vehicles may overhang an interior landscaped area no more than 2.5 feet. Wheel stops or curbs shall be provided to ensure no greater overhang or penetration on the landscape area.

1175.05. ALTERNATIVE PARKING OPTIONS

This section includes methods of accommodating parking as an alternative to constructing the required number of parking spaces on an individual lot.

A. Shadow Parking

A portion of the required parking spaces may remain landscaped and unpaved or paved with porous pavement provided that the parking and unpaved areas comply with the following standards. See [Figure 1175.05-1](#).

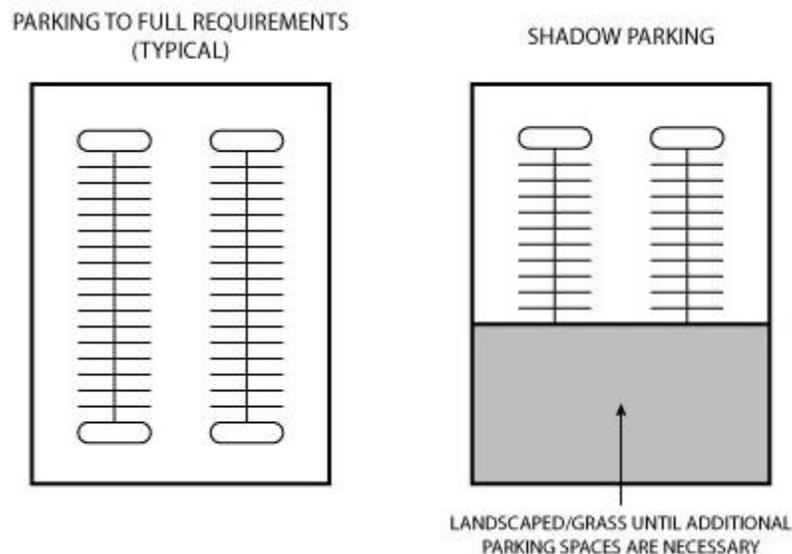


Figure 1175.05-1: Shadow parking

1. No more than 30% of the required number of parking spaces may be designated for shadow parking.
2. The plans submitted with the zoning permit application shall denote the location and layout of that portion of the parking area that is deemed currently not required. The plan shall indicate that the “shadow” parking spaces will be constructed according to this code in the event that the zoning commissioner makes a finding, at any time, that all or any portion of this parking is necessary.
3. At no time shall any portion of the required parking area that is so designated for future construction be used for the construction of any structure or paved surface with the exception that grass pavers or reinforced turf may be used to provide temporary parking provided that the pavers allow for grass and other vegetation to grow through the material.

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4. At no time shall any portion of the required parking or loading that is so designated for future construction as provided herein be counted as open space or other non-paved areas required by other provisions of this section.
5. The owner shall initiate construction of the approved "future" parking area, as identified on the approved plan, within three months of the receipt of a certified letter or a letter through normal postal service (in the event that the certified letter is not accepted) sent to the owner of record from the zoning commissioner, identifying that such parking is determined to be necessary.
6. When the designated shadow parking area is constructed, such parking shall be constructed in a manner to meet the parking lot landscaping requirements of [CHAPTER 1177. Landscaping and Buffer Standards](#).

B. Shared Parking

A portion of the required parking spaces may be located on an adjacent property if the parking area complies with the following.

1. Shared parking is encouraged and permitted if the multiple uses that the shared parking will benefit can cooperatively establish and operate the facilities.
2. The applicant shall have the burden of proof for reduction of the total number of parking spaces and shall document and submit information substantiating their request. Shared parking may be approved if:
 - a. A sufficient number of spaces are provided to meet the highest demand of the participating uses.
 - b. The uses are located adjacent to each other.
 - c. Evidence has been submitted by the parties operating the shared parking facility, to the satisfaction of the zoning commissioner, documenting the nature of uses and the times when the individual uses will operate so as to demonstrate the lack of potential conflict between them.
 - d. The shared parking space shall be located not more than 500 feet from the primary entrance of the use served, measured along the shortest legal, practical walking route. This route may include crossing a right-of-way provided it uses a legal crosswalk.
 - e. A legal shared parking agreement is submitted and approved by the law director, that provides for the rights of the respective parties to use the shared parking areas in a manner adequate to accommodate multiple users or that parking spaces will be shared at specific times of the day (i.e., one activity uses the spaces during daytime hours and another activity uses the spaces during evening hours). This agreement shall include provisions, evidence of deed restrictions or other recorded covenants that ensure that the spaces will be properly maintained during the life of the development.
 - f. The approved shared parking agreement shall be filed with the application for a zoning permit and shall be filed with the Defiance County Recorder and recorded in a manner as to encumber all properties involved in the shared parking agreement.

CHAPTER 1175. Parking, Loading and Mobility Standards

Section 1175.06 Other Uses within Required Parking Areas

- g. No zoning permit will be issued until proof of recordation of the agreement is provided to the zoning commissioner.

C. Off-Site Parking

A portion of the required parking spaces may be located on a separate lot from the lot on which the principal use is located if the off-site parking complies with the following standards.

1. Off-site parking shall not be used to satisfy the off-street parking standards for residential uses, hospitals, bars (if not incidental to a restaurant), or convenience stores and other convenience-oriented uses. Required parking spaces reserved for persons with disabilities shall not be located in an off-site parking facility.
2. No off-site parking space shall be located more than 500 feet from the primary entrance of the use served, measured along the shortest legal, practical walking route. This route may include crossing a right-of-way provided it uses a legal crosswalk.
3. Off-site parking shall not be permitted on a vacant lot in a residential zoning district.
4. Off-site parking areas shall adhere to the regulations of the same or a more intensive zoning classification than that required for the use served.
5. In the event that an off-site parking area is not under the same ownership as the principal use served, a written off-site parking agreement shall be required.
6. An off-site parking agreement shall be submitted and approved as to form by the law director. This agreement shall include provisions, evidence of deed restrictions or other recorded covenants that ensure that the spaces will be properly maintained during the life of the development.
7. The off-site parking agreement approved by the law director shall be filed with the application for a zoning permit and shall be recorded as a deed restriction or covenant in a manner as to encumber all properties involved in the off-site parking agreement.
8. A zoning permit shall not be granted until proof of recordation of the agreement is provided to the zoning commissioner.
9. Off-site parking shall be used and maintained solely for parking as long as the use, as recorded and approved, exists. The off-site parking agreement may be terminated when the additional site is no longer necessary, there is a change of use, or the approved conditions are no longer applicable.

1175.06. OTHER USES WITHIN REQUIRED PARKING AREAS

- A. No vehicle repair work or service of any kind, except emergency repairs, shall be permitted in or associated with any vehicular use area.

CHAPTER 1175. Parking, Loading and Mobility Standards

Section 1175. 07 Stacking Space Requirements

- B.** Outdoor display, sales, or storage of any merchandise within any required vehicular use area shall not be permitted unless otherwise specifically permitted as regulated in [Section 1169. 10 Accessory Use and Structure Regulations](#).

1175. 07. STACKING SPACE REQUIREMENTS

- A.** The number of required stacking spaces shall be as specified in [Table 1175. 07-1: Stacking Requirements](#). See [Figure 1175. 07-1](#) for illustration of stacking spaces. Stacking spaces do not count towards the parking spaces required in accordance with [Section 1175. 04 Off-Street Parking Regulations](#).

TABLE 1175. 07-1: STACKING REQUIREMENTS		
ACTIVITY	MINIMUM STACKING SPACES (PER LANE)	MEASURED FROM
Financial Institution or Automated Teller Machine (ATM)	3	Teller or Window
Restaurant	6	Pick-Up Window
Full Service Automotive Washing Establishment	6	Outside of Washing Bay
Self-Service Automotive Washing Establishment	2	Outside of Washing Bay
Fuel or Gasoline Pump Island	2 (per side)	Pump Island
Other	As determined by the zoning commissioner	

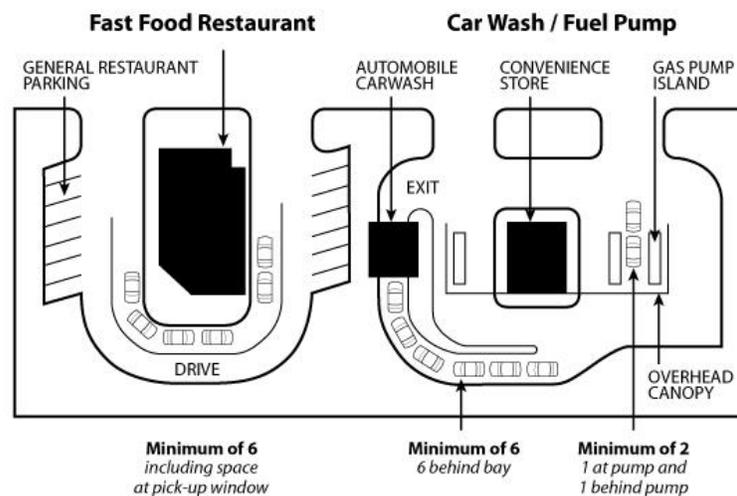


Figure 1175. 07-1: Location of stacking spaces and lanes

- B.** Stacking lanes shall be provided for any use having a drive-through facility and shall comply with the following standards:
1. Drive-through stacking lanes shall have a minimum width of 10 feet.
 2. Stacking lanes shall be set back 25 feet from rights-of-way.
 3. Stacking spaces shall be a minimum of nine feet by 18 feet in size.

CHAPTER 1175. Parking, Loading and Mobility Standards

Section 1175. 08 Parking of Recreational Vehicles

1175. 08. PARKING OF RECREATIONAL VEHICLES

The parking of recreational vehicles in any residential zoning district for 48 hours or longer shall be prohibited, except that such recreational vehicles may be stored in an enclosed garage or other accessory building or parked in the rear yard of a residential property, provided that:

- A.** No living quarters shall be maintained, or any business conducted, while the recreational vehicle is stored or parked.
- B.** The recreational vehicle is intended and used for the sole benefit and enjoyment of the resident occupants of the property on which it is stored or parked.
- C.** The recreational vehicle shall be parked or stored at least five feet from the side or rear lot lines of the property on which it is parked or stored.

1175. 09. MOBILITY AND SIDEWALKS

A. Sidewalks Along a Public Street

- 1.** Any use or building subject to the provisions of this chapter and established after the effective date of this code shall be required to provide a minimum of four foot wide sidewalk along all public streets for the full length of street frontage.
- 2.** Any established use or building that is expanded more than 50% of the existing floor area after the effective date of this code shall be required to install a minimum of four foot wide sidewalk along all public streets for the full length of street frontage.
- 3.** All sidewalks shall meet the minimum design requirements of the rules and regulations of this code and the Engineering Handbook.

B. Walkway Connections to Public Sidewalks

- 1.** There shall be one internal continuous sidewalk of at least four feet in width that provides a direct connection from the public street to the primary customer entrance or to the sidewalk along a multi-tenant building.
- 2.** This sidewalk may be located in a landscape median within a vehicular use area.
- 3.** At a minimum, all internal pedestrian walkways shall be constructed of a surface that is visually distinct from the parking area surface by use of pavers, scored or stamped concrete, or bricks. Applicants are strongly encouraged to physically separate internal walkways from the vehicular circulation drives.

CHAPTER 1175. Parking, Loading and Mobility Standards

Section 1175. 10 Off-Street Loading



Figure 1175. 09-1: Pedestrian connection through a vehicular use area.

4. Sidewalks, at least eight feet in width, shall be provided along any facade featuring a customer entrance. At all times, such sidewalks shall maintain a clear pedestrian passage not less than five feet in width. Additionally, such sidewalks shall connect all customer entrances to other internal sidewalks.
5. Sidewalks shall meet design requirements of the Americans with Disabilities Act.
6. Crosswalks shall be provided across drive aisles and access lanes to connect pedestrian paths.

1175. 10. OFF-STREET LOADING

A. Applicability

On the same premises with every building, structure, or part thereof, erected and occupied for commerce, industry, public assembly, or other uses involving the receipt or distribution by vehicles of materials or merchandise, there shall be provided and permanently maintained adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets or alleys in conformance with this section.

B. Number of Loading Spaces Required

1. [Table 1175. 10-1: Loading Space Requirements](#) establishes the number of required loading spaces.

TABLE 1175. 10-1: LOADING SPACE REQUIREMENTS	
GROSS FLOOR AREA	REQUIRED NUMBER OF SPACES
Up to 10,000 square feet	0
10,001 to 25,000 square feet	1
25,001 to 50,000 square feet	2
50,001 to 100,000 square feet	3
100,001 to 200,000 square feet	4
Over 200,000 square feet	4 plus 1 additional space every 50,000 square feet over 200,000 square feet

CHAPTER 1175. Parking, Loading and Mobility Standards

Section 1175. 10 Off-Street Loading

2. Off-street loading spaces shall not count toward any minimum parking space requirements.

C. Loading Space Design Standards

Every loading space shall be designed, constructed, and maintained in accordance with the standards and requirements set forth below:

1. Location of Required Loading Spaces

- a. Loading spaces shall be located on the same lot as the building or structure to which they are accessory.
- b. No loading space shall be located in any front yard, nor shall it permit any vehicle to extend into any front yard or across any lot lines of a more restrictive district while the vehicle is being loaded or unloaded.
- c. Subject to the limitations of [CHAPTER 1173. General Development Standards](#), the space may be located in a required side or rear yard.
- d. No space shall be located closer than 50 feet to any lot in any residential district, unless located wholly within an enclosed building, or unless enclosed on all sides by a wall or fence at least six feet in height.

2. Dimensions

Loading spaces shall have a minimum width of 12 feet, a minimum length of 40 feet and a minimum vertical clearance of 15 feet.

3. Access

- a. Loading spaces shall be designed and arranged to provide access to a street or alley in a manner that will create the least possible interference with traffic movement and parking lot circulation.
- b. No part of any truck or van that is being loaded or unloaded may extend into the right-of-way of a public thoroughfare.
- c. Loading spaces shall be designed with sufficient apron area to accommodate truck-turning movements and to prevent backing of trucks onto any street right-of-way.

4. Screening

- a. All operations, materials, and vehicles within any loading space that are visible from a public street or from any residential use shall be screened.
- b. The screening material shall be at least six feet in height and 100% opaque and shall satisfy the buffer requirements of the most restrictive adjacent district.
- c. Screening areas shall also be subject to applicable requirements and standards in [CHAPTER 1177. Landscaping and Buffer Standards](#).

CHAPTER 1175. Parking, Loading and Mobility Standards

Section 1175. 11 Traffic Access Management

5. Surfacing

All loading spaces shall be graded and provided with a durable and dustless hard surface of asphalt, concrete, or other suitable materials.

6. Drainage

All loading space areas shall provide for the proper drainage of surface water in accordance with all applicable federal, state, and city run-off control and sediment abatement regulations, to prevent the drainage of such water onto adjacent properties and onto sidewalks.

7. Lighting

The lighting of off-street loading areas shall be regulated by [Section 1173. 03 Outdoor Lighting](#).

1175. 11. TRAFFIC ACCESS MANAGEMENT

Access to off-street parking and loading areas is regulated by the City of Defiance Access Management Regulations.

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CHAPTER 1177. LANDSCAPING AND BUFFER STANDARDS

1177. 01. PURPOSE

The purpose of this chapter is to:

- A. Promote and protect the interest of the public convenience, comfort, prosperity, or general welfare in accordance with [CHAPTER 1161. General Provisions](#) of this code and the city's Tree Care and Maintenance Ordinance by providing for the planting and maintenance of trees, shrubs, and other plants within the city.
- B. Require buffering between non-compatible land uses and to protect, preserve and promote the character and value of surrounding neighborhoods, and to promote the public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature, and artificial light glare by providing for the installation and maintenance of buffer areas in accordance with the standards and requirements of this chapter.
- C. Require reasonable landscaping that is economically beneficial in attracting new residents, visitors, and businesses to the city. This chapter will enhance this via proper location and quantities of planting and landscaping. This chapter also will promote the preservation and replacement of trees and significant vegetation removed during the development of land.

1177. 02. APPLICABILITY

- A. This section shall apply to new property development, redevelopment, and any collective substantial expansion of existing structures, except for individual single-family dwellings, two-family dwellings, three-family dwellings, and parking lots of less than five spaces. Substantial expansion of existing structures shall be defined based on the criteria established below in [Table 1177. 02-1: Substantial Expansion](#):

TABLE 1177. 02-1: SUBSTANTIAL EXPANSION	
WHEN EXISTING STRUCTURE IS....	A SUBSTANTIAL EXPANSION IS...
0 - 1,000 Square Feet	50% or Greater
1,001 – 10,000 Square Feet	40% or Greater
10,001 – 25,000 Square Feet	30% or Greater
25,001 – 50,000 Square Feet	20% or Greater
50,001 Square Feet or larger	10% or Greater

- B. For expansion of structures or parking areas, the landscaping, buffering, and screening requirements shall apply to any new or expanded parking or vehicular use areas.
- C. For the expansion of structures that will decrease the setback between the structure and a residential zoning district, the buffering and screening standards of this chapter shall apply.
- D. Where there is a change in use that is more intense than the existing use, the buffering and screening standards of this chapter shall apply.

CHAPTER 1177. Landscaping and Buffer Standards

Section 1177. 03 Landscaping Materials and Standards

1177. 03. LANDSCAPING MATERIALS AND STANDARDS

A. Responsibility for Installation of Landscaping Materials

The landscaping requirements shall be provided by the person in charge of or in control of developing the property, whether as owner, lessee, tenant, occupant or otherwise.

B. Existing Landscape Material

1. Unless otherwise noted, existing landscape material in healthy condition can be used to satisfy the requirements of this chapter in whole or in part provided they meet all requirements of this chapter.
2. The city engineer shall determine satisfaction of this requirement.

C. Easements and Clear Vision

1. Required landscaping may be placed wholly or partially in utility or other easements provided all requirements can be fulfilled and approval is granted by the holder of the easements.
2. Landscaping must also be placed in the required area between the property line and the front, rear and side yard setbacks.
3. In no case shall landscaping and buffer yards be established so as to block the sight distance at street or drive intersections in accordance with [Section 1173. 06 Traffic Safety Visibility Triangle](#).

D. Landscaping Materials

Existing vegetation shall be preserved as much as possible in accordance with city tree standards in the city's Tree Care and Maintenance Ordinance. The following items are suitable for landscaping materials used individually or in combination with each other, subject to review and approval by the city engineer. Nursery stock identification tags shall not be removed from any planting prior to inspection and approval of final installation by the city.

I. Walls and Fences

- a. When walls or fences are used to fulfill screening requirements, they shall be detailed on the plan.
- b. Walls or fences are to be constructed of weather-proof materials. This includes pressure treating or painting of lumber if it is not redwood or cedar and using aluminum or galvanized hardware.
- c. Chain link fences with or without wooden or synthetic slat material shall not be allowed when used to satisfy the buffer requirements of this chapter.
- d. Walls and fences shall be designed to orient the finished side away from the subject lot so the finished side faces the adjacent lots.

CHAPTER 1177. Landscaping and Buffer Standards

Section 1177. 03 Landscaping Materials and Standards

2. Plants

- a. Plant materials used in conformance with these provisions shall conform to the American Nursery and Landscape Association and shall have passed any inspection required under state regulations. Trees shall be balled and burlapped or in containers. Shrubs, vines, and ground covers can be planted as bare root as well as balled and burlapped or from containers.
- b. The following are specific standards for landscaping materials.
 - i. **Deciduous Trees**

Deciduous trees shall have a minimum caliper of at least two inches diameter at breast height (DBH) conforming to acceptable nursery industry procedures at the time of planting. If deciduous trees are to be used for screening purposes, additional materials listed in this chapter shall be used to create a dense buffer.
 - ii. **Evergreen Trees**

Evergreen trees shall be a minimum of six feet in height at the time of planting. Evergreen plantings when used for buffer screening shall be planted at a maximum distance of 20 feet on center to provide an effective, dense screen within four years of planting.
 - iii. **Ornamental and Understory Trees**

Ornamental and understory trees shall have a minimum height of five feet or a minimum caliper of at least 1.25 inches DBH conforming to acceptable nursery industry procedures at the time of planting.
 - iv. **Shrubs and Hedges**

Shrubs and hedges shall be at least 24 inches in height at the time of planting. Unless otherwise specified in this chapter, all shrubs and hedges shall be designed to provide an effective, dense screen and mature height of at least six feet within four years after the date of the final approval of each planting. The height at installation of the planting shall be measured from the level of the surface of the plant base at the edge closest to the screening.
 - v. **Grass and Ground Cover**

Grass of the Fescus (Gramineak) or Bluegrass (Poaceae) family shall be planted in species normally grown as permanent lawns in the City of Defiance. In swales or other areas subject to erosion, solid sod, erosion reducing net, or suitable mulch shall be used and nursegrass seed shall be sown for immediate protection until complete coverage otherwise is achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases. Ground cover shall be planted at a maximum spacing of one foot on center to provide 75% complete coverage after two growing seasons.
- c. Once the minimum landscape requirements have been met, any size plant may be installed on a lot to supplement the minimum requirements.

CHAPTER 1177. Landscaping and Buffer Standards

Section 1177. 03 Landscaping Materials and Standards

3. Species Diversity

- a. To curtail the spread of disease or insect infestation in a plant species, new plantings shall comply with the approved planting material list as established in the city's Tree Care and Maintenance Ordinance and with [Table 1177. 03-1: Species Variety Requirements](#).

TABLE 1177. 03-1: SPECIES VARIETY REQUIREMENTS	
NUMBER OF TREES REQUIRED ON SITE	MAXIMUM PERCENTAGE OF TREES THAT MAY BE A SINGLE SPECIES
1 – 19	50%
20 - 39	33%
40 or more	25%

- b. Required shrubs shall utilize the same species diversity requirements.
- c. Nothing in this subsection shall be construed so as to prevent the utilization of a larger number of different species than specified above.

4. Earth Mounds

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

- a. The maximum side slope shall be 3:1 and the design shall be reviewed by the city engineer to ensure that proper erosion prevention and control practices have been utilized.
- b. Mounds and earth forms shall be designed with physical variations in height and alignment throughout their length.
- c. Landscape plant material installed on mounds and earth forms shall be arranged in an irregular pattern to accentuate the physical variation and achieve a natural appearance.
- d. The landscape plan shall show sufficient detail, including a plan and profile of the mound or earth form, soil types and construction techniques to demonstrate compliance with the above provisions.
- e. Mounds and earth forms shall be located and designed to minimize the disturbance to existing trees located on the site or adjacent thereto.
- f. Adequate ground cover shall be used and maintained to prevent erosion of the earth mound.

5. Grade Changes

In cases where grading is necessary that results in a parking lot lower in elevation than the surrounding area or adjacent right-of-way, the resulting embankment shall be planted with low shrubs and shade or ornamental trees. The type and variety of plantings shall be based on the steepness of the slope.

CHAPTER 1177. Landscaping and Buffer Standards

Section 1177. 04 Landscaping and Buffer Requirements for the CO College Overlay District

1177. 04. LANDSCAPING AND BUFFER REQUIREMENTS FOR THE CO COLLEGE OVERLAY DISTRICT

- A.** All land within the CO District that is not occupied by a structure, driveway, parking area or other permanent improvement, or in the process of being improved by the construction of such permanent facilities, shall be covered with grass, trees, shrubs, flowering plants or other vegetative ground cover, and all required plantings shall be properly maintained.
- B.** Driveway entrances, driveways, roads, sidewalks, walkways, service areas and other access ways providing entrance to nonresidential structures within the CO District shall be landscaped with a combination of groundcover, trees, shrubs or flowering plants. Grass may be used in conjunction with other plant materials but shall not be the sole or predominant landscaping material.
- C.** At the time any lot in the CO District is improved by the construction of a new principal building, or by the substantial improvement of an existing principal building, the perimeter boundary fronting any public street shall be planted with trees appropriate to local soil and climatic conditions.
 - 1.** All tree plantings required by this subsection shall be located in the front yard setback area established by the general zoning regulations applicable to the base zoning district in which the property is located.
 - 2.** The total number of trees required to be planted shall be determined by the following:
 - a.** One tree of a species that may reasonably be expected to attain a mature height of 20 feet shall be planted for each 10 feet of street frontage.
 - b.** For each tree planted or preserved that is of a species that may reasonably be expected to attain a mature height of more than 35 feet, the total number of trees required shall be reduced by three.
- D.** Property owners are encouraged to preserve mature trees when undertaking demolition or construction activities on any land within the CO District.
- E.** A variance from the minimum tree planting requirements of this section may be granted when the location or topographic characteristics of the improved lot render it impossible to plant the number of trees required without creating a sight obstruction that would endanger the safety of motor vehicle or pedestrian traffic or the available front yard setback area affords insufficient land that is suitable for the cultivation of trees in the numbers required. A variance from the minimum tree planting requirements shall be granted upon request of the property owner when the preservation of pre-existing trees renders the planting of trees in the numbers required by this section unnecessary to the achievement of the declared purposes of the CO District.
- F.** Any opening made in a walkway, sidewalk, drive, or other paved surface that is open to the general public for pedestrian use to accommodate cultivation of a tree shall be at least four feet square and fitted with commercially reasonable safeguards to prevent accidental injury to pedestrians entering upon the premises. Such safeguards may include, but are not limited to, the use of walkable grates to

CHAPTER 1177. Landscaping and Buffer Standards

Section 1177. 05 Landscape Buffer Requirements

cover the tree pit or the use of masonry, wrought iron, cast iron, steel or similarly durable decorative edging of sufficient height to prevent pedestrians from approaching the tree pit.

G. Buffer Requirements for the CO College Overlay District

1. Land that is adjacent to property in an R-1, R-2 or R-3 District shall not be used for off-street parking of motor vehicles except in strict conformity with [Sections 1175. 04 Off-Street Parking Regulations](#), [1177. 05 Landscape Buffer Requirements](#), and [1177. 06 Screening Requirements](#).
2. In the CO District, land that is used for the off-street parking of motor vehicles shall be separated from all adjacent public rights-of-way and from all adjacent properties that are located in any district that is zoned other than R-1, R-2, or R-3 by a decorative border conforming to the requirements of this subsection.
3. The perimeter landscaping required by this subsection shall consist of one of the following, located between the parking area and the property line of the premises on which such parking area is sited:
 - a. A landscaped area at least five feet wide, exclusive of sidewalks and other surface improvements, planted with at least one shrub or understory/ornamental tree at intervals of three to five feet as determined by the growth characteristics of the plantings used. Wheel stops shall be installed on the surface of the parking area to ensure that vehicles cannot overhang the plant material; or
 - b. An ornamental fence not less than three feet and no more than six feet in height constructed of cast, forged or wrought iron, steel, copper, aluminum or metal alloy of equivalent durability, or of painted steel or aluminum tubing, and landscaped with shrubbery planted at intervals of three feet or less along the outside face of the fence; or
 - c. A solid wall not less than three feet and no more than six feet in height constructed of masonry materials acceptable for use as the primary material for the facade of a building under the standards established by [Subsection 1169. 04 A. CO College Overlay District](#) and landscaped with shrubbery planted at intervals of three feet or less along the outside face of the wall.

1177. 05. LANDSCAPE BUFFER REQUIREMENTS

A. Minimum Buffer Yard

The minimum buffer requirements shall be as defined in [Subsection 1173. 02 B. 2. Yard Requirements for Nonresidential Uses Abutting Residential Districts](#).

B. Screening Requirements for Required Buffers

I. Buffer Requirement for Required Yards of 60 Feet or Wider

If the buffer yard required in [Subsection 1173. 02 B. 2. Yard Requirements for Nonresidential Uses Abutting Residential Districts](#) is 60 feet in width or wider, the yard shall incorporate a 40

CHAPTER 1177. Landscaping and Buffer Standards

Section 1177. 05 Landscape Buffer Requirements

foot wide, six foot tall earth mound and a double row of staggered evergreen trees planted a maximum of 15 feet on center.

2. Buffer Requirements for Required Yards Less than 60 Feet Wide

If the buffer yard required in [Subsection 1173. 02 B. 2. Yard Requirements for Nonresidential Uses Abutting Residential Districts](#) is less than 60 feet in width, the yard shall incorporate one of the following options:

- a. A staggered row of evergreen trees and ornamental trees planted a maximum of 15 feet on center, and a single hedge row with evergreen shrubs a minimum of six feet high; or
- b. A six foot high fence or wall or an earth mound, and a three foot tall hedge with deciduous shrubs and one deciduous tree planted a maximum of 30 feet on center; or
- c. One deciduous tree planted a maximum of 30 feet on center, and a double row hedge with evergreen shrubs a minimum of six feet high.

3. Buffer Design Standards

- a. Buffers shall not be located on any portion of an existing, dedicated, or reserved public right-of-way or private ingress/egress easement.
- b. The buffer shall be provided on the lot that is being developed.
- c. On sloped areas the buffer shall be located to maximize its effectiveness.
- d. No construction shall be permitted within a required buffer other than a wall, fence, or mound, or a driveway in the front yard connecting a parking area on the lot to a street or to a parking area on an abutting lot. A driveway in the side yard that connects a paving area on the lot to the street shall not encroach into the buffer area.
- e. Subsurface constructions are permitted provided the required buffer is placed above said subsurface constructions and further provided no part of a subsurface construction protrudes above the ground surface.

4. Buffering for Off-Street Parking Adjacent to Residential Districts

- a. Off-street parking areas for five or more vehicles shall be effectively screened on each side which adjoins or faces premises situated in any residential district by a masonry wall or solid fence.
- b. The wall or fence shall be not less than three feet or more than six feet in height.
- c. The wall or fence shall be maintained in good condition without advertising.
- d. In lieu of the wall or fence, a buffer a minimum of 10 feet wide planted and maintained with an evergreen hedge or dense planting of evergreen shrubs not less than three feet in height may be substituted.

CHAPTER 1177. Landscaping and Buffer Standards

Section 1177. 06 Screening Requirements

1177. 06. SCREENING REQUIREMENTS

A. Intent and Applicability

In addition to the buffer requirements ([Section 1177. 05 Landscape Buffer Requirements](#)) and interior landscaping requirements ([Section 1177. 07 Interior Landscaping Requirements for Parking Areas](#)), screening shall be required to conceal specific areas of high visual or auditory impact, or hazardous areas, from both on-site and off-site views. Such areas shall be screened at all times, unless otherwise specified, regardless of adjacent uses, districts, or other proximate landscaping material.

B. Items to be Screened

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

1. Large waste receptacles (dumpsters) and refuse collection points (including cardboard recycling containers), but not including drop-off boxes for use by the public (see [Subsection 1169. 10 D. 8. Drop-Off Boxes](#)).
2. In the R-3 District, multi-family residences or dwellings when abutting or adjacent to single-family dwellings or housing.
3. Off-street parking areas for five or more vehicles which adjoin or face premises situated in any residential district or used for institutional or residential purposes.
4. Loading and service areas, including any areas where tractor-trailers will be stored, adjacent to a residential use or district.
5. Outdoor storage areas (including above ground storage tanks) not subject to the outdoor storage requirements of [Subsection 1169. 10 D. 13. Outdoor Bulk Storage](#).
6. Mechanical equipment and utility meters located in the front yard and not located on, and screened by, the building or structure.
7. Other areas as required by planning commission to protect adjacent properties.

C. General Provisions

1. Where vegetative and/or topographic conditions that provide a natural screening and buffer exist prior to development of the properties in question, every effort shall be made to retain such conditions. In such cases, additional screening may not be required, provided that provision is made for maintenance of such condition to the satisfaction of the city.
2. Required screening areas shall be provided by the owner and/or developer as a condition of development.
3. All required screening (including the planting of trees and other vegetation) shall be maintained by the property owner. Failure to maintain the required screening areas to accomplish their intended purpose shall constitute a violation of this code under [CHAPTER 1183. Enforcement and Penalties](#).

CHAPTER 1177. Landscaping and Buffer Standards

Section 1177.06 Screening Requirements

4. Areas to be set aside as screening areas shall be identified on the plans required for zoning permit review.
5. It shall be unlawful to occupy any premises unless the required screening has been installed in accordance with the requirements as provided herein.

D. Screening Requirements

1. All screening shall be approved during the zoning permit review.
2. All items to be screened shall be shielded from view from public roads and adjoining property.
3. All items to be screened shall be provided with a visual screen consisting of solid fences, masonry walls, mounds or plant materials or a combination thereof.
4. The screening shall be at least one foot higher than the item to be screened but not less than six feet in height, but shall not exceed 10 feet in height, and shall extend along three sides of the service area.
5. For large waste receptacles (dumpsters), a gate shall be required on the fourth side where access is provided to the dumpster. The gates shall be opaque enough to shield from view the interior of the service area.
6. All plant materials used for required screens around service areas shall be of an evergreen variety.
7. If an adjacent building provides screening on one side of the service area, only two sides need to be screened, mounded, or walled, with a gate required in front of the service area. The gate shall be opaque enough to shield from view the interior of the service area.
8. Roof mounted mechanical equipment shall be screened by parapet walls or other screening device with height not lower than six inches below the height of mechanical equipment. (Also see [Section 1173.04 Architectural Design Standards.](#))

E. Fence or Wall Screens

1. Solid fences or masonry walls shall be compatible with the architectural materials and patterns of the principal structure.
2. Under no circumstances shall a wall for screening purposes be constructed of unfinished concrete or cinder block.
3. Ornamental, see-through fences are permitted up to four feet in height in yards fronting on a public street. Other fences, planting material and similar screening devices are permitted up to three feet in height in front yards to within five feet of a right-of-way intersection. Fences and screening devices are permitted in side or rear yards up to six feet in height to within 10 feet of a right-of-way intersection. Refer to [Subsection 1173.01 F. Corner Lots](#) for corner lots.
4. Injurious materials, such as barbed wire, razor ribbon, electric fences, or spike fences, are not permitted in any residential area, unless the same are used to protect a public facility, and then the same shall not be lower than six feet.

CHAPTER 1177. Landscaping and Buffer Standards

Section 1177. 07 Interior Landscaping Requirements for Parking Areas

5. Fencing and walls shall be maintained in good condition at all times and shall be kept free of advertising and other signage.

F. Mound Screens

1. Mounds shall be a minimum of three feet in height if other screening materials are used (fences or plant materials). If no other screening materials are used, the mounds shall be a minimum of six feet in height.
2. When mounds are to be used in conjunction with planting materials to screen residential uses, the mound plus any trees shall be of sufficient height to screen the first story of the residential uses.

G. Curbing or Bollards

Whenever screening material is placed around any large waste receptacle (dumpster) or waste collection unit which is emptied or removed mechanically on a regular basis, a curb or bollards to contain the placement of the container shall be provided within the screening material. The curbing or bollards shall be at least one foot from the material and shall be designed to prevent possible damage to the screening when the container is moved or emptied.

1177. 07. INTERIOR LANDSCAPING REQUIREMENTS FOR PARKING AREAS

A. Amount of Landscaping Required

1. For all parking areas with five or more parking spaces, a total of 10% of the paved area (not including loading spaces or stacking lanes/spaces) shall be landscaped under the provisions of this section.

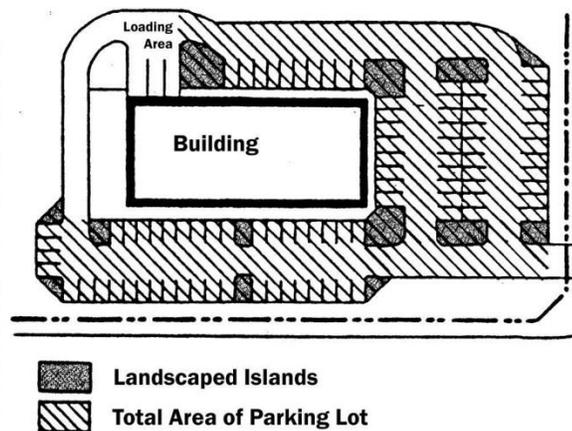


Figure 1177. 07-1: Parking Lot Interior Calculation

The required landscaping shall be located within landscaped islands. Landscaped areas that extend into parking areas from the perimeter landscaping may count toward this requirement but only that area that extended into the parking area.

CHAPTER 1177. Landscaping and Buffer Standards

Section 1177. 07 Interior Landscaping Requirements for Parking Areas



Figure 1177. 07-2: Landscaping and screening is intended to soften the appearance of large expanses of parking areas and can also provide areas for storm water management.

2. Landscaped islands shall be developed and distributed throughout the parking lot to define major circulation aisles and driving lanes; and to provide visual and climatic relief from broad expanses of pavement.
 - a. Each island shall have a minimum dimension of nine feet in any horizontal direction.
 - b. Landscape islands shall be located at the end of each parking row with a minimum size of 135 square feet for single loaded parking rows, and a minimum size of 270 square feet for double loaded rows. See [Figure 1177. 07-1](#).
 - c. No more than 15 parking spaces shall be located in a continuous row without being interrupted by a landscaped island.
 - d. **Island Planting Requirements**
 - i. There shall be a minimum of two deciduous trees and four shrubs provided for every 15 parking spaces, or fraction thereof; such trees shall be planted within the required landscaped islands.
 - ii. Each individual landscape island shall include a minimum of one tree and two shrubs.
 - iii. Additional shrubs or low, spreading plant materials may be planted within the required landscaped islands provided there is no impairment to the visibility of motorists or pedestrians.
 - iv. The landscape medians/islands that separate every fourth row of parking spaces, running the full length of the parking area, shall be planted with a minimum of one tree per 40 lineal feet. Sidewalks and/or pedestrian paths may be incorporated into these medians.
 - v. The trees and shrubs shall be distributed throughout the parking lot islands to decrease the appearance of a single expanse of pavement and to create a canopy effect.

CHAPTER 1177. Landscaping and Buffer Standards

Section 1177. 07 Interior Landscaping Requirements for Parking Areas

- vi. The area not covered by the canopy of the tree, but within an interior landscape area, shall be covered by shrubs, grass, ground cover, landscape gravel, or mulch.
3. The landscaped islands shall be protected by the installation of continuous curbs or wheel stops with a height of six inches, except as modified to accommodate storm water run-off.
4. The landscaped islands should be designed, to the maximum extent feasible, to accommodate storm water run-off. The use of porous pavement and/or specially designed brick or block is encouraged to increase on-site water detention for plant material and ground water supplies and to reduce problems associated with run-off.

B. Perimeter Landscaping Requirements

All surface vehicular use areas designed for five or more parking spaces shall be screened in accordance with this subsection.

I. Perimeter Adjacent to Property Line

Vehicular use areas shall maintain a minimum five foot perimeter planting strip along adjacent private property lines and public rights-of-way unless the vehicular use area is adjacent to or a continuation of a vehicular use area on an adjacent property.

- a. The minimum planting strip width may be reduced to five feet through the provision of an ornamental metal fence or masonry wall constructed in accordance with the following:
 - i. The wall or fence shall have a minimum height of three feet and a maximum height of six feet;
 - ii. A masonry wall shall have a minimum opacity of 75% of the entire wall surface along any single lot line;
 - iii. The wall or fence shall be supplemented with 30-inch high evergreen shrubs planted between the fence or wall and the lot line a minimum of three feet on center.
- b. The planting strip shall contain a continuous hedge composed of a double-staggered row of evergreen shrubs with a minimum planting height of 30 inches and a maximum on-center spacing of three feet.
- c. Up to 25% of the shrubs may be deciduous.
- d. In addition to the required shrubs, the planting strip shall include canopy trees that shall be provided at a rate of 2.5 trees per 100 lineal feet of the perimeter of the vehicular use area. Clustering or grouping of these trees is permitted.
- e. Understory trees may be used in areas where the presence of overhead utilities prevents the use of canopy trees.
- f. Trees may be planted in front of, behind, or within the hedge, as long as a continuous hedge is maintained.

CHAPTER 1177. Landscaping and Buffer Standards

Section 1177.08 Maintenance

2. Building Perimeter

When a building is not abutted by a sidewalk, shrubs shall be placed around the building perimeter of the primary facade a minimum of three feet from the building. Building perimeter landscaping is not required when loading, service, or drive-through service access areas are adjacent to the building. See [Figure 1177.07-3](#).



Figure 1177.07-3: Building perimeter planting.

1177.08. MAINTENANCE

- A.** All landscaping materials shall be installed and maintained according to accepted nursery industry procedures. The owner of the property shall be responsible for the continued property maintenance of all landscaping materials and shall keep them in a proper, neat, and orderly appearance, free from refuse and debris at all times.
- B.** Unhealthy and dead plants that are required as part of these requirements shall be replaced within one year, or by the next planting season, whichever comes first.
- C.** Violation of these maintenance practices shall be a violation of this code.

1177.09. MODIFICATIONS

The planning commission may approve modifications to the buffer or landscaping requirements of this chapter. The planning commission shall base its decision on all of the following criteria:

- A.** The specific conditions which are unique to the applicant's land.
- B.** The manner in which the strict application of the provision of this chapter would deprive the applicant of a reasonable use of the land in a manner equivalent to the use permitted other landowners in the same district.
- C.** The unique conditions and circumstances are not the result of actions of the applicant subsequent to the adoption of this chapter.

CHAPTER 1177. Landscaping and Buffer Standards

Section 1177.09 Modifications

- D.** Reasons that the modification shall preserve, not harm, the public safety and welfare, and shall not alter the essential character of the neighborhood.
- E.** A demonstration that the applicant has provided for a buffer or landscape area that achieves the spirit of this chapter.

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CHAPTER 1179. SIGN STANDARDS

1179. 01. PURPOSE

- A.** The purpose of this chapter is to promote public health, safety and welfare by establishing reasonable regulations governing the size, character, location and structural integrity of signs and other advertising structures. This chapter is enacted to promote:
1. Vehicular and pedestrian safety by prohibiting signage that obstructs the view of or distracts attention from traffic control devices;
 2. Vehicular and pedestrian safety by eliminating visual obstructions resulting from signage located adjacent to or over public rights-of-way;
 3. Public safety by establishing design and maintenance standards for advertising structures that reduce the risk of fire, collapse and fragmentation and by providing for the inspection and removal of advertising structures that have become unsafe;
 4. Public safety by prohibiting signs that interfere with firefighting and rescue efforts;
 5. Economic well-being by permitting commercial enterprises to use advertising structures of sufficient size to fulfill communicative needs while prohibiting excessively large structures and sign competition that tends to depreciate the value of adjacent properties; and
 6. Community development consistent with the comprehensive plan and the maintenance of high quality land use districts for all zoned uses by prohibiting signs that are inappropriate to their environs.
- B.** All standards are to be construed in favor of promoting vigorous political debate and accommodation of the rights of residents and visitors to speak freely. The provisions of this chapter shall be uniformly enforced without regard to the content of any advertising message or the identity of the proponent of that message.

1179. 02. APPLICABILITY AND GENERAL STANDARDS

- A.** The regulations contained within this chapter shall apply to all signs and to all zoning districts.
- B.** No sign shall be erected, established, modified, created, or maintained in the City of Defiance without the issuance of a zoning permit as established in [Section 1165. 10 Zoning Permit](#) and the payment of fees unless otherwise exempted in this chapter.
1. No zoning permit is required for the maintenance of a sign or for a change of copy on painted, printed, or changeable copy signs.
 2. Changes of sign panels or letters require a zoning permit.
- C.** No sign shall obstruct or interfere with traffic or traffic visibility, or resemble or imitate signs or signals erected by the city or other governmental agency for the regulation of traffic or parking.

CHAPTER 1179. Sign Standards

Section 1179.02 Applicability and General Standards

- D.** No sign shall be permitted as the principal use on a premises. Signs shall be permitted only as accessory uses unless otherwise specified in this chapter. Billboards and outdoor advertising devices are not permitted.

E. Illumination

1. All signs, except as specifically stated in this chapter, may be illuminated by internal or reflected light, provided that such illumination shall:
 - a. Be shielded from all adjacent residential buildings and all streets;
 - b. Not have an intensity to cause glare visible to pedestrians or vehicle drivers, nor shall the illumination be of such brightness as to cause reasonable objection from adjacent residential districts; and
 - c. No illuminated sign shall be permitted if any part of the sign flashes on or off, has lighting that moves or illustrates movement, or displays changing degrees of intensity in illumination. This regulation applies to signs located outside of buildings, and to window signs inside buildings that can be seen from the outside. This prohibition on flashing, moving, or intermittent lighting shall not apply to public service devices exempted in [Subsection 1179.04 B.](#) or electronic messages centers permitted per [Subsection 1179.07 C.](#)
2. Signs shall not be lighted so as to obstruct traffic control or other public information signs.
3. Any sign having an outside power source shall obtain a permit and electrical inspection to govern safety and conformity with the National Electrical Code (NEC).

F. Construction Standards

1. Signs shall be structurally sound and located so as to pose no threat to pedestrian or vehicular traffic.
2. Signs shall be fabricated on and be of materials which are of good quality, of good durability and complementary to the building of which they become a part.
3. All wiring, fittings, and materials used in the construction, connection, and operation of electrically illuminated signs shall be in accordance with the provisions of the National Electric Code (NEC).
4. No sign of any classification shall be installed, erected, or attached to a structure in any form, shape, or manner that is in violation of building or fire code of the city or the State of Ohio.
5. The construction, erection, safety and maintenance of signs shall comply with the state building codes.
6. Permanent signs shall be constructed and erected to withstand wind pressures and shall be fastened, suspended or supported so that they will not be a menace to persons or property.
7. No sign shall be erected so as to project over and obstruct any window, door, fire escape, balcony, platform, stairway, ladder, vent or other means of ingress of any building.

CHAPTER 1179. Sign Standards

Section 1179.02 Applicability and General Standards

8. No sign shall be attached to a utility pole, tree, trash receptacle, bench or other structure not intended or approved as a sign support.
 9. Temporary signs shall be durable and weather-resistant.
- G.** No sign shall be erected on public property or within any public right-of-way except by governmental authorities in the discharge of a governmental function or pursuant to a license to occupy the right-of-way granted in accordance with Section 131.03 of the city regulations.

H. Signs in the Central Business District and Design Review Board

1. Signs in the Central Business District are subject to review and approval of the Design Review Board as established in [Section 1163.08 Design Review Board for Central Business District \(CBD\)](#).
2. A zoning permit is required in accordance with the requirements of [Section 1165.10 Zoning Permit](#).
3. The Central Business District as used in this section means the area bounded by:
 - a. The water's edge on the west bank of the Auglaize River between the centerline of Hopkins Street/Fifth Street and the confluence of the Auglaize and Maumee Rivers;
 - b. The water's edge on the south bank of the Maumee River between the confluence of the Auglaize and Maumee Rivers and the point at which the centerline of Jackson Avenue would intersect the water's edge if extended north of the intersection of Jackson Avenue and First Street;
 - c. The centerline of Jackson Avenue between the points of intersection with the water's edge on the south bank of the Maumee River and the centerline of Thurston Street;
 - d. The centerline of Thurston Street between the points of intersection with the centerlines of Jackson Avenue and Clinton Street;
 - e. The centerline of Clinton Street between the points of intersection with the centerlines of Thurston Street and Arabella Street;
 - f. The centerline of Arabella Street between the points of intersection with centerlines of Clinton Street and Jefferson Avenue;
 - g. The centerline of Jefferson Avenue between the points of intersection with the centerlines of Clinton Street and Fifth Street;
 - h. The centerline of Fifth Street between the points of intersection with the centerlines of Jefferson Avenue and Washington Avenue;
 - i. The centerline of Washington Avenue between the points of intersection with the centerline of Fifth Street; and
 - j. The centerline of Fifth Street between the points of intersection with the centerline of Washington Avenue and the water's edge on the west bank of the Auglaize River.

1179.03. SIGN COMPUTATIONS

The following principles shall control the computations of sign area, height, and setback.

A. Sign Face or Area

1. The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that shall encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color that is an integral part of the background of the display or used to differentiate the sign from backdrop or structure against which it is placed.
2. The calculation for the sign face area does not include any supporting framework, bracing, or decorative fence or wall unless such structural support is determined by the zoning commissioner to constitute an integral part of the sign design or is determined to be designed to attract attention. See Figure 1179.03-1.

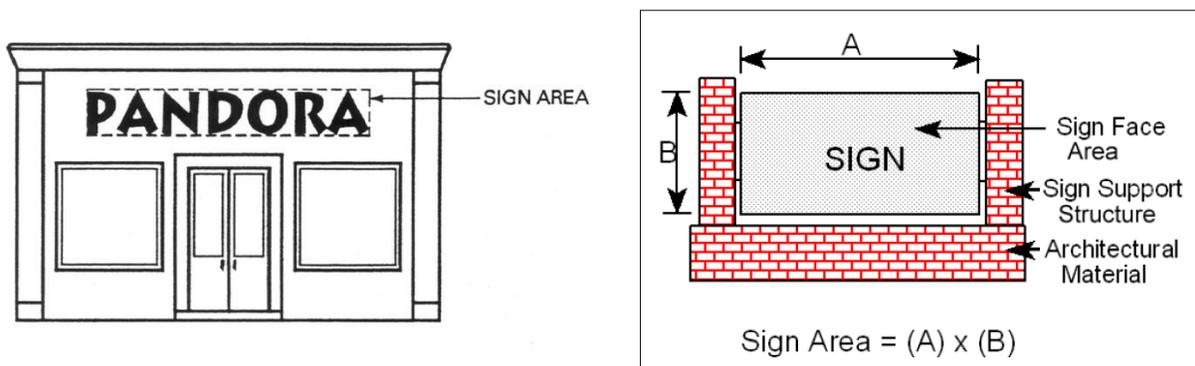


Figure 1179.03-1: Illustration of sign area calculation for a wall sign (left) and a monument sign (right).

3. The sign area for a sign with more than one face (multi-faced signs) shall be computed by adding together the area of all sign faces visible from any one point.
4. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any one point at the same time, and when such sign faces are part of the same sign structure and are not more than 24 inches apart, the sign area shall be computed by the measurement of one of the faces.
5. No more than two display faces shall be permitted for freestanding and projecting signs.
6. In the case of irregularly shaped three dimensional signs, the area of the display surface shall be measured on the plane of the largest vertical cross section.
7. When calculating sign area, fractional amounts are not required to be rounded.

B. Street and Building Frontage

1. The building frontage is the length of an outside building wall on a public or private street.

CHAPTER 1179. Sign Standards

Section 1179.04 Prohibited Signs

2. For multi-occupant buildings, the portion of a building that is owned or leased by a single occupant shall be considered a building unit. The building frontage for a building unit shall be measured from the centerline of the party walls defining the building unit.

C. Window Area

Where the sign area is based on the total window area, the window area shall be calculated as the total area of glass windows on the building frontage.

D. Sign Height

1. The height of a sign shall be computed as the distance from the average natural grade at the base of the sign or support structure to the top of the highest attached component of the sign.
2. A freestanding sign on a man-made base, including a graded earth mound, shall be measured from the average natural grade, where the sign is to be located, prior to the addition of the sign.

E. Sign Setbacks

1. The required setbacks for a sign shall apply to all elements of the sign including its frame and base.
2. The setback of a freestanding sign shall be measured horizontally from the edge of the sign frame to the street right-of-way line or lot line, as applicable.

1179.04. PROHIBITED SIGNS

The following types of signs are specifically prohibited within the city:

- A. Signs in the right-of way unless specifically permitted in this chapter (See also [Section 1179.05 Signs Not Requiring a Permit](#)).
- B. Signs exhibiting animated graphic illustrations, flashing or rotating lights or mirrors, banners, pennants, ribbons, streamers, spinners, or similar devices that move or change appearance shall not be erected in any place that is visible from a public right-of-way or from publicly or privately owned land customarily open to vehicular traffic. This paragraph does not prohibit the erection of public service devices that display the date, time, temperature, or news information in a manner that does not imitate or distract attention from traffic control devices.
- C. Roof signs and signs that extend above or beyond the building façade, except as otherwise specifically permitted in this chapter.
- D. Flags intended for advertising or commercial purposes.
- E. Signs emitting sounds.
- F. All portable advertising signs (mobile signs on wheels, etc.) and signs mounted, attached, painted, etc. on trailers, boats or motor vehicles except those on licensed commercial delivery and service vehicles (See [Figure 1179.04-1](#)).

CHAPTER 1179. Sign Standards

Section 1179. 05 Signs Not Requiring a Permit



Figure 1179. 04-1: Examples of prohibited sign types.

- G.** Beacons and searchlights, except for emergency purposes.
- H.** Off-premises signs and outdoor advertising signs.
- I.** Flashing, moving, blinking, racer type, intermittent, rotating, or revolving signs, whirligig devices, inflatable signs and tethered balloons, ribbons, spinners, exposed light bulbs, and strings of lights not permanently mounted to a rigid background, and other similar types of attention-getting devices.
- J.** Merchandise, equipment, products, vehicles or other items not themselves for sale and placed for attention-getting, identification or advertising purposes.
- K.** Permanent signs erected or attached to accessory structures.
- L.** Abandoned signs, obscene signs, portable signs, roof signs, and vehicular signs are declared to be a public nuisance and are prohibited.

1179. 05. SIGNS NOT REQUIRING A PERMIT

The following signs do not require a zoning permit. Each sign exempt from the permit process shall still comply with any applicable height, area, and locational standards established in this chapter.

- A.** Wall signs permitted on residential dwellings.

CHAPTER 1179. Sign Standards

Section 1179.05 Signs Not Requiring a Permit

- B.** Governmental signs for control of traffic and other regulatory purposes, street signs, warning signs, railroad crossing signs, and signs of public service companies for the purpose of safety.
- C.** Flags, emblems and insignia of any governmental agency or political subdivision and temporary displays of a patriotic, religious, charitable, or civic character.
- D.** Commemorative plaques by recognized historical agencies.
- E.** Interior signs within a stadium, open-air theater, shopping center, arena, or other use, which signs can be viewed only by persons within such stadium, open-air theater, shopping center, arena, or other use.
- F.** A window sign that does not exceed 10 square feet in area and does not cover more than 25% of area of the window.
- G.** A sign that is an integral part of the original construction of a vending machine, fuel pump or similar device.
- H.** A cornerstone incorporated into a building.
- I.** A plaque or nameplate not exceeding three square feet in area that is permanently affixed to a building as a wall sign.
- J.** Monuments and markers within cemeteries.
- K.** Letters and numbers less than six inches in height identifying the address of any structure.
- L.** Signs located on the Defiance College campus, or other campus, and oriented to campus occupants or visitors, and not directed to the general public.
- M.** A non-illuminated temporary monument sign less than 12 square feet in area and six feet in height installed in accordance with the provisions of [Section 1179.08 Temporary Signs](#).

N. Temporary Signs Without a Commercial Message

- 1.** Temporary signs without a commercial message shall not be posted in any place or in any manner that is destructive to public property upon posting or removal.
- 2.** Temporary signs that do not contain a commercial message shall be set back a minimum of 10 feet from the street right-of-way line.
- 3.** The maximum height of temporary signs without a commercial message shall be six feet.
- O.** Directional monument signs, with no commercial message, not to exceed two signs per driveway indicating entrance and exit locations with a maximum permitted sign area of six square feet and a maximum height of four feet.

CHAPTER 1179. Sign Standards

Section 1179.06 Signs Permitted in Residential Zoning Districts

1179.06. SIGNS PERMITTED IN RESIDENTIAL ZONING DISTRICTS

The following are the signs permitted in residential zoning districts along with all applicable standards of this chapter:

A. Wall Signs On Dwellings

One wall sign is permitted on each individual lot used for residential purposes provided the sign is mounted flush to the façade of the principal dwelling and does not exceed two square feet.

B. Development/Subdivision Signs

1. Signs identifying the principal entrances to subdivisions are permitted for any subdivision or housing development.
2. Signs identifying multi-family housing facilities are permitted in districts zoned R-3.
3. Signs identifying mobile home parks are permitted in districts zoned R-4.

4. General Standards

All development/subdivision signs are subject to the following standards:

- a. Each sign may have a maximum sign area of 24 square feet not including any fencing, wall, supporting brick, stone, or any other material used to frame, brace or otherwise provide structural support for the sign on which the sign is located.
- b. No such sign shall exceed six feet in height.
- c. The sign may only be illuminated through an external light source.
- d. A maximum of one permanent monument sign or two signs attached to a supporting wall or fence may be permitted for each primary subdivision or development entrance.
- e. The sign shall be set back a minimum of 10 feet from the public right-of-way.
- f. The sign shall be set back a minimum of 10 feet from any adjacent lot lines.

C. Signs for Agricultural or Nonresidential Uses

1. One on-site, permanent wall or monument sign may be permitted for any nonresidential use in a residential zoning district provided the sign meets the following requirements:
 - a. The monument sign shall be set back a minimum of 10 feet from the public right-of-way.
 - b. The monument sign shall be set back a minimum of 10 feet from any adjacent property line.
 - c. The monument sign shall be set back a minimum of 25 feet from any adjacent residential use.
 - d. The maximum sign area shall be 36 square feet.
 - e. No such sign or any portion of the structure shall exceed 10 feet in height.
 - f. Up to 50% of the sign may include manual changeable copy signage.

CHAPTER 1179. Sign Standards

Section 1179.07 Signs Permitted in Nonresidential Zoning Districts

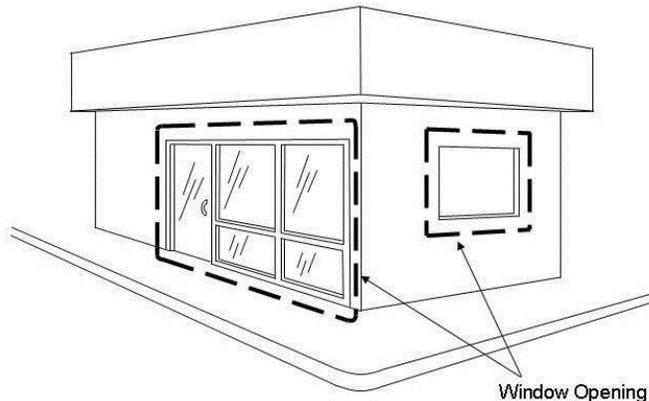


Figure 1179.07-1: The window area to be used in calculation of sign area.

3. Wall, Canopy, and Projecting Signs

- a. The maximum wall, canopy, and projecting sign area in nonresidential zoning districts, except B-3 and B-4 Districts, shall be 1.5 square feet for each foot of building frontage.
- b. The maximum wall, canopy, and projecting sign area for a building located in a B-3 or B-4 District may be increased subject to the following:
 - i. If the building is located more than 200 feet from a principal public right-of-way from which the sign is viewed, then the maximum allowable sign area shall be 1.75 square feet for each foot of building frontage.
 - ii. If the building is located more than 400 feet from a principal public right-of-way from which the sign is viewed, then the maximum allowable sign area shall be 2.00 square feet for each foot of building frontage.
- c. In the case of a multi-tenant building, the above calculation shall apply to the area of the front building wall elevation for the individual tenant.
- d. No wall, canopy, or projecting sign shall project above the roof line.
- e. Wall signs shall not project more than 18 inches from the building wall and shall not extend above the wall or beyond the wall to which they are attached.
- f. Wall, canopy or projecting signs may contain changeable copy.
 - i. Electronic message centers for wall, canopy or projecting signs are only permitted in the B-3 and B-4 Districts.
 - ii. In the B-3 and B-4 Districts, electronic message center signs shall comply with the following:
 - A) Any message change shall be a static, instant message change.
 - B) Messages can only change once every 10 seconds or more.
 - C) The transition time between messages shall be less than one second.

CHAPTER 1179. Sign Standards

Section 1179.07 Signs Permitted in Nonresidential Zoning Districts

- D) The electronic message center shall come equipped with an automatic dimming photocell, which automatically adjusts the display's brightness based on ambient light conditions.
- E) The brightness level shall not increase by more than 0.3 footcandles (or 3.23 lumens per square meter or lux) (over ambient levels) as measured using a footcandle meter at a pre-set distance.
- F) The procedure and distances for measurement of brightness shall be as established by the International Sign Association's Recommended Night-time Brightness Levels for On-Premises Electronic Message Centers.
- G) The owners of such signs shall include a signed letter accompanying their zoning permit application, certifying that they will comply with the prescribed brightness limitations set by this code.
- H) Only Light Emitting Diodes (LED) technology shall be permitted for electronic message centers. The maximum pitch for LED sign shall be 35 millimeters. The pitch is the industry standard for measuring the distance between light points.

4. Marquee Signs

- a. The maximum area of a marquee sign shall be the greater of 1.5 square feet for each foot of building frontage or the perimeter of the three exposed sides of a marquee measured in feet multiplied by five square feet.
- b. Marquee signs shall have a minimum vertical clearance of 10 feet above the grade of any adjacent sidewalk.
- c. Marquee signs shall have a minimum vertical clearance of 14 feet above the grade of any driveway or other area open to vehicular traffic.
- d. A marquee sign shall not extend above the roof line of the building to which it is attached.

5. Monument or Pole Signs

a. Location in Landscaped Area

Both pole signs and monument signs shall be located in a landscaped area equal to or larger than the total sign area of the applicable sign. Such landscaped area may be an area that fulfills the requirements of [CHAPTER 1177. Landscaping and Buffer Standards](#).

b. Maximum Height

- i. Monument signs shall not exceed five feet in height unless the lowest horizontal element is elevated more than nine feet above the adjacent grade.
- ii. The maximum height of a pole sign shall be 30 feet.
 - A) Properties adjacent to a limited access highway may have a sign with a maximum height of 50 feet.

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c. Permitted Sign Area for Monument or Pole Signs

The maximum area of each face of a monument or pole sign shall be the lesser of 1.5 feet for each foot of frontage, or 250 square feet, and not to exceed the maximum aggregate sign area per [Subsection 1179.07 C. 1.](#)

d. Setback

- i. All signs shall be set back a minimum of 10 feet from any side lot line.
- ii. All signs shall be set back a minimum of 25 feet from any lot in a residential zoning district.
- iii. No freestanding sign may be located within 150 feet of any other freestanding sign located adjacent to the same side of the same public right-of-way.

e. Changeable Copy Signs

- i. Up to 50% of a permitted monument or pole sign may incorporate a changeable copy sign.
- ii. In the B-3 and B-4 Districts, the changeable copy sign may be an electronic message center provided:
 - A) Any message change shall be a static, instant message change.
 - B) Messages can only change once every 10 seconds or more.
 - C) The transition time between messages shall be less than one second.
 - D) The electronic message center shall come equipped with an automatic dimming photocell, which automatically adjusts the display's brightness based on ambient light conditions.
 - E) The brightness level shall not increase by more than 0.3 footcandles (or 3.23 lumens per square meter or lux) (over ambient levels) as measured using a footcandle meter at a pre-set distance.
 - F) The procedure and distances for measurement of brightness shall be as established by the International Sign Association's Recommended Night-time Brightness Levels for On-Premises Electronic Message Centers.
 - G) The owners of such signs shall include a signed letter accompanying their zoning permit application, certifying that they will comply with the prescribed brightness limitations set by this code.
 - H) Only Light Emitting Diodes (LED) technology shall be permitted for electronic message centers. The maximum pitch for LED sign shall be 35 millimeters. The pitch is the industry standard for measuring the distance between light points.
- iii. Electronic message centers are permitted in zoning districts that allow business establishments that sell gasoline or other vehicle fuels for the display of product prices.

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6. Menu Board Signs

- a. One menu board sign for each stacking lane in a drive-through facility shall be allowed provided it does not exceed 48 square feet in sign area. Any additional attachments such as pictures or photographs of food and other items shall be included within the maximum signage area.
- b. Menu board signage shall not be included in the total calculated allowed signage for a property under the remainder of this chapter.
- c. No menu board sign shall exceed seven feet in height measured from the grade of the adjacent driving surface to the top of the sign.
- d. All menu board signs shall be internally illuminated.
- e. Menu boards shall be reviewed and approved as part of the zoning permit for the drive-through establishment or, when a menu board is to be added, as part of a separate zoning permit application.
- f. The menu sign board shall be located in a landscaped area equal to or larger than the total sign area of the menu board. Such landscape area may also be counted toward any landscaping requirements in [CHAPTER 1177. Landscaping and Buffer Standards](#).

D. Additional Regulations for Signs in the Central Business District

1. Mounting heights between a minimum of 10 feet and maximum of 14 feet above the pavement shall be maintained, unless otherwise authorized by the design review board.
2. The minimum distance between the ends of a sign and the end of the building shall be two feet.
3. The maximum height of the letters shall be 16 inches.
4. The maximum height of the sign shall be 2.5 feet.
5. Sign area shall be calculated by multiplying the front linear footage of the building frontage times 1.25, which shall be equal to the total sign area in square feet.
6. Sign area for neon signs shall be calculated by multiplying the front linear footage of the building frontage times 0.75, which shall be equal to the total sign area in square feet.
7. Professionally hand-lettered windows shall not cover more than 25% of the area of the window and/or 25% of the total glazed area of the building or shop. Letters shall not be larger than nine inches.
8. Projecting signs shall not be internally illuminated.
9. The maximum dimensions of a projecting sign shall be three feet long by two feet, six inches high, and they shall be able to be supported without guy wires or any other means of support other than the hanging bracket.
10. Pylon or pole signs and vacuform box signs are prohibited. Exceptions may be authorized by the design review board.
11. Window signs in the Central Business District shall not be electronic changeable copy signs.

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E. Signs in the CO College Overlay District

Signs in the CO College Overlay District shall conform to all requirements of [CHAPTER 1179. Sign Standards](#) applicable to the underlying zoning district in which the proposed sign is to be erected and the requirements of this subsection.

1. Maximum Height of Monument Sign

- a. Monument signs shall not exceed five feet in height.
- b. Pole signs are prohibited in the CO College Overlay District.

2. Monument signs shall be oriented perpendicular to the curb fronting the property on which the sign is located.

3. The maximum area of each face of a monument sign shall be 48 square feet.

4. Support structures for monument signs shall be of low reflectance materials, finished in colors compatible with the coloration of the primary façade of the building to which they pertain.

5. Monument signs shall be landscaped in a manner compatible with the landscaping of adjacent driveways and vehicular use areas

6. Each property shall be permitted to erect only one monument sign unless that property fronts two or more public streets. If the property fronts two or more streets, the property owner shall be permitted to erect one monument sign facing each street, or at the property owner's election, a single monument sign bisecting the angle of the intersecting streets on which the property presents frontage.

7. Public service devices otherwise allowed by [Section 1179. 04 Prohibited Signs](#) shall not be erected within the CO College Overlay District.

8. Temporary construction signs shall not exceed 48 square feet in area.

9. Variances

- a. No variance shall be granted from the requirements of this subsection.
- b. No variance shall be granted from any applicable regulation of [CHAPTER 1179. Sign Standards](#) within the CO College Overlay District except that a variance may be granted from [Subsection 1179. 07 C. 5. d.](#) setback where, due to lot dimensions or existing signage on adjacent properties, strict application of [Subsection 1179. 07. C. 5. d.](#) would prevent the erection of monument signage on the property for which such signage is proposed.
- c. The BZBA shall not, however, grant such variance unless it first finds that the use of a sign other than a monument sign would fail to meet the legitimate communicative needs of the property owner or that the use of a sign that is not subject to the minimum spacing requirements of [Subsection 1179. 07 C. 5. d.](#) would be inconsistent with achievement of harmonious design throughout the CO College Overlay District or other declared purpose for which the CO College Overlay District is established.

10. Nothing in this subsection shall be construed to prohibit the erection of any sign that is not required to have a permit, [Section 1179. 05 Signs Not Requiring a Permit](#).

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Section 1179.08 Temporary Signs

F. Temporary Signs in Nonresidential Zoning Districts

Each individual lot in a nonresidential zoning district shall be permitted temporary signs in accordance with the provisions of [Section 1179.08 Temporary Signs](#) and other regulations of this standard.

1179.08. TEMPORARY SIGNS

The following temporary signs shall be permitted anywhere within the city provided they meet the established standards.

A. General Definitions Related to Temporary Signs

1. Temporary signs shall be as defined in this code and may include, but are not limited to, political signs, real estate signs, and special event signs.
2. Temporary signs with a commercial message include, but are not limited to, real estate signs, signs that reference the sale of items or other business-related activities, or signs that include text classified as a commercial message.
3. Temporary signs that do not contain a commercial message include, but are not limited to, political signs and any other sign with text that is not classified as a commercial message.

B. Standards That Apply to All Temporary Signs

1. No temporary sign shall be mounted, attached, affixed, installed, or otherwise secured by any permanent means to any building, permanent sign, other structure, or improvement, or to the ground upon which it is erected.
2. No temporary sign shall be mounted, attached, affixed, installed, or otherwise secured so as to protrude above the roof of a structure.
3. Lighting shall be prohibited for temporary signs.
4. Portable, temporary signs are permitted provided they are tied down to prevent damage to other structures or property and are not located on a wheeled or other transport chassis.
5. No temporary sign shall be located in a right-of-way.

C. Temporary Signs for Development/Construction

1. One temporary, on-premises sign may be posted on the site where a development project or subdivision is under construction.
2. A zoning permit shall be required for the sign.
3. The sign may be posted 60 days prior to and throughout the duration of construction.
4. Such signs shall not exceed 32 square feet in area per side (two sides maximum).
5. The maximum height of the signs shall be six feet.
6. The setback and location of the temporary sign shall be approved by the zoning commissioner.
7. The applicant must submit a request to renew the applicable zoning permit every six months.

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Section 1179.08 Temporary Signs

D. Temporary Signs for Special Events

1. For nonresidential uses in residential districts, or for any uses in nonresidential districts, one temporary, on-premises sign may be used announcing special events on-site and may be erected for a total of 30 days and must be removed two weeks after the event with the occurrence of no more than three a year. The signs shall meet the following standards:
 - a. A zoning permit shall be required for the sign.
 - b. Such signs shall not exceed 40 square feet in area per side (two sides maximum).
 - c. The maximum height of the signs shall be six feet.
 - d. The setback and location of the temporary sign shall be approved by the zoning commissioner.
 - e. A 30-day extension may be granted by the zoning commissioner.
2. When a new business has received zoning compliance inspection approval, a zoning permit, or a change in business name or ownership, and the permanent sign has not been installed, one additional temporary sign may be permitted until the permanent sign has been installed, or not more than 60 days, whichever is less. Such sign shall meet the same standards as established in [Paragraph \(1.\)](#) above.

E. Temporary Signs on Properties with a Garage or Yard Sale

Temporary signs may be placed on a residential lot (without a zoning permit) that is or will be hosting a garage or yard sale for a period of time beginning 24 hours in advance of said sale and shall be removed immediately after the completion of the garage or yard sale.

F. Temporary Signs on Properties for Lease, Sale, or Business Service

1. Temporary Signs on Properties for Lease or Sale in Residential Districts

Up to two temporary signs that contain a commercial message may be permitted on an individual lot (without a zoning permit). Such signs shall be limited to six square feet or less in sign area and five feet in height.

2. Temporary Signs on Properties for Lease or Sale in Nonresidential Districts

- a. Up to two temporary signs that contain a commercial message may be permitted on an individual lot (without a zoning permit). Such signs shall be limited to six square feet or less in sign area and five feet in height.
- b. In addition to the above two temporary signs, a larger temporary sign is allowed in a nonresidential district provided it complies with the following requirements:
 - i. The owner of the property where the sign will be located shall apply for and receive a zoning permit for the sign;
 - ii. There shall be a limit of one sign per lot and such sign shall not exceed 32 square feet per side with a maximum of two sides;

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- iii. A zoning permit shall be required for the sign.
- iv. The maximum height shall be eight feet;
- v. The setback and location of the temporary sign shall be approved by the zoning commissioner; and
- vi. The applicant must submit a request to renew the applicable zoning permit every six months.

3. Business Service Signs

One temporary sign recognizing a business service performed on property is permitted on an individual lot (without a zoning permit). Such sign shall be limited to six square feet or less in sign area and five feet in height. Such sign may be displayed for a maximum of 30 days.

G. Temporary Signs Without a Commercial Message

In accordance with [Section 1179.05 Signs Not Requiring a Permit](#), a zoning permit is not required for temporary signs without a commercial message. See [Subsection 1179.05 M. Temporary Signs Without a Commercial Message](#).

1179.09. NONCONFORMING SIGNS

- A. A sign conforming to the regulations prevailing on the effective date of this chapter, but which does not conform to this chapter, or any amendment hereto, shall be construed as a legal nonconforming use.
- B. Any sign which becomes a nonconforming sign due to a zoning change shall be considered a legal nonconforming sign and shall be treated in accordance with this section.
- C. Nonconforming signs shall be maintained in good condition pursuant to [Section 1179.10 Maintenance](#).
- D. Nonconforming signs shall be removed and any subsequent modification or replacement (excluding maintenance pursuant to [Section 1179.10 Maintenance](#)) shall conform to this chapter when:
 1. More than 50% of the value of the sign has been destroyed or has been taken down; or
 2. The use to which the nonconforming sign is accessory is vacant for 90 consecutive days. Permanent signs associated with a seasonal business may be exempted.
- E. A nonconforming sign shall not be altered, modified or reconstructed, other than to comply with this chapter, except:
 1. When the existing use has new ownership which results in a change in the name of the use or business on the property;
 2. When the space is reoccupied by a similar use and the new occupant requires no external building or site renovation; or

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Section 1179. 10 Maintenance

3. When a new sign pursuant to Paragraphs (1.) or (2.) above is changed by replacing a sign panel or by repainting a sign face only. Such alterations shall not require changes to the structure, framing, erection or location of the sign unless such changes conform to this chapter.
- F. A nonconforming sign that is not removed within the time periods as specified in this section, in compliance with the order, may be removed by the city at the expense of the property owner. To recover the costs from the property owner, the city may certify the total cost, together with a proper description of the land, to the Defiance County Auditor to place such costs upon the tax duplicate, or the city may commence a civil action against the property owner for the costs.

1179. 10. MAINTENANCE

- A. The property owner shall maintain all signs in a safe and attractive condition for the intended use.
- B. For the purposes of this chapter, a sign is not legally maintained if any of the following occur: the appearance of rust, cracks, electrical defects, fraying, chipped paint or other materials, structural defects or other defects, or if the commercial message of the sign no longer pertains to any business activity on the site upon which the sign is located. Such factors shall cause it to be presumed that a sign has been abandoned and is not being legally maintained.
- C. The property owner of such a sign may receive notice from the city to return the sign to its original satisfactory condition within 60 days of the date of the notice. Unless the property owner complies with the notice, signs which are abandoned and are not being legally maintained in accordance with this code or other applicable regulations of the city, are hereby declared to be a nuisance contributing to visual blight and are hereby determined to be abandoned. The property owner also has a continuing obligation to comply with all building and housing code requirements of the city.
- D. If the sign is deemed by the zoning commissioner to be in an unsafe or abandoned condition, the owner of the property shall be immediately notified, in writing, and shall, within 48 hours of such notification, correct such unsafe condition or remove the sign. If the correction has not been made within 48 hours, the zoning commissioner may remove such unsafe sign or cause such unsafe sign to be removed, repaired or maintained at the expense of the property owner. To recover the costs from the property owner, the city may certify the total cost, together with a proper description of the land, to the Defiance County Auditor to place such costs upon the tax duplicate, or the city may commence a civil action against the property owner for the costs.
- E. All lighting of signs shall be fully functional as designed or the lighting shall be turned off until such time as such non-functioning lighting has been fixed.
- F. Whenever any sign, either conforming or nonconforming to this chapter, is required to be removed for the purpose of repair, relettering or repainting, the same may be done without obtaining a zoning permit or paying fees, provided that all of the following conditions are met:
 1. There is no alteration or remodeling to the structure or the mounting of the sign itself.
 2. There is no enlargement or increase in any of the dimensions of the sign or its structure.
 3. The sign is accessory to a legally permitted or legally nonconforming use.

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CHAPTER 1181. NONCONFORMITIES

1181.01. PURPOSE

Within the districts established by this code, some lots, uses of lands or structures, or combinations thereof may exist which were lawful prior to the effective date or amendment of this code, but that are prohibited, regulated, or restricted under the terms of this code. The legitimate interest of those who lawfully established these nonconformities are herein recognized by providing for the continuance of such uses, subject to regulations limiting their completion, restoration, reconstruction, extension, and/or substitution. Nevertheless, while it is the intent of this code that such nonconformities be allowed to continue until removed, they should not be encouraged to survive, unless otherwise allowed in this chapter or specifically addressed in this code.

1181.02. GENERAL PROVISIONS

- A.** Any use, building, structure, land or premises that exists at the time of the effective date of this code that was legally established under a previous code amendment or versions may be continued although such use, building, structure, or use of land does not conform to the provisions of this code.
- B.** Passage of this code in no way legalizes any illegal uses existing at the time of its adoption.
- C.** An applicant for any development review procedure that deals with a nonconformity shall bear the burden of proof in demonstrating that the use was a legal nonconformity on the effective date of this code.
- D.** It is not the intention herein to classify as nonconforming a use or building allowed in a district as a conditional use or structure under the regulations of this code.

E. Zoning Registration for Nonconforming Uses

The owner or lessee of a nonconforming structure, use, or lot may register such nonconforming structure, use, or lot with the zoning commissioner who shall maintain a permanent record of such registrations of nonconforming uses. The zoning commissioner shall inspect such property and shall certify that such nonconforming use is in existence or operation on the date such registration is made.

1181.03. NONCONFORMING USES

Where, at the time of adoption of this code, lawful uses of land or structures exist that would not be permitted by the regulations of this code, the uses may be continued so long as they remain otherwise lawful and provided:

- A.** No such nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land that was occupied at the effective date of adoption or amendment of this code unless it complies with the provisions of [Subsection 1181.03 E. Expansion of a Nonconforming Use](#).

CHAPTER 1181. Nonconformities

Section 1181.03 Nonconforming Uses

- B.** No such nonconforming use shall be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this code.
- C.** No additional structures shall be constructed on a lot with a nonconforming use unless such new structure complies with the requirements of this code and the applicable zoning district.

D. Change or Substitution of Nonconforming Use

- 1.** The lawful use of an existing building or structure can be continued, although such use does not conform to the provisions of this code. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted use (as determined by the code enforcement officer) or to a conforming use.
- 2.** Whenever a nonconforming use is changed to a less intensive use, such use shall not thereafter be changed to a more intensive nonconforming use.

E. Expansion of a Nonconforming Use

- 1.** Notwithstanding the foregoing provisions to the contrary, a structure containing a nonconforming residential use may be increased or improved, regardless of the applicable zoning district, provided the structure continues to be used for residential purposes only.
- 2.** Notwithstanding the foregoing provisions to the contrary, a structure containing a nonconforming, nonresidential use, may be increased or improved, regardless of the applicable zoning district, where the owner of such use can demonstrate through application to the BZBA that the manner in which the useable area of the nonconforming use will be increased or improved will have minimal adverse impact upon adjacent properties and other permitted land uses in the surrounding neighborhood or can be made compatible with the adjacent properties and the uses in the surrounding neighborhood upon compliance with specified conditions.
- 3.** Variances to expand a nonconforming use into a required setback or to otherwise vary a regulation that applies to the subject site shall be prohibited.
- 4.** The BZBA shall review a request to expand a nonconforming use pursuant to the variance procedure in [Subsection 1165.08 D. 4. Sign Variance](#), and shall be subject to the review criteria of this section.

F. Existing Use Reclassified as a Conditional Use

In the event an existing use that was permitted by right at the time the use was established is thereafter reclassified as a conditional use in the applicable district due to a zoning text amendment, such use shall be considered to be an approved conditional use without any further action. However, any subsequent change to such use shall require review and approval by the planning commission in accordance with this chapter and [Section 1165.07 Conditional Use Permit](#). Such use, provided it is conditionally permitted in the applicable district, shall not be considered a nonconforming use.

CHAPTER 1181. Nonconformities

Section 1181.04 Nonconforming Structures

G. Termination of Nonconforming Uses

1. Termination of Use through Discontinuance

A nonconforming use which is discontinued for a period of one year shall not again be used except in conformity with the regulations of the district in which it is located (unless the same is in litigation and the litigation has started within the first 12 months).

2. Termination of Use by Damage or Destruction

- a. If a nonconforming single-family residential use in a nonresidential district is damaged or destroyed to any extent, such structure and use may be reestablished on the same lot. Such reestablishment of the use shall require the issuance of a zoning permit.
- b. If a nonconforming, nonresidential use in a residential district is damaged, but not to an extent greater than 50% of the principal structure's value, such structure and use may be reestablished on the same lot to the same size and intensity of use as was previously existing immediately prior to the damage or destruction. Such reestablishment of the use shall require the issuance of a zoning permit.
- c. If a nonconforming, nonresidential use in a residential district is damaged beyond 50% of the principal structure's value, such structure and use may only be reestablished with approval by the BZBA after consideration of surrounding uses and the impact of the nonconforming use.

H. Exceptions for Existing Industries

Nothing in this code shall prohibit the expansion of present industries at the same or adjoining properties (including across streets), provided that the land classification is the same as that of the industry, and that setback and yard dimensions are not less than those in existence around the original property at the time of enactment of this code. Lesser yard requirements for expansion of existing industries shall be determined, upon application, by the BZBA.

1181.04. NONCONFORMING STRUCTURES

A nonconforming building or structure may continue to be used or occupied by a use permitted in the applicable zoning district so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:

- A. Any nonconforming structure may be enlarged, maintained, repaired, or altered provided, however, no such enlargement, maintenance, repair or alteration shall either create an additional nonconformity or increase the degree of the existing nonconformity of all or any part of such structure, unless otherwise specified in this code.
- B. A nonconforming structure shall not be relocated in whole or in part to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the applicable zoning district after being relocated.

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Section 1181.05 Nonconforming Lots

- C. The principal use of a nonconforming building may be changed to any other use permitted in the applicable zoning district as long as the new use complies with all regulations of this code specified for such use, except the regulations to which the building did not conform prior to the change in use.
- D. The governmental acquisition of a portion of a lot for a public purpose that results in reduction in a required yard or building setback below that required in the applicable zoning district shall not render a structure nonconforming.
- E. A nonconforming trailer or mobile home, once removed, shall not be replaced by another unit, unless the replacement is installed within one week of the removal of the previous unit.

F. Damage or Destruction of a Nonconforming Structure Containing a Conforming Use

1. If a nonconforming structure is damaged, such structure and use may be reestablished on the same lot to the same size and intensity of use as was previously existing immediately prior to the damage or destruction. Such reestablishment of the use shall require the issuance of a zoning permit. If an owner rebuilds a legally nonconforming structure under this provision, they may expand the structure provided, as stated in [Subsection 1181.04 A.](#), any expansion or change does not increase the nonconformity that existed prior to the damage.
2. If a nonconforming structure is damaged beyond 50% of the principal structure's value, such structure shall only be rebuilt in compliance with the requirements of this code.
3. If the owner voluntarily removes the structure or reduces the nonconformity, that has not been damaged or destroyed, that owner shall not be permitted to rebuild the structure to the original height, size, or setback.

1181.05. NONCONFORMING LOTS

A nonconforming lot of record may be used in accordance with this section.

A. Existing Lots of Record

1. Any lot of record 60 feet or less, existing on the effective date of this code in any R-2 or R-3 District, may be used for the erection of a single-family dwelling even though its area and width are less than the minimum requirements set forth in this code. Each side yard shall be a minimum of five feet.
2. Any lot of record 85 feet or less, existing on the effective date of this code in any R-1 District, may be used for the erection of a single-family dwelling even though its area and width are less than the minimum requirements set forth in this code. Each side yard shall be a minimum of eight feet.
3. BZBA approval shall not be required when the provisions above apply.

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Section 1181.05 Nonconforming Lots

B. Adjacent Existing Lots of Record

1. Where two adjacent lots of record held by one owner do not meet the minimum yard requirements of the zoning districts in which they are located, the BZBA may require that the lots be combined and used for one main building.
2. The prevailing setback requirement shall be met.
3. Where three or more contiguous, unimproved lots of record, with less than the required area and width, are held by one owner, the BZBA may require the re-platting to fewer lots to permit compliance with the minimum yard requirements.

C. Nonconforming Lots of Record in Residential Districts

1. If an existing lot of record in a residential district is occupied by a dwelling, such dwelling shall be maintained and may be repaired, modernized or altered, provided that:
 - a. The building shall not be enlarged in floor area unless the enlarged section complies with all regulations of this code, with the exception of the lot area and the lot width regulations.
 - b. The number of dwelling units shall not be increased unless in conformance with this code.
2. In any residential district, a single-family dwelling and its customary accessory uses may be erected on a vacant single lot of record after the effective date of this code provided the buildings comply with the following:
 - a. The width of the side yard of any such lot need not exceed 10% of the width of the lot, provided, however, that there shall be a minimum side yard setback of five feet.
 - b. The rear yard setback of any such lot need not exceed 20% of the depth of the lot, provided, however, that the minimum rear yard setback shall be 10 feet.
 - c. Notwithstanding the above provision, any construction proposed on an existing lot of record that is a panhandle lot which results in a proposed dwelling unit being constructed behind an existing dwelling shall be reviewed by the BZBA. The BZBA shall review the placement of the building on the lot and may require screening to protect the privacy of the existing dwelling unit.

D. Nonconforming Lots of Record in Nonresidential Districts

In any nonresidential district, a use that is permitted in the applicable district, and its customary accessory uses, may be erected on a vacant lot of record provided the buildings comply with the following:

1. The width of the side yard of any such lot need not exceed 10% of the width of the lot, provided, however, that there shall be a minimum side yard setback of five feet.
2. The rear yard setback of any such lot need not exceed 20% of the depth of the lot, provided, however, that the minimum rear yard setback shall be 10 feet.
3. In no case shall a nonresidential use on a nonconforming lot of record be exempt from the provisions of [CHAPTER 1177. Landscaping and Buffer Standards](#).

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CHAPTER 1183. ENFORCEMENT AND PENALTIES

1183. 01. ENFORCING OFFICER

It shall be the duty of the zoning commissioner to enforce this code. The zoning commissioner is hereby authorized to enforce, issue orders to prevent and stop violations, and administer the provisions of this code. The zoning commissioner may be assisted by other personnel.

1183. 02. REMEDIES

If any building is located or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used, or any land is used or is proposed to be used, in violation of code, or any amendment or supplement thereto, the zoning commissioner, the law director, or any adjacent or neighboring property owner who would be especially damaged by the violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, enjoin, abate or remove the unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.

1183. 03. NOTICE OF VIOLATION

The notice of any violation of the code shall be as follows:

- A.** Whenever the zoning commissioner determines that there is a violation of any provision of this code, a notice of such violation shall be issued. Such notice shall:
 - 1. Be in writing;
 - 2. Identify the violation;
 - 3. Include a statement of the reason or reasons why it is being issued and refer to the section of this code being violated; and
 - 4. State the time by which the violation shall be corrected.
- B.** Service of the notice of the violation shall be as follows:
 - 1. By personal delivery to the person or persons responsible, or by leaving notice at the usual place of residence of the owner with a person of 16 years or older; or
 - 2. By certified mail, and first class simultaneously, addressed to the person or persons responsible at a last known address. Service shall be deemed complete when a certified mail receipt is received or first class mail is not returned after 10 days of mailing; or
 - 3. By posting a copy of the notice form in a conspicuous place on the premises found in violation.

1183. 04. PENALTIES

- A.** Any person, firm, or corporation violating any regulation, provision, amendment, or supplement of this code, or failing to obey any lawful order of the zoning commissioner, shall be deemed guilty of a

CHAPTER 1183. Enforcement and Penalties

Section 1183.05 Affected Parties

minor misdemeanor and shall be fined not more than \$500.00 or the maximum amount allowed by the ORC. Each and every day during which the illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues may be deemed a separate offense.

- B.** Whoever willfully violates any rule or regulation adopted by city council for the purpose of setting standards and requiring and securing the construction of improvements within a subdivision, or fails to comply with any order issued pursuant thereto, shall forfeit and pay more than \$1,000.00. This sum may be recovered with costs in a civil action brought in any court with jurisdiction.
- C.** Whoever willfully transfers any lot, parcel or tract of such land from or in accordance with a plat of a subdivision before such plat has been recorded in the Defiance County Recorder's office, shall forfeit and pay up to \$500.00 for each lot, parcel or tract of land so sold. The description of the lot, parcel or tract by metes and bounds in the deed or transfer shall not serve to exempt the seller from the forfeiture provided in this section. If the land is within the city, such sum may be recovered in a civil action brought in any court with jurisdiction by the law director in the name of the city.
- D.** Whoever disposes of, offers for sale or leases for a time exceeding five years, any lot or any part of a lot in a subdivision with intent to violate this code shall forfeit and up to \$500.00 for each lot or part of a lot so sold, offered for sale or leased, to be recovered with costs in a civil action, in the name of the finance director, for the use of the city.

1183.05. AFFECTED PARTIES

The owner or tenant of any building, structure, premises, or part thereof, and any architect, engineer, surveyor, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation may be found guilty of a separate offense and suffer the penalties herein provided.

1183.06. OTHER ACTION

Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation including issuing a misdemeanor citation for a continuing code violation.

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CHAPTER 1185. DEFINITIONS

1185. 01. RULES OF CONSTRUCTION AND INTERPRETATION

A. Intent

All provisions, terms, phrases, and expressions contained in this code shall be construed according to stated purpose and intent of this code.

B. 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.

C. References to Other Regulations, Publications, and Documents

Whenever reference is made to an ordinance, statute, regulation, or document, that reference shall be construed as referring to the most recent edition of such regulation (as amended), ordinance, statute, or document, or to the relevant successor document, unless otherwise expressly stated.

D. Public Officials and Agencies

All public officials, bodies, and agencies to which references are made are those of the City of Defiance, unless otherwise expressly stated.

E. 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.

F. 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.

G. Mandatory and Discretionary Terms

The word “shall” is always mandatory, and the words “may” or “should” are always permissive.

H. Conjunctions

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

1. “And” indicates that all connected items, conditions, provisions, or events shall apply; and
2. “Or” indicates that one or more of the connected items, conditions, provisions, or events shall apply.

CHAPTER 1185. Definitions

Section 1185. 02 Definitions

I. 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.

J. Gender

The masculine shall include the feminine, and vice versa.

K. Meaning

For the purpose of this code, words and phrases shall have the meanings set forth in this chapter.

L. Context

For the purposes of this code, the definitions included in [Section 1185. 02 Definitions](#) shall apply unless the context clearly indicates or requires a different meaning.

M. 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.

1185. 02. DEFINITIONS

Abutting or Adjacent

The land, lot, or property adjoining the property in question along a lot line or separated only by an alley, easement, or street.

Access or Access Point

Any driveway or other point of entry and/or exit such as a street, road, or thoroughfare that connects to the general street system. Where two public roadways intersect, the secondary roadway shall be considered the access.

Access Control

The regulation of the number, type, and frequency of access points along a given roadway, and the design standards to which they should conform.

Access Management Plan or Regulations

A roadway design plan which designates access locations and their design for the purpose of bringing public roadways into conformance with their access classifications to the extent feasible.

Accessory Retail Sales

The sale of products manufactured, produced, stored, or marketed on-site at an office, office-warehouse, or industrial use.

Accessory Structure

A structure (such as a garage) incidental to the main use of the land or building.

Accessory Use

A use incidental to the main use of the land or building.

CHAPTER 1185. Definitions

Section 1185. 02 Definitions

Adult Family Home or Small Residential Facility

A residence or facility, as defined and regulated in Chapter 3722 of the Ohio Revised Code, which provides accommodations for three to five unrelated adults and provides supervision and personal care services to at least three of the unrelated adults.

Adult Group Home or Large Residential Facility

A residence or facility, as defined and regulated in Chapter 3722 of the Ohio Revised Code, which provides accommodations for six to 16 unrelated adults and provides supervision and personal care services to at least three of the unrelated adults.

Agriculture

Farming, dairying, pasturage, horticulture, viticulture, animal and poultry husbandry, and limited processing and sale of agriculture products from land under the same ownership.

Airport

Facilities used for the landing or taking off of aircraft, which provides facilities for the shelter, supply, or care of aircraft, or for receiving or discharging passengers and cargo, and all associated airport buildings or other associated airport facilities and right-of-way.

Alley

A narrow public or private thoroughfare that provides secondary access to abutting properties and is not intended for through traffic.

Alteration

Any change, addition, or modification in construction, type of occupancy, increase in floor space, the consummated act of which may be referred to herein as "altered" or "reconstructed."

Amateur Radio Transmitter or Antenna

An antenna, related supporting mast or tower, and transmitter used in amateur radio (a.k.a., ham radio) for the purpose of transmitting and receiving radio signals in conjunction with an amateur radio station licensed by the Federal Communications Commission (FCC).

Amusement Park

A commercially operated grouping of entertainment attractions, rides, and other events in one location for the enjoyment of large numbers of people.

Animal Hospital and Veterinarian Clinic

A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use of a kennel shall be limited to short-term boarding and shall be related and incidental to the hospital use.

Apartments on Upper Floors

A multi-family dwelling unit that is located above the ground floor level of a building, usually a "mixed use building."

Appeal

An appeal of an administrative decision made by the zoning commissioner, considered by the BZBA, in accordance with [Section 1165. 09 Appeals](#).

CHAPTER 1185. Definitions

Section 1185.02 Definitions

Applicant

Unless otherwise specified, an owner of a property or an agent for the owner, including a subdivider, developer, attorney, or similar representative, who has filed an application for development review pursuant to [CHAPTER 1165. Development Review Procedures](#).

Application

The process by which the applicant submits a request for any type of development review or approval identified in [CHAPTER 1165. Development Review Procedures](#). Applications include all written documentation, verbal statements, and representations, in whatever forms and quantities required by the city.

Arterial or Arterial Street

A multi-lane roadway that allows for access at at-grade public street intersections; restricts direct property access; provides access and mobility at moderate to high speeds and volumes in rural areas and low to moderate speeds and volumes in urban areas; and serves interregional, intercity, and intra-city travel demands.

Authorized Agent

A person with express written consent to act upon another person's behalf.

Automated Teller Machines (ATM)

An automated device that performs banking or financial functions.

Automotive Fuel Sales

Any building or land used for the retail dispensing or sales of vehicular fuels and including, as an accessory use, the sale and installation of lubricants, tires, batteries and similar accessories.

Automotive Repair

Any general repair, rebuilding, reconditioning, body or fender work, framework, painting or the replacement of parts to motor vehicles. See also definition for "truck, trailer, and farm implement sales and service."

Automotive Sales or Rental

Any building or land used for the display, sale or rental of new or used motor vehicles or trailers in operable condition. See also definition for "truck, trailer, and farm implement sales and service."

Automotive Service

Any business that derives or expects to derive more than 50% of its gross revenue from the maintenance of automobiles and trucks. Examples of maintenance include but are not limited to: oil changes, tire replacement, light suspension work, coolant system repair, air conditioning system maintenance and repair, audio, or exhaust system repair. See also definition for "truck, trailer, and farm implement sales and service."

Awning

A shelter protecting from and supported by the exterior wall of a building, constructed of non-rigid materials on a supporting framework. See also the definition of "canopy."

Bakery

An establishment for preparing, cooking, baking, and selling of products on the premises.

PLANNING AND ZONING CODE

CHAPTER 1185. Definitions

Section 1185.02 Definitions

Banks and Financial Institutions

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, credit unions, savings and loan institutions, mortgage companies and facilities for automated teller machines (ATMs).

Banner

See definition for “Sign, Banner”.

Bar or Tavern

An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises. A tavern shall be this type of establishment where food may also be available for consumption on the premises.

Base Zoning District

Any zoning district designated on the Official Zoning Map that is not an overlay or PUD-designated district.

Basement

A building story having part but not more than half of its height above grade. A basement used for storage, a garage for the use of building occupants, janitor quarters, or for other utilities common to the rest of the building shall not be counted as a story.

Bed and Breakfast Establishment

A single-family residence where sleeping rooms are offered for pay to transient guests for a period of stay of 14 days or less in association with breakfast the next day.

Best Management Practice (BMP)

Any practice or combination of practices that is determined to be the most effective, practicable (including technological, economic, and institutional considerations) means of preventing or reducing the amount of pollution generated by nonpoint sources of pollution to a level compatible with water quality goals. BMPs may include structural practices, conservation practices, and operation and maintenance procedures, as well as non-structural practices, such as setbacks or buffers.

Billboard

See definition for “Sign, Outdoor Advertising”.

Bioretention Swale

A bioretention system that is located within the base of a swale and incorporates special types of landscaping and vegetation to enhance water quality and improve overall storm water management and is a type of infiltration BMP.

Block

The area within the perimeter of roads, property lines, or boundaries of the subdivision, including the pavement.

Board of Zoning and Building Appeals (BZBA)

The City of Defiance Board of Zoning and Building Appeals.

CHAPTER 1185. Definitions

Section 1185.02 Definitions

Boarding House

A building other than a hotel where, for compensation, and by arrangement, meals or lodging and meals are provided for one or more persons, but not exceeding six persons. Boarding houses include homes for battered wives, homes for mental rehabilitation, and similar facilities.

Buffer Yard

An area of natural or planted vegetation adjoining or surrounding a land use and unoccupied in its entirety by any building structure, paving, or portion of such land use, for the purposes of separating, screening, and softening the effects of the land use. A buffer yard may include a wall, fence, or berm as provided in accordance with the provisions of [CHAPTER 1177. Landscaping and Buffer Standards](#).

Building

Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, or property.

Building Frontage

The length of any exterior wall of a building facing a public right-of-way. In a building that is subdivided by a party wall or walls into spaces with separate exterior entrances, "building frontage" means the length of the exterior wall or walls of the building facing the public right-of-way measured to the center of the party wall or walls. In the event a building or building unit fronts more than one public right-of-way, the "building frontage" shall be separately calculated for each facade.

Building Line

A line parallel to the street right-of-way line at any story level of a building and representing the distance which all or any part of the building is to be set back from the said right-of-way.

Building Materials Sales and Storage

Any land or buildings used primarily for the storage and sales of basic building materials that may be sold to the general public or contractors.

Building, Nonconforming

A building that lawfully occupied a lot at the effective date of this code, or amendments thereto, and that does not currently conform to the regulations of the applicable zoning district.

Building, Principal

A building in which the principal use of the lot is conducted.

Building Trades and Services

Businesses related to the construction of buildings including, but not limited to, carpentry, electrical, plumbing, and heating/air conditioning, and the like.

Bulk Plant

A gas or liquid bulk storage facility (permanently located and non-transferable) that is intended to store a commodity until broken down into smaller quantities and shipped or reshipped to its final destination.

Bus, Converted or Chopped

A recreational structure created by altering or changing an existing automobile, van, or bus to make it into a recreational vehicle as defined within this code.

CHAPTER 1185. Definitions

Section 1185.02 Definitions

Business Services

Commercial support activities, including carrier services, office supplies, computer making and printing.

Business Zoning District

A term used to refer to all land of one of the following business zoning designations: O-R Office-Residential District; B-1 Neighborhood Business District; B-2 Central Business District; B-3 Highway and General Business District; and B-4 Community Shopping Center District.

Bypass

A road passing around a city or its center to provide an alternative route for through traffic.

Camper, Pick-Up (Slide-In)

Recreational structure designed to be mounted temporarily or permanently in the bed of a light truck, with the truck having either single or double rear wheels, and with or without an assisting extra tab axle and wheels mounted on the truck or camper chassis behind the truck's rear wheels. These campers can be readily dismantled from the truck bed. When removed from the truck bed, "pick-up (slide-in) campers" and "truck cabs" are called unmounted campers, and the truck chassis is no longer considered a recreational vehicle.

Canopy

A structure other than an awning, made of cloth, metal, or other material with frames affixed to a building and/or carried by a frame which is supported by the ground. See also the definition of "awning."

Car Wash

An establishment wherein automobile and other vehicular equipment is washed and cleaned manually or automatically.

Cemetery

Land used for the burial of the human dead and dedicated for cemetery purposes, including columbaria, crematories, mausoleums and mortuaries, if operated in connection with and within the boundaries of such cemetery.

Certified Professional in Erosion and Sediment Control (CPESC)

A person that has subscribed to the Code of Ethics and has met the requirements established by the CPESC Council of Certified Professionals in Erosion and Sediment Control, Inc. to be a CPESC.

Channel

A natural stream that conveys water, or a ditch or channel excavated for the natural flow of water.

Charitable or Philanthropic Institution

Institutions organized to provide humanitarian or charitable assistance.

Chassis Mount

See "Motor Home".

City

The City of Defiance, Ohio.

CHAPTER | 185. Definitions

Section | 185. 02 Definitions

City Administrator

The City Administrator of the City of Defiance, Ohio.

City Council

The City Council of the City of Defiance, Ohio.

City Engineer

The City Engineer of the City of Defiance, Ohio.

Club, Lodge, or Other Social Meeting Place

A building or portion thereof, or premises, owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit, or for rendering a service which is customarily carried on as a business.

Collector or Collector Street

A roadway that allows for access at at-grade public street intersections, restricts direct property access, provides access and mobility at low to moderate speeds, and connects local or second class collector streets to arterial roadways.

Commercial Entertainment Facilities

Any activity conducted for gain which is generally related to the entertainment field, such as motion picture theaters, amusement parks, nightclubs, dance halls, and similar entertainment activities.

Commercial Message

Any sign, wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

Community Center, Public

A public building that can be used for a gathering spot of community members that may have kitchen facilities, meeting rooms, or indoor recreational facilities.

Community Garden

A single piece of land that is gardened collectively by a group of people that may include individual garden plots designated for individual gardens.

Completely Subdivided

A tract of land that is divided into as many lots as the subdivider intends for the tract at the time he or she presents it to the planning authority.

Comprehensive Plan

The long-range plan for the desirable use of land, as adopted by the planning commission, the purpose of such plan being, among other purposes, to serve as a guide in the future development for the community.

Conservation

The wise use and management of natural resources.

Construction Dumpster

A container used for the temporary storage of rubbish or materials related to the related construction site or project.

CHAPTER 1185. Definitions

Section 1185.02 Definitions

Construction Trailer

A mobile home, trailer, or similar temporary structure that is used as an office or for storage in conjunction with a construction project.

Contractor Offices and Storage

A use where the principal activity is the storage of equipment and materials related to building or landscaping contractors. Such use may also include office space for the business. Such uses are typically related to the construction industry and may include, but are not limited to, plumbing, heating, roofing, interior remodeling, excavating, and landscaping contractors.

Convenience Store

Small-scale retail stores used for the sale of goods used on an everyday basis by consumers including, but not limited to, pre-packaged food products, household items, newspapers, and magazines.

Cornice

A horizontal member, structural or nonstructural, of any building, projecting outward from the exterior walls at the roof line, including eaves and other roof overhang.

County

Defiance County, Ohio.

Covenant

A written promise or agreement.

Crematory

A machine or facility designed for the cremation of human and/or animal remains.

Cul-de-sac

A street with a single means of ingress/egress and having a turnaround at the terminus.

Cultural Institution

A use providing for display, performance, or enjoyment of heritage, history, or the arts, including but not limited to museums, arts performance venues, cultural centers, or interpretative sites, but not including commercially operated theaters.

Culvert

A transverse drain that channels under a bridge, street, or driveway.

Cupola

A small, dome like structure on the top of buildings, often included to provide a lookout or to admit light and air.

Dairy

A commercial establishment for processing or selling milk and milk products.

Dead-end Street

A local street having only one outlet for vehicular traffic.

Defiance SWCD

The Defiance Soil and Water Conservation District.

CHAPTER 1185. Definitions

Section 1185.02 Definitions

Detached Accessory Garages or Buildings

A freestanding structure which is subordinate (accessory) to a principal use on the same property, including, but not limited to, private garages, detached storage sheds, utility sheds, gazebos, and similar structures.

Detention Basin

A storm water management pond that remains dry between storm events. Storm water management ponds include a properly engineered/ designed volume which is dedicated to the temporary storage and slow release of run-off waters.

Developer

Any individual, subdivider, firm, association, syndicate, partnership, corporation, trust or other legal entity commencing proceedings under this code to affect a subdivision of land hereunder for himself, herself or itself or for another.

Development Area or Site

Any tract, lot, or parcel of land, or combination of tracts, lots, or parcels of land, which are in one ownership, or are contiguous and in diverse ownership, where earth-disturbing activity is to be performed.

District

See “Zoning District”.

Ditch

An excavation, either dug or natural, for the purpose of drainage or irrigation, and having intermittent flow.

Drive-Through Facility

Any portion of a building or structure from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions.

Driveway

A private way, other than a street or alley, that provides access to one lot of record for the use of vehicles and pedestrians.

Drop-Off Box

A small collection facility where recyclable materials are purchased or accepted from the public. Typical uses include neighborhood recycling stations and thrift store collection boxes or dumpsters.

Dry Cleaner

A facility where garments and other fabric materials may be laundered or dry cleaned.

Dwelling

Any building or portion thereof which is designated for or used for residential purposes.

Dwelling, Multi-Family

A building used or designed as a residence for three or more families or housekeeping units living independently of each other and doing their own cooking therein, including apartment houses, garden apartments and row houses.

CHAPTER 1185. Definitions

Section 1185.02 Definitions

Dwelling, Row House

A building or portion thereof designed, intended, or used primarily for residential purposes to be occupied by one family. The building is situated so its side walls are shared with other like structures, all having their own separate entrances and located on separate lots of record.

Dwelling, Single-Family

A building designed for or occupied exclusively by one family or housekeeping unit.

Dwelling, Two-Family

A building designed for or occupied exclusively by two families or housekeeping units.

Dwelling Unit

Space within a building designed as a residence of one household unit or family.

Dwelling Unit, Accessory

A secondary dwelling unit established in conjunction with and clearly subordinate to a principal dwelling or use.

Dwelling, Zero Lot Line

A building or portion thereof designed or used primarily for residential purposes to be occupied by one family. The building is situated so that its yard setbacks are varied according to [Subsection 1171.07 A. 5. a. Zero Lot Line Dwellings](#).

Easement

A grant by the property owner of the use of a strip of land by the public or a person for specified purposes.

Eave

The projecting lower edges of a roof that overhangs the wall of a building.

Educational Institution

Buildings or structures used to teach students. Educational institutions may include primary schools, elementary schools, middle schools, or high schools, and teaching at higher educational levels, including, but not limited to, colleges, vocational schools, universities, training centers and other similar uses.

Efficiency

A small apartment that combines living room, a bedroom, and kitchenette into a single room.

Engineer

Any person registered to practice professional engineering by the state board of registration as specified in the ORC.

Engineering Division

The city department providing the functions of the City Engineer.

Erect

To construct, assemble, install, alter or relocate a sign and includes the acts of attaching, affixing, hanging, suspending, painting and placement of signs, but does not include repair or replacement of changeable copy, repainting, cleaning or other maintenance that does not involve the repair or replacement of foundation elements, structural members or electrical components.

CHAPTER 1185. Definitions

Section 1185.02 Definitions

Erosion

The process by which the land surface is worn away by the action of water, wind, ice, or gravity.

Essential Services

The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems and of collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies, or for the public health or safety or general welfare, but not including buildings.

Existing

In existence at the time of the passage of this code.

Expansion

An increase in the size of an existing structure or use, including physical size of the land, building, parking, or other improvements or structures.

Expressway

A major divided highway designed for high-speed travel, having few or no intersections.

Façade

The exterior wall on the front, side, or rear elevation of the building regardless of whether the building side faces a street.

Façade, Front

The façade of a building that contains the primary entrance of the building.

Family

One or more persons occupying a dwelling and living as a single housekeeping unit, and doing their own cooking on the premises, as distinguished from a group occupying a boarding house or hotel, as herein defined.

Family Day Care Home, Type-A

A permanent residence of the provider in which child day care or publicly funded day care is provided for seven to 12 children at one time or is the permanent residence of the provider in which child day care is provided for four to 12 children at one time if four or more children are under two years of age at one time. In counting children for the purposes of this definition, any children under six years of age who are related to the provider and who are on the premises of the Type-A day care home shall be counted. Type-A day care homes do not include homes where all of the children being cared for are siblings and the residence is the home of the siblings. Type-A day care homes do not include any child day camp as defined in ORC Section 5104.01.

CHAPTER 1185. Definitions

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Family Day Care Home, Type-B

A permanent residence of the provider in which child day care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this definition, any children under six years of age who are related to the provider and who are on the premises of the Type-B day care home shall be counted. Type-B day care homes do not include homes where all of the children being cared for are siblings and the residence is the home of the siblings. Type-B day care homes do not include any child day camp as defined in ORC Section 5104.01.

Feed Mill

Facilities relating to the manufacturing of animal feed.

Final Development Plan

A plan for the development and use of a proposed planned unit development, illustrated by a plat showing the boundaries of the subject parcels of land or tract(s) of real estate; the location, size, height, and use of all structures; all vehicular and pedestrian ways and parking areas; all sewer and water mains, fire hydrants (both public and private); and all landscaped and recreational areas to be erected and maintained thereon; and further explained by such specifications, conditions and limitations as may be imprinted on the plat, or contained in the amendment or supplement to the zoning code, incorporating the final development plan as an integral part of the zoning regulations applicable to that particular tract of land.

Flag

Any sign of cloth or similar material anchored along one side and displayed from a single pole, either freestanding or attached to a building, displaying the ensign, emblem or insignia of a governmental, corporate, educational, or athletic entity or other organization.

Flood Plain

Land which is subject to periodic flooding as depicted on the current Flood Insurance Rate Map as defined by Section 1333.05(12) of the Codified Ordinances and as designated in the F-P Flood Plain District.

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.

Forestry

The growing and care of trees for commercial purposes including the cutting down and processing of timber for lumber.

Frontage

All property abutting on one side of a street or place between two intersecting streets, crossing or terminating, or, if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

CHAPTER 1185. Definitions

Section 1185.02 Definitions

Funeral Home

A building or part thereof used for human funeral services and which may include space for the embalming and other services used in the preparation of the dead for burial, the storage of caskets, funeral urns, and other related supplies, the storage of funeral vehicles, facilities for cremation, chapels, and other related uses.

Garage, Private

A building or portion thereof, other than a private garage, designed or used for equipping, servicing, repairing, hiring, selling or storing motor-driven vehicles.

Garage, Public

An accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the building to which it is accessory. Not more than one of the vehicles may be a commercial vehicle of more than two-ton capacity.

Garden or Landscape Supply Store

A place of business where retail or wholesale products and produce are sold to the consumer, and which imports most of the items sold, which may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and landscaping variety tools and utensils.

Government Building or Use

Any building, structure, or use, or portion thereof, used by a government agency for administrative or service purposes, but not including buildings devoted solely to the storage and maintenance of equipment and materials.

Grade

The average level of the finished surface of the ground adjacent to a sign, building, or other structure being measured.

Grading

Earth disturbing activity such as excavation, stripping, cutting, filling, stockpiling, or any combination thereof.

Grain Elevator

A building or facility for elevating, storing, discharging, and processing grains.

Green Infrastructure

Storm water management techniques that use natural systems, or engineered systems that mimic natural processes.

CHAPTER 1185. Definitions

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Group Home

A group home is a residential facility that provides individualized residential services for up to nine individuals who are mentally retarded, developmentally disabled, physically handicapped, convalescing or undergoing rehabilitation, or who cannot otherwise care for themselves. These individuals shall not have been previously convicted of a felony as the reason for their current rehabilitation nor shall they require institutional care or treatment. These users shall be licensed by and/or have accountability to a government agency for the clientele served. This definition does not include hospitals or facilities that administer treatment as their primary function to outpatients on a day-care basis.

Highway

A main road designed to accommodate high volumes of traffic at high speeds.

Home for the Aging

A home for the aging is a home that provides: personal assistance for six or more individuals who are dependent on the services of others by reason of age and physical or mental impairment, but who do not require skilled nursing care; and personal assistance and skilled nursing care for three or more individuals. The part or unit of the home for the aging that provides personal assistance shall be licensed as a rest home. The Public Health Council may further classify homes. Nothing in this code, or rules adopted pursuant to it, shall be construed as authorizing the supervision, regulation or control of the spiritual care or treatment of residents or patients in any home who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious body.

Home Occupation

An accessory use of a service character conducted within a dwelling by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes, and does not change the character thereof or have any exterior evidence of such secondary use other than a small sign. The office of a physician, surgeon, dentist or other professional person, including an instructor in individual musical instruments limited to a single pupil at a time, which offers skilled services to clients, and is not professionally engaged in the purchase or sale of economic goods, shall be deemed to be a home occupation. Beauty parlors, barber shops, dancing instruction, band instrument instruction groups, tourist homes, real estate offices, convalescent homes, mortuary establishments, and stores, trades or business of any kind not herein excepted, shall not be deemed to be home occupations. Borderline cases shall be ruled on by the BZBA.

Hospital

A facility providing physical or mental health services, inpatient or overnight accommodations, and medical or surgical care of the sick or injured.

Hotel

A building in which lodging or boarding and lodging are provided and offered to the public for compensation, and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in distinction to a boarding house or a lodging house which is herein separately defined.

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Housekeeping Unit

One or more persons occupying a dwelling unit and living as a single group, and doing their own cooking on the premises as distinguished from a group occupying a bed and breakfast establishment, hotel, or motel.

Improvements

Street pavement or resurfacing, curbs, gutters, sidewalks, water lines, sewer lines, storm drains, street lights, flood control and drainage facilities, utility lines, landscaping, and other related matters normally associated with the development of raw land into building sites.

Industrial Zoning District

A term used to refer to all land of one of the following zoning designations: M-1 Restricted Industrial District; M-2 Limited Industrial District; and M-3 General Industrial District.

Institution

Buildings or land occupied by a nonprofit corporation or a nonprofit establishment for public use, except residential living.

Institutional Housing

Housing for the elderly or infirm in which three or more unrelated individuals may live on a short-term or long-term basis and where both food and care are provided for compensation. Institutional housing includes, but is not limited to, elderly housing, nursing homes, assisted living facilities, and hospices. Institutional housing shall not include hospitals, medical offices, medical or dental clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured without long-term residency.

Internet Café

A place which provides internet access to the public, usually for a fee. These businesses usually provide snacks and drinks, hence the café in the name. The fee for using a computer is usually charged as a time-based rate. This use does not include viewing or ability to view pornographic or sexually oriented materials, and does not include internet sweepstakes establishments.

Internet Sweepstakes Establishment

An establishment that promotes the sale of prepaid internet time cards, phone cards or similar device to retail customers in varying amounts for use at its business location which entitle each cardholder to participate in sweepstakes. The sweepstakes system allows a customer to use the phone card, internet time cards or similar device at a game terminal to browse the internet or participate in games which reveal sweepstakes entries, prizes, prize values or the like.

Junk

Scrap, abandoned or discarded metal, paper, wood, plastic, rubber, glass, building materials, equipment, bottles, appliances, furniture, rags, trash, rubbish, inoperable motor vehicles or parts thereof, or similar materials/items.

Junk Storage and Sales

Any lot, land or structure, or part thereof, used primarily for the collection, storage, recycling and sale of waste paper, rags, scrap metal or discarded material, or for the collection, dismantling, storage and salvaging of machinery or vehicles not in operating condition, and for the sale of parts thereof.

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Junkyard

A place not in a completely enclosed building including auto wrecking yards and building wrecker yards, where waste, discarded or salvaged material is bought, sold, exchanged, baled, packed, stored, disassembled or handled.

Keeping of Chickens

The noncommercial raising and caring of female chickens on a residential lot as an accessory use.

Kennel

Any structure or premises on which more than five dogs and/or cats that are more than five months of age are kept. Kennel includes facilities that provide daytime care for dogs and/or cats.

Laboratory

Buildings and facilities equipped for experimental study in a science or for testing and analysis.

Landscape Material

Landscaping consists of:

- Material such as, but not limited to, living trees, shrubs, vines, lawn grass, ground cover, and landscape water features; and
- Non-living durable material commonly used in landscaping including, but not limited to, rocks, pebbles, sand, decorative walls and fences, brick pavers and earthen mounds, but excluding pavements for vehicular use.

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.

Larger Common Plan of Development or Scale

A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

Laundry or Laundromat

Facilities where patrons wash, dry, or dry clean clothing or other fabrics in machines operated by the patrons.

Light, Cutoff

An artificial outdoor light source designed to ensure that no light is directly emitted above a horizontal line parallel to the ground.

Light, Non-Cutoff

An artificial outdoor light source designed to allow light to be directly emitted above a horizontal line parallel to the ground.

Loading Space

An off-street space on the same lot with a building, or a group of such buildings and accessory buildings, or utilized for the principal use and accessory use.

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Lodging House

A building, other than a hotel, where lodging for two or more persons is provided for compensation pursuant to previous arrangement, and not to anyone who may apply.

Lot

A parcel of land occupied or intended for occupancy by a use permitted in this code, including one main building, together with accessory buildings, open spaces and parking spaces required by this code, and having its principal frontage upon a street or upon an officially approved place. A lot may or may not be the land shown on a duly recorded plat.

Lot Area

The horizontal surface area of the lot measured within the bounds of the property lines. For panhandle lots, the lot area excludes the area of the panhandle.

Lot, Corner

A lot located at the intersection of two or more streets. See [Figure 1173.01-4](#).

Lot Coverage

The ratio of enclosed ground floor area of all buildings to the horizontally projected area of the lot, expressed as a percentage.

Lot, Depth

The distance between the front property line and the rear property line, measured along a straight line.

Lot, Double Frontage

A lot other than a corner lot with frontage on more than one street. Double frontage lots abutting two streets may be referred to as through lots. See [Figure 1173.01-5](#).

Lot, Interior

A lot with frontage along one street. See [Figure 1173.01-3](#).

Lot of Record

A lot which is part of a subdivision recorded in the Defiance County Recorder's office, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

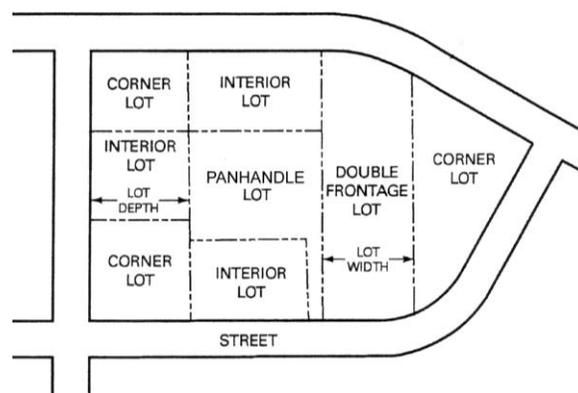


Figure 1185.02-1: Illustration of lot configurations and types.

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Lot, Panhandle

A lot fronting or abutting a public street and where access to the public street is limited to a strip of land.

Lot, Width

The distance between the side property lines, measured along a straight line.

Lumber Yard

An outdoor facility where there are retail sales of lumber and other building materials.

Luminaire

A complete lighting unit consisting of one or more lamps, together with the components designed to distribute the light, to position and protect the lamps, and to connect the lamps to the electrical power supply; also called the lighting fixture. Luminaire shall not include the light pole used to support the luminaire.

Major Thoroughfare Plan

The plan adopted by the planning commission indicating the general location recommended for arterial, collector, and local thoroughfares within the city or unincorporated areas within three miles thereof.

Manufacturing, General

Any manufacturing or industrial production other than limited or restricted. Limited and restricted industrial uses are permitted in a general industrial zoning district. All manufacturing and industrial processes shall comply with the performance requirements of [Section | 173. 05 Performance Standards](#).

Manufacturing, Limited

Any manufacturing, industrial production or storage which, by the nature of the materials, equipment and processes utilized, is generally conducted within an enclosed building, and if outside storage of material is required, such storage is conducted within a well maintained enclosure which shall have an opaqueness of 75% or more. Limited manufacturing shall include the manufacture of dairy, canned fruit, vegetable, bakery and confectionery products; textile mill products and apparel; bottling plant; lumber wood products, furniture and fixtures; plastic products; perfumes and cosmetics; fabricated metal products from metal sheets of less than one quarter of an inch thickness; screw machine products and bolts, nuts, screws and washers; cutlery; hand tools; television sets; electronic components and accessories; and products of a similar nature.

Manufacturing, Restricted

Any industrial use which is conducted entirely within enclosed, substantially constructed buildings, involving the use of only light machinery and equipment, and which does not use the open area about the buildings for the storage of materials or equipment other than for unloading or loading operations at the rear or within an enclosure which abuts a building. Restricted manufacturing shall include the manufacture of drugs, jewelry, musical instruments and sporting goods; the processing and assembly of small glass products, small household appliances, small electronic products, scientific instruments and parts for the production of finished equipment; office, computing and accounting machines; research and laboratory testing; printing, publishing and engraving plants; and other similar products and operations.

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Marginal Access Street

Either a collector or local street, parallel and adjacent to a principal arterial street or expressway, providing access to abutting properties.

Medical and Dental Centers and Outpatient Clinic

An establishment where patients who are not lodged overnight are admitted for examination and treatment by a group of physicians practicing medicine together.

Mineral, Gravel, or Sand Extraction

Any mining, quarrying or processing of limestone, shale, clay, coal, soil, or other mineral resources.

Mini-Motor Home

See “Motor Home”.

Mini-Warehouse

See “Self-Storage Facilities”.

Mobile Home

A movable dwelling constructed in one or more units to be occupied on land, having a minimum width of eight feet and a minimum area of 400 square feet, and containing living facilities for year-round occupancy by one family, including permanent provision for eating, sleeping, heating, cooking, and sanitation.

Mobile Home Park

An area manifestly designed to accommodate mobile homes in a safe, sanitary and desirable manner as described in [Subsection 1169.08 A. 3. Mobile Home Parks](#).

Mobile Home Parking

Stopping of a mobile home upon public or private property for a period not to exceed 48 hours in duration.

Mobile Home Storage

Openly locating any mobile home upon public or private property for a period exceeding 48 hours in duration.

Monuments

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.

Mortuary

A building or facility in which dead bodies are stored and prepared prior to burial.

Motel

A building or group of buildings used for the temporary residence of motorists or travelers. A building or group of buildings used as a hotel in which any number of rooms are normally, but not exclusively, accessible from any outdoor area, or have ingress and egress other than through an inside lobby or office.

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Motor Home

A recreational structure constructed integrally with a truck or motor van chassis and incapable of being separated there from. The truck or motor van chassis may have single or double rear wheels.

Municipal Separate Storm Sewer System (MS4)

According to CFR 122.26(b)(8), a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains:

- Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law)...including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization designated and approved management agency under section 208 of the Clean Water Act that discharges into waters of the United States;
- Designed or used for collecting or conveying storm water;
- Which is not a combined sewer; and
- Which is not part of a publicly-owned treatment works (POTW) as defined at 40 CFR 122.2.

Municipality

See “City”.

Nonconformity

A use, lot, structure, building, sign, or lighting that does not comply with the provisions of this zoning code. See also the definitions for “use, nonconforming,” “lot of record,” “building, nonconforming,” “site, nonconforming,” and “structure, nonconforming.”

Nonresidential Zoning District

A term used to refer to all land of one of the following nonresidential zoning designations: F-P Flood Plain District; S-I Special District; O-R Office-Residential District; B-1 Neighborhood Business District; B-2 Central Business District; B-3 Highway and General Business District; B-4 Community Shopping Center District; M-1 Restricted Industrial District; M-2 Limited Industrial District; and M-3 General Industrial District.

NPDES Permit

A National Pollutant Discharge Elimination System Permit issued by the Ohio EPA under the authority of the USEPA, and derived from the Federal Clean Water Act.

Nursery School or Childcare Center

Any place in which child day-care is provided, with or without compensation, for 13 or more children at one time, or any place that is not the permanent residence of the licensee or administrator in which child day-care is provided, with or without compensation, for seven to 12 children at one time.

Nursing or Convalescent Home

A home used for the reception and care of individuals who, by reason of illness or physical or mental impairment, require skilled nursing care, and of individuals who require personal assistance but not skilled nursing care. A nursing home is licensed to provide personal assistance and skilled nursing care.

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OAC

The Ohio Administrative Code.

Office

Space primarily for administrative and clerical activities.

Ohio EPA

The Ohio Environmental Protection Agency.

Oil and Gas Well

A shaft or hole sunk to obtain oil, brine, or natural gas.

Oil and Gas Well Equipment Sales and Storage

Any business where the primary business is the sales and/or storage of equipment used in welling.

Open Space

An area substantially open to the sky, which may be on the same lot as a building. The area may include, along with natural environmental features, water areas, swimming pools, tennis courts or other recreational facilities.

ORC

The Ohio Revised Code.

Original Tract

A contiguous quantity of land, undivided by lot lines, held by one person or in common ownership at the time it is presented to the planning authority for further division.

Outdoor Bulk Storage

The outdoor storage of bulk goods, raw materials, or products. Bulk goods or products shall be defined as any products, goods, junk, material, merchandise, or vehicles associated with the principal land use.

Outdoor Sales and Displays

The placement of products or materials for sale or lease outside of a retail or wholesale sales establishment.

Owner

A person recorded as the property owner on official records.

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.

Parking Aisle

The driveway or access drive by which a car enters and departs a parking space.

Parking Lot or Garage

A structure (e.g., parking garage) or surface level facility providing vehicular 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.

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Parking Space

A designated parking area designed for one vehicle that is exclusive of drives, aisles or entrances giving access thereto.

Parking Structure

See definition for “Parking Lot or Garage”.

Performance Bond

A bond in the amount of the engineer’s estimated cost of total required improvements to be posted at a bank for withdrawal only by the city to guarantee the city that the necessary public improvements will be installed according to plans and specifications within the time prescribed by the subdivider's agreement.

Person

Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, township, county, state agency, the federal government, or any combination thereof.

Personal Services

Any enterprise conducted for gain which primarily offers services to the general public such as shoe repair, watch repair, barber shop, beauty parlors and similar activities.

Planned Unit Development

Any proposed development of land for industrial, commercial or residential purposes, or a combination of these uses, provided that they are functionally integrated and that the project is unique in design in order to attain an improved character of development that conforms to the purpose and intent of this code.

Planning Commission

The City of Defiance Planning Commission.

Plant Cultivation

The cultivation of crops, fruit trees, nursery stock, truck garden products and similar plant materials outside of structures, such as greenhouses.

Plat

A map graphically indicating a proposed land subdivision or re-subdivision prepared in a form suitable for filing for record, with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots, blocks, streets, alleys, public areas, and other dimensions of land.

Plat, Final

The final map of all or a portion of the subdivision which is presented to the planning commission for final approvals in accordance with this code, and which, if approved, shall be filed with the Defiance County Recorder’s office.

Plat, Preliminary

The map on which the developer’s plan of subdivision is presented to the city planning commission for further conference on the proposed development and approval. After such approval of a preliminary plat, a final plat shall be prepared.

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Printing and Publishing Establishment

An establishment in which the principal business consists of duplicating and printing services using photocopy, blueprint, or offset printing equipment, including publishing, binding and engraving.

Professional Engineer

See “Engineer”.

Public Hearing

A regular or special meeting open to the public and advertised in advance in the local printed media or as otherwise required by statute, concerning proposed ordinances, amendments or other official city business which requires public participation and input.

Public Maintenance and Storage Facility

Public land and buildings devoted solely to the maintenance and storage of highway equipment and materials.

Public Meeting

A regular or special meeting of city council or any other city board or commission open for public attendance.

Public Use

Public parks, schools and administrative, libraries, cultural and service buildings, not including public lands or buildings devoted solely to the storage and maintenance of equipment and materials.

Receiving Stream

The body of water into which run-off is discharged.

Recreational Facility, Commercial

Indoor or outdoor recreational facilities open to the public, established and operated for a profit, such as, but not limited to, commercial golf courses, golf driving ranges, swimming pools, ice skating rinks, stables, racetracks, fitness centers, bowling alleys, carnivals, boat docks, fishing piers, and similar commercial enterprises.

Recreational Facility, Non-Commercial

Private and semi-public recreational facilities which are not operated for commercial gain, including private country clubs, riding clubs, golf courses and other private, noncommercial recreation areas and facilities or recreation centers.

Recreational Vehicle

A motor vehicle or trailer equipped with living space and amenities found in a home and used for camping, recreation, and travel.

Recreational Vehicle Parking

Stopping of a recreational vehicle upon public or private property for a period not to exceed 48 hours in duration.

Recreational Vehicle Storage

Openly locating any recreational vehicle upon public or private property for a period exceeding 48 hours in duration.

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Redevelopment

The demolition or removal of existing structures or land uses and construction of new structures and/or uses.

Religious Place of Worship

A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to facilitate public worship.

Research and Development Facility

A building in which scientific research, investigation, testing or experimentation is conducted, but not including the manufacturing or sale of products, except as incidental to the main purpose of the laboratory or facility.

Residential Floor Area

The interior floor area of a dwelling, including stairways, halls, and closets, but not including basements, porches, garages, breezeways, or carports.

Residential Zoning District

A term used to refer to all land of one of the following residential zoning designations: A-1 Agriculture District; R-1 Low Density Residence District; R-2 Medium Density Residence District; R-3 Medium to High Density Residence District; and R-4 Mobile Home Parks District.

Rest Home

A home that provides personal assistance for six or more individuals who are dependent on the services of others by reason of age or physical or mental impairment but who do not require skilled nursing care. A rest home is licensed to provide only accommodations and personal assistance and may not admit individuals requiring skilled nursing care.

Restaurant

A place located in a permanent building wherein food and beverages are sold to the general public to be primarily consumed within the building, which function is the principal business of the place. This meaning excludes drugstores, confectionery stores, lunch stands and gasoline service stations.

Restaurant, Fast Food

Those establishments which dispense food from counter-type operations, which food is to be consumed on or off the premises away from the counter and which are recognized as fast food operations because of the high turnover of customers.

Retail and Service Commercial Uses

Uses including, but not limited to, groceries and other food stores, coffee shops, soda fountains, internet cafés, ice cream parlors, drug stores, barber shops, beauty salons, bakeries, dry cleaning, laundromats, tailoring, shoe repair shops, electrical appliance repair/servicing, and the like.

Retention Basin

A storm water management pond that maintains a permanent pool of water. These storm water management ponds include a properly engineered/designed volume dedicated to the temporary storage and slow release of run-off waters.

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Right-of-Way

A general term denoting land, property, or the interest therein, usually in the configuration of a strip acquired for or devoted to transportation purpose. When used in this context, right-of-way includes the roadway, shoulders or berm, ditch, and slopes extending to the right-of-way limits under the control of the State, Defiance County, or the City of Defiance.

Riparian Area

Naturally vegetated land adjacent to watercourses which, if appropriately sized, helps to stabilize stream banks, limit erosion, reduce flood flows, and/or filter and settle out run-off pollutants, or which performs other functions consistent with the purposes of this code.

Riparian Setback

Those lands which are alongside streams where earth disturbing activities will not take place and natural vegetation will not be removed.

Roadside Stand

The use of any land or a structure for the sale of produce in accordance with the provisions of [Subsection 1169.10 D. 16. Roadside Stands](#).

Roof Line

Either the edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

Salvage Operation, Automotive and Metal

An establishment dealing primarily in the reconditioning and resale of damaged goods.

Sawmill

An operation or facility which has as its predominant purpose the sawing or planing of logs or trees into rough slabs, and is sometimes referred to as a planing mill.

Scientific Research Center

Research, development and/or testing related to such fields as chemistry, pharmaceuticals, bacteriology, medicine, electricity, transportation and engineering. All research, testing and development shall be carried on within entirely enclosed buildings, and no noise, smoke, glare, vibration or odor shall be detected outside of said building.

Seasonal Agricultural Sales

The temporary sale of agricultural products such as fruits, vegetables, and juices where such facilities may sell agricultural products not grown on site. Seasonal sales, including the sale of such items as Christmas trees, pumpkins, seasonal produce, and similar agricultural products.

Sediment

Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, gravity, or ice, and has come to rest on the earth's surface either on dry land or in a body of water.

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Sediment Pollution

A failure to use management or conservation practices to control wind or water erosion of the soil and to minimize the degradation of water resources by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed for commercial, industrial, residential, or other purposes.

Self-Storage Facilities

A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-storage of personal property.

Services, Business

An establishment offering primarily service to the business community and to individuals. Such services include but are not limited to advertising agencies, blueprinting and photocopying services, interior cleaning services, computer and data processing services, detective agencies and security services, insurance agencies, management consulting and public relations services, news syndicates, personnel services, photofinishing laboratories, photography, art and graphics services, and real estate services.

Services, Financial

An establishment offering primarily economic services to businesses and individuals. Such services include but are not limited to credit unions, banks, credit card companies, consumer finance companies, stock brokerages, and investment funds.

Services, Personal

Services generally involving the care of the person or person's possessions. Personal services may include, but are not limited to, barber shops, beauty salons, health and fitness studios, music schools, informational and instructional services, tanning salons, and portrait studios.

Services, Professional

An establishment of technical or unique functions performed by independent contractors or consultants whose occupation is the rendering of such functions. Professional services include but are not limited to those of accountants, architects, attorneys, business consultants, engineers, law firms, public relations professionals, researchers, and translators.

Setback

The minimum distance a building or structure must be built from a property line or road right-of-way as defined further in [CHAPTER 1173. General Development Standards](#).

Setback, Front

The minimum distance required between a building, structure, or improvement and the front lot line of the property.

Setback Line

The line created when applying the required setback distance to a lot.

Setback, Rear

The minimum distance required between a building, structure, or improvement and the rear lot line of the property.

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Setback, Side

The minimum distance required between a building, structure, or improvement, and a lot that is shared with another lot where such lot line is defined as a side lot line.

Sewer, Central or Group

An approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community, or region.

Sewer, On-Site

A septic tank or similar installation on an individual lot which utilizes satisfactory processes for the elimination of sewage and which provides for the proper and safe disposal of effluent, subject to the approval of health and sanitation officials having jurisdiction.

Sexually Oriented Business

Sexually oriented businesses are those businesses specified below:

- **Adult Arcade** – A commercial establishment where, for any form of consideration, one or more still or motion pictures projectors, slide projectors, or similar machines, or other image-producing machine, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or photographic reproductions characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas".
- **Adult Book Store, Adult Novelty Store or Adult Video Store** – A commercial establishment which has as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of revenues, or devotes a significant or substantial portion of its interior business or advertising to the sale or rental for any form of consideration, of any one or more of the following:
 1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, computer software, compact discs, or other visual representations, characterized by the depiction or description of specified sexual activities or specified anatomical areas.
 2. Instruments, devices, or paraphernalia designed for use or marketed primarily for stimulation of human genital organs, or for sadomasochistic use or abuse.
- **Adult Cabaret** – A nightclub, bar, restaurant, bottle club, car wash, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:
 1. Persons who appear nude, or in the state of nudity, or semi-nudity;
 2. Live performances characterized by the exposure of specified sexual activities or specified anatomical areas;
 3. Films, motion pictures, video cassettes, slides, or other photographic reproductions, characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- **Adult Motel or Hotel** – A motel, hotel or similar commercial establishment which:

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1. Persons who appear nude, or in the state of nudity, or semi-nudity;
 2. Offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions, characterized by the depiction of specified sexual activities or specified anatomical areas and which advertises the availability of this sexually-oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including but not limited to newspapers, magazines, pamphlets or leaflets, radio or television; or
 3. Offers a sleeping room for rent for a period of time less than 10 hours; or
 4. Allows a tenant or occupant to sub-rent the sleeping room for a time period of less than 10 hours.
- **Adult Motion Picture Theater** – A commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas are regularly shown to more than five individuals for any form of consideration.
 - **Adult Theater** – A theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state of nudity or semi-nudity or live performances that are characterized by their emphasis upon the exposure of specified anatomical areas or specified sexual activities.
 - **Escort** – A person who, for any form of consideration, agrees or offers to act as a companion, guide or date for another person, or agrees or offers to privately model lingerie, or privately perform a striptease for another person.
 - **Escort Agency** – A person or business association that, for any form of consideration, furnishes, or offers to furnish an escort(s), guide(s), date(s), or companion(s) for another person.
 - **Massage Parlor** – Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentation's, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs as a part of, or in connection with "Specified Sexual Activities", or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "Specified Anatomical Areas". This definition shall not include the practice of massage in a licensed hospital, under the auspices of a licensed hospital, by a licensed physician, surgeon, chiropractor or osteopath, by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, or by trainers for any amateur, semi-professional or professional athlete, or athletic team, or school athletic program.
 - **Nude Model Studio** – Any place where a person, who regularly appears in a state of nudity, or displays specified anatomical areas, is provided, for any form of consideration, to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other person.

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- **Sexual Encounter Establishment** – A business or commercial establishment, that as one of its primary business purposes, offers for any form of consideration, a place where two or more persons congregate, associate or consort, for the purpose of specified sexual activities, or the exposure of specified anatomical areas, or activities when one or more of the persons is in a state of nudity or semi-nude. This definition shall not include an establishment where a medical practitioner, psychologist, psychiatrist or similar person licensed in the State of Ohio, engages in medically approved and recognized sexual therapy.

The following terms are used in the determination and regulation of sexually oriented businesses:

- **Employee** – A person who works or performs as a part of a business association or as a private contractor, regardless of whether or not said person is paid a salary, wage, or other compensation by the operator of said business, excluding a person exclusively on the premises for repair or maintenance of the premises or equipment thereon, or for the delivery of goods to the premises.
- **Establishment** – The opening or commencement of any business as a new business, or the conversion of an existing business.
- **Nudity or State of Nudity** – The appearance of human bare buttocks, anus, male or female pubic region or genitals, or the areolae or nipple of the female breast; or a state of dress which fails to opaquely and fully cover human buttocks, anus, male or female pubic region or genitals, or the areolae or nipple of the female breast.
- **Operator** – The owner, permit or license holder, custodian, manager, operator, or person in charge of any business premises.
- **Permitted or Licensed Premises** – Any premises that requires a license and/or permit.
- **Permittee and/or Licensee** – A person or persons in whose name a permit and/or license to operate a business under these regulations has been issued, as well as the individual or other legal entity listed as an applicant on the application for a permit and/or license.
- **Person** – An individual, proprietorship, partnership, corporation, association, or other legal entity.
- **Protected Uses** – Those uses listed below:
 1. Public building means any building owned, leased, or held by the United States, the State of Ohio, Defiance County, any city, village or township, any special district or school district, or any other agency or political subdivision, which building is used for government purposes.
 2. Land which has been designated for park or recreational activities, including but not limited to, a park; playground; nature trails; swimming pool; reservoir; athletic field; basketball or tennis courts; pedestrian or bicycle paths; open space; wilderness areas; or similar land.
 3. Quasi-public facility means any building or improved property customarily open to the public for noncommercial purposes, but which is not under government ownership or control.

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4. Religious institution means any church, synagogue, mosque, temple or building used primarily for religious worship and related religious activities.
 5. Residential zoning districts.
 6. School means any public or private educational facility, including but not limited to child day care facilities, nursery schools, pre-schools, kindergartens, elementary, primary, intermediate, junior, middle, secondary or high schools, vocational schools, continuation schools, special education schools, junior colleges, colleges and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.
- **Semi-nude** – A state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices, as applicable.
 - **Specified Anatomical Areas** – Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
 - **Specified Criminal Acts** – Those offenses defined in ORC Chapter 2907, and as the same, may, from time to time be amended and similar offenses pursuant to municipal ordinances, township/county resolutions of this or any other state, the statutes and regulations of any other state or of the United States or tax violations in connection with sexually oriented business.
 - **Specified Sexual Activities** – Real or simulated sexual intercourse, oral copulation, masturbation, or sodomy, or excretory functions as a part of or in connection with any of these activities; or the fondling, intentional touching of human genitals, pubic region, buttocks, anus, or female breast; or human genitals in a state of sexual stimulation, arousal or tumescence.
 - **Substantial Enlargement of a Sexually Oriented Business** – An increase in the original floor area occupied by the business by more than 15%.
 - **Transfer Control of a Business** – The sale, lease, or sublease of the business; or the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means, voluntary or otherwise; or the establishment of a trust, gift, or similar legal device, which transfers ownership or control of the business, except for transfer by bequest, or other operation of law upon the death of a person possessing the ownership or control.

Sidewalk

The portion of the road right-of-way outside of the roadway which is improved for the use of pedestrian traffic.

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Sign

Any object, device, display or structure or part thereof situated outdoors or adjacent the interior of a window or doorway which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, pictures, logos, figures, designs, symbols, fixtures, colors, or projected images.

Sign, Abandoned

A sign that no longer carries a readable message or that directs the public to a location where goods or services advertised are no longer available.

Sign Area

The entire display area of a sign including the advertising surface located on one or more sign faces and any framing, trim and molding, but not including the supporting structure as measured pursuant to [CHAPTER 1179. Sign Standards](#).

Sign, Awning or Canopy

Any sign that is painted on, part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.

Sign, Banner

Any sign of lightweight fabric or similar material that is mounted to a building or other structure at one or more edges.

Sign, Changeable Copy

A sign such as a bulletin board, announcement board, or electronic message sign, where the message or graphics is not permanently affixed to the structure, framing, or background and may be periodically replaced or covered over by electronic or mechanical devices.

Sign, Directional

A permanent sign located on private property, at or near the public right-of-way, directing or guiding vehicles from the street onto and off of private property.

Sign, Electronic Message

A sign whose alphabetic, pictographic, or symbolic information content can be changed or altered on a fixed display surface composed of electrically illuminated or mechanically driven changeable segments.

Sign Face

The area or display surface used for the message.

Sign, Flashing

Any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation or any externally mounted intermittent light source.

Sign Height

The vertical distance measured from the average natural grade at the base of the sign to the highest point of the sign or sign structure.

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Sign, Illegal

Any sign which is contrary to the requirements of this code and which does not satisfy the nonconforming specifications stated in this code.

Sign, Illuminated

Any sign that is illuminated by any internal or external light source other than non-reflected natural daylight or ambient public street lighting.

Sign, Marquee

A sign designed as a permanent rooflike structure extending from part of a wall of a building but not supported by the ground and constructed of a durable material.

Sign, Menu Board

Any signage pertaining to items, goods, or services offered by a drive-through business.

Sign, Monument

Any permanent or temporary sign placed on the ground or attached to a supporting structure (not on poles or pylons) and not attached to any building.

Sign, Moving

Any sign or part of a sign which changes physical position by any movement or rotation or which gives visual impression of such movement or rotation.

Sign, Obscene

A sign that depicts or otherwise communicates matter deemed obscene or harmful to juveniles under standards established by the Ohio Revised Code.

Sign, Off-Premises

Any sign, including billboards, that advertises or otherwise directs attention to an activity not on the same lot where the sign is located.

Sign, On-Premises

A sign, which advertises or otherwise directs attention to an activity on the same lot where the sign is located.

Sign, Outdoor Advertising

Any sign that advertises or otherwise directs attention to an activity not on the same lot where the sign is located. This term includes "billboards".

Sign, Pennant

Any geometric shaped cloth, fabric, or other lightweight material normally fastened to a string, rope, cable, or line which is secured or tethered so as to allow movement of the sign caused by movement of the atmosphere.

Sign, Permanent

A sign permitted by this code to be located on the premises for an unlimited period of time and designed to be permanently attached to a structure or the ground.

Sign, Pole or Pylon

A sign that is supported from the ground by poles or other types of individual supports.

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Sign, Portable

A sign not permanently affixed to the ground, building, or other structure, which may be moved from place to place, including, but not limited to, signs designed to be transported by means of wheels, and signs attached to or painted on a vehicle parked and visible from the public right-of-way, unless such vehicle is used in the day-to-day operations of a business.

Sign, Projecting

A sign attached to a building and extending perpendicular from the building wall.

Sign, Roof

Any sign erected, constructed, mounted, or maintained upon or over the roof or parapet wall of a building and having its principal support on the roof or walls of the building.

Sign, Temporary

A sign that is designed to be used only temporarily and is not permanently, or intended to be permanently, attached to a building, attached to a structure or installed in the ground.

Sign, Vehicular

Any sign attached or applied to or painted on a vehicle for the primary purpose of advertising or directing attention to a product, service, entertainment, or commercial activity but does not include words, graphics or other communication that serves to identify the vehicle as one ordinarily and routinely used and operated in the course of the business advertised.

Sign, Wall

A sign fastened to the wall of a building or structure (such as a fence or wall) in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project more than 18 inches from such building or structure. On a wall sign, the exposed face of the sign is in a plane parallel to the plane of said wall or structure.

Sign, Window

A sign that is applied to or attached to the glass of a window or door, or located inside a building within two feet of a window, so that the sign is visible and capable of being read from the outside of the building.

Site, Nonconforming

A lot where the use is a conforming use but the site does not meet the parking, signage, landscaping, lighting, architectural, or other applicable development standard, but not including any applicable site development standards.

Slaughterhouse

An establishment where animals are butchered.

Small Wind Energy Conservation System

An engine or motor having a drive shaft driven by the impulse air to create power for the site where such system is located. For the purposes of this zoning code, a small wind energy conservation system is one that creates under 100 Kilowatts of power and is intended for home use.

Soil

Unconsolidated erodible earth materials consisting of minerals and/or organics.

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Soil Erosion and Sediment Control Practices

Conservation measures used to control sediment pollution, including structural practices, vegetative practices, and management techniques, commonly referred to as ESC.

Soil Stabilization

Vegetative or structural soil cover that controls erosion and includes permanent and temporary seeding, mulch, sod, pavement, etc.

Solar Farm

A large area containing interconnected solar panels used to capture sunlight and turn it into electricity.

Solar Panel

Panels installed on a building or on a lot to allow for the conversion of solar energy to electrical current.

Specialized Animal Raising and Care

The use of land and buildings for the raising and care of fur-bearing animals such as rabbits and domestic pets; stabling and care of horses; animal kennels; raising of pigeons, or any other animals or birds of a similar nature.

Stables, Private

A building for beasts of burden to lodge and feed in, especially having stalls for horses, intended for use only by the owner or occupant of the property.

Stables, Public

A building for beasts of burden to lodge and feed in, especially having stalls for horses, operated for remuneration.

Stockyards

Facilities typically adjacent to a slaughterhouse, in which livestock is kept and sorted.

Storage Facility

An establishment that provides space for the storage of goods.

Storm Water Conveyance

All storm sewers, channels, streams, ponds, lakes, etc., used for conveying concentrated storm water run-off, or for storing storm water run-off.

Storm Water Pollution Prevention Plan (SWP3)

The plan required by the Ohio EPA to meet the requirements of its NPDES Permit program for construction activities.

Stream

A body of water running or flowing on the earth's surface, or a channel with a defined bed and banks in which such flow occurs. Flow may be seasonally intermittent.

Structural Alterations

Any change which would tend to prolong the life of a supporting member of a structure such as bearing walls, columns, beams, or girders.

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Structure

Anything constructed, or erected, other than a building, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, including, but not limited to, advertising signs, billboards, and backstops for tennis courts.

Structure, Nonconforming

A structure that contains a use permitted and approved in the applicable zoning district that does not meet the applicable site development standards.

Subdivider

Any person or entity commencing proceedings under this code to affect a subdivision of land.

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, any one of which is less than five acres, for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the division or partition of land into parcels of more than five acres, not involving any new streets or easements of access, and the sale or exchange of which does not create additional building sites, shall be exempted; or the improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension of any street or streets, except private streets serving industrial structures; or 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.

Subdivision, Major

Any subdivision that does not meet the requirements for a minor subdivision.

Subdivision, Minor

A division of a parcel of land along an existing public street or road, not involving the opening, widening or extension of any street or road, and involving not more than five lots, any one of which is less than five acres, after the original tract has been completely subdivided.

Swimming Pool, Community or Club

Any pool constructed by an association of property owners or by a private club, for the use and enjoyment by members of the association or club and their families.

Swimming Pool, Private

Any indoor or outdoor structure, chamber, pool, or open tank not located within a completely enclosed building, and containing, or normally capable of containing, water to a depth at any point greater than one and one-half feet.

Tattoo/Piercing Parlor or Studio

A business that provides tattoo or body piercing services.

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Telecommunication Tower and Facilities

Any structure or device, including accessory structures, used to receive or transmit electromagnetic waves between cellular phones, pagers, and ground wired communications systems including both directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas such as whips and other equipment utilized to serve personal communication services.

Temporary Special Event

A temporary event including, but not limited to, circuses, festivals, or concerts, that only takes place for a short period of time and is not a regular occurrence on any given site.

Temporary Storage in a Portable Container

The temporary storage of materials in a large metal or wooden container, typically intended for transport by large truck, train, or ship.

Tennis Court or Other Game Courts

A specifically marked horizontal, generally hard surfaced area designed for playing tennis, racquetball, basketball or other sports played on a court.

Tourist Home

A building, other than a hotel, where lodging and meals are provided and offered to the public for compensation for not more than 15 individuals, and which is open to transient guests.

Trailer

Recreational vehicle constructed with integral wheels to make it mobile and intended to be towed by a passenger car, station wagon, light pick-up truck, or similar motor vehicle, but not including truck tractors of any type.

Trailer, Boat, Float, Raft, or Snowmobile

A vehicle on which a boat, float, raft, or snowmobile may be transported and which is towable by a passenger car, station wagon, pick-up truck, or mobile recreational vehicle.

Trailer, Camping

A type of trailer or trailer coach, the walls of which are constructed as to be collapsible and made out of either canvas or similar cloth, or some form of rigid material such as fiberglass, plastic, or metal. The walls are collapsed while the recreational vehicle is being towed and are raised or unfolded when the vehicle becomes temporary living quarters and is not to be moved.

Trailer Coach

See "Trailer".

Trailer, Fifth Wheel

See "Trailer".

Trailer, Small Utility

Any trailer drawn by a passenger automobile and used for the occasional transport of personal effects.

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Transportation Equipment Sales and Repair

A use or establishment devoted to the sale or rental of and providing minor service for equipment for use in transporting persons or property for substantial distances, such as buses, trucks, truck tractors, truck trailers, chassis, reusable cargo shipping containers, aircraft, and ships.

Transportation Terminal

A use or establishment devoted solely to the storage or parking of trucks and trailers without any goods or materials in storage facilities located on the premises.

Truck Cab

See “Camper, Pick-Up (Slide-In)”.

Truck Wash

See “Car Wash”.

Truck, Trailer, and Farm Implement Sales and Service

Any business where the primary business is the sales and/or service of trucks, trailers, and farm implements, whether new or used.

Trucking Terminal

Either end of a carrier line (e.g. a railroad, a trucking or shipping line or an airline) with classifying yards, dock and lighterage facilities, management offices, storage sheds and freight and passenger stations; or a freight or passenger station that is central to a considerable area or serves as a junction at any point with other lines.

Use

Any purpose for which a lot, building, or other structure, or a tract of land may be designated, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

Use, Conditional

A use, not permitted by right, that has a particular impact on the surrounding area or neighborhood that cannot be predetermined and controlled by general regulations. These uses are subject to the review and approval by the planning commission. A conditional use is not considered to be a nonconforming use.

Use, Nonconforming

The use of land or a building, or a portion thereof, which does not conform to the use regulations of the district in which it is situated.

USEPA

The United States Environmental Protection Agency.

Van, Converted or Chopped

See “Bus, Converted or Chopped”.

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Variance

A modification of the terms of this code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this code would result in unnecessary and undue hardship.

Variance, Area

A variance of the bulk, height, area, yard, dimensional and other non-use specifications established in this code.

Variance, Use

A variance which permits an applicant to engage in an activity or use of property other than that permitted in the zoning district in which the property is located.

Vehicular Use Area

Any paved ground surface area, except public rights-of-way, used by any type of vehicle, whether moving or at rest for the following purposes, but not limited to driving, parking, loading, unloading, storage or display.

Wall Offset

Projections or recesses organized in a random or repeating pattern along a building wall used to visually interrupt the mass of the façade plane.

Wall Opening

Openings in a façade wall that may include windows or doors.

Warehousing and Distribution

The bulk storage of goods, for persons other than the owner of the warehouse.

Water Resources

All streams, lakes, ponds, wetlands, watercourses, waterways, drainage systems, and all other bodies or accumulations of surface water, either natural or artificial, which are situated wholly or partly within, or border upon this state, or area within its jurisdictions, except those private waters which do not combine or affect a junction with natural surface waters.

Watercourse

Any natural, perennial, or intermittent channel with a defined bed and banks, stream, river, or brook.

Watershed

The drainage basin in which the subdivision or other area drains or that land whose drainage is affected by the subdivision or other area.

Wetland

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. Wetlands shall be delineated by a site survey and approved by the city using delineation protocols accepted by the U.S. Army Corps of Engineers and the Ohio EPA at the time of application of this code. If a conflict exists between the delineation protocols of these two agencies, the delineation protocol which results in the most inclusive area of wetlands shall apply.

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Wetland Setback

Those lands adjacent to wetlands where earth disturbing activities will not take place and natural vegetation will not be removed.

Wing Wall

A wall secondary in scale projecting from a primary wall and not having a roof.

Winter

October 1st to April 1st of each year.

Wholesale Business

Commercial activity involving the transfer of title to goods, generally in bulk, for the purpose of resale.

Yard

A required open space, unoccupied and unobstructed by any structure or portion of a structure.

Yard, Front

A yard extending from the principal building to the front lot line and which extends between the side lot lines.

Yard, Rear

A yard extending from the principal building to the rear lot line and which extends between the side lot lines.

Yard, Side

A yard extending from the principal building to the side lot line on both sides of the principal building.

Zoning Commissioner

A person appointed by the mayor and city council to perform the duties of the zoning commissioner.

Zoning District

An area within the City of Defiance for the regulations and requirements governing each class or kind of building or other structure or use are uniform. The boundaries of zoning districts are shown on the zoning map.

Zoning Map

The Official Zoning Map of the City of Defiance.

Zoning Map Amendment

An amendment or change to the Official Zoning Map of the City of Defiance reviewed and decided upon by the city council in accordance with [Section 1165.03 Zoning Text and Map Amendments](#).

Zoning Permit

A permit issued by the zoning commissioner stating that the proposed erection, construction, enlargement or use of a building, structure or premises referred to therein complies with the provisions of this code.

Zoning Text Amendment

An amendment or change to the text of this code reviewed and decided upon by the city council in accordance with [Section 1165.03 Zoning Text and Map Amendments](#).

Ordinance No. 7675

AN ORDINANCE ADOPTING THE 2030 COMPREHENSIVE LAND USE PLAN, REPEALING PART ELEVEN OF THE CODIFIED ORDINANCES ENTITLED "PLANNING AND ZONING CODE" AND ENACTING PART ELEVEN OF THE CODIFIED ORDINANCES ENTITLED "PLANNING AND ZONING CODE"

WHEREAS, Haphazard growth of urban areas inevitably results in serious problems with respect to the physical development of municipalities; and,

WHEREAS, The City has adopted a Comprehensive Land Use Plan to facilitate long range budgeting of capital expenditures to assure that future streets are adequately designed and properly located to create a well coordinated transportation system and assure that water distribution and sewage collection facilities are appropriately sized to serve anticipated populations; and,

WHEREAS, The Comprehensive Land Use Plan has traditionally been reviewed and revised at 20-year intervals; and,

WHEREAS, Planning Commission has completed a detailed review of the "2010 Comprehensive Land Use Plan" and recommends adoption of a proposed "2030 Comprehensive Land Use Plan" to effect incremental changes to the Comprehensive Land Use Plan that are:

- a. supportive of priorities established by the Municipal Strategic Plan for economic development;
- b. consistent with amendments to the District Map previously enacted in response to landowners' petitions for changes to the zoning district designation assigned to specific parcels;
- c. responsive to changes in traffic volumes and circulation patterns resulting from improvements to U.S. Route 24 including the expansion and anticipated future expansion of commercial activity in areas proximate to highway interchanges;
- d. reflective of a well-documented trend toward higher density development of residential districts;
- e. necessary to provide for orderly development of territories annexed to the municipality since adoption of the 2010 Comprehensive Land Use Plan; and,
- f. required to achieve compliance with Federal laws, State laws and Federal and State regulatory requirements pertaining to the management of storm water to reduce non-point source pollution of the Maumee River; and,

WHEREAS, Responsible exercise of Police Powers vested in the municipality by Article XVIII of the Ohio Constitution is essential to effective implementation of the Comprehensive Land Use Plan; and,

WHEREAS, Planning, platting and zoning regulations heretofore enacted as Part Eleven of the Codified Ordinances and comprised of: Title One--Planning, Chapters 1121 and 1123; Title Three--Subdivision Regulations, Chapters 1141, 1143, 1145, 1147 and 1149; and Title Five--Zoning, Chapters 1161, 1163, 1165, 1167, 1169, 1171, 1173, 1175, 1177, 1178, 1179, 1181 and 1183 were adopted in piecemeal fashion over a period of many years and contain inconsistent provisions and antiquated language that make it unnecessarily difficult for citizens to comprehend and comply with the regulatory requirements established to implement the Comprehensive Land Use Plan; and,

WHEREAS, Council appropriated funds to engage the services of McBride-Dale-Clarion to assist the Planning Commission with comprehensive revision of the Planning and Zoning Code; and,

WHEREAS, The Planning Commission recommends repeal of Part Eleven of the Codified Ordinances as currently enacted and adoption of the "2014 Planning and Zoning Code-City Council Adoption Draft" now on file with the Clerk of Council as a replacement Planning and Zoning Code containing the planning, platting and zoning regulations

needed to assure development in conformity with the Comprehensive Land Use Plan; and,

WHEREAS, All Meetings and Hearings of the Planning Commission were properly advertised, open to the public and often well attended; and,

WHEREAS, Council has conducted all Public Hearings required by Law and finds that the revisions to the Comprehensive Land Use Plan designated by the Planning Commission as the "2030 Comprehensive Land Use Plan" should be adopted; and,

WHEREAS, Council further finds that comprehensive revision of the municipality's planning, platting and zoning regulations is necessary to protect public health and safety and promote the general welfare of the city and its inhabitants;

Now therefore, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

Section 1: The revisions to the Comprehensive Land Use Plan designated as the "2030 Comprehensive Land Use Plan" are adopted as recommended by the Planning Commission and the Zoning Commissioner is directed make all necessary revisions to the District Map to conform the same to the district designations assigned by the Comprehensive Land Use Plan.

Section 2: The Planning and Zoning Code enacted as Part Eleven of the Codified Ordinances and comprised of: Title One--Planning, Chapters 1121 and 1123; Title Three--Subdivision Regulations, Chapters 1141, 1143, 1145, 1147 and 1149; and Title Five--Zoning, Chapters 1161, 1163, 1165, 1167, 1169, 1171, 1173, 1175, 1177, 1178, 1179, 1181 and 1183, as enacted and in effect on the effective date of this Ordinance, is Repealed. The repeal of said Ordinances shall not affect the legality of any action taken nor impair the enforcement of any civil, criminal or regulatory liability or obligation created or incurred in accordance with said Ordinances prior to the effective date of this Ordinance.

Section 3: The "Planning and Zoning Code-- City Council Adoption Draft" now on file with the Clerk of Council is hereby approved and the following Chapters and Sections of the Codified Ordinances are hereby enacted in form and substance as therein recited:

Chapter 1161 comprised of Sections 1161.01-1161.14, inclusive;
Chapter 1163 comprised of Sections 1163.01-1163.08, inclusive;
Chapter 1165 comprised of Sections 1165.01-1165.12, inclusive;
Chapter 1167 comprised of Sections 1167.01-1167.25, inclusive;
Chapter 1169 comprised of Sections 1169.01-1169.11, inclusive;
Chapter 1171 comprised of Sections 1171.01-1171.08, inclusive;
Chapter 1173 comprised of Sections 1173.01-1173.07, inclusive;
Chapter 1174 comprised of Sections 1174.01-1174.17, inclusive;
Chapter 1175 comprised of Sections 1175.01-1175.11, inclusive,
Chapter 1177 comprised of Sections 1177.01-1177.09, inclusive,
Chapter 1179 comprised of Sections 1179.01-1179.10, inclusive,
Chapter 1181 comprised of Sections 1181.01-1181.05, inclusive,
Chapter 1183 comprised of Sections 1183.01-1183.06, inclusive; and,
Chapter 1185 comprised of Sections 1185.01-1185.02, inclusive.

Section 4: It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

Section 5: This Ordinance shall be effective on the earliest date permitted by law.

Passed: November 11, 2014 Mike McCann
President of Council

Attest: Lisa Elders, Clerk

Approved: November 11, 2014 Bob Armstrong
Mayor