

**CITY OF POWELL**  
**Ordinance 2017-60**  
**Exhibit A**

TITLE ONE - SUBDIVISION AND DEVELOPMENT REGULATIONS

CHAPTER 1101 - GENERAL PROVISIONS

Sections:

1101.01 - PURPOSE.

The purpose of Title One is to establish the procedures and minimum requirements for developing land in the Municipality of Powell, Ohio.

(Ord. No. 86-28, 7-1-1986)

1101.02 - SCOPE.

- (a) The criteria and procedures established in these Development Regulations pertain to providing public and/or private streets, sidewalks, parking lots, sewers, street lighting, driveways, and water lines; the grading of land and sighting of structures; and all other site work outside the exterior limits of a structure or structures, including the appurtenances and associated items, all in accordance with the standard drawings and requirements stated herein.

~~(b) Any addition to an existing building or change of a building's use that may increase the parking needs requires compliance with these regulations (TITLE ONE).~~

(c) These Development Regulations cover all improvements or development of land in the City except:

- (1) The construction of a single or two-family dwelling on a platted or subdivided lot; and
- (2) The alteration, modification or other work on or around an existing structure when such work does not change, require a change of, or add to the site improvements. For example, the rearranging of rooms in a building without adding floor space or parking needs does not require compliance with these regulations. However, the addition to an existing building or the changing of a building's use that increases the parking needs does require compliance with these regulations.

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(Ord. No. 86-28, 7-1-1986)

1101.03 - GOVERNING REGULATIONS.

- (a) When there appears to be, or there is in fact, a conflict between these Development Regulations and the Zoning Code, the most stringent requirement shall apply.
- (b) In addition to the requirements established herein, all required work shall be performed in the manner required and to the minimums established by Chapter 1113.

(Ord. No. 86-28, 7-1-1986; Ord. No. 87-03, 3-17-1987)

1101.04 - DEFINITIONS.

The definitions of Chapter 1103 shall be used in these Development Regulations unless the context of any section of this Title One specifically indicates that such definitions are not applicable.

(Ord. No. 86-28, 7-1-1986; Ord. No. 87-03, 3-17-1987)

#### 1101.99 - PENALTY.

Whoever violates any provision of this Title One shall be fined not more than \$500.00. A separate offense shall be deemed committed each day during or on which an offense occurs or continues.

(Ord. No. 86-28, 7-1-1986)

#### CHAPTER 1103 - DEFINITIONS<sup>[1]</sup>

Sections:

Footnotes:

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**Cross reference**— Zoning definitions, Ch. 1123

#### 1103.01 - PURPOSE.

The purpose of this chapter is to establish the definitions of certain words as they are used in these Development Regulations.

(Ord. No. 86-28, 7-1-1986; Ord. No. 87-03, 3-17-1987)

#### 1103.02 - SCOPE.

The definition of words given in this chapter shall be used in these Development Regulations unless the context of any section of any chapter specifically indicates that such definitions are not applicable.

(Ord. No. 86-28, 7-1-1986)

#### 1103.03 - ACCEPTANCE OR APPROVAL.

*Acceptance or Approval* means the favorable vote by the Planning and Zoning Commission and/or the Council on the plans for development which are submitted for their consideration, and the approval of installed improvements.

- (a) Conditional acceptance means acceptance subject to stated conditions. Public improvements will receive a conditional acceptance subject to the correction of any deficiencies and a minimum one year maintenance period.
- (b) Final acceptance of improvements means that in general the results of the construction work are in accordance with the approved plans.

(Ord. No. 86-28, 7-1-1986; Ord. No. 87-03, 3-17-1987)

#### 1103.04 - BUILDING SETBACK LINE.

*Building setback line* means a line parallel to and at a fixed distance from the street, the purpose of which is to establish the minimum distance from a building to the street right-of-way line.

(Ord. No. 86-28, 7-1-1986)

1103.05 - DEVELOPMENT.

*Development* means the improvement of a tract or parcel of land.

(Ord. No. 86-28, 7-1-1986)

1103.06 - EASEMENT.

*Easement* means a grant by the property owner or owners of the use of a strip of land for a specific purpose or purposes.

(Ord. No. 86-28, 7-1-1986)

1103.07 - IMPROVEMENTS.

*Improvements* mean any addition to the natural state of land which increases its value or utility, including buildings, street pavements with or without curbs and gutters, sidewalks, cross walks, waterlines, sanitary sewers, storm sewers, landscaping, street lighting, public utilities, paved parking areas, and other appropriate items.

- (a) *Site improvements* mean the improvements made to the land outside the exterior limits of a structure or structures.
- (b) *Public improvements* mean all improvements financed entirely or in part by public funds or which have been dedicated to public use by plat, easement or deed of transfer.

(Ord. No. 86-28, 7-1-1986)

1103.08 - LOT.

*Lot* means a measured parcel of land having fixed boundaries and designated on a plat or survey.

(Ord. No. 86-28, 7-1-1986)

1103.09 - PARCEL.

*Parcel* means a specific part of a larger acreage of land.

(Ord. No. 86-28, 7-1-1986)

1103.10 - PLAN.

*Plan* means a drawing showing the proportion and relation of parts of improvements to each other and their surroundings.

- (a) *Construction plan* means a plan which gives information required to construct improvements including plan views, sections, profiles, details, quantities, reference specifications, and standard drawings.
- (b) *Final Development plan* means a plan which shows the existing ground and the proposed improvements on a tract or parcel of land in enough detail to establish the scope of the improvements, their relationship to the tract and surrounding tracts and to establish the development's compliance with, or to identify the variations from, these regulations.
- (c) *Erosion and sediment control plan* means a plan which shows the methods to be used to control the erosion of the site being developed, and to control the sedimentation downstream of the site being developed.
- (d) *Grading plan* means a plan which shows the proposed grades for the development in a manner that reflects the scope of earthwork required and the finished site grades.
- (e) *Landscaping plan* means a plan which shows the landscape improvements for the development in accordance with the requirements of the Zoning Code.
- (f) *Plat* means a plan of a tract or parcel of land made by a surveyor registered in the State of Ohio showing public dedications, property lines, lot lines and such other information as is required herein.
- (g) *Preliminary development plan* means a plan which shows the existing grounds and the concept of the improvements on the tract or parcel of land to provide a basic understanding of the development.
- (h) *Site plan* means a plan which shows information concerning all the site improvements, their relationship to each other, and the final shape and configuration of the site with improvements.
- (i) *Utility plan* means a plan that shows the location of existing and proposed utilities.

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(Ord. No. 86-28, 7-1-1986; Ord. No. 87-03, 3-17-1987)

#### 1103.11 - RIGHT-OF-WAY.

*Right-of-way* means the strip of land dedicated or otherwise acquired by the public for public use.

(Ord. No. 86-28, 7-1-1986)

#### 1103.12 - ROADWAY.

*Roadway* means the portion of a street intended for vehicular traffic. Roadways are normally constructed of all-weather, durable material of sufficient strength to adequately support the projected vehicular traffic.

(Ord. No. 86-28, 7-1-1986)

#### 1103.13 - SIDEWALK.

*Sidewalk* means a hard surface portion of street, which lies outside the curb lines or edge of pavement of the roadway. Sidewalks may be constructed of concrete or brick.

(Ord. No. 86-28, 7-1-1986)

#### 1103.14 - STREET.

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Street means any avenue, boulevard, road, lane, parkway or other way for vehicular and pedestrian traffic, excluding driveways into single family, two family or multi-family dwellings, or access to commercial or business establishments and their parking facilities. Streets shall be classified as follows:

- (a) *Alley* means a public street, less than 25 feet wide, but more than ten feet wide, which affords access to the side and rear of abutting properties, and may include adjacent parking.
- (b) *Cul-de-Sac* means a short, minor street having only one-end open for vehicular traffic and the other end permanently terminated by a vehicular turn-around or back-around.
- (c) *Dead-end street* means a street with only one outlet.
- (d) *Downtown Connector* means a relatively narrow public street providing connectivity between alleys, parking areas, residential, business, and mixed uses.
- (de) *Freeway* (limited access highway) means a strip of public land devoted to rapid movement of vehicular traffic, to which the abutting property owners have no direct right of access.
- (ef) *Industrial street* means a street which is intended to carry heavy vehicular traffic primarily serving light or heavy industrial establishments.
- (fg) *Local street* means a street on which the majority of the traffic originates or terminates in the abutting properties.
- (gh) *Primary street or thoroughfare* means an arterial street or highway which serves as an outlet for a group of secondary and local streets.
- (hi) *Private street* means a strip of privately owned land providing access to abutting properties.
- (ij) *Public street* means a strip of land, as dedicated upon a plat, or as otherwise acquired by the City or other governmental agencies, the acquisition of which has been duly approved, filed, and recorded in the office of the County Recorder, for use by the public.
- (ik) *Residential street* means a street which primarily serves dwelling units.
- (kl) *Secondary street* means a street which primarily serves as a collector for local streets.
- (lm) *Service road or access road* means a minor street, parallel to a thoroughfare, to afford abutting property owners access to the thoroughfare at limited points.
- (mn) *Stub road* is a public or private street that abruptly ends at or near a property line with the intent to extend the street when the adjacent property develops. The intent of a stub street is to provide for an interconnected street system as recommended in the Comprehensive Plan.
- (po) *T-turn around* means an arrangement at the end of a dead-end street which permits vehicles to be turned around by heading in, backing and then going forward.

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(Ord. No. 86-28, 7-1-1986)

#### 1103.15 - STREET RIGHT-OF-WAY.

*Street right-of-way* means the line, sometimes referred to as the property line, between a lot and the area dedicated or otherwise acquired for public street purposes, otherwise known as dedicated right-of-way.

(Ord. No. 86-28, 7-1-1986)

#### 1103.16 - SUBDIVISION.

*Subdivision* means:

- (a) 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 the 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 easement of access, and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall be exempted or
- (b) 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, 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.

(Ord. No. 86-28, 7-1-1986)

1103.17 - TRACT.

*Tract* means a continuous expanse of land.

(Ord. No. 86-28, 7-1-1986)

1103.18 - WALK-WAY.

*Walk-way* means a dedicated public right-of-way limited to pedestrian traffic.

(Ord. No. 86-28, 7-1-1986)

1103.19 - ZONING.

*Zoning* means City regulations and limitations by districts, of the height, area and use of buildings, the use of lands and the density of population.

(Ord. No. 86-28, 7-1-1986)

1103.20 - ZONING CODE.

*Zoning Code* means the Zoning Ordinance 84-45 including all ordinances or regulations subsequently passed which change, amend, replace or supersede all or any part of the Zoning Ordinance in force on the date submissions are made to the City in accordance with these Development Regulations.

(Ord. No. 87-03, 3-17-1987)

1103.99 - PENALTY.

Whoever violates any provision of Title One shall be fined not more than \$500.00. A separate offense shall be deemed committed each day during or on which an offense occurs or continues.

(Ord. No. 86-28, 7-1-1986)

CHAPTER 1105 - DEVELOPMENT REGULATIONS AND REQUIRED IMPROVEMENTS<sup>[2]</sup>

Sections:

Footnotes:

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**State Law reference**— Cornerstones and permanent markers, O.R.C. §§ 711.03, 711.14

#### 1105.01 - PURPOSE.

The purpose of this chapter is to define types of development and establish the requirements for developing property in the City.

(Ord. No. 86-28, 7-1-1986)

#### 1105.02 - DEFINITIONS.

The definitions of Chapter 1103 shall be used in this chapter unless the context of any section of this chapter specifically indicates that such definitions are not applicable.

(Ord. No. 86-28, 7-1-1986)

#### 1105.03 - TYPES OF DEVELOPMENTS.

For the purpose of establishing requirements and procedures for submission of materials to the City, developments are grouped into two types of development.

(a) Land can be developed as:

- (1) A subdivision, as defined in Section 1103.16, or
- (2) As the development of, or alteration to, an existing lot. This requirement does not pertain to the construction of one or two-family dwellings on platted lots.

(b) When there is a doubt as to the type of development being considered, the final determination will be made by the Planning and Zoning Commission.

(Ord. No. 86-28, 7-1-1986; Ord. No. 87-03, 3-17-1987)

#### 1105.04 - APPROVAL OF SUBDIVISION WITHOUT PLAT.

A proposed division of a parcel of land along an existing public street, not involving the opening, widening or extension of any street or road, and involving no more than ~~five~~ three lots after the original tract has been completely subdivided, may be submitted to the Planning and Zoning Commission for approval without plat. If the Commission acting through its properly designated representative is satisfied that such proposed division is not contrary to applicable platting, subdividing or zoning regulations, it shall within seven working days after submission approve such proposed division and, on presentation of a conveyance of said parcel, shall stamp the same "Approved by Planning and Zoning Commission; No Subdivision Plat Required" and have it signed by its Clerk, or designated representative. The request for approval of subdivision without plat shall include a deed map showing the boundaries of tract being subdivided, and

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the zoning classification of the tract. At such time as the subdivided tract is developed, submissions shall be made as described in Section 1105.09(b).

(Ord. No. 88-19, 8-24-1988)

#### 1105.05 - REQUIRED IMPROVEMENTS.

An owner who desires to develop any land shall provide and pay the entire cost of the following improvements needed to develop such land:

- (a) Streets and parking areas, graded and paved, including drainage structures, bridges, and when required sidewalks and curbing;
- (b) Sanitary sewers, including manholes, services and all appurtenances;
- (c) Water distribution system including lines, services, valves, fire hydrants, and all appurtenances;
- (d) Storm sewers, including manholes, inlets and all the appurtenances;
- (e) Monuments and stakes;
- (f) Street signs designating the name of each street at each intersection within the development and street signs at stub roads noting that a future street will be extended in the future. Street signs shall conform to the standards established by the City;
- (g) Street lighting including poles, underground conduits and appurtenances at intersections and, when curbs and sidewalks are required, along the street;
- (h) Landscaping; and
- (i) Traffic control devices including regulatory, guide and warning signs, including posts and supports, lane line stripping, and directional arrows, to be located as directed by the City;
- (j) All other improvements shown on the plans and as approved by the City.

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(Ord. No. 86-28, 7-1-1986; Ord. No. 87-03, 3-17-1987)

#### 1105.06 - RECREATION FEE.

A Recreation Fee shall be collected in accordance with the Fee Schedule established by the Council and in force on the date the Recreation Fee is due and payable. All monies so collected shall be deposited for use to construct, erect, repair, maintain, operate, purchase or otherwise obtain or upgrade parks and recreational facilities.

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(Ord. No. 88-19, 8-24-1988)

#### 1105.07 - DEVELOPMENT FEE.

A Development Fee shall be collected in accordance with the Fee Schedule established by the Council and in force on the date the Development Fee is due and payable. All monies so collected shall be deposited in accounts used to construct, repair, replace or upgrade public streets, storm drainage systems and sanitary sewer systems, or other development needs such as Council deems appropriate; including the legal, administrative and engineering services in support of the work described herein.

(Ord. No. 87-03, 3-17-1987)

#### 1105.08 - PLAN FILING AND REVIEW FEE.



A Plan Filing and Review Fee shall be collected in accordance with the Fee Schedule established by the Council and in force on the date the Plan Filing and Review Fee is due and payable. All monies so collected shall be deposited in accounts used to provide for engineering services to the City.

(Ord. No. 86-28, 7-1-1986)

#### 1105.09 - REQUIRED SUBMISSIONS.

The following submissions are required for each type of development.

- (a) The Subdivision of Land with Plat shall require:
  - (1) A Sketch Plan,
  - (2) A Preliminary Development Plan, except as noted in subsection (d) hereof,
  - (3) A Development Plan,
  - (4) A Landscape Plan,
  - (5) A Plat for each development phase,
  - (6) Construction Plans,
  - (7) A Grading Plan, and
  - (8) An Erosion and Sediment Control Plan.
  - (9) As determined by the City Engineer, a Storm Water Pollution Prevention Plan and a post construction storm water operation and maintenance plan.
- (b) The development or alteration to an existing lot or the subdivision of land without plat in conjunction with the development of the land shall require:
  - (1) A Sketch Plan,
  - (2) A Development Plan,
  - (3) A Landscape Plan,
  - (4) A Grading Plan,
  - (5) An Erosion and Sediment Control Plan, and
  - (6) A Site and/or Utility Plan.
- (c) The Preliminary Development Plan shall be submitted for the entire subdivision or development. The remaining Final Development Plan submissions shall only be for the phase being developed.
- (d) In some cases the above listed plans can be combined together to decrease the total sets of plans. The procedure for this is described in Chapters 1107 and 1109.

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(Ord. No. 86-28, 7-1-1986)

#### 1105.10 - OBLIGATIONS OF THE OWNER, CONSTRUCTION GUARANTEES, VIOLATIONS OF PROVISIONS.

In consideration of the approval of the Construction Plans, or when there are no public improvements, the Site and/or Utility Plans, the owner of the land being developed shall be subject to the following regulations:

- (a) No lot, parcel or tract shall be transferred ~~from the proposed development nor shall any construction work on such development, including grading, be started until the owner has obtained the necessary approvals~~ under the subdivision code, and the plans required in Section

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1105.09, and, when required, the subdivision plat has been filed with the Delaware County Recorder.

- (b) No conveyance shall be made of any lot or parcel smaller in frontage or area than indicated on the plat without the approval of the Planning and Zoning Commission.
- (c) All construction work and materials used in connection with site and public improvements shall conform to the requirements of the City, shall be observed as required by the City representative when being installed, and shall be installed at no expense to the City. Construction shall not commence until such time as the plans are approved pursuant to Section 1105.09, and the subdivision plat, if required, is also signed pursuant to Section 1107.08.
- (d) The City Engineer shall be notified in writing three days before any construction is to begin.
- (e) The owner shall hold the City free and harmless from any and all claims which might originate by virtue of the development of the subject premises or the conduct of the owner, its agents or employees relative to said development including, but not limited to, any and all claims for damages of every nature whatsoever or for injunctive relief emanating from the construction and improvements or resulting from the construction and improvements of said developed area; and the Owner shall defend, at his own cost and expense, any suit or action brought against the City by reason thereof excluding, however, any such liability that might result from the sole negligence of the City. The owner acknowledges that owner or its agents or employees are knowledgeable developers who have utilized said knowledge and skill in developing the subject premises and though conforming to local regulations and ordinances of the City, owner is relying solely on his own expertise or the expertise of his developer in developing the subject premises; and the owner is not relying on any skill or expertise of the City, its agents or employees in preparing the developed area in accordance with sound engineering and development practices.
- (f) All improvements and utilities will be satisfactorily installed within one year from the date of approval of the Construction, Site, or Utility Plans, as required herein or within such time schedule as presented and approved by the Planning and Zoning Commission. Extended time limits for satisfactory installation of improvements associated with plans encompassing multiple phases of development may be granted at the discretion of the City Engineer. In such cases, each phase shall be substantially complete at the discretion of the City Engineer prior to the start of construction of the next successive phase, unless it is the intention of the development plan to conclude the installation of multiple phases at one time.
- (g) Any extension of the time limits set in subsection (f) hereof must be approved by The City Engineer. Such approval shall be granted only upon a finding of a valid purpose and necessity for such extension and evidences of reasonable and diligent efforts toward accomplishment of the original Construction, Site, or Utility plans within the originally established time limits, and upon finding that such extension is not in conflict with the general health, welfare and safety of the public. No extension of time shall be granted except upon application filed in writing with the City Engineer not later than 30 days before the expiration of the time limits set in subsection (f) hereof.
- (gh) At, or prior to, the preconstruction meeting, prior to the beginning of construction of the public improvements, the developer or owner shall guarantee the construction of the public improvements by filing with the City evidence satisfactory to the City Engineer and Law Director of one of the following:
  - (1) A performance bond equal to 120 percent of the estimated construction cost as approved by the City Engineer of the public improvements, with the provision that the bond proceeds shall be used to cover the cost of contractors, subcontractors, material men, laborers, and other costs to the City of Powell to complete the project upon default by the owner. The performance bond shall not expire until such times as the public improvements are complete and receive conditional acceptance by the City and at such time as the maintenance guarantee is posted; or

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- (2) A certified check equal to 100 percent of the estimated construction cost of the public improvement; or
- (3) Subject to the approval of the Law Director, a certificate of deposit or an irrevocable letter of credit made out to the City, equal to 100 percent of the estimated construction cost, as approved by the City Engineer, of the public improvements. The certificate of deposit or letter of credit shall not expire until such time as the public improvements are complete and receive conditional acceptance by the City and at such time as the maintenance guarantee is posted.

(4) For small projects (of less than one acre) which does not have a substantial public improvement, and the improvement is not determined to be a critically important public improvement, at the discretion of the City Engineer, the owner may not be required to submit a performance guarantee as outlined above. However, the owner is still obligated to perform the improvements within the approved plans and the Zoning Administrator may withhold a Certificate of Zoning Compliance (occupancy) if the improvement is not completed prior to the facility being ready to occupy their development.

(h) All permits and approvals shall be obtained and all fees and deposits paid prior to beginning any construction of any improvements.

(i) During construction and prior to acceptance of any public improvement, the Owner shall remove or cause to be removed such dirt and debris and foreign matter from all public rights-of-way, improvements and/or easements as were deposited, left or resulted from the construction of improvements of any nature for the development, within 24 hours after being notified by the City that such removal is required. Such removal shall be done to the satisfaction of the City.

(j) A development agreement shall be executed in such form and on such terms and conditions as specified by the City Engineer and Solicitor except for small sites under an acre in size.

(k) No person or owner shall violate any of the regulations established in these Development Regulations and upon violation the City shall have the right to:

- (1) Stop all work on the project forthwith upon the City having posted a notice to stop work at the development site.
- (2) Continue any unfinished work or replace any unaccepted work to a point that any public improvements do not appear to create a health or safety hazard or create maintenance or repair expense to the City because of their state of completion by:
  - A. Holding the bonding company responsible for all actual expenses incurred, including engineering, legal and construction expenses, plus interest as defined in subsection (g)(1) hereof, from the date of default by the owner and/or his contractor or representatives, to the date the City receives reimbursement for all expenses incurred, or
  - B. Using the certified check, or proceeds thereof, or proceeds of the certificate of deposit or the letter of credit.

(Ord. No. 86-28, 7-1-86; Ord. No. 87-03, 3-17-1987; Ord. No. 2005-21, 5-4-2005)

1105.99 - PENALTY.

Whoever violates any provision of this chapter shall be fined not more than \$500.00. A separate offense shall be deemed committed each day during or on which an offense occurs or continues. The enforcement of the fines described herein shall be separate and distinct from the exercising of any City right described in Section 1105.10.

(Ord. No. 86-28, 7-1-1986)

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## CHAPTER 1107 - SUBMISSION PROCEDURES FOR DEVELOPMENT<sup>31</sup>

Sections:

Footnotes:

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**State Law reference**— Plat and contents, O.R.C. § 711.01 et seq.; Plat acknowledgement and recording, O.R.C. § 711.06; Approval by Planning Authority, O.R.C. § 711.09

### 1107.01 - PURPOSE.

The purpose of this chapter is to establish the submission procedures for developing property in the City.

(Ord. No. 86-28, 7-1-1986)

### 1107.02 - SCOPE.

The following procedures shall be followed from the time the land to be developed is properly zoned for the proposed development through the completion of all improvements. All plans and documents required herein shall be prepared and submitted at no cost to the City.

(Ord. No. 86-28, 7-1-1986)

### 1107.03 - DEFINITIONS.

The definitions of Chapter 1103 shall be used in this chapter unless the context of any section of this chapter specifically indicates that such definitions are not applicable.

(Ord. No. 86-28, 7-1-1986)

### 1107.035 – POSTING OF NOTICE SIGN

At least ten (10) days prior to a public hearing or public meeting about land development proposals, the applicant shall post a sign, as designed by the Zoning Administrator but provided by the applicant, that gives notice to the public with regard that a proposal is being reviewed by the city, and provides a city telephone number and web site in order to get information about the current proposal. Such sign shall remain posted until the project is finished with its public hearings.

### 1107.04 - SKETCH PLAN.

- (a) An owner wishing to develop land should submit five copies of a Sketch Plan, and such other information as the owner desires, to the Planning and Zoning Commission 15 days prior to the date of the Commission meeting.
- (b) The Commission shall review the Sketch Plan with the owner and provide the owner with comments during the meeting, it being understood that no statement by officials of the City shall be binding upon either. This submission is informal and for the purpose of establishing communication and discussing the concept for developing the tract. No formal action will be taken on the Sketch Plan.

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(Ord. No. 86-28, 7-1-1986; Ord. No. 87-03, 3-17-1987)

#### 1107.05 - PRELIMINARY DEVELOPMENT PLAN, NOTICE TO PROPERTY OWNERS.

- (a) Following the discussion of the Sketch Plan for a development, the owner shall submit five copies of a Preliminary Development Plan and such other information as the owner desires, to the Planning and Zoning Commission 15 days prior to the date of the Commission meeting. The Planning and Zoning Commission Clerk shall then, by letter, notify property owners within 250 feet of the subject property of the pending consideration of a Preliminary Development Plan. This notice shall be mailed not less than seven days prior to the meeting.
- (b) The Commission shall review the Preliminary Development Plan at its next meeting and provide the owner with comments regarding the overall concept of the development. The Commission will approve the Preliminary Development Plan, disapprove the Plan, or take no action subject to the Plan being revised. Upon approval, the Preliminary Development Plan shall be forwarded to Council for their information.
- (c) If the Preliminary Development Plan is disapproved or no action is taken, the notices to the property owners shall be sent out as described above upon the resubmission of the Preliminary Development Plan. The resubmission shall be made 15 days prior to the Commission meeting in which the Preliminary Development Plan is to be reconsidered.
- (d) In the instance of developing or alternating a lot, a Preliminary Development Plan is not required.
- (e) The approval of the Preliminary Development Plan shall be effective for:
  - (1) The period of time as set forth in subsection (f) below.
  - (2) The period of time as established in the approval, or
  - (3) The period of time provided by the granting of time extensions or the establishment of a schedule in the approval of a Development Plan for a phase of the development shown on the Preliminary Development Plan.
- (f) The approval of the Planning and Zoning Commission shall be null and void for all undeveloped portions of a development as shown on the Preliminary Development Plan:
  - (1) If a Development Plan has not been submitted to the Planning and Zoning Commission for the first phase of development within 12 months of the Preliminary Development Plan approval or on the schedule as established in the approval of the previous Development Plan.
  - (2) If a Development Plan has not been submitted to the Planning and Zoning Commission for the next phase of development within 12 months of the conditional acceptance by the City of a preceding phase of development or on a schedule as established in the approval of the previous Development Plan.
  - (3) If the time limits as stated herein or as stated in Section 1107.06 for the Development Plan have been exceeded and no time extension has been granted by the Planning and Zoning Commission.

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**Deleted:** At the time the owner submits a Preliminary Development Plan, the City shall be furnished a list of names and addresses of all property owners abutting or directly across the street from any part of the development.

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(Ord. No. 86-28, 7-1-1986; Ord. No. 87-03, 3-17-1987)

1107.06 - ~~FINAL~~ DEVELOPMENT PLAN.

- (a) Upon receiving approval of the Preliminary Development Plan by the Planning and Zoning Commission, the owner shall submit ~~five~~ copies of a ~~Final~~ Development Plan to the Planning and Zoning Commission, ~~15~~ days prior to the Commission meeting in which it is to be considered. The ~~Final~~ Development Plan may be for one or more phases, or the entire development.
- (b) When the Preliminary Development Plan is not required or is combined with the ~~Final~~ Development Plan, the submission procedures stated in Section 1107.06-5 for the Preliminary Development Plan shall be followed.
- (c) The Commission shall examine and take action on the ~~Final~~ Development Plan within 45 days after it has been filed. The owner may withdraw the ~~Final~~ Development Plan from consideration by the Commission any time before the Commission takes action, in which case the 45 day time limit shall start over when the ~~Final~~ Development Plan is resubmitted.
- (d) The approval of the Planning and Zoning Commission shall be effective for:
- (1) Nine months, or as established on the approved ~~Final~~ Development Plan, unless the plans and specifications as required in Section 1105.09 have been submitted to the City Engineer.
  - (2) Twelve months, or as established on the approved ~~Final~~ Development Plan, unless construction has begun.
- (e) A Landscape Plan shall be submitted as part of or in conjunction with the ~~Final~~ Development Plan. The approval of the ~~Final~~ Development Plan shall include the approval of the Landscape Plan. The approval of the Landscape Plan shall be subject to the same terms and conditions as is the approval of the ~~Final~~ Development Plan.

(Ord. No. 87-03, 3-17-1983; Ord. No. 86-28, 7-1-1986)

1107.07 - DEVELOPER'S AGREEMENT.

Upon the approval of the ~~Final~~ Development Plan and prior to the submission of a plat, when a plat is required, or the Utility and Site Plans, when a plat is not required, a Developer's Agreement in such form and such terms as are required by the City shall be signed.

(Ord. No. 86-28, 7-1-1986)

1107.08 - PLAT.

Upon approval by the Planning and Zoning Commission of the Development Plan, a plat shall be submitted for subdivisions in which land will be dedicated for public use. ~~Five~~ copies of the plat shall be submitted to the Planning and Zoning Commission ~~15~~ days prior to the date of next Commission meeting. The Commission shall take action on the Plat within ~~45~~ 30 days after it has been filed the Plat has had its first hearing before the Planning and Zoning Commission. Upon approval by the Commission the Plat shall be forwarded to Council for its consideration. Council shall take action on the Plat within 60 days after receiving the Plat from the Planning and Zoning Commission. A two-thirds majority of Council is required for council to reverse a recommendation of the Commission. The owner shall file the Plat with the Delaware County Recorder within ~~twelve~~ (12) months of its approval by Council, unless this time is extended by Council, or the approvals of the Planning and Zoning Commission and Council shall be null and void. At such time as the owner desires to file and record the Plat with the County Recorder, the owner shall guarantee the construction of the public improvements in accordance with Section 1105.10.

(Ord. No. 86-28, 7-1-1986; Ord. No. 87-03, 3-17-1987)

**Commented [RK5]:** Should we call this a "Final" Development Plan, do we want to update our application forms or the code?

**Commented [DB6R5]:** This process in the Development Regulations is kind of different than the zoning code process as a subdivision or development plan could happen outside of a "planned district". We can, however, to keep consistent with the Zoning Code, call it a "Final" Development Plan.

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#### 1107.09 - SUBMISSION OF CONSTRUCTION DATA.

- (a) Following the approval of the Development Plan and Plat, the owner shall submit to the City Engineer two copies of the plans required in Section 1105.09, along with the design calculations and reference data, and an itemized cost for constructing the public and site improvements. ~~The items of the estimate shall be grouped as follows:~~
- ~~(1) Street and parking area improvements, including curb, pavement and sidewalks;~~
  - ~~(2) Fire hydrant installations;~~
  - ~~(3) Storm sewers, including manholes, Y's, Tee's and cleanout; and~~
  - ~~(4) Site improvements, including seeding and sodding.~~
- (b) ~~Within 30 days of recording the Plat and~~ prior to the beginning of construction, a digital copy and 1 print will be given to the City Engineer of the approved Development Plan and when appropriate, the recorded plat.
- (c) When a plat is not required or the development does not involve installing any public improvements, the information for the site improvements shall be shown on a Site and Utility Plan.
- (d) The Engineer shall review the plans and construction estimates and, subject to this satisfaction, they shall be approved or returned with comments.
- (e) Upon approval of the construction plans or site and utility plans, reproducible copies meeting the requirements of subsection (b) hereof and three sets of prints shall be given to the City Engineer. The Engineer may permit the developer's engineer to retain the reproducible copies until such time as the "as-built" information is added.

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**Deleted:** A reproducible copy shall be defined as ink on linen or a photographic reproduced drawing on mylar which will accept ink, will make clear sharp prints, and will not fade, darken, or become brittle with age.

(Ord. No. 86-28, 7-1-1986; Ord. No. 88-19, 8-24-1988)

#### 1107.10 - FEES, GUARANTEES, WRITTEN NOTICE OF CONSTRUCTION.

Prior to the beginning of any construction:

- (a) ~~At such time as the owner desires to begin construction, the owner shall guarantee the construction of the public improvements in accordance with Section 1105.10.~~
- (b) All appropriate fees, deposits, and construction guarantees shall be made, and deposited with the City.
- (b) All requirements listed in this chapter have been completed and the City Engineer has given written approval to begin construction.
- (c) The City Engineer has received written notification 72 hours before construction is to begin.

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(Ord. No. 86-28, 7-1-1986)

#### 1107.11 - OWNERSHIP OF PLANS, AS-BUILT PLANS.

When the proper City officials have affixed their signatures to a set of reproducible drawings of public improvements, such drawings become the property of, and will remain in the custody of, the City, except that the developer will be required to correct the plans to conform to the "as-built" conditions. Public improvements will not be accepted by the City until the "as-built" reproducible drawings are delivered to the Engineer, together with two prints thereof.

(Ord. No. 86-28, 7-1-1986)

#### 1107.99 - PENALTY.

Whoever violates any provision of this chapter shall be fined not more than \$500.00. A separate offense shall be deemed committed each day during or on which an offense occurs or continues.

(Ord. No. 86-28, 7-1-1986)



## CHAPTER 1109 - PLAN CONTENT AND REQUIREMENTS<sup>[4]</sup>

Sections:

Footnotes:

--- (4) ---

**State Law reference**— Plat and contents, O.R.C. § 711.01 et seq.; Engineer to approve plats, O.R.C. §§ 711.08, 711.09

### 1109.01 - PURPOSE.

The purpose of this chapter is to establish the minimum information required for the plans which are required in Section 1105.09.

(Ord. No. 86-28, 7-1-1986; Ord. No. 87-03, 3-17-1987)

### 1109.02 - SCOPE.

The plans shall be submitted as indicated, containing the information required herein. It is recognized that in some cases the requested information does not pertain. For example, deed restrictions may not be proposed for a small development. In these instances, the submission should state which items for that submission are not applicable.

(Ord. No. 86-28, 7-1-1986)

### 1109.03 - DEFINITIONS.

The definitions of Chapter 1103 shall be used in Development Regulations unless the context of any section of this chapter specifically indicates that such definitions are not applicable.

(Ord. No. 86-28, 7-1-1986)

### 1109.04 - USGS ELEVATIONS.

The elevations shown on all plans shall be based on the National Geodetic Survey's North American Vertical Datum of 1988 (NAVD 88) USGS datum, appropriate to the location of the property

**Commented [JM7]:** Refer to most recent survey datum

\_(Ord. No. 86-28, 7-1-1986)

### 1109.05 - PLAN SCALE.

The Plan Scale for Sketch Plans and Preliminary Development Plans shall be no smaller than one inch equals 100 feet. The plan scale for all other plans and the plat shall be no smaller than one inch equals 50 feet horizontally and one inch equals five feet vertically.

(Ord. No. 86-28, 7-1-1986)

1109.06 - SKETCH PLAN.

A Sketch Plan shall be submitted as stipulated herein and include:

- (a) Proposed name of development and location;
- (b) Names and addresses of owners and developers;
- (c) Date, north arrow and plan scale;
- (d) Approximate boundary lines of proposed development;
- (e) Major existing features including topography;
- (f) Major proposed improvements and a general layout of development;
- (g) The basic development information such as minimum lot size and dimension, type and size of building, and street and drainage patterns;
- (h) For tracts that contain wooded areas or stands of trees, a statement of the procedure to be used to identify and preserve sound, healthy trees;
- (i) For tracts that contain ravines or natural drainage courses, a statement of the extent of, and procedures for their preservation; and

(j) Such other information as requested by the Director of Development.

~~(k)~~ Such other information as will be necessary to give the Commission the proposed concept.

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(Ord. No. 86-28, 7-1-1986)

1109.07 - PRELIMINARY DEVELOPMENT PLAN.

A Preliminary Development Plan shall be submitted as stipulated herein. A Preliminary Development Plan shall include:

- (a) Proposed name of the development and its location;
- (b) Names and addresses of owners and developers;
- (c) Date, north arrow and plan scale;
- (d) Boundary lines of the proposed development and the total approximate acreage encompassed therein;
- (e) Locations, widths, and names of all existing public streets or other public ways, railroad and utility rights-of-way or easements, parks and other public open spaces, permanent structures, and section and corporation lines within or adjacent to the tract;
- (f) Existing sewers, waterlines, culverts, and other underground facilities within the tract, adjacent to the tract or that will be used in developing the tract, indicating pipe sizes, grades, and locations;
- (g) The adjoining lines of adjacent tracts, parcels or lots;
- (h) Existing zoning restrictions;
- (i) Existing ground configurations, drainage channels, wooded areas, watercourses and other significant physical features;
- (j) Identification of the tree preservation procedures and areas;
- (k) Layout with approximate dimensions of proposed streets, including tentative locations for sewers, waterlines, culverts, private utilities, and other major improvement;

- (l) Tentative layout, numbering and the approximate dimensions of lots if more than one;
- (m) The approximate area of the smallest and largest lots, the proposed total number of lots, the lot yield based on total acres and the acres without street right-of-way;
- (n) Tentative layout, location, elevation views, finish materials and colors, and approximate dimensions of proposed buildings, except for single and two family subdivisions;
- (o) Layout of site improvements including parking lots, driveways, landscape areas, trash container lighting, and fencing, except for single and two family subdivisions;
- (p) Parcels of land intended to be dedicated or temporarily reserved for public use or reserved by deed covenant, with the conditions proposed for such covenant, and for the dedications;
- (q) Proposed building setback lines with dimensions;
- (r) Grading concepts of the lots, streets and pavement with explanation of methods for handling off-site drainage, both that which enters the development and that which leaves the development; and also provide feasibility analysis of proposed on-site and/or off-site storm water management concept.
- (s) Proposed deed restrictions and covenants;
- (t) A statement of the tentative schedule of phases of development;
- (u) A statement of the general effect the development will have on schools, public services and traffic patterns;
- (v) A statement of the character and nature of the development including the cost range or rent levels for housing in residential developments and the general types of business for industrial and commercial developments, and
- (w) A listing of any proposed deviations and variances from the Development Regulations or the Zoning Code.

Commented [CH8]: And

(Ord. No. 86-28, 7-1-1986)

#### 1109.08 - DEVELOPMENT PLAN.

A Development Plan shall be submitted for each phase of a project as stipulated herein and shall include:

- (a) The listed items in Section 1109.07 (a) through (w) for the Preliminary Development Plan, with such refinements as may have resulted from the review of the Preliminary Development Plan;
- (b) A response to comments during the review of the Preliminary Development Plan through written comments or changes in the proposed layout and improvements for the development;
- (c) Tentative grading of the streets and lots, with approximate sewer and ditch sizes and slopes;
- (d) Deed restrictions and covenants;
- (e) A statement of the proposed restrictions, if any, on the type and nature of building materials, type of construction and configuration of structures. If architectural controls are to be a part of the development, a statement of how the architectural control will be handled as the property in the development changes ownership;
- (f) A listing of any proposed deviations or variances from these Development Regulations or the Zoning Code; and
- (g) An updating of the Development Plan for completed phases of the development, revisions to the schedule of completion, revisions to the development phases, and any other changes from previous Development Plans. The updating of the development information may be done on a

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reproducible copy of the original Preliminary Development Plan if the required information can be clearly shown.

(Ord. No. 86-28, 7-1-1986)

1109.09 - LANDSCAPE PLAN.

A Landscape Plan shall be submitted for each phase of a Development as part of, or in conjunction with, the Development Plan. The Landscape Plan shall follow the requirements of the Zoning Code and shall include:

- (a) The project title, north arrow, location map or description and sheet scale;
- (b) The proposed site improvements;
- (c) Sufficient dimensions to locate the proposed landscaping with respect to the proposed site improvements;
- (d) Names and planting sizes and plants, shrubs and trees;
- (e) Location of the existing major trees and a description of the methods to be used to preserve those which will remain;
- (f) The identification of the existing major trees to be removed, and;
- (g) For these situations in which no new trees are required or are to be installed, an indication of the existing trees to be used to meet the tree planting requirement.

(Ord. No. 86-28, 7-1-1986)

1109.10 - PLAT.

A Plat shall be submitted as stipulated herein and shall include:

- (a) The boundary of the development, based on an accurate transverse with dimensions in feet and hundredths of feet, and bearings in degrees, minutes and seconds;
- (b) The municipal, township, county, section or adjacent property lines accurately tied to the lines of the subdivision by distances and bearings;
- (c) The radii, central angles, points of curvature, tangent bearings and lengths of all chord dimensions;
- (d) All lot lines with accurate dimensions in feet and hundredths of feet, and bearings in degrees, minutes and seconds;
- (e) An accurate location of all monuments and of all iron pins to be set on street right-of-way lines at street intersections and at the beginning and end of curves;
- (f) The exact location, width and name of all existing streets, easements and public lands;
- (g) The name and location of the development;
- (h) The names of owners;
- (i) The date, north arrow and scale of plat;
- (j) The names and deed book references of adjacent property owners;
- (k) An accurate boundary data of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and of any areas to be reserved by deed covenant for the common use of all property owners;

- (l) A certificate by a land surveyor, registered in the State of Ohio, that the premises covered by the plat have been surveyed, that the plat is correct, and that the monuments shown on the plat will be set in accordance with Section 1111.11;
- (m) A notarized certification by the owner or owners of their adoption of the plat and the dedication of the streets and other public areas to public use as is shown on the plat;
- (n) Proper form for the approval of the Planning and Zoning Commission with space for signatures;
- (o) A space for approval signatures of the City Engineer and Mayor;
- (p) A proper form for approval and acceptance by Council, with space for ordinance number and also space for the signature and certification of the Clerk of Council; and
- (q) The space for notation of transfer by the County Auditor and recording by the County Recorder.

(Ord. No. 86-28, 7-1-1986)

#### 1109.11 - CONSTRUCTION PLANS.

Construction Plans shall be prepared for all public sanitary sewers, water lines, streets, pavements, sidewalks and storm sewers which are proposed for construction.

- (a) The format and information contained on the sanitary sewer plans shall conform to the requirements of the Delaware County Sewer District, and the waterline plans shall conform to the requirements of DelCo Water company.
- (b) All other plans shall be made on mylar or other accepted material sizes 24 inches by 36 inches, with a one-inch border on the left and a one-half inch border around the balance of the sheet. The relationship between the proposed work and the existing topography conditions shall be shown. Both the existing conditions and proposed work shall be shown in both plan and profile on the same sheet, and in sufficient detail to clearly show all work to be done. Plans shall contain general notes and a summary of estimated quantities. All drawings shall be made in ink and a title block shall be included in the lower right hand corner of each sheet except on the title sheet. Spaces shall be provided on the first sheet for the approval signatures of the Mayor ~~and City Engineer, and Zoning Administrator~~. It is permissible for the waterline and sanitary improvement to be included in the street and storm drainage plans.
- (c) The general notes shall include a reference to the specifications required in Chapter 1113.
- (d) Supplemental specifications may be submitted as separate documents on eight and one-half by 11 ~~inch typewriter~~ paper or may be added onto the plans. ~~Other electronic means of submittal may be allowed by the City Engineer.~~
- (e) The first sheet for the plans shall include location map, development title, required signature spaces, standard drawing lists and index when required.
- (f) The routing of construction traffic to the development and within the development shall be included.

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(Ord. No. 86-28, 7-1-1986)

#### 1109.12 - SITE AND UTILITY PLANS.

Site and/or Utility Plans may be prepared in lieu of Construction Plans for any development that does not require a plat or for any portion of a development that does not involve installing public improvements. The plans shall accurately show the horizontal and vertical location of the utility and site improvements in sufficient detail to fully describe the improvements. The plans shall also show existing topography and utilities for the land being developed, as well as enough of the adjacent lots or area to show what effect the

proposed improvements will have on the existing utilities and adjacent lots or area. The plans shall include a location map, development title, scale, north arrow, and references to the City development standards and requirements. The scale shall be one inch equals 50 feet or a larger scale. All site improvements for any development shall be shown on Construction Plans, Site Plans or Utility Plans.

(Ord. No. 86-28, 7-1-1986)

#### 1109.13 - GRADING PLANS.

A Grading Plan shall be prepared for all developments covered under this regulation. The Grading Plan may be combined with other plans, if such a combination is neat and the information easily read. The Grading Plan shall show:

- (a) The development title, sheet scale, north arrow and location map, unless it is made a part of a set of plans that contains this information;
- (b) The floor elevations for first floor and all floors below grade of proposed structures;
- (c) The proposed elevations, slopes, and grade of the site improvements; and
- (d) All grading and drainage details and specifications not contained in the Construction Plans, Site Plans, or Utility Plans.

(Ord. No. 86-28, 7-1-1986)

#### 1109.14 - EROSION AND SEDIMENT CONTROL PLAN.

An Erosion and Sediment Control Plan shall be prepared for all developments covered by this regulation which require improvements to more than one acre of land.

For subdivided developments where the erosion and sediment control plan does not call for a centralized sediment control capable of controlling multiple individual lots, a detail drawing of a typical individual lot showing standard individual lot erosion and sediment control practices shall be provided to the City Engineer. This does not remove the responsibility to designate specific erosion and sediment control practices in the erosion and sediment control plan for critical areas such as steep slopes, stream banks, drainage ways and riparian zones.

The Erosion and Sediment Control Plan may be combined with other plans, if such a combination is neat and the information easily read. The Erosion and Sediment Control Plan shall not meet the minimum design requirements identified by Chapter 1111. An Erosion and Sediment Control Plan for a proposed development area, with maps drawn to a scale of one inch equals 20 feet, shall be submitted containing the following information:

- (a) The development title, sheet scale, north arrow, and location map, unless it is made a part of the construction plans or the grading plan;
- (b) Location of the area and its relationship to its general surroundings, including but not limited to:
  - (1) Offsite areas susceptible to sediment deposits or to erosion caused by accelerated runoff; and
  - (2) Offsite areas affecting potential accelerated runoff and erosion control;
- (c) Existing topography of the development area and adjacent land within 200 feet of the boundaries. The topographic mapping should contain an appropriate contour interval to clearly portray the confirmation and drainage pattern of the area;
- (d) The location of existing buildings; structures; utilities; water bodies; drainage facilities, vegetative cover; a general description of the predominant soil types and their location; paved areas (streets,

roads, driveways, sidewalks, etc.) and other significant natural or man-made features on the development area and adjacent land within 200 feet of the boundaries;

- (e) Name and location of the immediate receiving stream or surface water(s) and the first subsequent named receiving water(s);
- (f) Surface water locations including springs, wetlands, streams, lakes, water wells, etc., on or within 200 feet of the site; including the boundaries of wetlands or stream channels and first subsequent named receiving water(s) the permittee intends to fill or relocate for which the permittee is seeking approval from the Army Corps of Engineers and/or Ohio EPA, if applicable.
- (g) The areal extent and description of wetlands or other special aquatic sites at or near the site which will be disturbed or which will receive discharges from disturbed areas of the project;
- (h) Proposed use of the development area including present development and ultimate utilization with detail on soil cover, both vegetative and impervious (total impervious area in acres and as a percentage of the whole area). The location of unstable or highly erodible soils shall be shown on the plans;
  - (1) Makeup of proposed surface soil (upper six inches) on areas not covered by buildings, structures, or pavement. Description shall be in such terms as: original surface soil, subsoil, sandy, heavy, clay, stony, etc.
  - (2) Proposed kind of cover on areas not covered by buildings, structures, or pavement. Description shall be in such terms as: lawns, turfgrass, shrubbery, trees, forest cover, rip-rap, mulch, etc.
- (i) Delineate areas for the storage or disposal of solid, sanitary and toxic wastes, including dumpster areas, areas designated for cement truck washout, and vehicle refueling, when applicable;
- (j) Identify locations designated for construction entrances and means for controlling sediment at said locations;
- (k) All proposed earth disturbance including:
  - (1) Areas of excavation, grading, and filling.
  - (2) The finished grades.
  - (3) Proposed kind of cover on areas not covered by buildings, structures, or pavement. Description shall be in such terms as: lawn, turfgrass, shrubbery, trees, forest cover, rip-rap, mulch, etc.
  - (4) Proposed, paved and covered area in square feet or to scale on the Plan.
  - (5) Delineation of drainage watersheds expected during and after major grading activities as well as the size of each drainage watershed, in acres.
  - (6) Description of the quality of any discharge from the site (pre-and post-construction).
  - (7) The location of any in-stream activities, including stream crossings;
- (l) Design computations and applicable assumptions for determining soil loss and the erosion and sediment control facilities. Refer to Chapter 1111 for settling requirements. Volume and velocity of flow must be given for all surface water conveyance. This information shall also be provided for surface water outlets.
- (m) The calculation for determination of the runoff coefficients for both the pre- and post-construction site conditions;
- (n) The locations and procedures for maintaining the erosion and sediment control measures and stormwater management facilities during the construction and maintenance periods, which extends through the lifetime of the facility;

- (o) Proposed construction sequence and time schedule for all earth disturbing activities and installation of provisions for erosion and stormwater management;
- (p) The procedures and specifications for temporary and permanent seeding during construction and prior to acceptance of the development by the City;
- (q) Provisions for maintenance of control facilities including easements to insure short as well as long term erosion and sediment pollution control and storm water management;
- (r) Provisions for the management of stormwater, derived both on-site and from upper watershed areas, including the control of accelerated on-site, runoff, to a stable receiving outlet;
- (s) All temporary and permanent drainage facilities, channels, and grassways that will be used to control erosion and retain sediment, debris and waste material;
- (t) The procedures to be followed to correct any erosion and remove any deposits of sediment, debris and waste materials that develop downstream of the development due in part or in total to the improvements in the development;
- (u) Names and address of the person(s) preparing the plan, the owner, and the person responsible for the development area;
- (v) Certification that all earth disturbance, construction, and development will be done pursuant to the plan;
- (w) Estimate of cost of erosion and sediment control and water management structures and features;
- (x) A copy of the Notice of Intent application to use Ohio EPA Permit Number OHC000003-Authorization for Storm Water Discharges Associated with Construction Activity Under the National Pollutant Discharge Elimination System and/or OHCO00001-Authorization for Storm Water Discharges Associated with Construction Activity Located Within Portions of the Olentangy River Watershed Under the National Pollutant Discharge Elimination System, or subsequent issuances of these permits, shall be provided to the City with the Erosion and Sediment Control Plan.  
  
The approving agency may waive specific requirements for plan detail or may require additional information to show that work will conform to basic requirements of the ordinance;
- (y) All proposed utilities and proposed locations of installation;
- (z) Seeding mixtures and rates, lime and fertilizer application rates, and kind and quantity of mulching for both temporary and permanent vegetative control measures.

(Ord. No. 2011-03, 3-15-2011)

1109.99 - PENALTY.

Whoever violates any provision of this chapter shall be fined not more than \$500.00 per offense. A separate offense shall be deemed committed each day during or on which an offense occurs or continues.

(Ord. No. 86-28, 7-1-1986)



## CHAPTER 1111 - MINIMUM DESIGN STANDARDS<sup>[5]</sup>

Sections:

Footnotes:

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**State Law reference**— Inspection of streets and acceptance, O.R.C. § 711.09; Minimum lot area, O.R.C. § 711.09

### 1111.01 - PURPOSE.

The purpose of this chapter is to establish the minimum requirements for the layout and design of the site improvements for developing land in the Municipality of Powell.

(Ord. No. 92-21, 6-16-1992)

### 1111.02 - DEFINITIONS.

The definitions of Chapter 1103 shall be used in this chapter unless the context of any section of this Chapter specifically indicates that such definitions are not applicable.

(Ord. No. 92-21, 6-16-1992)

### 1111.03 - GENERAL PROVISIONS.

- (a) Any deviation from these Minimum Design Standards must be approved by the Planning and Zoning Commission and the [City Engineer](#).
- (b) All development plans shall have provisions for the future development of adjoining land, including such utility and street extensions as are necessary to serve the adjoining land.
- (c) Every lot should abut a public street, but shall not border more than one public street except at intersections, when one border is an alley, or when one such border is on a controlled access thoroughfare. At the intersection of two streets, property line corners shall be rounded by an arc of a minimum of a ten-foot radius. Side lines of lots shall be approximately at right angles with or radial to the street line. Lots shall be of adequate size and shape to accommodate the off-street parking requirements and to meet front, side and rear yard requirements of the Zoning Code.
- (d) The maximum length of a block should not exceed 1,200 feet and the minimum width of a block should be sufficient to allow two tiers of lots of appropriate depth.
- (e) Sites as required by the Municipality for parks, playgrounds, schools or other public use shall be reserved for a period of one year after building permits have been issued for 50 percent of the lots in the last phase of the development. If the developer or owner wishes to develop the site or sites which have not been purchased or secured by option within the one-year period, the developer or owner shall notify the Municipality that the one-year period has expired. If the Municipality has not purchased or secured by option the site or sites within 90 days of receipt by the Municipality of such notice, the developer or owner is free to dispose of or use the reserved site or sites.

- (f) Sidewalks shall be a minimum of five feet wide on residential streets. Widths on other streets will be subject to approval of the Planning and Zoning Commission.
- (g) All easements granted to or reserved by the Municipality shall be at least 20 feet wide except that an easement may be less when:
- (1) It is for the purpose of installing and maintaining Municipality-owned underground electrical conduit, or similar utility; or
  - (2) An easement borders another easement or a public right-of-way, part of which can be used for the purpose of the easement.
- Notwithstanding the above, all easements and easement/right-of-way combinations shall be wide enough to insure that the easement limit is five feet away from the utility within the easement.
- (h) All disturbed surface areas not covered by structures or a hard surface improvement shall be covered with stone or shall be seeded or sodded, and sloped to drain. All grass or stone areas shall have a minimum slope or grade of eight-tenths percent; except that the ground next to buildings shall slope away from the building at a five percent grade for a minimum of ten feet.
- (i) All residential lots of one acre or less shall have a length no longer than three times the width at the building line.

(Ord. No. 92-21, 6-16-1992)

#### 1111.04 - STREETS.

Streets shall be designed in accordance with the requirements of this chapter. The pavement details and sections shall be at least equivalent to those set forth in the Powell Standard Drawings in force on the date the construction plans are submitted for approval.

- (a) Roadway pavement and right-of-way standards shall be as follows:

Type Street	Pavement width (feet)		Right-of-Way Width (feet) Without Curb			Max Grade %	Min Center Line Radius
	Back To Back of Curbs	Edge To Edge of Pavement (no curb)	With Curbs	Ditch Sect.	Yard Sect.		
Primary or Thoroughfare	64'	48'	100'	104'	100'	5%	350'
Secondary	44'	36'	80'	88'	80'	5%	250'
Local (public)	29'	24'	60'	76'	68'	8%	120'
<u>Downtown connector</u>	<u>27'-28'</u>	<u>22'-24'</u>	<u>50'</u>	<u>45'</u>	<u>*</u>	<u>8%</u>	<u>120'</u>

**Commented [JM11]:** New Streets per Keep Powell Moving

<u>Downtown connector w/ parallel parking</u>	<u>27'-28'</u>	<u>*</u>	<u>50'</u>	<u>*</u>	<u>*</u>	<u>8%</u>	<u>120'</u>
<u>Alley w/ 90 degree parking</u>	<u>varies</u>	<u>varies</u>	<u>50'</u>	<u>*</u>	<u>*</u>	<u>8%</u>	<u>*</u>
<u>Alley</u>	<u>24'</u>	<u>16'-20'</u>	<u>30'</u>	<u>20-25'</u>	<u>*</u>	<u>8%</u>	<u>*</u>

\* Standard shall be established on a case by case basis upon review of the street alignment by the City Engineer.

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- (b) The minimum grade for any street at the gutter shall be five-tenths percent.
- (c) Streets shall be laid out so that their intersections with other streets are at least 200 feet apart.
- (d) The angle of the intersections of any two streets shall vary no more than five degrees from being perpendicular or radial.
- (e) The names of new streets shall not duplicate names of existing dedicated streets, except that new streets which are extensions of existing streets shall bear the names of such existing streets. All other new streets shall be designated in the following manner:

General Direction	Over 1,000 ft. in length	Under 1,000 ft. in length
North and South	Streets	Places
East and West	Avenues	Courts
Diagonal	Roads	Ways
Curving	Drives	Circles

- (f) When the developer desires to improve only a portion of the streets in a development, tentative street grades and the sizing of drainage facilities shall be submitted for enough of the surrounding area to show that the proposed grades and sizes are compatible with the information shown on the Development Plan. A street improvement shall be constructed in front of and along the side line of all corner lots in the portion of the development being developed.
- (g) All streets shall have curbs except as stated herein:
  - (1) Streets in residential developments with minimum one-half acre lots that have an average lot frontage width at the building setback line of 125 feet or more may use the yard section.
  - (2) Commercial and industrial developments with minimum lot sizes larger than one acre and minimum lot frontage wider than 200 feet may use the yard section or the ditch section.
- (h) Thoroughfares (primary streets), shall be located as shown on the approved Municipal Thoroughfare Plan. The specific location of thoroughfares in undeveloped areas may be altered, with the approval

of the Planning and Zoning Commission, from the Thoroughfare Plan's general location in order to improve the compatibility of the thoroughfare with the proposed development.

- (i) On-street parking is prohibited for all streets that do not have curbing or curb and gutter.

(Ord. No. 92-21, 6-16-1992)

#### 1111.05 - STORMWATER MANAGEMENT.

It is the intent of these minimum requirements to provide for the increased stormwater runoff from the development of land so as to minimize the impact on existing and natural drainage systems. While the requirements set forth herein will not stop flooding or the damage caused by flooding, they do establish a basis for design which will:

- (a) Minimize the damage and inconvenience of floodings;
- (b) Provide drainage systems which continue to benefit their tributary area over the long term;
- (c) Minimize the adverse effects of new drainage systems on existing systems; and
- (d) Minimize the expense of maintaining the drainage facilities within the Municipality.

(Ord. No. 92-21, 6-16-1992)

#### 1111.051 - DRAINAGE POLICY.

- (a) The drainage policy, control guidelines and criteria do not provide solutions to all drainage problems, nor is the engineer restricted to these designs or procedures exclusively. Although the policies as stated will hold true for most development work, the Municipality realizes that there may be individual projects involving special or unusual drainage design problems that should be reviewed prior to completing the development Master Drainage Plan. Exceptions may be granted to the policies and criteria in such cases when engineering studies show justify modifications.
- (b) Experience has shown that most of the more serious flooding situations are "created." Development can lead to ever increasing flooding problems unless well-conceived, cooperative stormwater drainage and flood control programs are undertaken throughout the entire watershed. For this reason, the general policy of Powell shall be:
  - (1) All information necessary shall be submitted to the Municipality to determine if the stormwater rate of runoff should be controlled within the development prior to its release to downstream properties. The tributary area and the upstream watersheds should be determined using natural land divides unless man-made alterations are approved by the City Engineer as the basis for watershed delineations.
  - (2) All stormwater drainage facilities within a development shall be designed to have capacity and depth, including sufficient invert elevations to permit future connections, to serve that total tributary area at the design storm frequency, and based on the rate of single family, residential runoff except as noted in subsection (3) below. The system for the upstream tributary area must be extended through the development. Upstream watersheds should be determined using natural divides unless manmade alternatives are approved by the City Engineer as the basis for watershed delineations.
  - (3) All proposed development with a runoff rate greater than that which the downstream system has capacity for, or will be designed for, will be required to control the rate of stormwater discharge.
  - (4) All developments having existing controls located downstream from the site will be required to control the flow rate of stormwater discharge to that rate which existed prior to development.

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- (5) It is the responsibility of the property owner to not change or alter any drainage course, ditch or drainage system on his property that will damage or cause flooding to adjacent, upstream or downstream property owners.

(Ord. No. 92-21, 6-16-1992)

1111.052 - DRAINAGE REQUIREMENTS.

- (a) *Purpose.* These design standards and specifications shall serve as the minimum requirements for the handling of surface water and drainage. These procedures and standards shall govern the development of all new or modified drainage systems. The development of such drainage systems shall include the conveyance of surface water to an adequate outlet which is capable of carrying the flow. The engineer's highest design priority shall be to eliminate the possibility of any major loss of property or any loss of life.
- (b) *Adequate Drainage Outlet.* Surface water runoff from a development shall be drained off site to an adequate drainage outlet. The location of the outlet shall be approved by the [City Engineer](#) and may consist of a ditch, stream, storm sewer, or approved detention basin having sufficient capacity to accommodate the surface water runoff in an engineered manner.
- (c) *Drainage Easement.*
- (1) An adequate easement may be required along any tile, detention basin, drainage way, ditch, watercourse, natural stream, man-made stream, storm sewer or any other watercourse deemed necessary by [either the City Engineer, or the Public Service Director](#) (hereinafter "Public Service Director" or "Director") which is not already within the street right-of-way. The easement shall be of sufficient width to allow cleaning, widening, deepening, replacing or other general maintenance of such drainage course.
- (2) When it is necessary to convey stormwater outside the property lines of a proposed improved area in order to discharge into an adequate outlet, the Developer (i) shall be responsible to obtain easements and/or maintenance agreements, in a form and substance satisfactory to the Public Service Director, from abutting property owners, and (ii) shall remain responsible for maintenance of such drainage course unless the easements and/or maintenance agreements require the abutting property owners to repair and maintain the drainage course satisfactorily.
- (3) Any required drainage easements shall be shown on the final plat and the "final engineering and construction plan." Such drainage easements shall be recorded for public use relating to stormwater conveyance. With the exception of City maintained publicly accepted storm sewers and appurtenances, maintenance of such drainage easements shall be undertaken in the manner set forth in subsection (c)(4) below.
- (4) In addition to any applicable provisions of Sections 906.02 and 906.03, the Public Service Director is hereby authorized to inspect such drainage easement drainage courses and if the Director determines that maintenance is needed, the Director shall notify the property owner on which the maintenance is required and/or any other parties who, in the sole determination of the Director, directly benefit from such easement, that such maintenance is required as follows:
- A. The Director shall cause written notice to be served on the property owner and/or any other parties benefiting from the easement notifying such parties that maintenance of the drainage course is necessary and that a contract with a contractor acceptable to the Director for such repair and maintenance should be delivered to the Director within 14 days of the notice. The notice shall be served upon the property owner and/or benefited parties at the tax billing address for such premises reflected upon the records of the Delaware County Auditor. Service shall be accomplished by any means permitted for service of Summons under the Ohio Rules of Civil Procedure. Each property affected by such notice shall also be posted with such notice by the Director.

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- B. In those instances where the address of the owner is unknown, it shall be sufficient to publish a notice once a week in a newspaper of general circulation in Delaware County, Ohio setting forth the substance of the notice and time frame for compliance. The time frame for compliance shall be no less than 14 days after the publication.
- C. If the property owner and/or benefiting parties fail to comply with the notice, the City shall cause such repairs, replacement, maintenance and abatement procedures to be implemented as determined appropriate by the Director. The cost of such repair, replacement, abatement and other procedures deemed appropriate by the Director shall be immediately due and payable to the City in the amounts and in the proportions determined by the Director. Additionally, the Director may assess an administrative fee as the Director deems appropriate against each property owner or benefiting party in an amount not to exceed \$500.00 per property owner and/or benefited party for each instance where a notice is served under this section. The cost and administrative fee shall be due and payable within 30 days after the same are assessed.
- D. If any fees or costs remain unpaid for a period in excess of 30 days, in addition to any other remedy available to the City, the City may authorize placement of a lien on the real estate to be certified to the Delaware County Auditor in the amount assessed together with interest thereon from the date of such certification at the then existing rate for payment of judgments in the State of Ohio. Such interest shall continue on an annualized basis until paid.
- E. Any owner or benefiting party aggrieved by an action(s) of the Director under this section may take an appeal to the Board of Zoning Appeals within 30 days of the date service of notice of such action upon the property owner and/or benefiting party.

(Ord. No. 2011-03, 3-15-2011)

#### 1111.053 - GENERAL DESIGN CRITERIA.

- (a) *Acceptable Methods of Calculation.* The methods of calculation as listed in Table A shall be used unless otherwise approved by the City City Engineer.
- (b) *Design Storm.*
  - (1) Refer to NOAA's Atlas 14 Point Precipitation Frequency Estimates, Table B for rainfall depths and runoff depths for City of Powell, Delaware County. The appropriate "CN" factor may be determined by using Technical Release No. 55 (S.C.S.) or its Ohio Supplement.
  - (2) The Major Storm must be based on a return period of not less than 100 years. A return period of 200 years may be required if conditions warrant as directed by the City Engineer.
- (c) *Drainage Area Determination.* The drainage area shall be determined from any of the following sources:
  - (1) U.S. Geological Survey quadrangle (7.5 minute series) contour maps,
  - (2) Municipality of Powell—Topographic contour maps;
  - (3) Delaware County Auditor GIS Topographic Information, and/or
  - (3) Soil Survey of Delaware County, Ohio, U.S.D.A. ; or
  - (4) Actual field investigation.
- (d) *Routing Path.*
  - (1) *Capacity.* The routing path or the major drainage system is that part of the storm drainage system which carries the runoff which exceeds the capacity of the designed drainage facilities. The major drainage system shall have the capacity to carry runoff from a storm with a return period of not less than 100 years without causing significant threat to property or public safety. A return period of 200 years may be required if conditions warrant.

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- (2) *Surface routing paths.* Generally, it is not economically feasible to size a storm sewer system to collect and convey more than the frequent storm runoff. Essentially, the complete drainage system of an urban area contains two separate drainage elements. While the storm sewers are the primary element, the storm drainageways must be provided for the emergency flow from more intense storms.
- (3) *Intent in providing routing paths.* The intent of planning for the major drainage element or emergency flow is to insure that stormwater runoff in excess of the capacity of the primary drainage system has a route to follow which will not cause a major loss of property or any loss of life. It should be remembered that the major drainage system exists even when it is not planned for and whether or not development exists.
- (4) *Street right-of-way paths.* Street rights-of-way are a common choice for conveying major drainage flows. Again, such use must be anticipated when the street layout is established. Side and rear lot lines offer one alternative to the street. The problem with this alternative is the possibility of individual property owners encroaching on the major drainage easement. Rarely is the problem recognized until the infrequent rainstorm occurs and the major system fails to operate properly. Where the street is designated as the major drainageway, the depth of flow shall not exceed 12 inches at the gutter line for local and collector streets and shall not exceed the crown for arterial streets. The same maximum depth criteria will apply where a major drainageway crosses the street. Where a major drainageway is located outside a street right-of-way, easements shall be provided. All major storm routing easements shall be shown on the grading and/or drainage plan. Also, include elevation control points at the terminals of elements of the routing paths. These are to be proof surveyed for "as built" conformance.
- (5) *Multi-purpose routing paths.* In order to protect the integrity of the non-street drainage rights-of-way, the engineer is encouraged to design routing paths for multi-purpose functions. Pedestrian and bicycle paths lend themselves naturally to this application. Linear parks aligned along the major drainage corridor are also very effective, but usually require greater width than would normally be necessary for drainage purposes.
- (6) *Major storm runoff.* The major storm runoff is routed through the drainage system to determine if the combined capacity of the routing path and storm sewer system is sufficient. The capacity of the storm sewer system at any given point is assumed to be the same for the major storm as for the five year storm frequency. That is storm sewer system will be considered as conveying the flow (Q) of a five year storm, with the remainder of the 100-year flow rate safely conveyed in the emergency storm route known as the "Routing Path." Submit calculations showing conveyance of the Routing Path with details of critical segments such as near building structures.

(Ord. No.92-21, 6-16-1992)

#### 1111.054 - SPECIFIC DESIGN SPECIFICATIONS.

##### (a) *Roadway Culverts.*

- (1) *General specifications.* The size and shape of the culvert should be such that it will carry a predetermined design peak discharge without the depth of water at the entrance or the velocity at the outlet exceeding allowable limits.
- (2) *Design procedure.* The culvert design procedure recommended for use is ~~Hydraulic Engineering Circular No. 5, U.S. Government Printing Office, as required in The Ohio Department of Transportation Location and Design Manual (current edition).~~
- (3) *Preferred construction.* Single span culverts, including concrete box and slab top are preferred. Multiple cell pipe culverts, when they are the only structures that will meet the physical requirements introduced by rigid headwater controls, will be acceptable.

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- (4) *Drainage area.* The drainage area in acres, and headwater elevation and the estimated runoff or design discharge in cubic feet per second, and the storm frequency in years shall be shown on the plan for each culvert.
- (5) *Inlet elevation.* The flowline elevation at the culvert inlet should be set deep enough to provide an adequate outlet for future storm sewer improvements upstream.
- (6) *Design storm frequency (roadway culverts).* The minimum frequency used shall be as guided by the Ohio Department of Transportation Location and Design Manual, or as directed by the City Engineer on a case by case basis. ~~25-year storm frequency.~~
- (7) *Design flow.* For method of calculation, refer to Table A.
- (8) *Maximum allowable headwater.* The maximum allowable headwater shall not exceed or cause any of the following:
- Eighteen inches below the top of curb;
  - Twelve inches below the edge of pavement;
  - One-half times the diameter of culvert; or
  - Diameter or rise plus two feet, in deep ravines.
- (9) *Manning's roughness coefficient (n).* (See Table B) Manning's Roughness Coefficient (n) shall be as given in Table B unless an alternate value is approved by the City Engineer.
- (10) *Entrance loss coefficient (Ke).* (See Table B) The Entrance Loss Coefficient (Ke) shall be as given in Table B based upon the headwall configuration unless an alternative value is approved by the City Engineer.
- (11) *Minimum cover to subgrade.* Nine inches from top of pipe to bottom of subgrade shall be minimum cover.
- (12) *Maximum allowable outlet velocity.*

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<u>Earthen Channel</u>	<u>2.5 f.p.s.</u>
<u>Turf Channel</u>	<u>5 f.p.s.</u>
<u>Rock Protection</u>	<u>Per ODOT L&amp;D Manual</u>

Commented [JM13]: Added earthen channel criteria, updated standard for rock protection.

Notes:

- When the outlet velocity exceeds 18 f.p.s., a stilling basin must be used.
  - The downstream channel must have the ability to handle the flow satisfactorily.
- (13) Structural design criteria. The structural design criteria for culverts will be the same as that required by the Ohio Department of Transportation (ODOT).
- (14) Emergency flow routing. Also show how emergency flow passes the structure. Additional scour protection may be needed for this.
- (b) *Storm Sewers.* The more important criteria to consider in designing storm sewer systems are listed below.
- The sewer must be deep enough to receive the flow from all of its sources within the watershed.



- (2) The size of the storm sewer must be adequate for flowing full based on the design storm. If the sewer is designed for surcharging, explain and justify.
- (3) All storm sewer systems are to be designed using the Manning's equation:

V	=	$\frac{1.49 r^{2/3} s^{1/2}}{n}$
		n

$$Q = AV$$

where: Q = Rate of discharge (c.f.s.)

A = Area of cross-section of flow (sq.ft.)

V = Mean velocity of flow (f.p.s.)

n = Manning's roughness coefficient

r = A/wp = Hydraulic radius (ft.)

s = Slope of channel or hydraulic grade line if surcharged (ft./ft.) wp = Wetted perimeter (ft.)

- (4) The storm sewer material shall be concrete or approved plastics.
- (5) The flowline of the storm sewer pipes should be set so that the crown of the pipes, at the junctions, are at the same elevation. However, the crown of the outlet pipe may be lower.
- (6) Minimum design storm frequency for public storm sewers shall be designed to a five year storm flowing full capacity. Minimum design storm frequency for private storm sewers shall be a two year flowing full capacity.
- (7) Hydraulic gradient for public storm sewers shall be based on a ten year storm and a five year storm for private storm sewers. The hydraulic gradient shall not exceed the window or grate elevation for an inlet or catch basin. Grade line shall be based on the tailwater or eight-tenths of the diameter at the outlet or other critical points within the system.
- (8) Design flow.

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For method of calculation, refer to Table A.

Minimum time of concentration:

Curb Inlet	10 minutes
Ditch C.B.	15 minutes

- (9) Minimum diameter of storm sewer pipe: 10 inches.
- (10) Manning's roughness coefficient (n).
- For all storm sewers: n = 0.012
- (11) Minimum cover to subgrade:

Reinforced or Extra Strength Pipe (Top of pipe to Bottom of Subgrade)	9 inches
Standard Strength Pipe (Beyond pavement and paved shoulders)	18 inches

(12) Maximum cover. The support strength of the conduit, as installed, must be in accordance with current ODOT specifications. The design procedure recommended for use in structural design of storm sewers is found in Concrete Pipe Design Manual, prepared by American Concrete Pipe Association, 1501 Wilson Boulevard, Arlington, Virginia 22209.

(13) Maximum length between access structures.

Pipes under 60 inches	300 Feet
Pipes 60 inches and over	500 Feet

(14) Minimum velocity for design flow. 3 f.p.s.

- (c) *Open Water Courses.* All open channels (natural or man-made) will be enclosed with a storm sewer when an area is developed. This policy will apply even when the open watercourse is located on a property line.

Exemptions may be for individual developments which, based on a five year design storm, would require a pipe 60 inches in diameter or larger. Exemptions may also be made for areas of heavily wooded ravines with large diameter trees and with depth sufficient to receive the flow from storm sewers without disturbing the natural state. Exemptions may also be made for environmental reasons when there are areas with existing natural scenic drainage courses with depth and grade sufficient to receive flow from storm sewers. If exemptions are made on any project,

**Commented [JM16]:** Stricken. This policy conflicts with numerous Federal, State, and Local regulations and policies.

Where open water courses are utilized for conveyance of runoff computations will be made and adequate protection be installed to prevent erosion at times of peak flow. The computations shall also insure good flow characteristics at time of low flow. Access to storm drainage ditches and channels shall be by means of maintenance easements. Such maintenance easements shall be not less than 25 feet in width, measured horizontally from the top of the bank, exclusive of the width of the ditch, or channel, and a maintenance easement of this type shall be provided on each side of a flood control or storm drainage ditch channel or similar type facility. Maintenance easements are to be kept free of obstructions. A request for an exemption must be in writing at the time of submission of "preliminary engineering plan". Additionally, per chapter 1147.16(q) of Powell city code streams and riparian corridors may be further protected by a Stream Corridor Protection Zone.

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(1) *Minimum design storm frequency (open watercourses).*

Ten year storm 0.8 full depth when man-made watercourse  
bank full depth when natural watercourse

- (2) *Design flow.* For method of calculation, refer to Table A.
- (3) *Allowable velocities in new ditches.* For allowable velocities, refer to "Erosion and Sediment Control" requirements of these Standards.
- (4) *Allowable velocities in existing channels.* The channel must have the ability to handle the flow satisfactorily.
- (5) *Manning's roughness coefficient (n) (open watercourses).*

Sod or jute mat lining:	0.05
Paved lining:	0.015
Rock protection:	0.08
Existing channel:	varies
Downstream from the Development Area:	0.25

Commented [JM18]: Existing channel "n" will vary.

- (6) *Minimum slope.*  
For New Channels:

(Desirable)	0.40%
(Absolute)	0.24% with a minimum velocity of 2 f.p.s.

- (7) *Side slopes (desirable):* 1:4—One foot vertical for each four feet of horizontal width.

(d) *Curb Inlet.*

- (1) *General.* The satisfactory removal of surface water from curbed pavement is as important as any other phase of stormwater control. The spread of water on the pavement for the design storm is considered as the best control for pavement drainage. The design procedure recommended for use is Hydraulic Engineering Circular No. 12, available from the Superintendent of Documents, U.S. Government Printing Office. On combined runs of over 600 feet contributing to a snag curve, an additional inlet may be required near the low point, plus or minus two-tenths foot above the inlet at the sag.
- (2) Design storm (curb inlets). The following shall be used:
- Two year storm frequency.
  - Rational method of calculation.
  - Ten minutes for minimum time of concentration.

- D. 0.015 for roughness coefficient.
- E. Maximum width of spread of flow:

<u>Street Width</u>	<u>Width of Spread</u>
< 26 ft.	8 ft.
> 26 ft.	9 ft.

(e) *Detention Facilities.*

- (1) *General.* The location, construction, ownership and maintenance of the detention or retention facility, whether public or private, shall be resolved prior to recording the final subdivision plat and the acceptance of the "final engineering and construction plan." No lot sales will be permitted until this is done.
- (2) *Types of facilities.* In development and developing urban and suburban areas, several means for controlling stormwater runoff could be used. This usually involves storing runoff on or below the ground surface. The following types of storage facilities are suggested for detention:
  - A. *Parking lot storage.* Parking lot storage is surface storage where shallow ponding is designing to flood specifically graded areas of the parking lot. Controlled release features are incorporated into the surface drainage system of the parking lot. Parking lot storage is a convenient multi-use structural control method where impervious parking lots are planned. Design features include small ponding areas with slotted controlled release structures and/or pipe-size reduction, and increased curb heights. This method can easily be incorporated into a site development at approximately the same cost as that of a conventional parking lot. The major disadvantage is the inconvenience to users during the ponding function. This inconvenience can be minimized with proper design consideration. Clogging of the flow control device and icy conditions during cold weather are maintenance problems. Parking lot design and construction grades are critical factors. For these reasons, the functional effectiveness of parking lot storage is questionable. This method is intended to control the runoff directly from the parking area, and is usually not appropriate for storing large runoff volumes.
  - B. *Dry basins or detention basins.* Dry basins are surface storage areas created by constructing a typical excavated or embankment basin. There is no normal pool level and a specific controlled release feature is included to control the rate of discharge. The detention flow control structure is usually a multi-stage device, and the retention flow control structure is usually a single-stage device. Dry basins are the most widely used structural method of stormwater management. The soil permeability and water storage potential are not as important with dry basins as with wet basins; therefore, dry basins have the greatest potential for broad applications. They can be utilized in small developments because they can be designed and constructed as small structures.
 

Dry basins are often less costly than wet ponds because they do not require extensive design and construction considerations. They can be designed for multi-use purposes such as recreation and parks.
  - C. *Wet ponds or basins.* Wet basins.

(3) *Design criteria.*

A. *Acceptable methods of calculation.*

1. See Table A.
2. Ohio EPA Permit Number OHC000003-Authorization for Storm Water Discharges Associated with Construction Activity Under the National Pollutant Discharge Elimination System - Part III.G.2.e. or any pertinent section of subsequent issuances of this permit and/or OHCO00001-Authorization for Storm Water Discharges Associated with Construction Activity Located Within Portions of the Olentangy River Watershed Under the National Pollutant Discharge Elimination System- Part III.G.2.g, or any pertinent section of subsequent issuances of this permit.
3. Whichever acceptable method results in a larger detention volume shall prevail.

B. *Release rates.*

1. Under post development conditions the peak rate of runoff from a 100 year frequency, 24 [hour] storm shall not be greater than the peak runoff rate from a one-year frequency, 24-hour storm.
2. Release rates as defined for post construction stormwater management Ohio EPA Permit Number OHC000003-Authorization for Storm Water Discharges Associated with Construction Activity Under the National Pollutant Discharge Elimination System- Part III.G.2.e, or any pertinent section of subsequent issuances of this permit and/or OHCO00001-Authorization for Storm Water Discharges Associated with Construction Activity Located Within Portions of the Olentangy River Watershed Under the National Pollutant Discharge Elimination System- Part III.G.2.g, or any pertinent section of subsequent issuances of this permit.

C. *Specifications.*

1. The surface of a detention area should be constructed with sufficient slopes (minimum of: 2% - grassed surfaces, 1% - paved surfaces, and 0.5% - paved channels) to drain properly so that all the runoff is removed following a storm.
2. A ditch(es) shall be paved and constructed from the pipe(s) outletting into the basin, to the outlet structure.
3. Seeding and other erosion control methods will be used to protect all slopes: sod, jute matting, rock protection or concrete.
4. The side slopes for a detention facility shall be no steeper than 4:1 (horizontal or vertical).

D. *Debris-control structures.* Debris-control structures may be required in some of the detention methods and should be considered as an essential part of the design. The procedure recommended for use is Hydraulic Engineering Circular No. 9, available from the Superintendent of Documents, U.S. Government Printing Office, Washington D.C. For dams and levies over ten feet in height, refer to O.R.C. § 1521.062.

E. *Proof surveys.* Proof Surveys when required shall be performed by the Developer, Contractor, or other entity constructing the stormwater drainage facilities, or order to demonstrate conclusively that the facilities are constructed to the elevations, slopes, grades, and sizes shown on the reviewed plans on file with the Municipality. Such surveys shall be conducted by a registered Professional Surveyor, shall employ standard survey techniques, and shall produce original field notes which shall be furnished to the City for review and record purposes. Reduction of notes, and any plotting necessary to make the notes interpretable, shall be by the surveyor performing separate from, other construction surveys which may be conducted by the City or its agents. All discrepancies revealed in the as-construction facilities by the proof survey shall be rectified by the Developer, Contractor, or other entity constructing the stormwater drainage facilities, and the proof survey re-performed, in order to demonstrate conformance.

F. *Access and maintenance easements.* Specific, dedicated easement rights shall be required, in order to provide for the necessary maintenance of all stormwater facilities. Generally, a maintenance easement of 20 foot minimum width, in addition to the size of the stormwater facility when flooded, is required. A specifically located, 20 foot minimum width access easement shall also be required, from the easement at, alongside, or around the stormwater facility, to the nearest public right-of-way. Maintenance responsibilities will be determined and so stated in the easement. The 20 minimum outside the flooded facility must be on a slope of 10:1 maximum.

(f) *Post Construction Best Management Practices.*

- (1) *General.* Developments disturbing land in excess of 1 acre are required to follow Ohio EPA Permit Number OHC000003-Authorization for Storm Water Discharges Associated with Construction Activity Under the National Pollutant Discharge Elimination System- Part III.G.2.e, or any pertinent section of subsequent issuances of this permit and/or OHCO00001-Authorization for Storm Water Discharges Associated with Construction Activity Located Within Portions of the Olentangy River Watershed Under the National Pollutant Discharge Elimination System- Part III.G.2.g, or any pertinent section of subsequent issuances of this permit for best management practices in providing for post construction run off.
- (2) *Acceptable post construction best management practices.* Although the Ohio EPA Permit Numbers OHC000003 and OHCO00001 provides several best management practices that are acceptable to the State, the City Engineer shall determine whether certain of these practices are acceptable in relation to the site and type of development proposed.

(Ord. No. 2011-03, 3-15-2011)

**TABLE A**  
**ACCEPTABLE METHODS OF CALCULATION**

DRAINAGE AREA (ACRES)	STORMWATER QUANTITY				
	PEAK DISCHARGE ONLY	PEAK DISCHARGE and TOTAL RUNOFF VOLUME		STORAGE VOLUME	
		HOMOGEN. LAND USE	NON- HOMOGEN.	HOMOGEN.	NON- HOMOGEN.
LESS THAN 200	RATIONAL OR PEAK DISCHARGE	PEAK DISCHARGE	(*) TABULAR HYDRO-GRAPH	GRAPHICAL	(*) STORAGE INDICATION
200 TO 640	PEAK DISCHARGE				
GREATER THAN 640	(*) TABULAR HYDROGRAPH			(*) STORAGE INDICATION	

\* Note: The "Tabular Hydrograph" and "Storage-indication" methods are preferred and are normally used to check drainage calculations submitted to the [City Engineer](#).

**Deleted:** Municipal Engineer

Method References:

Rational: (Q=CIA), M.O.R.P.C., Stormwater Design Manual, 1977

**Commented [JM19]:** MORPC no longer recommends the use of their Stormwater Design Manual

Graphical: Ibid. , Pg. 143

Storage-Indication: Ibid. , Pg. 143

Peak Discharge: U.S. Department of Agriculture, Soil Conservation Service, Urban Hydrology for Small Watersheds, Technical Release No. 55, 1986

Tabular Hydrography: Ibid. , Chap. 5

**TABLE B**  
**RUNOFF DEPTH ("Q") FOR DELAWARE COUNTY**  
(Use with S.C.S. Technical Release No. 55 Methods)

RUNOFF CURVE NUMBER (CN)*	24 HOUR STORM FREQUENCY (Years)						
	<u>1</u>	<u>2</u>	<u>5</u>	<u>10</u>	<u>25</u>	<u>50</u>	<u>100</u>
	RAINFALL DEPTH "P" (Inches)						
	<u>2.2</u>	<u>2.5</u>	<u>3.3</u>	<u>3.7</u>	<u>4.2</u>	<u>4.7</u>	<u>4.9</u>
<u>61</u>	<u>0.14</u>	<u>0.20</u>	<u>0.49</u>	<u>0.67</u>	<u>0.92</u>	<u>1.19</u>	<u>1.31</u>
<u>62</u>	<u>0.16</u>	<u>0.22</u>	<u>0.52</u>	<u>0.71</u>	<u>0.97</u>	<u>1.26</u>	<u>1.38</u>
<u>63</u>	<u>0.18</u>	<u>0.24</u>	<u>0.56</u>	<u>0.76</u>	<u>1.03</u>	<u>1.32</u>	<u>1.45</u>
<u>64</u>	<u>0.20</u>	<u>0.27</u>	<u>0.61</u>	<u>0.81</u>	<u>1.09</u>	<u>1.39</u>	<u>1.52</u>
<u>65</u>	<u>0.23</u>	<u>0.30</u>	<u>0.65</u>	<u>0.86</u>	<u>1.15</u>	<u>1.46</u>	<u>1.59</u>
<u>66</u>	<u>0.25</u>	<u>0.33</u>	<u>0.69</u>	<u>0.91</u>	<u>1.21</u>	<u>1.53</u>	<u>1.66</u>
<u>67</u>	<u>0.28</u>	<u>0.36</u>	<u>0.74</u>	<u>0.96</u>	<u>1.27</u>	<u>1.60</u>	<u>1.73</u>
<u>68</u>	<u>0.30</u>	<u>0.39</u>	<u>0.79</u>	<u>1.02</u>	<u>1.33</u>	<u>1.67</u>	<u>1.81</u>
<u>69</u>	<u>0.33</u>	<u>0.42</u>	<u>0.84</u>	<u>1.08</u>	<u>1.40</u>	<u>1.74</u>	<u>1.89</u>
<u>70</u>	<u>0.36</u>	<u>0.46</u>	<u>0.89</u>	<u>1.13</u>	<u>1.46</u>	<u>1.82</u>	<u>1.96</u>
<u>71</u>	<u>0.40</u>	<u>0.49</u>	<u>0.94</u>	<u>1.19</u>	<u>1.53</u>	<u>1.89</u>	<u>2.04</u>
<u>72</u>	<u>0.43</u>	<u>0.53</u>	<u>0.99</u>	<u>1.25</u>	<u>1.60</u>	<u>1.97</u>	<u>2.12</u>
<u>73</u>	<u>0.43</u>	<u>0.57</u>	<u>1.05</u>	<u>1.32</u>	<u>1.67</u>	<u>2.05</u>	<u>2.20</u>
<u>74</u>	<u>0.50</u>	<u>0.61</u>	<u>1.10</u>	<u>1.38</u>	<u>1.74</u>	<u>2.13</u>	<u>2.28</u>
<u>75</u>	<u>0.54</u>	<u>0.65</u>	<u>1.16</u>	<u>1.45</u>	<u>1.82</u>	<u>2.21</u>	<u>2.37</u>

<u>76</u>	<u>0.58</u>	<u>0.69</u>	<u>1.22</u>	<u>1.51</u>	<u>1.89</u>	<u>2.29</u>	<u>2.45</u>
<u>77</u>	<u>0.62</u>	<u>0.74</u>	<u>1.28</u>	<u>1.58</u>	<u>1.97</u>	<u>2.37</u>	<u>2.54</u>
<u>78</u>	<u>0.66</u>	<u>0.79</u>	<u>1.35</u>	<u>1.65</u>	<u>2.05</u>	<u>2.46</u>	<u>2.63</u>
<u>79</u>	<u>0.71</u>	<u>0.84</u>	<u>1.41</u>	<u>1.72</u>	<u>2.13</u>	<u>2.55</u>	<u>2.72</u>
<u>80</u>	<u>0.75</u>	<u>0.89</u>	<u>1.48</u>	<u>1.80</u>	<u>2.21</u>	<u>2.63</u>	<u>2.81</u>
<u>81</u>	<u>0.80</u>	<u>0.94</u>	<u>1.55</u>	<u>1.87</u>	<u>2.29</u>	<u>2.72</u>	<u>2.90</u>
<u>82</u>	<u>0.85</u>	<u>1.00</u>	<u>1.62</u>	<u>1.95</u>	<u>2.37</u>	<u>2.81</u>	<u>2.99</u>
<u>83</u>	<u>0.91</u>	<u>1.06</u>	<u>1.69</u>	<u>2.03</u>	<u>2.46</u>	<u>2.90</u>	<u>3.08</u>
<u>84</u>	<u>0.96</u>	<u>1.12</u>	<u>1.77</u>	<u>2.11</u>	<u>2.55</u>	<u>3.00</u>	<u>3.18</u>
<u>85</u>	<u>1.02</u>	<u>1.18</u>	<u>1.84</u>	<u>2.19</u>	<u>2.64</u>	<u>3.09</u>	<u>3.28</u>
<u>86</u>	<u>1.08</u>	<u>1.24</u>	<u>1.92</u>	<u>2.28</u>	<u>2.73</u>	<u>3.19</u>	<u>3.37</u>
<u>87</u>	<u>1.15</u>	<u>1.31</u>	<u>2.00</u>	<u>2.36</u>	<u>2.82</u>	<u>3.29</u>	<u>3.47</u>
<u>88</u>	<u>1.21</u>	<u>1.38</u>	<u>2.09</u>	<u>2.45</u>	<u>2.92</u>	<u>3.38</u>	<u>3.57</u>
<u>89</u>	<u>1.28</u>	<u>1.45</u>	<u>2.17</u>	<u>2.54</u>	<u>3.01</u>	<u>3.49</u>	<u>3.68</u>
<u>90</u>	<u>1.35</u>	<u>1.53</u>	<u>2.26</u>	<u>2.64</u>	<u>3.11</u>	<u>3.59</u>	<u>3.78</u>
<u>91</u>	<u>1.43</u>	<u>1.61</u>	<u>2.35</u>	<u>2.75</u>	<u>3.21</u>	<u>3.69</u>	<u>3.89</u>
<u>92</u>	<u>1.51</u>	<u>1.69</u>	<u>2.45</u>	<u>2.82</u>	<u>3.31</u>	<u>3.80</u>	<u>3.99</u>
<u>93</u>	<u>1.59</u>	<u>1.78</u>	<u>2.54</u>	<u>2.93</u>	<u>3.41</u>	<u>3.90</u>	<u>4.10</u>
<u>94</u>	<u>1.68</u>	<u>1.87</u>	<u>2.64</u>	<u>3.03</u>	<u>3.52</u>	<u>4.01</u>	<u>4.21</u>
<u>95</u>	<u>1.77</u>	<u>1.96</u>	<u>2.74</u>	<u>3.14</u>	<u>3.63</u>	<u>4.12</u>	<u>4.32</u>
<u>96</u>	<u>1.87</u>	<u>2.06</u>	<u>2.85</u>	<u>3.24</u>	<u>3.74</u>	<u>4.23</u>	<u>4.43</u>
<u>97</u>	<u>1.97</u>	<u>2.16</u>	<u>2.96</u>	<u>3.35</u>	<u>3.85</u>	<u>4.35</u>	<u>4.55</u>
<u>98</u>	<u>2.07</u>	<u>2.27</u>	<u>3.07</u>	<u>3.47</u>	<u>3.96</u>	<u>4.46</u>	<u>4.66</u>

For intermediate CN values use equation below or linear interpolate

$$\frac{Q}{P + 0.8(1000/CN - 10)} = \frac{P - 0.2(1000/CN - 10)}{P + 0.8(1000/CN - 10)}^2$$

\* The runoff curve number [CN] is found in Technical Release No. 55 or its Ohio Supplement. This factor is not the same as the "runoff coefficient" which is used with the Rational Method.

**TABLE B**  
**DESIGN COEFFICIENTS FOR ROADWAY CULVERTS**

<u>TYPE STRUCTURE</u>	<u>MANNING'S ROUGHNESS COEFFICIENT (N)</u>	<u>ENTRANCE LOSS COEFFICIENT (K<sub>e</sub>)*</u>
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**Commented [JM20]:** Strike this Section. Values out of Date.

**Commented [JM21]:** Updated reference to Table B.



<a href="#">CONCRETE PIPE</a>	<a href="#">0.013</a>	<a href="#">0.2</a>
<a href="#">BOX</a>	<a href="#">0.013</a>	<a href="#">0.2 TO 0.5</a>
<a href="#">SLAB TOP</a>	<a href="#">0.03 TO 0.05</a>	<a href="#">0.2 TO 0.5</a>
<a href="#">CORRUGATED METAL</a>	<a href="#">0.021</a>	<a href="#">0.2 TO 0.9</a>

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\* As a function of the headwall configuration

#### 1111.06 - SEEDING AND MULCHING.

All ditches, right-of-way areas, disturbed during construction are to be seeded and mulched. The specifications in Table [C](#) on the following page, developed in cooperation with the Soil Conservation Service, outline the minimum requirements that shall be followed for both the rate of application and the time table for seeding.

- Anchor mulch with liquid asphalt (RC 70, 250, 800), apply at four hundredths gallon per square yard or 200 gallons per acre.
- Emulsified asphalt—Rapid setting (RS 1 or RS 2), apply at three hundredths gallon per square yard or 160 gallons per acre.
- Mulch nettings—Jute, cotton or plastic nettings stapled to soil surface according to manufacturer's recommendations.
- Seeding shall be made within two days after final grading or following seedbed preparation with a disk or other suitable equipment. On sloping land, the final operation shall be done on the contour.
- Mulch shall be applied immediately after seeding and spread evenly over the entire seeding area.
- Seed shall be applied uniformly with a cyclone seeder, drill, cultipacker seeder or hydro-seeder.

(Ord. No. 92-21, 6-16-1992)

**TABLE [C](#)**  
**SPECIFICATIONS FOR SEEDING AND MULCHING**

Deleted: D

SEED TYPE (8)	SEEDING DATES	PER 1000 SQ. FT.	PER ACRE
TALL FESCUE	March 1	2 Pounds	80 Pounds
TALL Annual Ryegrass		½ Pounds	20 Pounds

Small grain straw mulch	to  September 15	100 Pounds 2 to 3 Bales	2 Tons or 50 Bales
Fertilizer		25 Pounds of 12-12-12 or the equivalent	1000 Pounds of 12-12-12 or the equivalent
Temporary Seeding			
Rye or Wheat	September 15 to October 30	3 Pounds	2 Bushels
Soil Protection			
Small Grain Straw Mulch	October 30 to March 1	2 to 3 Bales	2 Tons

\* Other mixtures may be considered by the [City Engineer](#).

**Deleted:** Municipal Engineer

(Ord. No. 92-21, 6-26-1992)

#### 1111.07 - EROSION AND SEDIMENT CONTROL.

- (a) *Requirements.* No person shall cause or allow earth-disturbing activities on a development area except in compliance with the standards and criteria set out in subsection (c) hereof and the applicable subsection (a)(1) or (2) hereof:
- (1) When a proposed development area consists of one or more acres and earth-disturbing activities are proposed for the whole area or any part thereof, the responsible person shall develop and submit for approval a sediment control plan prior to any earth-disturbing activity. Such a plan must contain sediment pollution control practices so that compliance with other provisions of this chapter will be achieved during and after development. Such a plan shall include specific requirements established by the approving agency and be filled with approving agency.
  - (2) When a proposed development area involves less than one acre, it is not necessary to submit a sediment control plan; however, the responsible person must comply with the other provisions of this chapter. All earth- disturbing activities shall be subject to surveillance and site investigation by the approving agency to determine compliance with the standards and regulations.
- (b) *Exceptions.* No sediment control plan shall be required for public road, highway, other transportation, or drainage improvement, or maintenance thereof, undertaken by a government agency or entity if

such agency or entity plans to follow a statement of sediment control policy which has been submitted by the sponsoring agency or entity and approved by the approving agency.

- (c) *Standards and Criteria During and Through the End of Construction.* 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 established by the following standards:

- (1) *Timing of sediment-trapping practices.* Sediment control practices shall be functional throughout earth-disturbing activity. Settling facilities, perimeter controls, and other practices intended to trap sediment shall be implemented as the first step of grading including the start of clearing and grubbing. They shall continue to function until the upslope development area is restabilized.
- (2) *Stabilization of denuded areas.* Denuded areas shall have temporary and permanent soil stabilization applied according to the following tables:

Area Requiring Temporary Stabilization	Time Frame to Apply Temporary Stabilization
Any disturbed areas within 50 feet of a stream and not a final grade	Within two days of the most recent disturbance if the area will remain idle for more than 21 days
For all construction activities, any disturbed areas that will be dormant for more than 21 days but less than one year and not within 50 feet of a stream	Within seven days of the most recent disturbance in the area
Disturbed areas that will be idle over winter	Prior to the onset of winter weather

Area Requiring Permanent Stabilization	Time Frame to Apply Permanent Stabilization
Any areas that will lie dormant for one year or more	Within seven days of the most recent disturbance in the area

Area Requiring Permanent Stabilization	Time Frame to Apply Permanent Stabilization
Any areas within 50 feet of a stream and at final grade	Within 2 days of reaching final grade

Any other areas at final grade	Within seven days of reaching final grade within that area
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Where vegetative stabilization techniques may cause structural instability or are otherwise unobtainable, alternative stabilization techniques must be employed.

- (3) *Settling facilities.* Concentrated stormwater runoff from denuded areas shall pass through a sediment-settling facility.  
The facility's storage capacity shall be sixty-seven cubic yards per acre of drainage area.
- (4) *Sediment barriers.*
  - A. Sheet flow runoff from denuded areas shall be filtered or diverted to a settling facility.
  - B. Sediment barriers such as sediment fence or diversions to settling facilities shall protect adjacent properties and water resources from sediment transported by sheet flow.
- (5) *Storm sewer inlet protection.* All storm sewer inlets which accept water runoff from the development area shall be protected so that sediment-laden water will not enter the storm sewer system without first being filtered or otherwise treated to remove sediment.
- (6) *Working in or crossing streams.*
  - A. Streams including bed and banks shall be restabilized immediately after in-channel work is completed, interrupted, or stopped.  
  
To the extent practicable, construction vehicles shall be kept out of streams. Where in-channel work is necessary, precautions shall be taken to stabilize the work area during construction to minimize erosion.
  - B. If a live (wet) stream must be crossed by construction vehicles regularly during construction, a temporary stream crossing shall be provided.
- (7) *Construction access routes.* Measures shall be taken to prevent soil transport onto surfaces where runoff is not checked by sediment controls, or onto public roads.
- (8) *Sloughing and dumping.*
  - A. No soil, rock, debris, or any other material shall be dumped or placed into a water resource or into such proximity that it may readily slough, slip, or erode into a water resource unless such dumping or placing is authorized by the approving agency, and when applicable, the U.S. Army Corps of Engineers, for such purposes as, but not limited to, constructing bridges, culverts, mitigating wetlands, and erosion control structures.
  - B. Unstable soils prone to slipping or landsliding shall not be graded, excavated, filled or have load imposed upon them unless the work is done in accordance with a qualified professional engineer's recommendation to correct, eliminate, or adequately address the problems.
- (9) *Cut and fill slopes.* Cut and fill slopes shall be designed and constructed in a manner which will minimize erosion. Consideration shall be given to the length and steepness of the slopes, soil type, upslope drainage area, groundwater conditions, and slope stabilization.
- (10) *Stabilization of outfalls and channels.* Outfalls and constructed or modified channels shall be designed and constructed to withstand the expected velocity of flow from a post-development, ten-year frequency storm to minimize erosion.

- (11) *Establishment of permanent vegetation.* A permanent vegetation shall not be considered established until ground cover is achieved which, in the opinion of the approving agency, provides adequate cover and is mature enough to control soil erosion satisfactorily and to survive adverse weather conditions.
  - (12) *Disposition of temporary practices.* All temporary erosion and sediment control practices shall be disposed of within 30 days after final site stabilization is achieved or after the temporary practices are no longer needed, unless otherwise authorized by the approving agency. Trapped sediment shall be permanently stabilized to prevent further erosion.
  - (13) *Maintenance.* All temporary erosion and sediment control practices shall be designed and constructed to minimize maintenance requirements. They shall be maintained and repaired as needed to assure continued performance of their intended function.
- (d) *Additional Requirements.*
- (1) The standards are general guidelines and shall not limit the right of the approving agency to impose additional, more stringent requirements, nor shall the standards limit the right of the approving agency to waive individual requirements.
  - (2) Erosion and sediment control practices used to satisfy standards shall meet the specifications in the current edition of Water Management and Sediment Control For Urbanizing Areas (Soil Conservation Service, Ohio).
  - (3) Erosion and sediment control practices used shall satisfy the requirements set forth in Ohio EPA Permit Number OHC000003-Authorization for Storm Water Discharges Associated with Construction Activity Under the National Pollutant Discharge Elimination System and/or. OHCO00001-Authorization for Storm Water Discharges Associated with Construction Activity Located Within Portions of the Olentangy River Watershed Under the National Pollutant Discharge Elimination System, or subsequent issuances of these permits.
- (e) *Post-construction Storm Water Management Requirements.* Post-construction storm water quality management design shall satisfy the requirements set forth in Ohio EPA Permit Number OHC000003-Authorization for Storm Water Discharges Associated with Construction Activity Under the National Pollutant Discharge Elimination System and/or. OHCO00001-Authorization for Storm Water Discharges Associated with Construction Activity Located Within Portions of the Olentangy River Watershed Under the National Pollutant Discharge Elimination System, or subsequent issuances of these permits.
- (f) *Stream Channel and Flood Plain Erosion.*
- (1) To control pollution of public waters by soil sediment from accelerated stream channel erosion and to control flood plain erosion caused by accelerated stormwater runoff from development areas, the increased peak rates and volumes of runoff shall be controlled such that:
    - A. The peak rate of runoff from the 100-year storm (unless the City Engineer requires more stringent criteria) and all more frequent storms occurring on the development area does not exceed the peak rate of runoff from a one-year frequency, 24 hour storm occurring on the same area under predevelopment conditions.
    - B. The peak rate of runoff for the water quality volume shall not exceed those release rates calculated as part of the Ohio EPA Permit Number OHC000003-Authorization for Storm Water Discharges Associated with Construction Activity Under the National Pollutant Discharge Elimination System and/or. OHCO00001-Authorization for Storm Water Discharges Associated with Construction Activity Located Within Portions of the Olentangy River Watershed Under the National Pollutant Discharge Elimination System, or subsequent issuances of these permits.
  - (2) Methods for controlling increases in stormwater runoff peaks and volumes may include but are not limited to:

- A. Retarding flow velocities by increasing friction; for example, grassed road ditches rather than paved street gutters where practical (low density development areas, access roads, etc.); discharging roof water to vegetated areas; or grass and rock lined drainage channels:
- B. Grading and construction of terraces and diversions to slow runoff and use of grade control structures to provide a level of control in flow paths and stream gradients;
- C. Induced infiltration of increased stormwater runoff into the soil where practical; for example, constructing special infiltration areas where soils are suitable; retaining topsoil for all areas to be revegetated; or providing good infiltration areas with proper emergency overflow facilities; and,
- D. Provisions for detention and retention; for example, permanent ponds and lakes with stormwater basins provided with proper drainage, multiple use areas for stormwater detention and recreation, wildlife, transportation, fire protection, aesthetics, or subsurface storage areas.

(g) *Administration.*

- (1) *Plan review.* The approving agency shall within 90 days of receipt of a sediment control plan, indicate its approval or disapproval to the person who filed the plan. Indication of disapproval shall include the plan deficiencies and the procedures for filing a revised plan. Pending preparation and approval of a revised plan, earth-disturbing activities shall proceed only in accordance with conditions outlined by the approving agency.
- (2) *Inspection to ensure compliance.* The Municipality or its representative may inspect development areas to determine compliance with these regulations. If it is determined that a violation of these regulations exists, the responsible person will be notified of the deficiencies or noncompliance. After a reasonable time for voluntary compliance, the inspector or inspecting agency shall report that deficiency or noncompliance to the Municipality. The Municipality upon determination that a person is not complying with these regulations may issue, an order to cease all construction activity until the development is in compliance. The order shall describe the problem and the work needed, and specify a date whereby the work must be completed.
- (3) *Appeals.* Any person aggrieved by any order, requirement, determination, or any other action or inaction in relation to this regulation may appeal to the court of common pleas. Such an appeal shall be made within 20 days of the date of an order or decision and shall specify the grounds for appeal.
- (4) *Maintenance.* The Municipality shall assume overriding responsibility for permanent maintenance of structures and other facilities designed to control erosion and manage stormwater runoff when the benefiting area involves two or more property owners unless otherwise determined by agreement. The Municipality may require structures and facilities to be designed to reduce maintenance costs and/or allow individual or group property owners' maintenance, with ultimate responsibilities remaining with the Municipality.

(h) *Penalties for Violations.* Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a minor misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00 for each offense, and in addition pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the municipality from taking such other lawful action as is necessary to prevent or remedy any violation.

(i) *Definitions.* For the purpose of this chapter certain rules or word usage apply to the text as follows:

- (1) Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- (2) The term *shall* is always mandatory and not discretionary; the word *may* is permissive.
- (3) The word or term not interpreted or defined by this article shall be used with a meaning of common or standard utilization, so as to give this ordinance its most responsible application.

- (4) *Approving agency* means the governing body of the Municipality or its duly designated representative.
- (5) *Channel* means a natural stream that conveys water; a ditch or channel excavated for the flow of water.
- (6) *Development area* means any contiguous (abutting) area owned by one person or operated as one development unit and used or being developed for non-farm commercial, industrial, residential, or other non-farm purposes upon which earth-disturbing activities are planned or underway.
- (7) *District* means a soil and water conservation district, organized under Chapter 1515 of the Ohio Revised Code.
- (8) *Ditch* means an excavation either dug or natural for the purpose of drainage or irrigation with intermittent flow.
- (9) *Drainageway* means an area of concentrated water flow other than a river, stream, ditch, or grassed waterway.
- (10) *Dumping* means grading, pushing, piling, throwing, unloading, or placing.
- (11) *Earth-disturbing activity* means any grading, excavating, filling or other alteration of the earth's surface where natural or man-made ground cover is destroyed and which may result in or contribute to erosion and sediment pollution.
- (12) *Earth material* means soil, sediment, rock, sand, gravel, and organic material or residue associated with or attached to the soil.
- (13) *Erosion* means:
  - A. The wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep.
  - B. Detachment and movement of soil or rock fragments by wind, water, ice, or gravity.
  - C. Erosion includes:
    - 1. *Accelerated erosion*: Erosion much more rapid than normal, natural or geologic erosion, primarily as a result of the influence of the activities or man.
    - 2. *Floodplain erosion*: Abrading and wearing away of the nearly level land situated on either side of the channel due to overflow flooding.
    - 3. *Gully erosion*: The erosion process whereby water accumulates in narrow channels during and immediately after rainfall or snow or ice melt and actively removes the soil from this narrow area to considerable depths such that the channel would not be obliterated by normal smoothing or tillage operations.
    - 4. *Natural erosion (geologic erosion)*: Wearing away of the earth's surface by water, ice or other natural environmental conditions of climate, vegetation, etc., undisturbed by man.
    - 5. *Normal erosion*: The gradual erosion of land used by man which does not greatly exceed natural erosion.
    - 6. *Rill erosion*: An erosion process in which numerous small channels only several inches deep are formed; occurs mainly on recently disturbed soils.
    - 7. *Sheet erosion*: The removal of a fairly uniform layer of soil from the land surface by wind or runoff water.
- (14) *Grassed waterway* means a broad or shallow natural course or constructed channel covered with erosion-resistant grasses or similar vegetative cover and used to conduct surface water.

- (15) *Landslide* means the rapid downward and outward movement of large rock material and/or soil mass under the influence of gravity in which the movement of the soil mass occurs along an interior surface of sliding.
- (16) *Person* means any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, or any combination thereof.
- (17) *Sediment* means 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 above or below sea level.
- (18) *Sediment basin* means a barrier, dam, or other suitable detention facility built across an area of waterflow to settle and retain sediment carried by the runoff waters.
- (19) *Sediment control plan* means a written description, acceptable to the approving agency, of methods for controlling sediment pollution from accelerated erosion on a development area of five or more contiguous acres or from erosion caused by accelerated runoff from a development area of five or more contiguous acres.
- (20) *Sediment pollution* means failure to use management or conservation practices to abate wind or water erosion of the soil or to abate the degradation of the waters of the state by soil sediment in conjunction with land grading excavating, filling or other soil-disturbing activities on land used or being developed for non-farm commercial, industrial, residential, or other non-farm purposes.
- (21) *Slip* means landslide as defined above.
- (22) *Sloughing* means a slip or downward movement of an extended layer of soil resulting from the undermining action of water or the earth-disturbing activity of man.
- (23) *Soil loss* means soil relocated on or removed from a given site by the forces of erosion and the redeposit of the soil at another site on land or in a body of water.
- (24) *Stabilization* means such practices as temporary seeding, permanent seeding, mulching, matting, sod stabilization, vegetative buffer strips, phasing of construction operations, use of construction entrances and the use of alternative ground cover.
- (25) *Storm frequency* means the average period of time within which a storm of a given duration and intensity can be expected to be equaled or exceeded.
- (26) *Stream* means a body of water running or flowing on the earth's surface or channel in which such flow occurs. Flow may be seasonally intermittent.
- (27) *Topsoil* means surface and upper surface soils which presumably are darker colored, fertile soil materials, ordinarily rich in organic matter or humus debris.

(Ord. No. 2011-03, 3-15-2011)

**APPENDIX A:  
TABLE OF PERMISSIBLE VELOCITIES FOR FLOWING WATER**

**TABLE D  
MAXIMUM VELOCITIES FOR GRASSED WATERWAYS**

Slope Permissible Velocity*
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COVER	Range** (percent)	Erosion Resistant Soil (Ft. Per. Sec)	Easily Eroded Soil (Ft. Per.Sec)
Kentucky Bluegrass	0—5	7	5
Tall Fescue	5—10	6	4
Smooth Brome	over—10	5	3
Grass Mixtures**	0—5	5	4
Reed canary	5—10	6	3
Redtop*** Red Fescue	0—5	3.5	2.5

\* Use velocities exceeding five feet per second only where good cover and proper maintenance can be obtained.

\*\* Do not use slopes steeper than ten percent except for vegetated side slopes in combination with a stone, concrete, or highly resistant vegetative center section.

\*\*\* Do not use on slopes steeper than five percent except for vegetated side slopes in combination with a stone, concrete, or highly resistant vegetative center section.

#### DRAINAGE FIELD DITCHES

Drainage field ditches are shallow graded ditches with flat side slopes which do not interfere with tillage operations. Generally, the side slopes range from 8:1 to 15:1. The purpose of drainage field ditches is to collect water from depressional or nearly flat areas within a field and remove it to a stable outlet.

Generally, erosive velocities will not be a problem because of the low gradient of fields in which drainage field ditches are used and because of the shallow side slopes. Maximum velocities shall be limited to 2.5 feet/second unless on-site studies show that higher velocities will not result in erosive conditions.

#### MAXIMUM VELOCITIES FOR VEGETATED STREAM CHANNELS

##### Drainage Areas Less Than One Square Mile:

The maximum permissible design velocity shall be based on site conditions and shall be such as to result in stability of the ditch bottoms and side slopes. Maximum permissible velocities will be computed using bank-full stage of ten-year frequency stage whichever is lower. The following table will be used as maximum velocity for all drainage main or lateral designs. Vegetation will be established immediately after construction.

**Commented [JM22]:** Table is suitable for all channels, not specific to streams.

SUBSOIL TEXTURE	MAXIMUM VELOCITY* (Ft. Per. Sec.)
Sand and sandy loam (non colloidal)	2.5
Silt loam (also high lime clay)	3.0
Sandy clay loam	3.5
Clay loam	4.0
Stiff clay, fine gravel and graded loam to gravels	5.0
Graded silt to cobbles (colloidal)	5.5
Shale, hardpan, coarse gravel	6.0

Drainage Areas Greater Than One Square Mile:

Channel velocities for newly constructed channels with drainage area in excess of one square mile shall meet special stability requirements contained in U.S. Soil Conservation Service Technical Guide (Technical Release 25, Planning and Design of Open Channels).

\* Channels that cannot be designed to meet the maximum velocity limitation must be stabilized with materials other than vegetation. Such materials include crushed rock, concrete, gabions, etc.

(Ord. No. 92-21, 6-16-1992)

1111.08 - NATURAL RESERVE.

There shall be preserved a natural area at least 120 feet wide along both sides of all streams designated as a state scenic river. This area shall be measured horizontally, perpendicular to the river, from the point on the river bank where the terrestrial and aquatic vegetation meet. No structures or improvement shall be permitted in the natural area except for those associated with storm drainage systems and underground utilities. Damaged or diseased trees or those in imminent danger of being uprooted or falling in or along the stream may be removed. The stump and root structure of trees on the stream bank shall be left in place to retard bank erosion.

(Ord. No. 92-21, 6-16-1992)

1111.09 - SANITARY SEWERAGE SYSTEM.

Sanitary sewerage systems shall meet the requirements of the Delaware County Sanitary Sewer District. All Sanitary Sewer Designs shall be submitted to the [City Engineer](#) for approval prior to final submission to the Sewer District.

Deleted: Municipal Engineer

(Ord. No. 92-21, 6-16-1992)

#### 1111.10 - WATER SYSTEM.

- (a) The water lines and appurtenances shall meet the requirements of the DelCo Water Company.
- (b) The minimum size water line serving one fire hydrant shall be six inch diameter. When two or more fire hydrants will draw water through the same waterline the minimum diameter shall be eight inches. Fire hydrants shall be spaced so that any point of an inhabited building can be reached by using less than 500 feet of fire hose from two fire hydrants. All fire hydrants shall conform to and be installed in accordance with the Municipality of Powell Standard Drawings.

(Ord. No. 92-21, 6-16-1992)

#### 1111.11 - MONUMENTS, LOT PINS.

- (a) (1) Monuments shall be placed at each change of direction of a subdivision or development boundary, at the point of intersection of the centerlines of all streets, at the beginning and ending of each street centerline curve, and at the center of each cul-de-sac.
- (2) Monuments in the street centerlines shall be placed upon the completion of paving. Monuments outside of the street pavement shall be placed or their existence verified upon the completion of work in the immediate area of the monument's location. Monuments on the street centerline shall be railroad spikes not less than six inches long or one inch by 30 inches solid iron bars with the exact point marked with a center punch or "X". Then tops of monuments on the street centerline shall be set at least one-quarter inch below the pavement surface. Monuments outside the paved area shall be one-half inch by 36 inch iron bar.
- (b) Prior to conditional acceptance of public improvements, all lot corners, all lot line angle points, and the beginning and ending points of curves in all lot lines shall be marked by the use of hubs or pins with witness stakes or reference points in the pavement, curb or other features. A plan showing the references shall be filed with the [City Engineer](#) when referencing is used.
- (c) After the completion of site grading and prior to the issuance of a certificate of occupancy for any lot, iron pins shall be set or their existence verified at all lot corners, at all lot line angle points, and at the beginning and ending of curves in all lot lines. Iron pins shall be one-half inch by 36 inch solid iron bars driven flush with the ground. If the point to be marked falls in a blacktop drive, a railroad spike not less than six inches long may be used. If the point to be marked falls in a concrete drive, a P.K. nail may be set.
- (d) All monuments and lot pins or references shall be set by a surveyor who is registered in the State of Ohio. All pins shall have a cap identifying the surveyor and registration number.

Deleted: Municipal Engineer

(Ord. No. 92-21, 6-16-1992)

#### 1111.99 - PENALTY.

Whoever violates any provision of this chapter shall be fined not more than \$500.00 per offense. A separate offense shall be deemed committed each day during or on which an offense occurs or continues.

(Ord. No. 92-21, 6-16-1992)

CHAPTER 1113 - MINIMUM STANDARDS FOR CONSTRUCTION IMPROVEMENTS<sup>[6]</sup>

Sections:

Footnotes:

--- (6) ---

**Cross reference**— Minimum design standards, Ch. 1111

1113.01 - PURPOSE.

The purpose of this chapter is to establish minimum standards for constructing sanitary sewers, waterlines, pavements, storm sewers and other site improvements within the corporate limits of the Municipality.

(Ord. No. 86-28, 7-1-1986)

1113.02 - DEFINITIONS.

The definitions of Chapter 1103 shall be used in this chapter unless the context of any section of this chapter specifically indicates that such definitions are not applicable.

(Ord. No. 86-28, 7-1-1986)

1113.03 - REFERENCE SPECIFICATIONS.

All work shall be performed in accordance with the standards for materials, workmanship and procedures established in the latest edition of the specifications and standard drawings adopted in Table 107-I hereof, except as such standards are added to or modified herein, or in the approved Construction Plans and Contract Documents. The reference to sections or items of the specifications in Table 107-I, shall include all work covered by that section or item. Therefore, the reference to Section 200, EARTHWORK of the ODOTS, also refers to ITEM 201, Clearing and Grubbing, or ITEM 203, Roadway Excavation and Embankment, as well as 203.13, Subgrade.

- (a) Where used in this chapter, the abbreviations set forth in the left hand column immediately below stand for the published standards or governmental units described immediately to the right of the abbreviation.

<u>(1)</u>		
<u>DCSD</u>		
<u>(1)</u>	<u>DCSD</u>	<u>= Delaware County Sewer District</u> <u>= Delaware County Sewer District</u>
<u>(2)</u>	<u>DCWC</u>	<u>= DelCo Water Company</u>
<u>(2)</u>		
<u>DCWC</u>		
<u>= DelCo Water Company</u>		

(3)

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(3)	<a href="#">POWELL</a>	<a href="#">= City of Powell</a>
(4)	<a href="#">ODOT</a>	<a href="#">= State of Ohio Department of Transportation</a>
(5)	<a href="#">ODOTS</a>	<a href="#">= State of Ohio Department of Transportation Construction and Material Specifications</a>
(6)	<a href="#">COC</a>	<a href="#">= City of Columbus Construction and Material Specifications</a>

(b) Table 107-I REFERENCE STANDARDS.

Type of Work	Reference Specifications	Standard Construction Drawings
Earthwork	Section "200 EARTHWORK," <del>ODTS</del> <a href="#">ODOTS</a>	<del>POWELL &amp; ODOT</del> <a href="#">OR COC</a>
Roadway Bases	Section "300 BASES," <del>ODTS</del> <a href="#">ODOTS</a>	<del>POWELL</del> <a href="#">ODOT OR COC</a>
Roadway Pavement	Section "400 FLEXIBLE PAVEMENT" & Section "450 RIGID PAVEMENT" <del>ODTS</del> <a href="#">ODOTS</a>	<del>POWELL</del> <a href="#">ODOT OR COC</a>
Structures	Section "500 STRUCTURES," <del>ODTS</del> <a href="#">ODOTS</a>	<del>ODT &amp; POWELL</del> <a href="#">ODOT OR COC</a>
Incidentals (See Note # 1)	Section "600 INCIDENTALS," <del>ODTS</del> <a href="#">ODOTS</a>	<del>ODT &amp; POWELL</del> <a href="#">ODOT OR COC</a>
Roadside & Unpaved Areas	Section "650 ROADSIDE," <del>ODTS</del> <a href="#">ODOTS</a>	<del>ODT &amp; POWELL</del> <a href="#">ODOT OR COC</a>
Waterline System	<del>DCWC</del> <a href="#">DELCO</a>	<del>DCWC &amp; POWELL</del> <a href="#">DELCO</a> (See Note # 2)
Sanitary Sewer System	<a href="#">DCRSD</a>	(See Note # 2) <a href="#">DCRSD</a>

**Commented [JM23]:** FORMATTED TABLE. UPDATED REFERENCE DRAWING AND SPECIFICATIONS

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NOTE 1. All work and material pertaining to sanitary sewer construction shall be governed by the Delaware County Sanitary District, unless modified by the approved Construction Plans and documents.

~~NOTE 2. The Powell Standard Drawings for the Fire Hydrants and incidental work thereto will govern all work unless some other standard drawing or detail is specified on the Construction Plans or the DelCo Water Company requirements are more stringent.~~

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(c) The following are modifications to the reference specification of Table 107-I.

(1) Sidewalks: ~~ODTS~~ ODOTS 608.03(c) is changed by deleting the next to last sentence that pertains to construction joints around manholes, etc. The last sentence is changed to read: "Premolded expansion joint material ½ inch thick shall be installed to the full depth and across the full width of the walk at intervals of thirty feet (30') minimum, when the sidewalk thickness changes such as at driveway entrances, and between the walk and any fixed structures or object such as buildings, manholes, curbing, sign posts, existing sidewalks or structures, or utility poles." ~~ODTS~~ ODOTS 608.03(d) is changed to read: "transverse slope of 3/8 inch per foot."

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(2) Curbing: The requirement for joint sealer in ~~ODTS~~ ODOTS 609.04(a) is deleted. ~~ODTS~~ ODOTS 609.04(f) is added as follows: "When mountable curb is not used, curb drops for driveways shall be constructed at the same time curbing or curb and gutter is constructed. When the curbing is in place at the time driveway drops are required, such curb or curb and gutter shall be removed and replaced in five-foot increments, as required to install the driveways."

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(3) Item 609.05, ~~ODTS~~ ODOTS is deleted.

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(4) Storm Sewer System: The materials permitted shall be governed by those identified in the general notes or detail sheets of the approved construction plans and/or contract documents.

(5) ~~The seed mixture and application rates contained in Item 659 are deleted and replaced with those shown on the Powell Standard Drawings or as approved by the City Engineer. When seeding and mulching is performed using the hydro seeding method, the contractor shall insure that there will be sufficient moisture during the seed germination period and 30 days thereafter to support the growth of a healthy stand of grass.~~

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(Ord. No.86-28, 7-1-1986; Ord. No. 87-03, 3-17-1987; Ord. 88-19, 8-24-1988)

#### 1113.04 - STREET LIGHTING REQUIREMENTS.

The developer shall install a street lighting system as described herein:

(a) Street lights shall be installed with electrical material and equipment so that each is ready for service and in conformity with City Standard Construction Drawings.

(b) Unless otherwise shown on the Standard Construction Drawings or modified by these specifications, all material and workmanship shall conform to Item 625, ~~ODTS~~ ODOTS.

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(c) The developer for the particular area under development shall obtain all permits required by the ~~Columbus and Southern Ohio Electrical Company~~ American Electric Power Company.

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(d) Prior to acceptance and following the installation of the electric and gas lines excluding the service entrances or lines, the Contractor shall operate, the lighting system, including automatic control equipment and other apparatus, from sunset to sunrise for ten consecutive days without interruption or failure. If a cable is broken or damaged the cable shall be repaired and the burn test resumed for the remainder of the test period of five days whichever is longer. If a lamp or a ballast should fail during any of the burn test period, it shall be immediately replaced and the ten day burn test shall be required to be restarted.

(e) All electric lines leading to the light poles shall be underground, unless otherwise permitted by the City Engineer in previously developed areas. Except as described below, all underground cable shall be installed in PVC plastic conduit meeting the requirements ~~of Item 725.05~~ ODOTS,

Commented [JM24]: Updated specification

sized in accordance with the National Electric Code requirements. Unless approved by the engineer, the energy lines shall be one continuous cable between poles. When a connection is approved in the underground cable, this connection shall be installed in a plastic pull box meeting the requirements of 713.08 ODOTS.

- (f) All cable shall meet the requirements of Item [625.17](#) and [725.02 ODOTS](#), as modified herein. All cable shall be #6 AWG stranded copper wire with 600 volt insulation. The insulation for all cable, except the cable in the aluminum pole, shall be suitable for direct burial.
- (g) All cable runs in excess of 200 feet shall have a three percent (3%) voltage drop derating factor applied. No cable runs shall be smaller than #6 AWG copper ~~conductors~~, and all cable shall be for direct burial.
- (h) Unless otherwise shown, trenches shall conform to Item [625.13 ODOTS](#). Plastic tape marked "electric wire" or "electric cable" shall be laid one foot above the conduit during the trench backfill operation.
- (i) [A PVC, schedule 80 conduit sleeve sized in accordance](#) with the requirements of the National Electric Code shall be installed under all public roadways, and existing driveway and sidewalks in excess of five feet in width.
- (j) All cable lighting structures and appurtenances shall be located within a public right-of-way or easement. The design of the system will be coordinated with the [American Electric Power Company](#).
- (k) [All connections shall meet the requirements of Item 625.18 and 725.15 ODOTS as modified herein. In light pole bases, provide fused, quick disconnect Y connector kits and unfused, quick disconnect Y connector kits as required.](#)
- (l) No street shall be accepted before the street lighting system has been completely installed, tested and is ready for use.
- (m) All street lighting design shall be approved by the [American Electric Power Company](#). Two drawings of the "as-built" street lighting layout shall be presented to the [American Electric Power Company](#) for record purposes.

**Commented [JM25]:** Deleted reference to aluminum conductor

**Deleted:** Company

(Ord. No. 86-28, 7-1-1986; Ord. No. 88-19, 8-24-1988)

#### 1113.05 - STREET CONSTRUCTION REQUIREMENTS.

In addition to the requirements of Table 107-I, street construction shall be in accordance with the following:

- (a) With the exception of that portion which is under and behind the curbs, the subgrade shall be shaped and compacted after the placement of curbs, sewers and underdrains.
- (b) Before any base course is laid, the contractor shall stockpile granular material, or agree to use base material, and have the necessary equipment available to repair areas of failed subgrade. All areas of subgrade failure, as determined by the City, shall have the failed material removed at least six inches deep and replaced with clean granular material, compacted granular material or the base course material. Areas of minor rutting shall be shaped to grade and rolled prior to placing the base material.
- (c) Regardless of the type of pavement section being used, all residential streets, except as provided below, shall have:
  - (1) Five inches of 6½ bay mix concrete base with sawed joints, or
  - (2) Six inches of 5½ bay mix concrete base with sawed joints, or
  - (3) Eight and one-half inches of asphaltic base, or

- (4) Twenty percent thicker stone base than is required for a local residential street, or
- (5) When concrete pavement is used without any base material, seven inches of concrete surface course.
- (d) The additional thickness as stated above are not required for any residential street which:
  - (1) Is a cul-de-sac, or
  - (2) Is less than 1,000 feet long, or
  - (3) Does not serve as an outlet or collector for more than 20 lots.
- (e) No reduction of the surface course or intermediate course shall be allowed because of the increased thickness of the base course.

(Ord. No. 86-28, 7-1-1986; Ord. No. 87-03, 3-17-1987)

#### 1113.06 - CONSTRUCTION TRAFFIC.

Construction traffic shall be confined within a development as described herein and routed through the City as directed by the City Engineer. During the construction of, and prior to the final acceptance of streets which are to become public, construction traffic shall be controlled as follows:

- (a) The trucks used to deliver base and surface paving materials shall be routed to minimize the length of travel on the prepared and accepted subgrade and base material, respectively.
- (b) All traffic shall stay off the concrete base for seven days, the asphaltic base for two days, the asphaltic surface course for two days, and the concrete surface course for 14 days after placement. After this time the base course and surface courses can be used for construction traffic.
- (c) The developer shall post signs at entry points of a major development, directing construction traffic in accordance with this section.

(Ord. No. 86-28, 7-1-1986)

#### 1113.07 - GENERAL REQUIREMENTS.

- (a) No downspouts, surface inlets, foundation drains, subsurface drains or any other source of ground or surface water shall be connected, either directly or indirectly, to or discharge into any part of the sanitary sewage system. Such drains, inlets and downspouts shall be so constructed as to drain or be pumped into the street, gutter, ditch or storm sewers.
- (b) Where utilities are under or within five feet of proposed streets, roads or drives, the trench backfill shall be compacted granular material to within six inches of the proposed finished grade or to the subgrade in accordance with Item 310 [ODOTS](#).
- (c) All utilities shall be installed under existing paved streets by boring or jacking, unless open cutting is specifically approved by the City Engineer.
- (d) All streets and storm sewers shall be thoroughly cleaned prior to final acceptance.

(Ord. No. 86-28, 7-1-1986)

#### 1113.08 - CONSTRUCTION LAYOUT.

All construction layout shall be performed by an engineer or surveyor, registered in the State of Ohio, at no cost to the City. Cut sheets shall be prepared for all sewers and waterlines following the format



established by the City. At least one copy of all cut sheets shall be delivered to the City Engineer two working days prior to beginning any work.

(Ord. No. 86-28, 7-1-1986)

#### 1113.99 - PENALTY.

- (a) Any person who violates any provision of this chapter shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. Any person who continues any violation beyond the time limit provided for herein shall be fined not more than \$500.00 for each offense. A separate offense shall be deemed committed each day during or on which an offense occurs or continues.
- (b) Any person who violates any of the provisions of this chapter shall become liable to the City of Powell for any expense, loss or damage occasioned by the City by reason of such violation.

(Ord. No. 86-28, 7-1-1986)

#### CHAPTER 1115 - INSPECTION GUARANTEES AND ACCEPTANCE<sup>[7]</sup>

Sections:

Footnotes:

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**State Law reference**— Engineer to approve plats; inspection of streets and acceptance, O.R.C. §§ 711.08, 711.09; Plat approval, O.R.C. § 711.09

#### 1115.01 - PURPOSE.

The purpose of this chapter is to establish the City inspection and acceptance procedures for any public improvements that will become the responsibility of the City.

(Ord. No. 2005-21, 5-4-2005)

#### 1115.02 - DEFINITIONS.

The definitions of Chapter 1103 shall be used in this chapter unless the context of any section of this chapter specifically indicates that such definitions are not applicable.

(Ord. No. 2005-21, 5-4-2005)

#### 1115.03 - INSPECTION AND RECORDING SITE IMPROVEMENTS.

The materials, equipment and procedures used for the construction of all site improvements and public improvements, including but not necessarily limited to streets, sidewalks, storm sewers, and the portion of

the sanitary sewers and waterlines which lay within the public right-of-way, will be observed and tested. The location of the public improvements shall be entered into the records of the City by the City Engineer. The cost of such field observation, testing and recording shall be paid by the developer or owner. The estimated cost of this shall be deposited with the City at, or prior to, the pre-construction meeting prior to the beginning of construction. Upon written application by the depositor to the City Engineer within six months from the date of completion of the site improvements as evidenced by a Certificate of Occupancy or the date of final acceptance of the public improvements as required by Section 1115.07, whichever occurs later, all unused monies so deposited shall be refunded to the depositor. If the depositor fails to make such written application for refund, the excess funds so deposited shall be forfeited to the City and credited to the General Fund.

(Ord. No. 2008-17, 6-3-2008)

#### 1115.04 - CONSTRUCTION GUARANTEE.

The developer or owner shall guarantee construction, as required in Section 1105.10(g) for the public improvements that will become the responsibility of the City, as required by the Delaware County Sewer District for public sanitary sewers and as required by Del-Co Water Company for the waterlines.

(Ord. No. 2005-21, 5-4-2005)

#### 1115.05 - CONDITIONAL ACCEPTANCE.

Upon substantial completion of the construction as shown on the approved construction plans and documents as required by Section 1109, and at the written request by the developer or owner to the City Engineer, the City may grant conditional acceptance, by adopted resolution of City Council, of the public construction that will become the responsibility of the City. This acceptance shall be conditioned upon:

- (a) The posting of a maintenance guarantee as required in Section 1115.06;
- (b) The submission of a mylar set computer files, with format as required by the City Engineer, or "as-built" drawings of all public improvements that will become the responsibility of the City;
- (c) All major components of the public construction of the development being completed to the extent that does not present undue health, safety and welfare hazards to the citizens;
- (d) A guarantee being made that is satisfactory to the City Engineer and Law Director for the completion of the unfinished work. This guarantee is in addition to the maintenance guarantee as identified in Section 1115.05(a);
- (e) The City shall not issue any zoning certificates for building construction related to the development of the public improvements until such time as the conditional acceptance resolution required by this section is adopted by City Council. The City may issue zoning certificates for building construction related to the development following the adoption of the conditional acceptance resolution by City Council as required by this section;
- (f) The developer or owner shall complete, within one year from the date of approval of the conditional acceptance resolution by City Council, all unfinished work and deficient items as identified within the City Engineer's punch list at the time of conditional acceptance. Prior to the end of this one-year period, the developer or owner shall request, in writing to the City Engineer, a formal inspection of the improvements to ensure that all unfinished work and deficient items have been completed by the end of the one-year period. Shall the developer or owner fail to meet this requirement, the City may not issue additional zoning certificates for building construction and the City may impose a fee as approved by City Council in the official fee schedule. The City may also utilize the maintenance guarantee to complete any portion of the unfinished work or City Engineer's punch list of deficient items.

(Ord. No. 2005-21, 5-4-2005)

1115.06 - MAINTENANCE GUARANTEE FOR IMPROVEMENTS; BOND.

- (a) The developer or owner shall guarantee all public improvements for a period of at least two years from the date such improvements receive conditional acceptance by the City as required by Section 1115.05, plus the time it takes to correct all defects and deficiencies found during the two year period. This guarantee shall include, but not necessarily be limited to, any and all defects and deficiencies in workmanship, materials, and damage caused by others. The cost of all labor, materials, equipment and other incidentals required to maintain, repair and replace any or all of such improvements and to maintain them in good and proper condition, to the satisfaction of the City Engineer during the two year guarantee period shall be assumed by such developer or owner. In the event the developer or owner fails to make such maintenance, repairs or replacements prior to the expiration of the minimum two year maintenance period, or in the event of an emergency which may endanger life or property, the City may make or cause to be made, such repairs or replacement at the expense of such developer or owner. In order to indemnify the City for the expense of any such repairs or replacements made by or at the direction of the City, a maintenance guarantee shall be made by filing with the City evidence satisfactory to the City Engineer and Law Director of one of the following:
- (1) A maintenance bond equal to ten percent of the estimated construction cost, as approved by the City Engineer, for the public improvements, the maintenance bond shall not expire until such time as the public improvements receive final acceptance by adoption of an ordinance by the City Council as required by Section 1115.07.
  - (2) A certified check equal to ten percent of the estimated construction cost as approved by the City Engineer for public improvements, or
  - (3) Subject to the approval of the Law Director, a certificate of deposit or an irrevocable letter of credit made out to the City, equal to ten percent of the estimated construction cost as approved by the City Engineer of the public improvements. The certificate of deposit or letter of credit shall not expire until such time as the public improvements receive final acceptance by adoption of an ordinance by the city council as required by Section 1115.07.
- (b) At the written request of the developer or owner to the City Engineer, the maintenance guarantee will be released upon final acceptance of the improvements by the City.

(Ord. No. 2005-21, 5-4-2005)

1115.07 - FINAL ACCEPTANCE.

The developer or owner shall request, in writing to the City Engineer, final acceptance and release of the maintenance guarantee. Final acceptance and release of the maintenance guarantee shall be given after all the public improvements have been satisfactorily maintained, all defects or deficiencies have been corrected and all expenses incurred by the City pursuant to the development have been paid in full.

(Ord. No. 2005-21, 5-4-2005)

1115.99 - PENALTY.

- (a) Any person who violates any provision of this chapter shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. Any person who continues any violation beyond the time limit provided for herein shall be fined not more than \$500.00 for each offense. A separate offense shall be deemed committed each day during or on which an offense occurs or continues.

- (b) Any person who violates any of the provisions of this chapter shall become liable to the City of Powell for any expense, loss or damage occasioned by the City by reason of such violation.

(Ord. No. 2005-21, 5-4-2005)

TITLE THREE - ZONING ADMINISTRATION<sup>[8]</sup>

Footnotes:

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**Editor's note**— Unless otherwise indicated at the end of a section, Ordinance 91-01, passed February 5, 1991, composed Title Three and Five of this Part Eleven - Planning and Zoning Code.

CHAPTER 1121 - GENERAL PROVISIONS<sup>[9]</sup>

Sections:

Footnotes:

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**Cross reference**— Appeals, Ch. 1127

**State Law reference**— Zoning of annexed areas, O.R.C. § 303.25, 519.18; Appeals, O.R.C. § 713.11; Ch. 2506;

1121.01 - TITLE.

Title Three and Five of this Part Eleven-Planning and Zoning Code shall be known and may be cited to as the "Zoning Ordinance of the Municipality of Powell," except as referred to herein, where it shall be known as "this Ordinance."

1121.02 - PURPOSE.

This Zoning Ordinance is enacted for the general purpose of promoting the public health, safety, comfort, and welfare of the residents of Powell; to assure the orderly development of the Municipality; to conserve and protect the natural and scenic resources of the community; to protect and promote those environmental qualities that contribute to the enhancement of community life; to protect the property rights of all individuals by assuring the compatibility of uses and practices within districts; to facilitate the provision of public utilities, public services, recreational and scenic areas, and integrated pedestrian and equestrian path systems; to lessen congestion on public streets, roads, and highways; to provide for the administration and enforcement of the Zoning Ordinance, including the provision of penalties for its violation; and for any other purpose provided in the Zoning Ordinance, the Ohio Revised Code, or under common law rulings.

1121.025 - INTENT.

The Zoning Ordinance shall be applied in accordance with the Comprehensive Plan and the intent of the Zoning Ordinance is to guide development, along with other City policies and provisions, be utilized as one of many ways to achieve the vision of the City's Comprehensive Plan. The Zoning

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Ordinance shall be applied in accordance with the Comprehensive Plan and the intent of the Zoning Ordinance is to be utilized as one of many ways to achieve the vision of the City's Comprehensive Plan.

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#### 1121.03 - ZONING CODE.

The Municipality of Powell shall prepare bound copies of the Zoning Ordinance, which shall be known as "The Powell Zoning Code," and shall make such copies available for purchase by the public at cost.

A digital version of the code will be made available on the city's website.

#### 1121.04 - ZONING MAP.

A map of the zoning districts of Powell, noted thereon as to adoption and certification by the Council as an integral part of this Ordinance, is hereby incorporated by reference as a part of the Zoning Ordinance. This map shall be known as "The Official Zoning Map of Powell, Ohio."

#### 1121.05 - INCLUSION OF ZONING MAP IN ZONING CODE.

The Powell Zoning Code shall contain a copy of the Zoning Map in each book or online.

#### 1121.06 - INCLUSION OF AMENDMENTS IN ZONING CODE.

The Powell Zoning Code shall contain, as an appendix, all of the amendments made to the text of the Zoning Ordinance, as well as those made to the Zoning Map, following initial adoption of the Zoning Ordinance.

#### 1121.07 - PERIODIC RECODIFICATION OF AMENDMENTS.

At least once every five years, a recodified version of the Zoning Code shall be produced that integrates amendments to text and map that have been made to that date into the Zoning Code.

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#### 1121.08 - OPEN MEETING COMPLIANCE.

It is found and determined that all formal actions concerning and relating to the adoption of the Zoning Ordinance were adopted in open meetings, and that all deliberations that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

#### 1121.085 - POSTING OF NOTICE SIGN

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At least ten (10) days prior to a public hearing or public meeting about land development proposals including but not limited to, Appeals, Variances, Conditional Use Permits, Sketch Plan reviews, Development Plan reviews, Administrative Reviews, Certificate of Appropriateness, the applicant shall post a sign, as designed by the Zoning Administrator but provided by the applicant, that gives notice to the public with regard that a proposal is being reviewed by the city, and provides a city telephone number and web site in order to get information about the current proposal. Such sign shall remain posted until the project is finished with its public hearings.

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#### 1121.09 - INTERPRETATION.

In their interpretation and application, the provisions of the Zoning Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and the general welfare. Whenever the requirements of the Zoning Ordinance conflict with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

#### 1121.10 - SEVERABILITY.

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

#### 1121.11 - REPEAL.

This Zoning Ordinance may be repealed only by complying with the requirements of Section 713 of the Ohio Revised Code and the Municipal Charter.

#### 1121.12 - REPEAL OF CONFLICTING ORDINANCES.

Ordinances No. 84-85, 87-11, and 88-27, as well as all other Ordinances relative to the Zoning of Powell, and all other Ordinances in conflict with this Zoning Ordinance, are hereby repealed to the extent necessary to give the Zoning Ordinance full force and effect. However, all suits at law or in equity and/or all prosecutions resulting from violation of any Zoning Ordinance or part thereof heretofore in effect, which are now pending in any of the courts of the State of Ohio or of the United States, shall not be abated or abandoned by reason of the adoption of any amendment to the Zoning Ordinance, but shall be prosecuted to their finality the same as if amendments to the Zoning Ordinance had not been adopted; and any and all violations of existing Ordinances, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in the Zoning Ordinance shall be construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or which may have heretofore been instituted or prosecuted.

#### 1121.13 - EFFECTIVE DATE.

This Zoning Ordinance shall become effective 30 days after the date of its approval and adoption or as otherwise provided for by law.

#### CHAPTER 1123 - DEFINITIONS<sup>10</sup>

Sections:

Footnotes:

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**Cross reference**— General Code definitions, § 101.02; Subdivision definitions, Ch. 1103

#### 1123.01 - DEFINITIONS.

- (1) *Interpretation of Terms or Words:* For the purpose of the Zoning Ordinance certain terms or words used herein shall be interpreted as follows:

- A. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
  - B. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
  - C. The word "shall" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement.
  - D. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."
  - E. The word "lot" includes the words "plot" or "parcel."
- (2) *Accessory use (or structure)*: Accessory use means a use, object, or structure constructed or installed on, above, or below the surface of a parcel, which is located on the same lot as a principal use, object, or structure, and which is subordinate to or serves the principal use, object, or structure, is subordinate in area to the principal use, object, or structure, and is customarily incidental to the principal use, object, or structure. Among other things, "Accessory Use" includes anything of a subordinate nature attached to or detached from a principal structure or use, such as fences, walls, sheds, garages, parking places, decks, and pools. Except as otherwise required in the Zoning Ordinance an accessory use shall be a permitted use.
  - (3) *Agriculture*: The use of land for farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, orchards, plant nurseries, natural environment reserves, nature trails and walks, equestrian stables and trails, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce, provided, however that:
    - A. The operation of any such accessory uses shall be secondary to that of normal agricultural activities; and
    - B. The above uses shall not include the feeding or sheltering of animals or poultry in penned enclosures within 100 feet of any residential zoning district. Agriculture does not include the feeding of garbage to animals or the operation or maintenance of a commercial stockyard or feedyard.
  - (4) *Airport*: Any runway, land area or other facility designed or used either publicly or privately by any person for the landing and taking-off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings, and open spaces.
  - (5) *Alley*: See "Thoroughfare."
  - (6) *Alterations, structural*: Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.
  - (7) *Automotive repair*: The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.
  - (8) *Automotive, mobile home, travel trailer, and farm implement sales*: The sale or rental of new and used motor vehicles, mobile homes, travel trailers, or farm implements, but not including repair work except incidental warranty repair of same, to be displayed and sold on the premises.
  - (9) *Automotive wrecking*: The dismantling or wrecking of used motor vehicles, mobile homes, trailers, or the storage, sale or dumping of dismantled, obsolete or wrecked vehicles or their parts.
  - (10) *Basement*: A story all or partly underground but having at least one-half of its height below the average level of the adjoining ground. See "Story."
  - (11) *Building*: Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property.
  - (12) *Building, accessory*: A subordinate building detached from, but located on the same lot as the principal building, the use of which is incidental and accessory to that of the main building or use.



- (13) *Building, height*: The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip, and gambled roofs.
- (14) *Building line*: See "Setback Line."
- (15) *Building, principal*: A building in which is conducted the main or principal use of the lot on which said building is situated.
- (16) *Business, convenience*: Commercial establishments which cater to and can be located in close proximity to or within residential districts without creating undue vehicular congestion, excessive noise, or other objectionable influences. To prevent congestion, convenience uses include, but need not be limited to, drugstores, beauty salons, barber shops, carry-outs, dry cleaning and laundry pickup facilities, and grocery stores, if less than 10,000 square feet in floor area. Uses in this classification tend to serve a day-to-day need in the neighborhood.
- (17) *Business, general*: Commercial uses which generally require locations on or near major thoroughfares and/or their intersections, and which tend, in addition to serving day-to-day needs of the community, to also supply the more durable and permanent needs of the whole community. General business uses include, but need not be limited to, such activities as supermarkets; stores that sell hardware, apparel, footwear, appliances, and furniture; department stores; and discount stores.
- (18) *Business, highway*: Commercial uses which generally require locations on or near major thoroughfares and/or their intersections, and which tend to serve the motoring public. Highway business uses include, but need not be limited to, such activities as filling stations; truck and auto sales and service; restaurants and motels; and commercial recreation.

(#) *Business, mobile*: A mobile business is a business that utilizes a vehicle such as a truck or trailer, to prepare and/or show merchandise for sale. Typically, a mobile business locates at one location for a very temporary time, such as only for a few hours, and is available to leave and re-locate to another location in a short period of time.

- (19) *Business, office type*: Quasi-commercial uses which may often be transitional between retail business and/or manufacturing, and residential uses. Office business generally accommodates professional, accounting, writing, clerical, stenographic, and drafting. Institutional offices of a charitable, philanthropic, or religious or educational nature are also included in this classification.
- (20) *Business, services*: Any profit making activity which renders services primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in homes or businesses.
- (21) *Business, wholesale*: Business establishments that generally sell commodities in large quantities or by the piece to retailers, jobbers, other wholesale establishments, or manufacturing establishments. These commodities are basically for further resale, for use in the fabrication of a product, or for use by a business service.
- (22) *Cemetery*: Land used or intended to be used for the burial of the human or animal dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.
- (23) *Channel*: A natural or artificial watercourse of perceptible extent, with bed and banks to confine and conduct continuously or periodically flowing water.
- (24) *Child day-care*: Administering to the needs of infants, toddlers, pre-school children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the 24 hour day in a place or residence other than the child's own home. The following are child day-care facilities:

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- A. *Child day-care center*: Any place in which child day-care is provided, with or without compensation, for 13 or more children at any 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 any one time. In counting children for the purposes of this definition, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises shall be counted.
  - B. *Type A family day-care home*: A permanent residence of the administrator in which child day-care is provided for four to 12 children at any one time, if four or more children are under two years of age. In counting children for the purposes of this definition, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the Type A home shall be counted. The term "Type A family day-care home" does not include a residence in which the needs of children are administered to, if all such children are siblings of the same immediate family and the residence is their home.
  - C. *Type B family day-care home*: A permanent residence of the provider in which child day-care or child day-care services are provided for one to six children at one time and in which no more than three children may be under two years of age at any 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 are on the premises of the Type B home shall be counted. The term "Type B family day-care home" does not include a residence in which the needs of children are administered to, if all such children are siblings of the same immediate family and the residence is their home.
- (25) *Clinic*: See "Medical Clinic."
  - (26) *Cluster housing*: Two or more single family detached housing units that are located close to one another and are arranged on a condominium lot in such a manner as to share a single access drive.
  - (27) *Club*: A building or portion thereof or premises owned or operated by a person or persons for a social, literary, political, educational, or recreational purpose primarily for the exclusive use of members and their guests.
  - (28) *Commercial entertainment facilities*: Any profit making activity which is generally related to the entertainment field, such as motion picture theaters, carnivals, nightclubs, cocktail lounges, and similar entertainment activities.
  - (29) *Common wall housing*: See "Dwelling, Single family, Attached."
  - (30) *Comprehensive plan*: See "Municipal Comprehensive Plan."
  - (31) *Conditional use*: A use permitted within a district other than a principally permitted use, requiring a conditional use permit and approval of the Board of Zoning Appeals.
  - (32) *Conditional use permit*: A permit issued by the Zoning Administrator upon approval by the Board of Zoning Appeals to allow a use other than a principally permitted use to be established within the district.
  - (33) *Condominium*: A building or group of buildings in which units are individually owned but the structure, common areas and facilities are owned on a proportional, undivided basis by all to the owners.
  - (34) *Condominium lot*: A lot with joint ownership of common areas.
  - (35) *Congregate/assistive living housing*: A residential facility for four or more elderly persons within which are provided living and sleeping facilities, meal preparation, laundry services, and room cleaning. Such facilities may also provide other services such as transportation for routine social and medical appointments, medical services, and counseling. "Congregate Housing" includes convalescent homes and nursing homes for the aged, and homes for the aged.
  - (36) *Convalescent home*: A nursing care facility for the housing and care of the mentally well, but physically infirm.
  - (37) *Corner lot*: See "Lot Types."
  - (38) *Cul-de-sac*: See "Thoroughfare."

- (39) *Dead-end street*: See "Thoroughfare."
- (40) *Density*: A unit of measurement expressing the number of dwelling units per acre of land.
- A. "Gross Density" means the number of dwelling units per acre of the total land to be developed.
  - B. "Net Density" means the number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.
- (41) *Density Bonus*: An increase in the number of allowable dwelling units per acre granted for some specific reason, such as the provision of lower-income housing, as provided for in the zoning regulations.
- (42) *Diligently*: Marked by a persevering, uninterrupted, continuous, painstaking effort.
- (43) *District*: A part, zone, or geographic area within the municipality (township, county) within which certain zoning or development regulations apply.
- (44) *Dwelling*: Any building or structure, except a house trailer or mobile home as defined by O.R.C. § 4501.01 which is wholly or partly used or intended to be used for living or sleeping by one or more human occupants.
- (45) *Dwelling unit*: Space, within a dwelling, comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing, and toilet facilities, all used by only one family and its household employees.
- (46) *Dwelling, single-family, attached*: A building containing two or more dwelling units, each of which has primarily ground floor access to the outside and which are attached to each other by party walls without openings.
- (47) *Dwelling, single-family, detached*: A dwelling consisting of a single dwelling unit only, separated from other dwelling units by open space.
- (48) *Dwelling, two family*: A dwelling consisting of two dwelling units which are attached side by side, each unit having a separate entrance.
- (49) *Dwelling, multi-family*: A dwelling consisting of three or more dwelling units including condominiums with varying arrangements of entrances and party walls. Multi-family housing may include public housing and industrialized units.
- (50) *Dwelling, industrialized unit*: An assembly of materials or products comprising all or part of a total structure which, when constructed, is self-sufficient or substantially self-sufficient and when installed, constitutes a dwelling unit, except for necessary preparations for its placement, and including a modular or sectional unit but not a mobile home.
- (51) *Dwelling, rooming house (boarding house, lodging house, dormitory)*: A dwelling or part thereof, other than a hotel, motel or restaurant where meals and/or lodging are provided for compensation, for three or more unrelated persons where no cooking or dining facilities are provided in the individual rooms.
- (52) *Easement*: Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.
- (53) *Elderly household*: Not more than three persons, related or unrelated, who occupy a single dwelling unit, of whom at least one such person is an "elderly person" as defined below.
- (54) *Elderly housing unit*: A dwelling unit containing its own sleeping room(s), cooking, bathing and toilet facilities, wherein occupancy is restricted to elderly households.
- (55) *Elderly housing facility*: A building or buildings containing 12 or more elderly housing units, each with its own sleeping room(s), cooking, bathing, and toilet facilities, where occupancy is restricted to elderly persons or households. Such facilities may include emergency first aid care, day care, therapy, personal care, nursing facilities, recreational facilities, and provide for independent or semi-independent living. For the purposes of this definition, "elderly housing facility" shall not include convalescent homes, nursing homes, or homes for the aged.

- (56) *Elderly or senior person*: Any person who is 55 years of age or older, or any person under 55 years of age who is handicapped such that his physical impairments are of a long-term duration and impede his ability to live independently without a suitable housing environment.
- (57) *Essential services*: The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground gas, electrical, steam or water transmission, or distribution systems, collection, communication, supply or disposal systems or sites, including poles, wires, mains, drains, sewers, pipes, traffic signals, hydrants, or other similar equipment and accessories in connection therewith which are 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.
- (58) *Factory-built housing*: Factory-built housing means an off-site manufactured or prefabricated or factory-built structure designed for long-term residential use, the components of which are essentially constructed or assembled prior to its delivery to and installation upon a site. For the purposes of this Zoning Ordinance, "factory-built housing" shall include "Manufactured Homes," "Modular Homes," "Mobile Homes," "Prefabricated Homes," and "Sectional Homes."
- (59) *Family*: A person living alone, or two or more persons living together as a single housekeeping unit in a dwelling unit, as distinguished from a group occupying a rooming house, motel or hotel, dormitory, fraternity or sorority house, provided, however, that "family" shall not include more than four persons unrelated to each other by blood, marriage or legal adoption, except for Class I Type B group residential facilities.
- (60) *Farm*: See "Agriculture."
- (61) *Farm sign*: A sign denoting the name and address of the farm premises; a sign denoting agricultural produce or products available for sale on the premises; or a sign denoting membership in agricultural organizations.
- (62) *Farm vacation enterprises (profit or non-profit)*: Farms adapted for use as vacation farms, picnicking and sport areas, fishing waters, camping, scenery, and nature recreation areas; hunting areas; hunting preserves and watershed projects.
- (63) *Feedlot*: A relatively small, confined land area for fattening or temporarily holding cattle for shipment.
- (64) *Flood plain*: That land, including the flood fringe and the floodway, subject to inundation by the regional flood.
- (65) *Flood, regional*: Large floods which have previously occurred or which may be expected to occur on a particular stream because of like characteristics. The regional flood generally has an average frequency of the 100-year recurrence interval flood.
- (66) *Floodway*: That portion of the flood plain, including the channel, which is reasonably required to convey the regional flood waters. Floods of less frequent recurrence are usually contained completely within the floodway.
- (67) *Floodway fringe*: That portion of the flood plain, excluding the floodway, where development may be allowed under certain restrictions.
- (68) *Floor area of a residential building*: The sum of the gross horizontal area of the several floors of a residential building, excluding basement floor areas not devoted to residential use, garages, and open porches, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between interior faces of walls.
- (69) *Floor area of a non-residential building (to be used in calculating parking requirements)*: The floor area of the specified use excluding stairs, washrooms, elevator shafts, maintenance shafts and rooms, storage spaces, display windows, and fitting rooms, and similar areas.
- (70) *Floor area, usable*: Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

(70-71) *Food Truck*: See [Business, mobile](#).

(71) *Food processing*: The preparation, storage, or processing of food products. Examples of these activities include bakeries, dairies, canneries, and other similar businesses.

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(72) *Garages, private*: A detached accessory building or portion of a principal building for the parking or temporary storage of automobiles, travel trailers and/or boats of the occupants of the premises wherein:

- A. Not more than one space is rented for parking to persons not resident on the premises;
- B. No more than one commercial vehicle per dwelling unit is parked or stored;
- C. The commercial vehicle permitted does not exceed two tons capacity.

(73) *Garage, public*: A principal or accessory building other than a private garage, used for parking or temporary storage of passenger automobiles, and in which no service shall be provided for compensation.

(74) *Garage, service station*: Buildings and premises where gasoline, oil, grease, batteries, tires, and motor vehicle accessories may be supplied and dispensed at retail, and where in addition, the following services may be rendered and sales made:

- A. Sales and service of spark plugs, batteries, and distributors parts;
- B. Tire servicing and repair, but not recapping or regrooving;
- C. Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and blades, grease containers, wheel bearings, mirrors, and the like;
- D. Radiator cleaning and flushing;
- E. Radiator welding and repair;
- F. Greasing and lubrication;
- G. Providing and repairing fuel pumps, oil pumps, and lines;
- H. Minor servicing and repair of carburetors;
- I. Adjusting and repairing brakes;
- J. Minor motor adjustment not involving removal of the head or crankcase or racing the motor;
- K. Sales of cold drinks, packaged food, tobacco, and similar convenience goods for service station customers, as accessory and incidental to principle operations;
- L. Provision of road maps and other informational material to customers, provision of restroom facilities;
- M. Warranty maintenance and safety inspections.

Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operation condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling stations. A filling station is not a repair garage nor a body shop.

(75) *Group residential facility*: A group residential facility is a community residential facility, licensed and/or approved and regulated by the State of Ohio, which provides rehabilitative or habilitative services. There are two classes of group residential facilities:

- A. *Class I*: Any state, federal, or locally approved dwelling or place used as a foster home for children or adults (not including nursing homes) or as a home for the care or rehabilitation of dependent or predelinquent children, for the physically handicapped or disabled, or for those with mental illness or developmental disabilities. A Class I Type A group residential facility contains six or more residents, exclusive of staff. A Class I Type B group residential facility contains five or less residents, exclusive of staff.

- B. *Class II*: Any state, federal, or locally approved dwelling or place used as a home for juvenile offenders; a halfway house providing residential care or rehabilitation for adult offenders in lieu of institutional sentencing; a halfway house providing residence for persons leaving correctional institutions; and residential rehabilitation centers for alcohol and drug abusers, provided that detoxification is expressly prohibited on such premises. A Class II Type A group residential facility contains at least six or more residents, exclusive of staff. A Class II Type B group residential facility contains five or less residents, exclusive of staff.
- (76) *Historic district*: A district or zone designated by a local authority, state or federal government within which the buildings, structures, appurtenances and places are of basic and vital importance because of their association with history, or because of their unique architectural style and scale, including materials, proportion, form and architectural detail, or because of their being a part of or related to a square, park, or area the design or general arrangement of which should be preserved and/or developed according to a fixed plan based on cultural, historical or architectural motives or purposes.
- (77) *Home occupation*: Home occupation means an accessory use which is an activity, profession, occupation, service, craft, or revenue-enhancing hobby which is clearly incidental and subordinate to the use of the premises as a dwelling, and is conducted entirely within the dwelling unit, or elsewhere on the premises by conditional use permit, without any significant adverse effect upon the surrounding neighborhood. Activities such as teaching, tutoring, babysitting, tax consulting and the like shall involve not more than three receivers of such services at any one time.
- (78) *Hotel or motel and apartment hotel*: A building in which lodging or boarding and lodging are provided and offered to the public for compensation. As such it is open to the public in contradistinction to a boarding house, rooming house, lodging house, or dormitory which is herein separately defined.
- (79) *Institution*: Building and/or land designed to aid individuals in need of mental, therapeutic, rehabilitative counseling, or other correctional services.
- (80) *Junk*: Any scrap, waste, reclaimable material, or debris; whether or not stored, for sale, or in the process of being dismantled, destroyed, processed, salvaged, stored, stored for re-use, baled, disposed, or for other use or disposition.
- (81) *Junk buildings, junk shops, junk yards*: Any land, property, structure, building, or combination of the same, on which junk, as defined in the Revised Code, is stored or processed.
- (82) *Kenel*: Any lot or premises on which four or more domesticated animals more than four months of age are housed, groomed, bred, boarded, trained, or sold, and which offers provisions for minor medical treatment.
- (83) *Landscaping*: The treatment of exterior spaces with carefully planned arrangements of ground surface cover, natural greenery, plant materials, organic materials, natural stones, or paving, and elements such as shrubs, trees, fences, and gazebos to enhance the environment.
- (84) *Life-care facility*: A facility for the transitional residency of elderly and/or disabled persons, progressing from independent living in single family units to congregate apartment living where residents share meals, and culminating in a full health and continuing care nursing home facility.
- (85) *Living area, residential*: See "Floor Area of a Residential Building."
- (86) *Loading space, off-street*: Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space. All off-street loading spaces shall be located totally outside of any street or alley right-of-way.
- (87) *Location map*: See "Vicinity Map."
- (88) *Lot*: For the purpose of the Zoning Ordinance, a lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

- A. A single lot of record;
  - B. A portion of a lot of record;
  - C. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.
- (89) *Lot coverage*: The ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as a percentage.
- (90) *Lot frontage*: The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "Yards" in this section.
- (91) *Lot, minimum area of*: The area of a lot is computed exclusive of any portion of the right-of-way of any public or private street.
- (92) *Lot measurements*: A lot shall be measured as follows:
- A. *Depth*: The distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
  - B. *Width*: The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the building setback line.
- (93) *Lot of record*: A lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
- (94) *Lot types*: Terminology used in this Zoning Ordinance with reference to corner lots, interior lots and through lots is as follows:
- A. *Corner Lot*: A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost point of the lot meet at an interior angle of less than 135 degrees.
  - B. *Interior lot*: A lot with only one frontage on a street.
  - C. *Through lot*: A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
  - D. *Reversed frontage lot*: A lot on which frontage is at right angles to the general pattern in the area. A reversed frontage lot may also be a corner lot.
- (95) *Major thoroughfare plan*: The portion of a comprehensive plan [or other transportation related plan associated with the Comprehensive Plan](#) adopted by the Municipality indicating the general location and characteristics recommended for arterial, collector, and local streets or thoroughfares.
- (96) *Maintenance and storage facilities*: Land, buildings, and structures devoted primarily to the maintenance and storage of construction equipment and material.
- (97) *Manufactured home park*: Any lot upon which two or more manufactured homes are located for residential use, either free of charge or for revenue purposes, including any roadway, building, structure, vehicle, or enclosure used or intended to be used as a part of the facilities of such park.
- (98) *Manufacturing, heavy*: Manufacturing, processing, assembling, storing, testing, and similar industrial uses which are generally major operations and extensive in character; require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation; and normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution, and water pollution, but not beyond the district boundary.
- (99) *Manufacturing, light*: Manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet, and free of objectionable or hazardous elements such as smoke, noise, odor, or dust; operating and storing within enclosed structures; and generating little industrial traffic and no nuisances.

- (100) *Manufacturing, extractive*: Any mining, quarrying, excavating, processing, storing, separating, cleaning, or marketing of any mineral natural resource.
- (101) *Medical clinic*: A place used for the care, diagnosis and treatment of sick, ailing, infirm, or injured persons, and those who are in need of medical and surgical attention, but who are provided with board or room or kept overnight on the premises.
- (102) *Mobile home*: Any non-self-propelled vehicle so designed, constructed, reconstructed, or added to by means of accessories in such manner as will permit the use and occupancy thereof for human habitation, when connected to utilities, whether resting on wheels, jacks, blocks, or other temporary foundation and used or so construed as to permit its being used as a conveyance upon the public streets and highways and exceeding a gross weight of 4,500 pounds and an overall length of 30 feet, and not in compliance with the Federal Manufactured Housing Construction and Safety Standards Act of 1974.
- (103) *Mobile home park*: Any site, or tract of land under single ownership, upon which three or more mobile homes used for habitation are parked, either free of charge or for revenue purposes; including any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park.
- (104) *Municipal comprehensive plan*: A plan with subplans, or any portion thereof, adopted by the Municipality showing the general location and extent of present and proposed physical facilities and land uses; which may include, but shall not be limited to, housing, industrial and commercial uses, transportation networks, major thoroughfares, parks, schools, and other community facilities. This plan establishes the goals, objectives, and policies of the community. It is also known as the "Policies Plan for the Development of the City of Powell, Ohio" and any subplans designated therein.
- (105) *Nonconformities*: Lots, uses of land, structures, and uses of structures and land in combination lawfully existing at the time of enactment of this Zoning Ordinance or its amendments which do not conform to the regulations of the district or zone in which they are situated, and are therefore incompatible.
- (106) *Nursing home*: See "Convalescent Home."
- (107) *Nursery, plant materials*: Land, building, structure, or combination thereof for the storage, cultivation, transplanting of live trees, shrubs, or plants offered for retail sale on the premises including products used for gardening or landscaping.
- (108) *Open spaces*: An area substantially open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, water areas, swimming pools, and tennis courts, any other recreational facilities that the Planning and Zoning Commission deems permissive. Streets, parking areas, structures for habitation, and the like shall not be included.
- (109) *Overlay district*: A district described by the zoning map and/or Zoning Ordinance within which, through superimposition of a special designation, furthermore regulations and requirements apply in addition to those of the underlying districts to which such designation is added.
- (110) *Parking space, off-street*: For the purpose of this Zoning Ordinance, an off-street parking space shall consist of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, but shall be located totally outside of any street or alley right-of-way.
- (111) *Patio home*: A building designed for or occupied exclusively for residence purposes by one family or housekeeping unit that provides for family outdoor functions commonly associated with rear yard areas in a private interior courtyard, no less than 900 square feet in area, that is open to the sky and defined by a solid opaque wall where it abuts the exterior of the structure that is no less than six feet high. A patio home may be a detached unit, or it may have a zero-lot-line relationship at one or more sides.
- (112) *Performance bond or surety bond*: An agreement by a subdivider or developer with the Municipality for the amount of the estimated construction cost guaranteeing the completion of physical



improvements according to plans and specifications within the time prescribed by the subdivider's agreement.

- (113) *Personal services*: Any enterprise conducted for gain which primarily offers services to the general public such as shoe repair, watch repair, barber shops, beauty parlors, and similar activities.
- (114) *Pet or household pet*: An animal kept solely for personal enjoyment as a companion, such as a dog, cat, bird, or small reptile, commonly kept in the home with the occupant.
- (115) *Policies plan*: See "Municipal Comprehensive Plan."
- (116) *Professional activities*: The use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, architects, and engineers, and similar professions.
- (117) *Public service facility*: The erection, construction, alteration, operation, or maintenance of buildings, power plants, or substations, sewage disposal or pumping plants and other similar public service structures by a public utility, by a railroad, whether publicly or privately owned, or by a municipal or other governmental agency, including the furnishing of electrical, gas, rail transport, communication, public water and sewage services.
- (118) *Public uses*: Public parks, schools, administrative and cultural buildings and structures, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities.
- (119) *Public way*: An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, walk, bicycle path; or other ways in which the general public or a public entity have a right, or which are dedicated, whether improved or not.
- (120) *Quasipublic use*: Churches, Sunday schools, parochial schools, colleges, hospitals, and other facilities of an educational, religious, charitable, philanthropic, or non-profit nature.
- (121) *Recreation camp*: An area of land on which two or more travel trailers, campers, tents or other similar temporary recreational structures are regularly accommodated with or without charge, including any building, structure or fixture of equipment that is used or intended to be used in connection with providing such accommodations.
- (122) *Recreation facilities*: Public or private facilities that may be classified as either "extensive" or "intensive" depending upon the scope of services offered and the extent of use. Extensive facilities generally require and utilize considerable areas of land and include, but need not be limited to hunting, fishing, and riding clubs and parks. Intensive facilities generally require less land (used more intensively) and include, but need not be limited to, miniature golf courses, amusement parks, stadiums, and bowling alleys.
- (123) *Research activities*: Research, development, and testing related to such fields as chemical, pharmaceutical, medical, electrical, 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.
- (124) *Roadside stand*: A temporary structure designed or used for the display or sale of agricultural and related products.
- (125) *Right-of-way*: A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.
- (126) *Satellite signal receiver*: "Dish-type satellite signal-receiving antennas," "earth stations" or "ground stations," whether functioning as part of a basic service system, direct broadcast satellite system, or multipoint distribution service system, shall mean one, or a combination of two or more of the following:
  - A. A signal-receiving device such as a dish antenna whose purpose is to receive communications or signals from earth-orbiting satellites or similar sources.

- B. A low-noise amplifier (LNA) whose purpose is to boost, magnify, store, transfer or transmit signals.
  - C. A coaxial cable whose purpose is to convey or transmit signals to a receiver.
- (127) *Seat*: For purposes of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each 24 lineal inches of benches, pews, or space for loose chairs.
- (128) *Senior person*: See "Elderly Person."
- (129) *Setback line*: A line established by the zoning ordinance, generally parallel with and measured from the lot line, defining the limits of a yard in which no building, other than accessory building, or structure may be located above ground, except as may be provided in said code. See "Yard."
- (130) *Sewers, 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.
- (131) *Sewers, on-site*: A sewage treatment installation on an individual lot for the elimination of sewage which provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.
- (132) *Sidewalk*: That portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic.
- (133) *Sign*: Any visual communication display, object, device, graphic, structure, or part, situated indoors or outdoors, or attached to, painted on, or displayed from a building or structure, in order to direct or attract attention to, or to announce or promote, an object, person, service, product, event, location, organization or the like, by means of letters, words, designs, colors, symbols, fixtures, images or illuminations.
- A. *Sign, on-premises*: Any sign related to a business or profession conducted, or a commodity or service sold or offered upon the premises where such sign is located.
  - B. *Sign, off-premises*: Any sign unrelated to a business or profession conducted, or to a commodity or service sold or offered upon the premises where such sign is located.
  - C. *Sign, illuminated*: Any sign illuminated by electricity, gas, or other artificial light including reflecting or phosphorescent light.
  - D. *Sign, lighting device*: Any light; string of lights, or group of lights located or arranged so as to cast illumination on a sign.
  - E. *Sign, projecting*: Any sign which projects from the exterior of a building.
  - F. *Sign, permanent*: A sign erected with the intent on using it for permanent identification of a building, site or use.
  - G. *Sign, portable*: A sign that is not permanent, including banners, A-frame, stick-type, billboards or air activated attraction devices.
- (134) *Special district*: A zoning district created to meet the needs of an area experiencing unusual problems, or one that is designed to meet special needs.
- (135) *Story*: That part of a building between the surface of a floor and the ceiling immediately above. See "Basement."
- (136) *Structure*: Anything constructed or erected, the use of which requires location on the ground, or attachment to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, and billboards.
- (137) *Subdivision*: The division of a lot, tract, or parcel into two or more lots, tracts, or parcels or other divisions of land for sale, development, or lease.

- (138) *Substantial change*: A modification or change from the recommendation of the Planning and Zoning Commission shall consist of any change in use, change in density of ten percent , or change in points of ingress and egress.
- (139) *Supply yards*: A commercial establishment storing and offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods.
- (140) *Swimming pool*: A pool, pond, lake, or open tank containing at least one and one-half feet of water at any point and maintained by the owner or manager.
- A. *Private*: Exclusively used without paying an additional charge for admission by the residents and guests of a single household, a multifamily development, or a community, the members and guests of a club, or the patrons of a motel or hotel; an accessory use.
- B. *Community*: Operated with a charge for admission; a primary use.
- (141) *Temporary construction access*: An access drive and/or road which provides for access to a property under construction only during the term of its construction, then is removed when a permanent access drive is created.
- (142) *Thoroughfare, street, or road*: The full width between property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic and designated as follow:
- A. *Alley*: A minor street used primarily for vehicular service access to the back or side of properties abutting on another street.
- B. *Arterial street*: A general term denoting a highway primarily for through traffic, carrying heavy loads and large volumes of traffic, usually on a continuous route.
- C. *Collector street*: A thoroughfare, whether within a residential, industrial, commercial, or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.
- D. *Cul-de-sac*: A local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turnaround.
- E. *Dead-end street*: A street temporarily having only one outlet for vehicular traffic and intended to be extended or continued in the future.
- F. *Local street*: A street primarily for providing access to residential or other abutting property.
- G. *Loop street*: A type of local street, each end of which terminates at an intersection with the same arterial or collector street, and whose principal radius points of the 180 degree system of turns are not more than 1000 feet from said arterial or collector street, nor normally more than 600 feet from each other.
- H. *Marginal access street*: A local or collector street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets. (Also called Frontage Street)
- (143) *Through lot*: See "Lot Types."
- (144) *Transportation, director of*: The Director of the Ohio Department of Transportation.
- (145) *Use*: The specific purposes for which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained.
- (146) *Variance*: A variance is a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.
- (147) *Veterinary animal hospital or clinic*: A place used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention,

and may include overnight accommodations on the premises for treatment, observation and/or recuperation. It may also include boarding that is incidental to the primary activity.

- (148) *Vicinity map*: A drawing located on the plat which sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the general area in order to better locate and orient the area in question.
- (149) *Walkway*: A public way, five feet or more in width, for pedestrian use only, whether along the side of a road or not.
- (150) *Yard*: A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from three feet above the general ground level of the graded lot upward; provided, accessories, ornaments, and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.
  - A. *Yard, front*: A yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building.
  - B. *Yard, rear*: A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.
  - C. *Yard, side*: A yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yards.
- (151) *Zero lot line development*: An arrangement of housing on adjoining lots in which the required side yard is reduced on one side and increased on the other so that the sum of the offsets on any lot is no less than the sum of the required offsets. No building or structure shall be closer to a lot line than five feet unless it abuts the lot line and is provided with an access easement of five feet on the adjoining lot or abuts a building or structure on the adjoining lot.
- (152) *Zoning administrator*: The Zoning Administrator is the person designated by the Mayor to administer and enforce this Zoning and related regulations.
- (153) *Zoning certificate*: A document issued by the Zoning Administrator verifying that the planned uses of lots, structures, uses of land and structures, and the characteristics of such uses, comply with the Zoning Ordinance.
- (154) *Zoning, certificate of compliance (or certificate of zoning compliance)*: A document issued by the Zoning Administrator verifying that work executed complies with the requirements of the Zoning Ordinance.
- (155) *Municipal separate storm sewer system (MS4)*: "Municipal Storm Sewer System" or "MS4" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
  - A. Owned or operated by the City;
  - B. Designed or used for collecting or conveying storm water;
  - C. Which is not a combined sewer; and
  - D. Which is not part of a Publicly Owned Treatment Works (POTW) as defined by Title 40 Code of Federal Regulations Part 122.2 (40 CFR 122.2).

(Amendment by Ordinance 91-40; Ord. No. 91-01, 2-5-1991; Ord. No. 98-25, 8-4-1998; Ord. No. 2004-33, 5-18-2004)

## CHAPTER 1125 - NONCONFORMITIES<sup>(11)</sup>

Sections:

Footnotes:

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**State Law reference**— Nonconforming uses; retroactive measures, O.R.C. § 713.15

### 1125.01 - PURPOSE.

Within the districts established by this Zoning Ordinance, or by amendments thereto, lots, uses of land, structures, and uses of structures and land in combination exist which were lawful before this Zoning Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Zoning Ordinance. The legitimate interest of those who lawfully established these nonconformities are herein recognized by providing for their continuance, subject to regulations limiting their completion, restoration, reconstruction, extension, and substitution. Nevertheless, while it is the intent of this Zoning Ordinance that legal nonconformities be allowed to continue until removed, they should not be encouraged to survive. Therefore, no nonconformity may be moved, extended, altered, expanded, or used as grounds for any other use(s) or structure(s) prohibited elsewhere in the district except as otherwise specifically provided for in this Zoning Ordinance.

### 1125.02 - USES UNDER CONDITIONAL USE PROVISIONS NOT NONCONFORMING USES.

Any use which is permitted as a conditional use and has been approved in a district under the terms of this Zoning Ordinance shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

### 1125.03 - INCOMPATIBILITY OF NONCONFORMITIES.

Nonconformities are declared by this Zoning Ordinance to be incompatible with permitted uses in the districts in which such uses are located. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended, nor shall same be extended or enlarged in ground covering, floor area, or volume after passage of this Zoning Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises announcing such non-conforming use(s), nor by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

### 1125.04 - AVOIDANCE OF UNDUE HARDSHIP.

To avoid undue hardship, nothing in this Zoning Ordinance shall be deemed to require a change in the plans, construction, size or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Zoning Ordinance and upon which actual building construction has been carried out diligently. "Actual construction" is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be "actual construction," provided that the work has been carried out diligently. Where this is the case, the Zoning Administrator may require proof in the form of an affidavit or similar document that the original intended use of the building has not been changed. The ground story framework, including structural parts of a second floor, if planned for, shall have been completed within one year and the entire building completed within two years after the effective date of this Zoning Ordinance or

new zoning and building certificates will be required verifying compliance with the conditions of this Zoning Ordinance or amendments thereto. Where work has been commenced prior to the effective date of this Zoning Ordinance for which no building certificate was issued, although required at the time, or which is in violation of a previously issued certificate, such violations shall stand and shall be prosecuted. Work for which no building certificate has been issued shall be required to comply with this Zoning Ordinance and its amendments.

#### 1125.05 - CERTIFICATES FOR NONCONFORMING USES.

The Zoning Administrator may upon his own initiative, or shall upon the request of any owner, issue a certificate for any lot, structure, use of land, use of structure, or use of land and structure in combination, that certifies that the lot, structure, or use is a valid nonconforming use. The certificate shall specify the reason why the use is a nonconforming use, including a description of the extent and kind of use made of the property in question, the portion of the structure or land used for the nonconforming use, and the extent that dimensional requirements are nonconforming. The purpose of this Section is to protect the owners of lands or structures that are or become nonconforming. One copy of the certificate shall be returned to the owner and one copy shall be retained by the Zoning Administrator, who shall maintain as a public record a file of all such certificates.

#### 1125.06 - SINGLE NONCONFORMING LOTS OF RECORD.

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Zoning Ordinance, notwithstanding limitations imposed by other provisions of this Zoning Ordinance. Such lot must be an isolated lot, and not of contiguous frontage with other lots that have not been built upon and that are in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Where the Zoning Administrator certifies to the Planning and Zoning Commission that these conditions have been met, he may proceed to issue the requisite certificates without referring the matter to the Board of Zoning Appeals.

#### 1125.07 - NONCONFORMING LOTS OF RECORD IN COMBINATION.

If two or more lots or a combination of lots and portions of lots with contiguous frontage in single ownership are of record at the time of passage or amendment of this Zoning Ordinance, and if all or part of the lots with no buildings do not meet the requirements established for lot width and/or area, the lands involved shall be considered to be an undivided parcel for the purposes of this Zoning Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and/or area requirements established by this Zoning Ordinance, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements stated in this Zoning Ordinance.

#### 1125.08 - YARD REDUCTIONS PERMITTED BY DIRECT ACTION OF THE ZONING ADMINISTRATOR FOR NONCONFORMING LOTS OF RECORD.

The following yard reductions shall be permitted by direct action of the Zoning Administrator, upon a finding of fact complying with the conditions specified below, and certification of these conditions to the Board of Zoning Appeals, without recourse to variance by action of the Board of Zoning Appeals:

- (a) Where there are single nonconforming substandard lots of record at the time of the effectiveness of this Zoning Ordinance or any amendment thereto that were not self-created conditions and that are located in districts permitting residences, the depth of the required rear yard and/or the minimum side yard width may be reduced by up to four inches for each foot by which the lot of record at the effective date of this Zoning Ordinance or amendment thereto was less than 100 feet deep and/or less than 50 feet wide, where this is necessary to provide the minimum site for one single car garage on the site, no more than 12 feet in width by 22 feet in length;

- (b) Where construction or enlargement of, or addition to, a one-family detached dwelling is to be undertaken on a lot that is substandard by virtue of lot area and/or lot width of a single nonconforming substandard lot of record at the time of effectiveness of this Zoning Ordinance or amendment thereto located in a district permitting such residences, and application of the yard requirements of the district within which it is located result in a space available for construction that is less than one-half the minimum required floor area (precluding construction of a two-story residence of minimum total floor area), and/or the space available for construction of the residence is less than 22 feet in width, then:
- (1) The depth of the required rear yard and/or the minimum width of each side yard may be reduced by up to four inches for each foot by which the lot is less than 100 feet deep and/or less than 50 feet in width; and
  - (2) Any combination of such reductions of side and rear yards may be provided to the point where a minimum available ground area of one-half the minimum required floor area and a minimum construction width of 22 feet has been attained but not exceeded.
- (c) Side yards, when reduced under subsection (b) hereof, shall be reduced uniformly at both sides. Side yards shall only be reduced, under both subsection (a) and (b) above, when rear yard reduction, within the specified limits, cannot result in the required minimum residential ground floor area, or the minimum garage area, and/or where essential to provide the minimum 22 foot residential construction width. Under no condition shall a side yard provided for under the terms of this Section, for either a residence or a garage, be less than five feet in width, or less than ten feet in the case of a side yard along a side street lot line, and provided that no rear yard shall be less than ten feet;
- (d) Where the full application of the reliefs provided above still do not provide the minimum site specified for a single car garage, the permit for construction of the garage shall be denied; and
- (e) Where the full application of the reliefs provided above still do not provide a minimum ground floor area of one-half the minimum required floor area and/or a minimum 22 foot construction width, on a lot of record meeting the conditions specified above located in a district in which there is no other possible legal use of the ground without variance, the Zoning Administrator shall so certify to the Board of Zoning Appeals, which will accept such certification as proof of a clear and certain hardship on the land warranting relief.

#### 1125.09 - NONCONFORMING USES OF LAND.

Where, at the time of adoption of this Zoning Ordinance, lawful uses of land exist which would not be permitted by the regulations imposed by this Zoning Ordinance, the uses may be continued so long as they remain otherwise lawful, provided:

- (a) No such nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Zoning Ordinance;
- (b) No such nonconforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this Zoning Ordinance;
- (c) If any such nonconforming uses of land are discontinued or abandoned for six months or more, except when government action impedes access to the premises, any subsequent use of such land shall conform to the regulations specified by this Zoning Ordinance for the district in which such land is located;
- (d) No additional structure not conforming to the requirements of this Zoning Ordinance shall be erected in connection with such nonconforming use of land.

#### 1125.10 - NONCONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of adoption or amendment of this Zoning Ordinance that could not be built under the terms of this Zoning Ordinance by reason of restrictions on area, lot coverage, height, yards, location on the lot, bulk, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (a) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity. Changes to nonconforming structures shall be oriented toward making the nonconformity more in character with its surroundings;
- (b) Should such nonconforming structure or nonconforming portion of a structure be destroyed by any means, it shall not be reconstructed except in conformity with the provisions of this Zoning Ordinance;
- (c) Any maintenance, repair, replacement, or restoration activities shall not increase the number or extent of nonconformities; and
- (d) Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

#### 1125.11 - NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION.

If a lawful use involving individual structures, or of a structure and land in combination, exists at the effective date of adoption or amendment of this Zoning Ordinance that would not be allowed in the district under the terms of this Zoning Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (a) No existing structure devoted to a use not permitted by this Zoning Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
- (b) Any nonconforming use may be extended by no more than 50 percent in area but only in parts of a building which were manifestly arranged or designed for such use at the time of adoption of this Zoning Ordinance. No such use shall be extended to occupy any land outside such building;
- (c) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations of the district in which it is located, and the nonconforming use may not thereafter be resumed;
- (d) When a nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for six months or more except when government action impedes access to the premises, the structure, or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located; and
- (e) Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

#### 1125.12 - TERMINATION OF NONCONFORMING USES.

- (a) *Termination of Use Through Discontinuance.* When any nonconforming use is discontinued or abandoned for six months or more, any new use shall not thereafter be used except in conformity with the regulations of the district in which it is located, and the nonconforming use may not thereafter be resumed. The intent to continue a nonconforming use shall not be evidence of its continuance.
- (b) *Termination of Use by Damage or Destruction.* In the event that any nonconforming building or structure is destroyed by any means to the extent of more than 50 percent of the replacement cost of the structure, exclusive of foundation, it shall not be rebuilt, restored, or reoccupied for any use unless it conforms to all regulations of this Zoning Ordinance. When such a nonconforming structure is damaged or destroyed to the extent of 50 percent or less of the replacement cost,



exclusive of foundation, no repairs or rebuilding shall be permitted except in conformity with all applicable regulations of this Zoning Ordinance or its amendments and the following conditions:

- (1) A Zoning Certificate pertaining to such restoration shall be applied for and issued within 90 days of such destruction, and rebuilding shall be diligently pursued to completion.
- (2) Such restoration shall not cause a new nonconformity, nor shall it increase the degree of nonconformance or noncompliance existing prior to such damage or destruction.
- (3) For the purposes of this section, "replacement cost" shall be defined as the reproduction cost of the structure, exclusive of foundations, prior to the calamity depreciated in accordance with applicable Internal Revenue Guidelines for the structure.

#### 1125.13 - REPAIRS AND MAINTENANCE.

On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the cubic content existing when it became nonconforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official. Where appropriate, a building permit for such activities shall be required.

### CHAPTER 1127 - APPEALS AND VARIANCES<sup>1121</sup>

Sections:

Footnotes:

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**Charter reference**— Board of Zoning Appeals, Sec. 11.02

**State Law reference**— Appeals from zoning decisions, O.R.C. § 713.11, Ch. 2506; Council may amend zoning, O.R.C. § 713.10

#### 1127.01 - GENERAL.

Appeals and variances shall conform to the procedures and requirements of Sections 1127.01—1127.14, inclusive, of this Zoning Ordinance. As specified in Section 147.01, the Board of Zoning Appeals, has appellate jurisdiction relative to appeals and variances.

(Amendment by Ordinance 91-40)

#### 1127.02 - INTENT.

It is the intent of this Zoning Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator and that such questions shall be presented to the Board of Zoning Appeals only on appeal from a decision of the Zoning Administrator, and that recourse from the decisions of the Board of Zoning Appeals shall be to the courts as provided by law. It is further the intent of this Zoning Ordinance that the duties of the Council relating to this Zoning Ordinance shall not include

hearing and deciding questions of interpretation and enforcement that might arise. The Council shall have only the duties of considering and adopting or rejecting proposed amendments, rezonings, and/or the repeal of this Zoning Ordinance as provided by law, and of establishing a schedule of fees and charges.

#### 1127.03 - APPEALS.

- (a) Appeals to the Board of Zoning Appeals concerning interpretation or administration of this Zoning Ordinance may be taken by any person aggrieved or by any officer or bureau of the legislative authority affected by any decision of the Zoning Administrator. Such appeal shall be taken within 20 days after the decision by filing, with the Zoning Administrator, a notice of appeal specifying the grounds upon which the appeal is being taken.
- (b) The Zoning Administrator shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

#### 1127.04 - STAY OF PROCEEDINGS.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Zoning Appeals, after the notice of appeal is filed with him, that by reason of facts stated in the application a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Zoning Appeals, or by a Court of Record on application, on notice to the Zoning Administrator from whom the appeal is taken on due cause shown.

#### 1127.05 - VARIANCES.

- (a) The Board of Zoning Appeals may authorize upon appeal in specific cases such variance from the terms of this Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions of the land and/or buildings that are unique to the property in question, and not self-created, a literal enforcement of the provisions of this Zoning Ordinance would result in deprivation of all beneficial use of the land.
- (b) No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or reduced or greater profit, and evidence of variances granted under similar conditions elsewhere is irrelevant.

#### 1127.06 - APPLICATION AND STANDARDS FOR VARIANCES.

All applications for a zoning variance shall be submitted on such forms as designated by the Zoning Administrator. Except as otherwise permitted in this Zoning Ordinance, no variance from the strict application of the provisions of this Zoning Ordinance shall be granted unless the Board finds that the written application for the requested variance contains all of the following:

- (a) Name, address, and phone number of applicant(s)
- (b) Legal description of the property, including seven copies of the plot plan drawn to the appropriate scale and showing the following:
  - (1) The boundaries and dimensions of the lot;
  - (2) Location of the property with regard to nearby streets and surrounding land uses and buildings on adjacent properties;
  - (3) The size, shape and location of existing and proposed structures on the site;
  - (4) The proposed use of all parts of the lot and structures, including accessways, walks, off-street parking, loading spaces, and landscaping; and
  - (5) The relationship of the requested variance to the requirements of this Zoning Ordinance.

- (c) Description or nature of the variance requested, including the specific provisions of the Zoning Ordinance upon which the variance is requested.
- (d) A fee as established by ordinance.
- (e) Narrative statements and supporting documentation establishing and substantiating that the variance conforms to each of the following standards:
  - (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property;
  - (2) Whether the variance is substantial;
  - (3) Whether the character of the neighborhood would be adversely affected or whether adjoining properties would suffer an adverse impact as a result of the variance;
  - (4) Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);
  - (5) Whether the property owner purchased the property with knowledge of the zoning restriction;
  - (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and
  - (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- (f) No single factor shall be considered a determinative factor, and the factors shall be weighed and balanced in determining whether a variance is warranted. The applicant shall bear the burden of proof that the criteria for a variance is warranted. The applicant shall bear the burden of proof that the criteria for a variance have been met and that the application of the zoning requirement to the applicant's property would be inequitable.

(g) Such other information regarding the application as may be pertinent to the request and required by the Zoning Administrator or the Board of Zoning Appeals.

Applications lacking any part of this information shall be deemed to be incomplete and shall not be acted upon until completed.

**Deleted:** (g) - A list containing the names and mailing addresses of all owners of property contiguous to, directly across the street from, and within 250 feet of the parcel at issue. ¶

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(Ord. No. 2010-38, 9-21-2010)

#### 1127.07 - ADDITIONAL CONDITIONS AND SAFEGUARDS.

The Board of Zoning Appeals may further prescribe any conditions and safeguards that it deems necessary to insure that the objectives of the regulations and provisions to which the variance applies will be met. Any violation of such conditions and safeguards, when they have been made a part of the terms under which the variance has been granted, shall be deemed a punishable violation under this Zoning Ordinance.

#### 1127.08 - PUBLIC HEARING BY THE BOARD OF ZONING APPEALS.

The Board of Zoning Appeals shall hold a public hearing within 30 days after receipt of a complete application for an appeal or variance from the Zoning Administrator or from an applicant.

#### 1127.09 - NOTICE OF PUBLIC HEARING.

Before conducting the public hearing required in Section 1127.08, notice of such hearing shall be given on the Municipality of Powell website at least 10 days before the date of said hearings. The notice shall set forth the time and place of the public hearing, and the nature of the proposed appeal or variance.

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(Ord. No. 2005-11, 3-15-2005)

#### 1127.10 - NOTICE TO PARTIES IN INTEREST.

Before conducting the public hearing required in Section 1127.08, written notice of such hearing shall be mailed by the Clerk of the Board of Zoning Appeals by first class mail, at least 10 days prior to the hearing to all property owners contiguous to, directly across the street from and within 250 feet of the parcel at issue. This notice shall contain the same information as required of notices published on the City website, as specified in Section 1127.09.

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(Ord. No. 2005-11, 3-15-2005)

#### 1127.11 - PROCEDURES FOR HEARING BY THE BOARD OF ZONING APPEALS.

Whenever the Board of Zoning Appeals holds a hearing, a Court Reporter's official record of the hearing shall be made, the session shall be recorded electronically, all witnesses shall be sworn in, and opportunities for cross-examination and rebuttal of witnesses shall be granted. Materials presented in evidence shall be duly recorded, item numbered as exhibits, and shall have "Exhibit No. \_\_\_\_\_" indelibly recorded on each item.

#### 1127.12 - RECORDS OF HEARINGS BY BOARD OF ZONING APPEALS.

- (a) If an appellant requests a record of a hearing, the Court Reporter's records of each hearing held by the Board of Zoning Appeals shall be transcribed into typed pages in three copies: one copy shall be provided to the appellant; one copy shall be provided to the Zoning Administrator, and one copy shall remain on file with the Board of Zoning Appeals.
- (b) The cost of the Court Reporter's services in preparing the record, transcribing and typing the record, and preparing the requisite copies shall be invoiced to and paid by the appellant through a billing transmitted with the copy of the official record of the hearing.

#### 1127.13 - ACTION BY THE BOARD OF ZONING APPEALS.

Within 30 days after the public hearing required in Section 1127.08, the Board of Zoning Appeals shall either approve, approve with supplementary conditions, or disapprove the request for appeal or variance. The Chairperson of the Board of Zoning Appeals shall further make a written finding, approved as to form by the Director of Law, and processed and filed by the Clerk to the Board of Zoning Appeals, stating the reasons for disapproval, or if approved, that reasons set forth in the application justify the granting of the variance, that each of the standards set for the granting of the variance in this Ordinance have been met, and that the variance granted is the minimum variance that will make possible a reasonable use of the land, building, or structure.

#### 1127.14 - FEE TO ACCOMPANY APPLICATION FOR A VARIANCE AND FOR APPEALS.

The Council shall establish the fee to be deposited with each application for a Variance and for Appeals. Such fees shall be required generally for each application to defray the costs of advertising, mailing, and other expenses. The costs associated with the Records of Hearings as stated in Section 1127.12 shall be in addition to these fees.

(Amendment by Ordinance 91-40)

#### CHAPTER 1129 - CONDITIONAL USE PERMITS; SIMILAR AND ACCESSORY USES<sup>13</sup>

Sections:

Footnotes:

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**Cross reference**— Amendment, Ch. 1131; Fees, Ch. 1133

#### 1129.01 - REGULATION OF CONDITIONAL USES.

The provisions of this chapter apply to the location and maintenance of any and all conditional uses.

#### 1129.02 - CONTENTS OF CONDITIONAL USE PERMIT APPLICATION.

Any owner, or agent thereof, of property for which a conditional use is proposed shall make an application for a Conditional Use Permit by filing it with the Zoning Administrator, who shall within seven days transmit complete applications to the Board of Zoning Appeals. All applications for a conditional use permit shall be submitted on such forms as designated by the Zoning Administrator. No application shall be considered as complete unless it contains, at a minimum, the following information:

- (a) Name, address, and phone number of applicant(s);
- (b) Legal description of the property;
- (c) Zoning district in which the site is located;
- (d) Description of existing use;
- (e) Description of proposed conditional use;
- (f) Seven copies of the plot plan, drawn at an appropriate scale illustrating and denoting the boundaries and dimensions of the lot, the relationship to nearby streets, a plan of the proposed site development for the conditional use showing the location of all buildings, loading areas, streets and traffic accesses, open spaces, refuse and service areas, utilities, signs, yards, landscaping features, walks, off-street parking, the use of land and the location of buildings on adjacent property, and other such information as the Board may require;
- (g) A narrative statement discussing the compatibility of the proposed use with the existing uses of adjacent properties and with the comprehensive plan, to include an evaluation of the effects on adjoining properties of such elements as traffic circulation, noise, glare, odor, fumes, and vibration;
- (h) A fee as established by Ordinance; and
- (i) A narrative addressing each of the criteria contained in Section 1129.03.

(Amendment by Ordinance 91-40)

#### 1129.03 - GENERAL STANDARDS FOR ALL CONDITIONAL USES.

The Board of Zoning Appeals, shall review the particular facts and circumstances of each proposed conditional use and shall approve the application for a Conditional Use Permit only when it has determined that there has been adequate evidence presented to show that such use at the proposed location:

- (a) Is in fact a conditional use as listed in the Schedule of District Regulations in this Zoning Ordinance for the zoning district in which the site is located;

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- (b) Will be in accord with the general objectives, or with any specific objective, of the comprehensive plan and the Zoning Ordinance;
- (c) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area;
- (d) Will not be hazardous or disturbing to existing or future neighboring uses;
- (e) Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such services;
- (f) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community;
- (g) Will not involve uses, activities, processes, materials, equipment and/or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
- (h) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares; and
- (i) Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

#### 1129.04 - SPECIAL CONDITIONAL USE REQUIREMENTS.

- (a) Child day-care and/or Kindergarten facilities must be architecturally compatible with the neighborhood and provisions must be made for vehicular access, parking, and fences to control accessibility of children to adjoining hazardous conditions, such as roads, streets, lakes, ponds, or adjacent yards. Buildings housing such child day-care and/or kindergarten facilities must be no less than 50 feet from adjoining property lines.
- (b) Playgrounds, playfields, and picnic areas shall be provided with adequate off-street parking areas, water supply, sanitation facilities, fencing to control accessibility of users to hazardous conditions, and any other improvement necessary to protect the users from harm or danger.
- (c) Cemeteries shall occupy a tract of not less than 100 acres. No building shall be placed closer to the right-of-way line of any road than the setback prescribed in this Zoning Ordinance. No interment shall be made nearer than 50 feet to the right-of-way of the approved public road adjacent thereto. No burial shall be permitted nearer than 25 feet to any other property line unless a mature natural screen has been established along said property line at least six feet in height, in which case burials may be permitted not closer than ten feet to said property line. No mausoleum, crematory, office facility, maintenance building or storage area shall be constructed, except as approved by the Board of Appeals. Parking areas, public accesses, screening and other improvements shall be furnished as required. Existing cemeteries may expand and use existing cemetery land that they own as part of the 100 acre requirement, even if said land does not directly adjoin the existing site.
- (d) Kennels shall be situated that no building, or outdoor run dedicated to such use shall be located closer than 200 feet to any residence, or lot line in a residential district or residential area of a planned district.

#### 1129.05 - PUBLIC HEARING BY THE BOARD OF ZONING APPEALS ON A REQUEST FOR A CONDITIONAL USE PERMIT.

The Board of Zoning Appeals shall hold a public hearing within 30 days after receipt of a complete application for a Conditional Use Permit from the Zoning Administrator.

#### 1129.06 - NOTICE OF PUBLIC HEARING,

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Before conducting the public hearing required in Section 1129.05, notice of such hearing shall be given [on the Municipality of Powell website](#), at least, **10** days before the date of said hearings. The notice shall set forth the time and place of the public hearing, and shall provide a summary explanation of the conditional use proposed and a description of the site of the proposed use.

(Ord. No. 2005-11, 3-15-2005)

#### 1129.07 - NOTICE TO PARTIES OF INTEREST.

Prior to conducting the public hearing required in Section 1129.05, written notice of such hearings shall be mailed by the Clerk of the Board of Zoning Appeals by first class mail, at **least 10** days prior to the hearing to all parties in interest, to include all property owners listed in the application. The notice shall contain the same information as required in Section 1129.06 for notices published [on the City website](#).

(Ord. No. 2005-11, 3-15-2005)

#### 1129.08 - ACTION BY THE BOARD OF ZONING APPEALS ON A REQUEST FOR A CONDITIONAL USE PERMIT.

Within 30 days after the date of the public hearing required in Section 1129.05, the Board shall take one of the following actions:

- (a) Approve issuance of the Conditional Use Permit by making an affirmative finding in writing that the proposed conditional use is to be located in a district wherein such use may be conditionally permitted, that all conditions for approval of such use in such district have been met, and that the use will neither result in significant negative impacts upon nor conflict with surrounding uses. Such written findings may also prescribe supplementary conditions and safeguards as specified in Section 1129.09. Upon making an affirmative finding, the Board shall direct the Zoning Administrator to issue a Conditional Use Permit for such use which shall list all conditions and safeguards specified by the Board for approval.
- (b) Make a written finding that the application is deficient in information, or is in need of modification, and is being returned to the applicant. Such findings shall specify the information and/or modifications which are deemed necessary.
- (c) Make a written finding that the application is denied, such finding specifying the reason(s) for disapproval.

Findings shall be drafted by the Chairman of the Board of Zoning Appeals, approved as to form by the Director of Law and processed and filed by the Clerk to the Board of Zoning Appeals. If an application is disapproved by the Board, the applicant may seek relief through the Court of Record.

#### 1129.09 - PROCEDURES FOR HEARING AND RECORDS OF HEARING RELATIVE TO A REQUEST FOR A CONDITIONAL USE PERMIT.

The procedures to be followed by the Board of Zoning Appeals in hearing a request for a Conditional Use Permit, the records to be made, and accommodation of the court reporter's costs shall be identical to those required in Sections 1127.11 and 1127.12 for hearings with regard to variances and appeals.

#### 1129.10 - SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.

In granting approval for any conditional use, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformance with this Zoning Ordinance. Any violation of such conditions or safeguards, when made a part of the terms under which the Conditional Use Permit is granted, shall be deemed a punishable violation of this Zoning Ordinance.

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#### 1129.11 - EXPIRATION OF CONDITIONAL USE PERMIT.

A Conditional Use Permit shall automatically expire if such conditionally permitted use has not been instituted or utilized within one (1) year of the date on which the permit is issued, or if for any reason whatsoever such use shall cease for six (6) months or more.

#### 1129.12 - REVOCATION OF CONDITIONAL USE PERMIT.

The Board of Zoning Appeals may revoke a Conditional Use Permit for failure to comply with the conditions of the permit. Upon a finding of failure to comply by the Zoning Administrator, and communication of this failure to the Board of Zoning Appeals, the Board shall notify the holder of the permit either by certified mail or by direct service by the Zoning Administrator of its intent to revoke the permit and the holder's right to a hearing before the Board within 30 days of receipt of notice if that party requests such a hearing in a certified letter received by the Board within 15 days of the holder's receipt of the Board's notice. If the holder requests a hearing, the Board shall set a time and place for the hearing and notify the holder. At the hearing, the holder may appear in person, be represented by an attorney or other representative, or he may present his position in writing. The procedures and records of such a hearing shall meet all of the requirements specified for such hearings for variance or appeal, as specified in Sections 1127.11 and 1127.12. If no hearing is requested, the Board may revoke the permit without a hearing. The authority to revoke a permit is in addition to any other means of zoning enforcement provided in this Zoning Ordinance.

#### 1129.13 - FEE TO ACCOMPANY APPLICATION FOR A CONDITIONAL USE PERMIT.

The Council shall establish the fee to be deposited with each application for a Conditional Use Permit. Such fees shall be required generally for each application to defray the costs of advertising, mailing, salaries and other administrative expenses.

#### 1129.14 - PROCEDURE AND REQUIREMENTS TO DETERMINE THAT A USE IS SUBSTANTIALLY SIMILAR.

- (a) Where a specific use is proposed that is not listed or provided for in this Zoning Ordinance, the Board of Zoning Appeals may make a determination, upon appeal from the determination of the Zoning Administrator, that the proposed use is substantially similar to a specific use that is listed or provided for in this Zoning Ordinance. If the Board finds that a use is substantially similar to a specific use listed in this Zoning Ordinance, the substantially similar use is deemed to be a substantially similar permitted use in those districts where the specific use is a permitted use, and a substantially similar conditional use in those districts where the specific use is a conditionally permitted use.
- (b) In formulating a determination that a proposed use is a substantially similar use, the Board shall follow the procedures relating to appeals and variances as specified in Chapter 1127.

(Amendment by Ordinance 91-40)

#### 1129.15 - REMEDY BY APPLICATION FOR AMENDMENT.

If the Board determines that a proposed use is not substantially similar, remedy may be sought by the appellant through the submission of an application for amendment as prescribed in Chapter 1131.

#### 1129.16 - STANDARDS FOR CONSIDERATION OF SUBSTANTIALLY SIMILAR USE.

The following standards shall be considered by the Board of Zoning Appeals when making a determination that a use is substantially similar to a permitted or a conditional use within a specific district:

- (a) The compatibility of the proposed use with the general use classification system as specified in this Zoning Ordinance;



- (b) The nature, predominant characteristics, and intensity of the proposed use in relation to those uses specified by this Zoning Ordinance as being permitted, or in the case of conditional use, conditionally permitted, in that district; and
- (c) The size, dimensional requirements, parking requirements, traffic generation potential, and other regulatory considerations normally associated with uses as specified in this Zoning Ordinance.

#### 1129.17 - EFFECT OF DETERMINATION THAT A USE IS SUBSTANTIALLY SIMILAR.

Should a use be determined to be substantially similar to a specific permitted or conditionally permitted use provided for in this Zoning Ordinance, it shall then be permitted in the same manner and under the same conditions and procedures as the use is permitted to which it has been found to be substantially similar.

#### 1129.18 - RECORD OF SUBSTANTIALLY SIMILAR USES.

The Zoning Administrator shall maintain as a public record a listing of all uses which have been determined to be substantially similar. For each such use the record shall include the use as listed in the Ordinance, the use unlisted in the Ordinance about which the determination of substantial similarity was made, and the dates of any actions thereupon by the Board of Zoning Appeals or the Council. This record shall also contain the same information for all uses which have been determined not to be substantially similar. The Zoning Administrator shall consult this record in the process of issuing future permits.

#### 1129.19 - REGULATION OF ACCESSORY USES.

The provisions of this section shall apply to the location and maintenance of accessory uses as herein defined.

- (a) *Purpose.* It is the purpose of this Section to regulate accessory uses in order to promote the public health, safety, and welfare. It is the intent of this section to permit such uses to be established and maintained in a manner which makes them compatible with principal uses and harmonious with uses upon adjacent properties.
- (b) *Definition.* "Accessory Use" means a use, object, or structure constructed or installed on, above, or below the surface of a parcel, which is located on the same lot as a principal use, object, or structure, and which is subordinate to or serves the principal use, object, or structure, is subordinate in area to the principal use, object, or structure, and is customarily associated with and incidental to the principal use, object, or structure. Among other things, "Accessory Use" includes anything of a subordinate nature attached to or detached from a principal structure or use, such as fences, walls, sheds, garages, parking places, decks, and pools. Except as otherwise regulated or prohibited in this Zoning Ordinance, an accessory use shall be a permitted use.
- (c) *General Requirements.* Except as otherwise regulated or prohibited in this Zoning Ordinance, an accessory use or structure shall be permitted in association with a principal use or structure provided that:
  - (1) It shall be 35 percent or less of the gross floor area of the principal use or structure, except where additional space is needed to comply with off-street parking requirements.
  - (2) It shall not contain or be used as a dwelling unit.
  - (3) It shall not exceed 18 feet in height.
  - (4) It shall meet all yard requirements of the principal use, except fences.
- (d) *Dwellings as Accessory Uses.* Dwellings may be accessory uses in residential districts if located inside the principal home or if detached as a garage apartment, only if used as a residence by relatives or household servants and no rent is charged. Mobile home trailers shall not be permitted as accessory uses in any district.

- (e) *Accessory Elderly Dwelling Unit.* In all districts in which residences are permitted uses, an owner-occupied, single-family dwelling unit may be converted to allow the incorporation of one additional dwelling unit for the exclusive occupancy of an elderly household, a member of which shall be an elderly person related to the owner of the single-family dwelling unit. Such accessory elderly dwelling unit shall be wholly contained within the existing principal building or shall be attached to it by a common wall, floor, or ceiling. The structure shall have at least 2,000 square feet, exclusive of porches, basements or garages, and each of the two dwelling units shall have no less than 1,000 square feet. The application for zoning certificate for such conversion shall be accompanied by an affidavit attesting to the owner's present occupancy of the dwelling unit and to the age and relationship of the elderly person.

(Amendment by Ordinance 91-40)

#### 1129.20 - RETAIL SALES AND SERVICES AS ACCESSORY USES.

Retail sales and services are permitted as accessory uses when clearly incidental to the principal use. With the exception of restaurants in conjunction with a motel, such uses shall be conducted wholly within the principal building, and without exterior advertising or display. These activities shall be conducted solely for the convenience of the employees, patients, patrons, students, or visitors and not for the general retail public. In hospitals and clinics these accessory uses may include drug stores, florists, gift and book shops, and cafeterias. In institutional settings, office buildings, hotels, country club houses, and airports, such activities may include gift and book shops, restaurants, cafeterias and coffee shops, lounges, pro shops, and beauty and barber shops.

#### CHAPTER 1131 - AMENDMENT<sup>[14]</sup>

Sections:

Footnotes:

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**State Law reference**— Council may amend districting or zoning, O.R.C. § 713.10; Zoning regulations notice and hearing, O.R.C. § 713.12

#### 1131.01 - PROCEDURE FOR AMENDMENT OR DISTRICT CHANGES.

The Zoning Ordinance may be amended utilizing the procedures specified in this chapter.

#### 1131.02 - GENERAL.

Whenever the public necessity, convenience, general welfare, or good zoning practices require, the Council may, by ordinance, after receipt of recommendation thereon from the Planning and Zoning Commission and subject to procedures and constraints provided by law and in this Ordinance, amend, supplement, change or repeal the regulations, restrictions, and boundaries or classification of property.

#### 1131.03 - INITIATION OF ZONING AMENDMENTS.

Amendments to this Zoning Ordinance may be initiated in one of the following ways:

- (a) By the adoption of a motion by the Planning and Zoning Commission;

- (b) By the adoption of a resolution by the Council;
- (c) By the filing of an application by at least one owner or lessee of property within the area proposed to be changed or affected by said amendment.

#### 1131.04 - CONTENTS OF APPLICATION FOR ZONING MAP AMENDMENT.

An application for amendment to the Official Zoning Map adopted as a part of this Zoning Ordinance by Chapter 1141, undertaken under the terms of Section 1131.03(c), must be complete for consideration. All applications for zoning amendments shall be submitted on such forms as designated by the Zoning Administrator. Applications lacking any part of the information listed below shall be deemed to be incomplete and shall not be acted on until completed. Applications must contain at least the following information:

- (a) The name, address, and phone number of the applicant and, in the case of a lessee, of the property owner;
- (b) Legal description of all of the property affected by the proposed amendment;
- (c) The proposed amending ordinance, approved as to form by the Director of Law;
- (d) A statement of the reason(s) for the proposed amendment in terms of serving the public health, safety, convenience, and/or welfare, and in terms of any changed or changing conditions within the area;
- (e) The present use;
- (f) The present zoning district;
- (g) The proposed use;
- (h) The proposed zoning district;
- (i) Five copies of a vicinity map drawn to scale illustrating and denoting:
  - (1) Property lines, ownerships, and property dimensions;
  - (2) Streets, street names, alleys and thoroughfares;
  - (3) Existing zoning district boundaries and designations;
  - (4) Proposed changes to zoning district boundaries and designations;
  - (5) Any other information the Zoning Administrator may require, which may include, but is not limited to:
    - A. Streets and traffic accesses;
    - B. Location and extent of all existing and proposed building and structures;
    - C. Yard dimensions;
    - D. Utilities;
    - E. Landscape features and plans, including the location and trunk diameter of existing trees;
    - F. Site drainage patterns and facilities;
    - G. Drawings and dimensions of signs;
    - H. Refuse and service areas and facilities;
    - I. Open spaces;
    - J. Loading areas;
    - K. Walks and pathways;

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- L. Off-street parking spaces, aisles and accesses;
- M. Uses of land;
- N. Location and extent of structures and land uses on surrounding property; and
- O. Written evidence of compliance with EPA and/or Health Department sanitary sewer requirements.

- (j) A statement on the ways in which the proposed amendment relates to and is consistent with the Comprehensive Plan; and
- (k) A fee as established by the Council.
- (l) Any application for zoning map amendment to a Planned District shall be accompanied by a Development Plan as otherwise described by this Zoning Code.

(Amendment by Ordinance 91-40; Ord. No. 98-42, 10-6-1998)

#### 1131.05 - CONTENTS OF APPLICATION FOR ZONING TEXT AMENDMENT.

- (a) All applications for zoning amendments shall be submitted on such forms as designated by the Zoning Administrator. Applications for amendments proposing to change, supplement, amend, or repeal any text portion of this Zoning Ordinance must contain at least the following information:
  - (1) The name, address, and phone number of the applicant and, of the land owner;
  - (2) The proposed amending ordinance, approved as to form by the Director of Law;
  - (3) The wording of the current ordinance to be amended;
  - (4) A statement of the reason(s) for the proposed amendment in terms of serving the public health, safety, convenience, and/or welfare, and any changed or changing conditions within the area;
  - (5) A statement explaining the ways in which the proposed amendment relates to and is consistent with the Municipal Comprehensive Plan; and
  - (6) A fee as established by the Council.
- (b) Applications lacking any part of this information shall be deemed to be incomplete and shall not be acted upon until completed.

#### 1131.06 - TRANSMITTAL TO THE PLANNING AND ZONING COMMISSION.

Immediately after the adoption of a resolution by the Council or the filing of a completed application for amendment of the Zoning Ordinance by at least one owner or lessee of property, said resolution or application shall be transmitted to the Planning and Zoning Commission.

#### 1131.08 - PUBLIC HEARING BY PLANNING AND ZONING COMMISSION.

Upon adoption of a motion by the Planning and Zoning Commission to recommend amendment of the Zoning Ordinance to Council, or upon receipt of notice of a resolution adopted by Council recommending amendment of the Zoning Ordinance, or upon transmittal of a completed application for amendment by the Zoning Administrator, the Planning and Zoning Commission shall schedule a public hearing thereon. Said hearing shall be no more than 30 days from the date of such motion, notice of a resolution, or transmittal of such application.

(Amendment by Ordinance 91-40)

#### 1131.09 - PUBLIC NOTICE OF PROPOSED AMENDMENT BY PLANNING AND ZONING COMMISSION.

**Deleted: (j)** - A list of names and addresses of all property owners within the proposed rezoned area, all owners of property located contiguous to, directly across the street from and within 250 feet of the proposed rezoned area. ¶

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Before any zoning amendment is approved affecting any land within 300 feet of the centerline of a proposed new State highway or a State highway for which changes are proposed as described in the certification to local officials by the Director of Transportation or within a radius of 500 feet from the point of intersection of said centerline with any public road or highway, the Zoning Administrator shall give notice, by registered or certified mail, to the Director of Transportation. The Planning and Zoning Commission may proceed as required by law; however, the Council shall not approve the amendment for 30 days from the date the notice is received by the Director of Transportation. If the Director of Transportation gives notice that he shall proceed to acquire the land needed, then the Council shall refuse to approve the rezoning. If the Director of Transportation notifies the Municipality that acquisition at this time is not in the public interest, or upon expiration of the 30 day period or any extension thereof agreed upon by the Director of Transportation and the property owner, the Council shall proceed as required by law. ¶

- (a) *Notice of Public Hearing.* Notice of the public hearing required in Section 1131.08, above, shall be on the Municipality of Powell website. Said notice shall be published at least 10 days before the date of the required hearing. The published notice shall set forth the time and place of the public hearing, a summary of the proposed amendments and a statement that after the conclusion of such hearing the matter will be referred to the Council for further determination.
- (b) *Notice to Property Owners.* If the proposed amendment intends to rezone or redistrict 10 or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk, by first class mail, at least 10 days before the day of the public hearing to all owners of property within and contiguous to, directly across the street from and within 250 feet of the area to be rezoned or redistricted. Failure to deliver the notifications as provided in the Section shall not invalidate any such amendment. The notice shall contain the same information as required of notices published on the City website.

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(Ord. No. 2005-11, 3-15-2005)

#### 1131.10 - RECOMMENDATION BY THE PLANNING AND ZONING COMMISSION.

Within 60 days from receipt of the notice of a resolution by Council, transmittal of an application for a zoning amendment, or adoption of an amending action by the Planning and Zoning Commission, and after a public hearing on the issue, the Planning and Zoning Commission shall transmit its recommendation to the Council. The Planning and Zoning Commission may recommend that the amendment be granted as requested, or it may recommend a modification of the amendment as requested, or it may recommend that the amendment be denied. The written decision of the Planning and Zoning Commission shall indicate the specific reason(s) upon which the recommendation is based, and shall include the basis for their determination that the proposed amendment is or is not consistent with the Comprehensive Plan. To be approved by the Planning and Zoning Commission, an amendment must be consistent with the Comprehensive Plan.

#### 1131.11 - PUBLIC HEARING BY COUNCIL.

Upon receipt of the recommendation from the Planning and Zoning Commission, Council shall schedule a public hearing therein. Said hearing shall be no more than 40 days from the receipt of the recommendation from the Planning and Zoning Commission.

- (a) *Notice of Public Hearing.* Notice of the public hearing required in Section 1131.11 shall be given on the Municipality of Powell website. Said notice shall be published at least ten days before the date of the required hearing. The published notice shall set forth the time and place of the public hearing and a summary of the proposed amendment.
- (b) *Notice to Property Owners.* If the proposed amendment intends to rezone or redistrict 10 or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk, by first class mail, at least 10 days before the day of the public hearing to all owners of property contiguous to, directly across the street from and within 250 feet of the area to be rezoned or redistricted. Failure to deliver the notifications as provided in this section shall not invalidate any such amendment. The notice shall contain the same information as required of notices published on the City website.

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(Ord. No. 2005-11, 3-15-2005)

#### 1131.12 - ACTION BY COUNCIL.

Within 30 days after the public hearing required in Section 1131.11 or such longer period as is determined to be appropriate by Council, Council shall either adopt or deny the recommendation of the Planning and Zoning Commission or adopt some modification thereof. In the event Council makes a

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substantial change to the recommendation of the Planning and Zoning Commission, it must do so by a vote of not less than three-fourths (six) of all Members of Council or by approval of a majority of all members of Council (four) and subsequent approval by the Planning and Zoning Commission. If approved by a majority of Council with a substantial change but by less than three-fourths, such ordinance with proposed substantial change stated separately shall be submitted to the Planning and Zoning Commission at the next regularly scheduled meeting. If approved by the Commission, then such ordinance with the substantial change shall take effect. If not approved by the Commission, then at the next scheduled Council meeting, Council shall adopt or deny the recommendation of the Planning and Zoning Commission without the substantial changes or adopt the Commission's recommendations with substantial changes with not less than three-fourths (six) of all members of Council. No such Ordinance shall be passed unless it has been fully and distinctly read on two different days and no Ordinance in accordance with the recommendation of the Planning and Zoning Commission shall be deemed to pass or take effect without the concurrence of at least a majority of the full membership of Council. The Council shall be deemed to have rejected the recommendation of the Planning and Zoning Commission when less than a majority of its members (four) vote for its adoption.

(Ord. No. 98-42, 10-6-1998)

#### 1131.13 - EFFECTIVE DATE AND REFERENDUM.

- (a) Such amendment adopted by Council shall become effective 30 days after the date of such adoption unless within 30 days after the passage of the ordinance there is presented to the Clerk of Council a petition, signed by a number of qualified voters residing in the Municipality equal to no less than 10 percent of the total vote cast in such area at the last preceding general municipal election, requesting the Council to submit the zoning amendment to the electors for approval or rejection at the next general election.
- (b) No amendment for which such referendum vote has been requested shall be put into effect unless a majority of the vote cast on the issue is in favor of the amendment. Upon certification by the Board of Elections that the amendment has been approved by the voters, it shall take immediate effect.

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#### 1131.14 - FEE TO ACCOMPANY APPLICATION FOR A ZONING AMENDMENT.

The Council shall establish the fee to be deposited by an owner or lessee of property filing an application to amend the Zoning Ordinance. Such fees shall be required generally for each application to defray the total costs of advertising, personnel, mailing, and administrative expenses.

#### CHAPTER 1133 - ADMINISTRATION; FEES<sup>(15)</sup>

Sections:

Footnotes:

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**Charter reference**— Planning and Zoning Commission, Sec. 11.01

**Cross reference**— Enforcement and penalty, Ch. 1135

**State Law reference**— Violation of zoning ordinances, O.R.C. § 713.13

#### 1133.01 - PURPOSE.

This chapter sets forth the powers and duties of the Planning and Zoning Commission, the Board of Zoning Appeals, the Council, and the Zoning Administrator with respect to the administration of the provisions of this Zoning Ordinance.

#### 1133.02 - GENERAL PROVISIONS.

The formulation, administration and enforcement of this Zoning Ordinance is hereby vested in the following offices and bodies within the Municipality of Powell:

- (a) Zoning Administrator.
- (b) Planning and Zoning Commission.
- (c) Board of Zoning Appeals.
- (d) Council.
- (e) Director of Law.

#### 1133.03 - ZONING ADMINISTRATOR.

A Zoning Administrator appointed by the Mayor shall administer and enforce this Zoning Ordinance.

#### 1133.04 - ZONING ADMINISTRATOR: BONDING.

The Zoning Administrator, before entering upon the duties of the office, shall give bond signed by a bonding or surety company authorized to do business in this State, or, at his option, signed by two or more free holders having real estate in the value of double the amount of the bond, in the amount specified by the Council. Such surety company or real estate bond shall be approved by the municipality Council, and the bond shall be conditioned upon the faithful performance of the Zoning Administrator's official duties.

#### 1133.05 - RESPONSIBILITIES OF ZONING ADMINISTRATOR.

For the purpose of this Zoning Ordinance, the Zoning Administrator shall have the following duties:

- (a) Enforce the provisions of this Zoning Ordinance, and interpret the meaning and application of its provisions.
- (b) Respond to questions concerning applications for amendments to the Zoning Ordinance text and the Official Zoning District Map.
- (c) Issue zoning certificates and certificates of zoning compliance as provided by this Zoning Ordinance, and keep a record of same with a notation of any special conditions involved.
- (d) Act on all applications upon which he is authorized to act by the provisions of this Zoning Ordinance within the specified time or notify the applicant in writing of his refusal or disapproval of such application and the reasons therefore. Failure to notify the applicant in case of such refusal or disapproval within the specified time shall entitle the applicant to submit his request to the Board of Zoning Appeals.
- (e) Conduct inspections of buildings and uses of land to determine compliance with this Zoning Ordinance, and, in the case of any violation, to notify in writing the person(s) responsible, specifying the nature of the violation and ordering corrective action.
- (f) Maintain in current status the Official Zoning District Map, a copy of which shall be kept on permanent display in the Municipality offices [or on the city's website](#).
- (g) Maintain permanent and current records required by this Zoning Ordinance, including but not limited to zoning certificates, certificates of zoning compliance, inspection documents, approved planned district development plans, and records of all variances, amendments, and special uses.
- (h) Make such records available for the use of the Council, the Planning and Zoning Commission, the Board of Zoning Appeals, and the public.

- (i) Review and approve site plans pursuant to this Zoning Ordinance.
- (j) Determine the existence of any violations of this Zoning Ordinance, and cause such notifications, revocation notices, stop orders, or tickets to be issued, or initiate such other administrative or legal action as needed, to address such violations.
- (k) Prepare and submit an annual report to the Planning and Zoning Commission on the administration of this Ordinance, setting forth such information as may be of interest and value in advancing and furthering the purpose of this Zoning Ordinance. Such report shall include recommendations concerning the schedule of fees.

#### 1133.06 - PLANNING AND ZONING COMMISSION.

The Planning and Zoning Commission shall be created in accordance with the City of Powell Charter Section 11.01.

(Ord. No. 2005-12, 3-15-2005)

#### 1133.07 - MEETINGS AND PROCEEDINGS OF THE PLANNING AND ZONING COMMISSION.

The Commission shall meet at least once a month unless there are no submitted applications for that month. All meetings shall be held at the municipality offices or other public building within the municipality. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations, the facts of each case, other official actions and other minutes of the meeting, all of which shall be a public record and shall be immediately filed with the Clerk of the Commission, a copy of which shall be sent to the Clerk of the Council. The presence of four members shall constitute a quorum. The concurring vote of four members of said Commission shall be necessary for the approval of a Commission action or to reverse a previous decision or determination of the Planning and Zoning Commission.

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#### 1133.08 - DUTIES OF THE PLANNING AND ZONING COMMISSION.

For the purpose of this Zoning Ordinance the Commission shall have the following duties:

- (a) To prepare, adopt, and periodically update a comprehensive plan for community development (a policies plan for the development of the municipality), and to recommend that plan to Council for confirming adoption by Ordinance.
- (b) Recommend the proposed Zoning Ordinance, including text and Official Zoning District Map to the Council for formal adoption.
- (c) Initiate advisable Official Zoning District Map changes, or changes in the text of the Zoning Ordinance where same are consistent with the comprehensive plan adopted by the Commission and will promote the best interests of the public through recommendation to the Council.
- (d) Review all proposed amendments to the text of this Zoning Ordinance and the Official Zoning District Map and make recommendations to the Council as specified in Chapter 1131.
- (e) Review all Planned District development proposals and applications and make recommendations to the Council as provided in this Zoning Ordinance.
- (f) Review all other development proposals as necessary and applications and make recommendations to the Council as provided in this Zoning Ordinance.
- (g) Review all special uses as identified in the respective zoning districts according to provisions and criteria stated in this Zoning Ordinance.
- (h) Carry on a continuous review of the effectiveness and appropriateness of this Zoning Ordinance and recommend such changes or amendments as it feels would be appropriate.

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1133.09 - CLERK TO THE **PLANNING** AND ZONING COMMISSION.

To assist in the administration of this Zoning Ordinance, a Clerk shall be appointed by the Board upon the approval by the Council to maintain records, confirm information in applications, process all notices, and perform such other duties relating to this Zoning Ordinance as the Board may from time to time direct. Salary and/or other compensation shall be established by the Council.

1133.10 - BOARD OF ZONING APPEALS.

The Board of Zoning Appeals shall be created in accordance with the City of Powell Charter Section 11.02.

(Ord. No. 2005-12, 3-15-2005)

1133.11 - PROCEEDINGS OF THE BOARD OF ZONING APPEALS.

The Board shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Zoning Ordinance. Meetings shall be held at the call of the chairman and at such times as the Board may determine. The chairman, or in his absence the vice chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed with the Clerk of the Board, a copy of which will be sent to the Clerk of the Council. Two members of the Board shall constitute a quorum. The Board shall act by resolution, and the concurring vote of two members of the Board shall be necessary to reverse an order or determination of the Zoning Administrator, to decide in favor of an applicant in any matter over which the Board has original jurisdiction under this Zoning Ordinance, or to grant any variance from the requirements stipulated in this Zoning Ordinance.

1133.12 - DUTIES OF THE BOARD OF ZONING APPEALS.

For the purpose of this Zoning Ordinance the Board has the following specific responsibilities:

- (a) Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation or determination made by the Zoning Administrator.
- (b) Authorize such variances from the terms of this Zoning Ordinance as will not be contrary to the public interest, where, owing to the special conditions, a literal enforcement of this Zoning Ordinance will result in unnecessary hardship, and so that the spirit of this Zoning Ordinance shall be observed and substantial justice done. Such variances shall only be awarded in strict compliance with the conditions of Chapter 1127.
- (c) Grant conditional use zoning permits as specified in this Zoning Ordinance.

1133.13 - CLERK TO THE BOARD OF ZONING APPEALS.

To assist in the administration of this Zoning Ordinance, a Clerk shall be appointed by the Board upon the approval by the Council to maintain Board of Zoning Appeals records, confirm information in applications, process all notices required under this Zoning Ordinance, record the minutes of the board, and perform such other duties relating to this Zoning Ordinance as the Board may from time to time direct. Salary and/or other compensation shall be established by the Council.

1133.14 - APPEALS.

- (a) It is the intent of this Zoning Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of

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the Board shall be to the courts as provided by law. It is further the intent of this Zoning Ordinance that the duties of the Council in connection with this Zoning Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise.

- (b) The procedure for deciding such questions shall be as stated in this section and this Zoning Ordinance. Under this Zoning Ordinance the Council shall only have the duties of considering and adopting or rejecting proposed amendments or the repeal of this Zoning Ordinance as provided by law, and of establishing a schedule of fees and charges as stated in Section 1133.16 of this Zoning Ordinance. Nothing in this Zoning Ordinance shall be interpreted to prevent any official of the Municipality from appealing a decision of the Board to the courts as provided in Chapters 2505 and 2506 of the [Ohio Revised Code](#). Any such appeal shall be made within [10 days](#) of the Board's written decision.

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#### 1133.15 - COUNCIL.

The powers and duties of the Council pertaining to the Planning and Zoning Ordinance are as follows:

- (a) Appoint Council's members on the Planning and Zoning Commission.
- (b) Appoint Council's members of the Board of Zoning Appeals.
- (c) Initiate or act upon suggested amendments to the Zoning Ordinance text or Official Zoning District Map. Final action upon a suggested zoning amendment shall be undertaken at a public hearing.
- (d) Approve a written recommendation of the Planning and Zoning Commission.
- (e) Override a written recommendation of the Planning and Zoning Commission on a text or map amendment provided that such legislative action is passed by a vote of not less than three-quarters of all members of the Council.
- (f) Provide for the compensation of clerks for the Planning and Zoning Commission and for the Board of Zoning Appeals.
- (g) Set and approve the bond required of the Zoning Administrator.
- (h) Establish by ordinance a schedule of Zoning related fees.

#### 1133.16 - SCHEDULE OF FEES.

The Council shall by ordinance establish a schedule of fees for zoning certificates, amendments, appeals, variances, conditional use permits, plan approvals, and other procedures and services pertaining to the administration and enforcement of this Zoning Ordinance, after considering the administrative costs, both direct and indirect. The schedule of fees shall be posted in the office of the Zoning Administrator, and may be altered or amended only by the Council. Until all such appropriate fees, charges, and expenses have been paid in full, no final action shall be taken on any application, appeal, or administrative procedure.

#### CHAPTER 1135 - ENFORCEMENT AND PENALTY<sup>[16]</sup>

Sections:

Footnotes:

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**State Law reference**— Appeals from zoning decisions, O.R.C. § 713.11, Ch. 2506; Violation of zoning ordinances, O.R.C. § 713.13

#### 1135.01 - GENERAL.

This chapter stipulates the procedures to be followed in obtaining zoning certificates and other legal or administrative approvals under this Zoning Ordinance.

#### 1135.02 - ZONING CERTIFICATES REQUIRED.

- (a) No building, sign or other structure shall hereafter be located, erected, constructed, reconstructed, moved, enlarged, added to, demolished, structurally altered, nor shall any work be started on same, nor shall any building, structure, or land be established or changed in use without a certificate therefor, issued by the Zoning Administrator. Zoning certificates shall be issued only in conformity with the provisions of this Zoning Ordinance unless the Zoning Administrator receives a written order from the Board of Zoning Appeals deciding an appeal, conditional use, or variance, or from Council approving a Planned District Development, as provided by this Zoning Ordinance. The use of the building, structure or land shall be determined with each change in occupancy and reviewed for overall compliance with this Zoning Ordinance.
- (b) In areas where a residence is occupied, only one zoning certificate may be issued and active at any time for improvements related to said property.
- (c) No zoning certificate shall be required for any agricultural building to be erected on land presently used for agricultural purposes or for any building incidental to the agricultural use of the land which said buildings are proposed to be located, nor shall a certificate be required for the use of land or building or construction of any building used for public utility or railroad purposes for the operation of its business. The term "for the operation of its business" shall not be deemed to include general offices or other such uses not related to provision of utility or railroad purposes. For the purposes of this Zoning Ordinance, no tract of land of less than five acres shall be considered agricultural in nature, nor shall same be subject to exemption.

(Ord. No. 99-50, 10-19-1999)

#### 1135.03 - CONTENTS OF APPLICATION FOR ZONING CERTIFICATE.

- (a) Application for a zoning certificate shall be made in writing and be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the certificate shall expire and may be revoked if work has not begun within six months or substantially completed within one year. At a minimum, the application shall contain the following information and be accompanied by all required fees:
  - (1) Name, address, and phone number of applicant;
  - (2) Legal description of property;
  - (3) Existing use;
  - (4) Proposed use;
  - (5) Zoning district;
  - (6) Plans in triplicate drawn to scale, showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; the location and dimensions of the proposed building(s) or alteration; front, side, and rear yard setbacks;
  - (7) Building heights;
  - (8) Location and design of access drives;
  - (9) Number of dwelling units;

- (10) If applicable, application for a sign permit or a conditional, special, or temporary use permit, unless previously submitted;
- (11) A separate off-street parking and loading plan indicating the number of off-street parking spaces or loading spaces, and their layout, as specified in this Zoning Ordinance, and other such information;
- (12) Such other documentation as may be necessary to determine compliance with all the applicable provisions of, and to provide for the enforcement of, this Zoning Ordinance;
- (13) In every case where the lot is not served and is not proposed to be served with public water supply and/or the disposal of sanitary wastes by means of public sewers, the application shall be accompanied by a certificate of approval by the Delaware County Health Department for the proposed method of water supply and/or disposal of sanitary wastes.
- (14) Documentation that the proposal has been submitted in writing to the homeowners association involved with the property in question, if architectural review is required by deed restriction and covenant, and that such submittal was received by the association.

(Ord. No. 2005-29, 6-7-2005)

#### 1135.04 - APPROVAL OF ZONING CERTIFICATE.

Within 30 days after the receipt of an application, the Zoning Administrator shall either approve or disapprove the application in conformance with the provisions of the Zoning Ordinance. If the application has involvement with a homeowner's association architectural review, as identified in Section 1135.03(a)(14), then the Zoning Administrator shall approve the zoning certificate if one of the following occur and all other zoning requirements are met:

- (a) That the application has been approved by the association.
- (b) That more than 30 days have elapsed since such submittal and such submittal has not been denied by the homeowners association or the homeowners association has failed to take action in writing denying such application.
- (c) That the homeowner association has acted in denying such application and listed the reasons behind such denial, but the Zoning Administrator finds the homeowner has made a good faith effort to accommodate the concerns of the homeowners association.

One copy of the plans shall be returned to the applicant by the Zoning Administrator, after the Zoning Administrator shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of plans, similarly marked, shall be retained by the Zoning Administrator. The Zoning Administrator shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the activity is in conformance with the provisions of this Zoning Ordinance.

(Ord. No. 2005-29, 6-7-2005)

#### 1135.05 - PERIOD OF EFFECTIVENESS OF A ZONING CERTIFICATE.

Any new proposed construction for which a Zoning Certificate is issued shall be commenced within six months of issuance of the certificate and the ground story framework, including structural parts of a second floor or roof shall have been completed within one year after the issuance of the Zoning Certificate; provided, however, that any project or building originally contemplated to be constructed in phases or for a period longer than one year may be completed in phases or during such extended time if in accordance with a timetable placed on file with the Zoning Administrator with the original request for the certificate.

#### 1135.07 - EXPIRATION OF ZONING CERTIFICATE.

#### **Deleted:** 1135.06 - SUBMISSION TO THE DIRECTOR OF TRANSPORTATION. ¶

Before any Zoning Certificate is issued 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 Director of Transportation, or any land within a radius of 500 feet from the point of intersection of said centerline with any public road or highway, the Zoning Administrator shall give notice, by registered mail, to the Director of Transportation that he shall not issue a zoning permit for 30 days from the date the notice is received by the Director of Transportation. If the Director of Transportation notifies the Zoning Administrator that he shall proceed to acquire the land needed, then the Zoning Administrator shall refuse to issue the zoning permit. If the Director of Transportation notifies the Zoning Administrator that acquisition at this time is not in the public interest, or upon the expiration of the 30 day period or of any extension thereof agreed upon by the Director of Transportation and the property owner, the Zoning Administrator shall, if the application is in conformance with all provisions of this Zoning Ordinance, issue the zoning permit. ¶

If the work described in any zoning certificate has not begun within six months from the date of issuance thereof, said certificate shall expire; it shall be revoked by the Zoning Administrator; and written notice thereof shall be given to the persons affected. If the work described in any zoning certificate has not been substantially completed within one year of the date of issuance thereof, as described in Section 1135.05, said certificate shall expire and be revoked by the Zoning Administrator, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled certificate shall not proceed unless and until a new zoning certificate has been obtained or an extension granted.

#### 1135.08 - CERTIFICATE OF ZONING COMPLIANCE.

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure, until a Certificate of Zoning Compliance shall have been issued therefor by the Zoning Administrator stating that the use and structure of the building and the land use conforms to all of the requirements of this Zoning Ordinance, including those certifications required in the Historic District and by architectural review, and a state building permit will be required in commercial situations where such permits are necessary. The issuance of such a certificate in no way relieves the recipient from compliance with all the requirements of this Zoning Ordinance and other regulations.

#### 1135.09 - TEMPORARY CERTIFICATE OF ZONING COMPLIANCE.

A temporary Certificate of Zoning Compliance may be issued by the Zoning Administrator for a period not exceeding six months during alterations or partial occupancy of a building pending its completion.

#### 1135.10 - RECORD OF ZONING CERTIFICATES AND CERTIFICATES OF ZONING COMPLIANCE.

The Zoning Administrator shall maintain a record of all zoning certificates and certificates of zoning compliance, and copies shall be furnished, upon request and upon payment of the established fee, to any person having a proprietary or tenancy interest in the building or land affected.

#### 1135.11 - FAILURE TO OBTAIN A ZONING CERTIFICATE OR CERTIFICATE OF ZONING COMPLIANCE.

Failure to obtain a zoning certificate or certificate of zoning compliance shall be a punishable violation of this Zoning Ordinance.

#### 1135.12 - CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS, AND CERTIFICATES.

Zoning certificates or certificates of zoning compliance issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto, and no other use, arrangement, or construction. Use, arrangement, or construction contrary to that authorized shall be deemed a punishable violation of this Zoning Ordinance.

#### 1135.13 - NONCONFORMING USES.

Nothing in this chapter shall prevent the lawful continuance of a nonconforming use as hereinbefore authorized unless a discontinuance is necessary for the safety of life or property.

#### 1135.14 - COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this Zoning Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint, immediately investigate it, report the complaint and his findings to the Planning and Zoning Commission, and take action thereon as provided by this Zoning Ordinance.

#### 1135.15 - ENTRY AND INSPECTION OF PROPERTY.

The Zoning Administrator is authorized to make inspections of properties and structures in order to examine and survey the same, at any reasonable hour, for the purpose of enforcing the provisions of this Zoning Ordinance. Prior to seeking entry to any property or structure for such examination or survey, the Zoning Administrator shall attempt to obtain the permission of the owner or occupant to inspect. If such permission is denied or cannot be obtained, the Zoning Administrator shall request the assistance of the Director of Law in securing a valid search warrant prior to entry.

#### 1135.16 - STOP WORK ORDER.

Subsequent to his determination that work is being done contrary to this Zoning Ordinance, the Zoning Administrator shall write a stop work order and post it on the premises involved. Removal of a stop work order, except by the order of the Zoning Administrator, shall constitute a punishable violation of this Zoning Ordinance.

#### 1135.17 - ZONING CERTIFICATE REVOCATION.

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

#### 1135.18 - NOTICE OF VIOLATION.

Whenever the Zoning Administrator or his agent determines that there is a violation of any provision of this Zoning Ordinance, a warning tag shall be issued and shall serve as a notice of violation. Such order shall:

- (a) Be in writing;
- (b) Identify the violation;
- (c) Include a statement of the reason or reasons why it is being issued and refer to the sections of this Zoning Ordinance being violated; and
- (d) State the time by which the violation shall be corrected.
- (e) Service of notice of violation shall be as follows:
  - (1) By personal delivery to the person or persons responsible, or by leaving the notice at the usual place of residence of the owner with a person of suitable age and discretion; or
  - (2) By ordinary mail, and the mailing shall be evidenced by a certificate of mailing which shall be filed by the Zoning Administrator. Service shall be deemed complete when the fact of mailing is entered of record, provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery; or
  - (3) By certified mail deposited in the United States Post Office addressed to the person or persons responsible at a last known address.
  - (4) By posting a copy of the notice in a conspicuous place on the premises found in violation.

(Ord. No. 98-25, 8-4-1998)

#### 1135.19 - TICKETING PROCEDURE.

- (a) If, upon re-inspection following the issuance of a notice of violation, the condition has not been corrected, the person or persons responsible shall be issued a ticket. Such ticket shall:
  - (1) Be served personally;

- (2) Be in writing;
  - (3) Identify the violation;
  - (4) State the time, date and place for appearance in court; and
  - (5) State the amount of the fine payable in lieu of a court appearance.
- (b) If the ticket cannot be served personally, the Zoning Administrator shall request that a summons be issued by the Court.

#### 1135.20 - PENALTIES AND FINES.

It shall be unlawful to use, maintain, erect, establish, locate, construct, reconstruct, enlarge, change, convert, move, repair, maintain, demolish, or structurally alter any building, structure or land in violation of any provision of this Zoning Ordinance or any amendment or supplement thereto, or of Section 713, of the Revised Code. Any person, firm or corporation who violates this Zoning Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$150.00 per offense and in addition shall pay all costs and expenses involved in the case. Each day such violation continues after receipt of a violation notice shall be considered a separate offense irrespective of whether or not a separate notice of violation or affidavit charging a violation has been served upon the violator for each day the offense continues. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

#### 1135.21 - ADDITIONAL REMEDIES.

Nothing in this Zoning Ordinance shall be deemed to abolish, impair or prevent other additional remedies as provided by law. In the event of a violation of any provision or requirement of this Zoning Ordinance, or in the case of an imminent threat of such a violation, the Planning and Zoning Commission, the Zoning Administrator, the Director of Law, or the owner of any neighboring property who would be especially damaged by such violation, may, in addition to other recourses provided by law, institute mandamus, injunction, abatement, or other appropriate actions or proceedings to prevent, remove, abate, enjoin, or terminate such violation. The Council may employ special counsel to represent it in any proceeding or to prosecute any actions brought under this section.

## TITLE FIVE - ZONING DISTRICTS AND REGULATIONS<sup>17</sup>

Footnotes:

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**Editor's note**— Unless otherwise indicated at the end of a section, Ordinance 91-01, passed February 5, 1995<sup>91</sup>, composed Title Three and Five of this Part Eleven—Planning and Zoning Code. CHAPTER 1141 - ESTABLISHMENT OF DISTRICTS<sup>18</sup>

Sections:

Footnotes:

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**State Law reference**— Basis of districts, O.R.C. § 713.10, 1141.01 - PURPOSE.

The purpose of this chapter is to establish zoning districts in order to realize the general purposes set forth in the preamble of this Zoning Ordinance, to provide for orderly growth and development, and to protect the property rights of all individuals by assuring the compatibility of uses and practices within districts.

### 1141.02 - ESTABLISHMENT OF DISTRICTS.

The following ten zoning districts are hereby established for the Municipality of Powell, Ohio:

R - Residence District

DR - Downtown Residence District

DB - Downtown Business District

PR - Planned Residence District

PRC – Planned Residence Conservation District

PO - Planned Office District

PC - Planned Commercial District

PI - Planned Industrial District

DD- Downtown District Overlay District

OR - Olentangy River Environment Overlay District

AR - Architectural Review Overlay District

(Ord. No. 2005-20, 6-7-2005)

### 1141.03 - ZONING DISTRICT MAP.

The districts established in Section 1141.02, and as may be indicated on the Official Zoning Map, together with all data, references, explanatory material and notations thereon, are hereby officially adopted

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as part of this Zoning Ordinance and hereby incorporated by reference herein, thereby having the same force and effect as if herein fully described in writing.

#### 1141.04 - ZONING MAP LEGEND.

There shall be provided on the Official Zoning Map a legend which shall list the name of each zoning district and indicate the symbol for that district. A color, combination of colors, or black and white patterns may be used in place of symbols to identify the respective zoning districts in such legend. In addition to such legend, the Official Zoning Map shall provide sufficient space for compliance with Section 1141.07.

#### 1141.05 - IDENTIFICATION OF OFFICIAL ZONING MAP.

The Official Zoning Map shall be properly identified by the signature of the Mayor, as attested by the Clerk, and bearing the official seal. The Map shall be maintained by the Zoning Administrator, and shall remain on file in the office of the Clerk. A copy of the Map shall also be appended to each copy of the text of the Zoning Ordinance. The Official Zoning Map shall control whenever there is an apparent conflict between the district boundaries as shown on the Map and the description(s) as found in the text of this Ordinance or any other ordinance. The Official Zoning Map shall be a reproducible document, and individual copies shall be made available to the public upon request including attachment of all relevant amendments, and upon payment of a fee as established by ordinance. The Map shall be recertified by the Mayor and the Clerk at least every 24 months and each time it is amended.

#### 1141.06 - INTERPRETATION OF DISTRICT BOUNDARIES.

- (a) The following rules shall be used to determine the precise location of any zoning district boundary unless such boundary is specifically indicated on the Official Zoning Map:
- (1) Where district boundaries are so indicated as approximately following the center lines of thoroughfares or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be said boundaries;
  - (2) Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries;
  - (3) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map and as determined by the Zoning Administrator.
  - (4) Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line;
  - (5) Where the boundary of a district follows a stream or other body of water, said boundary line shall be deemed to be at the center line of the body of water unless otherwise indicated;
  - (6) Where district boundaries are so indicated that they follow or approximately follow the boundary limits of any municipal corporation or other unit of government, such boundaries shall be construed as following such limits;
  - (7) Where the boundary of a district follows a metes and bounds description approved as a part of a rezoning or annexation of any territory, said metes and bounds description shall control over all of the foregoing; and
  - (8) Whenever any street, alley, or other public way is vacated by official Council action, the zoning district adjoining each side of such street, alley, or public way shall automatically be extended to the center of such vacation, and all areas within that vacation shall thenceforth be subject to all regulations appropriate to the respective extended districts.

- (b) All questions and disputes concerning the exact location of zoning district boundaries shall be resolved by the Zoning Administrator consistent with these guidelines for interpretation.

#### 1141.07 - ZONING MAP AMENDMENTS.

Within 15 days of the effective date of any change of a zoning district classification or boundary, the Zoning Administrator shall amend the Official Zoning Map to reflect such change, and shall note the effective date of such change, together with appropriate reference to the ordinance authorizing such change.

#### ~~1141.08 - ZONING UPON ANNEXATION.~~

- (a) ~~In the event there are no area plans developed for tracts of land filing for annexation to the Municipality, area plans shall be developed permitting owners, developers, municipal officials, and municipal planners to mutually negotiate detailed policies and proposals for annexation and planned use of the land. These area plans shall be developed in conformity with the appropriate provisions of the Ohio Revised Code and any other additional ordinances or regulations adopted by the Municipality of Powell.~~
- (b) ~~These area plans shall specify the planned uses and planned controls for these tracts. The area plans are legally in force when otherwise adopted by the Municipality of Powell.~~
- (c) ~~Once these tracts have become annexed to the Municipality, the Municipality may adopt a valid zoning ordinance for the subject property based upon the area plans in accordance with the appropriate provisions of the Ohio Revised Code.~~

~~(Ord. No. 91-40)~~

#### CHAPTER 1143 - DISTRICT REGULATIONS<sup>[19]</sup>

Sections:

Footnotes:

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**Cross reference**— Supplementary district regulations, Ch. 1145; Special regulations, Ch. 1147

#### 1143.01 - COMPLIANCE WITH REGULATIONS.

The regulations for each district set forth by this Zoning Ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided that:

- (a) No building, structure, or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
- (b) No building or other structure shall be erected or altered:
- (1) To provide for greater height or bulk;
  - (2) To accommodate or house a greater number of families;
  - (3) To occupy a greater percentage of lot area; or

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- (4) To have narrower or smaller rear yards, front yards, side yards, or other open spaces; than herein required, or in any other manner be contrary to the provisions of this Zoning Ordinance.
- (c) No yard or lot existing at the time of passage of this Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Zoning Ordinance shall meet at least the minimum requirements set forth herein.

#### 1143.02 - OFFICIAL SCHEDULE OF DISTRICT REGULATIONS ADOPTED.

District regulations shall be as set forth in the Official Schedule of District Regulations, which is hereby adopted and declared to be a part of this Zoning Ordinance and in Chapters 1145 and 1147.

#### ~~1143.03 - IDENTIFICATION OF THE OFFICIAL SCHEDULE OF DISTRICT REGULATIONS.~~

~~The Official Schedule of District Regulations shall be identified by the signature of the Mayor.~~

#### 1143.04 - R-RESIDENCE DISTRICT; PURPOSE.

There is hereby created an "R" ("Residence") District to protect and promote an appropriate low density village scale, and rural residential scale of development.

#### ZONING DISTRICT: R-RESIDENCE

##### *Official Schedule of Permitted Uses and Dimensional Requirements*

PERMITTED USES:	CONDITIONALLY PERMITTED USES:
Single-family detached dwellings	Plant materials nursery
Elderly households	Home occupations
Elderly housing units	Churches
Accessory buildings and uses	Convalescent homes
Agricultural buildings/uses	Nursing homes
Agriculture	Homes for children or aged
	Child day-care
	Life-care facilities
	Elderly housing facilities
	Congregate housing

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	Golf courses, country clubs
	Cemeteries
	Noncommercial kennels and catteries associated with a residence
	Class I, Type B Group Residence facilities (5 or less residents)
	Roadside sale of agricultural products produced on the premises
	Noncommercial playgrounds, playfields, and picnic areas

MIN LOT per dwelling unit	43,560 sq. ft.
MINIMUM LOT FOR ANY USE	43,560 sq. ft.
MIN. LOT WIDTH: lots < 3 acres:	180 feet
lots 3 but < 4 acres:	200 feet
lots 4 but < 5 acres:	250 feet
lots 5 acres or more:	300 feet
MIN PRINCIPAL BLDG SETBACK: front:	70 feet
each side:	25 feet
rear:	80 feet
MIN ACCESSORY BLDG SETBACK: front:	70 feet
each side:	25 feet

rear:	50 feet
MAXIMUM LOT COVERAGE IN PERCENT:	25%
MAX BLDG HEIGHT: principal bldgs:	35 feet
accessory bldgs:	18 feet
MIN FLOOR AREA/DWELLING UNIT:	1,500 sq. ft.
MIN CHURCH SITE:	<del>5 3</del> acres plus one acre for each 100 permanent seats over 300 in the main assembly area.

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~~1143.05 - RESERVED.~~

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**Editor's note** — Former Section 1143.05, which pertained to OPR - OLD Powell Residence District; Purpose was repealed by Ordinance 2005-20, passed June 7, 2005.

~~1143.06 - RESERVED.~~

**Editor's note** — Former Section 1143.06, which pertained to OPC - OLD Powell Commercial District; Purpose was repealed by Ordinance 2005-20, passed June 7, 2005.

~~1143.07 - RESERVED.~~

**Editor's note** — Former Section 1143.07, which pertained to OPPCR - OLD Powell Planned/Commercial Residence District; Purpose was repealed by Ordinance 2005-20, passed June 7, 2005.

1143.08 - PLANNED DISTRICTS; GENERAL.

(a) *Established.* The following seven districts:

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PR - Planned Residence District;

PRC – Planned Residence Conservation District

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PO - Planned Office District;

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PC - Planned Commercial District,

PI - Planned Industrial District,

DR - Downtown Residence District, and

DB - Downtown Business District,

are herein designated as "planned districts" in which development shall be regulated by the requirements and procedures as designated for planned districts in this chapter. Development in these planned districts shall meet all of the requirements established elsewhere in this Zoning Ordinance, including those in the Supplemental Regulations, Signs, Off-Street Parking and Loading Facilities. However, in these districts the permitted uses, their locations, and their intensity are not rigidly fixed. Rather a framework is provided, in furtherance of the purposes of these districts, for the arrival at a plan for the development of land in such districts involving the careful selection and integrated planning of land uses, utilities, parkland and environmental conservation areas, pedestrian/bicycle/jogging paths and equestrian paths, the service street system, and associated collector streets, major streets and parkways that is consistent with the content and emphasis established in the Comprehensive Plan.

- (b) *Planned District Standards.* Wherever development standards are specified herein or elsewhere in this Zoning Ordinance, as in the official schedules of permitted uses and dimensional requirements, these standards shall apply except where other such standards have previously been established and approved by the Planning and Zoning Commission for areas located in planned districts. The official schedules of dimensional requirements shall provide a guide for approval of Development Plans, but can be modified as approved by the Planning and Zoning Commission. Where standards are not specified, the Planning and Zoning Commission, in approving a planned district development plan, shall establish such requirements as it deems necessary to protect and promote the public health, safety, and/or welfare of the community.

(Ord. No. 2005-20, 6-7-2005)

#### 1143.09 - PLANNED DISTRICTS; PURPOSE.

There are hereby created the following districts, designated as "planned districts." It is the purpose of these districts to promote the public health, safety, and welfare by providing for the regulation of planned developments. These districts are so created in order to permit the careful and coordinated physical planning and development of the land, to provide flexibility in the location of land uses, housing types, and their intensity, and to provide incentives for provision of public parkland and private environmental conservation easements, public access pedestrian/bicycle/jogging paths and equestrian paths, the private construction of public parkways, and the construction of high quality housing through provision of housing density bonuses for the provision of such amenities, while simultaneously protecting and preserving the natural environment, providing for surface drainage runoff control, limiting the buildup of residential and through traffic on already congested access points into the area between the two rivers and on existing and future major streets, encouraging inclusion of pedestrian scale design elements, and conserving and enhancing the community and regional character as a green, open, rural setting, permitting development yet constraining the tendency to overbuild the region. It is the intent of these regulations to provide maximum opportunity for orderly large-scale development that benefits the community as a whole by offering a greater choice in living environments and a wider range of development plans featuring a more complementary blending of land uses and community facilities, and a more unified approach with respect to the mixture of uses and their adaptation to topological and geological features, recreational and natural environment preservation opportunities, and transportation needs.

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- (a) *Interpretation.* Whenever the requirements of Sections 1143.07—1143.16 on Planned Districts appears to be in conflict with other sections of this Zoning Ordinance, or with those of other existing codes, the provisions of these sections shall prevail, except where otherwise noted.

(b) *Planned District Location.* The location and extent of Planned Districts shall be as described herein or as designated on the Official Zoning Map.

(c) *Conditions Applicable to all Planned Districts.*

(1) *Required compliance with Comprehensive Plan.* Each approved Planned District Development Plan must be consistent with the standards, goals and requirements of the Comprehensive Plan, in all manners, as determined by the Planning and Zoning Commission [and City Council?], including land uses, the general location of trafficways and their character, the provision of equestrian and/or pedestrian/jogging/bicycle pathways, etc., and any other feature or quality specifically noted in the Comprehensive Plan. In addition to the requirements of the Comprehensive Plan and as specified elsewhere in this Zoning Ordinance, all pedestrian/jogging/bicycle pathways shall be developed in conformity and in compliance with the standards and goals set forth in the Recreation/Transportation Access System Master Bikeways Plan Map. Each new planned development shall be linked in conformity with said Access System Master Bikeways Plan Map, unless circumstances prohibit this linkage. Circumstances must be specifically approved by the Planning and Zoning Commission.

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(2) *Uses.* Uses in planned districts shall be as approved by the Planning and Zoning Commission as selected by the Commission from the specific lists of permitted uses and conditional permitted uses presented herein relative to the planned district category in question. Large non-residential establishments, as defined by Section 1147.15(b)(1), shall also be reviewed through the special use permit process established within Section 1147.15, and shall meet the requirements within that section or those of the planned district where the large non-residential establishment is located within, whichever requirement is more restrictive.

(3) *Religious, cultural and educational uses.* Religious, cultural, and educational land uses and facilities are permitted uses in every Planned District, provided that:

A. They are designed and intended to serve just the immediate and nearby residents of the district, or, if designed, intended, or projected to serve a larger area of the community or of the region as a whole, they must be located in such proximity to a major thoroughfare as to permit access without travel along streets that primarily provide a residential service function; and

B. Each such use shall have a net site area of no less than five three acres, plus one acre for each 100 permanent seats over 300 in the main assembly area.

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(4) *Open space; recreational facilities.* Common open space and recreational facilities: requirements and disposition:

A. No less than 20 percent of the land in any approved Planned District Development Plan shall be designated common open space or permanently natural scenic preserves, arranged and restricted by easement, covenant, deed, or dedication to assure that such open spaces shall be permanently preserved and maintained. Such open spaces shall not include publicly dedicated streets, land in the right-of-ways of private streets, off-street parking areas, or loading areas;

B. Planned residence developments of 200 dwelling units or more shall may provide, as a part of the parkland dedication requirement of subsection (c)(4)A., at least one five acre relatively flat grassed common area for neighborhood field recreation, preferably integrated with a neighborhood pedestrian/jogging/ bicycle path system, or system of common areas, tot lots, or other similar areas at least five acres total in area. The size, shape and amount of publicly dedicated park space shall be determined by the Planning and Zoning Commission and City Council as part of the development plan process. City Council may authorize a fee-in-lieu of dedication payment as determined by the Fee Schedule, as amended, from time to time, and/or require parkland dedication.

Commented [RK2]: Gene – Please review the language and edit as necessary to ensure that we are giving the City the ability to ask for fees as well as parkland dedication.

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- C. Where parkways are projected in or adjacent to the Planned District area, such required open spaces as in subsections (c)(4)A. and B., shall be located immediately adjacent to the parkway right-of-way to the degree and in the manner approved by the Planning and Zoning Commission.
  - D. All natural drainage courses, flood plain areas, ravine-bottom areas, and lands with slopes in excess of six percent shall be retained, with their vegetation in its natural state, in natural scenic open space preserves.
  - E. Required common open space areas reserved in a Planned District Development Plan shall either be held in corporate ownership by owners of the project area, for the use of each owner who buys property within the development, or shall be dedicated to a homeowner's association who shall have title to the land which shall be retained as common open space for parks, recreation, and related uses, or shall be dedicated to public ownership and use for such purposes. This will be determined by the Planning and Zoning Commission, and City Council during the development plan review process.
  - F. Legal articles relating to the organization of a homeowners' association are subject to review and approval by the Planning and Zoning Commission and shall provide adequate provisions for the perpetual care and maintenance of all common areas and facilities. Covenants assuring perpetual maintenance of private properties as permanent natural preserves are equally subject to review and approval by the Planning and Zoning Commission.
  - G. Public utility and similar easements and right-of-ways are not acceptable for common open space dedication in a Planned District Development Plan unless such land and right-of-ways are to be used for trail or other public purposes. Alternative systems of providing common open space must be specifically approved by the Planning and Zoning Commission.
  - H. The ownership of, and responsibility for the maintenance of, all open spaces in a Planned District Development Plan shall be specified by the developer before approval of the final development plan by the Planning and Zoning Commission and City Council.
- (5) *Maximum multi-family dwelling units.*
- A. In any Planned District Development Plan the maximum number of multi-family dwelling units shall in no case exceed ~~a number equal to twice that of the number of acres in the planned district tract. This maximum number shall be increased to two and one-half times the number of acres in the planned district tract where the tract has immediate access to a major thoroughfare.~~ the number of units set forth in the development standards for the particular zoning district in which that property is proposed to be located.
  - B. In any Planned District Development Plan the maximum number of multi-family dwelling units, on any single acre, shall not exceed 12 per acre.
- (6) *Circulation system.* The circulation system and parking facilities provided in a Planned District shall be designed to fully accommodate vehicular, pedestrian, bicycle, and, where applicable, equestrian movement with safety and efficiency; innovative roadway design is encouraged to insure the preservation of natural features, the creation of a variety of vistas and views, and retention/creation of a natural rural, green and open-space-focused environment. The circulation and parking systems shall show points of access and egress from properties, all public and private drives, parking areas, pedestrian/jogging/bicycle paths, and equestrian paths if applicable. Planned District Plans shall be designed to minimize circulation conflict points between vehicular, pedestrian, bicycle, and equestrian traffic.
- (7) *Utilities.* Underground utilities, including telephone, cable television, and electrical systems are required within the limits of all Planned District developments. Appurtenances to these

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systems which can be effectively screened may be exempted from this requirement if the Planning and Zoning Commission finds that such exemption will not violate the intent or character of the proposed Planned District development. Fiber, fiber conduit and/or another such other utility may be required at the discretion of the Planning and Zoning Commission, or the City Engineer for the purposes of public service.

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- (8) *Special provisions for lower or moderately priced housing in Planned Districts.* In order to provide for the availability of lower and moderately priced rental and sale residences within Planned Districts, the Planning and Zoning Commission may permit the following:
- A. A Planned District Development Plan proposing the inclusion of no less than ten percent lower or moderately priced rental or sale dwelling units may reduce the minimum lot, street frontage, distance between buildings, and yard requirements in the Plan area as specified for the Planned District within which it is located, provided that such reductions shall not exceed ten percent of the standards set for such conditions in the District and that buffering and screening devices are deemed by the Planning and Zoning Commission to be adequate.
  - B. A Planned District Development Plan proposing the inclusion of no less than ten percent lower or moderately priced rental or sale dwelling units may entail a dwelling unit count ten percent in excess of the dwelling units otherwise permitted in the district, and/or ten percent in excess of the maximum number of dwelling units permitted on any one acre in subsection (c)(4), above.
  - C. Where such reductions are provided for, each such lower to moderately priced dwelling unit in a Planned District shall abut common open space or similar areas, provided, however, that any such residential property not abutting such uses shall have well designed and convenient access to, and shall be located no more than 500 feet from, such uses.
  - D. For the purposes of this Zoning Ordinance, "lower and moderately priced rental and sale residences" shall be interpreted as meaning:  
  
New dwelling units priced for sale or rent that are no more than seven percent above the average price/rental for such new dwelling units in the Columbus metropolitan area as reported by the U.S. Department of Housing and Urban Development for the latest calendar year prior to the submission of the planned district proposal.
- (9) *Arrangement of Commercial, Office, Industrial, and Warehouse/Wholesale Uses.* Where planned districts include commercial, office, industrial, and/or warehouse/ wholesale uses, such buildings and establishments shall be planned as groups having common parking areas and common ingress and egress points in order to reduce the number of potential conflict points and accident locations at intersections with streets. Planting screens or fences shall be provided on the perimeter of the development areas consisting of these uses where they abut residential areas, church sites, or public lands. The plan of the project shall provide for the integrated and harmonious design of buildings, and for internal traffic circulation, landscaping, coordinated signage, and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding noncommercial areas all as determined and designated by the Planning and Zoning Commission. All areas designed for future expansion or not intended for immediate improvements or development shall be landscaped or otherwise maintained in a neat and orderly manner as may be specified by the Planning and Zoning Commission.
- (10) *Residential Subareas in Planned Office (PO), Planned Commercial (PC) and/or Planned Industrial Districts.*
- A. Where new residential uses are to be provided for in a planned district plan of development other than for Planned Residence (PR) and such uses occupy more than one acre or total more than nine dwelling units, the subarea shall be designated as a

PR-Planned Residence District in the development plan and shall therefore meet all of the requirements specified for the PR-Planned Residence District, including those regarding housing density and physical arrangements.

- B. Multifamily residential units located in planned districts other than PR-Planned Residence Districts shall be clustered around woodland, lake or stream bed features.
  - C. The area for calculation of the permitted number of dwelling units in nonresidential planned districts shall include the area in the total planned development that is in dedicated parkland, scenic easements, setback open spaces in excess of 50 feet, runoff retention basins, other water areas, and the area designated specifically for residential use.
  - D. Approval of development of such residential units shall be contingent upon or include completion of the associated parkway or bypass systems serving these sites.
- (11) *Development Phasing.* The first phase of development of a Planned District, according to an approved Planned District Development Plan and development timetable, shall in no case be less than five acres or the entire tract, whichever is smaller. The Planning and Zoning Commission may require larger first phase commitments where it deems this necessary. All sections of the planned development tract not planned for development in the phase submitted shall be clearly designated as to future intended sub-district use, area and density.
- (12) *Additional Requirements.* The Powell Planning and Zoning Commission and/or the Council may impose special additional conditions relating to the development of a Planned District Development with regard to the type and extent of public improvements to be installed; landscaping, development, improvement, and maintenance of common open spaces; and any other pertinent development characteristics.
- (13) *Pedestrian Scale Design Guidelines Manuals.* The Powell Planning and Zoning Commission and City Council find and determine that it is important to articulate pedestrian scale design principles for incorporation into Planned District Development Plans in order to meet the purposes of Planned Districts set forth above. Toward this end, a Pedestrian Scale Design Guidelines Manual dated November 4, 2009 (as amended from time to time with the approval of the Planning and Zoning Commission) is hereby adopted. Unless justification satisfactory to the Planning and Zoning Commission and City Council is provided, this Manual shall be utilized by a property owner in whole or in part as a guideline for developing proper Pedestrian Scale Design features within a Planned District Development Plan.
- (14) *Required approval of Planned District Development Plan.* No development shall be undertaken, no construction and/or earth moving of any kind shall be begun, and/or no new land uses shall be initiated in a Planned District unless consistent with an approved Planned District Development Plan.

(Ord. No. 2009-27, 11-4-2009)

#### 1143.10 - CONDITIONAL USES IN PLANNED DISTRICTS.

Uses specified as conditional uses in planned districts shall be approved by the ~~Board of Zoning Appeals which shall issue conditional use permits for those districts upon the recommendation of the~~ Planning and Zoning Commission, and in conjunction with development plan approval by the Planning and Zoning Commission and Council, following the same criteria and processes as in all other districts.

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#### 1143.11 - PROCEDURES FOR APPROVAL OF PLANNED DISTRICT DEVELOPMENT PLANS.

Planned District Development Plans shall be approved in accordance with the procedures established herein in this section.

(a) *Pre-application Meeting, otherwise known as a Sketch Plan.* The developer shall meet with the City Manager, with the Zoning Administrator, and with the Planning and Zoning Commission prior to submission of a preliminary development plan. The purpose of such meetings is to discuss early and informally the purpose and effect of this Zoning Ordinance and the criteria and standards contained herein, and to familiarize the developer with zoning and other applicable regulations; it being understood that no statements by officials of Powell, Ohio, or Planning and Zoning Commission members, made in such informal meetings shall be binding on either party.

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(b) *Filing of a Combined Preliminary and Final Development Plan.* Upon approval of the Planning and Zoning Commission at the pre-application (Sketch Plan) meeting, and applicant may be permitted to file a combined preliminary and final development plan following the procedures as set forth in subsection (h) hereof, as if the applicant had received approval in principal of the preliminary development plan.

(c) *Preliminary Planned District Development Plan Application Requirements.* An application for preliminary Planned District Development Plan approval shall be filed with the Zoning Administrator by the owner of the property for which Planned District development is proposed. At a minimum, the application shall contain the following information, ~~which shall be filed in 15 copies.~~ Where any of this information is missing or incomplete, the Zoning Administrator shall so notify the applicant and no additional actions need be taken until such missing material is provided.

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(1) Name, address, and phone number of applicant;

(2) Name, address, and phone number of registered surveyor, registered engineer and/or urban planner assisting in the preparation of the preliminary development plan;

~~(3) A list containing the names and mailing addresses of all owners of property contiguous to, directly across the street from and within 250 feet of the property in question;~~

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(4) Legal description of the property;

(5) A description of present use(s) on and of the land;

~~(6) Draft of a proposed Ordinance, prepared with the advice and counsel of the Director of Law, establishing this specific Development Plan as an additional effective zoning control over the land in question, consistent with the continuing authorities of the current Planned District zoning in these areas provided for elsewhere in this Zoning Ordinance;~~

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(7) A vicinity map at a scale approved by the Zoning Inspector showing all property lines, existing streets and alleys, approved future streets and land uses on adjacent Planned District areas, transportation and land use elements of the Municipality's adopted Comprehensive Plan, current zoning classifications and boundaries, and current land uses on the site of the proposed Planned District development and in the surrounding areas to the physical extent deemed necessary by the Zoning Inspector, but no less than 250 feet beyond the limits of the proposed Planned District Development Plan.

(8) A preliminary development plan at a scale approved by the Zoning Administrator illustrating:

A. The property line definition and dimensions of the perimeter of the site;

B. Right-of-ways and paving widths of all existing, currently platted, and previously approved Planned District streets and alleys adjacent to, on, or abutting the site;

C. The area of the site and its subareas in acres;

D. The topography of the site and abutting areas at no more than five foot contour intervals;

E. Existing surface drainageways and surface sheet flow patterns;

F. Flood plain areas, ravine-bottom areas, and areas of ground slope in excess of six percent;

- G. Existing vegetation on the site with specific tree spots for all trees six inches in diameter or greater, measured 24 inches from the ground.
- H. Existing easements on the site with notations as to their type, extent, and nature;
- I. The location and dimensions of existing utilities on and adjacent to the site, including the nearest sanitary sewer, with manhole invert elevations;
- J. Calculation of the maximum residential units permitted on the site under the terms of this Zoning Ordinance, including delineation of the subdistricts of the site upon which these calculations have been made;
- K. A preliminary plan for the first, or next, phase of site development illustrating:
  - 1. New street centerlines, right-of-ways, and street classification types;
  - 2. Names of existing and proposed streets;
  - 3. Generalized lot and block layouts, indicating and illustrating property lines, minimum lot areas, minimum building setbacks and yards, location and extent of major off-street parking areas, etc.;
  - 4. Subareas of the site to be developed, by land use type, housing types, and housing densities, including subarea statistics;
  - 5. All proposed structures shall be located showing square footage, tenant or user types, and expected entranceways and service or loading areas;
  - 6. Common open areas, public lands, and natural scenic easements, including the area of each;
  - 7. Proposed landscape treatment of the site;
  - 8. Proposed utility patterns and provisions, including sanitary sewer, individual waste disposal systems, storm sewer, trash collection systems, outdoor lighting, and water supply, including relevant easements and engineering feasibility studies or other evidences of reasonableness;
  - 9. Provisions for accommodating surface drainage runoff;
  - 10. Proposed architectural design criteria;
  - 11. Proposed pedestrian/jogging/bicycle pathways and equestrian paths, including locations, dimensions, landscape and construction, including relationships of such pathways to existing and proposed future pathways on surrounding property;
  - 12. Overall site development statistics comparing this plan for development with requirements of this Zoning Ordinance and with the comprehensive plan and indicating that all requirements of this Zoning Ordinance and the comprehensive plan have been met in this preliminary plan and will be met in final development.
- L. Projected development schedule by subareas of the entire planned development site, and for the first, or next, phase of development, including land uses, public areas, natural and scenic reserves, streets, buildings, utilities, and other facilities, indicating the relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable;
- M. An overall traffic scheme, illustrating points of access, parking areas, including the number of parking spaces and indicating visitor, employee and service traffic flow, illustrating calculated peak hour traffic use for residents and employees as well as deliveries and other transport and the effect of this traffic on the community traffic ways.
- N. If to be developed in phases, the entire site development shall be described in outline and diagrammatic plan form, and in a complementing detailed text in a manner calculated to assure City officials that Planned Development requirements and other

requirements of this Zoning Ordinance shall be met in the detailed development of the phases to follow, and that the entire Planned Development area will meet all of the requirements of this Zoning Ordinance, such diagrams and descriptive texts being accepted with, and becoming a part of the extended zoning plan for the entire site;

- (9) Evidences, as determined by the Zoning Administrator in his/her sole discretion, of the ability of the applicant to carry forth its plan by control of the land and the engineering feasibility of the plan, and that the applicant has sufficient control over the land and financing to initiate the proposed development plan phase within two years;
- (10) Evidence of the applicant's ability to post a bond if the plan is approved assuring completion of public service facilities to be constructed within the project area by the developer;
- (11) Verification by the owner of the property that all the information in the application is true and correct to the best of his knowledge.
- (12) A statement of the character and nature of the development including the cost range or rent levels for housing in residential development and the general types of business or industrial and commercial developments.
- (13) A statement of the general impact the development will have on the infrastructure, municipality and schools including projected demographics, a traffic impact study and a fiscal impact analysis may be required by the Planning and Zoning Commission.
- (14) A fee as established by ordinance.
- (d) *Planning and Zoning Commission Public Hearing.* The Planning and Zoning Commission shall schedule a public hearing on the application for approval of the preliminary development plan not less than ten or more than 40 days from the date of filing of a completed application and certification by the Zoning Administrator that to the best of his knowledge the preliminary development plan application is complete and that the preliminary development plan, as best he can determine, meets all of the requirements of this Zoning Ordinance and the comprehensive plan.
- (e) *Notice of Public Hearing.*
- (1) Before holding the public hearing, notice of such Commission hearing shall be given on the Municipality of Powell website at least ten days before the date of said hearing. The notice shall set forth the time and place of the public hearing, a general description of the planned district development, and a statement that, after the public hearing and after submission of a final development plan, the matter will be referred to the Council for further determination.
- (2) Also before holding the public hearing, written notice of such hearing shall be sent by the Planning and Zoning Commission by first class mail, at least ten days before the hearing, to all owners of property Contiguous to, directly across the street from and within 250 feet of the property in question and to such others as the Commission determines should receive such notice. Notices to individual property owners shall contain the same information as required of notices published on the City wesbite.
- (f) *Public Access to Proposed Planned District Plans.* For a period of at least ten days prior to the public hearing by the Planning and Zoning Commission, all papers relating to the planned district development plan shall be available for public inspection in the office of the Zoning Administrator or on the Municipality of Powell website.
- (g) *Approval in Principle of Preliminary Development Plan.* Within 30 days after the public hearing, the Planning and Zoning Commission shall review the preliminary development plan to determine if it is consistent with the intent of this Zoning Ordinance and meets or otherwise justifies modification of all of its requirements, as determined by the Planning and Zoning Commission. If it does, the Commission shall approve the preliminary development plan in principle. If it does not, the Commission shall recommend changes and additions needed for approval and await a resubmission.

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In approving a preliminary development plan in principle, the Planning and Zoning Commission shall consider:

- (1) If the proposed development is consistent with the intent and requirements of this Zoning Ordinance;
- (2) The appropriateness of the proposed land uses with regard to their type, location, amount, and intensity, where not specifically specified in this Zoning Ordinance;
- (3) The relationships between uses, and between uses and public facilities, streets, and pathways;
- (4) Adequacy of provisions for traffic and circulation, and the geometry and characteristics of street and pathway systems;
- (5) Adequacy of yard spaces and uses at the periphery of the development;
- (6) Adequacy of open spaces and natural preserves and their relationships to land use areas and public accessways;
- (7) The order, or phases, in which the development will occur and the land uses and quantities to be developed at each phase;
- (8) Estimates of the time required to complete the development and its various phases;
- (9) Improvements to be made by the Municipality, if any, and their cost;
- (10) The community cost of providing public services to the development, and
- (11) Impacts of the development on surrounding or adjacent areas.

The Planning and Zoning Commission may require the staging of the planned development to minimize early stage major impacts on the community infrastructure and services systems, and may require the staging of land uses to be generally consistent with the phased development of supporting land uses and public services and facilities.

The Commission's approval in principle of the preliminary development plan shall be necessary before an applicant may submit a final development plan. Approval in principle shall not be construed to endorse a precise location of uses, configuration of parcels, or engineering feasibility.

(h) *Submission of Final Development Plan.*

- (1) After approval in principle of the preliminary development plan, the developer shall submit a final development plan to the Zoning Administrator. The final development plan shall be in general conformance with the preliminary development plan that was approved in principle. For the purposes of this Zoning Ordinance, submission of a final development plan is a formal request for an amendment addition to the zoning of the property in question, and upon final approval by Council becomes the zoning of the property in question in addition to the other requirements of this Zoning Ordinance.
- (2) Copies of the final development plan as specified by the Zoning Administrator shall be submitted and may be endorsed by a qualified professional team which should include an urban planner, licensed architect, registered land surveyor, registered civil engineer, and registered landscape architect.

(i) *Final Development Plan Application Contents.* An application for approval of the final development plan shall be filed with the Zoning Administrator by the owner of the property for which planned district development is proposed. Each application shall be signed by the owner, attesting to the truth and exactness of all information supplied on the application for the final development plan. Each application shall clearly state that the approval shall expire and may be revoked if construction on the project has not begun within two years from the date of issuance of the approval. At a minimum, the application shall contain:

- (1) All of the information required for submission of the preliminary planned district development plan application;
  - (2) All plan materials rendered on an engineering survey of the proposed development site, showing the dimensions and bearings of property lines, property areas in acres, topography, existing features of the development site including major wooded areas, structures, easements, utility lines, land uses, and maximum building footprint areas for all non-residential uses and residential uses other than single-family detached and two-family dwellings;
  - (3) Engineering feasibility studies and plans showing, as necessary, water, sewer, drainage, electricity, telephone, and natural gas installations; waste disposal facilities; street improvements; and the nature and extent of earthwork required for site preparation and development.
  - (4) A detailed landscape plan showing existing and proposed future landscape materials, ground cover, paving patterns and materials.
  - (5) Deed restrictions, protective covenants, and other legal statements or devices to be used to control the use, development and maintenance of the land and the improvements thereon, including those areas which are to be commonly owned and maintained, and
  - (6) A final development plan fee as established by Ordinance.
- (j) *Public Hearing by Planning and Zoning Commission.* Within 30 days after submission of a completed application for a final development plan and certification by the Zoning Administrator that the plan application is complete and that to the best of his knowledge the plan meets the requirements of this Ordinance and is in compliance with the preliminary development plan that was approved in principle, the Planning and Zoning Commission shall hold a public hearing. Notice and public inspection of the application shall be as specified in subsections (e) and (f).
- (k) *Recommendation by the Planning and Zoning Commission.* Within 30 days after the Public Hearing on the final development plan the Planning and Zoning Commission shall recommend that the final development plan be approved as presented, approved with supplementary conditions, or disapproved, and shall transmit all papers constituting the record and the recommendations to Council.

Before making its recommendation, the Planning and Zoning Commission shall find that the facts submitted with the application and presented at the public hearing establish that:

- (1) The proposed planned district development phase can be initiated within two years of the date of approval and can be completed within five years;
- (2) The requirements of the Comprehensive Plan relative to the site at issue have been fulfilled;
- (3) The streets proposed are suitable and adequate to carry the anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the planned district plan area;
- (4) Proposed non-residential developments can be justified at the location and in the amounts proposed;
- (5) Housing densities are warranted by amenities and conditions incorporated in the final development plan and are in accordance with these planned district development requirements;
- (6) Lands to be dedicated to public use are of acceptable and usable size, shape, and location;
- (7) The area surrounding the development can be planned and zoned in coordination with and in substantial compatibility with the proposed development;
- (8) The existing and proposed utility services are adequate for the population densities and uses proposed, and

- (9) Adequate provision has been made for the detention and channelization of surface drainage runoff.
- (l) *Public Hearing by Council.* After receiving the recommendation from the Planning and Zoning Commission, the Council shall hold a public hearing on the planned district final development plan within a reasonable time.
- (m) *Notice of Public Hearing by Council.*
- (1) Before holding its public hearing, notice of such hearing shall be given on the Municipality of Powell website at least ten days before the hearing. The notice shall set forth the time and place of the public hearing, the nature and general description and summary of the planned district development, and a statement that all papers relating to the planned district development are on file with the Clerk and are open for public inspection.
  - (2) Written notice of the hearing on the planned district development shall be mailed by the Clerk by first class mail, at least ten days before the date of the public hearing, to all owners of property contiguous to, directly across the street from and within 250 feet of the proposed planned district development and to such others as Council may determine should receive such notice. Notices to individual property owners should contain the same information as required of notices published on the City website.
- (n) *Action by Council.* After the public hearing, the Council shall either adopt or deny the recommendation of the Planning and Zoning Commission or adopt some modification thereof. In the event Council makes a substantial change to the recommendation of the Planning and Zoning Commission, it must do so by a vote of not less than three-fourths (six) of all Members of Council or by approval of a majority of all members of Council (four) and subsequent approval by the Planning and Zoning Commission. If approved by a majority of Council with a substantial change but by less than three-fourths, such ordinance with proposed substantial change stated separately shall be submitted to the Planning and Zoning Commission at the next regularly scheduled meeting. If approved by the Commission, then such ordinance with the substantial change shall take effect. If not approved by the Commission, then at the next scheduled Council meeting, Council shall adopt or deny the recommendation of the Planning and Zoning Commission without the substantial changes or adopt the Commission's recommendations with substantial changes with not less than three-fourths (six) of all members of Council. No such Ordinance shall be passed unless it has been fully and distinctly read on two different days and no Ordinance in accordance with the recommendation of the Planning and Zoning Commission shall be deemed to pass or take effect without the concurrence of at least a majority of the full membership of Council. The Council shall be deemed to have rejected the recommendation of the Planning and Zoning Commission when less than a majority of its members (four) vote for its adoption.
- (o) *Supplementary Conditions and Safeguards.* In approving any planned district development plan application, both the Planning and Zoning Commission and the Council may prescribe appropriate conditions and safeguards in conformity with this Zoning Ordinance. Any violation of such conditions or safeguards, which have been made a part of the terms under which the final development plan has been approved, shall constitute a violation of this Zoning Ordinance and shall be punishable as such.
- (p) *Expiration of Approval Period.* The approval of a final development plan for a planned district development shall be for a period not to exceed five years to allow for preparation and recording of the required subdivision plat and development of the project. Where a project is completed within five years, the approved final development plan shall remain as the effective zoning control over the area included in the plan, in addition to the requirements of this Zoning Ordinance. If required plats are not properly recorded ~~within nine months of final development plan approval~~ and/or if no construction has begun on the site within two years of such approval, the approved final development plan shall be void, ~~and the land shall revert to the original district zoning regulations~~ unless an application for a time extension is submitted and approved, which approval may be withheld for good cause.

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(q) *Extension of Time Limit.* An extension of the time limits set in subsection (p) hereof, as a modification of the approved final development plan, may be approved by Council upon the recommendation of the Planning and Zoning Commission. Such approval shall be granted only upon a finding of a valid purpose and necessity for such extension and evidences of reasonable and diligent efforts toward accomplishment of the original development plan within the originally established time limits, and upon finding that such extension is not in conflict with the general health, welfare and safety of the public or development standards of the district. No extension of time shall be granted except on application filed with the Zoning Administrator not later than ~~90~~ 30 days before the expiration of the time limits set in subsection (p) hereof.

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(r) *Amendment or Alteration of Approved Planned District Development Plans.* Once a final development plan for a planned district has been approved by Council, all subsequent substantial changes to that plan shall only be permitted by resubmission as a new substitute plan and repatriation of the procedures established in these sections. "Substantial change" for the purposes of this section shall mean any modification of an approved planned district development plan, as determined by the Zoning Administrator, that results in:

- (1) Any increase in the number, or change in the type and/or mix of residences, and/or non-residential building area or land use;
- (2) Decrease in the approved minimum lot size, number of parking spaces to be provided, and/or trash storage areas;
- (3) Change in the approved location of land uses, land use subareas or sub-elements, streets, public or private parklands and other public facilities, and/or natural environmental preserves or scenic easements by more than 30 feet;
- (4) Reduction in area of public and/or private parklands or other public facilities and/or natural environmental preserves or scenic easements;
- (5) Alteration of the basic geometry and/or operational characteristics of any element of the approved street pattern, parking facilities, service access, trash storage facilities, and/or system of pedestrian and/or equestrian paths that results in a change in operating characteristics or character;
- (6) Any circumstance below the minimum requirements established in this Zoning Ordinance or as required in the approval of a conditionally permitted use in a planned district.

(s) *Subsequent Zoning Amendments Initiated by Other Than Planned District Processes.* No zoning amendment passed during the time period granted for the initiation and completion of an approved final development plan shall in any way affect the terms under which the approval of the planned district development was granted.

(t) *Plat Required.*

- (1) In a Planned District, no use shall be established or changed and no structure shall be constructed or altered until ~~any~~ required subdivision plat has been prepared and recorded in accordance with the Development Regulations.
- (2) In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to the recording of the plat, the owner of the project shall post a performance bond, ~~or other such alternative form of surety as approved by the City Law Director~~, in favor of the appropriate public officers in a satisfactory amount assuring the expeditious completion of said facilities within one year after the recording of said plat. In no event, however, shall any zoning certificate be issued for any building or use until such time as the facilities for the phase in which the building or use is located are completed.

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(u) *Administrative Review.* All plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Administrator, to the Planning and Zoning Commission, and to the Council or to their designated technical advisors upon request for administrative review to assure substantial compliance with the final approved development plan.

(Ord. No. 91-01, 2-5-1991; Ord. No. 91-40; Ord. No. 98-42, 10-6-1998; Ord. No. 2005-11, 3-15-2005)

1143.12 - PLANNED DISTRICTS; TRANSFER OF DEVELOPMENT RIGHTS.

- (a) A property owner of a parcel of land designated in this Zoning Ordinance as being in a Planned Residence District and allowing a higher residential density than is desired to be utilized may sell this surplus dwelling unit assignment, once officially determined and recorded in the official adoption of an approved planned district development plan, to the next smallest whole number, at market-determined value to owners of property in other-than-single-family residential areas, other-than-single-family residential subareas of, or in planned districts also officially established in this zoning ordinance as additions to the maximum number of dwelling units normally permitted in that district, to a total or no more than 120 percent of the dwelling units otherwise permitted in that district. Sale and transfer of such residential development rights must be approved for both the "sending" and "receiving" areas by the Planning and Zoning Commission. Sale of such surplus dwelling unit rights, as verified by the Zoning Administrator, shall be recorded by the Clerk on the official zoning maps of both the "sending" and "receiving" areas. Such action shall also be recorded in the minutes of the Planning and Zoning Commission at which the transfer is approved. Upon consummation of the sale and approval of the reassignment "receiving" zone and the new total number of dwelling units permitted on the buyer's site in that zone by the Planning and Zoning Commission, the newly transferred development rights may be used by the owner of the "receiving" parcel.
- (b) The number of surplus dwellings units must be determined and approved by the Planning and Zoning Commission for the "sending" area prior to these dwelling units being included in any plans associated with the "receiving" area.

(Ord. No. 91-40; Ord. No. 92-01)

1143.13 - PR-PLANNED RESIDENCE DISTRICT.\*\*

- (a) *Official Schedule of Permitted Uses and Dimensional Requirements.*

PERMITTED USES:	CONDITIONALLY PERMITTED USES:
Single-family residences attached or detached	Cemeteries
Two-family residences Multifamily residences	Class I, Type B group residence facilities (5 or less residents) Home occupations
Apartment residences	Roadside sale of agricultural products produced on the premises
Cluster homes, patio homes, common wall homes, or any reasonable variation on these themes	Parking lots or storage areas for boats and/or recreational vehicles

Elderly households	Noncommercial kennels and catteries associated with a residence
Zero lot line development	Noncommercial playgrounds, playfields, and picnic areas
Churches	
Accessory buildings and uses	
Agriculture	
Country clubs; golf courses	
Elderly housing facilities	
Convalescent homes	
Nursing homes	
Homes for children and the aged	
Kindergarten or child day-care facilities	
Life-care facilities	
Congregate housing	

\*\* Refer to Section 1143.08(b) for additional information

SINGLE FAMILY DETACHED OR TWO FAMILY ATTACHED HOUSING

\* except where the design goal is to: 1. cluster homes to leave open space or; 2. to vary smaller and larger lots

GROSS DENSITY	0.70 or less	0.71—1.2	1.21—1.5	1.51—1.7
	< 3ac 180'	110'	100'	90'

MIN. STREET FRONTAGE (lots)	3 < 4 200'			
	4 < 5 250'			
	> = 5 300'			
MIN. DISTANCE BETWEEN BLDGS.	50'	40'	30'	24'
MINIMUM SIDE YARDS <sup>1</sup>				
(a) where bldg on adjacent lot is unknown	25'	20'	15'	12'
(b) where bldg on adjacent lot is known	15'	10'	10'	8'
MINIMUM FRONT YARD	40'	30'	30'	30'
MINIMUM REAR YARD	40'	30'	30'	30'
MAXIMUM LOT COVERAGE	25%	25%	25%	25%
MAXIMUM BLDG HEIGHT				
(a) principal building	35'	35'	35'	35'
(b) accessory building	18'	18'	18'	18'
MINIMUM FLOOR AREA (sq. ft.)	1,500	1,500	1,500	1,500
MINIMUM CHURCH SITE:	<del>5 3</del> acres plus one (1) acre for each 100 permanent seats over 300 in the main assembly area			

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<sup>1</sup> Except for zero lot line development

OTHER THAN SINGLE-FAMILY OR TWO FAMILY HOUSING  
(not to exceed 9 du/gross acre)

GROSS DENSITY	Not to exceed nine (9) du's per gross acre	
MIN. STREET FRONTAGE (LOTS)	lots < 3 acres	160'
	3 but < 4 acres	200'
	4 but < 5 acres	250'
	5 or more acres	300'
MIN. DISTANCE BETWEEN BLDGS.	30'	
MINIMUM SIDE YARDS <sup>1</sup>		
(a) where bldg on adjacent lot is unknown	40'	
(b) where bldg on adjacent lot is known	10'	
MINIMUM FRONT YARD	60'	
MINIMUM REAR YARD	40'	
MAXIMUM LOT COVERAGE	20%	
MAXIMUM BLDG. HEIGHT		
(a) principal building	35' and no more than two stories	
(b) accessory building	18'	
MINIMUM FLOOR AREA (sq. ft.)	3 bedroom: 1,000	2 bedroom: 800
	1 bedroom: 600	Minimum 1,500/building

~~NOTE: For all residential uses there shall be no more than four dwelling units attached side-by-side, and a total of no more than eight dwelling units in any one structure~~

~~<sup>1</sup>-Except for zero lot line development~~

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(b) *Formula for Determining the Number of Dwelling Units in a Planned Residence District Development Plan.*

- (1) Subject to the other provisions of this subsection (b), the number of dwelling units in a Planned Residence District development plan should be determined by applying the following formula to the gross number of acres of the site to be developed as described in the development plan:

A. Base Gross Density      0.70 du/gross acre

- B. A Density Bonus for provision of parkways as designated in the Comprehensive Plan may, in the discretion of the Planning and Zoning Commission, be granted within the following range:

Minimum Density Bonus      0.10 du/gross acre

Maximum Density Bonus      0.50 du/gross acre

- C. A Density Bonus for dedication or reservation of land to be used for Public uses may, in the discretion of the Planning and Zoning Commission, be granted within the following range:

Minimum Density Bonus      0.1 du/gross acre

Maximum Density Bonus      0.50 du/gross acre

For purposes of this subsection (b)(1)A., the term "Public Uses" shall include, without limitation, public parks, public schools, governmental administrative buildings, police stations, sheriff stations, fire stations, community swimming pools, public bike/walk/jog pathways, and such other facilities or uses as the Planning and Zoning Commission and/or Council may from time to time determine to be facilities and/or uses for Public Uses.

- (2) In order to assist the Planning and Zoning Commission in exercising its discretion to grant a Density Bonus under subsection (b)(1)B. and/or subsection (b)(1)C., the Planning and Zoning Commission may require the applicant to prepare and provide to the Planning and Zoning Commission a fiscal impact report containing information as may be required by the Planning and Zoning Commission. Alternatively, the Planning and Zoning Commission may require the applicant to pay for a fiscal impact report as may be prepared by the Zoning Administrator of the City or by a third party selected by the Zoning Administrator of the City.

- (3) If, in connection with any development plan for a Planned Residence District, the applicant includes a tract of land with one or more existing buildings located on such tract of land and the development plan does not contemplate the development of all or any portion of such tract of land by the applicant, then the number of gross acres associated with such tracts of land that is not to be developed by the applicant should not be included in the gross number of acres of the site described in the development plan for purposes of determining the number of dwelling units in the Planned Residence District in accordance with this subsection (b).

- (c) *Redistribution of Dwelling Units on a Planned Residence District Plan.* In any Planned Residence district plan, the total number of dwelling units generated by the application of the formula in subsection (b) hereof, may be redistributed within the tract as approved by the Planning and Zoning Commission.

- (d) *Mobile Homes.* Except as specifically permitted herein, no mobile home, or mobile office structure shall be placed or occupied in this district.

(Ord. No. 92-01; Ord. No. 94-28)

1143.14 - PO-PLANNED OFFICE DISTRICT.\*\*

- (a) *Official Schedule of Permitted Uses and Dimensional Requirements.*

PERMITTED USES:	CONDITIONALLY PERMITTED USES:
Professional activities offices	Free standing on-premises signs
Personal service offices: such as insurance agencies, insurance brokers, real estate, allied medical, dental, and optical offices, investments services	Cemeteries
Business and professional associations	Class I, Type B group residence facilities (5 or less residents)
Civic, social and fraternal organizations	Home occupations
General business offices	Roadside sale of agricultural products produced on the premises
Offices of credit agencies, personal credit institutions, or loan offices	Veterinarian's office (small animals)
Churches	Research offices
Community facilities, such as libraries, offices, or educational facilities	Noncommercial playgrounds, playfields, and picnic areas
Single-family residences, attached or detached	
Two-family residences	
Multifamily residences	
Zero lot line development	
Apartment residences	
Cluster homes, patio homes, common wall homes or any reasonable variation on these themes	
Elderly households	

Elderly housing facilities	
Life-care facilities	
Congregate housing	
Kindergarten or Child day-care	
Accessory buildings and uses	
Agriculture	
Country clubs; golf courses	
Convalescent homes	
Nursing homes	
Homes for children and the aged	

\*\* Refer to Section 1143.08(b) for additional information

MIN. STREET FRONTAGE:	160 feet
MIN. DISTANCE BETWEEN BUILDINGS:	50 feet
MINIMUM SIDE YARDS:	25 feet*
MINIMUM FRONT YARD:	60 feet
MINIMUM REAR YARD:	30 feet
MAXIMUM LOT COVERAGE:	20%
MAXIMUM BLDG HEIGHT:	



(a) principal bldgs:	35' and no more than two stories.
(b) accessory bldgs:	18 feet
MINIMUM FLOOR AREA PER DU	3 BR: 1,000 sq. ft. 2 BR: 800 sq. ft. 1BR: 600 sq. ft. Min: 1,500 sq. ft.
MAXIMUM FLOOR AREA:	No structure shall contain more than 3,000 sq. ft. of floor area per floor.
MAXIMUM BUILDING DIMENSION	150 feet
MINIMUM CHURCH SITE:	<del>5</del> 3 acres plus one acre for each 100 permanent seats over 300 in the main assembly area.

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~~NOTE: For all residential uses there shall be no more than four dwelling units attached side-by-side, and a total of no more than building eight dwelling units in any one structure.~~

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\*Except for zero lot line development

(b) *Supplemental Regulations for the Planned Office District.*

- (1) No drive-in or drive-through facilities are permitted in this district. Offices of credit agencies, credit institutions, and loan offices shall not be permitted to have drive-in windows.
- (2) Veterinarian's offices shall only be permitted if practice is limited to small domestic animals, if no animals are boarded on the premises, and if no outside runs ~~or exercise areas~~ are provided.
- (3) All non-residential buildings in the planned office district ~~shall have their roof eaves lines at the first floor level, and shall have pitched, gabled, or hipped roofs. All building facades shall follow the guidelines set forth within the City's Pedestrian Scale Design Guidelines, and~~ shall be of natural materials: cement fiber, wood, brick, stone, or rough-split block, with natural slate, wood shingles, asphalt or fiberglass shingles, standing seam copper, or other metal, roofs.
- (4) All parking areas are to be interior to building groupings, or behind natural three-or-four rail split rail fences, or three-or-four rail white or black board fences, or otherwise hidden by earth mounding, screen walls, or dense shrubbery from sight from adjacent sites and from nearby public roads, and designed and located for minimum impact on adjacent residential areas.
- (5) All new apartment residence units in a planned office district ~~located inside the Old Powell through-traffic-free zone,~~ shall be subservient to the office use of the district and shall be executed in a "village" setting, that is, each such unit shall be attached to, or above, such office uses, and not in independent isolated structures; approval shall be contingent upon adequacy of existing streets and/or completed bypass or parkway routes to accommodate the projected traffic generated by such uses.

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- (6) Except as specifically permitted herein, no mobile home or mobile office structure shall be placed or occupied in this district.
- (7) All required setbacks facing on Liberty Street, Seldom Seen Road, or any parkway shall be ~~enclosed~~ lined as possible in three-or-four rail, white or black board fences, or three-or-four rail natural split-rail fences.

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(Ord. No. 91-40, 2-5-1995)

1143.15 - PC-PLANNED COMMERCIAL DISTRICT.\*\*

(a) *Official Schedule of Permitted Uses and Dimensional Requirements.*

PERMITTED USES:	CONDITIONALLY PERMITTED USES:
Retail sales	Roadside sale of agricultural products produced on the premises
Convenience business	Free-standing on-premises signs
Commercial establishments	Cemeteries
Office uses	Amusement arcades
General business	Home occupations
Office type business	Class I, Type B group residence facilities (5 or less residents)
Office research centers	<u>Motels and hotels of any kind</u>
Services business	
Clubs	
Personal services	
Commercial recreation and entertainment facilities	
Churches	

Single-family residences, attached or detached	
Two-family residences	
Multifamily residences	
Zero lot line dwellings	
Apartment residences	
Cluster homes, patio homes, common wall homes, or any reasonable variation on these themes	
Elderly households	
Elderly housing facilities	
Life-care facilities	
Congregate housing	
Convalescent homes	
Nursing homes	
Homes for children or the aged	
Kindergarten or child day-care	
Agriculture	
Accessory buildings and uses	
Community facilities such as libraries, offices, or educational facilities operated by a public agency or government	
<del>Motels, hotels, restaurants</del>	

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Medical, dental office facilities and laboratories	
Hospitals and clinics	
Regional health care and retirement centers/communities	
Country clubs, golf courses	
Conference facilities	
Commercial and Noncommercial playgrounds, playfields, and picnic areas	
Automotive, mobile home, travel trailer, and farm implement sales	
Highway business	
Auto service stations	
Automotive repair	
Plant materials nursery	
Pet Day Care and adoption facilities	
Veterinarian's offices, clinics, hospitals for small animals without kennels	

MIN. STREET FRONTAGE:	160 feet
MIN. DISTANCE BETWEEN BUILDINGS:	50 feet
MINIMUM SIDE YARDS:	25 feet*

MINIMUM FRONT YARD: (See also Section 1145.27)	60 feet
MINIMUM REAR YARD:	30 feet
MAXIMUM LOT COVERAGE:	20%
MAXIMUM BLDG HEIGHT:	
(a) principal bldgs:	35' and no more than two (2) stories.
(b) accessory bldgs:	18 feet
MINIMUM FLOOR AREA PER DU,	3 BR: 1,000 sq. ft. 2 BR: 800 sq. ft. 1 BR: 600 sq. ft. Min: 1,500/per building
MAXIMUM BUILDING DIMENSION	150 feet
MINIMUM CHURCH SITE:	<del>5.3</del> acres plus one acre for each 100 permanent seats over 300 in the main assembly area.

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~~NOTE: For all residential uses there shall be no more than four dwelling units attached side-by-side, and a total of no more than eight dwelling units in any one structure.~~

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\* Except for zero lot line development.

\*\* Refer to Section 1143.08(b) for additional information

(b) *Supplemental Regulations for the Planned Commercial District.*

~~(1) Auto service stations, highway business, automotive repair facilities, commercial recreation or entertainment facilities, and automotive, mobile home, travel trailer or farm implement sales, shall not be permitted inside the "through-traffic free zone" as defined in the Comprehensive Plan.~~

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(2) All apartment uses in a planned commercial district ~~shall be located inside the Old Powell through-traffic free zone~~, shall be subservient to the commercial use of the district, and shall be executed in a "village" setting, that is, attached to, or above, such commercial uses, and not as independent isolated structures. Approval shall be contingent upon adequacy of existing streets and/or completed bypass or parkway routes to accommodate the projected traffic generated by such uses.

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- (3) No commercial or business activity shall be conducted in a unit designed for residential use without the consent of the Planning and Zoning Commission.
- (4) Service areas, loading docks, and off-street parking/waiting stalls for all drive-in or drive-through businesses shall be located at the rear of the primary structure and shall be screened from view from surrounding streets and properties by walls, fences, or shrubbery.
- (5) Gasoline service stations shall located their service areas, including pumps, in the rear yard area of the site, unless such service areas are effectively screened from view from surrounding public streets and adjacent properties.
- (6) Outdoor storage and display of merchandise on public sidewalks shall be prohibited unless written application is made to and approval is granted by the Zoning Administrator.
- (7) Except as specifically permitted herein, no mobile home or mobile office structure shall be placed or occupied in this district.
- (8) Where non-residential building facades are visible from a residence, residential zone, residential area of a planned district, church site, public and/or private parkland, and/or public road, these facades shall be of natural materials: cement fiber, wood, brick, stone, or rough-split block.
- (9) All non-residential buildings in the planned commercial district ~~shall have their roof eaves lines at the first floor level, shall follow the guidelines set forth within the City's Pedestrian Scale Design Guidelines,~~ and shall have pitched, gabled, or hipped roofs of natural slate, wood shingles, asphalt or fiberglass shingles or standing seam copper or other metal.
- (10) All non-residential buildings in the planned commercial district on sites that abut Powell Road west of Sawmill Road and/or Sawmill Parkway, shall be no less than 100 feet apart and shall be setback no less than 200 feet from the centerlines of such roads. No less than 80 percent of the area between buildings along these roads, and between such buildings and these roads' right-of-ways shall be in green lawn, natural woodlands, lakes, farmland or pasture. These areas shall be enclosed in three-or-four rail, white or black board fences, or three-or-four rail natural split-rail fences.
- (11) All parking areas are to be interior to building groups, or behind three-or-four rail natural split-rail fences, or three-or-four rail, white or black board fences, or otherwise hidden by earth mounding, screen walls, or dense shrubbery from sight from adjacent sites and from nearby public roads, and designed and located for minimum impact on adjacent residential areas.

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(Ord. No. 2003-02, 2-4-2003)

1143.16 - PI-PLANNED INDUSTRIAL DISTRICT.\*\*

(a) Official Schedule of Permitted Uses and Dimensional Requirements.

PERMITTED USES:	CONDITIONALLY PERMITTED USES:
Wholesale business	Circuses, carnivals or similar transient enterprises
Food processing	Cemeteries
Light manufacturing, processing, and assembly	Parking lots or storage areas for boats and/or recreational vehicles
Warehousing and/or distribution	Quarries and other activities providing for the removal, processing, and sale of natural resources
Maintenance and storage	Adult entertainment business
Non-personal services	<del>Free-standing on-premises signs</del>
Professional and trade offices	Free-standing off-premises signs
Service and repair activities	Class I, Type B, and Class II, Types A and B group residence facilities
Research industry and facilities	Class I, Type A group residence facilities
Supply yards	Indoor and/or outdoor firing ranges for pistol, rifle, or archery
Business offices	Storage, manufacturing, processing, repacking, or reloading of explosive ammunition
Auto service stations	Freight or trucking terminals
Automotive repair establishments	Commercial dog/cat kennels
Agriculture	Veterinarian's offices, clinics, hospitals for small and large animals with kennels

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Churches	Temporary outdoor storage, display, processing, repair, or sale of raw materials, supplies, equipment, or products
Manufactured home parks	Self storage facilities and parking lots or storage areas for boats and/or recreational vehicles
Mobile home parks	Rental truck facilities ancillary to self storage facilities and parking lots or storage areas for boats and/or recreational vehicles
Plant materials nursery	
Accessory buildings and uses	
Country clubs, golf courses	
Commercial and Noncommercial playgrounds, playfields, and picnic areas	
Commercial recreation and entertainment facilities	

\*\* Refer to Section 1143.08(b) for additional information

MIN. STREET FRONTAGE:	200 feet
MIN. DISTANCE BETWEEN BUILDINGS:	100 feet
MINIMUM SIDE YARDS:	50 feet
MINIMUM FRONT YARD:	60 feet
MINIMUM REAR YARD:	30 feet
MAXIMUM LOT COVERAGE:	20%



MAXIMUM BLDG HEIGHT:	
(a) principal bldgs:	35' and no more than two stories.
(b) accessory bldgs:	18 feet
MINIMUM FLOOR AREA PER DU	3 BR: 1,000 sq. ft.
	2 BR: 800 sq. ft.
	1 BR: 600 sq. ft.
	Min: 1,500/per building
MINIMUM CHURCH SITE:	<del>5.3</del> acres plus one acre for each 100 permanent seats over 300 in the main assembly area.

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~~Note: For all residential uses there shall be no more than four dwelling units attached side-by-side, and a total of no more than eight dwelling units in any one structure.~~

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(b) *Supplementary Regulations for the Planned Industrial District.*

- (1) Free-standing off-premises signs shall only be permitted in those sub-areas of planned industrial districts that have been designated for production industry.
- (2) No parking, delivery, trash storage, accessory building use, or outdoor storage shall encroach upon a required setback.
- (3) No circus, carnival or similar transient enterprise shall be permitted within 500 feet of a residence, residential district, or residential sub-area of a planned district.
- (4) All production, assembly, processing and storage shall occur within enclosed buildings.
- (5) Except as specifically permitted herein, no mobile home or mobile office structure shall be placed or occupied in this district.
- (6) Each planned industrial district shall be buffered at its perimeter from adjacent residences, residential zones, residential areas of planned districts, church sites, public and private parkland, and/or public roads with dense planting strips no less than 60 feet deep located on the planned industrial site.
- (7) Where non-residential building facades are visible from a residence, residential zone, residential area of a planned district, church site, public and/or private parkland, and/or public road, these facades shall be of natural materials: cement fiber, wood, brick, stone, or rough-split block.
- (8) Excepting via driveway accessways, no parking or delivery area shall be visible from a public street, or from a surrounding area that is not within a planned industrial district.

(Ord. No. 2003-02, 2-4-2003)

1143.16.1 - DR-DOWNTOWN RESIDENCE DISTRICT.

- (a) *Purpose.* There is hereby created an "DR" ("Downtown Residence") District to preserve, protect, and promote the village-scale residential environment through provision of village-scale housing opportunities on modest lots in the Downtown District. This district shall be reserved for property located within the downtown district overlay district.

- (b) Unless otherwise noted on the Official Zoning Map and associated materials, the following uses are permitted in the Downtown Residence District:

Dwelling, Single-Family Detached

Dwelling, Single-Family Attached\*\*

Dwelling, Two-Family\*\*

Dwelling, Multi-Family\*\*

Zero Lot Line Development\*\*

Elderly Households

Elderly Housing Units

Accessory Buildings and Uses

Public Use Facilities

Home Occupations

\*\* These uses are not permitted uses for properties fronting Scioto Street and Case Avenue between Depot Street and North Liberty Street.

- (c) Unless otherwise noted on the Official Zoning Map and associated materials, the following uses are conditionally permitted in the Downtown Residence District:

Religious, education, and cultural uses

Bed and Breakfast Inns

Child-Day Care

Class I, Type B Group Residence Facilities (5 or less residents)

Life Care Facilities

Elderly Housing Facilities

Convalescent Home

Nursing Homes

Congregate Housing

Roadside Sale of Agricultural Products Produced on the Premises

Noncommercial Playgrounds, Playfields, and Picnic Areas

- (d) *Dimensional requirements for single-family dwellings are as follows:*

Minimum Lot Size: 5,000 square feet

Minimum Lot Width: 50 feet

Minimum Lot Depth: 100 feet

- (e) *The maximum density is seven dwelling units per acre.* The Planning and Zoning Commission can set density bonuses up to an additional two dwelling units per acre for development that includes the expansion and/or creation of public amenities such as streetscape improvements, public gathering spaces, park improvements, and other notable public amenities as determined by the Planning and Zoning Commission.
- (f) *Principal building setbacks are as follows:*
  - Front: Minimum 20 feet, maximum 25 feet
  - Side: 5 feet
  - Rear: 30 feet
- (g) *Accessory building setbacks are as follows:*
  - Front: 35 feet
  - Side: 5 feet
  - Rear: 5 feet
- (h) *Additional Requirements.*
  - (1) Maximum lot coverage is 50 percent.
  - (2) Minimum building separation is ten feet.
  - (3) Maximum building height is 35 feet for principal buildings and 23 feet for accessory buildings.
  - (4) Minimum floor area per single-family dwelling unit is 1,500 square feet.
  - (5) Minimum floor area per attached dwelling unit is 600 square feet for a one bedroom unit and an additional 200 square feet for each additional bedroom.
  - (6) Whenever possible, parking areas or garages shall enter from rear alleys or drive aisles leading from the principal street and shall lead to parking areas or garages that are placed to the rear of the principal structure.

(Ord. No. 2005-20, 6-7-2005)

#### 1143.16.2 - DB-DOWNTOWN BUSINESS DISTRICT.

- (a) *Purpose.* There is hereby created an "DB" ("Downtown Business") District to preserve, protect, and promote the village-scale central commercial and office environment through promotion of mixed use pursuits developed in a manner that is pleasant, safe, and convenient, the promotion of adaptive reuse of older commercial and office structures, and those constructed originally as residences, for appropriate village-scale commercial and office purposes, retention of the village scale and character through the limitation of uses, the provision for the realization of a fine-grained intermixture of small-scale residential, office, and retail uses that was the hallmark of village life, and minimization of the impact of provisions for auto parking on loss of community character. This district shall be reserved for property located within the downtown district overlay district.
- (b) Unless otherwise noted on the Official Zoning Map and associated materials, the following uses are permitted in the Downtown Business District:

Retail Shops

Office Facilities

Consumer and Trade Service Facilities

Convenience Businesses

Personal Services

Museums and Galleries

Zero Lot Line Development

Accessory Buildings and Uses

Public Use Facilities

Religious, education, and cultural uses

Home Occupations

Dwelling, Single-Family Detached

Dwelling, Single-Family Attached

Dwelling, Two-Family

Dwelling, Multi-Family

- (c) Unless otherwise noted on the Official Zoning Map and associated materials, the following uses are conditionally permitted in the Downtown Business District:

Drive-Through Facilities for Permitted Use

Bed and Breakfast Inns

Outside Display of Products for Sale in Yard or Parking Areas

Child-Day Care

Class I, Type B Group Residence Facilities (5 or less residents)

Life Care Facilities

Elderly Housing Facilities

Convalescent Home

Nursing Homes

Congregate Housing

Veterinarian Offices

Roadside Sale of Agricultural Products Produced on the Premises

Commercial and Noncommercial Playgrounds, Playfields, and Picnic Areas

- (d) *Principal building setbacks are as follows:*

Front: Minimum 20 feet, Maximum 25 feet

Side: 5 feet

Rear: 5 feet

(e) *Accessory building setbacks are as follows:*

Front: 35 feet

Side: 5 feet

Rear: 5 feet

(f) *Additional Requirements.*

- (1) Maximum lot coverage is 20 percent. The Planning and Zoning Commission can set density bonuses up to an additional five percent lot coverage for development that includes the expansion and/or creation of public amenities such as streetscape improvements, public gathering spaces, park improvements, and other notable public amenities as determined by the Planning and Zoning Commission.
- (2) Minimum building separation is ten feet.
- (3) Maximum building height is 35 feet for principal buildings and 23 feet for accessory buildings.
- (4) The first floor of all structures facing a public street must be occupied by a non-residential use, unless specifically authorized in an approved Final Development Plan.
- (5) Residential dwellings in this district shall meet the requirements of the DR-Downtown Residence District.
- (6) The setbacks required for any non-residential use adjacent to existing residential uses shall be a minimum of 25 feet.

(g) *Supplemental Regulations.*

- (1) In determining the uses permitted in this district, the following retail uses primarily engaged in the selling of merchandise for personal or household consumption, or uses deemed to be substantially similar, shall be permitted in this district:

hardware stores	grocery stores	meat markets
seafood markets	fruit stores	vegetable markets
candy stores	drug stores	proprietary stores
liquor stores	carry-outs	florists
music stores	antique shops	curio stores
cloth/yarn shops	tea rooms	sit-down restaurants
book stores	laundromats	laundry shops

dry cleaning shops	beauty parlors	barber shops
photo studios	health spas	shoe repair shops
drinking places	gift shops	

- (2) In determining the uses permitted in this district, the following office uses that provide personal services, or uses deemed to be substantially similar, shall be permitted in this district:

insurance agencies	insurance brokers	real estate offices
law offices	physician offices	dentist offices
osteopath offices	chiropractor offices	podiatrist offices
allied medical office	allied dental office	optical office
accountant office	architect office	engineer office
credit agencies	loan offices	banks

- (3) In determining the uses permitted in this district, the following consumer and trade service facilities that commonly provide home and office citizen services, or uses deemed to be substantially similar, shall be permitted "consumer and trade service" uses in this district:

copy shops	letter services	box and mail shops
gift wrap services		

- (4) Veterinarian's offices shall be conditionally permitted uses in this district provided that the practice is limited to small domestic animals, that no animals are boarded on the premises, and that no outside runs or exercise areas are provided.
- (5) Child day-care facilities must be architecturally compatible with the neighborhood, and provision must be made for adequate vehicular access and parking during peak pick-up and drop-off periods, and fences must be provided to control the access of children to adjoining hazardous conditions such as roads, streets, lakes, creeks, ponds, and to adjacent property. If the adjacent

property is residential, the child care facility building must be no less than ten feet from the residential property line.

- (6) Where this district abuts a residential zone, side and rear yard spaces adjoining the residential zone shall be the same as for that residential zone.
- (7) The parking provisions set forth in Chapter 1149 shall be met; provided, however, the Planning and Zoning Commission, through an Administrative Review, can consider reductions to those requirements provided it is sufficiently demonstrated through data, applicable standards, and/or other materials and information that the minimum requirement is not necessary, in accordance with subsection (h) below and any other applicable provisions of Chapter 1149.
- (8) Parking areas shall be located behind principal buildings in manner to minimize the view of the parking area from any public right-of-way. If, in the opinion of the Planning and Zoning Commission, a parking area is not satisfactorily screened from view, additional landscape or other screening may be required.
- (9) Adequate provision for storm drainage and sanitary sewerage shall be required for the approval of any development or the initiation of a new land use in this district.
- (10) Except as specifically provided for in this Zoning Ordinance, no mobile home or mobile structure shall be placed or occupied in this district.
- (11) It is preferred all services and delivery be made to the rear of the structure or use except under unusual conditions for which service can be made to the side or front of the structure.
- (12) There shall be no overnight display of items for sale that are not normally intended for permanent outdoor use (e.g. upholstered furniture).
- (13) No commercial or business activity, other than those activities permitted as home occupations, shall be conducted in a unit designed for residential use without consent of the Planning and Zoning Commission.

(h) Parking Regulations.

To preclude destruction of the unique village scale and character of the Old-Powell-Commercial Downtown Business District by the provision of modern large-scale off-street parking facilities and loading spaces, the off-street parking and loading requirements of this Zoning Ordinance are hereby altered as set forth below as they apply to land uses and structures located in the Old-Powell-Commercial Downtown Business District:

- (a) Useable on-street curbside parallel parking spaces on streets upon which the relevant property abuts may be counted toward meeting the parking needs of the abutting use, except for street frontage on streets that are designated as state or federal highways.
- (b) The number of off-street parking spaces required to be provided may be reduced in the Old-Powell-Commercial Downtown Business District at the discretion of the Planning and Zoning Commission to one-half that required in other districts for the same use. Notwithstanding this provision for uses within the Downtown Business District, those uses that generally require a larger amount of parking for higher capacity turnover business, such as but not limited to restaurants and bars, shall not be reduced in half, but can be planned for some reduction as approved by the Planning and Zoning Commission as an Administrative Review if allowances are made for parking spaces that can be utilized on adjacent or nearby properties (public or private) that is a reasonable plan for sharing parking spaces.
- (c) In the Old-Powell-Commercial Downtown Business District and on properties immediately abutting that district that are separated from the district by an alley, back-out spaces from alleys will be permitted, as parking off of rear alleys in this district is preferable to the provision of parking in more visible locations.
- (d) No off-street loading spaces shall be required for any use in the Old-Powell-Commercial Downtown Business District.

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(Ord. No. 2005-20, 6-7-2005)

1143.17 - OVERLAY DISTRICTS.

- (a) *General.* The following three districts:

DD - Downtown District Overlay District

OR - Olentangy River Environmental Overlay District

AR - Architectural Review Overlay District

are herein designated as "overlay" districts. These districts are superimposed over other districts; their requirements are accumulative with those of the underlying district in an additive manner. In the event of conflict between the requirements of the overlay zone and those of the zone over which it is superimposed, as related to a location situated in both districts, the more stringent requirement of the two districts shall govern unless specified to the contrary.

- (b) *Overlay Districts; Purpose.* It is the purpose of overlay zones to protect and promote the public health, safety, and welfare through provision for community control of construction, land uses and/or development for a specific purpose that requires imposition of such controls on land areas situated in more than one district, or in specific areas that constitute a sub-area within a single district, where such controls are not generally applicable to the community as a whole or to the entire area in any one zone district.

(Ord. No. 2005-20, 6-7-2005)

1143.18 - DD-DOWNTOWN DISTRICT OVERLAY DISTRICT.

- (a) *Purpose.* It is the purpose of the Downtown District Overlay District (herein after referred to as the "Downtown District") to promote the public, health, safety, and welfare by providing for the regulation of the downtown area through a single, unified district. This district is created to permit the careful and coordinated physical planning, development, and redevelopment of the land, and to provide flexibility in the location of land uses, housing types, and intensity. This district shall preserve, protect, and promote the historical nature of downtown by pursuing development that encourages a mix of uses in a manner that is safe, pleasant, convenient, and in context with the history of the area. It is also the purpose of the Downtown District to:

- (1) Safeguard the heritage of the City by preserving sites and structures within the historic central core of the City that reflect the City's history and its architectural history.
- (2) Stabilize and improve property values.
- (3) Strengthen the economy of the City by promoting business development through the allowance of buildings that provide flexible commercial opportunities yet in keeping with the village scale and character.
- (4) Protect and enhance the City's attractions to residents and visitors.
- (5) Enhance the visual and aesthetic character, diversity, and interest of the City's history.
- (6) Foster civic pride in the beauty, human scale, and human details of the City's history.
- (7) Promote excellence in small town design, incorporating elements that are consistent with the existing character of the area.



- (8) Promote the use and preservation of historic sites and structures for the education and general welfare of the people of the City.
- (9) Preserve sound existing housing stock in the historic central area of the City and safeguard the residential scale of the district and the character of sub-areas that are primarily residential in character.
- (b) *Definitions.* For the purpose of sections of this Zoning Ordinance specifically addressed to the Downtown District, certain terms and words are herewith defined as follows:
- (1) *A.I.A.* means the American Institute of Architects.
  - (2) *Alter or alteration* means any change involving the exterior architectural features, including landscaping, of any property which lies within a Downtown District, not including demolition, removal or new construction.
  - (3) *Applicant* means any person, persons, association, organization, partnership, units of government, public bodies and corporations who apply for a Certificate of Appropriateness in order to undertake an environmental change within the Downtown District.
  - (4) *Certificate of appropriateness* means a certificate authorizing any environmental change within the Downtown District.
  - (5) *Council* means the City Council of the City of Powell.
  - (6) *Demolition* means the complete or substantial removal or destruction of any structure which is located within the Downtown District.
  - (7) *Environmental change* means any exterior alteration, demolition, removal or new construction of any property resulting in a visual exterior change to the property subject to the provisions of these sections.
  - (8) *Exterior architectural feature* means the architectural style, general design and arrangement of the exterior of a structure including, but not limited to, the type, color and texture of the building material, doors, windows, roof, porches and other appurtenant fixtures.
  - (9) *Downtown District* means the district designated as such in this Zoning Ordinance.
  - (10) *Historic downtown advisory commission* means the appointed board established to review environmental changes within the Downtown District, having specific powers and duties subject to the provisions of these sections.
  - (11) *Planning and zoning commission* means the Planning and Zoning Commission of the City of Powell.
  - (12) *Preservation* means the process, including maintenance, of treating an existing building to arrest or slow future deterioration, stabilize the structure and provide structural safety without changing or adversely affecting the character of appearance of the structure.
  - (13) *Property owner* means the owner(s) of record.
  - (14) *Rehabilitation or renovation* means the modification of or change to an existing building. Rehabilitation extends the useful life or utility of the building through repairs or alterations, sometimes major, while the features of the building that contributed to its architectural, cultural, or historical character are preserved and/or restored.
  - (15) *Standards and guidelines* means the building construction and building rehabilitation criteria derived from historical and architectural information reflecting that particular Downtown District to be used by the Historic Downtown Commission in considering Certificate of Appropriateness applications. This refers to the "Downtown District Architectural Guidelines" found elsewhere in the Zoning Code.
  - (16) *Structure* means any building including houses, stores, warehouses, churches, schools, garages, barns, carriage houses, tool sheds, or similar buildings, and also fences, walls, light fixtures,

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steps, signs, works of art, or other like fixtures or any appurtenances thereto, or any significant landscaping.

(17) *Zoning administrator* means the Zoning Administrator of the City of Powell.

- (c) *Conformance with Existing Laws.* Where the existing laws and ordinances are not replaced or modified by these sections the existing laws and ordinances shall remain in effect. In the event of a conflict between these standards and any other standard prescribed in the Planning and Zoning Code, these standards shall apply.
- (d) *Correlation with City Programs.* The City shall consider its Capital Improvements Program, land purchases, and other plans in or proximate to the Downtown District, with respect to the purpose and requirements of these sections and shall, whenever feasible, support it and conform thereto.
- (e) *Land Use Review.* The City shall notify the Historic Downtown Commission of any activity requiring Planning and Zoning Commission review which is in the Downtown District or 250 feet from its boundary. Notification shall be given to the Historic Downtown Commission no less than ten calendar days before the Planning and Zoning Commission hearing on the matter.
- (f) *Establishment as a Receiving Area for the Transfer of Development Rights.* As authorized by Section 1143.12, the Downtown District is hereby established as a receiving area for the transfer of surplus development rights. The transfer of development rights shall meet any requirements and procedures set forth in Section 1143.12. In addition, the transfer of development rights to any property or properties in the downtown district shall only be allowed for those development plans that are considered exemplary plans by the Planning and Zoning Commission in advancing the purposes of the Downtown District, as stated in this section.
- (g) *Downtown District Boundaries.* The location and extent of the Downtown District Overlay District shall be as designated on the official Zoning Map of the Municipality of Powell and shall only include those properties zoned DR, Downtown Residence District and DB, Downtown Business District, both of which are planned districts.
  - (1) *Proposals to expand, or modify the Downtown District boundaries.*
    - A. Initiation.
      - 1. Proposals to expand or modify the Downtown District boundaries shall be initiated by resolution of City Council, with referral to the Planning and Zoning Commission. Proposals to expand, or modify the Downtown District shall include the following documentation:
        - a. Evidence that the area is of architectural and historic significance.
        - b. A boundary description.
  - (2) *Study and hearing.*
    - A. General procedures to expand, or modify the Downtown District boundaries shall be in accordance with the required procedures for zone changes as provided in this Zoning Ordinance.
    - B. Planning and Zoning Commission report. The Planning and Zoning Commission report to Council shall include information as to how the proposed Downtown District expansion or modification is of special historical and architectural significance. The Planning and Zoning Commission report shall include the following:
      - 1. A recommendation from the Historic Downtown Advisory Commission.
      - 2. Whether the area or buildings in the area are listed on the National Register of Historic Places;
      - 3. Whether it provides significant examples of architectural styles of the past;

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4. A description of the area and structures to serve as an informational resource. The description shall include, but need not be limited to, the following:
  - a. A geographic description including location and its relationship to the entire municipality and current boundaries of the downtown district;
  - b. A description of the general land uses;
  - c. A general description of the building conditions;
  - d. A general description of the socioeconomic characteristics;
  - e. A description of existing developmental plans or programs within or including the area;
  - f. A list of neighborhood organizations within, serving or otherwise interested in the area in question.

(3) *City Council designation.*

- A. City Council hearing. City Council shall hold public hearings on proposals to expand, or modify the Downtown District. These hearings shall be in the same manner as for any proposed change in the Zoning Map.
  - B. Zoning Map Overlay. The Zoning Administrator shall cause the designation to be shown upon the official Zoning Map of the City of Powell as an Overlay without changing the underlying zoning. Whenever there is a conflict between regulation of the zoning district and the regulations of the Downtown District, the more restrictive shall apply.
  - C. Notification of designation. Upon expansion or modification of the boundaries of the Downtown District, the clerk shall promptly notify the Zoning Administrator, who shall notify all interested of affected property owners, groups, boards and commissions.
- (h) *Development Plan Required.* Unless the provisions of this section state otherwise, a development plan shall be required in accordance with the procedures described in the planned district requirements of this zoning code.
- (i) *Establishment of the Historic Downtown Advisory Commission.* The Downtown District is held to have a distinctive nature. In the interest of the public health, safety, and welfare it is considered a public necessity to protect the qualities of the Downtown District and enhance the unique characteristics of this area.

(1) There is hereby established a Historic Downtown Advisory Commission.

- (2) The Historic Downtown Advisory Commission shall be empowered to hear, review, approve, deny, and recommend modifications to proposals for Certificates of Appropriateness involving environmental changes within the district. Applications for Certificates of Appropriateness shall be judged using the adopted Downtown District Architectural Guidelines.
- A. The Historic Downtown Advisory Commission shall establish, within the spirit and purposes of this section, procedures for which the Historic Downtown Advisory Commission will evaluate applications for Certificates of Appropriateness. Such information shall be written and published within three months after the Historic Downtown Advisory Commission members have been appointed and may be revised from time to time.
  - B. The Historic Downtown Advisory Commission shall maintain files, available to the public, containing all applications granted or denied to serve as a basis for prospective applicants to conform their plans to established policy.
  - C. The Historic Downtown Advisory Commission may make recommendations to the City Council and Planning and Zoning Commission regarding amendments to these sections and with respect to other legislation affecting the Downtown District.

- D. The Historic Downtown Advisory Commission shall work for the continuing education of both the Downtown District residents and businesses which it serves and the residents of the City as a whole with respect to these sections and the district's historic heritage and architectural significance. In addition, the Historic Downtown Advisory Commission may publish informational literature and hold periodic public meetings to disseminate information on preservation and rehabilitation techniques and resources.
- E. The Historic Downtown Advisory Commission may delegate to the Zoning Administrator review authority over certain Environmental Changes on historically and architecturally documented criteria adopted by the Historic Downtown Advisory Commission. The Zoning Administrator shall then review, grant, deny and/or recommend modifications in writing for such applications.
- F. The Historic Downtown Advisory Commission shall serve as the architectural review commission for all areas that fall within the boundaries of the Downtown District.
- (3) The Historic Downtown Advisory Commission shall have six members appointed by Council. The purpose of the Historic Downtown Advisory Commission will be to administer the delegated functions as set forth in this chapter, to provide advice to the City Council, Planning and Zoning Commission, and property owners and developers in the Downtown District, and to oversee new construction, remodeling, rehabilitations, restorations and additions made in the Downtown District. The Historic Downtown Advisory Commission membership shall be as follows:
- A. One member of the A.I.A. appointed by Council. Council shall appoint a person, whose background, education and/or professional experience is in historic design, preservation, renovation, or rehabilitation, to the Historic Downtown Advisory Commission. This member may be a nonresident of the City of Powell. This member shall serve in an advisory capacity and shall not vote.
- B. Two residents of the City of Powell appointed by Council, one of which must be a resident of the Downtown District.
- C. One owner of a business located in the Downtown District appointed by Council. This member may be a nonresident of the City of Powell.
- D. One representative with a professional background or experience in historic design, preservation, restoration, renovation, or construction appointed by Council. This member may be a nonresident of the City of Powell.
- E. One representative from the Planning and Zoning Commission as appointed by City Council.
- F. If no citizens have the qualifications set forth above or if in the majority opinion of City Council no individuals are qualified to carry forth the purpose, goals, and objectives of the Historic Downtown Advisory Commission as stated in this section are available at the time of appointment, then Council may appoint any resident, property owner, or business owner of the city to fill any of these positions.
- (4) Members shall serve a three year term.
- (5) Members of the Commission may be removed by a majority vote of City Council.
- (6) Members shall serve without compensation, except for the A.I.A. representative, who is eligible for compensation as set by Council.
- (7) A vacancy during the term of any member shall be filled for the unexpired term in the manner authorized for the original appointment.
- (8) The Historic Downtown Advisory Commission shall select one of its members to serve as chairperson and one as vice-chairperson. The Zoning Administrator, or agent, shall provide such staff assistance as is necessary and available. All City departments and agencies shall cooperate in expediting the work of the Historic Downtown Advisory Commission.

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- (9) The Historic Downtown Advisory Commission shall adopt rules and regulations consistent with these sections governing its procedures and transactions. The Historic Downtown Advisory Commission shall meet as required to carry out the review of applications for Certificates of Appropriateness, and such other related work as may be accepted through request of the Planning and Zoning Commission or Council. Meetings shall be held at least once each month when there are applications to be considered and not less than once every three months. Special meetings may be held at the call of the chairperson of the Historic Downtown Commission.
- (j) *Certificate of Appropriateness Required.* No environmental changes shall be made to any property within the Downtown District unless a Certificate of Appropriateness has been previously issued by the Planning and Zoning Commission, Historic Downtown Advisory Commission, or the Zoning Administrator, when authorized.
- (1) Applications for a Building Permit, Zoning Certificate, Development Plan, Amendment to Development Plan, or Zoning Amendment, or applications for environmental changes within the Downtown District shall be deemed as applications for Certificates of Appropriateness provided any applicable submittal requirements are met.
- (2) Any change in the outward appearance of a property within the Downtown District shall require approval of Certificate of Appropriateness by the Planning and Zoning Commission if any change in the outward appearance of a property within the Downtown District results in one or more of the following:
- A. The plans call for a new non-residential structure or addition of occupiable space to an existing non-residential structure, whether principal or accessory; or
  - B. The plans call for two or more new residential dwelling units; or
  - C. There will be a demolition of a structure larger than 75 square feet in ground floor area; or
  - D. There is a request for rezoning, zoning variance, or subdivision of land within the Downtown District.
- (3) Any change in the outward appearance of a property within the Downtown District shall require approval of Certificate of Appropriateness by the Historic Downtown Advisory Commission if any change in the outward appearance of a property within the Downtown District results in one or more of the following:
- A. The plans call for not more than one new residential dwelling unit or addition of occupiable space to an existing residential structure; or
  - B. There will be any changes which affect the outward appearance of a structure, such as installation of different windows, or the construction or reconstruction, including replacement, of such architectural elements as, for example, porches or chimneys; or
  - C. There will be repairs that might change the outside appearance of a building, such as foundations, walls, porches, roofs or chimneys where the original materials are not matched; or
  - D. There will be any change in the outward appearance of a structure or property, not otherwise described in these sections, requiring a Zoning Certificate or Building Permit.
- (4) External color and/or material changes relative to any structure in the Downtown District shall require approval of a Certificate of Appropriateness by the Historic Downtown Advisory Commission.
- A. If the proposed colors and/or materials are approved colors and/or materials included in the adopted standards and guidelines, the color and/or materials may be approved directly by the Zoning Administrator if this is the only change proposed.
  - B. If the Zoning Administrator determines that the proposed colors and/or materials are not the existing colors and/or materials and do not match those of the approved standards and

guidelines, the change must be submitted to the Historic Downtown Advisory Commission for review.

- (5) Landscape changes, signs, lighting fixtures, etc. inconsistent with those indicated in the adopted standards and guidelines must be submitted for approval of a Certificate of Appropriateness by the Historic Downtown Advisory Commission. Those that are so consistent, including landscape changes within rights-of-ways, may be approved directly by the Zoning Administrator.

- (6) Changes that do not require review and approval include:

- A. Changes that do not change the exterior appearance of a property, such as repainting a house in the exact same colors or replacing windows with exact duplicates, provided such changes are in conformance with the adopted standards and guidelines;
- B. Repairs that do not alter the outside appearance of a property such as repairing foundations, walls, porches, roofs, chimneys or downspouts with original materials in original colors;
- C. Interior changes to a structure, such as plumbing, or electrical repairs, or other interior remodeling as long as these changes do not affect the outside appearance of the structure;
- D. Flowers and annuals anywhere, and trees and shrubs beyond rights-of-way, do not need to be reviewed and do not need approvals.

- (7) Upon receipt of all pertinent documents, the Zoning Administrator:

- A. Shall inform the applicant of the review procedures and application requirements;
- B. Shall have the authority to request from the applicant additional pertinent information regarding the proposed environmental change, including architectural drawings and detailed drawings of significant architectural features and details at a proper and legible scale, as well as sample materials and color chips;
- C. Shall inform applicants having applications requiring Planning and Zoning Commission and/or Historic Downtown Advisory Commission review of the date(s) on which the application will be heard; and
- D. Shall inform the Planning and Zoning Commission and Historic Downtown Advisory Commission of the Certificate of Appropriateness applications.

- (k) *Certificate of Appropriateness Hearing Procedures.*

- (1) A Development Plan, amendment to a Development Plan, or Zoning Amendment approval or denial by the Planning and Zoning Commission shall be considered the same for a Certificate of Appropriateness. Any Certificate of Appropriateness being reviewed by the Planning and Zoning Commission shall follow the requirements of a planned district.

- (2) The Planning and Zoning Commission may ask the Historic Downtown Advisory Commission to review a Certificate of Appropriateness application with city staff and provide written comments and recommendations to the Planning and Zoning Commission for consideration. Such recommendations shall be part of the Planning and Zoning Commission approval unless the Planning and Zoning Commission finds the recommendations do not correspond to the adopted standards and guidelines or approval process as required by the zoning code. For any recommendation by the Historic Downtown Advisory Commission found to not correspond to the adopted standards and guidelines or approval process as required by the zoning code, the Planning and Zoning Commission shall provide a written reason for such finding. Should the Historic District Advisory Commission not provide written comments and recommendations for any application, for any reason, it shall not prohibit the Planning and Zoning Commission from acting upon any application.

- (3) A hearing on an application for a Certificate of Appropriateness, as defined in Sections shall be conducted at the next regularly scheduled Historic Downtown Advisory Commission meeting, no later than 45 days after the filing of the application. The Historic Downtown Advisory Commission chairperson may call special meetings with the applicant for consultation at their own discretion

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or at the request of the Zoning Administrator or the [chairperson](#) of the Planning and Zoning Commission prior to the regularly scheduled Historic Downtown Advisory Commission meeting.

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- (4) At the Historic Downtown Advisory Commission's discretion, a maximum of one deferral not to exceed 45 days beyond the originally scheduled hearing date may be granted.
- (5) The chairperson shall conduct meetings of the Historic Downtown Advisory Commission and a record of minutes shall be kept and maintained as a permanent record. The minutes of meetings shall be a public record.
- (6) The Historic Downtown Advisory Commission shall post the agenda in a manner consistent with other city boards, commissions, and city council. Other owners, residents, and neighborhood organizations may be notified as determined by the Historic District Advisory Commission or Zoning Administrator to carry out the intent of these sections.
- (7) The majority of the Historic Downtown Advisory Commission members shall constitute a quorum. For the taking of official action, a majority vote of the quorum shall be required.
- (8) In ruling upon an application for a Certificate of Appropriateness, the Historic Downtown Advisory Commission shall consider the following:
  - A. The adherence of the environmental change to the district's adopted standards and guidelines, as well as other requirements established in these sections, and
  - B. The effect of the Historic Downtown Advisory Commission's decision upon the applicant.
- (9) At the hearing, the Historic Downtown Advisory Commission shall issue an oral decision followed by a written decision within 45 days after the date of the hearing, setting forth, with specificity, its findings and analysis. In the event that no action is taken within 45 days, the Certificate of Appropriateness shall be forwarded to the Planning and Zoning Commission for action at their next scheduled meeting.
- (10) Unless the work described in the Certificate of Appropriateness is commenced within one year and continued progress is made and is completed within two years from the date of issuance of the Certificate of Appropriateness, the Certificate of Appropriateness shall expire as a matter of law. The Historic Downtown Advisory Commission may grant an extension of time for good cause shown.

(l) *Demolition Hearing Procedures.*

- (1) A Certificate of Appropriateness is not required for the demolition of structures less than 75 square feet in area [unless determined to be of historical value by the Zoning Administrator](#). A [written request for demolition with supporting documentation and all](#) other applicable permits are required.
- (2) In cases where an applicant applies for a Certificate of Appropriateness to demolish a structure within the Downtown District, the Planning and Zoning Commission shall approve the demolition and issue a Certificate of Appropriateness following the procedures stated in Section 1143.18(k)(2) when:
  - A. At a minimum, a Sketch Plan showing possible future redevelopment of the property is reviewed and found generally reasonable by the Historic Downtown Advisory Commission; and it is determined that one or both of the following conditions prevail:
    1. That the structure contains no features of architectural and/or historic significance;
    2. That there exists no reasonable economic use for the structure as it exists or as it might be restored, and that there exists no feasible and prudent alternative to demolition, or that deterioration has progressed to the point where it is not economically feasible to restore the structure as demonstrated by the applicant through supporting documents such as cost analyses, structural reports, and/or other necessary documents.

- (3) Every effort shall be made to reuse existing structures through adaptive reuse and to restore their historic character. Under no condition shall a structure that is able to be rehabbed be demolished for an off-street parking facility or loading space. Where structures must be removed, they shall be replaced with buildings of historic character and qualities of the District.

(m) *Appeals.*

- (1) Decisions by the Zoning Administrator related to the approval of a Certificate of Appropriateness may be appealed by any interested party to the Historic Downtown Advisory Commission. Written notice of appeal shall be made within seven (7) days of the decision. The appeal shall be heard at the next regularly scheduled meeting of the Historic Downtown Advisory Commission. A majority vote of the members of the Historic Downtown Advisory Commission shall be required to overturn a decision of the Zoning Administrator.
- (2) Decisions by the Historic Downtown Advisory Commission may be appealed by any interested party to the Planning and Zoning Commission in writing within seven (7) days of the Historic Downtown Advisory Commission hearing.
- (3) The Planning and Zoning Commission shall consider an appeal within 45 days of receipt and shall utilize the written findings of the Historic Downtown Advisory Commission to present historic, architectural, and aesthetic features of such structure, the nature and character of the surrounding area, the use of such structure and its importance to the City. A majority vote of the members of the Planning and Zoning Commission shall be required to overturn a decision of the Historic Downtown Commission.
- (4) No building permit or other permit required for the activity applied for shall be issued during the seven day (7) period or while an appeal is pending.

(n) *Exclusions.*

- (1) Nothing in these sections shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of any property that does not involve a change in design, material, or other appearance thereof covered by the Historic Downtown Advisory Commission's adopted standards and guidelines.
- (2) Nothing in these sections shall be construed to prevent authorized Municipal officers from abating public nuisances.

(o) *Downtown District General Requirements.*

- (1) Standards for Rehabilitation. These "Standards for Rehabilitation" are adopted and shall be complied with within the Downtown District in addition to other standards and guidelines that may be adopted:
  - A. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
  - B. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
  - C. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
  - D. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
  - E. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
  - F. Distinctive historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials.



Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

- G. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
  - H. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
  - I. New additions, exterior alterations, or related new construction may not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
  - J. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
- (2) A primary component of this district shall be landscaping features which minimize potential negative impact of this district's uses on abutting suburban style residential areas.
- A. A minimum 50 feet wide dedicated buffer zone should be provided within the Downtown District along the west boundary line of the Bartholomew Run residential subdivision. This buffer zone will be dedicated at the time of the construction of a building within this district or the change of use from a single family dwelling to a different permitted use. This buffer zone should be subject to a tree planting program encouraging planting of a mixture of year round vegetation, such as evergreens, and trees of an especially aesthetically pleasing nature in regard to autumn colors selected from the City's approved list of trees.
  - B. This buffer zone shall be a part of a 75 feet "No Structure Zone" for new commercial and non-single-family structures and a 60 feet "No Structure Zone" for a single-family structure converted to a commercial structure with a 60 feet "No Parking Zone."
  - C. The existing private school use at 284 South Liberty Street will not be subject to the landscaping requirements stated above, but will be subject to the approved Final Development Plan and future approved Development Plans to be submitted for future phases of the school use. However, should this use change, or if the school ceases to be a going concern, the buffer zone/landscaping requirements above shall be fully implemented based on future development.
  - D. Any new single-family dwelling proposed on a parcel affected by the buffer zone shall be exempt from the requirements of the buffer zone provided no more than one single-family dwelling is proposed on that parcel and no lot split is required. All structures shall meet the setback requirements of the principal structure.
- (3) When a non-residential use, including when an existing residential property is changed to a non-residential use is adjacent to any residential property, a 25 feet side yard (except in cases of zero lot line development) and rear yard buffer zone shall be incorporated which requires the planting of a mixture of year round vegetation, such as evergreens, and trees of an especially aesthetically pleasing nature in regard to autumn colors selected from the approved list of trees. Said plantings must have minimum year round opaqueness of 75 percent. This buffer zone is required only along the common property line of the other residential use and only as long as the adjacent lot is being used as a residential use.
- (4) A mix of non-residential and residential uses is encouraged were permissible by the underlying zoning district, including within the same building. First floor non-residential uses are highly encouraged for any structure fronting Olentangy and Liberty Streets.
- (5) Whenever possible, drive aisles from public streets shall be shared.

(Ord. No. 2005-20, 6-7-2005)

~~1143.19 – RESERVED.~~

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**Editor's note** — Former Section 1143.19, which pertained to historic district boundaries was repealed by Ordinance 2005-20, passed June 7, 2005.

~~1143.20 – RESERVED.~~

**Editor's note** — Former Section 1143.20, which pertained to correlation with municipality programs; land use review was repealed by Ordinance 2005-20, passed June 7, 2005.

~~1143.21 – RESERVED.~~

**Editor's note** — Former Section 1143.21, which pertained to historic district commission was repealed by Ordinance 2005-20, passed June 7, 2005.

~~1143.22 – RESERVED.~~

**Editor's note** — Former Section 1143.22, which pertained to applications for a certificate of appropriateness was repealed by Ordinance 2005-20, passed June 7, 2005.

~~1143.23 – RESERVED.~~

**Editor's note** — Former Section 1143.23, which pertained to initial hearing procedures was repealed by Ordinance 2005-20, passed June 7, 2005.

~~1143.24 – RESERVED.~~

**Editor's note** — Former Section 1143.24, which pertained to demolition hearing procedures was repealed by Ordinance 2005-20, passed June 7, 2005.

~~1143.25 – RESERVED.~~

**Editor's note** — Former Section 1143.25, which pertained to appeals was repealed by Ordinance 2005-20, passed June 7, 2005.

~~1143.26 – RESERVED.~~

**Editor's note** — Former Section 1143.26, which pertained to exclusions was repealed by Ordinance 2005-20, passed June 7, 2005.

~~1143.27 – RESERVED.~~

**Editor's note** — Former Section 1143.27, which pertained to conformance with existing laws was repealed by Ordinance 2005-20, passed June 7, 2005.

**1143.28** — RESERVED.

**Editor's note** — Former Section 1143.28, which pertained to standards for rehabilitation was repealed by Ordinance 2005-20, passed June 7, 2005.

**1143.29** - OR-OLENTANGY RIVER ENVIRONMENTAL OVERLAY DISTRICT.

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There is hereby created in the Municipality of Powell an "OR" District ("Olentangy River Environmental Overlay District") to preserve, protect, and promote the natural qualities and characteristics of the land areas adjacent to the Olentangy River, to restrict development of the surrounding lands in recognition of both the vital role played by the riverside environment in the creation and preservation of area land values, and the limited traffic capacity of Route 315, a scenic roadway running at the west side of the river which cannot be substantially widened beyond its current pavement width without a negative effect on the environmental qualities of the river valley.

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(a) *Delineation of the District.*

- (1) The OR-Olentangy River Environmental Overlay District shall include all that land within the Municipality of Powell that is located south of Jewett Road and within one mile, horizontal measure, of the eastern boundary of Liberty Township, and all that land in the Municipality of Powell that is located to the north of Jewett Road and within one and one-half miles, horizontal measure, of the eastern boundary of Liberty Township.
- (2) The OR-Olentangy River Environmental Overlay District shall also include all property within the Municipality of Powell, no matter where it is located, wherein the only street access requires travel on Olentangy River Road (Route 315), and all property within the Municipality of Powell where the road-pattern travel distance from the property to the Powell Road/Olentangy River Bridge, the Orange Road/Olentangy River Bridge, the crossing of Route 315 at the Franklin County line, the crossing of South Liberty Street and the Franklin County line, or the crossing of Sawmill Road at the Franklin County line is shorter and more direct by using Route 315 as a part of the travel path than it is without travel on Route 315.

(b) *District Requirements.* In addition to those requirements established in the base district or districts over which this zone is superimposed, the following restrictions shall apply to all land located in this overlay zone:

- (1) The maximum residential development permitted in the district shall be at a density of .85 dwelling units per gross site acre, and/or a minimum site area per residence of one acre.
- (2) The land uses permitted, conditional uses permitted, and dimensional requirements for development in this zone shall be the same as those established in Section 1143.04 for the R-Residence District unless more stringent requirements are established in this section or in the zone over which this zone is superimposed.
- (3) New properties platted or developed with access frontage onto Route 315 shall have a minimum property frontage on Route 315 of no less than 250 feet and shall have no more than one curb cut per property. When land is subdivided abutting Route 315, no more than one new curb cut or new access street shall be permitted on Route 315 per subdivision or development, and shall be located no less than 250 feet from another curb cut or street intersection on the same side of the street.

- (4) No construction of any kind and/or the removal of natural vegetation shall be permitted in the area abutting the Olentangy River within the Municipality of Powell that is located within 120 feet of a riverbank.
- (5) No construction of any kind and/or the removal of natural vegetation shall be permitted in the area abutting Route 315 within the Municipality of Powell that is located within 40 feet of the right-of-way of Route 315, at both sides of Route 315, excepting new driveways which shall be permitted in cleared zones no wider than 20 feet.
- (6) No construction of any kind and/or the removal of natural vegetation shall be permitted in the regional flood plain of the Olentangy River or any of its tributaries.
- (7) The wooded ravines and small valleys bordering the minor drainageways that flow into the Olentangy River shall be preserved in their natural state and shall be designated as natural environmental preserve easements on private land, or as wilderness or natural preserve districts if dedicated to public use, in all future developments. No natural vegetation shall be removed from such areas; they shall remain in their natural state, except for equestrian paths or pedestrian/jogging/bicycle paths of a public or public access nature passing through them or by them, when same are provided as a part of an approved Planned District plan for development and are carefully sited to permit maximum appreciation of the natural beauty of these areas while inflicting a minimum impact on them.

#### 1143.30 - AR-ARCHITECTURAL REVIEW OVERLAY DISTRICT.

An Architectural Review Overlay District is hereby established to conserve the value of buildings in the district, assure architectural suitability, prevent depreciation or property values by discordant additions to the environment, and protect the economic and social welfare of the Municipality of Powell by requiring reasonable controls over the character, design, placement and relationship of the buildings, structures and spaces of commercial, office, industrial and warehouse areas, and of multifamily residential areas, while enhancing and protecting the residential land uses which abut such areas through their proper development and environmental character.

- (a) *Delineation of the District.* The AR-Architectural Review Overlay District shall include all that land within the Municipality of Powell that is located within any planned district, the Old Powell Commercial District, and it shall also include multifamily residential areas wherever they may be located.
- (b) *Architectural Review Board.* The Municipality of Powell Planning and Zoning Commission shall sit as the Powell Architectural Review Board, and for the purposes of this Section shall be referred to as the "Board". A registered architect and a registered landscape architect shall be selected by the Board by a majority vote to serve as advisors to the Board.
- (c) *Architectural Review Board Authorities.* No commercial, office, industrial, warehouse, or multifamily residential building, structure, or space within the Powell Architectural Review Overlay District shall be constructed, reconstructed, altered, moved, extended, demolished, raised, enlarged or changed in external appearance, unless and until the plans and specifications of such building or structure and the landscaping plan for the premises on which it is to be located have been approved by the Board. The Board, in reviewing such plans and specifications shall examine the architectural design, the exterior surface treatment, the arrangement of buildings and structures on the premises, the uses of signage, the means of integrating parking, the use of landscape materials and the impact of the proposed project on the surrounding properties to determine the effect the project will have upon the appearance and environment of the district. The Board shall endeavor to assure that the exterior appearance and environment of such buildings, structures and spaces will:
  - (1) Enhance the attractiveness and desirability of the district in keeping with its purpose and intent.
  - (2) Encourage the orderly and harmonious development of the district in keeping with the character of the district.

- (3) Improve residential amenities in any adjoining residential neighborhood.
  - (4) Enhance and protect the public and private investment and the value of all lands and improvements within the district and adjoining districts.
- (d) *Certificate of Appropriateness Required.*
- (1) A Certificate of Appropriateness must be obtained prior to any new construction, restoration, addition, renovation, demolition and replacement as defined below or other change which would come within the provisions of this Zoning Ordinance.
    - A. New construction. Construction of a new structure.
    - B. Restoration. Major structural reconstruction to restore a building to its original state.
    - C. Additions. Enlargement of an existing structure.
    - D. Renovation. To restore a building to its original state and improve the structure (same as rehabilitate).
    - E. Demolition. Removal of an existing structure.
    - F. Replacement. Changes to an existing structure resulting in different materials and/or architectural styles.
    - G. Reconstruction. Changes which restore an existing structure to its original state.
    - H. Repairs. Minor reconstruction to restore a building to its original state.
  - (2) The Architectural Review Board and its advisors shall, within 120 days after initiation of this role, and subject to Council approval, develop and adopt appropriate standards and guidelines reflecting the community character, similar to those included in the Historic District, in Section 1143.21(c)(1)—(11).
  - (3) The responsibility of review and approval or denial of the application for a Certificate of Appropriateness based upon the standards and guidelines established by the Board and approved by Council shall rest with the Board.
  - (4) Applications for Certificates of Appropriateness shall be made to the Zoning Administrator at least ten days before a regularly scheduled Board meeting. The applicant shall submit with the application drawings, materials, sketches, and other such items that indicate or identify the proposed exterior and environment of any new or existing building or structure within the Architectural Review Overlay District.
  - (5) The Board shall review and approve, approve with modifications or conditions, or disapprove such applications within 45 days of the meeting. Upon approval by the Board, the Zoning Administrator shall issue a Certificate of Appropriateness to the applicant within 15 days thereafter. The Certificate of Appropriateness shall remain valid for the period of time designated in the Certificate. Upon disapproval by the Board, the Zoning Administrator shall not issue a Zoning Certificate for such project.
  - (6) Any applicant may appeal the decision of the Board to the Council by filing a notice of appeal to the Clerk within 14 days after the decision of the Board is rendered. The decision of the Council shall be final.
- (e) *Architectural Review in Areas within the Historic District Overlay District.* The Architectural Review function in those areas located within the Historic District Overlay District shall be fulfilled by the Historic District Commission through the processes specified in Section 1143.18. A separate architectural review by the Architectural Review Board shall not be required.
- (f) *Enforcement.* In the event that any exterior change is made for any structure or building which is located within the Powell Architectural Review Overlay District, or in the event that any construction occurs within the district in violation of the provisions of this section, the City may institute appropriate proceedings to enjoin such unlawful change or construction.

(Ord. No. 92-01)

## CHAPTER 1145 - SUPPLEMENTARY REGULATIONS<sup>[20]</sup>

Sections:

Footnotes:

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**Cross reference**— District regulations, Ch. 1143; Special regulations, Ch. 1147; Off-street parking and loading, Ch. 1149

### 1145.01 - GENERAL.

The purpose of supplementary district regulations is to set specific conditions for various uses, classifications of uses, or areas wherein problems may occur, in order to alleviate or preclude such problems, and to promote the harmonious exercise of property rights without conflict.

### 1145.02 - CONVERSIONS OF DWELLINGS TO MORE THAN ONE UNIT.

A residence may not be converted to accommodate an increased number of dwelling units unless all of the following conditions are met.

- (a) The conversion is in compliance with all other local codes and ordinances, and any applicable state or federal regulations.
- (b) The district within which the residence is located is so regulated as to allow such an increase in dwelling units.
- (c) The yard dimensions still meet the yard dimensions required by the zoning regulations for new structures in that district.
- (d) The lot area per family equals the lot area requirements for new structures in that district.
- (e) The floor area per dwelling unit is not reduced to less than that which is required for new construction in that district.
- (f) The conversion is in compliance with all other relevant codes and ordinances.

### 1145.03 - PRINCIPAL BUILDING PER LOT.

No more than one principal building or structure may be constructed upon any one lot for the purposes of this Zoning Ordinance, unless approved within a planned district development plan and text. Rear dwellings shall be prohibited and shall be considered nonconforming uses subject to the requirements of Chapter 1125.

### 1145.04 - REDUCTION OF AREA OR SPACE.

No lot, yard, parking area, or other space shall be reduced in area or dimension if such reduction has the effect of making the lot, yard, parking area, or other space less than the minimum required by this Zoning Ordinance. Furthermore, any lot, yard, parking area, or other space which is already less than the

required minimum shall not be reduced further. However, nothing in this section shall be interpreted to limit the power of the Board of Zoning Appeals in the granting of variances under this Zoning Ordinance.

#### 1145.05 - CONSTRUCTION IN EASEMENTS.

Easements for installation, operation and maintenance of utilities and drainage facilities are reserved as shown on each plat when recorded or otherwise established. Within these easements, no permanent building, ~~or structure, or landscape beds and mounding~~ shall be placed or permitted which may damage or which may interfere with the installation, operation, and maintenance of such utilities or which may change the normal direction of flow of drainage channels within the easement. The easement area of each lot, and any improvements within it, shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or a utility is responsible.

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#### 1145.06 - PARKING AND STORAGE OF VEHICLES, MOTOR HOMES, CAMPERS, BOATS, RECREATIONAL VEHICLES, AND TRAILERS.

- (a) *Parking of Disabled Vehicles.* The parking of a disabled vehicle within any district for a period of more than one week, unless otherwise permitted in this Zoning Ordinance, shall be prohibited, except that such a vehicle may be stored in an enclosed garage or other accessory building, provided that no business shall be conducted in connection therewith while such vehicle is parked or stored unless permitted elsewhere in this Zoning Ordinance.
- (b) *Outdoor Storage of Inoperable, Unlicensed or Unused Motor Vehicles.* Outdoor storage of inoperable, unlicensed or unused motor vehicles for a period exceeding seven days is prohibited unless specifically authorized elsewhere in this Zoning Ordinance or specifically permitted as incident and necessary to a permitted or conditional use. Said vehicles, if stored on the premises for periods exceeding seven days, shall be enclosed within a building so as not to be visible from any adjoining property or public road.
- (c) *Parking in Residential Areas.*
  - (1) No trailer of any type, no boats, no campers, no recreational vehicles, no motor homes, and no equipment of any type shall be parked in front of the front building line on any parcel for more than 48 hours in any ten day period. If a building is located on said lot, the building line shall be considered to be the front wall of the building even if said building is located behind the minimum building line established by this Ordinance or the restrictions on the plat or subdivision.
  - (2) No trailer of any type, no boats, no campers, no recreational vehicles, no motor homes, and no equipment of any kind shall be parked within 50 feet of a road right-of-way on any parcel in an "R-Residence" District.
  - (3) No more than one vehicle for sale shall be parked on any residential lot at any one time. No vehicle for sale shall be parked on the lawn area of any lot.
- (d) *Storage Outside of an Enclosed Structure.* Storage of a camper, trailer, motor home, boat or recreational vehicle, in any residential district or residential area of a planned district outside of an enclosed structure for more than 48 hours in any ten day period shall be prohibited unless provided for elsewhere in this Ordinance.
- (e) *Occupancy by Guest of Resident Owner.* A motor home, recreational vehicle, or camper of any type may be occupied by a guest or a resident owner in a residential district or residential area of a planned district, but such occupancy shall not exceed 14 days in any one calendar year.
- (f) *Mobile Homes, Mobile Office Structures, and Portable Storage Units.*
  - (1) Except as provided for elsewhere in this Ordinance, no mobile home structure shall be placed or occupied in any district.

(2) Temporary structures such as mobile office structures and temporary buildings of a non-residential character may be used incident to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six months and may be renewed not more than twice. Renewal of the permit shall be at the discretion of the Zoning Administrator on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Administrator may require provisions for sanitary waste disposal, solid waste disposal, and water supply, as he deems necessary. The fees for such permit and renewals thereof shall be established by the Council. Said temporary structure shall be removed not later than ten days after expiration of said permit. No such unit shall be occupied as a residence.

(3) Portable Storage Units.

- A. "Portable Storage Units" means any portable structure intended to be used on a temporary basis for the loading of materials out of a location within the City of Powell and then moved to another location by a contracted third party or the unloading of materials into a location within the City of Powell in which the portable structure was brought to the location by a third party.
- B. Portable Storage Units (PSU). The use of PSUs within the municipality, or other similar units, shall be permitted in any zoning district only for the purpose of loading or unloading in association with moving in or out of a building. PSUs shall be parked upon the receiving property for a period not to exceed 72 hours without a Zoning Certificate, and in no case shall a PSU remain on a property for more than seven days. PSUs shall be placed outside of the public right-of-way or private streets, and shall be located on an asphalt or concrete surface. In the event that a PSU needs to be placed within the public right-of-way or on a private street, the Zoning Administrator shall issue a Zoning Certificate for the location of the PSU, with conditions taken into consideration regarding public health, safety, and welfare. Under no circumstances shall a PSU be located within the ROW of a cul-de-sac bulb.

(g) *Parking and Storage of Commercial Vehicles.*

- (1) For purposes of this Section, "commercial vehicle" means any motor vehicle or trailer that is registered with the Ohio Bureau of Motor Vehicles as a commercial motor vehicle or a commercial trailer pursuant to Chapter 4503 of the Ohio Revised Code.
- (2) With the exception of the vehicles listed in subsection (b)(3) below, no commercial vehicle shall be parked in any residential district except for the purpose of delivery to or the receiving of goods or other articles, or in connection with the construction, repair or other services being performed, during the actual parking time.
- (3) The following commercial vehicles may be parked in a residential district. Such vehicles shall be parked in a garage or on an improved impervious surface in a location least intrusive:
  - A. Vehicles associated with legally established home occupations pursuant to Section 1147.08;
  - B. Vehicles with a GVWR (Gross Vehicle Weight Rating) less than 10,000 pounds;
  - C. Any vehicle required to respond on an emergency basis for the public health, safety and welfare, and has received a certificate of exemption from the Chief of Police or his designee.

(Ord. No. 2008-01, 1-15-2008)

1145.07 - REQUIRED REFUSE COLLECTION AREAS.

The refuse collection areas provided by all commercial, industrial, and multifamily residential uses for the collection of trash, garbage, and other refuse shall be adequately screened as defined in Section 1145.29, below, and provisions shall be made for regular and adequate vehicular access to such areas for



collection purposes, as determined necessary by the Zoning Administrator. In addition, the following requirements shall be met:

- (a) The storage of hazardous or toxic materials or wastes shall not be permitted without documented approval of the Ohio Environmental Protection Agency.
- (b) Materials or wastes which might cause fumes or dust or otherwise constitute a fire hazard, or which may attract rodents or insects, shall be stored only in closed containers constructed of impervious materials.

#### 1145.08 - JUNK.

In order to protect residents from conditions conducive to the deprivation of the neighborhood and the infestation and breeding of vermin, insects and rodents, the accumulation or storage for more than 48 hours of junk as defined in this Zoning Code, junk vehicles, disabled or inoperative machinery or equipment, vehicles or machine parts, rags, or any other discarded or stored material shall be prohibited.

(Ord. No. 98-25, 8-4-1998)

#### 1145.09 - SUPPLEMENTAL YARD AND HEIGHT REGULATIONS.

In addition to the regulations specified in Chapter 1143 and in other sections of this Zoning Ordinance, Sections 1145.10—1145.15 inclusive shall be used for clarification and interpretation.

#### 1145.10 - SETBACK REQUIREMENTS FOR BUILDINGS ON CORNER LOTS.

The principal building and its accessory structures located on any corner lot shall be required to have the same setback distance from all street right-of-way lines as required for the front yard in the district in which such structures are located.

#### 1145.11 - FENCE AND WALL RESTRICTIONS IN FRONT YARDS.

In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of two and one-half feet.

#### 1145.12 - YARD REQUIREMENTS FOR MULTIFAMILY DWELLINGS.

~~Multifamily dwellings shall be considered as one building for the purpose of determining front, side, and rear yard requirements. The entire group as a unit shall require one front, one rear, and two side yards as specified for dwellings in the appropriate district. Each individual building shall meet all yard requirements for the appropriate district as though it were on an individual lot. Multifamily buildings shall be separated as required by the appropriate building code provision regulating the particular setback.~~

#### 1145.13 - SIDE AND REAR YARD REQUIREMENTS FOR NON-RESIDENTIAL USES ABUTTING RESIDENTIAL DISTRICTS.

Nonresidential buildings or uses shall not be located nor conducted closer than 40 feet to any lot line of a residential district, except that the minimum yard requirements may be reduced to 50 percent of the requirement if acceptable landscaping or screening approved by the Zoning Administrator is provided. Such screening shall be a masonry wall or solid fence between four and eight feet in height maintained in good condition and free of all advertising or other signs. Landscaping provided in lieu of such wall or fence shall consist of a strip of land not less than 20 feet in width planted with an evergreen hedge or dense planting or evergreen shrubs not less than four feet in height at the time of planting. Neither type of screening shall obscure traffic visibility as required by this Zoning Ordinance.

#### 1145.14 - STRUCTURAL SEPARATION.

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No principal structure shall be located closer than 20 feet to another principal structure unless one of said structures has, as its exterior facing wall, a two-hour fire rated wall.

#### 1145.15 - EXCEPTION TO HEIGHT REGULATIONS.

The height limitations contained in the Official Schedule of District Regulations do not apply to church spires, belfries, cupolas, domes, antennas, water tanks, elevator shafts, ventilators, chimneys, flag poles, cooling towers, conveyors, stage towers, water towers, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. Barn silos, grain elevators, church spires, domes, and flag poles may be erected to any safe and lawful height. Windmills, aerials, antenna or towers if otherwise permitted may be constructed to a height no greater than the distance from the center of the base thereof to the nearest property line of the tract upon which it is located.

#### 1145.16 - ARCHITECTURAL PROJECTIONS.

Open structures such as porches, canopies, balconies, platforms, carports, covered patios, bay windows and similar architectural projections shall be considered parts of the building to which attached and shall not project into the required minimum front, side, or rear yard. Decks with decking less than 30 inches off the ground may protrude into a rear yard setback not more than half of the distance of the applicable rear yard setback. Chimneys and escape windows for basements may project into sideyard setback areas.

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#### 1145.17 - VISIBILITY AT INTERSECTIONS.

On a corner lot at the intersection of two streets in any district, nothing shall be installed, erected, placed, planted, or allowed to grow in such manner as to impede vision materially between a height of two and one-half feet and ten feet above the center line grades of the intersecting streets in the area bounded by the right-of-way lines of such corner lot and a line joining points along said street lines 50 feet from the point of intersection. On a corner lot at the intersection of two alleys, or at the intersection of an alley and a street, within any district, nothing shall be installed, erected, placed, planted, or allowed to grow in such manner as to impede vision materially between a height of two and one-half feet and ten feet above the center line grades of the intersecting alleys, or of the intersecting alley and street, in the area bounded by the right-of-way lines of such corner lot and a line joining points along said alley lines, or alley and street lines, 25 feet from the point of intersection.

#### 1145.18 - ACTIVITIES TO BE CONDUCTED IN ENCLOSED BUILDINGS.

In all districts, all activities and transactions, excepting agriculture, off-street parking, loading and unloading, and outdoor recreation, shall be conducted within an enclosed building unless otherwise specifically authorized by this Zoning Ordinance.

#### 1145.19 - OBJECTIONABLE, NOXIOUS, OR DANGEROUS USES, PRACTICES, OR CONDITIONS.

No land or building in any district shall be occupied or used in any manner which creates or contributes to the existence of conditions which are dangerous, injurious, harmful, noxious, or objectionable, or which may otherwise adversely affect surrounding areas or adjoining premises, except that any use permitted by this Zoning Ordinance in a specific zone may be undertaken or maintained if acceptable measures and safeguards to reduce any dangerous or objectionable conditions to acceptable limits, as established in this section, are properly exercised. Specifically, the occupation or use of any land or building in any district shall be in violation of this Zoning Ordinance if one or more of the following conditions are not met:

(a) *Fire and Explosion Hazards.*

- (1) All activities, including storage, involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of fire and explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning

of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency. The use or storage of flammable or explosive materials shall be adequately protected by fire-fighting and fire-protection equipment or be such safety devices as are normally required for such activities. Activities involving the use and storage of flammable and explosive materials shall be removed from adjacent facilities or activities to a distance compatible with the potential danger involved.

- (2) Indoor and outdoor firing ranges, storage, manufacture, and/or reloading of explosive ammunition, shall be permitted conditional uses in planned industrial districts providing special conditional safeguards and under no condition shall be permitted uses in residential or commercial zones.
- (b) *Air Pollution and Radioactivity.* No emission of air pollution or radioactivity shall be permitted which violate the Clean Air Act Amendments of 1977 or later amendments as enforced by the Ohio Environmental Protection Agency.
- (c) *Liquid or Solid Wastes.* No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply or interfere with bacterial processes in sewage treatment, shall be permitted. The standards of the Ohio Environmental Protection Agency shall apply and be met.
- (d) *Hazardous Wastes.* Hazardous waste conditions shall not be created or continued that are in violation of the regulations of the Ohio Environmental Protection Agency.
- (e) *Vibrations and Noise.* No uses shall be located and no equipment shall be installed in such a way as to produce vibrations which are discernable by the Zoning Administrator, without instruments, at or beyond the property line of the subject premises. Noise standards of the Environmental Protection Agency shall be adhered to. No objectionable noises, as determined to be such by the Zoning Administrator, shall be created due to volume, frequency, or beat.
- (f) *Odors.* No use shall be operated so as to produce the continuous, frequent, or repetitive emission of odors or odor-causing substances in such concentrations as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located. Applicable standards of the Environmental Protection Agency shall be adhered to.
- (g) *Glare, Heat, Exterior Light and Light Pollution.* Any operation producing intense light or heat, such as high temperature processing, combustion, welding, or other shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted. No condition of direct or reflected glare shall be created or continued that is visible from any street or from any adjacent property. Exterior lighting fixtures shall be so shaded, shielded, or directed that the light intensity or brightness shall not be objectionable to occupants or owners of surrounding areas. No more lighting than is necessary will be installed in order to reduce light pollution.
- (h) *Dust, Silt and Erosion.* No condition shall be created or continued in which dust, silt, or other objectionable substances are transferred by wind or water onto any adjacent lot or property in objectionable quantities as determined to be such by the Zoning Administrator.
- (i) *Water Pollution or Contamination.* No condition of water pollution or contamination shall be created or continued that is in violation of the regulations of the Ohio Environmental Protection Agency.

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#### 1145.20 - ASSURANCE REQUIREMENTS AND PLANS.

Prior to the issuance of a zoning certificate, the Zoning Administrator may require the submission of written assurances and plans indicating the manner in which dangerous and objectionable aspects or elements of processes or operations entailed in certain uses or occupations are to be eliminated or reduced to acceptable limits and tolerances.

#### 1145.21 - ENFORCEMENT PROVISIONS.

Any occupancy, use, conditions or circumstances existing in violation of Sections 1145.19 and 1145.20 shall constitute a violation of this Zoning Ordinance and be subject to the enforcement procedures contained in this Zoning Ordinance.

#### 1145.22 - TEMPORARY USES.

- (a) The following regulations are necessary to govern certain uses which are of a non-permanent nature. For such uses requiring temporary zoning certificates, at least seven days before the instigation of such use, an application for a zoning certificate shall be made to the Zoning Administrator, which shall contain a graphic description of the property to be used, a description of the proposed use, and a site plan, with sufficient information to determine the yard, setback, parking, and sanitary facility requirements for the proposed temporary use.
- (b) The following uses are deemed to be temporary uses and shall be subject to the specified regulations and time limits which follow, as well as the regulations of any district in which they are located. Fees for such temporary zoning certificates shall be as established by Council.
  - (1) Real estate sales offices, which shall contain no living accommodations, shall be permitted within any district for any new subdivision for a period of one year, except that two six-month extensions may be granted if conditions warrant. Such offices shall be removed upon the completion of the sales of the lots therein, or upon the expiration of the zoning certificate, whichever occurs first.
  - (2) Temporary sales and services may be permitted within parking areas within any commercial district. A zoning certificate valid for a period not to exceed four consecutive days shall only be issued three times within any 12-month period to any individual or organization. The application for the temporary zoning certificate shall be accompanied by written permission of the property owners, and shall be prominently displayed at the site. The Zoning Administrator shall not issue a certificate for such temporary use if he determines that it encroaches upon more than 25 percent of the required parking [area](#) or if [the Zoning Administrator](#) determines that other significant temporary uses may be adversely affected by such proposed temporary use due to proximity, public safety and service requirements, or other relevant criteria.
  - (3) Temporary retail sales and services, such as sales of plants, flowers, arts and crafts, farm produce, or similar items on lots other than parking lots, including any lot on which an existing business is operating or on which a business is vacated, may be permitted for any for-profit individuals or organizations in any commercial district. A zoning certificate valid for a period not to exceed two consecutive days shall only be issued three separate times for any particular lot within any 12-month period, and not more than one certificate may be issued at the same time for any lot. The applicant must submit a current vendor's license or transient vendor's license, and a written statement from the property owner giving his permission for such use. This section shall not be interpreted to prohibit any such use in any case where a valid covenant or deed restriction specifically authorizes such use. In any case, the zoning certificate shall be prominently displayed at the site. The Zoning administrator shall not issue a certificate for such temporary use if he determines that other significant temporary uses may be adversely affected by such proposed temporary use due to proximity, public safety and service requirements, or other relevant criteria.
- (4) [a\) Mobile businesses conducted by a business with an occupancy permit for a permanent location in a non-residential district, conducted in the parking lot of the permanent location, and conducted as part of the business plan for such business, shall be permitted without a zoning certificate.](#)
- [b\) Any other mobile business conducted on private property shall only be permitted only with a temporary zoning certificate, and such temporary zoning certificate shall be issued for no more than two consecutive days and for no more than eight days in any calendar month.](#)

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c) Mobile businesses located on a public parking space on a public street or in a public parking lot require approval from the Parks and Public Service Director, which approval shall specify the approved location for the mobile business and the approved length of time. Such approval shall be for no more than two consecutive days and for no more than eight days in any calendar month. A fee may be required by the City for use of its property as set forth in the fee schedule approved by Council.

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(5) Garage sales, which for the purposes of this section shall include yard sales, barn sales, and similar activities, may be permitted within any district in which residences are permitted. Any individual or family may conduct such sales upon the property at which he or they reside without obtaining a temporary zoning certificate provided that such sales shall not be conducted on more than six days in any calendar year on more than three consecutive days, so long as the provisions of this Zoning Ordinance pertaining to signs and parking are observed. Garage sale temporary zoning certificates shall only be issued to groups of families, neighborhood organizations, and community organizations two times within any 12-month period and shall not exceed a period of three consecutive days, so long as the provisions of this Zoning Ordinance pertaining to signs and parking are observed.

**Deleted:** non-residential without a zoning certificate, ~~Otherwise, a~~, and such temporary zoning certificate shall be issued ~~a~~, except such certificate may be issued for up to if the mobile business is conducted in a manner that has no relationship with the business on the property ~~a~~ require for ~~Such length of time may be for no more than a 2-day period, or 8 days per month for each location~~. A fee may be required by the City for use of its property.

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(6) Temporary construction access drives as needed to provide access to a development site on a temporary basis until such time the permanent access drive is installed. Such temporary access drive shall be reviewed by the City Engineer and the Zoning Administrator to be sure that the temporary access drive is located where it creates the least disturbance to existing surrounding development and scenic easement or natural areas.

(Ord. No. 2009-26, 10-20-2009)

#### 1145.23 - SANITARY SEWER REQUIREMENTS AND POLLUTION CONTROL.

All uses shall be conducted in conformance with regulations promulgated by the Environmental Protection Agency and the Delaware County Department of Health. Prior to the issuance of any zoning certificate, evidence of compliance with said regulations shall be presented to the Zoning Administrator.

#### 1145.24 - WATER IMPOUNDMENTS.

All water impoundments such as ponds and lakes shall be constructed and developed in compliance with the following standards:

- (a) Adjacent to State Route 750, Powell Road, Olentangy Street, Olentangy River Road, Sawmill Road and any road designated as a "parkway" in the Comprehensive Plan, no such pond or lake shall be located closer than 75 feet to the center line of the right-of-way or closer than 55 feet to the center line of any adjacent approved road.
- (b) No impoundment shall be located in a required front yard in any district except the R-Residence District, except upon issuance of a Conditional Use Permit Certificate pursuant to the provisions of this Zoning Ordinance or as approved in approved planned district development plans or approved subdivision plats.

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#### 1145.25 - DRAINAGE.

- (a) All construction within this municipality shall be accomplished in a manner consistent with maintenance of good surface drainage. In all improvements or uses where submittal of drainage plans is not specifically required, every reasonable effort shall be made to insure that proper drainage on the subject property and adjacent or servient properties is maintained or improved. Where applicable, the requirements of the Municipal City Engineer shall be complied with. In no event shall any person

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interdict or interfere with any existing tile or surface drain channel unless it is determined that such tile or channel can be removed or relocated without interfering with the drainage on adjacent properties.

- (b) No person shall place any dam or other flow restricting structure or device in any watercourse (Municipal Separate Storm Sewer System (MS4) or privately owned or operated) without first having obtained written approval from the City Engineer.
- (c) No person shall place or deposit or allow to accumulate into any watercourse (Municipal Separate Storm Sewer System (MS4) or privately owned or operated) within the City any garbage, trash, yard waste, soil, rock or similar material, or any other substance which obstructs flow in the system or damages the system or interferes with the proper operation of the system or which constitutes an illicit discharge pursuant to Section 521.12 or is a nuisance or a hazard to the public.
- (d) Persons shall maintain the privately owned or operated watercourse free of natural obstructions (trash, leaves, tree branches and similar obstructions) to the extent so as not to present a nuisance or a hazard to the public.

(Ord. No. 2004-49, 8-3-2004)

#### 1145.26 - FLOOD PLAIN REGULATION.

Certain limited areas lie within a flood plain area. Inundation of those areas during periods of high water can impose great loss of property value unless controls are imposed to insure that land uses within those areas consider such risks and minimize the impact of such flooding. In an effort to control such uses, in the best interest of the municipality, the following regulations shall be imposed:

- (a) The Planning and Zoning Administrator shall maintain on file for public examination, current maps, delineating the boundaries within the municipality of all lands designated "flood plain." In the event a property owner contests the boundaries of such flood plain, he shall be given reasonable opportunity to present technical evidence to support his position.
- (b) Open space uses shall be permitted within the flood plain to the extent that they are permitted within the zoning district controlling use of said land and provided they do not require structures, fill, or storage of material or equipment.
- (c) No structure shall be permitted within the flood plain and no use shall be permitted within the flood plain which will adversely affect the efficiency or which will restrict the capacity of the channel or floodway of any tributary to the main stream, drainage ditch, or other drainage facility of system.
- (d) No fill shall be deposited within the flood plain without permission from the Planning and Zoning Commission. Showing must be made that such fill is for some beneficial purpose and will be protected against erosion by rip-rap, vegetation cover or bulkheading. No dredging shall be permitted of the channel or floodway unless the applicant provides evidence to the Planning and Zoning Commission that all State and Federal permits are issued as required by law.

(e) See Chapter 1305 for other applicable Flood Hazard Regulations.

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#### 1145.27 - SPECIAL BUILDING SETBACK REGULATIONS.

No building or use shall be located closer to the centerline of adjoining existing or proposed roadways, streets, or highways than the distances set forth below unless deeper setbacks are provided for elsewhere herein, in the comprehensive plan, or in an approved planned district development plan.

- (a) Along the new Sawmill Parkway and along Powell Road west of existing Sawmill Road: 150 feet from centerline.
- ~~(b) All other roadways designated in the Comprehensive Plan as "parkways," Powell Road/Olentangy Street outside of the through-traffic-free zone, and existing Sawmill Road: 150 feet~~

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- (c) Liberty Street north of Grace Drive to Seldom Seen Road: 130 feet from centerline.
- (d) No less than 80 percent of these setback areas along Sawmill Parkway and North Liberty Parkway Street are to be in green lawn, natural woodlands, lakes, farm-land, or pasture. These setback areas at these locations are to be enclosed in lined with white three or four rail board fences or natural three or four rail split rail fences.
- (e) Where a parkway road meets a railroad track, the minimum building setback shall be no less than 250 feet measured from the centerline of the parkway road along the railroad right-of-way, tapering back to 150 feet at a distance of no less than 400 feet from the railroad right-of-way measured along the centerline of the parkway road.

(Ord. No. 98-25, 8-4-1998)

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#### 1145.28 - DRIVEWAY CONSTRUCTION.

It being considered important that driveways serving any property or use be constructed in a manner which insures access by emergency vehicles and the free and safe flow of traffic from public streets or roads, the following standards are established for such driveways:

- (a) *All driveways (any use).* In addition to the conditions or specifications imposed in subsections (b) or (c) hereinafter established, the following specifications are recommended for all driveways, regardless of the use served thereby:
- (1) Driveway shall not have a grade, up or down, from the public road pavement level exceeding eight percent.
  - (2) Driveway shall not, at any point over its entire length, contain a grade exceeding eight percent.
  - (3) At the point where the driveway intersects the public road, the same shall have such radii and drain pipe as specified or required by the governmental agency (state, county, or township) which controls the public roadway.
  - (4) If the driveway leaves the public road on an upgrade, design and construction shall include a vertical curve or saddle to prevent the flow of surface drainage from said driveway onto the traveled portion of the public road.
  - (5) If any driveway crosses a drainage swale, stream or ditch, the same shall be bridged by pipe or such structure as required to permit the unobstructed passage of all surface water generated by a five-year storm. Any pipe shall be of sufficient length to extend not less than three feet beyond the toe of the slope of the fill over said pipe unless a properly designed headwall is installed to protect the end of such pipe. Any bridge or structure spanning a stream or ditch shall be designed by a professional engineer with HS 15 loading. No bridge shall be less than 12 feet in width. If the driveway serves a commercial or industrial use, the bridge shall not be less than 18 feet in width.
  - (6) If a fill is placed over any drainage structure or placed to alter the grade of any driveway, the vertical slopes on said fill shall be no steeper than a two-to-one slope. All fill areas shall be scalped of vegetation and excavated to load bearing soil before fill material is placed over it. Such fill shall be free of all humus and organic material and shall be compacted to a density of 95 percent proctor. The fill shall be of sufficient width to include a compacted berm beside the graveled or paved area of reasonable width to facilitate safe passage of vehicles. Guard rails or barriers shall be installed when deemed necessary by the Zoning Administrator to create safe conditions.

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- (7) Drainage ditches shall be constructed as necessary parallel to said driveway which ditch should be graded to a good and sufficient outlet. Siltation control shall be placed in any ditch and such siltation shall not flow to roadside ditches along public roads.
  - (8) All curves in the driveway shall be of sufficient radius (not less than 50 feet) to permit unhindered passage of public safety vehicles, including fire vehicles and all other vehicles reasonably expected to utilize the same.
  - (9) All trees, overhanging branches or other obstructions to the free passage of public safety vehicles shall be removed.
  - (10) Obstructions on the prevailing wind-ward side of the driveway which contribute to drifting of snow shall, when possible, be removed.
- (b) *Residential Driveways.* In addition to the conditions imposed by subsection (a) hereinbefore set forth, the following standards are established for driveways serving residential structures or uses:
- (1) Driveways serving individual residential structures shall not be less than ten feet in width or greater than 20 feet in width at the property line and shall be constructed over an aggregate base of reasonable depth.
  - (2) If the driveway serves two or more residences (not including apartment structures), the same shall be 12 feet in width and shall be constructed over an aggregate base of reasonable depth.
  - (3) If any residential driveway is over 500 feet in length, widened paved passing areas at least 15 feet in width shall be provided at frequent intervals, but not more than 300 feet distant from each other, to permit the free passage of traffic over said drive.
  - (4) Dust control shall be provided on an "as needed" basis.
- (c) *Commercial, Industrial, Public Facility and Apartment Complex Driveways.* In addition to the conditions established by subsection (a) hereinbefore set forth, the following standards are established for driveways serving commercial and industrial uses and apartment complexes containing ten or more units and served by a common parking area:
- (1) Driveways shall be not less than 20 feet in width.
  - (2) Driveway base and surface shall be designed by a professional engineer to sufficient depth for anticipated use and access by public safety vehicles.
  - (3) The finished surface of the driveway shall be hard surfaced and may be of any Ohio Department of Transportation approved materials, such as concrete, asphalt or impervious pavers/pavement.
- (d) Concrete driveways in addition to the conditions imposed by subsections (a) and (b) or (c) hereinbefore set forth, the following construction standards are established for concrete driveways including the driveway apron and approach, whether or not such is intended for public or private use.
- (1) *Concrete usage; quality.* Any and all concrete used shall:
    - A. Contain a cement content of six bags per cubic yard at 94 pounds per bag of Portland cement.
    - B. Have an air entrainment of six percent to eight percent at the time of pour.
    - C. Consist of sound, coarse aggregate of one inch or smaller.
    - D. Contain no more water than will permit a slump between a minimum of four inches and a maximum of six inches.
    - E. Have a uniform thickness of four inches.
  - (2) *Curing; mixing; finishing.*



- A. Curing compound must be applied immediately after broom finishing, according to manufacturer's recommendation.
  - B. Calcium chloride or other admixtures shall not be added at the jobsite.
  - C. Minimum floating shall be required. A broom finish shall be required. Finishing must be delayed until water sheen (bleed water) has disappeared from the surface.
- (3) *Base.*
- A. Base must be smooth and consist of undisturbed or compacted earth. A stone, gravel, limestone screenings, or nonsettling material approved by the building official may be used as a leveling course. Excavations or trenches under a drive must be compacted or filled with nonsettling material.
  - B. Subgrade or base shall be dampened if it becomes dry before pouring.
- (4) *Joints.*
- A. Control joints, whether hand-tooled or sawn, shall be to a depth of one-quarter the thickness of the slab. The dimension of any control joint shall not exceed ten feet.
  - B. Isolation joints shall be required where concrete abuts any structure including, but not limited to, foundations, garage floors, stoops, and paved streets.
- (5) *Time of pour.*
- A. If the temperature in the surrounding area is below 70 degrees Fahrenheit, the maximum allowable time from loading to pour shall be one and one-half hours.
  - B. If the temperature in the surrounding area is above 70 degrees Fahrenheit, the maximum time from loading to pour shall be one hour.

(Ord. No. 92-01; Ord. No. 97-29, 6-17-1997)

#### 1145.29 - LANDSCAPING; PURPOSE.

The purpose of landscape regulation is to promote and protect the public health, safety, and welfare through preservation and protection of the environment in recognition of the vital importance of green plants and trees in the ecological system. It is further intended to specifically promote the orderly and attractive development of the public and private spaces between buildings that have a major impact on community values, to provide for the replacement of trees and major vegetations removed during the course of land development, and to promote utilization of landscape materials as buffers between certain land uses to minimize the possibility of nuisance and the elimination of distractions for traffic passing by or through a particular use area.

- (a) *Landscape Plan Required.* A landscape plan indicating present and proposed future topography, trees, shrubs, planting areas, walls, drives, parking areas, outdoor lighting and surface drainage facilities shall be submitted for approval with each request for a zoning variance, subdivision approval, conditional use permit, and planned district development plan approval, wherever a site plan is required to be filed, wherever a tree of six inches or greater in trunk diameter measured 24 inches from the ground level is to be removed or relocated, with each request for a zoning certificate for any use that abuts Powell Road, Olentangy Street, Liberty Street, Sawmill Road, Olentangy River Road, and any road designated as a "parkway" in the comprehensive plan, and for any other condition specified in this Zoning Ordinance where a landscape plan is required. The landscape plan shall illustrate the trunk diameter, type of tree, and location of every current tree of six inches in trunk diameter, and every proposed new tree planting.
- (b) *Landscape Plan Conformance Required.*

- (1) No certificate of zoning compliance, zoning certificate, or building permit shall be issued for any site development or for the construction or improvement of any building, structure, or ground area except in compliance with the requirements of this Zoning Ordinance through either direct construction/planting on the site or presentation of detailed signed contracts for the installation of plan mandated plant materials as soon as the weather permits.
- (2) The owner(s) of the premises effected by an approved landscape plan shall maintain such areas in a neat and clean condition, and shall maintain the landscape elements of the approved plan at all times, replacing dead or damaged materials as these needs arise.

(c) *Preservation of Trees and Woodlands.*

- (1) All possible efforts shall be made to preserve natural vegetation areas. The laying out of streets, lots, utilities, structures, and parking areas shall avoid the unnecessary destruction of heavily wooded areas or outstanding tree specimens. It is further required that whenever possible heavily wooded areas shall be designated as parkland or as natural environmental preserves.
- (2) All trees having a trunk diameter of six inches or greater as measured 24 inches from the ground level shall be preserved in their current location and condition unless such trees are exempted as follows:
  - A. Trees within public right-of-ways or utility easements;
  - B. Trees within the ground coverage of proposed structures or within 12 feet from the perimeter of such structure(s);
  - C. Trees within the driveway to service a permanent single-family home; and/or
  - D. Trees that, in the judgement of the Zoning Administrator are damaged, diseased, which interfere with utility lines, or are an inappropriate or undesirable species for that specific location.
- (3) Wherever possible, exempted trees shall be relocated and replanted on the subject site as an alternative to destruction. Destruction of trees exempted under the terms of B. or C. above shall only be undertaken following the submission of documented evidence that relocation and replanting is impossible due to the size, characteristics, or location of the exempted tree at issue.

(d) *Replacement of Destroyed Trees.*

- (1) For every tree having a trunk diameter of six inches or greater as measured 24 inches from the ground level that is destroyed in the course of development or construction, new trees shall be planted on the subject site having a total trunk diameter of no less than six inches as measured 24 inches from the ground level. No single replacement planting shall have a trunk diameter of less than one and one-half inches as measured 24 inches from the ground level.
- (2) For every tree having a trunk diameter of six inches or greater as measured 24 inches from the ground level that is destroyed in the course of development or construction for which a replacement as specified in (a), above, is not provided within one year of the date of destruction, the Planning and Zoning Commission may find the owner or applicant in violation of this Ordinance, and assess a fine of \$300.00 per violation, such fines to be used by the City to plant trees on public property or right-of-ways.

(Ord. No. 99-46, 9-7-1999)

1145.30 - MINIMUM REQUIRED TREES.

(a) For all new construction or land development for which a building permit and/or a zoning certificate is required there shall be trees provided for within the structure-related property lot lines equal to or in excess of the following total tree trunk diameters as measured 24 inches from the ground level for the specified building ground coverage square footage or land area square footage, by building and/or land use type, as follows: (The requirements for street trees and parking lot trees are in addition to the trees indicated on this table.)

(1) All residences and residential land uses, per dwelling unit:

$\frac{1}{2}$ " in trunk diameter for every 150 square feet or fraction thereof of building ground coverage, with a minimum of  $1\frac{1}{2}$ " of total trunk diameter:

Square Feet	Minimum Total Tree Trunk Diameter Required
Up to 450	$1\frac{1}{2}$ "
451—600	2"
601—750	$2\frac{1}{2}$ "
751—900	3"
901—1,050	$3\frac{1}{2}$ "
1,051—1,200	4"
1,201—1,350	$4\frac{1}{2}$ "
1,351—1,500	5"
1,501—1,650	$5\frac{1}{2}$ "
1,651—1,800	6"
1,801—1,950	$6\frac{1}{2}$ "
1,951—2,100	7"
2,101—2,250	$7\frac{1}{2}$ "
2,251—2,400	8"

2,401—2,550	8½"
2,551—2,700	9"
2,701—2,850	9½"
2,851—3,000 etc.	10"

- (2) All commercial structures, including commercial-related parking, loading and trash storage areas, and all industrial, warehouse, and storage uses and their associated parking, loading, and trash storage areas:

- A. Up to 20,000 square feet: 2" trunk diameter for every 2,000 square feet or fraction thereof, beginning with a minimum of 3" of total trunk diameter:

Square Feet	Minimum Total Tree Trunk Diameter Required
Up to 3,000	3"
3,001—4,000	5"
4,001—6,000	7"
6,001—8,000	9"
8,001—10,000	11"
10,001—12,000	13"
12,001—14,000	15"
14,001—16,000	17"
16,001—18,000	19"
18,001—20,000	21"

- B. 20,001 to 50,000 square feet: a total trunk diameter of 23", plus 2" of trunk diameter for every 2,000 square feet over 20,000 square feet or fraction thereof:

Square Feet	Minimum Total Tree Trunk Diameter Required
20,001—22,000	23"
22,001—24,000	25"
24,001—26,000	27"
26,001—28,000	29"
28,001—30,000	31"
30,001—32,000	33"
32,001—34,000	35"
34,001—36,000	37"
36,001—38,000	39"
38,001—40,000	41"
40,001—42,000	43"
42,001—44,000	45"
44,001—46,000	47"
46,001—48,000	49"
48,001—50,000	51"

- C. Over 50,000 square feet: A total trunk diameter of 53", plus 2" of trunk diameter for every 4,000 square feet over 50,000 square feet or fraction thereof:

Square Feet	Minimum Total Tree Trunk Diameter Required
50,001—54,000	53"
54,001—58,000	55"
58,001—62,000	57"
62,001—66,000	59"
66,001—70,000	61"
70,001—74,000	63"
74,001—78,000	65"
78,001—82,000	67"
82,001—86,000	69"
86,001—90,000	71"
90,001—94,000	73"
94,001—98,000	75"
98,001—102,000 etc.	77"

- (3) All office uses, institutional uses, convalescent and nursing homes and child day-care facilities, including related parking, loading and trash storage areas:

- A. Up to 19,500 square feet: 2" in trunk diameter for every 1,500 square feet or fraction thereof, beginning with a minimum of 2" of total trunk diameter:

Square Feet	Minimum Total Tree Trunk Diameter Required
-------------	--

Up to 2,250	2"
2,251—3,000	4"
3,001—4,500	6"
4,501—6,000	8"
6,001—7,500	10"
7,501—9,000	12"
9,001—10,500	14"
10,501—12,000	16"
12,001—13,500	18"
13,501—15,000	20"
15,001—16,500	22"
16,501—18,000	24"
18,001—19,500	26"

- B. Over 19,501 square feet: a total trunk diameter beginning at 28", plus 1" of trunk diameter for every 2,000 square feet over 19,500 square feet or fraction thereof:

Square Feet	Minimum Total Tree Trunk Diameter Required
19,501—21,500	28"
21,501—23,500	29"
23,501—25,500	30"

25,501—27,500	31"
27,501—29,500	32"
29,501—31,500	33"
31,501—33,500	34"
33,501—35,500	35"
35,501—37,500	36"
37,501—39,500	37"
39,501—41,500	38"
41,501—43,500	39"
43,501—45,500	40"
45,501—47,500	41"
47,501—49,500 etc.	42"

- (4) All natural environmental preserves, scenic easement areas, and areas to be dedicated to public or private parkland use:
- 1" in trunk diameter for every 1,000 square feet of land area or portion thereof, with a minimum of 1½" of total trunk diameter.
- (b) No new tree plantings shall be required if existing trees to remain on the site after development, and the aggregate trunk sizes of such trees, meet or exceed the requirements as set forth above. The minimum tree trunk diameter as measured 24 inches from the ground level for such existing trees remaining on the finished site shall be no less than one and one-half inches.
- (c) New tree plantings shall be no less than one and one-half inches in diameter as measured 24 inches from the ground level.
- (d) Any number of existing trees and new tree plantings, in combination, that are one and one-half inches or more in diameter, measured 24 inches from the ground level, may be used to meet the requirements of this Zoning Ordinance.



- (e) The Planning and Zoning Commission may determine that additional trees may be required in the event that existing trees used to meet the planting requirement do not adequately shield or landscape the building.
- (f) New tree plantings shall be selected from the following approved list of trees:

**Large Trees, 45 feet and over**

Black Maple, *Acer nigrum*

Freeman Maple, *Acer x freemanii*

Norway Maple, *Acer platanoides*

Red Maple, *Acer rubrum*

Sugar Maple, *Acer saccharum*

Black Alder, *Alnus glutinosa*

Turkish Filbert, *Corylus colurna*

European Beech, *Fagus sylvatica*

White Ash, *Fraxinus americana*

Green Ash, *Fraxinus pennsylvanica*

Ginko (Male only), *Ginkgo biloba* (male)

Honeylocust, *Gleditsia triacanthos inermis*

Kentucky Coffeetree, *Gymnocladus dioica*

Sweet Gum, *Liquidambar styraciflua*

Dawn Redwood, *Metasequoia glyptostroboides*

Black Tupelo, *Nyssa sylvatica*

London Planetree, *Platanus x acerifolia*

American Sycamore, *Platanus occidentalis*

White Oak, *Quercus alba*

Swamp White Oak, *Quercus bicolor*

Scarlet Oak, *Quercus coccinea*

Shingle Oak, *Quercus imbricaria*

Burr Oak, *Quercus macrocarpa*

Chinkapin Oak, *Quercus muehlenbergii*

Pin Oak, *Quercus palustris*

Chestnut Oak, *Quercus prinus*

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English Oak, *Quercus robur*

Red Oak, *Quercus rubra*

Shumard Oak, *Quercus shumardi*

Black Oak, *Quercus velutina*

Japanese Pagoda Tree, *Sophora japonica*

Baldcypress, *Taxodium distichum*

American Linden (Basswood), *Tilia americana*

Littleleaf Linden, *Tilia x euchlora*

Silver Linden, *Tilia tomentosa*

Japanese Zelkova, *Zelkova serrata*

**Medium Trees, Mostly 35—45 feet**

~~Hedge Maple, *Acer campestre*~~

Purpleblow Maple, *Acer truncatum x plantanoides*

River Birch, *Betula nigra* (tree form)

European Hornbeam, *Carpinus betulus*

~~American Hornbeam, *Carpinus caroliniana*~~

Katsura Tree, *Cercidiphyllum japonicum*

American Yellowwood, *Cladrastis lutea*

Hardy Rubber Tree, *Eucommia ulmoides*

~~Goldenraintree, *Koelreuteria paniculata*~~

Magnolia Hybrids, *Magnolia* sp. (tree form)

American Hophornbeam, *Ostrya virginiana*

~~Amur cork tree, *Phellodendron amurense*~~

Sargent Cherry, *Prunus sargentii*

Sawtooth Oak, *Quercus acutissima*

Lacebark Chinese Elm, *Ulmus parvifolia*

**Columnar, Fastigate or Narrow Pyramical Types**

~~Erect Norway Maple, *Acer platanoides*, "Erectum"~~

Scanlon Red Maple, *Acer rubrum*, "Scanlon"

Turkish Hazel, *Corylus colurna*

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Dawyck European Beech, *Fagus sylvatica* "Dawyck"

Ginkgo, *Ginkgo biloba* 'Princeton Sentry' (male only)

American Sweetgum, *Liquidambar styraciflua* 'Slender Silhouette'

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Pyramidal English Oak, *Quercus robur*, "Fastigiata"

#### **Small Trees, Mostly 10—25 feet**

Trident Maple, *Acer buergeranum*

~~Amur Maple, *Acer ginnala* (tree form)~~

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Canyon Maple, *Acer grandidentatum*

Paperbark Maple, *Acer griseum*

Tatarian Maple, *Acer tataricum*

Serviceberry, *Amelanchier* sp. (tree form)

Thornless Cockspur Hawthorn, *Crataegus crusgalli*

Lavelle Hawthorn, *Crataegus x lavellei*

Thornless Thicket Hawthorn, *Crataegus punctata*

Green Hawthorn, *Crataegus viridis*

Amur Maackia, *Maackia amurensis*

Crabapple, *Malus* sp. (oval, upright forms only)

Cherry, *Prunus* spp. (including weeping forms)

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Japanese Tree Lilac, *Syringa reticulata*

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Blackhaw Viburnum, *Viburnum prunifolium*

#### **Park Trees**

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##### Large Trees

White Fir, *Abies concolor*

Red Maple, *Acer rubrum*

Yellow Buckeye, *Aesculus flava*

Northern Catalpa, *Catalpa speciosa*

Hackberry, *Celtis occidentalis*

Persimmon, *Diospyros virginiana*

Pignut Hickory, *Carya glabra*

Shellbark Hickory, *Carya laciniosa*

Shagbark Hickory, *Carya ovata*

American Beech, *Fagus grandifolia*

Eastern Redcedar, *Juniperus virginiana*

Eastern Larch, *Larix laricina*

Tuliptree, *Liriodendron tulipifera*

Cucumbertree Magnolia, *Magnolia acuminata*

Norway Spruce, *Picea abies*

White Spruce, *Picea glauca*

Colorado Spruce, *Picea pungens*

Eastern White Pine, *Pinus strobus*

Black Cherry, *Prunus serotina*

Douglasfir, *Pseudotsuga menziesii*

Overcup Oak, *Quercus lyrata*

Willow Oak, *Quercus phellos*

Sassafras, *Sassafras albidum*

Eastern Hemlock, *Tsuga canadensis*

#### Medium Trees

Carolina Silverbell, *Halesia carolina*

White Cedar, *Thuja occidentalis*

#### Small Trees

Red Buckeye, *Aesculus pavia*

Pawpaw, *Asimina triloba*

Eastern Redbud, *Cercis canadensis*

Pagoda Dogwood (Alternate-leaf Dogwood), *Cornus alternifolia*

Flowering Dogwood, *Cornus florida*

Common Hoptree (Wafer Ash), *Ptelea trifoliata*

- (g) Trees not included above may be approved for utilization upon submission of a letter of recommendation of approval of this additional species from the Urban Forester of the Ohio Department of Natural Resources addressed to the Zoning Inspector. Upon receipt of such a letter, and an action of acceptance by the Planning and Zoning Commission, this additional approved tree shall be added to this listing. The Zoning Inspector shall keep a file of such approvals and shall add newly approved trees to this list in subsequent printings of this Zoning Ordinance.
- (h) Red Oak, Black Tupelo, Sassafras, and Magnolia trees planted to meet the requirements of this Zoning Ordinance shall only be planted in the spring.
- (i) New street tree plantings shall be required for all new commercial, industrial, office and institutional developments, as selected from the above listed approved trees and following the street tree planting guidelines as published by the City, Powell Arbor Advisory Committee.

(Ord. No. 99-46, 9-7-1999)

#### 1145.31 - REQUIRED LANDSCAPING OF PARKING AREAS.

In all parking areas in which more than ten parking spaces are required, there shall be one parking bay (space) left unpaved, but concrete curbed, filled with sodded grass, and containing no less than one deciduous tree of one and one-half inch trunk diameter or more, measured 24 inches from the ground, for every eight parking spaces, or portion thereof, provided. No more than eight parking spaces shall be provided side-by-side in any aisle without interjection of such a "planting bay". Every parking aisle that is bounded at an end by a traffic lane shall be terminated at such traffic lanes by such a "planting bay."

#### 1145.32 - REQUIRED LANDSCAPING AROUND BUILDING FOUNDATIONS.

In all commercial, office and industrial zoning district, as well as nonresidential buildings in residential zoning districts, landscaping consisting of a variety of trees, shrubs, perennial and annual flowers, and other perennial or annual plants shall be planted as part of the overall landscaping plan for that property. At a minimum, at least 70 percent of the lineal footage around the perimeter of a structure shall be landscaped in this manner. Shrubs or hedges shall be grouped rather than spaced as single shrubs at regular distances. A minimum of five shrubs shall be planted in every 40 feet of lineal building perimeter. A minimum of ten perennial or annual plants and/or flowers shall be planted in every 40 feet of lineal building perimeter. All landscaping shall be done following the best professional standard practices.

(Ord. No. 99-46, 9-7-1999)

#### 1145.33 - SCREENING.

Screening or buffering in compliance with the provisions of this section shall be provided:

- (a) For any permitted or conditionally permitted non-residential uses which abut any residential district, or current residence, in addition to setback and yard requirements provided elsewhere in the Ordinance. Applicants for a zoning certificate may request a variance from yard or setback

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requirements in conjunction with a plan for screening, which the Board of Zoning Appeals may consider by weighing the relationship of the proposed screening plan and the requested dimensional variance with respect to their joint impact upon neighboring properties. Such requested variance for a conditionally permitted use shall be incorporated in the conditional use procedure specified in Chapter 1129. The following provisions shall apply with respect to screening.

- (1) Screening shall be provided for one or more of the following purposes:
    - A. A visual barrier to partially or completely obstruct the view of structures or activities.
    - B. An acoustic screen to aid in absorbing or deflecting noise.
    - C. A physical barrier to contain debris and litter.
  - (2) Screening may consist of one of the following, or a combination of two or more, as determined by the Planning and Zoning Commission, Zoning Inspector or Board of Zoning Appeals, in the event of a development plan review, appeal, variance, or conditional use:
    - A. A solid masonry wall;
    - B. A solidly constructed decorative fence;
    - C. A louvered fence;
    - D. A dense vegetative planting;
    - E. A landscaped mounding.
  - (3) Height of screening shall be in accordance with the following:
    - A. Visual screening walls, fences, plantings, mounds or a combination of these elements shall be a minimum of five and one-half feet high in order to accomplish the desired screening effect. Plantings shall be a minimum of four feet in height at the time of planting.
    - B. A dense vegetative planting with a minimum height of four feet at planting and a mature height of at least five and one-half feet or greater, or a solidly constructed decorative fence, shall be permanently maintained along the mutual boundary of an accessory parking area and adjacent land zoned for or currently used for residential uses, except for the portion of such boundary located within a required front yard.
  - (4) Screening for purposes of absorbing or deflecting noise shall have a depth of at least 15 feet of dense planting or a solid masonry wall in combination with decorative plantings. The height shall be adequate to absorb noise as determined by the Zoning Administrator in relation to the nature of the use.
  - (5) Whenever required screening is adjacent to parking areas or driveways, such screening shall be protected by bumper blocks, posts, or curbing to avoid damage by vehicles.
  - (6) All screening shall be trimmed, maintained in good condition, and free of advertising or other signs, except for directional signs and other signs for the efficient flow of vehicles as permitted by other elements of this Zoning Ordinance.
- (b) For service courts and loading dock areas in non-residential districts, both planned and standard, all areas used for service, loading and unloading activities shall be adequately screened from sight from adjacent or abutting residences, zoned residential areas, public ways, and public lands. Such screenings shall:
- (1) Consist of walls, fences, landscape materials, or an acceptable combination of these elements, provided that the height of any wall or fence structure is no less than seven feet and no more than 12 feet.
  - (2) Cover a minimum of 75 percent of the area of the visual face of the adjacent or abutting residential or residentially zoned property, public way or public land extending to a height of

nine feet from ground level. In addition, such screenings during minimum foliage shall have a minimum opaqueness of 75 percent. The use of year-round vegetation, such as pines or evergreens is encouraged.

- (3) Be no closer than three feet to any property line.
- (c) For trash containers and receptacles in commercial, office, and industrial districts for multi-family residential developments in any district, trash containers and refuse areas shall be adequately screened from sight by walls, fences, landscaping materials or an acceptable combination of these elements, provided that:
  - (1) The height of such walls, fences or landscaping is no less than six feet and the height of walls and fences does not exceed ten feet, and
  - (2) All screening during minimum foliage shall have a minimum opaqueness of 75 percent. The use of dense year-round vegetation, such as spruce, pines or evergreens is encouraged.
- (d) (1) Where commercial and/or office uses abut an existing residential district, or residential area of a planned district, screening shall be provided between such uses on the commercial or office site. Such screening shall cover a minimum of 50 percent of the area of the visual face formed by the rear and side property lines extended vertically to a height of seven feet, and extended horizontally between the side lot lines for the rear property line and between the front building line and the rear property line for side lot lines. Where trees and/or shrubs are used for such screening purposes, such landscape materials shall be located no closer than three feet to any property line.
- (2) Such screening, during minimum foliage, shall have a minimum opaqueness of 75 percent; walls or fence structures constructed for this purpose shall have a minimum height of four feet. The use of dense year-round vegetation, such as pines or evergreens is encouraged.
- (e) (1) Where industrial, warehouse, and/or storage uses abut an existing residence, residential district, or residential area of a planned district, screening shall be provided between such uses on the industrial, warehouse, and/or storage site. Such screening shall cover a minimum of 80 percent of the area of the visual face formed by the rear and side property lines extended vertically to a height of ten feet, and extended horizontally between the side lot lines for the rear property line, and between the front building line and the rear property line for side lot lines. When trees and/or shrubs are used for such screening purposes, such landscape materials shall be located no closer than three feet to any property line.
- (2) Such screening, during minimum foliage, shall have a minimum opaqueness of 80 percent; walls or fence structures constructed for this purpose shall have a minimum height of seven feet and maximum height of 12 feet. The use of dense year-round vegetation, such as pines or evergreens, is encouraged.

(Ord. No. 99-46, 9-7-1999)

#### 1145.33.1 - HAZARD TREES.

The Zoning Administrator may identify hazard trees in the Municipality. Hazard trees are hereby defined as any tree within the Municipality that is dead, diseased or otherwise threatening to fall within public lands or public right of way or easements as determined by the Zoning Administrator. If a hazard tree is identified, the Zoning Administrator shall notify the owner of the hazard tree and require the owner to remove the hazard tree. The owner has the right to hire a Certified Arborist to determine if the tree is not hazardous. A copy of the report from the Certified Arborist shall be given to the Zoning Administrator if the owner wishes to have the tree remain. The Zoning Administrator has authority to enter onto any property within the Municipality to determine if a tree is a hazard to the public health, safety and welfare. If an owner does not remove a hazard tree within 30 days after being notified that the tree is a hazard, the Municipality

may then go on to the property and cause the removal of the hazard tree. All expenses incurred by the Municipality in removing the hazard tree shall be borne upon the owner of the property.

(Ord. No. 99-46, 9-7-1999)

#### 1145.33.2 - NATURAL LANDSCAPING.

- (a) *Private Naturally Landscaped Lot Defined.* A private naturally landscaped lot is a privately owned residential lot which is landscaped so as to exhibit the deliberate and conscious decision to plant, cultivate and maintain those native or naturally occurring species identified as wildflower and prairie grasses in commonly accepted publications on natural landscaping as recommended by the Ohio Department of Natural Resources, Ohio Environmental Protection Agency or other governmental agencies. These publications must be accepted by the Zoning Administrator. The lot must have coverage of more than 30 percent of the lot in front of the house or main building in order to be considered a naturally landscaped lot. Wooded front yards or wooded rear yards, 70 percent or greater coverage with trees shall not be subject to these natural landscaping requirements. Non-residential lots shall be allowed to landscape as a natural landscaped lot.
- (b) *Zoning Certificate Not Required.* A Zoning Certificate is not required in order to have a naturally landscaped lot. However, the following standards are required for individuals desiring a naturally landscaped lot:
  - (1) *Setback.* Natural landscaping on private lots shall be located no closer than two feet from the public sidewalk or street right-of-way, or within four feet of any other property line; provided however, no rear or side yard setback shall be required where the natural landscaping material abuts permitted natural landscaping material on an adjacent lot. Natural landscaping shall not be allowed within the area between the sidewalk and curb, except for small areas around a mailbox.
  - (2) *Lot coverage.* The maximum coverage of any naturally landscaped lot shall be 50 percent of the lot area in front of the house and 50 percent in back of the house, not otherwise covered by buildings, decks, driveways and other accessory uses.
  - (3) *Maintenance.* A naturally landscaped lot shall be maintained using the best management practices as described in commonly accepted publications on natural landscaping as recommended by the Ohio Department of Natural Resources, Ohio Environmental Protection Agency or other governmental agencies. These publications must be accepted by the Zoning Administrator.
- (c) *Compliance.* Compliance with this section shall be required at the earliest time allowed by law. For existing properties that can be defined as a naturally landscaped lot, compliance with this section shall be accomplished within six months of the effective date of this section.
- (d) *Enforcement and Penalties.* Refer to Section 1135.20 and Section 1135.21 for Penalties and Fines and Additional Remedies.

(Ord. No. 01-26, 6-19-2001)

#### 1145.34 - FENCES, WALLS, SHRUBBERY, AND HEDGES IN "RESIDENCE" (R), "OLD POWELL RESIDENCE" (OPR), AND "PLANNED RESIDENCE" (PR) DISTRICTS, AS WELL AS IN ALL RESIDENTIAL PORTIONS OF OTHER PLANNED DISTRICTS; PURPOSE.

It is the purpose of this section to promote and protect the public health, welfare and safety by establishing regulations controlling the use of fences, walls, shrubbery and hedges, assuring residents of residential areas privacy and personal preference in landscape design within their own properties subject to and with due consideration of the environment of neighbors, the appearance of the community as a whole, and the safety of the public and the individual.



(a) *Definitions.*

- (1) *Fence*: Any structure regardless of its composition, including a [wall that](#) is erected in such a manner or position so as to enclose, partially enclose, or divide any property or part thereof from an adjoining premises. Trellises or other structures supporting vegetation, when erected in such a position as to enclose, partially enclose, or divide any premises from an adjoining premises, shall also be considered a fence.
- (2) *Solid fence (wall)*: Those structures which have less than 50 percent free and open space. Gates and openings shall not be counted as free or open space when determining whether or not a fence is considered solid. Structures erected on other than on lot lines or in close proximity to lot lines or easement lines which have a solely ornamental purpose and which do not in fact serve the purpose of enclosing, or partially enclosing, or dividing a premises or any part thereof from an adjoining premises shall not be included within the definitions of the words "fence" or "wall."
- (3) *Barbed wire fence*: A wire fence with metal barbs or sharp points protruding at intervals.
- (4) *Chain link fence*: A fence made of metal consisting of loops of wire interconnected in a series of formed links.
- (5) *Electrified fence*: A fence or structure designed to carry an electric charge, impulse, or shock when same comes into contact with any other object, person, or thing, or which causes or may cause burns to any person or animal.
- (6) *Open ornamental fence*: Any structure composed of wood or metal constructed for beauty or decorative effect having not less than 50 percent free and open space. Such fences include "rail" or "split rail" fences, meaning fences constructed of narrow, whole or split wooden timbers placed horizontally between upright supporting poles, and "picket" fences, meaning a fence with an open face made of upright poles or slats.
- (7) *Stockade/privacy fence*: Any structure consisting of a row of large pointed or flat stakes, slats, or posts placed upright against each other or made of interwoven strips or slats of flexible or semi-flexible materials, or made of a series of slats placed at an angle or position so as to provide air but to deflect light perpendicular to its vertical plane, or similar structure.
- (8) *Shrubbery of hedges*: Natural growth without thorns placed in a series and intended to be utilized as a fence as otherwise provided herein.

(b) *Requirements.*

- (1) No fence or wall located in a rear yard area shall exceed five feet in height above the finished grade. In any required front yard, no fence or wall shall be permitted which practically impedes vision across such yard above the height of two and one-half feet, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the height of two and one-half and six and one-half feet.
- (2) Supporting members for wall and fences shall be installed so as not to be visible from any other property which adjoins or faces the fences or walls being installed. This requirement shall not apply to fences or walls which are designed so that supporting members are identical in appearance on both sides of the fence or wall.

- (c) *Permit and Inspection.* No fence or wall shall be erected or constructed until a fence permit has been issued by the Zoning Administrator who shall review each request to determine compliance with this Section. Application for such permit shall be made in writing by the property owner or individual in possession of such property and shall be accompanied by plans or drawings showing the actual shape and dimension of the lot on which the fence or wall is to be erected, the exact height, location, length, type of material, and type of construction of such proposed fence or wall and the location of all buildings on the lot and on adjoining lots. The fee for such fence or wall permit shall be established by Council. All fences which have been inspected and are in compliance with the provisions of this Zoning Ordinance shall receive a certificate of compliance.

- (d) *Prohibited Fences or Walls.* Prohibited fences or walls include any fence exceeding five feet in height, barbed wire fences, chain link fences, interwoven (plastic, metal, fiber glass or similar composition) fences, stockade type fences consisting of a row of large pointed or flat stakes, slats or poles placed upright against each other, and boundary line (including property and easement boundary lines) electrified fences.
- (e) *Permitted Fences.*
- (1) Open, ornamental fences, and shrubbery fences or hedges shall be permitted styles of fences within the municipality of Powell. Privacy fences will only be permitted in rear or side yards subject to the following:
  - (2) Privacy fences of any material may be erected not more than five feet in height, measured from the grade, providing written consent is obtained from record owners of all adjacent lots and all lots within 200 feet. Written consent by the record owners of the aforementioned parcels, both affected and adjoining, must be filed with the Zoning Administrator.
  - (3) Fences or walls of wood or masonry construction not more than six feet in height as measured from the floor grade of a patio or deck may be erected around the perimeter of said patio or deck as long as no portion of said patio or deck, fence or wall, is within a required setback, natural open space preserve, or easement.
- (f) *Trees, Shrubberty, and Hedges.* Trees, shrubbery, and/or hedges shall only be permitted in locations that are outside of established utility and drainage easements. Any tree, shrub, or hedge found to be located on public property or in an established utility or drainage easement may be removed by the Municipality at any time.
- (g) *Location of Fences.*
- (1) All fences or walls constructed in accordance with this Zoning Ordinance shall be erected in a manner consistent with the maintenance of good surface drainage. Any construction of fences will be made to insure the proper drainage on the subject property and adjacent or servient properties. In no event shall any person interdict or interfere with any existing tile or surface drain channels or areas which have either shown or have been designated as surface drainage channels unless it is fully determined beyond doubt that such tile or channel can be removed or relocated without interfering with the drainage of adjacent properties or parcels. No fence will be constructed or installed within the Municipality in the course of any easement for public utilities or drainage easement without the approval of the public utility and with concurrence of the City Engineer and Zoning Administrator. Any denial of concurrence by the City Engineer or Zoning Administrator shall be in writing and shall state the basis therefor. Fences shall not be located within a public right-of-way. All structural members used in the construction of fences shall be on the interior side of the fence. All permitted fences shall have no less than three inches of distance between the ground and the fence to promote good surface drainage.
  - (2) On a corner lot, no fence or wall shall be erected, placed, planted, allowed to grow, or maintained within the triangular yard space formed by the intersecting street lines and a line joining points on such street lines 50 feet from the point of intersection of the street lines.
- (h) *Maintenance.* All permitted fences and walls shall be maintained in good condition, shall be structurally sound, and shall be attractively finished at all times. Any grounds between such structures or fences and property lines shall be maintained in a neat, clean, and well cared for condition at all times. The Zoning Administrator for the Municipality of Powell may issue citations for fences or walls which are in disrepair.
- (i) *Penalty.*
- (1) Any person, firm, corporation, partnership, or entity which constructs, erects, or places a fence in violation of this Zoning Ordinance or causes or permits a fence to be erected in violation of this Zoning Ordinance shall be fined not more than \$25.00 per day. Each day that said violation continues shall be considered a separate offense. Any person, firm, corporation, partnership, or entity which fails to repair a fence after being notified that a repair is required shall be fined not

more than \$25.00 per day for violation of this Zoning Ordinance. Each day said fence continues in a state of disrepair shall be considered a separate offense.

- (2) In addition to all other penalties contained herein, the municipality of Powell may seek an order from a Court of competent jurisdiction for removal of any fence which violates the provisions of this Zoning Ordinance.
- (j) *Variance*. Variances from the above requirements, except for corner lots, may be permitted by the Board of Zoning Appeals without a public hearing if written consent is obtained by all record owners and affected properties. Additionally, the Planning and Zoning Commission or the Board of Zoning Appeals may, when acting within their review procedures, exempt a fence or wall from this Zoning Ordinance when it is determined that the health, safety, or general welfare would be best served by such an exemption.

(Ord. No. 91-40; Ord. No. 98-25, 8-4-1998)

#### CHAPTER 1147 - SPECIAL REGULATIONS<sup>[21]</sup>

Sections:

Footnotes:

--- (21) ---

**Cross reference**— Supplementary district regulations, Ch. 1145; Signs, Ch. 1151

##### 1147.01 - GENERAL.

It is the purpose of these special regulations to promote the public health, safety, and welfare and to establish regulations affecting uses and practices which, were they to be established and maintained without any guidance or restriction or control, tend to result in dangerous situations threatening the safety of citizens, to contribute to circumstances undermining the morals of the youth of the community, or to generate conflicts in uses or practices upsetting the harmony of the community and impinging upon the property rights of others.

##### 1147.02 - RESERVED.

##### 1147.03 - AMUSEMENT ARCADES.

The following regulations shall apply to amusement arcades as herein defined.

- (a) *Purpose*. The purpose of this section is to promote the public health, safety and welfare by regulating amusement arcades where mechanically or electronically operated amusement devices are kept, operated, or maintained. It is further the intent of these sections to coordinate the provisions of this Zoning Ordinance with the requirements of any other code governing the licensing and regulation of mechanical amusement devices in such a manner that, in the event of any conflict between the respective regulations, the more restrictive requirement or the more severe penalty shall prevail.
- (b) *Definitions*. The following definitions shall apply in interpretation of this section:

- (1) *Amusement arcade* means a place of business within a building or any part of a building having more than five mechanical or electronically operated amusement devices which are used for the purpose of public entertainment through the operation, use, or play of any table game or device commonly known as an electronic game which is operated by placing therein any coin, plate, disc, slug, key, or token of value by payment of a fee.
  - (2) *Mechanical or electronically operated amusement device* means any machine, device or instrument which, by payment of a fee or other things of value, or by the insertion of a coin, plate, disc, slug, key or token, operates or may be operated as a game, contest or amusement, and which contains no automatic pay-off device for the return of money, coins, tokens or merchandise or check redeemable in money or anything of value. "Mechanical or electronically operated amusement device" includes, but is not limited to, devices such as mechanical baseball, mechanical football, pinball machines, any table game or device commonly known as an electronic game, and other similar types of devices; provided however, that this definition is not intended to, nor shall it be construed to, include merchandise vending machines or coin operated mechanical or electrical musical instruments or devices.
  - (3) *Exhibitor* means any person owning and exhibiting or contracting or permitting any mechanical or electrically operated amusement device to be installed, used and exhibited in his own place of business, irrespective of the ownership of such device.
- (c) *Conditional Use Permit Required.* No amusement arcade shall be established, operated or maintained in any place of business or on any premises unless authorized by the issuance of a conditional use permit in accordance with the provisions of Chapter 1129. In addition to said provisions, amusement arcades shall comply with the following conditional use criteria:
- (1) Amusement arcades shall comply with the district regulations applicable to all properties in any zoning district in which they are located.
  - (2) Amusement arcades shall have an adult who is 18 years of age or over on the premises and supervising the amusement arcade at all times during its hours of operation.
  - (3) Amusement arcades shall have necessary security personnel as required by the appropriate law enforcement agency to police the interior and exterior of the premises.
  - (4) The interior of the amusement arcades shall provide a minimum area per coin-operated amusement device equal to the size of the device plus two feet of area on either side plus an area of four feet in front of the device.
  - (5) Prior to issuance of a conditional use permit the applicant shall provide evidence that the structure meets the minimum requirements of the appropriate electrical and fire codes.
  - (6) If the place of business or premises for which an amusement arcade is proposed is a free standing building, the application for the conditional use permit shall include an approvable exterior lighting plan.
  - (7) In establishments which serve alcoholic beverages, any area containing amusement devices shall be visually separated from that portion or portions of the establishment wherein alcoholic beverages are served or sold for carrying out of the premises.
  - (8) No amusement arcade may be established, operated or maintained in any place of business or on any premises which is within 500 feet of any adult entertainment business.
  - (9) The application for the conditional use permit shall be accompanied by a copy of the applicant's license to operate and exhibit amusement devices, and a notarized statement that the applicant shall not permit any person under 14 years of age or younger to operate any devices on the premises before 4:00 P.M. on days when school is in session.
- (d) *Zoning of Amusement Arcades.* Amusement arcades shall be conditionally permitted uses only in planned commercial districts.

- (e) *Maintenance of a Nuisance Prohibited.* It shall be the obligation of the exhibitor of an amusement arcade to maintain peace and quiet and order in and about the premises. Failure to do so shall constitute a nuisance, which shall be a minor misdemeanor.
- (f) *Restricted Access to Certain Minors.* No amusement arcade exhibitor shall permit, on days when school is in session, any person 14 years of age or younger to operate any mechanical or electrically operated amusement device or to be or remain in an amusement arcade before 4:00 p.m. This provision does not apply to juke boxes, mechanical musical instruments, or other mechanical amusement devices designed to be ridden, such as mechanical horses, automobiles, and carrouseles. Violations of this provision shall be a minor misdemeanor.
- (g) *Complaints Regarding Amusement Arcades.*
  - (1) Any resident of the Municipality may submit a written notice of complaint regarding the operation of any amusement arcade to the Zoning Administrator. The notice of complaint shall include the name and address of the complainant, the address of the location of the amusement arcade, and the specific reasons why the individual is complaining.
  - (2) If the Zoning Administrator determines, after interviewing both the complainant and the amusement arcade exhibitor, that the specific reasons in the complaint appear to be proper grounds for suspension or revocation of the conditional use permit, he shall refer the matter to the Board of Zoning Appeals.
- (h) *Revocation of Conditional Use Permit.* The Zoning Administrator shall revoke the conditional use permit for any amusement arcade in the event that the license to operate such amusement arcade is revoked. In addition, the Zoning Administrator shall revoke the conditional use permit for any amusement arcade if so determined pursuant to the action of the Board of Zoning Appeals, or to the final decision from appeal to the Council, according to the provisions of subsection (i) hereof.
- (i) *Procedure for Revocation.* The Zoning Administrator shall notify in writing the Board of Zoning Appeals whenever he has reason to believe that the operation of an amusement arcade has resulted in a violation of any provision of this Zoning Ordinance. Within ten days from said notification the Board of Zoning Appeals shall hold a public hearing to determine whether the conditional use permit should be revoked. Notice of this hearing shall be served on the amusement arcade exhibitor and, if the Zoning Administrator referral to the Board of Zoning Appeals originated from a complainant, to the complainant, at least five days before the hearing. The Board of Zoning Appeals may also give such other notice as it deems appropriate, including notice to property owners and notice [on the Municipality of Powell website](#). The Board of Zoning Appeals shall make a decision within five days after the hearing and shall notify the amusement arcade exhibitor and, if applicable, the complainant. The decision of the Board of Zoning Appeals may be appealed to Council within ten days of its issuance of said decision. The Council shall hold a public hearing within 20 days of its receipt of such appeal, after giving public notice of such hearing [on the City website](#), at least five days prior to the date of the hearing, and shall make a final determination on the revocation of the conditional use permit within a reasonable time.

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#### 1147.04 - ADULT ENTERTAINMENT BUSINESSES.

The following regulations shall apply to adult entertainment business as herein defined.

- (a) *Purpose.* The purpose of this section is to promote the public health, safety and welfare through the regulation of adult entertainment businesses. It is the intent of these sections to regulate such entertainment businesses, as defined herein, in such a manner as to prevent erosion of the character of the surrounding neighborhoods and to prohibit the establishment of such businesses within close proximity to existing adult entertainment businesses, residentially zoned areas, schools, churches, parks and playgrounds within the City. Except as provided for herein, adult entertainment businesses and/or adult entertainment facilities, as hereinafter defined, are not permitted in the Municipality of Powell.
- (b) *Definitions.* The following definitions shall apply in the interpretation of this Zoning Ordinance:

- (1) *Adult entertainment business* and/or *adult entertainment facility* includes, but is not limited to the following: adult book store, adult motion picture theater, adult drive-in motion picture theater, adult only entertainment establishment, adult arcade, adult dancing establishment, and massage establishments. Regardless of any other provision contained herein, any commercial establishment that profits from the exposition of specified anatomical areas or specified sexual activities shall be deemed to be an adult entertainment business or facility as defined herein.
- (2) *Adult arcade* means an establishment where for any form of consideration, one or more motion picture projectors, slide projectors, VCR's or similar machines for viewing by five or fewer persons, which are used to show films, motion pictures, slides, videotapes or other photographic reproductions which are characterized by emphasis upon the depiction or description of specified sexual activities or specified anatomical areas. For the purpose of this Zoning Ordinance, an adult arcade is included within the definition of an adult motion picture theater.
- (3) *Adult book store* means an establishment which utilizes ten percent or more of its retail selling area for the purpose of retail sale or rental, or offers of sale or rental, for any form of consideration, or for the purpose of display by coin or slug-operated, or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices, or both, books, magazines, other periodicals, novelties, devices, films, tapes and/or cassettes which are distinguished by their emphasis on adult materials as defined in this section. Establishments with less than ten percent of retail selling area dedicated to these purposes shall not be considered an "adult book store" if such material is kept in a location where it is not visible to customers of such place.
- (4) *Adult dancing establishment* means a commercial establishment that permits, suffers, or allows dancers to display or expose specified anatomical areas. Any establishment on whose premises an employee displays or exposes specified anatomical area or areas shall be deemed to be an adult dancing establishment and shall be subject to the provisions of this Zoning Ordinance.
- (5) *Adult motion picture booth* means an enclosed area designed or used for the viewing by one or two persons of motion pictures, films, video cassettes, slides or other photographic reproductions which have as their primary or dominant theme matters depicting, illustrating, or relating to specified sexual activities or specified anatomical areas. For the purposes of this Zoning Ordinance, an adult motion picture booth is included within the definition of an adult motion picture theater.
- (6) *Adult motion picture theater* means an enclosed motion picture theater which is regularly used or utilizes 15 percent or more of its total viewing time, for presenting material on a regular basis, for any form of consideration, distinguished or characterized by an emphasis on matter depicting, describing or related to adult material as defined in this section, and includes any facility such as a hotel or motel, which advertises the presentation of such material. For the purpose of this Zoning Ordinance, an adult motion picture theater includes both an adult arcade and an adult motion picture booth.
- (7) *Adult motion picture drive-in theater* means an open air drive-in theater which is regularly used or utilizes 15 percent or more of its total viewing time, for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to adult material as defined in this section.
- (8) *Adult only entertainment establishment* means an establishment where the patron directly or indirectly is charged a fee where the establishment features entertainment or services which constitute adult material as defined in this section, or which features exhibitions, dance routines, or gyrational choreography of persons totally nude, topless, bottomless, or strippers, male or female impersonators or similar entertainment or services which constitute adult material.

- (9) *Adult material* means any book, magazine, newspaper, pamphlet, poster, print, picture, slide, transparency, figure, image, description, motion picture film, phonographic record or tape, other tangible thing, or any service, capable of arousing interest through sight, sound, or touch, and:
- A. Which material is distinguished or characterized by an emphasis on matter displaying, describing, or representing sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination; or
  - B. Which service is distinguished or characterized by an emphasis on sexual activity masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination.
- (10) *Bottomless* means less than full opaque covering of male or female genitals, pubic area or buttocks.
- (11) *Commercial* means operated for pecuniary gain; pecuniary gain shall not depend on actual profit or loss.
- (12) *Consent* means acquiescence to conduct an activity. The owner and/or manager of any establishment shall be presumed to have consented to activity conducted upon a premises within their control.
- (13) *Establishment* of an adult entertainment business or facility shall include the opening of such business as a new business, the relocation of such business, the conversion of an existing business location, or the addition of materials or facilities to an existing business qualifying the business as a use defined herein as constituting such an adult entertainment business or facility.
- (14) *Massage establishment* means a site or premises or portion thereof upon which any person who is an employee or who with the consent of the owner manipulates the superficial tissues of the body of another person with the head, hand, foot, leg, arm, torso or elbow, but not including the following: licensed health care facility, licensed physical therapists, licensed physicians or nurses engaged in the practice of their profession, educational athletic facilities, if the massage is a normal and usual practice in such facilities. "Owner" means the owner; in the case of a proprietorship shall be the proprietor; in the case of a partnership shall be all partners, either general or limited; in the case of a corporation shall be all of the officers of said corporation.
- (15) *Religious institutions* means buildings which are used primarily for religious worship and related religious activities.
- (16) *School* means an institution of learning for minors whether public or private which offers instruction in courses of study and which is maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, child day-care, elementary school, junior high school and senior high school.
- (17) *Specified anatomical areas* means human genitals, less than completely and opaquely covered, the pubic region, buttocks and female breast below a point immediately above the top of the areola (the colored ring around the nipple) and human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (18) *Specified sexual activities* means human genitals in the state of sexual stimulation or arousal; acts of human bestiality, buggery, flagellation, masochism, intercourse, sodomy or zoerasty; fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast; and any excretory function as part of or in connection with any of the above activities.
- (19) *Straddle dancing* means the placing for any form of consideration of the buttock, pubic or genital area of an employee or an individual, not an employee, who performs the same with the consent of the owner, whether clothed or not, in contact with the pubic or genital area of

a patron or spectator, whether clothed or not, or within one foot of the face of a spectator or patron.

- (20) *Nude or nudity* means the showing, representation, or depiction of human male or female genitals, pubic area, or buttocks with less than full, opaque covering of any portion thereof, or female breast(s) with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.
- (21) *Topless* means the showing of a female breast with less than a full opaque covering of any portion thereof below the top of the nipple.
- (22) *Sexual activity* means sexual conduct or sexual contact, or both.
- (23) *Sexual contact* means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.
- (24) *Sexual excitement* means the condition of the human male or female genitals, when in a state of sexual stimulation or arousal.

(c) *Obscenity Not Permitted.*

- (1) Nothing in this section shall be construed so as to condone or permit obscenity or pandering the same as presently defined in Ohio Revised Code Title 29, and as the same may be amended in the future.
- (2) Nothing in this section shall be construed to condone or permit offenses against morals as defined in Chapter 533 of the Codified Ordinances of the Municipality of Powell as the same now exist and as they may hereafter be amended.
- (3) Nothing in this section shall be construed to permit possession, distribution and transportation of obscene materials.
- (4) Nothing in this section shall be construed to authorize the exposing to minors of motion pictures, exhibitions, shows, representations and presentations of specified sexual activity or persons displaying or exhibiting specified anatomical areas.
- (5) No person shall violate the laws of the United States of America, State of Ohio or Municipality of Powell as they relate to obscenity.

(d) *Conditional Use Permit Required.* No building shall be erected, constructed, or developed, and no building or premises shall be reconstructed, remodeled, arranged for use or used for any adult entertainment business unless authorized by the issuance of a conditional use permit in accordance with the provisions of Chapter 1129. In addition to said provisions, an adult entertainment business shall comply with the following conditional use criteria:

- (1) Adult entertainment businesses shall comply with the district regulations applicable to all properties in any district in which they are located.
- (2) In addition to all other requirements contained in this Zoning Ordinance, an applicant for a Conditional Use Permit for an adult entertainment facility or business shall submit with his application for said Conditional Use Permit the following information:
  - A. If the applicant is an individual, his name and all aliases used by him; if the applicant is a partnership, the full name of the partnership and the names and addresses of all partners, whether general or limited, accompanied by a copy of the written partnership agreement; if the applicant is a corporation, the exact corporate name, a copy of the Articles of Incorporation, a certificate that the corporation is in good standing in the State of Ohio, the names and addresses of all officers, directors, and the names and addresses of all shareholders who own more than a five percent interest in said corporation.



- B. A statement as to whether the applicant, partners, officers, directors or shareholders have within the five year period immediately preceding the date of the application been convicted of a felony or misdemeanor and, if so, the particular criminal act involved and the place of conviction.
- C. The names and addresses of all employees.
- (3) No adult entertainment business shall be permitted in a location which is within 1,500 feet of another adult entertainment business;
- (4) No adult entertainment business shall be permitted in a location which is within 1,000 feet of any church, residence, any public or private school, any park, any playground, any social services facility or neighborhood center, or any area zoned for residential use.
- (5) No adult entertainment business shall be permitted in a location which is within 1,000 feet of any boundary of any residential district in a local unit or government abutting the City.
- (e) *Zoning of Adult Entertainment Businesses.* Adult entertainment businesses shall be conditionally permitted uses only in those portions of planned industrial districts designated in an adopted planned development district plan for production industry, and shall be prohibited uses in all other districts of the City.

#### 1147.05 - REGULATION OF MANUFACTURED HOME PARKS.

This section, provide for the location and regulation of manufactured home parks in order to foster their development and maintenance as an integral and stable part of the community.

- (a) *Definitions.*
  - (1) *Manufactured home park* means any tract of land upon which three or more manufactured homes used for habitation are parked, either free of charge or for revenue purposes, and include any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park. A tract of land which is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots is not a manufactured home park even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority. "Manufactured Home Park" does not include any tract of land used solely for the storage or display for sale of manufactured homes.
  - (2) *Manufactured home* for the purpose of this section means any nonself-propelled vehicle transportable in one or more sections which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, and when erected in combinations on the site has a total residential floor area of no less than 800 square feet, and which is built on a permanent chassis and is designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.
- (b) *Approval Procedures.* Manufactured home parks shall be located only in a designated manufactured home park subarea of an approved planned industrial district development plan, and shall be developed according to the standards and regulations stated and referenced herein.
- (c) *General Standards for Manufactured Home Parks.* The Planning and Zoning Commission and the Council shall, in their review of manufactured home parks in planned industrial districts, shall review the particular facts and circumstances of the proposed manufactured home park development in terms of the following standards and shall find adequate evidence that each such development meets these standards:
  - (1) The proposed park will be served adequately by essential public facilities and services such as highways, streets, drainage, refuse disposal, schools, police and fire protection, or that the persons or agencies proposing the establishment of the park shall be able to provide any such services adequately.

- (2) The vehicular approaches to the proposed park property will be so designed as not to create traffic interference or congestion on surrounding public streets or roads.
- (3) The establishment of the proposed park will not result in the damage, destruction, or loss of any natural, scenic, or historic feature of significance.
- (4) The establishment of the proposed park shall not be detrimental to the value of surrounding properties or to the character of the adjacent neighborhoods.
- (5) A 60 foot deep dense shrubbery and tree screen shall be provided at the perimeter of a manufactured home park where it abuts a residence, a residentially zoned district, or a residential area of a planned district.

#### 1147.06 - SWIMMING POOLS.

- (a) *Purpose.* It is the purpose of this section, to promote the public health, safety, and welfare through the regulation of swimming pool facilities which are constructed, operated or maintained as an accessory use.
- (b) *Private Swimming Pools.* No private swimming pool, exclusive of portable swimming pools with a diameter of less than 12 feet or with an area of less than 100 square feet, or a farm pond, shall be allowed in any residential district or commercial district except as an accessory use, and shall comply with the following requirements:
  - (1) The pool is intended to be used and is used solely for the enjoyment of the occupants of the property on which it is located and their guests.
  - (2) The pool may be located anywhere on the premises except in required front yards, provided that it shall not be located closer than 12 feet to any property line or easement.
  - (3) The swimming pool, or the entire property upon which it is located, shall be walled or fenced in such a manner as to prevent uncontrolled access by children from the street and from adjacent properties.
- (c) *Community or Club Swimming Pools.* A community or club swimming pool shall be any pool constructed by an association of property owners, or by a private club or association, for use and enjoyment by members and their families. Such swimming pools shall comply with the following requirements:
  - (1) The pool is intended solely for and is used solely for the enjoyment of the members and families and guests of members of the association or club under whose ownership or jurisdiction the pool is operated.
  - (2) The pool and accessory structures thereto shall not be located closer than 100 feet to any property line or easement.
  - (3) The swimming pool, its accessory facilities, and all of the area used by the bathers shall be so walled or fenced as to prevent uncontrolled access by children from the street or adjacent properties. The said fence or wall shall not be less than six feet in height and maintained in good condition with a gate and lock. The area surrounding the enclosure, except for the parking spaces, shall be suitably landscaped with grass, hardy shrubs, and trees and maintained in good condition.
  - (4) Such pool facilities shall not be operated prior to 9:00 a.m. in the morning or after 10:00 p.m. in the evening.

#### 1147.07 - LONG-TERM PARKING FACILITIES AS ACCESSORY USES.

This section, shall apply to the location and operation of any long-term parking facility as an accessory use.

- (a) *Purpose.* It is the purpose of this section to regulate long-term parking facilities constructed, operated, or maintained as accessory uses in order to promote the public health, safety, and welfare.
- (b) *Conditional Use Permit Required.* No person shall establish, operate or maintain on any premises as an accessory use a parking facility where any vehicles, to include tractors, trailers, boats, campers, recreational vehicles, buses, trucks, or automobiles, are to be parked for a continuous period exceeding six days without obtaining a conditional use permit for such accessory use.
- (c) *Permit Requirements.* In addition to complying with all other provisions of this Zoning Ordinance, the applicant for the conditional use permit shall give evidence that the premises proposed for such use complies with the following conditions:
  - (1) That no boundary of the proposed parking area is within 50 feet of a residence, a residential district boundary, or a residential area of a planned district.
  - (2) That the proposed parking area will not prevent access to adjacent properties by fire safety equipment.
  - (3) That the proposed parking area will be screened in such a manner that the vehicles thereon parked will not be visible from the ground level of any adjacent residential properties.
  - (4) That fencing and lighting of the facility will be sufficient to provide for its reasonable security.
  - (5) That no service work, maintenance work, repair work, painting work, or other vehicle work shall take place on the premises.

#### 1147.08 - HOME OCCUPATIONS.

This section shall apply to the location, operation, and maintenance of home occupations.

- (a) *Purpose.* It is the purpose of this section to promote the public health, safety, and welfare through the regulation of home occupations. It is further the intent of these sections to allow limited non-residential uses in residential structures which are compatible with the residential character of their surroundings.
- (b) *Definition. Home occupation* means an accessory use which is an activity, profession, occupation, service, craft, or revenue-enhancing hobby which is clearly incidental and subordinate to the use of the premises as a dwelling, and is conducted entirely within the dwelling unit without any significant adverse effect upon the surrounding neighborhood. Activities such as teaching, tutoring, tax consulting and the like shall involve not more than three receivers of such services at any one time, with the exception of certified or uncertified Type B Family Day-Care Homes, which constitute a residential use and not an accessory use.
- (c) *Home Occupation as a Permitted Use.* Home occupations shall be considered a permitted use. A Zoning Certificate shall be required to be approved by the Zoning Administrator prior to establishment of the Home Occupation. Any Home Occupation established without a Zoning Certificate shall be brought into compliance within seven days of written notification by the Zoning Administrator to the property owner of the noncompliance. The criteria for the issuance of a Zoning Certificate for a home occupation are as follows:
  - (1) Activities, materials and equipment associated with the occupation shall be totally maintained within a building. The external appearance of the structure in which the use is conducted shall not be altered.
  - (2) No internal or external alterations, construction, or reconstruction of the premises to accommodate the use shall be permitted.

- (3) There shall be no outside storage of any kind related to the use, and only commodities produced on the premises may be sold on the premises; no display of products may be visible from the street.
- (4) Not more than 20 percent of the gross floor area of the dwelling shall be devoted to the use, or 50 percent of the combined floor space in any garage and/or accessory building.
- (5) No equipment, process, materials, chemicals, or storage shall create offensive noise, vibration, smoke, dust, odor, heat, glare, x-rays, radiation, electrical disturbances, electrical interference, fluctuation in voltage, or other nuisance detectable to normal senses off the lot or by off-site customary residential equipment.
- (6) No additional parking demand, beyond that created by the residence itself, shall be created.
- (7) No equipment, process or storage associated with the occupation shall create any fire or explosion hazard, or involve the storage or use of hazardous materials in any concentration greater than that which would normally be found in a dwelling containing no home occupation.
- (8) Not more than one person who is not a resident of the premises may participate in the home occupation as an employee or as a volunteer.
- (9) Waste materials, solid or liquid, shall not be created on the premises at a level greater than normal to a residential use, unless provisions for the disposition of said wastes are acceptable to the municipality and do not create a burden on adjoining property.
- (10) Home occupation services may be rendered on the premises or elsewhere.
- (11) No activity shall be conducted or permitted which creates a nuisance to neighboring properties or otherwise be illegal.
- (d) *Invalidation of Home Occupation Zoning Certificate.* For the purposes of this Ordinance, a Zoning Certificate issued for a home occupation shall cease to be valid at such time as the premises for which it was issued is no longer occupied by the holder of said permit. Such Zoning Certificate shall also be immediately invalidated upon the conduct of the home occupation in any manner not approved by the Zoning Administrator.
- (e) *Home Occupation Fee.* A fee for review and approval of a Home Occupation may be established by Council within the Official Fee Schedule as amended from time to time.

(Ord. No. 98-25, 8-4-1998)

#### 1147.09 - GROUP RESIDENTIAL FACILITIES.

This section shall apply to the location, operation, and maintenance of group residential facilities.

- (a) *Purpose.* It is the purpose of this section to regulate the location, operation, and maintenance of group residential facilities in order to promote the public health, safety, and welfare. It is the intent of these sections to provide for the assimilation of these facilities in stable and suitable neighborhoods so that the living environments of their residents are conducive to their rehabilitation.
- (b) *Definition.* *Group residential facility* shall mean any community residential facility, licensed and/or approved and regulated by the State of Ohio, which provides rehabilitative or habilitative services. There are two classes of Group Residential Facilities:
  - (1) *Class I:* Any state, federal, or locally approved dwelling or place used as a foster home for children or adults (not including nursing homes) or as a home for the care or rehabilitation of dependent or predelinquent children, the physically handicapped or disabled, or those with development disabilities or mental illnesses. A Class I Type A group residential facility

contains six or more residents, exclusive of staff. A Class I Type B group residential facility contains five or less residents, exclusive of staff.

- (2) *Class II:* Any state, federal, or locally approved dwelling or place used as a home for juvenile offenders; a halfway house providing residential care or rehabilitation for adult offenders in lieu of institutional sentencing; a halfway house providing residence for persons leaving correctional institutions; and residential rehabilitation centers for alcohol and drug users, provided detoxification is expressly prohibited on such premises. A Class II Type A group residential facility contains six or more residents, exclusive of staff. A Class II Type B group residential facility contains five or less residents, exclusive of staff.
- (c) *Conditional Use Permit Required.* A Class I Type B group residential facility is permitted by right in any district in which residence is a permitted use. No other group residential facility shall be established, operated or maintained on any premises unless authorized by the issuance of a conditional use permit in accordance with the provisions of Chapter 1129. In addition to said provisions, such group residential facilities shall comply with the following conditional use criteria:
- (1) Evidence is presented that the proposed facility meets the certification, licensing, or approval requirements of the appropriate state agency.
  - (2) Evidence is presented that the proposed facility meets local fire safety requirements for the proposed use and level of occupancy.
  - (3) Evidence is presented that the proposed facility will not generate an unreasonable increase in traffic volume or require special off-street parking.
  - (4) Such facilities shall comply with the district regulations applicable to other properties in the zoning district in which they are located.
  - (5) Exterior lighting shall be shaded to prevent casting direct light on adjoining residential property.
  - (6) No such facility may be located within 600 feet of another such facility.
  - (7) No signs shall be erected by such facility for purposes of identification except a permitted street address sign.
  - (8) The exterior of all such facilities shall not be altered in character but shall be compatible with other residential dwellings. New structures shall be compatible in residential design with the surrounding neighborhood. However, any improvement required by code or necessitated by licensing requirements shall not be deemed incompatible.
  - (9) Such facility shall be reasonable accessible, by virtue of its location or transportation provided by the applicant, to medical, recreational, and retail services required by its residents, and to employment opportunities, if applicable, and shall be in a relatively safe and stable neighborhood.
  - (10) The applicant shall provide a plan indicating the manner in which the facility will maintain contact with neighborhood residents, to include a structured procedure whereby their grievances may be filed and resolved.
  - (11) The applicant shall provide documentation indicating the need for the facility, the specific clientele it will serve, and the location and type of similar facilities operated by the applicant.
- (d) *Zoning of Group Residential Facilities.* Group residential facilities shall be conditionally permitted uses as follows:

Class I Type A	PI - Planned Industrial District
Class I Type B	Permitted by right in all districts in which residence is a permitted use.

Class II Type A	PI - Planned Industrial District
Class II Type B	PI - Planned Industrial District

- (e) *Variance to Distancing Requirement.* The Board of Zoning Appeals may grant a variance with respect to the distancing requirement contained in subsection (c)(5) hereof, if the applicant clearly demonstrates that the proposed location has unique advantages with respect to proximity to employment opportunities, social services, public transportation, or similar amenities.
- (f) *Uniformity with Respect to Granting Conditional Use Permits.* The granting of conditional use permits for the establishment of Group Residential Facilities shall be uniformly and equitable done, irrespective of considerations beyond the scope of these regulations.

#### 1147.10 - FACTORY-BUILT HOUSING; DESIGN AND APPEARANCE STANDARDS.

This section shall apply to the location, construction, and maintenance of factory-built housing in all districts other than in manufactured home parks.

- (a) *Purpose.* It is the purpose of this section to promote the health, safety, and welfare of the community by establishing regulations governing the siting, construction, and maintenance of factory-built housing. It is further the intent of these sections to permit a wider range of housing opportunities while assuring the compatibility of a variety of housing types within certain residential districts.
- (b) *Definitions.* *Factory-built housing* means a factory-built structure designed for long-term residential use, the components of which are essentially constructed or assembled prior to its delivery to and installation upon a site. For the purposes of this section, "factory-built housing" shall include the following:
  - (1) *Manufactured home.* Any nonself-propelled vehicle transportable in one or more sections which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, and, when erected on site in combination, is 800 or more square feet, and which is built on a permanent chassis and designed to be used as a permanent dwelling unit with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, air conditioning, and electrical systems contained therein, and which bears a label certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards.
  - (2) *Modular Home.* Factory-built housing certified as meeting the building code as applicable to modular housing. Once certified by the state, modular homes shall be subject to all of the same standards as site-built homes.
  - (3) *Mobile home.* A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976, or built subsequent to such Act but not certifiable to compliance with it.
- (c) *Siting Requirements.* Any factory-built housing proposed to be located in any district shall comply with the following requirements:
  - (1) The structure shall be installed upon and properly attached to a foundation system that provides adequate support of the structure's vertical and horizontal loads and transfers these and other imposed forces, without failure, from the structure to the undisturbed ground below the frost line.

- (2) All hitches, axles, wheels, and conveyance mechanisms shall be removed from the structure.
- (3) The structure shall be so oriented on the site that its long axis is parallel with the street, and it shall have an entranceway facing the street, except where diagonal placement and the addition of a garage, carport, or other accessory structure may be permitted by subdivision regulation and yard requirement.
- (4) The site shall be suitably landscaped, with adequate screening devices as elsewhere required.
- (5) The siting of the structure shall comply with all yard and setback requirements in effect for the district for which it is proposed.
- (6) The structure shall comply with all of the physical requirements of minimum floor area, building height, exterior materials, roof type and materials, etc., as established for residences in the district in which it is located.
- (7) The siting of the structure shall comply with all parking requirements in effect for the district for which it is proposed.
- (8) The site shall be serviced by utilities in such manner as required by Ordinance.
- (d) *Zoning of Factory-Built Housing.*
  - (1) Mobile homes shall be permitted only in approved mobile home parks, located as elements of an approved planned district development plan in a planned industrial district.
  - (2) Manufactured homes and modular homes which meet the design and appearance standards contained in subsection (c) hereof, shall be permitted uses in all zoning districts in which residence is a permitted use and in which all district regulations have been met.
- (e) *Uniformity with Respect to Granting of Variances.* The granting of variances from the requirements of this Zoning Ordinance with respect to the siting of single-family home structures, their design or appearance, shall be uniformly and equitably done, irrespective of the fact that the structure proposed for such siting is a site-built structure, modular, or manufactured home, and shall be guided by the provisions of this Zoning Ordinance.

#### 1147.11 - AGRICULTURAL-RELATED USES.

- (a) *Animals.* No animal, except household pets, shall be kept on any parcel of less than five acres. This subsection shall apply only to those parcels where the total land holdings of the using party, in one contiguous unit, is five acres or less and shall not be construed to apply to individual pens, pastures or fields of less than five acres if they are a part of a larger contiguous tract of land of five acres or more devoted to agricultural use.

(Ord. No. 01-60, 11-6-2001)

#### 1147.12 - PRESERVATION AND ENHANCEMENT OF COMMUNITY RESIDENTIAL CHARACTER.

- (a) *Purpose.* It is the purpose of this section to protect and promote the residential and environmental character of the Municipality of Powell, and thus protect and promote the welfare of the residents and community property values.
- (b) *Standards.* All new or existing residences or all types of buildings in R-Residence Districts, DR-Downtown Residence District, DB-Downtown Business District, PR-Planned Residence Districts, [PRC-Planned Residential Conservation District](#), PC-Planned Commercial District, PO-Planned Office District, and all new multi-family residential units in P-I Planned Industrial Districts, shall have:
  - (1) All exterior walls shall consist of natural wood lap siding, cement-fiber lap siding, brick, stone, artificial stone, or stucco. Cement fiber siding is hereby defined as not being a natural material.

- (2) The use of horizontal cement-fiber lap siding shall be limited to any type that closely resembles the grain and texture of real cedar wood horizontal lap siding or any other type approved by the Planning and Zoning Commission. Smooth textured siding shall be appropriate only within the Downtown District Overlay District.
- (3) The maximum exposure for horizontal lap siding shall be eight inches in width.
- (4) Pitched, gable, or hipped roofs;
- (5) A minimum 7:12 primary roof pitch shall be required for new residences to be constructed as a result of Planned District Development Plans approved under this ordinance, unless otherwise determined by the Planning and Zoning Commission.

(Ord. No. 2005-39, 8-16-2005)

#### 1147.13 - SEASONAL SALES.

- (a) *Purpose.* It is the purpose of this section to promote the public health, safety, and welfare through the regulation of seasonal sales.
- (b) *Seasonal Sales Defined.* "Seasonal Sales" means any activity involving the sale of seasonal related products such as the sale of pumpkins, christmas trees, agricultural related products, and other seasonal goods or merchandise. The outdoor display of merchandise for sale by local businesses on their property is not regulated by this section.
- (c) *Seasonal Sales as a Permitted Use.* Seasonal sales conducted by those other than a not-for-profit religious, public institutional, or local civic group or organization are permitted in commercial and industrial districts. Seasonal sales conducted by a not-for-profit religious, public institutional, or local civic group or organization are permitted on property owned or leased by said group or organization in any district. A zoning certificate shall be required to be approved by the Zoning Administrator prior to establishment of any seasonal sales area. Any seasonal sales area established without a zoning certificate shall be brought into compliance within two days of written notification by the Zoning Administrator. The criteria for the issuance of a zoning certificate are as follows:
  - (1) If seasonal sales are to be conducted in a parking lot, not more than 25 percent of the total parking spaces where the said seasonal sales area is to be located shall be devoted to the use otherwise not more than 50 percent of the total lot area shall be devoted to the use.
  - (2) No portion of said seasonal sales area shall be placed on any sidewalk, street, alley, or other public way without approval from the Zoning Administrator.
  - (3) The use does not create adverse effects on traffic movement and parking within the site location and the surrounding community.
  - (4) No permanent buildings or structures will be erected.
  - (5) Sufficient lighting shall be provided. If the site location does not already have sufficient lighting to be utilized, a lighting plan must be submitted and approved by the Zoning Administrator. Lighting shall not shine directly or indirectly over neighboring property lines.
  - (6) The seasonal sales area does not utilize more than one sign. This sign must be portable and of the "A"-frame type. No sign shall exceed 16 square feet in surface area per side.
  - (7) The zoning certificate is for a period not longer than 60 days. No more than three zoning certificates shall be granted for the same or substantially the same seasonal sales area in a calendar year. Further, no more than two of said zoning certificates shall be consecutive.
  - (8) Upon the expiration of the zoning certificate, the premises shall be left in a clean and sanitary condition to the satisfaction of the Zoning Administrator within seven days following the date of expiration. A refundable deposit shall be submitted with the zoning certificate fee to ensure compliance with this clean up requirement.



(Ord. No. 01-59, 11-6-2001)

1147.14 - RECREATIONAL STRUCTURES.

- (a) *Purpose.* It is the purpose of this section to promote the public health, safety, and welfare through the regulation of recreational structures.
- (b) *Recreational Structure Defined.* A "recreational structure" means any structure used for recreational activity. Recreational structures include, but are not limited to, basketball goals, goal nets, backstops, trampolines, half-pipes, quarter pipes, ramps, and playground equipment. The Zoning Administrator may decide what will be determined to be a recreational structure. See Section 1147.06 for regulations on swimming pools.
- (c) *Prohibited from Public Right of Way and Easements.* Due to issues of public safety, both vehicular and pedestrian, created by the location of recreational structures in the public right of way and some easements, recreational structures are prohibited from being located in any public right of way and/or easement designated for the purpose of public access.
- (d) *Basketball Goals.* Basketball goals may be erected in the front yard. Basketball goals attached to poles are permitted alongside the driveway as long as the pole is set back at least two feet from the side property line and five feet from the front property line.
- (e) *Recreational Structures Prohibited in Front Yard.* Due to issues of blighting and reduction of property values created by the location of recreational structures in front yards, recreational structures, except basketball goals as stated in subsection (d) above, are prohibited from being located in the front yard.
- (f) *Rear and Side Yard Setbacks Established.* Due to issues of blighting, the reduction of property values and the possible destruction of property created by the location of recreational structures in the side and rear yard, no recreational structure may be located in any required side yard setback or closer than a distance of five feet from any rear property line.
- (g) *Additional Requirements.* The construction, erection, or placement of any recreational court or surface, such as but not limited to, a basketball court, tennis court or "sport court," shall require a zoning certificate and not be located in any front yard, or front or side yard setback or closer than 15 feet to any rear property line. No recreational structure shall impede proper drainage of any property.
- (h) *Maintenance.* All recreational structures shall be maintained in good repair and shall be structurally sound. Any grounds that surround any recreational structure shall be maintained in a neat, clean and well cared for condition at all times.
- (i) *Deed Restrictions and Covenants.* Be aware that private deed restriction and covenants may have additional requirements that need to be met and may be enforced by others such as individuals or homeowner associations.
- (j) *Effective Date.* Due to the public health, safety and welfare issued addressed in this section, the location of any recreational structure within the public right of way of any street or any other public access easement is strictly prohibited and the requirements of subsection (c) hereof shall be effective toward all existing and future recreational structures upon the effective date of this section. Any recreational structure otherwise installed at the effective date of this section is allowed to remain as installed. Any new recreational structure installed, or any existing recreational structure added on to or relocated after the effective date of this section, shall conform to the requirements of this section.

(Ord. No. 2002-63, 1-7-2003)

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1147.15 - LARGE NON-RESIDENTIAL ESTABLISHMENTS.

- (a) *Purpose.* The purpose of this section is to promote the public health, safety, and welfare through the regulation of Large Non-Residential Establishments. It is the intent of this section to regulate Large Non-Residential Establishments so as to prevent the erosion of the residential character of the City of Powell and to promote the small, greenbelt community character of the City and its surroundings as described in the Comprehensive Plan. Large Non-Residential Establishments have been commonly accepted as having potential for creating negative impacts upon the City's existing economy, surrounding residential areas, traffic, public safety, and the efforts of the City to maintain the small, greenbelt community character in the face of development pressures being experienced by the City and the entire Southern Delaware County region. Because of the substantial adverse effects that Large Non-Residential Establishments can have based upon their size, bulk, scale, use, noise and traffic generation, among other effects, there is no general presumption that an application for such a use at a particular location is valid, is compatible with surrounding uses, inures to the general benefit of the City or is in compliance with the City's Comprehensive Plan. Instead, each application will be evaluated according to its specific development plan, particular location and the degree to which the developer is willing or able to ameliorate the adverse impacts of the proposed development and incorporate a mixed-use element (residential and non-residential) into the overall development plan for the property, where appropriate. Except as provided herein, Large Non-Residential Establishments are not permitted within the City.
- (b) *Definitions.* The following definitions shall apply in the interpretation of this Zoning Ordinance:
- (1) *Large non-residential establishment* includes any structure with more than 35,000 square feet in non-residential usable floor area. Religious, educational, and public uses shall be excluded from this definition and these requirements.
  - (2) *Liner building* is a building located along a Large Non-Residential Establishment to mask blank or unadorned walls and may either be attached to the Large Non-Residential Establishment or placed a maximum of 25 feet from it.
- (c) *Limitation.* No single retail sales, general business, service business or wholesale business use within a Large Non-Residential Establishment shall exceed 65,000 square feet in usable floor area. No more than one user in any large non residential establishment shall exceed 35,000 square feet. Any Large Non-Residential Establishment shall be separated from another Large Non-Residential Establishment by the minimum amount of building separation required within that zoning district. The maximum size of any one structure within a development plan containing a Large Non-Residential Establishment is 120,000 square feet.
- (d) *Special Use Permit Required.* No Large Non-Residential Establishment shall be erected, constructed, or developed and no existing non-residential building shall be reconstructed, remodeled, arranged, or enlarged to become a Large Non-Residential Establishment unless a special use permit is approved as a part of a Planned District Development Plan as required by Section 1143.11, and in accordance with the following special use criteria:
- (1) If the Large Non-Residential Establishment is part of a larger development plan including out parcels or additional structures, these requirements shall apply to all buildings or structures within the development.
  - (2) Large Non-Residential Establishments shall be located within a Planned District, and shall meet the requirements of this Section 1147.15 or those of the Planned District within which the Large Non-Residential Establishment is located, whichever requirement is more restrictive.
  - (3) Within the Planned District Development Plan for the property on which a Large Non-Residential Establishment is proposed, the provision for residential uses shall be encouraged, and may be required, by the Planning and Zoning Commission in order to provide for a mixed-use

development scheme. This may lessen the need for such intense commercial development and reduce the overall impact on the community.

- (4) Any Large Non-Residential Establishment shall have access to a major arterial roadway, as defined in the Delaware County Thoroughfare Plan, such as Home Road, Sawmill Parkway and State Route 750. This access can be direct or via internal streets connecting to the major arterial. Internal streets are those provided, public or private, within the confines of the development plan. External streets are those streets either adjacent to or away from the confines of the proposed development plan that are not major arterials. Whenever a large retail establishment has an additional access to a secondary or non-major arterial roadway, the main point of ingress and egress shall be at the intersection with the major arterial roadway. Landscaping, signage, internal circulation patterns and other measures shall be incorporated to direct vehicles to the main point of ingress and egress.
- (5) A Preliminary Community Impact Analysis is required to be submitted as part of the Planned District Preliminary Development Plan (the "Project"). Following input from the Planning and Zoning Commission and City Staff, a Final Community Impact Analysis shall be submitted with the Planned District Final Development Plan.
  - A. The Preliminary Community Impact Analysis shall be based on the requirements of the Final Community Impact Analysis and include, in summary form:
    1. A description of the proposed Project and its design features, including existing conditions on the site and in the vicinity of the Project.
    2. Identification and assessment of the impacts of proposed Project, including positive, negative, and indirect impacts.
    3. An evaluation of how the Project will meet the design standards required in this Section 1147.15.
    4. Proposed measures to mitigate adverse impacts and/or maximize positive impact including design modifications and provision of infrastructure or public service improvements sufficient to support the Project. Any adverse impacts which cannot be mitigated shall be identified. Mitigation measures to be implemented by the applicant shall be identified.
  - B. The Final Community Impact Analysis shall assess the following areas of potential impact.
    1. *Existing Physical Conditions.* Describe the existing physical and ecological characteristics of the site and how the project impacts the site and surrounding land. Include topography, slope, soils, wetlands, surface water, vernal pools, flood plains, depth to groundwater, drainage patterns, type and coverage of vegetation, wildlife and wildlife habitat, identification of known rare or endangered plant or animal species, relationships to public or private water supply wells and recharge areas or public water supply reservoirs.
    2. *Existing Surrounding Conditions.* Describe the surrounding neighborhood and any scenic, unique geological, historical, or archeological features and recreational areas on the site or in the vicinity of the site which could be affected by the Project. Identify the impacts to historic properties, districts, or areas, and any archaeological sites on the property or in the vicinity of the Project. Consultation with the Powell- Liberty Historical Society is required if structures pre-dating 1940 are evident.
    3. *Project Description.* Describe the layout of the proposed Project in detail (site plans may be used) including scale, placement, and design of buildings and structures; lighting; parking areas; open space; relationship to scenic views from the site; views of the Project from adjacent properties and public ways. Evaluate the proposed architectural design in relationship to surrounding land uses and prevailing architectural style including major design elements such as scale, materials, color, setbacks, and roof lines. Describe any recreational facilities proposed for the site and any provision for

public recreational or open spaces. Describe any existing local plans and policies and how the proposed Project relates to those plans and policies.

4. *Market Analysis.* Evaluate the market and financial feasibility of the Project. Include any market studies prepared for the Project and any plans for phased construction. Discuss the trade service area of the Project, the need for the Project at the proposed location, and the ability of the trade service area to support the Project.
5. *Traffic Analysis.* This analysis shall include a review of existing traffic conditions including the following: average daily and peak hour volumes, sight distances, street capacity, level of service, physical characteristics of the streets, number and location of driveways and intersections, average and peak speeds, accident data, pedestrian movement, and traffic controls for streets and intersections adjacent to the Project; a review of impacts on streets and intersections which will experience an increase in peak hour traffic as a result of the Project or which will experience a reduction in the level of service as a result of the Project; a review of impacts on failing streets and intersections (as determined by the City Engineer and Zoning Administrator) which will experience an increase in traffic due to the impacts of this development. The traffic analysis shall also include a review of projected traffic conditions including the following: average daily and peak hour traffic projections and directional distribution of site generated traffic (background traffic conditions for the design year including any planned roadway/traffic improvements and other proposed projects in the vicinity of the site), sight distances at proposed driveway intersections with streets, on-site traffic circulation and parking layout, pedestrian movement, and projected traffic impact evaluating how the proposed Project will affect traffic conditions and streets and intersections adjacent to and those likely to be affected by the proposed Project including level of service, traffic flow, turning movements, sight distances, traffic controls, pedestrian movement, and public transportation.
6. *Water.* Describe and submit to Del-Co Water Company the proposed water supply system. A letter from the Del-Co Water Company stating feasibility of service to the development is required.
7. *Sanitary Sewer.* Describe and submit to the Delaware County Sanitary Engineer the proposed sewage disposal system. A letter from the Delaware County Sanitary Engineer stating feasibility of service is required.
8. *Storm Drainage.* Describe the proposed surface drainage system including pre and post runoff calculations; the location, sizing, accessibility, and proposed discharges to the City storm system. Evaluate the capacity of the existing storm system to accommodate projected storm water runoff. Estimate the cost and discuss the responsibility for construction of storm drain improvements and on-going maintenance. Specifically evaluate the impact of storm water, runoff, flooding, erosion, sedimentation, grading changes, increased impervious surface, discharges to groundwater, pumping of groundwater, wetlands disruption, and changes to vegetative cover. Provide the location and results of any test pits, soil borings, and percolation tests performed on the site. Consultation with the City Engineer is required.
9. *Waste.* Describe the quantity and composition of projected solid wastes to be generated by the Project including average weekly volume in cubic yards of refuse generated; recycling potential; method of on-site storage and collection. Describe the types, quantities, use and storage methods for hazardous materials and wastes to be used or generated by the Project. What measures will be taken to prevent a release into the environment? Describe impacts on nearby areas, especially residential areas, and include timing provisions for removal of solid and hazardous wastes to prevent overflow and nuisances created by wastes.
10. *Police and Fire and other City Services.* Describe the anticipated fire and police protection needs; provision for alarms or warning devices and private security; on-site

[firefighting](#) and security capabilities; need for increased municipal personnel or equipment. Consultation with the City of Powell Police Department and Liberty Township Fire Department is required.

11. *Quality of Life.* Identify and evaluate the potential impacts of the Project on noise levels on-site and off-site which will be affected by the Project
  12. *Employment.* Estimate the number and types of jobs to be created by the Project, estimate the amount of local labor to be used
  13. *Impact on Surrounding Communities.* Estimate the amount, type, and location of spin-off development resulting from construction of the Project and its likely impact on the community including changing land use patterns, development pressure on surrounding neighborhoods, impact to the downtown business district. Identify and evaluate the potential impacts to neighboring communities resulting from the Project.
  14. *Financial Impact.* Evaluate the projected costs and benefits to the community resulting from the Project including:
    - a. Projected short-term and long-term costs arising from increased demand for and required improvements to public services and infrastructure.
    - b. Value of improvements to public services and infrastructure to be provided by the Project.
    - c. Projected short-term and long-term tax revenues to be generated by the Project. This includes property tax, real property tax, and income tax based upon projected employment or known employment factors and business structure within the development.
  15. *Mitigation and Enhancement.* Describe proposed mitigation measures for negative impacts identified above and how positive impacts will be enhanced to better benefit the community.
- C. The following standards shall be applied by the Planning and Zoning Commission and Council when reviewing the Community Impact Analysis:
1. *Existing Physical and Surrounding Conditions.* Provision shall be made for preserving historical features of the site. The Project shall be compatible with the character and scale of neighboring properties especially historic structures or areas.
  2. *Proposed Project.* Building materials, architecture, and building placement shall minimize the visibility of a Large Non-Residential Establishment, including architectural appurtenances (clock towers, etc.), in order to, minimize obstruction of scenic views visible from public ways, and ensure compatibility with neighboring properties. However, incorporation of outstanding building design and siting that creates the formation of a community landmark is encouraged. Project siting and design shall be consistent with the Planned Commercial Development Design Guide.
  3. *Traffic Analysis.* Level of Service shall be determined in accordance with the most recent standards adopted by the Ohio Department of Transportation. The design goal for all streets, signalized intersections, and turning movements at un-signalized intersections shall be LOS C or better. For streets and intersections currently functioning at LOS C or better, mitigation measures shall be provided to maintain or improve the existing LOS. Where the existing LOS is D or worse, mitigation measures shall, where feasible upgrade the LOS to C or better. Driveways shall be located to limit conflict points with existing driveways and intersections and shall meet intersection design standards as established by the City Engineer. Shared driveways and service roads shall be used to control access onto existing streets. The impact of increased turning movements shall be mitigated. The Project shall be sited and driveways located to discourage routing of non-residential traffic to and through residential streets. Where

possible, pedestrian and bicycle circulation shall be separated from motor vehicle circulation and shall be an integral part of the overall plan.

4. *Water, Sanitary Sewer, and Storm Drainage and Waste.* The public water, sewer, and drainage systems in the vicinity of the site shall be adequate to serve the proposed Project. If public utilities are not adequate to serve the Project, the reviewing authority may require, as a condition of approval, off-site improvements to increase the capacity of such utilities sufficient to serve the Project. All utilities shall be placed underground where physically feasible. All commercial and industrial discharges to the sewage treatment plant shall be pretreated if required by the Delaware County Sanitary Engineer to prevent overloading of the treatment plant. All discharges shall be in compliance with the Delaware County Sanitary Engineer. On-site storm water management measures shall be required to ensure that the rate of runoff from the site to the public storm sewer is not increased as determined by the City Engineer. Provision shall be made for on-going maintenance of on-site storm water management facilities connected to the public storm system. The development of on-site storm water retention ponds shall be done in a manner which adds to the overall design of the site and if possible be designed to be utilized within publicly accessed open spaces within the development plan. Waste storage, siting and removal shall be mitigated to minimize significant negative sensory input (odor, sound, etc.)
5. *Police and Fire and Other City Services.* Services shall not be strained by the proposed Project. Adequate fire flows shall be available at the site. Improvements to the water system may be required. Alternatives owned, maintained or contracted by the landowner may be required.
6. *Quality of Life and Ecological.* The Project shall not create any significant emission of noise, dust, fumes, noxious gases, radiation, water pollutants, or any similar significant adverse environmental impact. The Project shall not cause erosion, flooding, sedimentation, or increase the rate of runoff from the site. Provision shall be made for attenuation of runoff pollutants. Groundwater recharge shall be provided where the City deems it important. The Project shall be designed to minimize the destruction of wetlands, unique natural features, wildlife habitat, and known rare or endangered species. Special effort shall be made to maintain wetlands, wetland buffer zones and corridors between wetlands and wooded uplands; wildlife travel corridors; existing diversity of plant communities; and to avoid alteration of areas most difficult to replicate. The Project shall not result in a reduction of groundwater recharge, deteriorate surface or groundwater, or negatively impact any public water supply recharge area or watershed. Commercial and industrial discharges of process waste water to the ground shall not be permitted. Best available measures shall be used to prevent a discharge or spill of hazardous materials or wastes into the environment. Buffers, setbacks, landscaping, and traffic circulation patterns shall be used to mitigate noise, water, and air pollution impacts.
7. *Financial and Economic.* Adverse impact to the downtown business district shall be minimized through the use of joint marketing or other measures by collaboration with the current downtown business association. The trade service area shall be able to support the proposed development. The proposed Project shall not have an adverse impact, and should ideally provide a positive impact, on the City in terms of balancing the projected cost of public services and public revenue provided through taxes and other income. The City may require phasing of the Project to minimize negative fiscal impacts to the City over the short term. The Project shall be designed to minimize any negative impacts to adjoining property values. The applicant shall demonstrate the financial ability to complete the Project and to achieve long-term financial stability. The applicant is encouraged, and the City supports, the exploration of financing alternatives such as Tax Increment Financing (TIF) or Business Improvement Districts (BID).

- (6) The number of parking spaces provided shall be kept to a minimum. Unless demonstrated by the applicant through studies, actual data, or other documentation, the maximum number of parking spaces provided shall not exceed the minimum of the required amount of parking as determined in Chapter 1149.
- (7) No more than 40 percent of the required off-street parking for the entire property may be placed between the front facade of the building and the primary abutting street unless the building and/or parking lots are screened from view by outlot development (such as restaurants, offices, or other non-residential uses), tree and shrub landscaping, and landscaped mounding. Parking shall be distributed around the Large Non-Residential Establishment with peak and employee parking located to the sides and rear. In the event out parcels are included in the development plan, a majority of the parking shall be located to the sides and rear of the out parcel structure.
- (8) Parking shall be divided into parking pods that do not exceed 80 parking spaces, have a maximum of four points of ingress and egress, and be interconnected whenever possible. Each parking pod shall be surrounded on all sides by a green space buffer no less than ten feet in width, excepting ingress and egress points. The green space buffer shall incorporate a hedge or other landscaping providing 80 percent year round opacity from ground level to three feet above ground level. Shade trees shall be provided every 40 feet on center or in groupings if found by the Planning and Zoning Commission to be more appropriate. This provision shall not inhibit sight lines necessary for safe vehicular and pedestrian movement. Requirements of this provision may be adjusted by the Planning and Zoning Commission if alternative designs are deemed superior. All other landscaping requirements found elsewhere in the Planning and Zoning Code shall be applicable.
- (9) Buildings shall have architectural features and patterns that provide visual interest at the scale of the pedestrian, reduce massive aesthetic effects, and recognize local character on all sides of a building. The following architectural design criteria must be met on all sides of any structure (Please reference the Planned Commercial Development Design Guide for layout and design recommendations that help to meet these criteria):
- A. Facades must include a repeating pattern that shall include no less than three of the elements listed below. At least one of these elements shall repeat horizontally. All elements shall repeat at intervals of no less than 60 feet horizontally or 14 feet vertically.
    - 1. Color change.
    - 2. Texture change.
    - 3. Material change.
    - 4. Expression of architectural or structural bay through a change in plane no less than 36 inches in width and depth, such as an offset, reveal, or projecting rib.
  - B. Facades that are visible from a public right-of-way or parking area must incorporate windows, awnings, verandas, entry areas, or other such elements, individually or in combination, across the entire facade.
  - C. Windows shall be recessed and include prominent sills, shutters, or other such forms of framing.
  - D. The use of false facades, windows, doors, and other elements are encouraged where necessary to break massing and promote a pedestrian scale.
  - E. Entryway design elements and variations shall give orientation, aesthetically pleasing character, and pedestrian scale to the building. Each building shall have a highly visible customer entrance featuring architectural elements, which may include any combination of the following; overhangs, recesses and projections, verandas, arches, landscaped areas with places for pedestrian seating, architectural details such as tile work and moldings which are integrated into the building structure and design, peaked roof form, tower elements, canopies or porticos, night lighting, and other similar features.

- F. Variations in roof lines shall be used to add interest to, and reduce the massive scale of large buildings. Roof features must compliment the character of adjoining neighborhoods. Roof lines shall be varied with a change in height every 100 linear feet in the building length. Parapets, mansard roofs, gable roofs, hip roofs, or dormers shall be used to conceal flat roofs and roof top equipment from public view.
  - G. Building materials and colors must be aesthetically pleasing and similar to the surrounding community.
  - H. Liner Buildings are encouraged and may be required by the Planning and Zoning Commission along a Large Non-Residential Structure. Liner Buildings are subject to the requirements of this section as well as the following:
    - 1. The Liner Building shall cover a minimum of 75 percent of the large non-residential façade the liner building is masking. Emphasis shall be placed on separating buildings and uses surrounding the entire Large Non-Residential Establishment. It is the intent to provide flexibility in layout and design rather than just blanket cover 75 percent of the Large Non-Residential Establishment façade.
    - 2. The street level façade of all Liner Buildings shall be no less than 70 percent transparent between the height of three feet and eight feet above the walkway grade.
    - 3. When feasible, the entrance to the Large Non-Residential Establishment shall be incorporated into the Liner Building design.
- (10) Pedestrian circulation and connectivity is required. To promote development at a pedestrian scale that is user-friendly and safe, the following requirements must be met:
- A. Bikepaths at least eight feet in width shall be provided along all sides of the lot that abut a public or private right-of-way.
  - B. Internal pedestrian walkways, no less than five feet in width, shall be provided from the bikepath along all public and private rights-of-way to the entrance of all buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than 50 percent of their length.
  - C. Sidewalks, no less than five feet in width, shall be provided along the full length of the building along any facade featuring an entrance, and along any facade abutting public parking areas. Such sidewalks shall be located at least five feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.
  - D. Internal pedestrian walkways provided in conformance with subsection C. above, shall provide weather protection features such as awnings or arcades at all public entrances, constructed parallel to the facade of the building. This is not intended to extend into the driving aisles or parking areas.
  - E. All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. Signs shall be installed to designate pedestrian walkways.
  - F. Pedestrian ways shall be anchored by special design features such as towers, arcades, porticos, pedestrian light fixtures, bollards, planter walls, and other architectural elements that define circulation ways and outdoor spaces. The features and spaces should enhance the building and the center as integral parts of the community.
  - G. Bike racks shall be provided at various points within the proposed development where they are appropriate to public spaces and entrances to users.



- (11) Garbage collection areas, HVAC equipment, utility meters, loading areas and other such functions shall be incorporated into the overall design and screened from view from any public and private right-of-way. The location and screening of such areas shall minimize the visual and acoustic impacts of such functions. Such screening shall provide eighty (80) percent year round opacity. Where feasible, loading and service areas shall be screened with walls incorporated into the design of the building and located as far as possible from the nearest residential area.
- (12) Along all public rights-of-way a white three rail fence shall be provided with street tree plantings every 40 feet on center or in groupings of trees along the rights-of-way. The landscaping and buffering requirements found elsewhere in the Planning and Zoning Code shall apply.
- (13) Notwithstanding other requirements within other sections of this code, the total amount of open space or landscaped areas shall be 30 percent of the gross amount of land within the planned district development plan. That means no more than 70 percent of impervious surface is allowed on the site. The maximum total lot coverage by any building(s) is 20 percent of the lot after any required dedication of road rights-of-way.
- (14) Any open or public space shall contribute to the establishment or enhancement of community and public spaces by providing at least four of the following: patio/seating area, pedestrian plaza with benches, window shopping walkways, outdoor play area, kiosk area, water feature, clock tower, steeple, or other such deliberately shaped area and/or a focal feature or amenity that, in the judgment of the Planning and Zoning Commission, adequately enhances such community and public spaces. Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape. Additionally, any storm water detaining area not contained within a parking area shall be made to retain water and be incorporated into the overall design and use of the development.
- (15) All outdoor shopping cart collection areas shall be located next to required landscaped parking bays and positioned and landscaped in a manner to minimize the view from public and private rights-of-way.
- (16) Outdoor storage, except for the temporary storage of shopping carts in collection areas, is prohibited. Outdoor displays of merchandise shall be removed nightly.
- (17) Exterior lighting, both building lighting and site lighting, shall minimize the impact of ambient light on the surrounding community. A lighting plan is required showing the design and location of all fixtures. Included with the plan shall be a photometric drawing showing, in foot-candles, the light spread from each fixture. All fixtures shall be decorative and incorporated into the overall design of the development. Ambient light shall be minimized and all fixtures shall be equipped with a full cut-off shield and directed downward. No light shall be mounted higher than 18 feet above grade. Lighting is required at any intersection. Only at intersections with public streets is it permissible for any light to spill across the property line. In the event a business is to be opened between the hours of 11:00 p.m. and 6:00 a.m., a minimum amount of lighting necessary for security and safety, which shall be identified by the lighting plan, shall be permitted to remain on during those hours.
- (18) If a single user intends to occupy 35,000 or more square feet of the Large Non-Residential Establishment, an adaptive re-use concept must be submitted and approved by the owner and the City. It is intended here that the building be designed to allow for possible future users in space that is divided from the original size user space. Factors to include in the design shall be future window and door openings, multiple loading and service provisions, and future utilities. An adaptive re-use agreement shall be entered into by the owner and the City and provide, among other things, (a) an approved concept for how the Large Non-Residential Establishment can be re-used if the single user ceases normal operations at the Large Non-Residential Establishment. Such agreement shall be recorded in the public records with the Delaware County Recorder's office.
- (19) Deliveries and service functions shall only occur between the hours of 7:00 a.m. and 10:00 p.m.

(Ord. No. 2009-13, 4-7-2009)

#### 1147.16 - PRESERVATION AND ENHANCEMENT OF COMMUNITY ENVIRONMENTAL CHARACTER.

The City of Powell has several provisions within its codified ordinances that help to preserve and protect its community environmental character, which provisions are set forth below to facilitate the identification and application of such provisions to all lands within the City of Powell that have these environmental characteristics.

- (a) Floodplain Regulations are found at Chapter 1305.
- (b) Tree Preservation and Replacement Policy is found at Section 1145.29(c) and (d).
- (c) Drainage regulations are found in Section 1145.25.
- (d) Ohio Environmental Protection Agency Olentangy River Watershed Permit Requirements
  - a. Portions of the City of Powell that are within the Olentangy River Watershed are subject to the requirements of the Ohio Environmental Protection Agency Special Olentangy River Watershed Permit requirements. These requirements can be found at the following web site (current to 2017):  
[http://epa.ohio.gov/dsw/permits/GP\\_ConstructionSiteStormWater\\_Olentangy.aspx#153884563-permit-documents](http://epa.ohio.gov/dsw/permits/GP_ConstructionSiteStormWater_Olentangy.aspx#153884563-permit-documents)
- (e) Areas of high slope greater than (12)% are a special consideration for design and construction. New construction should avoid areas of high slope. Retaining walls of no greater than four (4) feet shall be utilized as a way to overcoming slope considerations when designing structures, driveways, sidewalks or other site development related items. Slope preservation techniques, including but not limited to pier design or bridges, shall be utilized as alternatives to slope clearing, grading and retaining walls greater than four (4) feet high in any location along a slope.
- (f) Wetlands are an important part of the local environmental condition. The requirements of the State of Ohio Environmental Protection Agency shall be complied with as part of any new development within the City of Powell.
- (g) Streams and riparian corridors shall be protected through the establishment of a Stream Corridor Protection Zone. The delineation, protection, and use of this zone shall be as described in the City of Columbus Storm Water Drainage Manual (current edition 2017), Section 1, from the beginning to Section 1.3, inclusive and as amended going forward. The City Engineer reserves the right to exempt some development areas from this regulation provided that best engineering judgement is used to protect property from flooding and/or erosion.

#### CHAPTER 1149 - OFF-STREET PARKING AND LOADING<sup>[22]</sup>

Sections:

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The City of Powell has several provisions within its code that help to preserve and protect its environmental character. The provisions below place all of these regulations into one area of code so that it is easier to find and applicable to all lands within the City of Powell that have these environmental characteristics.¶  
Floodplain Regulations: These are found at Chapter 1305 COP.¶  
Tree Preservation and Replacement Policy: This is found at Section 1145.29(c) and (d).¶  
Drainage regulations are found in Section 1145.25.¶  
Ohio Environmental Protection Agency Olentangy River Watershed Permit Requirements¶  
Portions of the City of Powell that are within the Olentangy River Watershed are subject to the requirements of the Ohio Environmental Protection Agency Special Olentangy River Watershed Permit requirements. These requirements can be found at the following web site:  
[http://epa.ohio.gov/dsw/permits/GP\\_ConstructionSiteStormWater\\_Olentangy.aspx#153884563-permit-documents](http://epa.ohio.gov/dsw/permits/GP_ConstructionSiteStormWater_Olentangy.aspx#153884563-permit-documents)¶

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**Cross reference**— Parking generally, Ch. 351

**State Law reference**— Off-street parking facilities, O.R.C. § 717.05 et seq.

#### 1149.01 - PURPOSE.

It is the purpose of this chapter to set forth rules to be adhered to in the provision of off-street parking spaces and loading facilities in order to assure orderly and uncongested development through which the general welfare of the citizens of the Municipality of Powell will be protected and enhanced. These development standards apply throughout the Municipality. In the event of conflict between these standards and any more restrictive standards prescribed in an individual Zoning District or in any approved planned development plan, the provisions of the more restrictive requirements shall prevail. The standards set forth herein are to be considered the minimum standards that are to be met in any zoning or rezoning action, and any subsequent approval of a planned development.

#### 1149.02 - COMPLIANCE WITH PARKING REQUIREMENTS.

- (a) In all districts, including planned districts, at any time that any building, structure, or use of the land is erected, enlarged, increased in capacity, initially used, or changed in use, there shall be provided for every use those off-street parking spaces for automobiles and off-street loading facilities as required herein in accordance with the provisions of this chapter.
- (b) Whenever a building or use is constructed or established, or changed in any way, or enlarged in floor area, number of employees, number of dwelling units, seating capacity, or otherwise to create a need for an increase of ten percent or more in the number of existing parking spaces or those provided for in an approved planned development plan, or to require an off-street loading facility where such does not currently exist, such spaces and/or loading facilities shall be provided in accord with this chapter on the basis of the enlargement or change.

#### 1149.03 - SUBMISSION OF A PARKING/LOADING FACILITIES PLAN.

A parking/loading facilities plan, as a separate item for submission, shall be required for all uses except for single-family and two-family detached residential uses. The parking/loading facility plan shall be submitted to the Zoning Administrator as a part of the application for a zoning permit. As a minimum, this plan shall show on a plan drawn to scale:

- (a) The general location of the property in relation to surrounding streets, properties, buildings and uses;
- (b) The boundaries of the property;
- (c) Existing and proposed buildings and uses on the site including their extent and nature relative to the specified conditions generative of facility needs;
- (d) Parking spaces, aisles, and loading facilities that are proposed to meet these needs;
- (e) Access driveways;
- (f) On-site and off-site circulation patterns;
- (g) Parking/loading area drainage;
- (h) Parking/loading facility construction plans and typical details;

- (i) Details of the location and nature of boundary walls, wheel blocks, stall and lane striping patterns, fences, landscaping, and screening;
- (j) Details of lighting facilities to be provided;
- (k) Expected pedestrian flow patterns from parking spaces to destinations with walk facilities to accommodate same, and
- (l) Enumeration data, each parking stall being numbered, with a total number of parking stalls provided on the site noted and parking row capacities noted at the end of each row of spaces.

#### 1149.04 - QUALITATIVE ASPECTS OF PARKING FACILITY DESIGN.

- (a) It is expected that parking/loading facility plans shall exhibit best efforts toward the design of the total area for such facilities in such a manner as to create smaller, defined parking lot areas in lieu of a single, unbroken paved lot.
- (b) It is required that adequate landscaping be provided to delineate or accent parking, pedestrian, and bicycle areas. It is further required that earth mounding be used to integrate paved areas with the surrounding natural environment.

#### 1149.05 - OFF-STREET PARKING DESIGN STANDARDS.

All off-street parking facilities, including entrances, exits, maneuvering areas, and parking spaces shall be provided in accord with the following standards and specifications.

- (a) *Parking Space Dimensions:* Each off-street parking space shall have dimensions and shall be served by aisle widths that are no less than the following dimensions, and shall all be of usable shape and condition:

	Minimum Stall Width	Minimum Length	Minimum Aisle Width
(1) 90-degree angle parking	9'	19'	22'
(2) parallel parking	10'	23'	14'
(3) 60-degree angle parking	10'	19'	20'
(4) 45-degree angle parking	10'	20'	20'

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- (b) *Access:* There shall be adequate provision for easy and safe ingress and access to all parking spaces. Where the lot or parking spaces do not provide direct access to a public street or alley, an access drive shall be provided, with a dedicated easement of access if necessary, as follows:
  - (1) For one single-, two- or three-family residential structure, the access drive shall be a minimum of ten feet in width.
  - (2) For a combined driveway serving two single-family residences, side-by-side, the access drive shall be a minimum of 16 feet in width.

- (3) For all other uses, the access drive shall be a minimum of 20 feet in width.
  - (4) Additional access drive width may be required in planned districts where the nature of the uses served and their intensity are deemed to require additional lanes or lane widths for safe operation of the accessway.
  - (5) All parking spaces, except those required single-family or two-family dwellings, shall have access to a public street or alley in such a manner that any vehicle leaving or entering the parking area from or into a public street or alley shall be traveling in a forward motion.
- (c) *Setbacks:*
- (1) Off-street parking facilities may be located in required side and rear yards as specified elsewhere in this Zoning Ordinance.
  - (2) Except for single-family and two-family residences, no parking shall be permitted in a required front yard.
  - (3) In no case, however, shall any part of a parking area be located closer than 15 feet to any public street or alley.
  - (4) Nor shall any part of a parking facility for more than five vehicles be located closer than 15 feet to a residentially zoned property, and such a facility shall not be located closer than three feet to a nonresidentially zoned property.
  - (5) No part of a parking facility shall be located closer than 20 feet to any existing dwelling unit, school, hospital, or to any institution for human care, that is located on an adjacent lot.
- (d) *Screening:* In addition to the setback requirements specified in this Zoning Ordinance for off-street parking facilities for more than five vehicles, screening shall be provided on each side of the parking area that abuts any existing residence or any residential district. Such screening shall comply with the requirements of Section 1145.29.
- (e) *Paving:* All required parking spaces, together with their driveways, accessways, aisles, and other circulation areas, shall be hard-surfaced with an all-weather surfaced pavement having an asphalt or concrete binder, provided, however, that variances for parking related to school auditoria, assembly areas, sports fields and other such community meeting or recreation areas may be granted, provided that paved areas are provided for all daily use parking areas. Where paving is not required, proper dust control measures shall be undertaken and maintained.
- (f) *Drainage:* All parking spaces, together with driveways, aisles, and other circulation areas shall be graded and drained so as to dispose of surface water which might accumulate within or on such areas, and shall be designed to prevent the excess drainage of surface water onto adjacent properties, walkways, or onto the public streets. Adequate arrangements shall be made to assure acceptable diversion to an adequate storm water drainageway or system.
- (g) *Wheel Blocks:* Where the extension of a vehicle beyond the front line of a parking space would interfere with drive or aisle access, wheel blocks or other such devices shall be used to preclude such extension.
- (h) *Visibility:*
- (1) Access or driveways for parking areas and loading facilities shall be located in such a way that any vehicle entering or leaving shall be clearly visible for a reasonable distance by any pedestrian or motorist approaching the access or driveway from a public or private street or alley.
  - (2) No driveway shall be located so that it enters a public road within 100 feet of the intersection of any two or more public roads unless there are two driveways serving the lot, one of which is more than 100 feet and the other not less than 40 feet from said intersection.
  - (3) All driveways shall be located and the adjoining land graded so that vehicular traffic entering a public road has an unobstructed sight distance of no less than 300 feet.

- (i) *Marking:* All parking areas for 12 or more spaces shall be marked with double paint lines located parallel to each other and 24 inches apart, which sets of lines shall be centered on the lines designating the side boundaries of each parking space. These lines shall run continuously from the frontmost to the rearmost limit of each space, facilitating movement into and out of the parking stalls by both vehicles and their occupants.
- (j) *Maintenance:* Any owner of property used for parking areas or loading facilities shall maintain such areas in good condition without holes and free of dust, trash, and other debris.
- (k) *Signs:* Where deemed necessary due to multiple curb cuts or possibly confusing circulation patterns, the entrances, exits, and intended circulation paths of a parking area shall be clearly marked. Where a heavy night use is projected, such markings shall be illuminated.
- (l) *Lighting:*
  - (1) All off-street parking areas for other than one-family and two-family residences shall be adequately lighted.
  - (2) Lights used to illuminate a parking lot shall be so arranged as to direct the light away from adjoining property.

(Ord. No. 92-01)

#### 1149.06 - DETERMINATION OF REQUIRED OFF-STREET PARKING SPACES.

In computing the minimum number of parking spaces required by this Zoning Ordinance to provide off-street parking for all employees, customers, visitors and invitees of a use, the following rules shall apply:

- (a) Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross horizontal area of all the floors of a nonresidential building, measured from the faces of the exterior walls, excluding any stairs, washrooms, elevator shafts, and similar nonusable areas.
- (b) Where seating capacity is the standard for determining parking space requirements, the capacity shall mean the number of seating units installed or indicated on each 18 lineal inches of benches, or pews, except where occupancy limits are set by the fire marshal, in which case such occupancy numbers shall apply.
- (c) Fractional numbers shall be increased to the next whole number.
- (d) The parking space requirements for a use not specified in this Zoning Ordinance shall be determined following the procedure for determining "substantially similar uses" as required by Sections 1129.13—1129.17.

#### 1149.07 - PARKING SPACE REQUIREMENTS.

For the purposes of this Zoning Ordinance the following minimum parking space requirements shall apply:

- (a) *Residential Uses.*
  - (1) Single-family dwelling: Four for each dwelling unit.
  - (2) All other residential: Three for each dwelling unit.
  - (3) Elderly housing parking: One space per dwelling unit, plus one space per regular shift employee. Elderly housing parking areas must be provided with aisles measuring no less than 21 feet in width regardless of the type of parking spaces used.
- (b) *Business Related Uses.*

- (1) Animal hospitals and kennels: One for each 400 square feet of floor area and one for each two employees.
  - (2) Motor vehicle repair station: One for each 400 square feet of floor area and one for each employee.
  - (3) Motor vehicle salesroom: One for each 400 square feet of floor area and one for each employee.
  - (4) Motor vehicle service station: Two for each service bay and one for every two gasoline pumps.
  - (5) Car washing facilities: One for each employee.
  - (6) Banks, financial institutions, post offices, and similar uses: One for every 250 square feet of floor area and one for each employee.
  - (7) Barber and beauty shops: Three for each barber or beauty operator station.
  - (8) Eat-in restaurants: Twenty-five spaces, or one for each three seats, plus one for each two employees, whichever is the larger.
  - (9) Carry-out restaurants: One for each 200 square feet of floor area and one for each two employees.
  - (10) Drive-in restaurants: One for each 125 square feet of floor area and one for each two employees.
  - (11) Hotels, motels, and lodges (without public meeting facilities): One for each sleeping room plus one space for each two employees, plus one space for each four seats in the dining room or restaurant area.
  - (12) Hotels, motels, and lodges (with public meeting facilities): One for each sleeping room plus one space for each two employees, plus one space for each four seats in the dining room or restaurant area, plus one space for each 75 square feet of floor area used for exhibition, meeting, or assembly purposes.
  - (13) Boarding, rooming, tourist or bed and breakfast home: One for each sleeping room.
  - (14) Furniture, appliance, hardware, machinery or equipment sales and service, and wholesale establishments: Two plus one additional space for each 200 square feet of floor area over 1,000 square feet.
  - (15) Consumer and trade service uses not otherwise specified, including quick-print shops: Two plus one for each employee.
  - (16) Funeral homes, mortuaries and similar type uses: One for each 25 square feet of floor area in slumber rooms, parlors and service rooms.
  - (17) Laundromats: One for each two washing machines.
  - (18) Office uses, administrative, business and professional: One for each 200 square feet of floor area.
  - (19) Taverns, night clubs, sports clubs serving food and drink, and similar uses: One space for each three persons of capacity.
  - (20) Retail stores and all other types of business or commercial uses: Five spaces plus one for each 400 square feet of floor area.
- (c) *Recreational and Entertainment Uses.*
- (1) Bowling alleys: Four for each alley or lane, plus one for each three persons of capacity of areas used for restaurant, cocktail lounge, or similar use, plus one for each three employees.

- (2) Dance halls, skating rinks: One for each 100 square feet of floor area used for the activity, plus one for each three person capacity in an associated restaurant, snack bar or cocktail lounge, plus one for each three employees.
  - (3) Swimming pools, public, community, or club: One for each ten persons of capacity, plus one for each three persons of capacity in an associated restaurant, snack bar, or cocktail lounge, plus one for each three employees.
  - (4) Auditoria, sports arenas, theaters, and similar uses: One for each four seats.
  - (5) Miniature golf courses: Two for each hole and one for each employee.
  - (6) Private clubs and lodges: One for each ten members.
  - (7) Tennis facilities, racquetball facilities, and similar uses: Two for each playing area, plus one for each employee, plus one for each 100 square feet of the activity area, plus one for each three persons of capacity in an associated restaurant, snack bar, or cocktail lounge.
- (d) *Institutional Uses.*
- (1) Churches and other places of religious assembly: One for each three seats in the main assembly room, one for each classroom, or one for each 45 square feet of assembly area, whichever is the greater.
  - (2) Hospitals: One and one-half for each bed, plus one for each two employees.
  - (3) Sanitaria, homes for the aged, nursing homes, rest homes, and similar uses: One for each two beds, plus one for each two employees.
  - (4) Medical and dental clinics: One for every 100 square feet of floor area.
  - (5) Libraries, museums, and art galleries: Ten plus one for each 300 square feet of floor area in excess of 2,000 square feet, plus one for each two employees.
- (e) *Educational Institution (Public, Parochial, or Private) Uses.*
- (1) Elementary schools and kindergartens: Four for each classroom, plus one for every four seats in an auditorium or assembly hall, plus one for each non-teaching employee.
  - (2) High schools, middle schools, and colleges: One for every ten students and one for each teacher and employee, or one for every four seats in auditoria, assembly areas or sports fields, whichever is the greater.
  - (3) Business, technical and trade schools: One for each two students.
  - (4) Child care centers, nursery schools and similar uses: Four for each classroom.
- (f) *Manufacturing and Warehouse Uses.*
- (1) All types of manufacturing, storage, wholesale and warehouse uses: One for every employee on the largest shift for which the facility is designed, plus one for each motor vehicle used in the business.
  - (2) Cartage, express, parcel delivery, and freight terminals: One and one-half for each employee on the largest shift for which the facility is designed, plus one for each motor vehicle maintained on the premises.
- (g) *Additional Off-Street Auto Storage Areas for Drive-in Services.* Establishments which by their nature create lines of customers waiting to be served within automobiles shall provide additional off-street auto storage areas, no less than nine feet wide and 18 feet long per area, in accordance with the following requirements:
- (1) Photo pickups, restaurants, drive-thru beverage docks, and other similar commercial establishments that can normally serve customers in three minutes or less shall provide no less than five storage areas per window. Drive-in restaurants or other similar uses which



require an additional stopping point for order pickup shall provide a minimum of three additional storage areas at each such stopping point.

- (2) Other commercial establishments, such as banks, savings and loan offices, or similar facilities with service or money windows, shall provide no less than four storage areas per window.
- (3) Self-serve automobile washing facilities shall provide no less than three storage areas per stall. All other auto washing facilities, and similarly operated oil change emporia, shall provide a minimum of six storage areas per entrance.
- (4) Motor vehicle service stations shall provide no less than two storage areas at each accessible side of a gasoline pump island. Gasoline pumps shall be located no closer than 15 feet to a street right-of-way line.

#### 1149.08 - HANDICAPPED PARKING.

Parking facilities serving buildings and facilities required to be accessible to the physically handicapped shall have conveniently located designated spaces provided nearby as follows:

Total Spaces in Lot/Structure	Minimum Number of Designated Accessible Spaces Required
Up to 100	One space for each 25 parking spaces.
101 to 200	4 spaces, plus one per 50 spaces over 100.
201 to 500	6 spaces, plus one per 75 spaces over 200.
Over 500	10 spaces, plus one per 100 spaces over 500.

#### 1149.09 - LOCATION OF OFF-STREET PARKING FACILITIES.

- (a) All off-street parking facilities for all uses shall be located on the same lot as the uses they serve.
- (b) Required parking spaces for apartments, attached single-family condominiums, dormitories or similar residential uses shall be located no more than 150 feet from the main entry door of the dwelling unit they serve.
- (c) Parking of vehicles on lawn areas is prohibited for no more than 24 hours. Upon written application, a Zoning Certificate may be issued by the Zoning Administrator for parking on grass for special events.

(Ord. No. 98-25, 8-4-1998)

#### 1149.11 - OFF-STREET LOADING SPACE REQUIREMENTS.

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1149.10 - ~~OLD POWELL COMMERCIAL DOWNTOWN BUSINESS DISTRICT.~~ ¶

To preclude destruction of the unique village scale and character of the ~~Old Powell Commercial Downtown Business District~~ by the provision of modern large-scale off-street parking facilities and loading spaces, the off-street parking and loading requirements of this Zoning Ordinance are hereby altered as they apply to land uses and structures located in the ~~Old Powell Commercial Downtown Business District.~~ ¶

(a) . Useable on-street curbside parallel parking spaces on streets upon which the relevant property abuts may be counted toward meeting the parking needs of the abutting use. ~~except for street frontage on streets that are designated as state or federal highways.~~ ¶

(b) . The number of off-street parking spaces required to be provided shall be reduced in the ~~Old Powell Commercial Downtown Business District~~ to one-half that required in other districts for the same use.

Notwithstanding this provision for uses within the Downtown Business District, those uses that generally require a larger amount of parking for higher capacity turnover business, such as but not restricted to restaurants and bars, shall not be reduced in half, but can be planned for some reduction as approved by the Planning and Zoning Commission as an Administrative Review if allowances are made for parking spaces that can be utilized on adjacent or nearby properties that is a reasonable plan for sharing parking spaces.¶

(c) . In the ~~Old Powell Commercial Downtown Business District~~ and on properties immediately abutting that district that are separated from the district by an alley, back-out spaces from alleys will be permitted, as parking off of rear alleys in this district is preferable to the provision of parking in more visible locations. ¶

(d) . No off-street loading spaces shall be required for any use in the ~~Old Powell Commercial Downtown Business District.~~ ¶

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In every district and in connection with every building or part thereof hereafter erected or expanded in such a manner as to have a gross floor area of 3,000 square feet or more, which is to be occupied by any use requiring the pickup or delivery of merchandise or supplies, there shall be provided and maintained, on the same site with the building, and not located in any public street or alley, at least one off-street loading space and one additional off-street loading space for each 10,000 square feet or fraction thereof of gross floor area so occupied in excess of 3,000 square feet.

- (a) *Loading Space Dimensions:* Each loading space shall have minimum dimensions not less than 12 feet in width, 65 feet in length, and a vertical clearance of not less than 14 feet.
- (b) *Location:* Notwithstanding other provisions of this Zoning Ordinance, required off-street loading spaces may be located in required side and rear yard areas, but shall not be located in front yards, provided that no more than 30 percent of such a required rear or side yard is so occupied, and no part of any loading space is located within 50 feet of the boundary of a residential district, closer than 70 feet to an existing residence, nor closer than 15 feet to any street or alley.
- (c) *Screening:* In addition to the setback requirements specified above, screening shall be provided on each side of an off-street loading space except where the space abuts the building served and at the entry point to the space. Additional screening shall be provided to assure that there is no direct vision into such a loading area from a public street, from an abutting residential area, from an existing residence, or from other districts. Screening shall comply with the requirements of Section 1145.29.
- (d) *Access:* All off-street loading spaces shall have access from a public street or alley in such a manner that any vehicle leaving the premises shall be traveling in a forward motion. Off-street loading spaces shall be provided with adequate maneuvering room and shall be designed to permit entry to such loading areas without interfering with traffic on adjacent streets or highways.
- (e) *Paving:* All required off-street loading spaces, together with driveways, aisles and other circulation areas shall have an all-weather surface with an asphaltic or portland cement binder pavement in order to provide a durable and dust free surface.
- (f) *Drainage:* All loading areas, together with driveways, aisles and other circulation areas shall be designed to prevent the excess drainage of surface water on to adjacent properties, walkways or onto the public streets. Arrangements shall be made to assure acceptable diversion to an adequate storm water channel or drainage system.
- (g) *Lighting:* Any lights used to illuminate a loading area shall be so arranged as to direct the light away from adjoining properties.

## CHAPTER 1151 - SIGNS<sup>[23]</sup>

Sections:

Footnotes:

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**State Law reference**— Power to regulate advertising, O.R.C. § 715.65; Advertising on State and interstate highways, O.R.C. Ch. 5516

### 1151.01 - PURPOSE.

The purpose of this chapter is to provide standards for signs to safeguard life, health, property, safety, and public welfare, while encouraging creativity, variety and compatibility, and enhancement of the Municipality's image. The provisions of this chapter are intended to:

- (a) Encourage creative and well-designed signs that contribute in a positive way to the Municipality's visual environment, express local character, and help develop a distinctive image for the Municipality;
- (b) Encourage signs that are responsive to the aesthetics and character of their particular location, adjacent buildings and uses, and the surrounding neighborhood. Signs should be compatible and integrated with the building's architectural design and with other signs on the property;
- (c) Prevent signs from becoming a distraction or obstruction to the safe flow of pedestrian and vehicular traffic;
- (d) Encourage a healthful economic and business environment in the community;
- (e) Limit the height and size of signs to those that are appropriate in scale to the community;
- (f) Provide adequate way finding signage for motorists and pedestrians, and
- (g) Reduce visual clutter.

(Ord. No. 2015-29, 8-18-2015)

### 1151.02 - APPLICABILITY.

- (a) *Generally.* Except as otherwise provided in this section, all signs placed, erected, installed, painted, modified or altered in the Municipality of Powell shall conform to the standards set forth in this chapter and shall require Zoning Certificates in accordance with Section 1151.09 of this chapter. Erection, modification, alteration, placement, replacement or other action involving a sign that is in any way inconsistent with this chapter shall be a violation of the Zoning Code and subject to penalties and remedies set forth in Chapter 1135 of the Codified Ordinances.
- (b) *Sign Standards.* The sign standards provided in this Chapter are intended to apply to signs in each zoning district in the Municipality. Only signs authorized by this Chapter shall be allowed.
- (c) *Existing Signs; Continuance.* Except as otherwise specifically provided, nothing in this Chapter shall require removal or discontinuance of an existing on-premises or existing off-premises sign. No existing signs shall be enlarged or extended without a Zoning Certificate. Nonconforming signs shall not be

enlarged or extended and these signs shall be deemed a nonconforming sign under the terms of the Zoning Code.

(d) *Nonconforming Signs.*

- (1) Any legal nonconforming sign, as defined in Section 1151.02, may be continued in use if maintained in accordance with this subsection.
- (2) All pre-existing illegal nonconforming signs must be removed in accordance with this sub-section. The Zoning Inspector shall issue an order for the sign to be removed within 20 days. The cost of removal will be assessed to the property owner. If the property owner refuses to pay for removal of the sign, the cost of such removal shall be assessed to, and a lien placed upon, the property owner's tax records.
- (3) Any illegal nonconforming sign displayed on the premises shall be removed or brought into conformance with the provision of this Chapter before a Zoning Certificate for a new sign may be issued.
- (4) A legal nonconforming sign is allowed to remain. However, a legal nonconforming sign shall immediately lose its legal nonconforming designation and shall be immediately brought into compliance with this chapter (with the approval of a Zoning Certificate) or shall be removed when any of the following occurs:
  - A. The nonconforming sign is structurally altered, enlarged, relocated, or replaced.
  - B. The nonconforming sign is determined by the Zoning Inspector or the Chief Building Official to be in a dangerous or defective condition; to fail to conform to health and fire codes; a public nuisance; or abandoned, deteriorated; or in need of repair or replacement.
  - C. The nonconforming sign face and/or supportive structure is destroyed or damaged in excess of 50 percent of the combined replacement value of the sign and supportive structure, by any cause.
  - D. Upon the discontinuance of the present use of property for which the sign was intended for a period of more than six months.
- (5) A nonconforming sign shall not be moved in whole or in part to any other location unless such sign is made to conform to this chapter. If an owner is forced to move a nonconforming sign by Municipal, state, or federal officials for any reason other than enforcement, such sign shall maintain its nonconforming status, but must still adhere to the setback requirements.
- (6) Nothing in this section shall prevent the ordinary repair, maintenance, and non-structural alteration of nonconforming signs. Maintaining the nonconforming sign to the exact legal nonconforming design shall be allowed; however, any proposed changes to a nonconforming sign, except for re-facing an existing sign, shall require that the sign be made to conform to the requirements of this chapter. Re-facing an existing nonconforming sign shall not be considered an alteration as long as the re-facing constitutes an exact replica of the existing sign face. The design, color scheme, translucency, graphics and text must exactly match those existing. No structural alterations shall be made in, to, or upon such nonconforming sign, except those required by law to make the sign conform to the requirements of this chapter.
- (7) Nonconforming signs are also subject to the provisions of Chapter 1125 in addition to this chapter.

(Ord. No. 2015-29, 8-18-2015)

1151.03 - DEFINITIONS.

The following are definitions of specialized terms and phrases used in this chapter and not previously defined in Chapter 1123. The definitions are organized in alphabetical order.

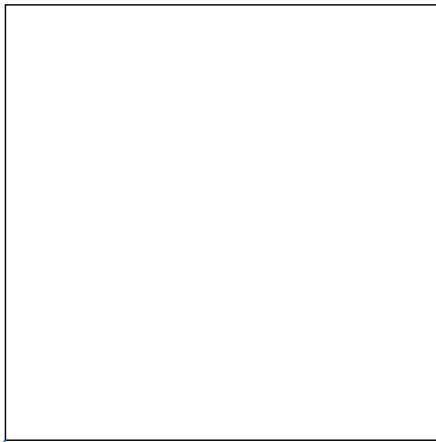
*Abandoned sign* means any sign that advertises a business, leaser, owner, product, service or activity that is no longer located on the premises where the sign is displayed.

*Alteration* means any change of copy, sign face, color, size, shape, illumination, position, location, construction, or supporting structure of any sign.

*Animated or moving sign* means a sign that uses movement, lighting, or special materials to depict action or create a special effect to imitate movement.

*Awnings and canopies* means roof-like covers that project from the wall of a building for the purpose of shielding a doorway or window from the elements.

*Awning sign* means any sign copy or logo attached to or painted on an awning.



*Awning sign*



*Banner or pennant* means any non-rigid cloth, canvas, bunting, plastic, paper, or similar material that is mounted to any structure, staff, pole, line, or framing. Such signs are typically related to a public demonstration or for the promotion of civic, welfare or charitable enterprises. National, State or municipal flags shall not be considered a banner or pennant.

*Blade sign* means a small, pedestrian-oriented sign mounted so that the sign face is perpendicular to the face of the building. A blade sign may be hung beneath a canopy or awning.

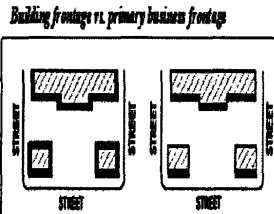
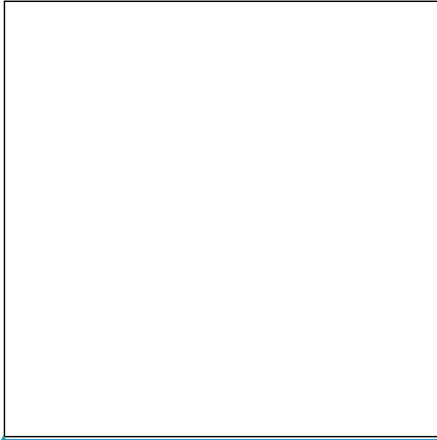
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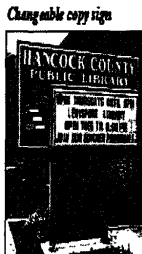
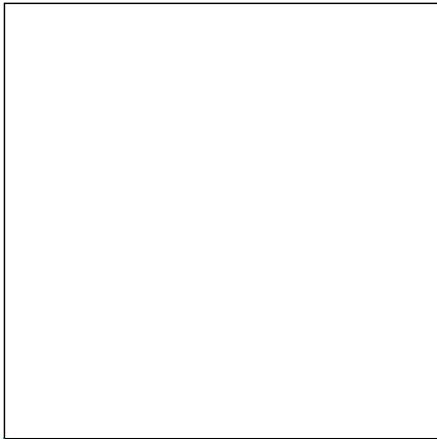
Blade sign



*Building frontage, primary* means that portion of the building frontage that faces the street. In cases where a building has more than one street frontage, the longest of the street frontages shall be considered the primary building frontage. In cases where a business has no building frontage facing a street, the building frontage with the primary business entrance shall be considered the primary building frontage. A single multi-tenant building has one primary frontage, the allowable sign area for which may be distributed at the discretion of the owner; however, in no event shall the combined sign area for all tenants exceed the allowable sign area for the building.



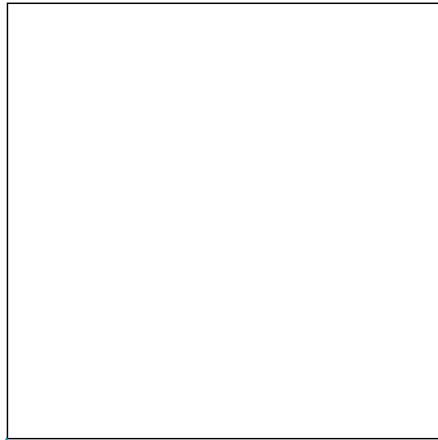
*Changeable copy sign* means a sign which displays words, lines, logos, or symbols that can change to provide different information. Changeable copy signs include computer signs, reader boards with changeable letters, and time and temperature signs.



*Channel letters* means three-dimensional individually cut letters or figures whether or not illuminated, affixed to a structure.

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*Channel letters*



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*Copy* means words, letters, numbers, figures, designs, or other symbolic representations incorporated into a sign.

*Double-faced sign* means a sign constructed to display its message on the outer surfaces of two identical and opposite parallel planes.

*Edge of roof* means on a pitched roof, the lowest portion of the fascia board covering the roof rafters, or if no fascia board exists, the lowest point of the roof rafters. On a flat roof, the top of the parapet wall or three feet above the roof deck, whichever is less.

*Electronic reader board sign or electronic graphics sign* means a sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means.



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Pole sign with electronic reader board



*Electronic Sign* means any sign that is externally powered to omit light and bring attention to the sign. This sign can utilize any form of technology to function, not including neon. This type of sign would be placed internal to a structure and would be viewable from the street, usually within a window.

*External illumination* means the lighting of an object from a light source located a distance from the object.

*Flashing sign* means a sign that contains an intermittent or sequential flashing light source.

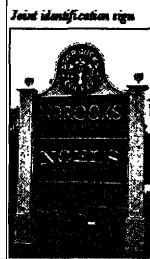
*Freestanding sign* means any sign not affixed to a building. Freestanding signs may be permanent or temporary.

*Inflatable device* means an object that is blown up with air or gas.

*Internally illuminated sign* means a sign whose light source is located in the interior of the sign so that the rays go through the face of the sign, or light source which is attached to the face of the sign and is perceived as a design element of the sign.

*Joint identification sign* means a sign which serves as a common or collective identification for two or more uses located within the same building, or which share a common wall, or for two or more buildings located within a jointly used area, provided the buildings are in close proximity to one another.

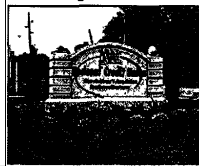
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*Monument sign* means a permanent, freestanding sign where the entire bottom of the sign is affixed to the ground, not to a building.

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Monument sign



*Multiple user building* means a development consisting of four or more separate uses or tenancies that share either the same parcel or structure and use common access and parking facilities.

*Neon sign* means a glass tube lighting in which a gas and phosphors are used in combination to create a colored light.

*Nonconforming sign* means any sign lawfully erected and maintained prior to the effective date of this Chapter, constructed in conformance with the ordinances and other applicable laws in effect on the date of its construction, but by reason of its size, height, location, design, or construction is no longer in conformance with the regulations of this Chapter.

*Nonresidential district* means any of the following zoning districts: Planned Commercial District (PC), Planned Industrial District (PI), Planned Office District (PO), and the Downtown Business District (DB).

*Off-premise sign* means a sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the lot or premises on which the sign is located.

*On-premise sign* means a sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered on the lot or premises on which the sign is located.

*Permanent sign* means a sign constructed of durable materials and intended to exist for the duration of time that the use or occupant is located on the premises.

*Pole sign* means a sign mounted on a free-standing pole or other support so that the bottom edge of the sign face is ten feet or more above finished grade.

*Portable sign* means a sign that is not affixed to a structure or the ground (e.g., A-frame or sandwich board sign).



**Sandwich board sign**

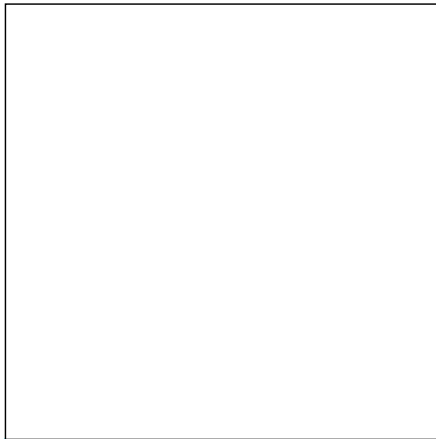


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*Projecting sign* means a sign that protrudes in a V-shape from the top of the ground floor over the sidewalk, like a traditional theater marquee.

*Residential district* means any of the following zoning districts: Residence District (R), Planned Residence District (PR), and Downtown Residence District (DR).

*Roof sign* means a sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the highest point of building with a flat roof, the eave line of a building with gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.



**Roof sign**



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*Sign* means an object, device display or structure, or part thereof, situated outdoors or indoors, which is used to identify, display, or direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design symbols, fixtures, colors, illumination, or projected image. Unless otherwise noted, the term "sign" includes both on-premises and off-premises signs.

*Sign area* means the entire area within a perimeter defined by a continuous line composed of right angles which enclose the extreme limits of lettering, logo, trademark, or other graphic representation, together with any frame or structural trim forming an integral part of the display used to differentiate the sign from the background against which it is placed.

*Sign height* means the vertical distance from the uppermost point of the sign to the finished grade immediately below the base of the sign, including all base and/or other mounting material.

*Sign—sidewalk sign* means a sign with two faces that are adjoined at the top and displayed at an angle, which is not permanently anchored or secured, or similar design. These are also known as "A-Frame" signs, and are intended to be seen by a pedestrian on a sidewalk rather than by a driver or passenger in a vehicle. Sidewalk Sign may also mean a sign with two faces that are adjoined at some point along the sign frame and the support legs are parallel to the sign (This looks like the letter "T", hence these are also known as "T-Frame" signs).

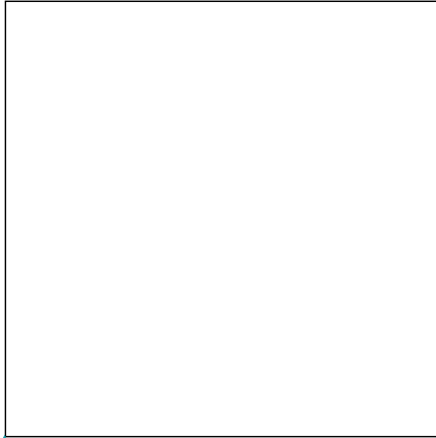
*Stick sign* means any type of temporary signs that are placed in the ground and consist of a paper or non-paper corrugated or similar temporary material placed over thin metal or wooden supports.

*Temporary sign* means any sign intended to be displayed for a limited period of time and capable of being viewed from any public right-of-way, parking area or neighboring property.

*Three-dimensional signs* means signs that have a depth or relief on their surface greater than six inches.

*Vehicle sign* means a sign that is attached to or painted on a vehicle that is parked on or adjacent to any property, the principal purpose of which is to attract attention to a product sold or business located on the property.

*Wall sign* means a sign that is attached to or painted on the exterior wall of a structure with the display surface of the sign approximately parallel to the building wall.



Wall sign with channel letters



*Window area* means the area shall be computed by calculating each window pane or panel. The area shall be separate for each building face, and for each window. A group of window panes or panels may be considered one window if they are adjoining on the building face and are less than six inches apart.

*Window sign* means a sign (temporary or permanent), poster, symbol, numerals, or letters, posted, painted, placed, or affixed in or on a window exposed to public view. An interior sign that faces a window exposed to public view that is located within three feet of the window is considered a window sign for the purpose of calculating the total area of all window signs.

#### Electronic Sign Related Definitions

*Candelas, cd:* SI (System International) unit of luminous measurement when utilized per unit m<sup>2</sup>. Can also be utilized per unit area of ft<sup>2</sup>.

*Center Beam Candlepower (CBCP):* Center beam candlepower is the luminous intensity at the center of a beam, expressed in candelas (cd).

*Direct lighting:* Lighting by luminaires distributing 90 to 100 percent of the emitted light in the general direction of the surface to be illuminated. The term usually refers to light emitted in a downward direction.

*Directional lighting:* Illumination on the work-plane or on an object predominantly from a single direction, especially when direct lighting is incorporated into electronic signs. LED's are an example of directional lighting.

*Foot-candle, fc:* A unit of illuminance equal to 1 lumen per square foot. One foot-candle equals 10.76 lux.

*General lighting:* Lighting designed to provide a substantially uniform illuminance throughout an area, exclusive of any provision for special local requirements. This a "spherical" distribution of light.

*Illuminance:* Light arriving at a surface, expressed in lumens per unit area; 1 lumen per square foot equals 1 foot-candle, while 1 lumen per square meter equals 1 lux.

*Luminance, L:* light reflected in a particular direction; the photometric quantity most closely associated with brightness perception, measured in units of luminous intensity (candelas) per unit area (square feet or square meters).

*Lumen, lm:* a unit of luminous flux; the overall light output of a luminous source is measured in lumens. A unit measurement of the rate at which a lamp produces light. A lamp's light output rating expresses the total amount of light emitted in all directions per unit time.

*Lux, lx:* a unit of illuminance equal to 1 lumen per square meter. One lux equals 0.093 foot-candle.

*NIT:* Non-SI unit of luminous measurement per unit m2. Common application within the sign industry. One NIT is equivalent to one cd/m2.

*Watt, W:* a unit of electrical power (energy) equal to 1 joule per second. Volts times amps.

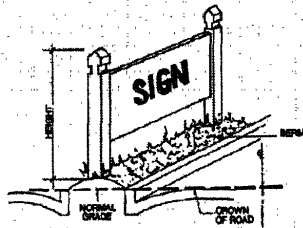
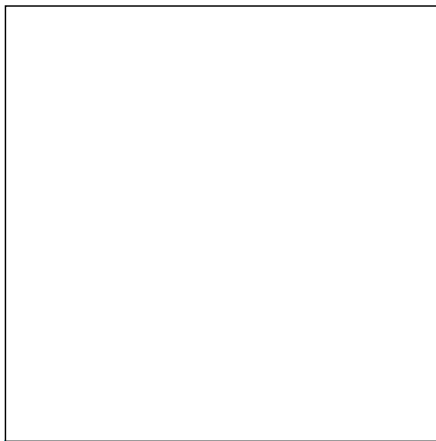
*Work plane:* the plane at which work usually is done, and on which the illuminance is specified and measured.

(Ord. No. 2015-29, 8-18-2015)

#### 1151.04 - GENERAL REQUIREMENTS FOR ALL SIGNS AND DISTRICTS.

- (a) *Signs in Public Rights-of-Way.* Except as provided, no sign shall be placed or deposited within any public right-of-way or on any tree, pole, post, meter, or similar object located within the public right-of-way. Under no circumstance may any signs that are permitted in the right-of-way interfere with vehicular or pedestrian visibility. Signs interfering with visibility will be removed.
  - (1) The following signs may be installed in the public rights-of-way without a Zoning Certificate:
    - A. Signs conforming to the Manual of Uniform Traffic Control Devices;
    - B. Signs installed by employees or officials of a municipal, state or federal agency in the course of their governmental duties;
    - C. Signs required by a state or federal statute;
    - D. Signs required by an order of a court of competent jurisdiction;
    - E. Public directional and safety signs.
  - (2) Blade signs attached to a building may project a maximum of 40 inches over a public right-of-way provided the lowest part of the sign is at least eight feet but no more than 15 feet above the pedestrian thoroughfare and provided said sign has received a Zoning Certificate from the Zoning Administrator. Blade signs shall not project over any curb line or street.
- (b) *Colors.* Not more than five colors may be used per sign. For purposes of this Section, black or white shall be considered a color. Neon and fluorescent colors are prohibited.
- (c) *Lettering Styles and Sign Coverage.* No more than two letter styles or more than three sizes of letters are permitted per sign. Letters may not occupy more than 75 percent of any sign panel.
- (d) *Measurement of Sign Area.*
  - (1) The surface area of a sign shall be calculated by enclosing the extreme limits of all lettering, background, emblem, logo, representation, or other display within a single continuous perimeter composed of squares or rectangles with no more than eight lines drawn at right angles.

- (2) Supporting framework or bracing that is clearly incidental to the display itself shall not be computed as sign area.
- (3) Double-faced (back-to-back) signs shall be regarded as a single sign only if mounted on a single structure, and the distance between each sign face does not exceed two feet at any point. Only one face of an identical double-faced sign shall be measured when determining maximum allowable area.
- (4) Where a sign consists of one or more three-dimensional objects (i.e., balls, cubes, clusters of objects, sculpture, or statue-like trademarks), the sign area shall be measured as their maximum projection upon a vertical plane.
- (5) Regardless of their spacing, the letters forming a word or name shall be considered a single sign. The area of such a sign shall be measured as provided in this chapter.
- (e) *Measurement of Sign Height.* The height of a sign shall be computed as the distance from the base of the sign at a computed grade to the top of the highest attached component of the sign (including the sign face, sign structure, or any other appurtenance). The computed grade shall be the elevation of the nearest point to the proposed sign location of the crown of the nearest public street providing access; or the grade of the land at the principal entrance to the principal structure on the lot, whichever is higher.



- (f) *Alterations.* No sign shall hereafter be altered, rebuilt, enlarged, extended or relocated except in conformity with the provisions of this chapter. The repainting of signs shall not be deemed to be an alteration within the meaning of this chapter.
- (g) *Sign Maintenance.* Signs and supporting hardware shall be structurally safe, clean, free of visible defects, and functioning properly at all times. Visible rot or rust, exposed lighting sources or wires, falling parts, or broken and missing parts are prima facie evidence that a sign is in a state of disrepair. Repairs to signs shall be equal to or better in quality of materials and design than the original sign.
- (h) *Notice to Repair.* When the Zoning Administrator determines that such a sign exists in a state of disrepair, the Zoning Administrator shall issue to the owner of the sign and the owner of the real estate a notice of such disrepair and the need for corrective action. Any party receiving such notice may appeal the notice to the Board of Zoning Appeals in accordance with Section 1127.03. If such an appeal is not filed within 20 days of the date on which the notice is sent, persons receiving the notice shall be responsible for repairing the sign or otherwise bringing it into conformance with this chapter. The repair work shall be accomplished within 30 days of the date of the notice, unless the person undertaking the work files a request with the Zoning Administrator for an extension. If such request

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shows diligence and good faith such as ordering materials or signing a contract with a licensed contractor, the Zoning Administrator shall grant an extension of a maximum of 30 days for completion of the work. If an appeal is filed in accordance with Section 1127.03 the time for performance shall be delayed until resolution of the appeal. If the Zoning Administrator finds that the lack of repair constitutes a danger to persons or to property other than that of those persons receiving the notice, the Zoning Administrator shall so state in the notice and the Municipality may seek immediate relief under the Building Code or under the laws of public nuisance.

- (i) *Sign Removal or Replacement.* When a sign is removed or replaced, all brackets, poles, and other structural elements that supported the sign shall also be removed. Affected building surfaces shall be restored to match the adjacent portion of the structure.
- (j) *Sign Attachment and Support.* No sign shall be attached to or supported by a fence, tree, utility pole, light pole, trash receptacle, bench, vending machine, gasoline pump, or public shelter, nor shall such sign be painted or drawn upon rocks or other natural features.
- (k) *Changeable Copy Signs.* Manual or electronic changeable copy signs shall not be permitted on any sign within the municipality unless it is approved by the Planning and Zoning Commission as part of a comprehensive sign plan.

(Ord. No. 2015-29, 8-18-2015)

#### 1151.05 - PERMANENT SIGNS.

- (a) *Residential Districts.* Permanent signs in residential districts shall conform to the following standards as well as the other applicable standards of the Codified Ordinances:
  - (1) *Number.* No more than one such sign may be located on a lot.
  - (2) *Type.* Unless otherwise stated, wall signs are the only types of signs permitted. Permanent subdivision identification signs within entrance features are permitted and shall be reviewed and approved by the Planning and Zoning Commission.
  - (3) *[Off-premises signs.]* All off-premises signs are prohibited.
  - (4) *Maximum area and height.* Signs may not exceed four square feet in area or be more than two feet in height.
  - (5) *Illumination.* Signs shall not be separately illuminated. This standard is not intended to prohibit the installation of such a sign near a porch light or yard light, which may incidentally illuminate the sign. Permanent subdivision identification signs within entrance features may be lighted by an external source, but such illumination shall be in a manner which avoids glare or reflection which in any way interferes with traffic safety
- (b) *Non-Residential Districts.* Permanent signs in non-residential districts shall conform to the following standards and all other applicable standards of the Codified Ordinances:
  - (1) *Number.*
    - A. *Wall signs.* No more than one wall sign shall be permitted. A secondary wall sign no more than 75 percent of the size of the primary wall sign shall be permitted if the property fronts two or more public streets. No more than one secondary wall sign shall be permitted. Blade and awning and canopy signs shall be considered wall signs.
    - B. *Freestanding signs.* No more than one sign shall be permitted per lot frontage.
    - C. *Joint identification signs.* No more than one sign shall be permitted. A secondary joint identification sign shall be permitted if the property fronts two or more public streets and is located on a lot more than two acres. No more than one secondary joint identification sign shall be permitted per development.

(2) *Maximum area and height.*

- A. *Wall signs.* The total area shall not exceed one square foot per one lineal foot of the length of the wall on which the sign is to be attached up to a maximum of 36 square feet. Within the Historic District, the maximum size shall be 18 square feet. The maximum height permitted shall be 15 feet in any district.
- B. *Freestanding signs.* The total area shall not exceed 48 square feet. Within the Historic District, the maximum size shall be 12 square feet. The maximum height shall be eight feet in any district.
- C. *Joint identification signs.* On lots less than ten acres, primary joint identification signs may not exceed 56 square feet in area or be more than eight feet in height. Secondary joint identification signs shall not exceed 36 square feet in area or be more than eight feet in height. On lots ten acres or greater primary joint identification signs may not exceed 72 square feet in area or be more than ten feet in height and secondary joint identification signs may not exceed 48 square feet or be more than eight feet in height. Within the Historic District, the maximum size shall be reduced by one-half the size stated above.

(3) *Illumination.*

- A. Unless otherwise stated, signs may be illuminated from within or from an external source, but such illumination shall be in a manner which avoids glare or reflection which in any way interferes with traffic safety. Within the Historic District, illumination shall only be from an external source.
  - B. Internally illuminated signs shall have an opaque background and translucent copy.
  - C. External lighting fixtures shall be aimed and shielded so that direct illumination is focused exclusively on the sign.
  - D. Fixtures can be mounted on the top of the sign or be ground mounted with up-lighting not exceeding 100 lamp watts per sign face.
  - E. The maximum watts permitted to illuminate a sign shall be two watts per sign face square foot provided at no point on the face of the sign and at no time shall the illumination exceed 30 vertical foot-candles during hours of darkness.
  - F. Rotating, traveling, pulsing, flashing, blinking, or oscillating light sources, lasers, beacons, search lights, or strobe lighting are prohibited.
  - G. Colored lights shall not be used at a location or in a manner so as to be confused or construed as traffic control devices.
  - H. Light sources shall utilize energy efficient fixtures to the greatest extent possible.
  - I. Neon lighted signs, or signs resembling neon lighted signs, are prohibited if they can be seen and readable from the outside.
- (c) *Zoning Certificate Required.* Unless otherwise stated, all permanent signs in residential and nonresidential districts require a Zoning Certificate.

(Ord. No. 2015-29, 8-18-2015)

1151.06 - TEMPORARY SIGNS.

(a) *All Districts.*

- (1) *Non-Commercial Speech Temporary Signs:* Temporary signs that portray a message which is not commercial in nature (that do not advertise a business, commodity, product or service) shall be allowed. No more than one sign per statement is permissible per lot per frontage. Any non-

commercial sign may remain on a lot indefinitely, until such a time that the sign has not been maintained in an original or near-original condition.

- (b) *Residential Districts.* Temporary signs in residential districts shall conform to the following standards as well as the other applicable standards of the Codified Ordinances:
  - (1) *Number.* No more than one sign per statement is permissible per lot per frontage.
  - (2) *Maximum area and height.* Signs may not exceed six square feet in area or be more than four feet in height.
  - (3) *Display period.* Each temporary sign may not be displayed for more than 45 consecutive days, unless said sign is maintained in good condition as determined by the Zoning Administrator.
  - (4) *Off-premises signs.* Off-premises temporary signs are prohibited.
  - (5) *Illumination.* Signs shall not be separately illuminated. This standard is not intended to prohibit the installation of such a sign near a porch light or yard light, which may incidentally illuminate the sign.
  - (6) *Zoning Certificate requirements.* Temporary signs in residential districts do not require a Zoning Certificate.
- (c) Except as authorized above for non-commercial speech temporary signs, no other temporary or portable signs shall be allowed in the City.
- (d) *Temporary New Development Construction Signs.*
  - (1) The owner or developer of a residential subdivision or a non-residential development may erect one sign not exceeding 32 square feet in area during the course of development. Once 80 percent of the development is complete as determined by the Zoning Administrator, these signs shall be removed by the Zoning Certificate holder.

(Ord. No. 2015-29, 8-18-2015)

#### 1151.07 - STANDARDS FOR SPECIFIC SIGN TYPES.

- (a) *Awning and Canopy Signs.* Awning and canopy signs may be permitted only as an integral part of the awning or canopy to which they are attached or applied and shall meet the following conditions:
  - (1) *Location.* Signs may be placed only on awnings that are located on first- and second-story building frontages, including those fronting a parking lot or pedestrian way.
  - (2) *Extension.* Such signs shall not extend more than three feet from the face of the building to which they are attached.
  - (3) *Minimum clearance.* A minimum clearance of ten feet shall be maintained above sidewalks.
  - (4) *Copy.* The copy on an awning sign shall not exceed 50 percent of the sign's total area.
  - (5) *Illumination.* Internal illumination of the awning is prohibited.
- (b) *Blade signs.*
  - (1) *Location.* Blade signs shall be placed only on a ground floor facade, except for businesses located above the ground level with direct exterior pedestrian access.
  - (2) *Height above finished grade.* The lowest point of a blade signs shall be at least eight feet but no more than 15 feet above finished grade. Blade signs shall not extend beyond the roof line in a vertical direction.
  - (3) *Sign structure.* Sign supports and brackets shall be compatible with the design and scale of the sign. Brackets and/or hardware for the sign may not extend more than four inches from the outside face of the sign.

- (4) *Square footage.* A maximum of eight square feet will be allowed.
- (5) *Illumination.* Internal illumination is prohibited.
- (c) *Freestanding Signs.*
  - (1) *Posts.* Signs mounted on single poles or posts shall be prohibited outside the Historic District. Freestanding signs shall be designed utilizing two posts, one on either side of the sign, or be designed with a monument type base. No more than two posts may be used. The height of the posts will not be included in the maximum height permitted for the sign, however posts shall not protrude higher than one foot above the height of the sign. Minimum post size (this refers to the finished outside dimension) shall be a six inch by six inch shall be required.
  - (2) *Base material of monument signs.* The base of monument signs shall be brick, stone, stucco, or other more permanent material not subject to water damage. The exposed base of a monument sign shall not exceed two feet in height. The height of the base will be included when calculating the height of the sign.
  - (3) *Cantilever signs.* The post used to anchor cantilever signs shall be wood or another natural material such as brick or stone.
  - (4) *Landscaping.* Landscaping shall be provided at the base of the supporting structure equal to twice the area of one face of the sign. Landscaping is not required on temporary, freestanding signs.
  - (5) *Location.* The sign must be located along frontage adjoining a public street.
  - (6) *Setbacks.* The front setback for freestanding signs shall be a minimum of 15 from the public right-of-way line unless otherwise stated. The sign must also meet the side yard setback for the applicable zoning district unless otherwise stated.
- (d) *Joint Identification Signs.*
  - (1) *Type.* Primary and secondary freestanding joint identification signs must be monument signs.
  - (2) *Setbacks.* The front setback for freestanding joint identification signs shall be 25 feet from the public right-of-way. The sign must also meet the side yard setback for the applicable zoning district unless otherwise stated.
- (e) *Wall signs.*
  - (1) *Location.* All wall signs shall be mounted on the building which houses the establishment advertised by such signs, except as otherwise specifically authorized by this Zoning Code. Such signs shall be located on or along a wall of such a building which faces a street, parking lot, or service drive, and shall not project above the roof line or the cap of parapets of such building, whichever is higher.
  - (2) *Projection from wall.* All wall signs shall be parallel to the wall on which they are installed. The sign shall not project from the surface upon which it is attached more than 12 inches in a non-residential district. In a residential district, a wall sign shall not project more than three inches.

(Ord. No. 2015-29, 8-18-2015)

#### 1151.08 - PROHIBITED SIGNS.

- (a) *Prohibited Signs.* The following signs and types of signs are inconsistent with the purposes and standards of this chapter and are prohibited in all zoning districts:
  - (1) Signs within any public right-of-way unless specifically authorized under Section 1151.04(a).
  - (2) Flashing, moving, rotating, intermittently lighted signs or other mechanical devices which creates the appearance of movement.
  - (3) Air actuated attraction devices.

- (4) Roof signs.
- (5) Pole signs.
- (6) Portable changeable copy signs.
- (7) Electronic variable message signs, reader boards, and changeable copy signs except as authorized under 1151.04(a)(1) or 1151.04(k).
- (8) Stick Signs or any type of portable or temporary sign portraying a commercial message.
- (b) *Prohibited Sign Attachments.* No temporary or permanent items shall be attached to any sign within the Municipality of Powell. This shall include, but not be limited to, balloons, streamers, arrows, or other such items that are not a part of the originally approved Zoning Certificate for such sign.

(Ord. No. 2015-29, 8-18-2015)

#### 1151.09 - SIGN ZONING CERTIFICATES.

- (a) *Zoning Certificates Required.* To ensure compliance with the regulations of this chapter, a Zoning Certificate shall be required in order to apply, erect, move, alter, reconstruct, or repair any permanent or temporary sign, except signs that are do not require zoning certificates consistent with the requirements of Sections 1151.04(a)(1) and 1151.10. A Zoning Certificate is also required for the lighting of new or the relighting of existing signs. Granting of a Zoning Certificate from the Zoning Administrator does not constitute a building permit.
- (b) *Review Authority.* The Zoning Administrator will review all Zoning Certificate applications within the Municipality of Powell. The Zoning Administrator has 30 days from the date of submittal to review all Zoning Certificate applications and either grant, grant with conditions, or deny the Zoning Certificate application. If the Zoning Administrator grants a Zoning Certificate with conditions, the Zoning Administrator shall state the conditions in writing, with citations to relevant sections of this chapter. The applicant shall sign a statement acknowledging the conditions set forth by the Zoning Administrator. If the Zoning Administrator denies a Zoning Certificate application, the Zoning Administrator shall do so in writing and state in writing the reason for denial, with citations to relevant sections of this chapter or other provisions of the Codified Ordinances. The applicant may appeal the decision of the Zoning Administrator as outlined in Section 1151.15.
- (c) *Preparation.* Applicants for a sign Zoning Certificate must submit the following information. Incomplete applications will be denied.
  - (1) Color sign rendering.
  - (2) Site plan and elevation drawings.
  - (3) Sign dimensions and dimensions of sign mounting material, where applicable.
  - (4) Building façade dimensions, where applicable.
  - (5) Distance of sign from all public rights-of-way.
  - (6) Style, type, wattage, and location of all lighting.
  - (7) Landscaping plan for freestanding signs.
  - (8) List of construction materials, including sign mounting material, where applicable.
- (d) *Criteria for Approval.* The Zoning Inspector shall approve a Zoning Certificate if the proposed sign conforms to all applicable requirements of this chapter.

(Ord. No. 2015-29, 8-18-2015)

1151.10 - SIGNS NOT REQUIRING PERMITS.

- (a) *Signs Exempt from Regulations.* Any sign located entirely inside a building and not visible from the public right-of-way or from private property other than the property on which such sign is located shall be entirely exempt from regulation under this chapter.
- (b) *Permanent Signs Allowed in Any District without a Zoning Certificate and Not Included in Dimensional Limitations.* Zoning Certificates shall not be required for the signs listed herein. These signs shall not be included in the determination of the total allowable number of signs or total allowable sign area for a site.
  - (1) Signs conforming to the Ohio Manual of Uniform Traffic Control Devices;
  - (2) Signs installed by employees or officials of a state or federal agency or of the Municipality or Delaware County in the course of their governmental duties;
  - (3) Signs required by a state or federal statute or agency;
  - (4) Signs required by an order of a court of competent jurisdiction;
  - (5) Signs installed by public utilities to demarcate their rights-of-way.
  - (6) Signs installed by a transit company;
  - (7) Signs not exceeding one square foot in area;
  - (8) On-site traffic and other directional signs indicating points of entry or exit to off-street parking, identifying specific parking areas and directions to buildings and other services, provided that such signs are not larger than two square feet in area and bear no commercial message. Such signs shall not obstruct the view of motorists for the purposes of ingress and egress.
- (c) *Temporary Signs Allowed without a Zoning Certificate.*
  - (1) Official and legal notices required by a court or governmental agency.
  - (2) Temporary signs in residential areas.
- (d) *Window Signs.* Window signs are permitted in any zoning district and do not require a Zoning Certificate. However, all window signs shall meet the following conditions:
  - (1) *Number.* No more than 20 percent of the windows in any structure may be covered with permanent or temporary window signs.
  - (2) *Surface coverage.* Window signs may not be larger than 20 percent of the aggregate window area.
  - (3) *Neon Signs.* Neon, or neon simulating, signs are prohibited.
  - (4) *Electronic Signs.* All other electronic signs shall not exceed one foot by two foot area (two square feet) within any given window. Only one electronic sign per business per frontage is permitted. These signs shall not exceed 15 characters, including spaces and other special characters.
  - A. *General Lighting Standards.*
    - 1. Light bulb illumination is measured in lumens. There is no conversion between lumens and nits, mainly because light bulbs are spherical (general) sources of light.
    - 2. In no case shall the lighting intensity of any sign exceed the limit of 75 foot candles measured with a standard light meter or equivalent perpendicular to the face of the sign at a distance equal to the narrowest dimension of the sign, whether it is height or width.
    - 3. In no case shall any exposed reflective-type bulbs, incandescent lamp, or any other type of bare bulb illumination exceed 20 watts.
  - B. *Directional Lighting Standards.*

1. Directional type signs are measured in nits (candles per square meter).
2. The average number of "on" pixels in a message is 40 percent for the average measurement and 100 percent of the "on" pixels is for the maximum measurement. Most programming is assumed to be near the 40 percent number.
3. For daytime programming, the average illumination is limited to 2,000 nits.
4. For nighttime programming, the average illumination is limited to 500 nits.
5. The maximum daytime illumination is 5,000 nits.
6. The nighttime illumination is to be set to 25 percent of the daytime illumination but can be adjusted up or down, in one percent increments, with photocell software for incremental dimming.

(Ord. No. 2015-29, 8-18-2015)

#### 1151.11 - COMPREHENSIVE SIGN PLAN.

- (a) *Purpose.* A Comprehensive Sign Plan is intended to integrate the design of the signs proposed for a new development project, or an existing commercial property, with the design of the structures, into a unified architectural statement. A Comprehensive Sign Plan provides a means for defining common sign regulations for multi-user projects, to encourage maximum incentive and latitude in the design and display of multiple signs and to achieve, not circumvent, the intent of this chapter.
- (b) *Applicability.* The approval of a Comprehensive Sign Plan shall be required when two or more signs requiring Zoning Certificates are proposed for a new development or existing site, or if a joint identification sign is proposed.
- (c) *Approval Authority.* The Planning and Zoning Commission, or in the case of a property within the Historic District, the Historic Downtown Advisory Committee, must approve a Comprehensive Sign Plan prior to issuance of a Sign Zoning Certificate by the Zoning Administrator, under the requirements of this chapter, and the design guidelines within the Historic District.
- (d) *Application Requirements.* An application for a Comprehensive Sign Plan shall include all information and materials required in Section 1151.09 and the filing fee set by City Council.
- (e) *Standards.* A Comprehensive Sign Plan shall comply with the following standards:
  - (1) The plan shall comply with the purpose of this chapter and the overall intent of this section;
  - (2) The signs shall enhance the overall development, be in harmony with, and relate visually to other signs included in the comprehensive sign plan, to the structures and/or developments they identify, and to surrounding development;
  - (3) The Comprehensive Sign Plan shall accommodate future revisions that may be required because of changes in use or tenants; and
  - (4) The Comprehensive Sign Plan shall comply with the standards of this chapter.
- (f) *Revisions to Comprehensive Sign Plans.* The Zoning Administrator may approve the substitution of signs provided these signs meet the all the requirements of Chapter 1151 and the adopted Comprehensive Sign Plan. If additional signage is proposed or if proposed signs are changed in any aspect to the intent of the original Comprehensive Sign Plan, approval from the Planning and Zoning Commission or Historic Downtown Advisory Committee is required.

(Ord. No. 2015-29, 8-18-2015)

#### 1151.12 - ABANDONED SIGNS.

- (a) *Abandonment Defined.* If any sign shall become abandoned, in a manner defined herein, such sign is declared a public nuisance by reason that continued lack of use results in lack of reasonable and adequate maintenance, thereby causing deterioration and creating a blighting influence on nearby properties. An abandoned sign shall be any sign that meets any of the following conditions:
- (1) Any sign associated with the abandoned nonconforming use.
  - (2) Any sign that remains after the termination of a business. A business shall be considered terminated if it has ceased operations for at least 60 consecutive days.
  - (3) Any sign that is not maintained in accordance with Section 1151.04(g).
- (b) *Determination of Abandonment.* When the Zoning Administrator finds, upon investigation, that a sign has been abandoned, the Zoning Administrator shall notify the owner of said sign and the owner of the property upon which such sign is located, of any findings. Such notice shall advise the owner of the sign and the owner of the property that said sign has been declared abandoned and must be removed within 30 days from the date of mailing of said notice. The owner of the sign or the owner of the property may appeal such decision as provided in Section 1151.15.
- (c) *Right to Remove.* If the sign is not removed as ordered, the sign may be removed by the Municipality of Powell at the expense of the lessee or owner. If the Municipality is not reimbursed for the cost of removal within 30 days of such removal, the amount thereof shall be certified to the County Auditor for collection as a special assessment or lien against the property upon which such sign is located.

(Ord. No. 2015-29, 8-18-2015)

#### 1151.13 - SUBSTITUTION OF MESSAGES.

Any sign allowed herein may contain, in lieu of any other message or copy, any lawful noncommercial message that does not direct attention to a business operated for profit, or to a product, commodity, or service for sale or lease, or to any other commercial interest or activity, so long as said sign complies with the size, height, area, and other requirements of this chapter.

(Ord. No. 2015-29, 8-18-2015)

#### 1151.14 - SEVERABILITY.

- (a) *Generally.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter. It is intended that if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter is severed, the remaining parts, sections, subsections, paragraphs, subparagraphs, sentences, phrases, clauses, terms or words shall be considered independent, valid, and enforceable.
- (b) *Severability Where less Speech Results.* Without diminishing or limiting in any way the declaration of severability set forth in Section 1151.14(a), or elsewhere in this chapter, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter is declared unconstitutional shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to zoning certificates or otherwise. It is intended that if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter is severed, the remaining parts, sections, subsections, paragraphs, subparagraphs, sentences, phrases, clauses, terms or words shall be considered independent, valid, and enforceable.



- (c) *Severability of Provisions Pertaining to Prohibited Signs.* Without diminishing or limiting in any way the declaration of severability set forth in Section 1151.14(a) and (b), or elsewhere in this chapter, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this article or any other laws declared unconstitutional by valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter that pertains to prohibited signs, including specifically those signs and sign types prohibited and not allowed under Section 1151.08 of this chapter. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of Chapter 1151 is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of Chapter 1151. It is intended that if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter is severed, the remaining parts, sections, subsections, paragraphs, subparagraphs, sentences, phrases, clauses, terms or words shall be considered independent, valid, and enforceable.
- (d) *Severability of Prohibition on Signs Bearing Off-premise Commercial Messages.* If any part section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter and/or any other provisions of the Zoning Code or the Codified Ordinances are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the prohibition on signs bearing off-premises commercial messages as contained herein. It is intended that if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter is severed, the remaining parts, sections, subsections, paragraphs, subparagraphs, sentences, phrases, clauses, terms or words shall be considered independent, valid, and enforceable.

(Ord. No. 2015-29, 8-18-2015)

#### 1151.15 - APPEALS.

The decision of the Zoning Administrator regarding issuance of a Zoning Certificate, notice to repair, or determination of abandonment may be appealed to the Board of Zoning Appeals subject to the requirements in Chapter 1127.

(Ord. No. 2015-29, 8-18-2015)

#### 1151.99 - VIOLATIONS, PENALTIES, AND REMEDIES

Any person, firm or corporation violating any requirement or prohibition of this chapter shall be considered in violation of this Code, and shall be subject to enforcement under the requirements of Chapter 1135, including the penalties and other remedies allowed by that chapter.

(Ord. No. 2015-29, 8-18-2015)

## CHAPTER 1153 - TELECOMMUNICATIONS

### Sections:

#### 1153.01 - LEGISLATIVE PURPOSES.

The purpose of this chapter is to regulate the placement, construction and modification of towers and Wireless Telecommunications Facilities in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the Municipality. Specifically, the purposes of this chapter are:

- (a) To direct the location of towers and Wireless Telecommunications Facilities in the Municipality.
- (b) To protect residential areas and land uses from potential adverse impacts of towers and Wireless Telecommunications Facilities.
- (c) To minimize adverse visual impacts of towers and Wireless Telecommunications Facilities through careful design, siting, and landscaping techniques.
- (d) To promote and encourage shared use/co-location of towers and antenna support structures as a primary option rather than construction of additional single-use towers.
- (e) To avoid potential damage to adjacent properties caused by towers and Wireless Telecommunications Facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained and removed.
- (f) To the greatest extent feasible, ensure that towers and Wireless Telecommunications Facilities are compatible with surrounding land uses.
- (g) To the greatest extent feasible, ensure that proposed towers and Wireless Telecommunications Facilities are designed in harmony with natural settings and in a manner consistent with current development patterns.

(Ord. No. 97-46, 12-2-1997)

#### 1153.02 - APPLICABILITY.

- (a) All towers, antenna support structures and Wireless Telecommunications Facilities, any portion of which are located within the Municipality, are subject to this chapter.
- (b) Except as provided in this chapter, any use being made of an existing tower or antenna support structure on the effective date of this chapter (herein "Nonconforming Structures") shall be allowed to continue, even if in conflict with the terms of this chapter. Any tower site that has received Municipal approval in the form of either a special exception or building permit, but has not yet been constructed or located, shall be considered a Nonconforming Structure so long as such approval is current and not expired.

(Ord. No. 97-46, 12-2-1997)

#### 1153.03 - DEFINITIONS.

For purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein: When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their

meaning as otherwise defined in this section. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

*Antenna support structure* means any building or other structure other than a tower which can be used for location of Wireless Telecommunications Facilities.

*Applicant* means any person that applies for a Conditional Use Permit pursuant to Section 1153.07.

*Application* means the process by which an applicant submits a request and indicates a desire to be granted a Conditional Use Permit under the provisions of this chapter. An application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an applicant to the Municipality concerning such a request.

*Municipality* means the Municipality of Powell, a municipal corporation, in the State of Ohio, acting by and through its Council.

*Code* means the Codified Ordinances of the City.

*Co-location* means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

*Council* means the Powell Municipal Council.

*Emergency* means a reasonably unforeseen occurrence with a potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action.

*Engineer* means any engineer licensed by the State of Ohio.

*Equipment shelter* means the structure in which the electronic receiving and relay equipment for a Wireless Telecommunications Facility is housed.

*FCC* means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

*Monopole* means a support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

*Open space* means land devoted to conservation or recreational purposes and/or land designated by a municipality to remain undeveloped (may be specified on a zoning map).

*Person* is any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not-for profit.

*Tower* means a self-supporting lattice, guyed or monopole structure constructed from grade which supports Wireless Telecommunications Facilities. The term tower shall not include amateur radio operators' equipment, as licensed by the FCC.

*Viewshed* means the area surrounding a Wireless Telecommunications Facility or Antenna Support Structure, within which the Facility or Structure is visible from street level.

*Wireless telecommunications facilities* means any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications as authorized by the FCC which a person seeks to locate or has installed upon a tower or antenna support structure. However, the term Wireless Telecommunications Facilities shall not include:

- (1) Any satellite earth station antenna two meters in diameter or less which are located in an area zoned industrial or commercial;
- (2) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category, subject to the requirements of Section 1153.06(a)(5).
- (3) Antennas used by amateur radio operators are excluded from this definition.

(Ord. No. 97-46, 12-2-1997)

#### 1153.04 - GENERAL REQUIREMENTS.

- (a) Wireless Telecommunications Facilities are either permitted uses or conditional uses in a variety of zoning districts contingent upon a number of requirements being met. These criteria are in place in an attempt to minimize adverse health, safety, public welfare or visual impacts through buffering, siting, design and construction, and reduction of the need for new towers.
- (b) The following requirements apply to all Wireless Telecommunications Facilities regardless of the zoning district in which they are to be located. These general standards are to be supplemented with the specific regulations for nonresidential and residential districts as set forth in Sections 1153.05 and 1153.06 herein.
  - (1) When the proposed Wireless Telecommunications Facility or antenna support structure is to include a new tower, a plot plan at a scale of not less than one inch equals 100 feet shall be submitted. This plot plan shall indicate all building uses within 200 feet of the proposed facility. Aerial photos and/or renderings may augment the plot plan.
  - (2) A diagram or map showing the viewshed of the proposed Wireless Telecommunications Facilities or antenna support structure shall be provided.
  - (3) Photosimulations of the proposed facility from effected residential properties and public rights-of-way at varying distances shall be provided.
  - (4) The location of the tower and equipment shelter and antenna support structure shall comply with all natural resource protection standards established in the Zoning Code, including those for floodplain, wetlands and steep slopes.
  - (5) Security fencing eight feet in height may be required to surround the tower, equipment shelter and any guy wires, either completely or individually as determined by the Planning and Zoning Commission. No barbed or razor wire shall be permitted. The City and co-locators shall have reasonable access. No fence shall be required on top of a building or other structure if access to the roof or top of the structure or building is secure.
  - (6) Buffer plantings shall be located around the perimeter of the security fence as deemed appropriate by the Planning and Zoning Commission. Options are an evergreen screen to be planted that consists of either a hedge, planted three feet on center maximum, or a row of evergreen trees planted five feet on center maximum, or other screens determined to be appropriate by the Planning and Zoning Commission.
  - (7) Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.
  - (8) Compliance with co-location requirements.
  - (9) Any application to locate a Wireless Telecommunications Facility on a building or structure that is listed on an historic register, or is in the HD-Historic District Overlay, shall be subject to review by the City's Historic District Commission.
  - (10) The tower shall be painted a non-contrasting gray or similar color minimizing its visibility, unless otherwise required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA). Except for tower or monopole structures, all appurtenances shall be aesthetically and architecturally compatible with the surrounding environment.
  - (11) No advertising is permitted anywhere on the Wireless Telecommunications Facility, with the exception of identification signage.
  - (12) No tower under 150 feet shall be artificially lighted except to assure safety or as required by the FAA.
  - (13) "No Trespassing" signs shall be posted around the Wireless Telecommunications Facility with a telephone number of who to contact in the event of an emergency.

- (14) Underground equipment shelters are encouraged, and may be requested by the Planning and Zoning Commission.
- (15) Towers must be designed and certified by an Engineer to be structurally sound and, at a minimum, in conformance with the Ohio Basic Building Code.
- (c) Any Wireless Telecommunications Facilities which are not attached to a tower shall be a permitted ancillary use to any commercial, industrial, or professional structure, regardless of the zoning restrictions applicable to the zoning district where the structure is located and a zoning certificate shall be required and issued provided that the person making such ancillary use files a written certification with the City establishing the following:
  - (1) The total height of the antenna support structure and Wireless Telecommunications Facilities do not exceed the structural height limitations in the applicable zoning district by more than 20 feet;
  - (2) The antenna support structure and Wireless Telecommunications Facilities comply with the Ohio Basic Building Code;
  - (3) Any Wireless Telecommunications Facilities and their appurtenances, located on the roof of a building, are set back one foot from the edge of the roof, not including the penthouse, for each one foot in height of the Wireless Telecommunications Facilities. However, this setback requirement shall not apply to antennas less than two inches in thickness, which are mounted to the sides of antenna support structures, but which do not protrude more than six inches from the side of such an antenna support structure. This requirement is subject to change by the Planning and Zoning Commission upon review of the photosimulation provided in compliance with Section 1153.04(b)(3).
  - (4) That the Wireless Telecommunications Facilities will utilize camouflaging techniques or will be side-mounted to an antenna support structure in order that the Wireless Telecommunications Facilities harmonize with the character and environment of the area in which they are located.

(Ord. No. 97-46, 12-2-1997)

1153.05 - NONRESIDENTIAL DISTRICTS.

- (a) Wireless Telecommunications Facilities shall be a permitted use within the PI-Planned Industrial District subject to the following conditions:
  - (1) *Sole use on a lot*: A Wireless Telecommunications Facility is permitted as a sole use on a lot subject to the following:
    - A. Minimum street frontage. 200 feet
    - B. Minimum yard requirements.
      - Tower: The minimum distance to any single-family or two family residential use or zoning district lot line shall be 200 feet.
      - Equipment Shelter:
        - Side Yard: 50 feet
        - Rear Yard: 30 feet
        - Front yard: 60 feet
    - C. Maximum height.
      - Tower: 200 feet (includes antenna)
      - Equipment Shelter: 35 feet and no more than 2 stories

- D. Maximum size of Equipment Shelter.  
400 square feet for a single shelter, or, if there is more than one, 800 total square feet.
- (2) *Combined with another use:* A Wireless Telecommunications Facility is permitted on a property with an existing use subject to the following conditions:
- A. The existing or future use on the property may be any permitted use in the district or any lawful nonconforming use, and need not be affiliated with the Wireless Telecommunications Facility will not be considered an addition to the structure or value of a nonconforming use.
  - B. The Wireless Telecommunications Facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance (except during construction or an emergency).
  - C. Minimum lot area.  
The minimum lot area shall be the area needed to accommodate the Tower (and guy wires, if used), the Equipment Shelter, security fencing and buffer planting.
  - D. Minimum yard requirements.  
Tower: The minimum distance to any single-family or two-family residential use or district lot line shall be 200 feet.  
Equipment Shelter: Shall comply with the minimum setback requirements for the primary lot.
  - E. Access. The service access to the Equipment Shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.
  - F. Maximum height.  
Tower: 200 feet (includes antenna)  
Equipment Shelter: 35 feet or no more than two stories.
  - G. Maximum size of Equipment Shelter.  
400 square feet for a single shelter, or, if there is more than one, 800 square feet.
- (3) *Combined with an existing structure:* Where possible, an antenna for a Wireless Telecommunications Facility shall be attached to an existing structure or building subject to the following conditions:
- A. Maximum height.  
20 feet or 20 percent of the building height above the existing building or structure, whichever is greater.
  - B. If the applicant proposes to locate the telecommunications equipment in a separate equipment shelter (not located on, or attached to, the building), the equipment shelter shall comply with the following:
    1. The minimum setback requirements for the subject zoning district.
    2. A buffer yard may be planted in accordance with Section 1153.04(b)(5).
    3. Vehicular access to the shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.
    4. The maximum size of the equipment shelter shall not exceed 400 square feet, or, if there is more than one, 800 total square feet.

(Ord. No. 97-46, 12-2-1997)

1153.06 - RESIDENTIAL DISTRICTS.

- (a) Wireless Telecommunications Facilities that include towers are not permitted in single-family or two-family residential districts with the exception of placement on any municipal property located in either of these two districts. However, antennas attached to existing buildings or structures are permitted. In applying for a permit in any residential district, the applicant must present sufficient evidence as to why it is not technically feasible to locate in a more appropriate nonresidential zone. Once those efforts have been exhausted, a Wireless Telecommunications Facility may be located in a residential district subject to the following conditions:
- (1) *General:* The Wireless Telecommunications Facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance. This shall apply to subsections (2), (3), (4) and (5) below.
  - (2) *Combined with a nonresidential use:* An antenna may be attached to a nonresidential building or a structure that is a permitted use in the district; including, but not limited to, a church, a municipal or governmental building or facility, agricultural building, and a building or structure owned by a utility. The following conditions shall be met:
    - A. Maximum height: 20 feet above the existing building or structure.
    - B. If the applicant proposes to locate the telecommunications equipment in a separate equipment shelter, the equipment shelter shall comply with the following:
      1. The equipment shelter shall comply with the minimum setback requirements for the subject zoning district.
      2. The maximum size of the equipment shelter shall not exceed 400 square feet, or, if there is more than one, 800 total square feet.
      3. A buffer yard shall be planted in accordance with Section 1153.06(b)(5).
      4. Vehicular access to the equipment shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.
  - (3) *Located on a nonresidential use property:* A tower to support an antenna may be constructed on a property with a nonresidential use that is a permitted use within the district, including but not limited to a church, hospital, school, municipal or government building, facility or structure, agricultural use and a utility use, subject to the following conditions:
    - A. The tower shall be set back from any property line abutting a single-family or two-family residential lot by 200 feet.
    - B. Maximum height.  
Tower: 200 feet (includes antenna)  
Equipment Shelter: 35 feet or no more than two stories.
    - C. The maximum size of the equipment shelter shall not exceed 400 square feet, or, if there is more than one, 800 total square feet.
    - D. Vehicular access to the tower and equipment shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.
    - E. In order to locate a telecommunications facility on a property that is vacant or with an agricultural use the tract shall be at least 2.5 acres, or as otherwise determined by the Planning and Zoning Commission.

- (4) *Located in Open Space:* A Wireless Telecommunications Facility is permitted on land that has been established as permanent open space, or a park subject to the following conditions:
- A. The open space shall be owned by the municipality, county or state government, a homeowners association, charitable organization, or a private, non-profit conservation organization.
  - B. Maximum height.  
Tower: 200 feet (includes antenna)  
Equipment Shelter: 35 feet or no more than two stories
  - C. The maximum size of the equipment shelter shall not exceed 400 square feet, or, if there is more than one, 800 total square feet.
  - D. The tower shall be set back from any single-family or two-family property line 200 feet.
- (5) *Requirements for dish-type signal receiving antennas:* A Zoning Certificate is required to be issued for the installation of dish-type signal receiving antennas within a residential district pursuant to the following requirements:
- A. Dish-type antennas one meter or less in diameter shall be located at the rear 50 percent of the residence and obscured from view from the public right-of-way. If attached to a structure, the dish shall match the color of the structure at which it is attached. Dish-type antennas shall be secured so that they can withstand wind or other weather-related factors.

(Ord. No. 97-46, 12-2-1997)

1153.07 - CRITERIA FOR A CONDITIONAL USE.

- (a) *Wireless Telecommunications Facility.* A Wireless Telecommunications Facility which includes a tower may be permitted as a conditional use in a PC-Planned Commercial District or in an open space as stated in Section 1153.06. In order to be considered for review, the applicant must prove that a newly-constructed tower is necessary because co-location on an existing tower is not feasible in accordance with Section 1153.08. The following steps must also be taken for the application to be considered for review in this category:
- (1) The applicant shall demonstrate that the Telecommunications Tower must be located where it is proposed in order to service the applicant's service area. There shall be an explanation of why a tower and this proposed site is technically necessary.
  - (2) Where the Wireless Telecommunications Facility is located on a property with another principal use, the applicant shall present documentation that the owner of the property supports the application and that the vehicular access is provided to the facility.
  - (3) The applicant shall present a site/landscaping plan showing the specific placement of the Wireless Telecommunications Facilities on the site; showing the location of existing structures, trees, and other significant site features; and indicating type and locations of plant materials used to screen the facilities and the proposed color of the facilities.
  - (4) Applicant shall present a signed statement indicating:
    - A. The applicant agrees to allow for the potential co-location of additional Wireless Telecommunications Facilities by other providers on the applicant's structure or within the same site location; and
    - B. The applicant agrees to remove the facility within 180 days after the site's use is discontinued.



- (b) A Conditional Use Permit may be approved by the Board of Zoning Appeals with a subsequent Zoning Permit issued by the Zoning Administrator for construction of new towers in non-industrial districts. Co-location of antennas on a single tower, antennas attached to existing structures/buildings, towers located in industrial districts, or replacement towers to be constructed at the site of a current tower are permitted uses and will not be subject to the Conditional Use permitting process.
- (c) Any decision to deny a request to place, construct or modify a Wireless Telecommunications Facility and/or Tower shall be in writing and supported by evidence contained in a written record of the proceedings of the Board of Zoning Appeals.

(Ord. No. 97-46, 12-2-1997)

#### 1153.08 - CO-LOCATION REQUIREMENTS.

(a) *Public Property First.*

- (1) In order to encourage the location of Wireless Telecommunications Facilities on publicly-owned property, the City shall undertake an identification of publicly owned properties that the City determines are suitable for such use. The City shall regularly update such identification and make the results of such identification available to the public.
  - (2) Persons locating Wireless Telecommunications Facilities upon such identified publicly-owned properties shall be exempted from the requirements herein regarding presentation of proof that co-location of facilities on towers or structures owned by other persons or in other locations is not available. However, persons locating Wireless Telecommunications Facilities on publicly-owned properties shall continue to be subject to the requirements contained in subsection (b) below.
  - (3) In addition, persons locating Wireless Telecommunications Facilities on publicly owned properties identified by the City to be suitable for such purposes may request that the requirements of Section 1153.04(b)(1) through (b)(3) and Section 1153.07(a)(2) through (a)(4) be waived by the Zoning Administrator.
- (b) No new tower shall be constructed in the City unless such tower is capable of accommodating at least one additional Wireless Telecommunications Facility owned by other persons.
  - (c) A Conditional Use Permit shall be issued only if there is not technically suitable space reasonably available on an existing tower or structure within the geographic area to be served. With the permit application, the applicant shall list the location of every tower, building, or structure within such area that could support the proposed antenna. The applicant must demonstrate that a technically suitable location is not reasonably available on an existing tower, building or structure. If another communication tower is technically suitable, applicant must show that it has offered to allow the owner to co-locate an antenna on another tower within the city owned by applicant on reciprocal terms and the offer was not accepted or the other tower is presumed to be reasonably available.

(Ord. No. 97-46, 12-2-1997)

#### 1153.09 - ABANDONMENT OF TOWER.

- (a) All providers utilizing towers shall present a report to the Zoning Administrator notifying them of any tower facility located in the municipality whose use will be discontinued and the date this use will cease. If at any time the use of the facility is discontinued for 180 days, a designated local official may declare the facility abandoned. (This excludes any dormancy period between construction and the initial use of the facility.) The facility's owner/operator will receive written notice from the Zoning Administrator and be instructed to either reactivate the facility's use within 180 days, or dismantle and remove the facility. If reactivation or dismantling does not occur, the municipality will remove or will contract to have removed the facility and assess the owner/operator the costs.

- (b) The City must provide the tower owner three months notice and an opportunity to be heard before the Commission before initiating such action. After such notice has been provided, the City shall have the authority to initiate proceedings to either acquire the tower and any appurtenances attached thereto at the then fair market value, or in the alternative, order the demolition of the tower and all appurtenances.
- (c) The City shall provide the tower owner with the right to a public hearing before the Planning and Zoning Commission, which public hearing shall follow the three month notice required in subsection (b) hereof. All interested parties shall be allowed an opportunity to be heard at the public hearing.
- (d) After a public hearing is held pursuant to subsection (c) hereof, the Commission may order the acquisition or demolition of the tower. The City may require licensee to pay for all expenses necessary to acquire or demolish the tower.

(Ord. No. 97-46, 12-2-1997)

#### 1153.10 - VARIANCES AND SPECIAL EXCEPTIONS.

Any request to deviate from any of the requirements of this chapter shall require variance approval in conformance with the procedures set forth in Chapter 1127 of the Codified Ordinances of Powell.

(Ord. No. 97-46, 12-2-1997)

#### 1153.11 - MISCELLANEOUS.

- (a) *Non-Waiver.* Nothing in this chapter shall preclude the Municipality from exercising any right or remedy it may have in law or equity to enforce the terms and conditions of this chapter.
- (b) *Severability.* If any provision of this chapter or the application of any provision of this chapter to any person is, to any extent, held invalid or unenforceable by a tribunal of competent jurisdiction, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected by such holding. In case of such an event, this chapter and all of its remaining provisions shall, in all other respects, continue to be effective. In the event the law invalidating such a chapter provision is subsequently repealed, rescinded, amended or is otherwise changed so that the provision which had previously been held invalid or unenforceable, no longer conflicts with the laws, rules or regulations then in effect, the previously invalid or unenforceable provision shall return to full force and effect.

(Ord. No. 97-46, 12-2-1997)

#### 1153.12 - PENALTY.

Penalties and fines set forth in Section 1135.20 of the Codified Ordinances apply to this chapter.

(Ord. No. 97-46, 12-2-1997)

#### 1153.13 - EFFECTIVE DATE.

This chapter shall be in full force and effect from and after the date of its passage and approval.

(Ord. No. 97-46, 12-2-1997)

#### CHAPTER 1155 - BED AND BREAKFAST INNS

Sections:

1155.01 - PURPOSE.

Bed and breakfast inns are unique semi-commercial operations that adapt a residential environment into a lodging concept limited in scope and operation. The regulations presented here provide a systematic set of requirements to ensure that such operations, if appropriate for a residential or commercial area, shall not adversely impact adjacent uses as a result of the commercial aspects of the structure and property. Bed and breakfast inns shall be subordinate to the principal use of a single-family dwelling. The intent is not to provide an opportunity for the establishment of an intensive commercial lodging business that would be considered appropriate within an intensive commercial or planned commercial zoning district.

(Ord. No. 99-43, 9-30-1999)

1155.02 - DEFINITION.

For the purpose of the Zoning Code, a "bed and breakfast inn" means an owner-occupied residential single-family detached structure where lodging and meals are provided to transient guests for compensation in accordance with the development standards of this chapter. The provision of lodging and breakfast shall be subordinate to the principal use of the structure.

(Ord. No. 99-43, 9-30-1999)

1155.03 - CONDITIONAL USE PERMIT REQUIRED.

- (a) A Bed and breakfast inn is classified as a conditional use in the following zoning districts:

~~OPR – Old Powell Residence~~ ~~DR, Downtown Residence District~~

~~QPC – Old Powell Commercial~~ ~~DB – Downtown Business~~ ~~District~~

~~OPPCR – Old Powell Planned Commercial/Residence~~

PC - Planned Commercial

- (b) The corresponding standards and requirements of Chapter 1129 thereby apply. Such conditional use permits shall be voided upon the sale or transfer of the property ownership. In submitting an application for conditional use permit, the applicant shall provide to the Board of Zoning Appeals a floor plan illustrating the proposed operation, a site plan indicating all on-site improvements, and any additional information as required by the Zoning Administrator or Board.

(Ord. No. 99-43, 9-30-1999)

1155.04 - DEVELOPMENT STANDARDS FOR RESIDENTIAL DISTRICTS.

The following development standards apply to bed and breakfast inns that are conditional uses within single-family zoning districts.

- (a) *Guest Rooms.* There shall be no more than four guest rooms within a single-family dwelling that are utilized by bed and breakfast guests. A guest room shall contain no less than 100 square feet of living space, not including closets, for two guests and 30 square feet for additional guest up to a total of four guests.

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- (b) *Parking.* One off-street parking space shall be provided for each guest room and one off-street parking space for the dwelling unit. Such off-street parking spaces may be provided in an existing driveway.
- (c) *Signage.* One on-premises sign shall be permitted for each bed and breakfast inn not to exceed six square feet in area. The sign shall not be internally illuminated. Such signs shall be limited to three colors. The applicable standards of Chapter 1151 shall apply unless otherwise superseded by this section.
- (d) *Employees.* Not more than one nonresident for every three guest rooms of the dwelling may be employed in the operation of a bed and breakfast Inn.

(Ord. No. 99-43, 9-30-1999)

#### 1155.05 - GENERAL DEVELOPMENT STANDARDS.

- (a) *Single-Family Detached Dwelling.* Bed and breakfast inns shall only be permitted with a conditional use permit in single-family detached dwellings.
- (b) *Owner/Operator.* The owner/operator of the bed and breakfast inn shall live full-time on the inn's premises. Such owner/operator shall be the record owner of no less than 60 percent interest of the property in question.
- (c) *Architectural Review.* All new construction and exterior alterations associated with the bed and breakfast inn, including nonstructural improvements, shall be reviewed and approved by the Planning and Zoning Commission or inside the Historic District by the Historic District Commission. Such approval is required prior to review of the conditional use permit by the Board of Zoning Appeals. All such improvements shall be completed prior to issuance of an occupancy permit.
- (d) *Certificate of Fire and Health Offices.* Certificates from the Liberty Township Fire Department and the Delaware County Board of Health shall be required for each conditional use permit requesting approval for a bed and breakfast inn. Each guest room shall contain a separate installed smoke detector alarm approved by the Fire Officer. No premises shall be utilized for a bed and breakfast inn unless there are at least two separate exits to the outdoors.
- (e) *Consecutive Nights.* Each paying guest may stay at a bed and breakfast inn for not more than seven consecutive nights at any single visit nor more than a total of 45 in any given calendar year.
- (f) *Kitchen Facilities.* Only one kitchen facility shall be permitted per structure for which a conditional use permit is granted to operate a bed and breakfast inn. No cooking facilities shall be permitted in individual guest quarters.
- (g) *Bathrooms.* A minimum of one full bathroom, including shower, toilet, and sink, shall be required for every two guest rooms to be available for the exclusive use of bed and breakfast paying guests. Bed and breakfast inns shall be serviced by public sanitary sewer and water service.
- (h) *Guest Register.* A guest register listing the name, address and phone number of all paying guests shall be maintained by the owner/manager and shall be made available for inspection by City Officials.
- (i) *Special Gatherings.* Rental of the bed and breakfast inn to other than registered guests for special gatherings such as wedding receptions and parties shall require a special permit approved by the Planning and Zoning Commission.
- (j) *Business License.* A business license shall be required to be obtained from the Municipality of Powell prior to issuance of an occupancy permit.
- (k) *Public Nuisance.* Bed and breakfast inns shall not be permitted and a conditional use permit shall be revoked or suspended by the Board of Zoning Appeals if the use is found to constitute a nuisance.

(Ord. No. 99-43, 9-30-1999)

#### 1141.01 - PURPOSE.

The purpose of this chapter is to establish zoning districts in order to realize the general purposes set forth in the preamble of this Zoning Ordinance, to provide for orderly growth and development, and to protect the property rights of all individuals by assuring the compatibility of uses and practices within districts.

#### 1141.02 - ESTABLISHMENT OF DISTRICTS.

The following ten zoning districts are hereby established for the Municipality of Powell, Ohio:

R - Residence District

DR - Downtown Residence District

DB - Downtown Business District

PR - Planned Residence District

PO - Planned Office District

PC - Planned Commercial District

PI - Planned Industrial District

DD- Downtown District Overlay District

OR - Olentangy River Environment Overlay District

AR - Architectural Review Overlay District

(Ord. No. 2005-20, 6-7-2005)

#### 1141.03 - ZONING DISTRICT MAP.

The districts established in Section 1141.02, and as may be indicated on the Official Zoning Map, together with all data, references, explanatory material and notations thereon, are hereby officially adopted as part of this Zoning Ordinance and hereby incorporated by reference herein, thereby having the same force and effect as if herein fully described in writing.

#### 1141.04 - ZONING MAP LEGEND.

There shall be provided on the Official Zoning Map a legend which shall list the name of each zoning district and indicate the symbol for that district. A color, combination of colors, or black and white patterns may be used in place of symbols to identify the respective zoning districts in such legend. In addition to such legend, the Official Zoning Map shall provide sufficient space for compliance with Section 1141.07.

#### 1141.05 - IDENTIFICATION OF OFFICIAL ZONING MAP.

The Official Zoning Map shall be properly identified by the signature of the Mayor, as attested by the Clerk, and bearing the official seal. The Map shall be maintained by the Zoning Administrator, and shall remain on file in the office of the Clerk. A copy of the Map shall also be appended to each copy of the text of the Zoning Ordinance. The Official Zoning Map shall control whenever there is an apparent conflict between the district boundaries as shown on the Map and the description(s) as found in the text of this Ordinance or any other ordinance. The Official Zoning Map shall be a reproducible document, and individual copies shall be made available to the public upon request including attachment of all relevant amendments,

and upon payment of a fee as established by ordinance. The Map shall be recertified by the Mayor and the Clerk at least every 24 months and each time it is amended.

#### 1141.06 - INTERPRETATION OF DISTRICT BOUNDARIES.

- (a) The following rules shall be used to determine the precise location of any zoning district boundary unless such boundary is specifically indicated on the Official Zoning Map:
  - (1) Where district boundaries are so indicated as approximately following the center lines of thoroughfares or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be said boundaries;
  - (2) Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries;
  - (3) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map and as determined by the Zoning Administrator.
  - (4) Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line;
  - (5) Where the boundary of a district follows a stream or other body of water, said boundary line shall be deemed to be at the center line of the body of water unless otherwise indicated;
  - (6) Where district boundaries are so indicated that they follow or approximately follow the boundary limits of any municipal corporation or other unit of government, such boundaries shall be construed as following such limits;
  - (7) Where the boundary of a district follows a metes and bounds description approved as a part of a rezoning or annexation of any territory, said metes and bounds description shall control over all of the foregoing; and
  - (8) Whenever any street, alley, or other public way is vacated by official Council action, the zoning district adjoining each side of such street, alley, or public way shall automatically be extended to the center of such vacation, and all areas within that vacation shall thenceforth be subject to all regulations appropriate to the respective extended districts.
- (b) All questions and disputes concerning the exact location of zoning district boundaries shall be resolved by the Zoning Administrator consistent with these guidelines for interpretation.

#### 1141.07 - ZONING MAP AMENDMENTS.

Within 15 days of the effective date of any change of a zoning district classification or boundary, the Zoning Administrator shall amend the Official Zoning Map to reflect such change, and shall note the effective date of such change, together with appropriate reference to the ordinance authorizing such change.

#### 1141.08 - ZONING UPON ANNEXATION.

- (a) In the event there are no area plans developed for tracts of land filing for annexation to the Municipality, area plans shall be developed permitting owners, developers, municipal officials, and municipal planners to mutually negotiate detailed policies and proposals for annexation and planned use of the land. These area plans shall be developed in conformity with the appropriate provisions of the Ohio Revised Code and any other additional ordinances or regulations adopted by the Municipality of Powell.

- (b) These area plans shall specify the planned uses and planned controls for these tracts. The area plans are legally in force when otherwise adopted by the Municipality of Powell.
- (c) Once these tracts have become annexed to the Municipality, the Municipality may adopt a valid zoning ordinance for the subject property based upon the area plans in accordance with the appropriate provisions of the Ohio Revised Code.

(Ord. No. 91-40)